

October 2011

## 4.101 Immigration Compliance

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### Recommended Citation

"4.101 Immigration Compliance" (2011). *4.100 Hiring (Human Resources)*. 5.  
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Type of Policy <input checked="" type="checkbox"/> <b>University</b> <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> <b>Interim</b>		<b>Immigration Compliance</b>  <b>Policy 4.101</b>	
<b>Human Resource Policies</b>		Effective date: September 6, 2011	
<b>Policy History:</b>	<b>Approved by:</b>	<b>Resolution #</b>	<b>Date:</b>
	Chancellor	N/A	September 6, 2011
<b>Responsible Office:</b>	<b>Responsible Administrator:</b>	<b>Contact information:</b>	<b>Applies to:</b>
Office of University Human Resources	Director of University Human Resources	937-769-1375	All employees

## I. Introduction

In accordance with the Immigration Reform and Control Act of 1986 (IRCA), Antioch University (“AU” or the “University”) employs only those individuals who are authorized to work in the United States. IRCA requires that employers verify the employment eligibility and identity of any employee hired to work in the United States. Potential employees who are not current citizens or lawful permanent residents may need to apply for Employment Authorization to establish eligibility to work in the United States. University departments hiring faculty, staff, temporary, graduate or student employees shall work with Human Resources to ensure compliance. The Employment Eligibility Verification form (I-9) must be completed to document a hired employee's eligibility to work in the U.S. However, hiring managers have a responsibility to ensure that the individual is eligible to work prior to beginning employment.

## II. Nondiscrimination

AU prohibits discrimination against persons because of national origin and ethnicity, against U.S. citizens, U.S. nationals, and authorized aliens. Additionally, the University does not discriminate against persons because of citizenship status, against foreign nationals with proper work authorization including permanent residents, temporary residents, refugees or asylees. University personnel shall not hold individuals to higher documentation standards than the IRCA requires to establish identity and employment eligibility.

### **III. Procedures**

#### **A. General**

All individuals who are offered employment are required to submit documentary proof of their identity and employment authorization within three days of actual employment (as distinguished from the "hire" date). Individuals to whom an offer has been made will be required to complete, and sign under oath, U.S. Citizenship and Immigration Services Form I-9. Because hiring decisions may not be based on considerations of national origin or ancestry, do not begin the Form I-9 process until after an offer is extended and the individual accepts. You may inquire on the application and in an interview whether the applicant is legally entitled to work in the United States. The I-9 form requires that employees attest that they are authorized to work in the job for which they have been hired and that the documents submitted to establish this right are genuine. Employees authorized to work in the U.S. for a limited period of time must maintain their legal status and will be required to update their I-9 form with appropriate documentation before the expiration of the authorized employment period. Each AU location should maintain a list of those employees needing to recertify employment eligibility prior to the expiration of the eligibility documentation submitted earlier. U.S. citizens and noncitizen nationals never need reverification. Do not reverify the following documents: A U.S. passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired. It is the responsibility the local Human Resources Director to ensure that all I-9 documentation is current.

Human resources representatives and/or hiring managers are required to comply with the following procedures during the hiring process:

1. Require that all prospective employees complete an AU employment application in which they are asked to answer the following question: "Do you have the legal right to work in the United States?"
2. Inform the selected applicant at time of job offer that AU employs only individuals who provide employment eligibility verification to work in the U.S.
3. After a job offer has been made and accepted, ensure that the new hire completes Section 1 of Form I-9 by his or her first day of work for pay. Employees may complete Section 1 of Form I-9 at any time between acceptance of a job offer and the first day of work for pay.
4. Review the employee's document(s) and fully complete Section 2 of Form I-9 within three business days of the first day of work for pay. For example, if the employee begins work on Monday, you must complete Section 2 by Thursday. If an employee is hired for fewer than three business days, Sections 1 and 2 of Form I-9 must be fully completed upon the employee's first day of work for pay.

5. Advise selected applicant that an inability to submit original documentation as specified on the I-9 and/or to complete the I-9 form within three days of the first date of work for pay will invalidate the job offer.
6. When a candidate for a job indicates that they are not a U.S. Citizen or permanent resident, they must contact the human resources office of the campus or university program to obtain the appropriate authorization to work before their first day of work. The human resources office assists with determining whether the person has the appropriate visa/authorizations to work in the United States.
7. All new hire employees are required to visit the Human Resources Office of their respective campus or program office on their first day of work to complete applicable paperwork. Hiring managers should insure that the employee has visited the HR Office and completed the proper employment forms prior to allowing the employee to work.
8. A human resources representative or an appointed designee will complete and sign the Employer section of the I-9, reviewing the produced documentation to verify employment eligibility.
9. The I-9 and state and federal tax forms are matched with the hiring proposal or Employee Personnel Form (Form # 4.103:02) submitted by the hiring department and entered in the human resources information system and/or personnel file. Human resource offices are required to keep a copy of the I-9 forms in an alphabetical file within their office, separate from the personnel file. An employee's completed Form I-9 should be maintained for as long as the individual works for the university. Once the individual's employment has terminated, the I-9 form must be retained either three years after the date of hire, or one year after the date employment is terminated, whichever is later. Under IRCA, employers are not required, but are permitted, to keep copies of the employee's proof of employment eligibility. It is the policy of the University that such copies be retained with the I-9 form on file at each location for all employees regardless of citizenship status or national origin.

#### **IV. Rehires**

Human resources must update the I-9 form and re-verify work eligibility for rehired international employees prior to starting work. New calendar year tax forms will need to be completed if more than a year has elapsed since previous employment.

Rehires who have not worked for the University in over three years are required to complete a new I-9 form. New calendar year tax forms will need to be completed if more than a year has elapsed since previous employment.

## **V. Social Security Numbers**

A valid social security number is required for all employees for payroll purposes. However, providing a social security number on Form I-9 is voluntary for all employees since AU does not participate in the USCIS E-Verify program, which requires an employee's social security number for employment eligibility verification. Human resources representatives should not ask a new hire employee to provide a specific document with his or her social security number on it as to do so may constitute unlawful discrimination.

In the event that a new hire needs to apply for a social security number, the application receipt will be accepted as a temporary document for purposes of new hire processing. However, the employee must present the actual social security card in human resources within 90 days of the date of application for the card. Failure to present the card could result in termination of employment.

## **VI. Discovery of Unauthorized Employees**

If the university learns that an employee whose documentation for the I-9 form appeared to be in order is not actually authorized to work in the United States, the employee will be contacted and provided with the opportunity to present appropriate I-9 form documentation proving eligibility to work in the United States. The employee must produce proof of eligibility to work within three days thereafter or employment will be terminated.

### **Resources**

<a href="http://www.uscis.gov/files/form/m-274.pdf">http://www.uscis.gov/files/form/m-274.pdf</a>	
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### **Forms Cross References**

I-9 Employment Eligibility Verification Form	Form # 4.101:01
Employee Personnel Form	Form # 4.103:02