Prepared by the Office of Human Resources.
This is a NEW Procedure.

RECRUITMENT, SELECTION, AND APPOINTMENTS

A9.685   E-Verify Program

1.   Purpose

To provide procedures to verify an employee's eligibility to work in the United States using the U.S. Citizenship and Immigration Services (USCIS) E-Verify system, in accordance with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

2.   Basic Overview of E-Verify

E-Verify is an internet-based system operated by the USCIS in partnership with the Social Security Administration (SSA). E-Verify electronically compares information entered on the Employment Eligibility Verification, Form I-9, with records contained in the SSA and the Department of Homeland Security (DHS) databases to help employers verify the identity and employment eligibility of employees.

3.   User Roles for E-Verify System

a.   There are three types of user roles:

(1)   Corporate Administrator: This user is responsible for managing multiple company accounts from a central location. A corporate administrator has the ability to unlock accounts, view reports for multiple company sites, as well as register and administer company sites and user accounts.

(2)   Program Administrator: This user is responsible for creating user accounts at his or her site for other program administrators and general users. A program administrator has the capability to

view reports, perform queries, update profile information and unlock user accounts.

(3) General User: This user performs verification queries, views reports, and has the capability to update his or her personal user profile.

b. The Office of Human Resources (OHR) will serve as the corporate administrator for the University and will register all interested campuses/schools/programs in the E-Verify system.

c. The campus/school/program personnel representatives will serve as program administrators. Employees, such as supervisors, other personnel representatives, and office assistants, may serve as general users.

d. The OHR shall conduct random audits for E-Verify compliance and will give the campuses/schools/programs at least three (3) business days notice to prepare for the audit. However, as the campuses/schools/programs are delegated authority to recruit, select and appoint new hires, the Vice Presidents/Chancellors/Vice Chancellors/Deans/Directors are responsible for ensuring compliance with E-Verify regulations.

e. The verification process in E-Verify involves collecting and using an individual's personal information. Therefore, only authorized individuals identified in one (1) of the three (3) user categories will be allowed to access the E-Verify system, handle information and perform verification queries. All users at every level are responsible for protecting the privacy of individuals that submit information for verification. Any unauthorized access or breach of privacy must be immediately reported to the Vice President/Chancellor/Vice Chancellor/Dean/Director.

f. Authorized users of the E-Verify system will receive a user ID and password which they must protect. Sharing of passwords is prohibited. Any breach or suspected breach of password protection must be immediately

reported to the Vice President/Chancellor/Vice
Chancellor/Dean/Director.

4. Participation in E-Verify

    The decision for a campus/school/program to participate in
    E-Verify will depend on the following:

    a. The award of a federal contract containing the Federal
        Acquisition Regulation E-Verify clause, or

    b. The opportunity for a 17-month extension of post-
        completion Optional Practical Training (OPT) in the
        Science, Technology, Engineering and Mathematics
        (STEM) field. OPT is temporary employment that is
        directly related to an F-1 foreign student's major
        area of study. More information is available at:

        http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb
        95919f35e66f614176543f6d1a/?vgnextoid=ff791c491861a110
        VgnVCM1000004718190aRCRD&vgnextchannel=68439c7755cb901
        0VgnVCM10000045f3d6a1RCRD

5. Enrollment in E-Verify as a Federal Contractor

    a. When a federal contract contains an E-Verify clause, a
        campus/school/program must enroll in the E-Verify
        program within 30 calendar days from the date the
        contract is finalized and officially accepted by the
        University. The Vice President/Chancellor/Vice
        Chancellor/Dean/Director will be required to sign a
        Memorandum of Understanding (MOU) that provides the
        terms of agreement between the campus/school/program
        and the DHS and SSA. The signed MOU will be forwarded
        electronically to the OHR, and upon receipt, the OHR
        shall register the campus/school/program in E-Verify.

    b. Users of the system must complete an online tutorial
        and complete a certification process before being
        authorized to initiate verification queries in
        E-Verify.

c.   The campus/school/program has two (2) options in
     verifying employees:

     (1) Verify only employees assigned to the federal
          contract, or

     (2) Verify the entire workforce.

