



July 2009

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## USCIS Issues Guidance on Employment Eligibility Verification Form

The United States Citizenship and Immigration Services (USCIS) has announced that the Employment Eligibility Verification form I-9 (Rev. 02/02/09) currently on the USCIS Web site will continue to be valid for use beyond June 30, 2009.

USCIS has requested that the Office of Management and Budget (OMB) approve the continued use of the current version of Form I-9. While this request is pending, the Form I-9 (Rev. 02/02/09) will not expire.

USCIS will update Form I-9 when the extension is approved. Employers will be able to use either the Form I-9 with the new revision date or the Form I-9 with the 02/02/09 revision date at the bottom of the form.

## Minimum Wage to change on July 24, 2009

Under the Fair Labor Standards Act (FLSA), the federal minimum wage for covered nonexempt employees is \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009. Many states also have minimum wage laws. Where an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher minimum wage rate.

### What is the minimum wage for workers who receive tips?

An employer may pay a tipped employee not less than \$2.13 an hour in direct wages if that amount plus the tips received equal at least the federal minimum wage, the employee retains all tips and the employee customarily and regularly receives more than \$30 a month in tips. If an employee's tips combined with the employer's direct wages of at least \$2.13 an hour do not equal the federal minimum hourly wage, the employer must make up the difference.

Some states have minimum wage laws specific to tipped employees. When an employee is subject to both the federal and state wage laws, the employee is entitled to the provisions of each law which provide the greater benefits.

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### **Must young workers be paid the minimum wage?**

A minimum wage of \$4.25 per hour applies to young workers under the age of 20 during their first 90 consecutive calendar days of employment with an employer, as long as their work does not displace other workers. After 90 consecutive days of employment or the employee reaches 20 years of age, whichever comes first, the employee must receive a minimum wage of \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009.

Other programs that allow for payment of less than the full federal minimum wage apply to workers with disabilities, full-time students, and student-learners employed pursuant to sub-minimum wage certificates. These programs are not limited to the employment of young workers.

### **What minimum wage exceptions apply to full-time students?**

The Full-time Student Program is for full-time students employed in retail or service stores, agriculture, or colleges and universities. The employer that hires students can obtain a certificate from the Department of Labor which allows the student to be paid not less than 85% of the minimum wage. The certificate also limits the hours that the student may work to 8 hours in a day and no more than 20 hours a week when school is in session and 40 hours when school is out, and requires the employer to follow all child labor laws. Once students graduate or leave school for good, they must be paid \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009.

### **What minimum wage exceptions apply to student learners?**

This program is for high school students at least 16 years old who are enrolled in vocational education (shop courses). The employer that hires the student can obtain a certificate from the Department of Labor which allows the student to be paid not less than 75% of the minimum wage, for as long as the student is enrolled in the vocational education program.

## **The Vail Corporation Pays \$80,000 to Settle EEOC Religious and Sexual Harassment Lawsuit**

The Vail Corporation, which operates ski resorts in Vail and Keystone, Colo., will pay \$80,000 and furnish other relief to settle a religious and gender discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced recently.

According to the EEOC's lawsuit, Lisa Marie Cornwell, an emergency services supervisor at the Keystone Resort, was subjected to harassment based on her Christian religion and her sex, denied religious accommodation and treated less favorably than her male colleagues. The EEOC said that Cornwell's supervisor, Rick Garcia, forbade her and another Christian employee from even discussing their Christian beliefs with one another while at work, and would not allow them to listen to Christian music while on duty, because it might offend other employees, but had no similar restrictions on music with profanity or lyrics promoting violence against women, which were offensive to Cornwell.

Additionally, according to the EEOC, Garcia ridiculed Cornwell for asking for scheduling accommodation so that she could attend her preferred religious services, and denied her requests while scheduling lower ranking officers for the shifts she requested. Also, Garcia created

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and tolerated a sexually hostile work environment where he and other male employees made offensive sexual comments and jokes in the workplace, the EEOC alleged.

Cornwell complained to various Keystone managers and human resource staff about the harassment and being scheduled to miss her religious services on Sundays, but no action was taken to resolve the problems. EEOC alleged that Cornwell was fired in retaliation for her last complaint, made less than ten days before her termination.

Under the settlement, Vail will pay Cornwell \$80,000 and provide training for all of its Keystone employees on religious accommodation and prohibited harassment and retaliation.