



Long, Chang & Associates, L.L.P.

Immigration Attorneys

Phone (336) 855-5700 ♦ www.longchangonline.com

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IMMIGRATION ALERT

VOLUME 5, NUMBER 2



Attorneys
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Attention: H.R. Managers – Employers Must Use New Form I-9 Beginning April 3

April 3, 2009 - Effective April 3, 2009, all employers must use the most recent version of the Form I-9 (Employment Eligibility Verification) to verify the employment eligibility of all new hires and to re-verify current employees whose employment authorization is expiring and who are therefore subject to the law's re-verification requirements.

The current version of the Form I-9 shows a revision date of **02/02/09** in the lower right corner of the form. This is the only acceptable version of Form I-9 beginning April 3, 2009. The new Form I-9 can be found online at <http://www.uscis.gov/files/form/i-9.pdf>. The 2-page form looks deceptively simple to complete, but can be fairly complicated in a number of situations due to the law's complexity. To that end, the Department of Homeland Security has updated its employer handbook for completing the Form I-9. That handbook (again, an instruction manual for employers in dealing with the Form I-9 process) is 65 pages long! It too can be found online at <http://www.uscis.gov/files/nativedocuments/m-274.pdf>. Failure to use the proper Form I-9 or to improperly complete the Form I-9 can result in fines and penalties to employers.

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U.S. Citizenship & Immigration Services Continues to Accept H-1B Cases

April 8, 2009 - Earlier today, the U.S. Citizenship & Immigration Services ("USCIS") announced that it had not yet reached the H-1B cap for the upcoming fiscal year (FY2010) and would continue to accept cap-subject H-1B petitions until such time as the H-1B cap of 65,000 is reached. According to the American Immigration Lawyers Association (AILA), as of April 7, USCIS has received almost one-half of the allowable number of petitions under the regular H-1B cap of 65,000, and is just shy of the 20,000 master's cap cases allowed. All cap-subject H-1B petitions received by USCIS on the day USCIS determines it has received a sufficient number of petitions to reach the cap will be subjected to a random H-1B lottery.

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**NEW FORM I-9 REQUIREMENT
(Continued from Page 1)**

The Form I-9 has been revised in order to bring the Form I-9 into compliance with U.S. immigration laws that have been in place since 1996! (Yes, it's taken over 13 years!) In particular, the new Form I-9 has revised the list of acceptable documents which an employee can present to an employer as part of the I-9 process. Certain forms of documentation which were previously acceptable for Form I-9 purposes have been eliminated. All documents used in the I-9 process must now be unexpired.

In addition, an important part of Section 1 of the Form I-9 has been revised. In Section 1, the employee is now required to check one of four possible boxes to indicate his immigration status. The four choices under the current form I-9 are: (1) a citizen of the United States; (2) a non-citizen national of the United States; (3) a lawful permanent resident; or (4) an alien authorized to work. Under previous versions of the Form I-9, the first two choices were combined such that an employee could check a box indicating he was either a U.S. citizen or U.S. national. This change (i.e., splitting the boxes into 2 separate choices) could result in a finding of making a false claim to U.S. citizenship for those individuals who are not in fact U.S. citizens but who check the box claiming to be a U.S. citizen. If an immigration officer determines that a false claim to U.S. citizenship has been made after September 30, 1996, the individual is considered both "inadmissible" and "deportable", thus ineligible to legalize his or her status. Unlike most other grounds of inadmissibility or deportability, there is virtually no waiver to overcome a false claim to U.S. citizenship. Under the old version of the Form I-9, if an individual checked the combined "U.S. citizen or U.S. national" box, it was arguable whether the individual was in fact claiming to be a U.S. citizen or a U.S. national, thus making it a bit more difficult for an immigration officer to conclude that he or she was falsely claiming to be a U.S. citizen. I suspect that, as time goes by, immigration officers may question how an undocumented immigrant applying for an immigration benefit completed a previous Form I-9 with an eye towards determining if a false U.S. citizenship claim was ever made.

