

# Hamilton County LAW LIBRARY NEWS

Professional legal information, services, and education

November 2016

## I-9 Checkup: Nine Best Practices for I-9 Compliance

By Jennifer G. Roeper of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.\*

In today's complicated maze of compliance requirements, most employers are aware of the need to complete a Form I-9 for every new hire. However, some employers fail to recognize the significance of the I-9 form. What appears to be a simple two-page onboarding form can carry the potential for six-figure liability if not completed correctly. Effective August 1, 2016, Immigration and Customs Enforcement (ICE) has increased the base penalties for failure to comply with the I-9 requirements; civil fines now range from \$375 to \$3,200 per form—numbers that can be staggering in the face of an ICE audit.

As the number of ICE audits around the country continues to increase, now is the time for employers to perform I-9 checkups, review their I-9 processes, and eliminate potential liability before an ICE agent appears at the front door. Before reviewing the steps an employer can take to perform an I-9 checkup, first,

review the basic requirements:

### What Are the Origins of I-9 Liability?

In 1986, employers became subject to the Immigration Reform and Control Act (IRCA), which imposed the requirement that employers complete a Form I-9 for every new hire. Under the IRCA, employers must verify both the identity and employment eligibility of all new employees hired after IRCA's effective date of November 6, 1986 ("employees" being defined as "any person who performs labor or services in return for wages or other remuneration"). Originally intended to discourage illegal immigration into the United States, the IRCA has placed a significant burden on employers to ensure not only that they are completing the Form I-9 correctly, but also that the form is completed in an appropriate, nondiscriminatory manner. On August 25, 2016, the Office of Management and Budget

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### Hamilton County Law Library

Hamilton County  
Courthouse  
1000 Main Street  
Room 601  
Cincinnati, OH 45202  
T:513.946.5300  
F:513.946.5264

Open Monday-Friday 8 - 4

<http://lawlibrary.hamilton-co.org>

# Tech Tip: Mobile Print from Any Device to the Law Library Color and Black and White Printer.

By: Julie Koehne, Systems Librarian

Email your print jobs on your way to the Law Library, from the street, a local coffee shop, home, your office, or a courtroom and pick them up!

**Step 1:**

Email your document to [hcllcopyroom@printspots.com](mailto:hcllcopyroom@printspots.com)

**Step 2:**

You will receive an email with a Privacy Release Code.

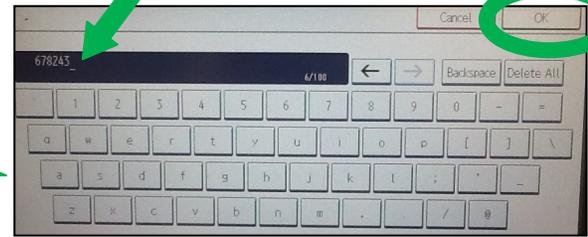
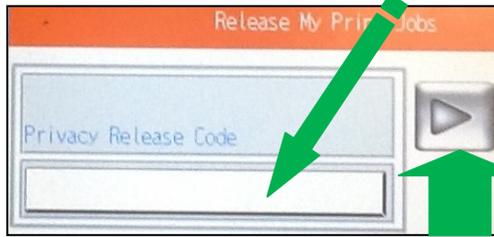
**Step 3:**

When you get to the printer in the Law Library, put money in the vending station, then press the button the red arrow is pointing at.



**Step 4:**

To enter the Privacy code, touch inside the box, a keyboard will display, enter the code emailed to you, and then press "OK".



