

OFFICE OF BUSINESS LIAISON

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Employer Information Bulletin 108	EBISS: (800) 357-2099
Employment Authorization of Aliens	NCSC: (800) 375-5283
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The following is not intended to be legal advice pertaining to your situation and should not be construed as such. The information provided is intended merely as a general overview with regard to the subject matter covered.

EMPLOYMENT AUTHORIZATION OF FOREIGN NATIONALS

There is a direct relationship between an alien's status and the type of document issued to him or her by the Department of Homeland Security, U.S. Citizenship and Immigration Services. Employers should become familiar with the different category types.

PERMANENT, UNRESTRICTED EMPLOYMENT

Common evidence of work authorization:

- US passport (unexpired or expired)
- US birth certificate
- Permanent Resident Card (Resident Alien Card, Form I-551, and/or Alien Registration Receipt Card) also known as "Green Card"
- Unrestricted Social Security Card

Employment Available to:

- US citizens, US Nationals Immigrants (Lawful Permanent Residents) Asylees and Refugees.

Note: Employers should know that only aliens who check the "lawful permanent resident" box on Form I-9 Section 1 would be authorized (but not required) to present a "Green Card" for Section 2 purposes.

TEMPORARY, UNRESTRICTED EMPLOYMENT

Common Evidence of work authorization:

- EAD
- **Employment Available to:**See 8 CFR 274a.12 for list of those eligible for an EAD, which can be accessed on www.uscis.gov.

To evidence work authorization that is temporary and unrestricted, an employee will show an employment authorization document (EAD on Form I-688B, Form I-766, or Form I-688A in certain legalization cases). EADs are issued to aliens for several different purposes. Common categories of EAD holders include aliens awaiting adjustment of status, fiancé(s) in K-1 status, and aliens granted Temporary Protected Status (TPS).

Employers may want to keep in mind that aliens who check the “alien authorized to work until [insert date]” box in I-9 Section 1 will be authorized to present an EAD for Section 2 purposes.¹ EADs are generally valid for one year. Similarly, the work authorization expiration date listed in I-9 Section 1 will often be the expiration date of the EAD presented for Section 2 purposes.

TEMPORARY, RESTRICTED EMPLOYMENT (EMPLOYER-SPECIFIC)

Common Evidence of work authorization: Form I-94 Arrival-Departure Record showing endorsement of employer-specific classification and unexpired period of admission.

Employment Available to: Aliens granted employer-specific employment-based classifications, including A-1, A-2, and A-3, C-2 and C-3, E-1 and E-2, F-1 (for on campus employment and curricular practical training only, and only if presented with Form I-20 endorsed for the specific employment), G-1, G-2, G-3, G-4 and G-5, H-1b, H-1c, H-2a, H-2b, and H-3, I, J-1, L-1a and L-1b, O-1 and O-2, P-1, P-2 and P-3, Q, R-1, NATO, TN-1, and N-2. See 8 CFR 274a.12 for more information available at www.uscis.gov.

Employer-specific employment authorization is evidenced on the Form I-94, Arrival-Departure Record that aliens receive and must retain with their passports. Upon admission into the US, these forms are stamped or marked with the arriving aliens’ immigration classification and with the period of authorized stay in the US under that classification. In order to be acceptable as proof of work eligibility, the stamp must specify that employment is authorized or indicate an unexpired nonimmigrant admission. A stamp indicating a nonimmigrant admission means that the alien may work for the approved employer(s) and for no other employer(s) until expiration of the indicated period of approved stay. Therefore, only US employers whose petitions to employ these aliens have been approved by the Department of Homeland Security, U.S. Citizenship and Immigration Services may accept this documentation to satisfy employment eligibility verification requirements of Form I-9. The employee can work for the petitioning employer(s) until the period of admission/work authorization approved by the Department of Homeland Security, expires. The back of Form I-94 may also be completed by which to indicate employment restriction for those aliens authorized to work temporarily only for a single employer. With limited exceptions, aliens are obligated to relinquish their I-94 when leaving the US.

UNAUTHORIZED

- EWI (aliens who entered and remain in the US unofficially, without inspection) or PWI (present without inspection)
- Visitors (B-1 and B-2, including VWPP participants) (with few exceptions)
- Dependents of persons authorized to be employed incident to their status (including but not limited to H-4 and TD) except spouses of the L and E classification
- Dependents of students (F-2 and M-2)

¹ A citizen of national of the United States or a permanent resident should not have an EAD as evidence of work authorization.