     NOTE: The decision to verify the entire workforce is
     irrevocable and may not be changed at a later time.

d.   To verify only employees assigned to the federal
     contract

     (1) These employees include new and existing
          employees assigned to the federal contract that
          contains the E-Verify clause, except employees
          that are exempt. See Section 8 for employees
          that are exempt from E-Verify.

     (2) Within 90 calendar days of enrollment, the
          campus/school/program shall begin initiating
          queries in E-Verify for **all** new hires assigned to
          the federal contract. Once the initial 90
          calendar days have passed, the campus/school/
          program shall initiate queries in E-Verify within
          three (3) business days of the appointment date.

     (3) For existing employees assigned to the federal
          contract, the campus/school/program shall
          initiate queries in E-Verify within 90 calendar
          days of the contract award date or 30 calendar
          days of the employee's assignment to the
          contract, whichever date is later. Existing
          employees shall complete a new Form I-9 which
          will be retained with any previously completed
          Form I-9.

     (4) After initial registration as a federal
          contractor, a campus/school/program may opt to
          retain or hire F-1 OPT STEM students eligible for
          a 17-month extension of the student's original
          period of OPT. The campus/school/program shall

notify OHR as the corporate administrator. The OHR shall update the organization's profile in E-Verify – remain a federal contractor with the requirement to verify **all** new hires (including new hires not assigned to the federal contract).

e. To verify the entire workforce

   (1) The entire workforce includes all new hires and existing employees, except those that are exempt, regardless of whether they are assigned to the federal contract. See Section 8 for employees that are exempt from E-Verify.

   (2) Within 90 calendar days of enrollment, the campus/school/program shall begin initiating queries in E-Verify for **all** new hires. Once the initial 90 calendar days have passed, the campus/school/program shall initiate queries in E-Verify within three (3) business days of the appointment date.

   (3) Within 180 calendar days of enrollment, the campus/school/program shall verify **all** existing employees. Existing employees shall complete a new Form I-9, which will be retained with any previously completed Form I-9.

6. Enrollment in E-Verify to Retain or Hire F-1 OPT STEM Students for a 17-month Extension of Post-completion OPT

   a. A campus/school/program may enroll in the E-Verify Program to retain or hire F-1 OPT STEM students. The Vice President/Chancellor/Vice Chancellor/Dean/ Director will be required to sign a MOU that provides the terms of agreement between the campus/school/ program and the DHS and SSA. The signed MOU will be forwarded electronically to the OHR, and upon receipt, the OHR shall register the campus/school/program in E-Verify.

   b. Users of the system must complete an online tutorial and complete a certification process before being

authorized to initiate verification queries in the system.

c.   Within 90 calendar days of enrollment, the campus/school/program shall begin initiating queries in E-Verify for **all** new hires, except employees that are exempt. See Section 8 for employees that are exempt from E-Verify.

d.   The eligibility requirements for the 17-month extension of post-completion OPT include:

(1)   The student must have a bachelor's, master's, or doctorate degree included in the STEM Designated Degree Program List. This list sets forth eligible courses of study according to Classification of Instructional Programs codes developed by the U.S. Department of Education's National Center for Education Statistics. The F-1 student's major as listed on the I-20 form is used to determine STEM-eligibility within the DHS's Student and Exchange Visitor Information System. NOTE: There are some university majors or classification that may be unclear.

The STEM Designated Degree Program List includes the following fields of study:

- o   Actuarial Science
- o   Biological and Biomedical Sciences
- o   Computer Science Applications
- o   Engineering
- o   Engineering Technologies
- o   Mathematics and Statistics
- o   Medical Scientist
- o   Military Technologies
- o   Physical Sciences
- o   Science Technologies

(2)   The student must currently be in an approved post-completion OPT period (initial 12-month OPT period) based on a designated STEM degree, as noted on the student's I-20 form.

(3)   The student's employer must be enrolled in E-Verify.