**Black and White** prints are \$0.15 per page and \$0.08 per page for subscribers.

**Color** prints are \$0.50 per page and \$0.25 per page for subscribers.

**Step 5:**

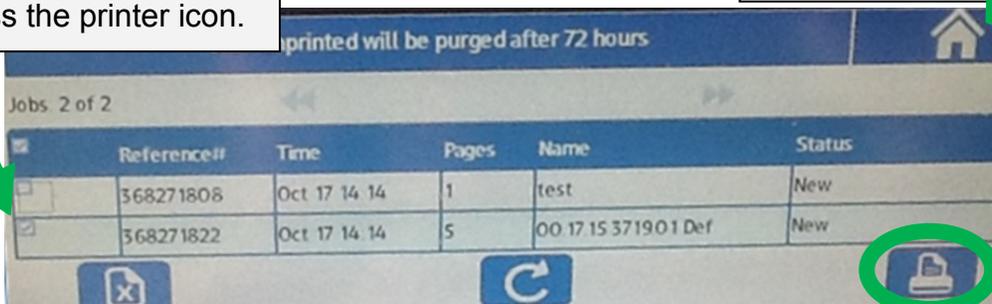
Click on the Arrow button to proceed.

**Step 6:**

Select the item(s) to print, then press the printer icon.

**Step 7:**

When finished, logout by pressing the Home icon.



## Upcoming CLE

Free to subscribers; \$50 for non-subscribers  
Registration is required.

To register, call 513.946.5300, email  
[reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org), or  
register via the website

[http://lawlibrary.hamiltoncountyohio.gov/  
classes/calendar/](http://lawlibrary.hamiltoncountyohio.gov/classes/calendar/)

### **CLE Replay Day-Thursday, December 15**

Join us for a replay of the following  
previously recorded CLEs.

#### **Legal Ethics & Access to Justice: Professional Conduct in Pro Bono Work**

Speaker: Lauren Morrison  
Thursday, December 15

8:30am-9:30am

1.0 hour of professional conduct CLE  
pending in Ohio, 1.0 hour of ethics credit  
pending in Kentucky.

**\*Note-this program was previously pre-  
sented at the Law Library on August 31,  
2016**

#### **Sixty Apps in Sixty Minutes: Mobile Apps for Productivity and Research**

Speaker: Mary Jenkins  
Thursday, December 15

9:45am-10:45am

1.0 hour of general CLE credit pending in  
Ohio and Kentucky

**\*Note-this program was previously pre-  
sented here at the Law Library on Febru-  
ary, 24, 2016**

#### **Elder Law Challenges in Ohio: Nursing Homes, Hospice, Dementia and Payments**

Speaker: Jim O'Reilly  
Thursday, December 15

Noon-1pm

1.0 hour of general CLE credit pending in  
Ohio and Kentucky

### **Ohio Legislative History**

Speaker: Laura Dixon-Caldwell

Thursday, December 15

1:15pm-2:15pm

1.0 hour of general CLE credit pending in  
Ohio and Kentucky

## **What is Document Delivery at HCLL?**

We don't offer a courier service; no bicycles,  
drivers, no in-person deliveries. But we do  
deliver documents quickly via email and fax.  
When subscribers need annotated statutes,  
law review articles, sample forms, and chap-  
ters from books, for example, they can count  
on us to find the document and promptly  
email it or fax it. In some instances, we have  
a choice of formats for the output. We often  
hear, "I didn't know you could do that for us!"  
But it's true. We do. And if we don't have the  
item in our collection or databases, we'll get  
it from another library whenever possible.

[Contact us](#) for more information or just email  
or call us when you need a document.

## **Get Library News Faster**

Do you receive a print copy of the newslet-  
ter? You could get library news more quickly  
via email, approximately a week before the  
print copy arrives. Contact us to make that  
change or sign up online at [http://  
lawlibrary.hamiltoncountyohio.gov/news/  
topical-updates/](http://lawlibrary.hamiltoncountyohio.gov/news/topical-updates/). We also email biweekly  
news updates on a number of practice areas  
which you will see listed on that same page.

*(Continued from page 1)*

(OMB) approved a round of revisions to the Form I-9. U.S. Citizenship and Immigration Services (USCIS) must publish the new Form I-9, which will include “smart features,” new fields, and some updated language intended to help facilitate compliance by guiding users through the process, by November 22, 2016. Employers are permitted to continue using the current Form I-9 (with a revision date of March 8, 2013) through January 21, 2017, but must switch to the new Form I-9 thereafter.

