

HIRING REFUGEES IN RESPONSE TO TRUMP EXECUTIVE ORDER?

In response to the Trump Administration's Executive Order temporarily banning refugees and certain immigrants with origins from seven specific countries, several U.S. companies publicly declared their commitment to the hiring of refugees. Specifically, Starbucks [pledged](#) to hire 10,000 refugees over the next five years and LinkedIn signaled their [intent](#) to speed up the expansion of LinkedIn's "Welcome Talent" refugee support program. Other companies are considering following the lead of Starbucks and pledging to hire existing and newly arriving refugees.

For those companies expanding or otherwise creating a commitment to hire refugees, there are at minimum three (3) key considerations that warrant serious review to ensure compliance with current U.S. employment non-discrimination laws and ensure successful integration of refugees within the U.S. workforce:

1. Special Rules for Form I-9 Compliance:

The [Form I-9](#) is the document that must be filled out for every new employee. There are special rules and protections that apply when hiring a refugee. If your company has not hired refugees in the past, it is important to review the rules to ensure that the refugees are not improperly disqualified from employment and the I-9s are filled out properly.

Some of the most common questions we get about the I-9 rules for refugees relate to translation assistance, lack of a Social Security number, and what documents refugees can provide for purposes of completing the I-9.

Translation/Assistance

Refugees seeking employment may complete a Form I-9 with as much assistance as necessary. Many may not speak English and may require someone to help translate, someone to help complete the certain portions of the I-9, and even another individual who may offer insight to the refugee about the process itself. Employers cannot prohibit or otherwise limit the refugee from receiving help from others in order to complete this form. However, it is the responsibility of the employer to ensure that all individuals involved in the preparation and translation are recorded appropriately on the Form I-9. This may require the use of an additional form known as the [Form I-9 Supplement](#).

While the refugee may receive help with the completion of Section 1 of the Form I-9, the refugee is required to sign his/her name in the appropriate field. The date can be recorded by someone assisting with the completion of the document, but the new employee must sign their own name.

Social Security Numbers

Sometimes a refugee may experience a delay in obtaining a Social Security number, and may apply for employment prior to receiving a Social Security number. [According to the Social Security Administration](#), employers can hire a refugee who has yet to receive their Social Security number so long as the employer validates the other portions of the I-9. When hiring a refugee without a Social Security number, employers will need to report the refugee's wages to the Social Security Administration and deduct appropriate taxes even if they have not yet received their Social Security number. If an employer is on E-Verify and a refugee without a Social Security number is hired, the employer should make a note of this in the file and wait until the refugee obtains the Social Security number to run E-Verify.

Documents Refugees Can Provide

To verify that an employee is eligible for employment, employers must review documents that establish both identity and authorization to work in the United States. Refugees are able to present some [unique documents](#). For example, refugees may present a Departure portion of Form I-94/I-94A with a refugee admission stamp or computer-generated printout of Form I-94 with admission code "RE". This receipt is valid for 90 days, after which the refugee must provide updated documents demonstrating that he/she is authorized to work in the United States.

Other Questions on Refugees

If you have a question about the I-9 process for a refugee, including what documents refugees can or should provide, the USCIS website has a detailed section called [I-9 Central](#).

2. Support Integration in the Workplace:

Refugees entering the American workforce often feel isolated and struggle to understand certain societal norms. We've heard from many employers employing refugees that the employers find it important to demonstrate sensitivities to the needs of their new employees. This may take the form of providing a safe and private place for individuals to engage in prayer or even scheduling breaks around times that are consistent with religious rituals. One recommendation that has been particularly effective is for employers to arrange a mentor or "buddy" for newly arrived individuals. These key players can help the new refugee build trust and comfort with a representative of the company to ensure that the individual integrates with greater success. Employers may also find it useful to partner with a local organization that supports refugee employment, as these organizations often help prepare refugees for jobs and provide an additional support framework.

3. Prevent Employment Discrimination Against U.S. Citizens:

Companies looking to hire refugees will need to be mindful that their efforts to recruit refugees for employment do not

exclude and improperly discriminate against U.S. citizens from employment. Under the Immigration and Control Act, discrimination because of national origin and citizenship status, including against U.S. citizens and U.S. nationals, is strictly prohibited. Adopting a "Refugees Only" hiring policy could subject a company to potential charges.

In fact, a [New York Times](#) article covering employment discrimination claims made in a case against Disney alleging collusion to replace U.S. workers with immigrants referenced a letter from a Justice Department lawyer to stakeholders confirming the illegality of discrimination. The article stated, "Alberto Ruisanchez, a Justice Department lawyer in charge of prosecuting immigration abuses, confirmed that it would be a violation of anti-discrimination laws for an employer, or a contracting firm, to fire workers or hire replacements 'because of citizenship or immigration status.'"

Hiring refugees and other immigrants is a long-standing and proud tradition of America. This tradition and heritage exists in all circumstances, but especially true where refugees have served in protecting our nation like in the case of Iraqi interpreters. Employers should not interpret recent actions by the Trump Administration as warning employers that employing immigrant populations is unwise. Now, more than ever, it is important to understand the rules and engage in business as usual - in America, that means always employing those who are willing to do the work.