



**College and University Professional  
Association for Human Resources**

December 13, 2021

The Honorable Ur Mendoza Jaddou  
Director  
United States Citizenship and Immigration Services  
United States Department of Homeland Security  
Washington, DC 20528

**RE: Form I-9 Requirement Flexibility**

Dear Director Jaddou,

I write on behalf of the College and University Professional Association for Human Resources (CUPA-HR) and the undersigned higher education organizations to request that the U.S. Department of Homeland Security (DHS) further extend its previously announced flexibilities on Form I-9 compliance requirements (the “I-9 Flexibility Guidance”) through June 30, 2022, in light of the uncertainty posed by the recently discovered COVID-19 Omicron variant.

On August 31, the day it was set to expire, DHS [announced](#) an extension of the I-9 Flexibility Guidance that was initially granted in the Spring of 2020. Citing ongoing precautions due to COVID-19, including changing guidance from the CDC in response to new evidence on the Delta variant, the announcement declared that the flexibilities would be extended until December 31, 2021. That initial guidance, which has been extended and amended numerous times, permits remote inspection of employee identity and employment authorization documents in situations where employees work exclusively in a remote setting due to COVID-19-related precautions. Currently the flexibility applies until an employee undertakes non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated. Furthermore, the guidance requires employers to conduct in-person verification of identity and employment eligibility documentation within **three business days** once normal operations resume.

Human resources professionals at colleges and universities have relied on the “I-9 Flexibility Guidance” for employee onboarding throughout the pandemic to ensure that institutions can continue fulfilling their missions to their students as well as their surrounding communities. As the current guidance’s expiration date falls on the calendar between two major federal government holidays—Christmas and New Year’s Day—and right in the middle of most college and university “winter breaks” when many staff, faculty, and students are away from campus, institutions will face insurmountable challenges complying with the current requirement that in-person verification of documents take place within three business days as stated in the I-9 Flexibility Guidance, should the guidance not be extended.

Furthermore, while most institutions are committed to maintaining current operations into the spring semester, ongoing precautions related to COVID-19 are still in effect and the discovery of the potentially more transmissible Omicron variant require campuses to remain flexible so that students, faculty, and staff are not negatively impacted during the spring semester should a return to remote instruction be required to keep campuses safe.

For these reasons, it is critical that colleges and universities be able to continue to avail themselves of the I-9 Flexibility Guidance until June 30, 2022. Such an extension will allow institutions to know for certain that these flexible policies will be available throughout the Spring semester and allow HR professionals sufficient time to plan for all the compliance requirements associated with the wind-down period of the I-9 Flexibility Guidance. Lastly, as many institutions are winding down operations for the year and will effectively close before the current guidance expires, we encourage DHS to announce the requested extension on or before December 17, 2021, so that higher education has sufficient time to prepare for any of its compliance obligations.

Colleges and universities have been on the frontlines of the pandemic since its onset and developed a vast array of experience-based tools to prevent and contain the spread of the virus on campus and their communities. Continued success in the face of an unpredictable virus will require maintaining and expanding upon existing workplace flexibilities that enable employers to be nimble as the virus evolves.

Thank you for your dedication to this important issue.

Sincerely,

*Basil Thomson*

Basil Thomson  
Government Relations  
CUPA-HR

On Behalf of:

American Council on Education  
Association of American Universities  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
CCCU - Council for Christian Colleges & Universities  
College and University Professional Association for Human Resources  
EDUCAUSE  
NASPA - Student Affairs Administrators in Higher Education  
National Association of College and University Business Officers  
State Higher Education Executive Officers Association