(4)   The student must apply on time (i.e., before the current post-completion OPT expires).

e.   After initial registration as a general user, a campus/school/program may be awarded a federal contract that contains the E-Verify clause. The campus/school/program shall notify OHR as the corporate administrator within 30 calendar days of being awarded the contract. The OHR shall update the organization's profile in E-Verify to federal contractor. In addition to verifying all new hires, the campus/school/program will also now be required to verify existing employees assigned to the contract. See Section 5 for procedures.

7.   Which Employees Must be E-Verified?

a.   Employees are individuals hired to perform labor or services in return for wages or remuneration.

b.   If enrolled as a federal contractor (and not verifying the entire workforce), the campus/school/program must verify:

(1)   Any employee hired after November 6, 1986, who is directly performing work for the federal contract, with the following exceptions:

(a)   Employee has an active confidential, secret or top secret security clearance.

(b)   Employee normally performs support work, such as indirect or overhead functions, and does not perform any substantial duties under the contract. Examples include administrative or clerical support work.

(2)   Any employee working on the federal contract a minimal amount of time (i.e., work of an intermittent nature, etc.).

c.   If enrolled to retain or hire F-1 OPT STEM students for a 17-month extension of post-completion OPT, the campus/school/program must verify **all** new hires, with the exception of those having an active confidential, secret or top secret security clearance.

8.   Which employees are exempt from E-Verify?

a.   Any employee hired before November 7, 1986.

b.   Any employee holding an active federal agency HSPD-12 compliant credential or a U.S. Government security clearance for access to confidential, secret or top secret information in accordance with the National Industrial Security Program Operating Manual.

c.   Any employee transferring to another University position and whose employment eligibility was previously confirmed through E-Verify by another campus/school/program shall not be re-verified. The case verification number and date case resolved will be indicated in PeopleSoft if the employee was confirmed through E-Verify at the University.

9.   Notifying Prospective Employees of E-Verify Participation

a.   The following two notices must be clearly displayed in plain view at the various hiring sites to inform prospective and current employees that the University is participating in the E-Verify Employment Verification Program.

(1)   English and Spanish versions of the E-Verify Participation issued by the DHS, and

(2)   English and Spanish versions of the Right to Work Poster issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices.

b.   The notices may be downloaded from the "On-line Resources" section upon enrollment in the E-Verify program.

10. The Rules of Use for Campuses/Schools/Programs Participating in E-Verify

   a.   Employees must be newly hired with a completed Form I-9 before queries may be initiated in E-Verify.

   b.   Form I-9 requirements remain the same except that all "List B" identity documents must bear a photograph.

   c.   The participating campuses/schools/programs must submit verification queries for newly hired employees no later than the 3rd business day after the appointment date.

   d.   If a verification query was not initiated by the 3rd business day after the appointment date, the personnel representative or designee shall immediately initiate the verification process. The personnel representative or designee shall note the reason for the delay and attach it to the Form I-9.

   e.   The campuses/schools/programs may not verify newly hired employees selectively and must follow E-Verify procedures for all new hires.

   f.   The University may not request that the employee use certain documentation for Form I-9 or E-Verify purposes.

   g.   The University may not use E-Verify to discriminate against any job applicant or new hire on the basis of his or her national origin, citizenship or immigration status.

   h.   The University may not use the system to pre-screen applicants for employment.

   i.   The University may not go back to check employment eligibility for employees hired before it signed the MOU with the USCIS and SSA.

j. The campus/school/program must provide their employees with an opportunity to contest a Tentative Nonconfirmation (TNC).

k. The campus/school/program cannot take any adverse action against an employee based upon a TNC unless E-Verify issues a Final Nonconfirmation (FNC).

l. The employee must be allowed to continue to work during the verification process.