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About Us

Long, Chang & Associates, L.L.P. is a full-service immigration law firm concentrating in the areas of employment-based and family-based immigration law. Our law firm has successfully represented individuals and employers through the immigration process with the Immigration and Naturalization Service (INS), Bureau of Citizenship and Immigration Services (BCIS), United States Citizenship and Immigration Service (USCIS) and at U.S. consulates and embassies in order to obtain both non-immigrant (temporary) visas and immigrant (permanent) visas on behalf of individuals or employees.

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Kristen Aekyung Chang is a founding partner of Long, Chang & Associates, L.L.P. She practices exclusively in immigration law and is a member of the American Immigration Lawyers Association (AILA) and the North Carolina State Bar.

Born in Seoul, South Korea, Ms. Chang attended the University of North Carolina at Chapel Hill where she received a Bachelor of Arts degree in Psychology. While achieving academic success at the undergraduate level, Ms. Chang devoted much of her time to volunteerism. She served as the Chairperson on the Planning Committee for the University's Bicentennial Class celebration and served as a Research Assistant in the University's Psychology Department where she performed valuable research in the area of cognitive memory. Ms. Chang also volunteered in the school's International Department as an English language assistant for international students and faculty members and at a local psychiatric hospital. In addition to her numerous public-service efforts during her undergraduate career at the University of North Carolina at Chapel Hill, Ms. Chang studied abroad at the prestigious London School of Economics where she achieved the top academic ranking in International Business Strategy and Human Resource Management.

Ms. Chang received her J.D. (law) degree from the Wake Forest University School of Law. During law school, Ms. Chang was selected as a member of the Law School's Moot Court Board based on her performance in the school's trial court competition. She was one of three members on the school's nationally-recognized and award-winning National Moot Court Evidence Team. During law school, Ms. Chang studied Labor and Employment Law at the law school's summer program in Italy.

Following law school, Ms. Chang opened her own immigration law practice in Greensboro, North Carolina, and subsequently joined Mr. Long in founding Long, Chang & Associates. As a naturalized citizen of the United States, Ms. Chang understands the immigration practice not just as an immigration lawyer but as an immigrant herself who has gone through the immigration process. Based on her personal experiences, Ms. Chang has a remarkable way of relating with her clients and perceiving their anxieties and concerns.

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David J. Long founded Long, Chang & Associates, L.L.P. in 1998. He has been recognized by the North Carolina State Bar as a Board-Certified Specialist in Immigration Law. Mr. Long is a member of the American Immigration Lawyers Association (AILA) and the North Carolina State Bar. Mr. Long serves as a Mentor for other immigration attorneys through AILA.

Prior to founding Long, Chang & Associates, L.L.P., Mr. Long worked as an attorney with the law firm of Kilpatrick Stockton in Winston-Salem, North Carolina. Mr. Long practices in the areas of immigration law, corporate law and real estate.

Born in Philadelphia, Pennsylvania, Mr. Long attended the University of North Carolina at Chapel Hill where he studied in the Honors Program and received a Bachelor of Arts degree in Political Science. In addition, Mr. Long studied the Korean Language at Duke University for a semester while attending UNC-CH. Mr. Long graduated magna cum laude and in the top 1% of his class.

Mr. Long graduated with highest honors and received his J.D. (law) degree from the Wake Forest University School of Law. During law school, Mr. Long was selected as a member of the Law Review based on his academic standing. He was one of three members on the school's nationally-recognized Gabrielli Family Law Moot Court Team. Mr. Long also studied Labor and Employment Law at the law school's summer program in Italy. Following law school, Mr. Long worked as an attorney in the

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commercial real estate department of Kilpatrick Stockton LLP in Winston-Salem, NC, one of largest law firms in the United States. After two years of working at a large law firm, Mr. Long desired the opportunity to assist clients on a more personal basis. As a result, he joined Ms. Chang in forming Long, Chang & Associates, L.L.P. Most recently, Mr. Long served as an adjunct faculty member at Handong International Law School in Pohang, South Korea where he taught U.S. Immigration and Naturalization Law.

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