

**UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE**

*Office of Business Liaison*

*Public inquiries:*    Employer hotline 800-357-2099    Fax 202-305-2523    E-mail [office.business.liaison@usdoj.gov](mailto:office.business.liaison@usdoj.gov)  
Order INS Forms 800-870-3676    Website [www.usdoj.gov/ins/](http://www.usdoj.gov/ins/)

## EMPLOYER SANCTIONS

### CIVIL PENALTIES<sup>1</sup>

INS will issue a Notice of Intent to Fine (NIF) if an investigation determines that penalties against an employer are warranted. Employers may request a hearing within 30 days. If a hearing is not requested within this time, the penalty will be imposed and a Final Order issued. Once a Final Order is issued, the penalty is unappealable. If an employer can demonstrate compliance with Form I-9 requirements, a **good faith defense** with respect to a charge of knowingly hiring an unauthorized alien will have been established unless the government can prove that the employer had actual knowledge of the employee's unauthorized status.

#### *Hiring or Continuing to Employ Unauthorized Alien(s)*

Employers may be ordered to cease and desist from the unlawful employment and fined \$250-\$2000 per unauthorized alien for the **first offense**, from \$2000-\$5000 per unauthorized alien for a **second offense**, and \$3000-\$10,000 per unauthorized alien for each **subsequent offense**. These penalties are not limited to employees for whom employers complete and retain I-9 files, but also cover employers' use of contract personnel known to them to be unauthorized to work in the United States.

#### *Failure to comply with I-9 Requirements*

Employers who fail to properly complete, retain, and/or present Forms I-9 for inspection as required by law may be fined from \$110-\$1100 per employee whose Form I-9 is not properly completed, retained, and/or presented.

#### *Requiring Indemnification*

Employers found to have required a bond or indemnity from an employee against liability under employer sanctions laws may be fined \$1100 per violation and ordered to make restitution to the person required to pay the indemnity. If that person cannot be located, payment is made to the U.S. Treasury.

### CRIMINAL PENALTIES

#### *Engaging in a Pattern or Practice of Knowingly Hiring or Continuing to Employ Unauthorized Aliens*

Employers convicted of having engaged in a pattern or practice of knowingly hiring unauthorized aliens, or continuing to employ aliens knowing that they are or have become unauthorized (e.g. expiration of work authorization), may be fined up to \$3000 per unauthorized employee and/or face 6 months of imprisonment.

#### *Engaging in Fraud or False Statements, or Otherwise Misusing Visas, Immigration Permits, and Identity Documents*

Persons who use fraudulent identification or employment eligibility documents, or documents that were issued to persons other than themselves, or who make false statements or attestations for purposes of satisfying employment eligibility verification requirements, may be fined and/or imprisoned for up to 5 years.

<sup>1</sup> The sanctions described in this bulletin cover offenses occurring on or after September 29, 1999.

## CIVIL DOCUMENT FRAUD

It is unlawful for anyone knowingly to engage in any of the following activities for the purpose of satisfying a requirement of the Immigration and Nationality Act:

- forge, counterfeit, alter, or falsely make any document
- use, attempt to use, possess, obtain, accept, or receive any forged, counterfeit, altered or falsely made document
- use or attempt to use any document lawfully issued to a person other than the possessor, including a deceased individual
- accept or receive any document lawfully issued to a person other than the possessor for the purpose of complying with employment eligibility verification requirements

If an investigation reveals that an individual has committed or participated in any of the acts listed above, the INS may issue a Notice of Intent to Fine (NIF). Within 30 days of the NIF, the person or entity that receives the NIF may request a hearing or face an unappealable Final Order to pay, **per fraudulent document used, accepted or created and each use, acceptance, or creation**, \$250-\$2000 for the first offense and \$2000-\$5000 for each subsequent offense.

## UNLAWFUL DISCRIMINATION

If an Office of Special Counsel for Unfair Employment-Related Discrimination (OSC) or Equal Employment Opportunity Commission (EEOC) investigation reveals employment discrimination covered by the Immigration and Nationality Act, the employer will be ordered to cease the prohibited practice and may be ordered to take one or more of the following steps:

- hire or reinstate individuals directly injured by the discrimination, with or without back pay
- lift any restrictions on an employee's assignments, work shifts, or movements
- post notices to employees about their rights and about employers' obligations
- educate all hiring personnel in complying with employer sanctions and antidiscrimination laws
- remove a false performance review or false warning from an employee's personnel file

Employers may also be ordered to pay civil money penalties of \$250-\$2000 per individual discriminated against for the **first offense**, \$2000-\$5000 per individual discriminated against for the **second offense**, \$3000-\$10,000 per individual discriminated against for **subsequent offenses**. Where employers are found to have requested more or different documents than an employee has chosen to present from List A or Lists B and C, they may be fined \$100-\$1000 for each individual determined to have suffered such **document abuse**.