### **What Happens if a Company Does Not Complete Form I-9 Correctly?**

In addition to requiring a Form I-9 for every new hire, the IRCA warns employers not to discriminate against individuals on the basis of national origin, citizenship, or immigration status. In practical terms, this puts employers on notice that they must not ask a new hire for any specific document to verify his or her employment eligibility or refuse to accept an I-9 document that appears to be genuine on its face. Failure to follow the appropriate procedures in the I-9 verification process can lead to:

- civil fines;
- criminal penalties (where there is a pattern or practice of violations);
- debarment from government contracts;
- court orders requiring back pay to the individual against whom the company discriminated; and
- court orders requiring the employer to hire an individual who was discriminated against in the I-9 process.

### **How Can a Company Ensure That It Is in Compliance With the I-9 Rules?**

Companies that take the I-9 requirements

seriously are well ahead of the game. Ensuring that your company has a compliant I-9 program that encourages periodic internal review will go a long way in minimizing any potential penalties levied in the course of an ICE audit. Following the simple steps below may assist companies in tightening up their I-9 programs and processes.

**1) Avoid a Fishing Expedition:** Consider removing all I-9 records from personnel files and keeping them organized in a separate I-9 binder either at the work site or at a central corporate office. Should ICE visit the office requesting the I-9 records, the documents will be accessible and organized.

**2) Appoint an I-9 Captain:** Consider designating a lead human resources professional to oversee the I-9 process. Ensure that this person receives annual training on the I-9 requirements.

**3) Watch for Timeliness:** Failing to complete the Form I-9 in a timely basis is a substantive violation, which can lead to substantial fines. An employee must complete Section 1 on or before his or her first day of work, and the employer must complete Section 2 no later than the employee’s third day of employment. If a company has a seven-day operation, weekends count towards these days of employment.

**4) Be There in Person:** Make sure all I-9 documents are verified in person to ensure the documents appear legitimate and reasonably relate to the employee being verified. Do not accept faxed or scanned documents for I-9 purposes.

**5) Never Ask for Specific Documents:** Al-

low the employee to select the I-9 documents he or she wishes to present. Employers may want to avoid saying things like “please show me your green card” or “I need to see your Social Security card.” Instead, employers can allow the employee to choose from the list of acceptable documents.

**6) Be consistent:** Companies may want to decide whether they will keep copies of supporting documents for I-9 purposes. What a company does for one, it may do for all— regardless of the employee’s citizenship status.

**7) Create an I-9 Tickler System:** If an employee indicates that he or she has work authorization that will expire, consider establishing an automated tickler system as a reminder to reverify his or her employment eligibility before it expires. An employer may also want to utilize an online I-9 system, if possible, to alleviate missed deadlines.

**8) Do Not Overdocument:** Accepting and/or photocopying too many supporting documents may lead to a fine. If an employee provides too many documents, an employer may need to push back by showing him or her the list of acceptable documents and allowing him or her to choose which documents to use for I-9 purposes.

**9) Perform an I-9 Checkup Now.** Taking steps to ensure an effective, compliant I-9 program will not only alleviate unnecessary liability, but it will also go a long way in establishing a good faith defense in the face of an ICE audit, which can further reduce civil fines. To conduct a checkup, an employer can ask its human resources team how they conduct the I-9 process and review their re-

sponses to tighten up the process where necessary. Next, the employer could perform an internal audit of its I-9s and clean up any technical violations. Finally, it can train its human resources team on I-9 issues and continue to review its processes on an annual basis.

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*This article was drafted by the attorneys of Ogletree Deakins, a labor and employment law firm representing management, and is reprinted with permission. This information should not be relied upon as legal advice.*

## Subscriber Renewals for 2017

We will mail subscriber renewal invoices in early December. Prices for 2017 remain the same. Vanessa will be in touch with firms before sending invoices to verify any attorneys who have left or joined the firm this year. There is no fee for attorneys in their first year of practice after passing the bar exam so please share that good news with the new attorneys in your circles of influence. The library board and staff believe that the value of law library services and resources far exceeds the annual fee. We hope that reflects accurately your own experience. If you have suggestions or comments, please contact incoming library director [Lauren Morrison](#).



