

Sample Letter: Retaliatory Reverification

You may wish to use the sample letter on the next page if you are a worker in California who completed the I-9 form when you were hired, you have complained about a violation of your workplace rights, and your employer has now asked you to provide more or different documents to re-verify your eligibility to work in the United States.

The Legal Aid Society-Employment Law Center cannot ensure the information in this sample letter is current, or be responsible for any use it is put to. It is always best to consult with an attorney about your particular situation to determine your rights and the best steps to take when you think your rights may have been violated. If you would like to speak to someone, you can contact our [workers' rights clinics](#) or one of our [telephone intake lines](#). You can also review our fact sheet on [document abuse and re-verification](#).

IMMIGRANT WORKERS

It is illegal for employers to retaliate against any worker because she asserts her workplace rights—for example, by contacting federal immigration authorities. Unfortunately, this type of retaliation does happen, and it can have serious consequences for immigrant workers. If you lack legal status or work authorization in the United States, you should consult with an immigration attorney about the risks employer retaliation could entail for you.

[DATE]

[EMPLOYER'S NAME]

[EMPLOYER'S ADDRESS]

Dear [Name]:

I have been an employee at [name of employer] for [number of months/years at job]. On or around [date] I [details about the complaint you made or action you took to assert your workplace rights]. On or around [date] you requested that I provide [documents your employer requested] to re-verify my eligibility to work in the United States even though I already provided satisfactory documentation of this upon my hire. I am writing to let you know that I do not believe you have a legal right to make this request and that if you proceed with this request, you may be violating the law.

Your request may violate the Immigration Reform and Control Act ("IRCA"), 8 U.S.C. § 1324b, which imposes penalties upon employers that unlawfully re-verify their employees' work authorization. Under IRCA, there are few circumstances when an employer is required to re-verify the work eligibility of its employees—for example, when it learns with certainty that an employee is not authorized to work in the United States, or when federal immigration authorities have informed the employer of problems with its employees' documents. If an employer attempts to re-verify employees' work authorization in other situations, however, it may violate IRCA. Since I do not believe that you are legally required to re-verify my work eligibility, your demand that I provide [documents your employer requested] is questionable and might expose you to legal liability under federal law.

This request may also be unlawful because its timing strongly suggests that it is retaliatory. It is illegal for employers to use immigration law or the I-9 process to retaliate against employees who have asserted their workplace rights. *Contreras v. Corinthian Vigor Insurance Brokerage, Inc.*, 25 F.Supp.2d 1053 (N.D. Cal. 1998); *Singh v. Jutla*, 214 F.Supp.2d 1056 (N.D. Cal. 2002). Under California law, an employer's business license can be suspended if it engages in retaliatory "unfair immigration-related practices," including requesting more or different documents than those required under IRCA. Cal. Labor Code § 1019. Here, you requested that I provide you with [documents requested] shortly after I [activity you engaged in to assert your workplace rights]. These circumstances strongly suggest that your renewed request for additional documents constitutes unlawful retaliation.

In light of the above, please confirm that you will no longer require me to provide these documents. I look forward to my continued employment with [employer's name].

Sincerely,

[YOUR NAME]