11. Submitting an Initial Verification

Once an employee has completed the Form I-9, the personnel representative or designee shall determine if the new hire's employment eligibility must be confirmed through E-Verify. If required to be e-verified, the personnel representative or designee shall initiate a verification query in E-Verify. The initial verification query must be conducted no later than the 3rd business day after the employee's appointment date. See the E-Verify User Manual for instructions on how to initiate verification requests, notify employees of a TNC, use the photo screening tool, etc.: http://www.uscis.gov/files/nativedocuments/E-Verify_Manual.pdf

12. Viewing Initial Verification Results

Based on the response type, the personnel representative or designee shall take the appropriate action:

a. "Employment Authorized" – employment eligibility is verified and the case may be resolved.

b. "DHS Verification in Process" – a DHS Immigration Status Verifier is checking additional DHS data sources to confirm the employment eligibility of a non-citizen. DHS responds to most of these cases within 24 hours, but has up to three (3) federal government workdays to respond. The system should be checked daily for a response.

c.   "SSA Tentative Nonconfirmation" – inform your
     personnel representative of the TNC. The personnel
     representative will be responsible for notifying the
     employee:

     (1) Notify the employee of a TNC Response

          (a) Print the *Notice to Employee of Tentative
               Nonconfirmation* generated by the E-Verify
               system.

          (b) Review the *Notice to Employee of Tentative
               Nonconfirmation* with the employee. Explain
               that he or she must contest the TNC or risk
               termination of employment. The employee
               must indicate on the *Notice* whether he or
               she contests or does not contest the
               findings reflected in the TNC that he or she
               appears unauthorized to work. Both the
               employee and the personnel representative
               must sign the *Notice*.

          (c) After the employee and personnel
               representative sign the *Notice*, a copy of
               the *Notice* is given to the employee. The
               original signed notice is filed with the
               employee's Form I-9.

          (d) If the employee does not contest the TNC,
               the employer may now terminate employment
               with no civil or criminal liability.

          (e) If the employee contests the TNC, the
               personnel representative shall
               electronically refer the employee to the
               appropriate agency.

          (f) The employer may not take action against the
               employee while the employee resolves his or
               her case within the time allotted. The
               employee must visit an SSA office and/or
               contact the DHS by phone within eight (8)

federal government workdays of referral to
resolve his or her employment eligibility.

(2) Viewing Responses

Once the employee has visited SSA or contacted
DHS, the status of the case in E-Verify will
automatically change to one of the following
responses:

(a) Employment Authorized: Employment
eligibility is verified. Resolve the case.

(b) SSA Final Nonconfirmation: SSA could not
verify the information. Resolve the case.

(c) SSA Case in Continuance: SSA needs more
time to work the case. Check daily to see
if the case status has been updated.

(d) Review and Update Employee Data then
resubmit: Correct any typos and continue
the case.

(e) DHS Verification in Process: The case has
been referred to DHS for verification. Wait
24 hours for a response.

(3) Resolving Cases

(a) All cases must be resolved in the E-Verify
system when final responses are received,
regardless of the employment authorization
status. There are five (5) options for
resolving a case:

1. Resolved Authorized: Employment
eligibility has been verified.

2. Resolved Unauthorized/Terminated:
Employment is not authorized (SSA FNC,
DHS Employment Unauthorized, or DHS No

Show) or TNC response is uncontested
AND employment is terminated.

3. Self Terminated: Employee quits or is
    terminated for reasons unrelated to
    employment eligibility status while the
    verification query is in process.

4. Invalid Query: Duplicate query was
    discovered after the query was sent or
    if a query was sent with incorrect
    data.

5. Employee Not Terminated: Employment is
    not authorized (SSA FNC, DHS Employment
    Unauthorized, or DHS No Show) or TNC
    response is uncontested AND employment
    is NOT terminated.

(b) A case verification number will be returned
    by E-Verify. As proof of verification,
    record the case verification number on the
    employee's Form I-9 and print the case
    details page and attach it to the employee's
    Form I-9. In addition, enter the case
    verification number and date case resolved
    in PeopleSoft for Board of Regents (BOR)
    employees. For civil service employees,
    staple the case details page on top of the
    Form I-9 and submit to the OHR. The OHR
    will enter the case verification number and
    date case resolved in PeopleSoft.

(4) Photo Screening Tool

(a) A photo screening tool is available to
    assist employers in determining whether
    employee documents are fraudulent by
    matching the photograph on the employee's
    document to the official photo displayed by
    E-Verify. The photo screening tool is
    activated automatically when employees
    present the Permanent Resident Card (PRC or

        I-551) or the Employment Authorization Card (EAC or I-766).

