

Time to Get Physical Again: Temporary I-9 Flexibilities Program Ends July 31, 2023



Immigration Blog

By [Andrew M. Wilson](#)

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With the announcement that the official COVID-19 national and public health emergency designation has been terminated, ICE has moved forward with ending the temporary I-9 flexibilities program.

<https://lnkd.in/eqRB6A9p>.

The program will sunset as of July 31, 2023, and employers will have a 30-day window to complete all required physical inspection of identity and employment documents.

* Employers are encouraged to ensure that all required physical inspection of identity and employment eligibility documents are completed by 8/30/23. *

Permanent Changes Similar to Temporary Program Coming Soon?

It is important to remember that permanent changes that will allow for remote inspection of I-9 docs are likely coming soon. Some of these permanent changes will be similar to the temporary flexibility program that will end on July 31, 2023.

On Aug. 18, 2022, DHS issued a proposed rule that would allow alternative procedures for the examination of identity and employment eligibility documents. DHS commented that:

"In light of these advances in technology and new work arrangements, DHS is exploring alternative options, including making permanent some of the current COVID-19 pandemic-related flexibilities to examine employees' identity and employment authorization documents for the Form I-9. This rule would not create such alternatives but would instead formalize the authority for the Secretary to extend flexibilities, provide alternative options, or conduct a pilot program to further evaluate an alternative procedure option (in addition to the procedures set forth in regulations) for some or all employers, regardless of whether their employees physically report to work at a company location."

The public comment period closed on Oct. 17, 2022. DHS is currently reviewing public comments and plans to issue a final rule later this year.

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