## Convenient Access to Lexis for Solo Attorneys

For less than \$100 a month, library subscribers who are attorneys in solo practice can use Lexis Advance from home or office. Our plan includes Ohio, Kentucky, and Indiana cases, code, and administrative law, along with Sixth Circuit, district court, and bankruptcy cases, CFR, USCS, SCOTUS decisions, and regional law reviews and journals. See our [Lexis for Solo Attorneys webpage](#) for the details and the application form or ask any member of the staff. This add-on service is indeed limited to current subscribers in solo practice.



## 2017 Library Board Meetings

The Hamilton County Law Library Resources Board has established its regular quarterly meeting schedule for 2017. The Board will meet on January 12, April 13, July 13, and October 12. All meetings are held at 12:00 noon in the Law Library's Robert S. Kraft Board Room. Meetings are open to the public. Minutes of previous meetings are on the [Governance webpage](#). Any changes to the schedule are announced on the digital display, on the library's social media sites and webpage, and in the newsletter as well if there is sufficient notice.

## You and the Legal System: Ohio Special Education Law

Attorney Thomas Jacobs is our next speaker in the *You and the Legal System* series for the public. Mr. Jacobs will discuss

Special Education Law on Friday, November 18 at noon in the Law Library. The program is free to the public. To register, call 513.946.5300 or register via our website <http://lawlibrary.hamiltoncountyohio.gov/event-registration/?ee=85>

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact [Laura Dixon-Caldwell](#).

*You and the Legal System* is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service. *You and the Legal System* will be on hiatus in December and January. Check with us in early 2017 for news on *You and the Legal System*.



## Legal Ethics Resources

Law Library subscribers now have access to a variety of resources on Ethics. If you have questions, or have a suggestion for a title to add, contact the reference staff at [reference@cms.hamilton-co.org](mailto:reference@cms.hamilton-co.org) or 513.946.5300

ACTL ethics, professionalism, and substance abuse  
KFO76.5.A2 E85 2013

Anderson's the law of professional conduct in Ohio  
KFO76.5.A2 B43 2012-13

Annotated model rules of professional conduct  
KF305.A2 A231 2015

Build your practice and retain your clients : a roadmap to effective, ethical business developments and client service  
KFO77.5 .B835 2012

Conflicts of interest in the practice of law : causes and cures  
KF311 .F522 2015

Digging for buried treasure : how a search through the rules of ethics and professionalism reveals the seven secrets to attorney success  
KF306 .T45 2012

Fear factor : how good lawyers get into bad ethical trouble  
KFO76.5.A2.xA3 T45 2014

Lawyer disqualification : disqualification of attorneys and law firms  
KF306 .F53 2014

Legal ethics : the lawyer's deskbook on professional responsibility  
KF306 .A4 R67 2016-17

Model rules of professional conduct  
KF305 .A2 2013

Professionalism, law office management, and client funds management : and, Ohio notary law  
KFO526.N6 P765 2015

### **Online Resources Remote Access\***

#### **Fastcase Law Practice Resources Library**

Hillman on Lawyer Mobility -The Law and Ethics of Partner Withdrawals and Law Firm Breakups, 2nd Edition  
Just Memos, 4th Edition

Lawyer's Desk Book  
The Law of Lawyering, 4th Edition  
The Lawyer's Almanac 2013

\*Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

### **Links**

[ABA Standing Committee on Ethics and Professional Responsibility](#)

[ABA Model Rules of Professional Conduct](#)

[Ohio Rules of Professional Conduct](#)

[Ohio Supreme Court Advisory Opinions](#)

[Ohio Supreme Court Board of Professional Conduct](#)

[Cincinnati Bar Association Ethics and Responsibility Committee](#)

[Ohio State Bar Association Lawyer Ethics and Discipline](#)

### Upcoming Events:

November 18: You and the Legal System: Special Education Law

December 15: CLE Replay Day-See inside for the full schedule.

### Law Library Holidays

The Law Library will be closed the following days:

Friday, November 11 in observation of Veterans' Day

Thursday and Friday, November 24 and 25 in observance of Thanksgiving



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ADDRESS CORRECTION REQUESTED

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Hamilton County Courthouse  
1000 Main Street, Room 601  
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