    (b)   Employers may not require non-citizens to present PRC or EAC to activate the Photo Screening Tool.

    (c)   Employers must make a photocopy of the new hire's PRC or EAC document and keep the photocopy on file with the Form I-9.

    (d)   Employers may only verify the photos for new hires being verified through E-Verify. Employers may not use the tool for applicants or existing employees.

13. Student Employee Hires

    a.   Each respective campus student employment office shall determine the need to participate in E-Verify as a federal contractor or as a general user and have the responsibility for verifying student employees, as required.

    b.   Enrollment as a federal contractor

        (1)   Within 30 calendar days of being awarded a federal contract, the respective Chancellor/Director of Student Employment shall sign the MOU that provides the terms of agreement between the campus/program and the DHS and SSA. The signed MOU will be forwarded electronically to the OHR, and upon receipt, the OHR shall register the campus student employment office in E-Verify.

        (2)   See Section 5 for procedures.

        (3)   The supervisor or designee shall indicate in the Student Employment and Cooperative Education (SECE) system the positions/employees that require verification in E-Verify.

c. Enrollment as a general user

(1) The respective Chancellor/Director of Student Employment shall sign the MOU that provides the terms of agreement between the campus/program and the DHS and SSA. The signed MOU will be forwarded electronically to the OHR, and upon receipt, the OHR shall register the campus student employment office in E-Verify.

(2) See Section 6 for procedures.

d. A case verification number will be issued by the system. As proof of verification, the campus student employment office shall record the case verification number on the employee's Form I-9, print the case details page and attach it to the employee's Form I-9, and enter the case verification number and date case resolved in SECE.

14. Employees Transferring to Another Campus/School/Program

a. If an employee (including a student employee hire) transfers to a campus/school/program that participates in E-Verify as a federal contractor:

(1) Ensure that the employee is performing work in the United States under a federal contract that contains the E-Verify clause.

(2) Check PeopleSoft or SECE to confirm that the employee was previously verified by the University. A case verification number and date case resolved will be in PeopleSoft or SECE.

(3) If the employee was previously verified, no further action is required.

(4) If the employee was not previously verified, initiate a query in E-Verify within three (3) business days after the employee transfers to the new unit. Existing employees shall complete a

new Form I-9 which will be retained with any previously completed Form I-9.

b. If an employee (including a student employee hire) transfers to a campus/school/program that participates in E-Verify as a general user:

(1) Check PeopleSoft or SECE to confirm that the employee was previously verified by the University. A case verification number and date case resolved will be in PeopleSoft or SECE.

(2) If the employee was previously verified, no further action is required.

(3) If the employee was not previously verified, initiate a query in E-Verify within three (3) business days after the employee transfers to the new unit. Existing employees shall complete a new Form I-9 which will be retained with any previously completed Form I-9.

c. If an employee (including a student employee hire) transfers to a campus/school/ program that does not participate in E-Verify, no further action is required.

15. Employee Rehired by the University

a. An employee rehired by the University, including a student employee hire, is required to complete a new Form I-9 or have the existing Form I-9 re-verified within three (3) business days of the appointment date. If the respective campus/school/program participates in E-Verify, the personnel representative shall initiate a query in E-Verify within three (3) business days of the rehire date. For rehired employees, it does not matter if the employee was previously verified by the University.

b. A new case verification number will be issued by the system. As proof of verification, record the case verification number on the employee's Form I-9 and

print the case details page and attach it to the employee's Form I-9. In addition, enter the case verification number and date case resolved in PeopleSoft for BOR employees. For civil service employees, staple the case details page on top of the Form I-9 and submit to the OHR. The OHR will enter the case verification number and date case resolved in PeopleSoft. For student employee hires, the campus student employment office shall enter the case verification number and date case resolved in SECE.

16. Requesting Termination from E-Verify Participation

To request termination from E-Verify participation, the Vice President/Chancellor/Vice Chancellor/Dean/ Director shall submit a request in writing to the OHR and include the reason for termination. The OHR will process the termination request in the E-Verify system.