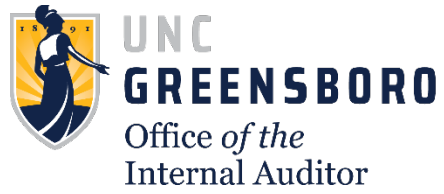


**Compliance, Audit, Risk Management, and Legal Affairs Committee**  
**February 20, 2024**  
**10:15 AM**

**CARL 1.1** Employee Eligibility Internal Audit Report

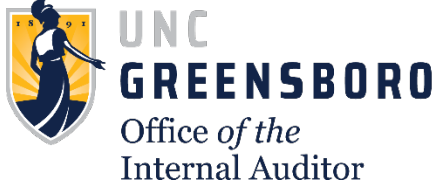
<b>Report Date:</b>	December 21, 2023
<b>Report To:</b>	Dr. Franklin D. Gilliam, Jr., Chancellor
<b>Subject:</b>	Employee Eligibility Internal Audit Report
<b>Type of Audit:</b>	Follow-up Audit
<b>Objective:</b>	<p>Determine whether UNCG verified new hires' identities and eligibility to work in the United States within three days of new hire's start dates as required by federal laws and university policies.</p> <p>This audit was initiated to follow-up on a January 2022 Internal Audit report that found deficiencies in employee eligibility verifications.</p>
<b>Scope:</b>	The scope of the internal audit is all employees who began employment with UNCG between 2/1/2023 and 4/30/2023.
<b>Findings:</b>	The I-9 employment verification process was not timely for 18 of 352 (5.1%) of the I-9s processed.
<b>Recommendations:</b>	<p>HR should continue to enforce federal employment eligibility laws and regulations by removing from payroll every employee who does not complete the I-9 process by the fourth day of employment.</p> <p>UNCG should implement policies and procedure to establish and enforce disciplinary action for hiring supervisors and managers who do not comply with UNCG's HR policies.</p> <p>UNCG should consider centralizing employment eligibility verification processes in HR.</p>
<b>Next Steps:</b>	A follow-up engagement will be added to the next fiscal year audit plan.
<b>Attachment:</b>	Employee Eligibility Internal Audit Report



# **EMPLOYEE ELIGIBILITY - INTERNAL AUDIT**

## **HUMAN RESOURCES**

**DECEMBER 2023**



## MEMORANDUM

**To:** Dr. Franklin D. Gilliam, Jr., Chancellor  
**From:** Katherine Skinner, Director of Internal Audit  
**Date:** December 21, 2023  
**RE:** Human Resources Internal Audit Report

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The Human Resources - Employee Eligibility Internal Audit was completed by the Office of the Internal Auditor in accordance with the Internal Audit Work Plan for fiscal year 2024. Provided within this communication is an Executive Summary and the Final Report of the Internal Audit activity.

Jeanne Madorin, Associate Vice Chancellor of Human Resources, reviewed a draft copy of this report. Her written comments are included starting on page 12.

We appreciate the courtesy and cooperation received from management and the employees of Human Resources, Career and Professional Development, and the Graduate School during our audit.

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# Executive Summary

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## **PURPOSE**

The objective of this audit was to determine whether UNCG verified new hires' identities and eligibility to work in the United States within three days of the new hire's start date as required by federal laws and university policies.

The scope of the internal audit is all employees who began employment with UNCG between 2/1/2023 and 4/30/2023.

This audit was initiated to follow-up on a January 2022 Internal Audit report that found deficiencies in employment eligibility verifications.

## **BACKGROUND**

In accordance with the Immigration Reform and Control Act of 1986 ("IRCA") and the Code of Federal Regulations<sup>1</sup> (CFR), employers must verify that all employees are eligible to work in the United States within three business days following employment start dates. Employment eligibility must be verified and documented using the federal Employment Eligibility Verification (I-9) form and the E-Verify System.

To ensure compliance with federal laws, UNCG policies require all new hire employees to complete the I-9 process on their first day of employment.

During the audit scope period, three different departments processed I-9s and verified new hire employment eligibility: Graduate School staff processed graduate student employees, Career and Professional Development (CPD) processed undergraduate student employees, and Human Resources (HR) processed all other new hire employees. However, as of 7/1/2023, CPD assumed responsibility for processing I-9s for the Graduate School.

## **KEY FINDINGS**

- The I-9 employment verification process was not timely for 18 of 353 (5.1%) of the I-9s processed.

## **KEY RECOMMENDATIONS**

- HR should continue to enforce federal employment eligibility laws and UNCG policies by removing from payroll every employee who does not complete the I-9 process by the fourth day of employment.
- UNCG should implement policies and procedures to establish and enforce disciplinary action for hiring supervisors and managers who do not comply with UNCG's HR policies.
- UNCG should consider centralizing employment eligibility verification processes in HR.

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<sup>1</sup> 8 CFR 274a.1(l)(1)

# Background

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## **VERIFICATION OF EMPLOYEES' ELIGIBILITY TO WORK IN THE US IS REQUIRED**

Federal laws require that every employer who recruits, refers for a fee, or hires an individual for employment in the United States (US) must verify the respective individuals' eligibility to work in the US. Specifically, the Immigration Reform and Control Act of 1986 ("IRCA") and the Code of Federal Regulations<sup>2</sup> (CFR) requires US employers to verify that all employees are eligible to work in the US within three business days following each new employee's start date.

Employment eligibility must be documented using the federal Employment Eligibility Verification (I-9) form and verified for each employee using the federal E-Verify<sup>3</sup> system. Within three business days of the date employment begins, a newly hired employee must present original documents (or an acceptable receipt) to the employer that shows the employee's identity and employment eligibility. The I-9 form lists documents<sup>4</sup> needed to prove employment eligibility. The documents used by the employee to substantiate employment eligibility must be inspected for propriety and authenticity, and an authorized university representative must sign the I-9 form.

The UNCG "I-9/E-Verify and Employment Eligibility Policies and Procedures" provide Human Resources (HR) and other I-9 processing departments with step-by-step instructions on the I-9 verification process. Specifically, it provides steps to take if new employees do not show up to the respective office by the first, second, and third day of their employment at UNCG, to complete the I-9 and E-Verify documentation.

During the audit scope period of 2/1/2023 through 4/30/2023, staff in UNCG's Human Resources (HR), Career and Professional Development (CPD), and the Graduate School, were responsible for verifying employment eligibility. The processing department for employment verification is determined based on the employee's hiring department. For example, CPD verified employment eligibility for all undergraduate new hire employees, and the Graduate School did the same for all graduate new hire employees. HR is responsible for verifying employment eligibility for all other new hire employees who are not processed by CPD or the Graduate School. However, as of 7/1/2023, CPD assumed responsibility for processing I-9s for the Graduate School.

## **ABOUT E-VERIFY**

E-Verify, authorized by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), is a web-based system through which employers electronically confirm the employment eligibility of their employees.

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<sup>2</sup> 8 CFR 274a.1(l)(1)

<sup>3</sup> E-Verify is administered by SSA and US Citizenship and Immigration Services (USCIS).

<sup>4</sup> Lists of acceptable documents, from page 3 of the I-9 form, is provided in the Appendix.

In the E-Verify process, employers create cases based on information taken from an employee's I-9, then E-Verify electronically compares that information to records available to the US Department of Homeland Security (DHS) and the Social Security Administration (SSA). The employer usually receives a response within a few seconds either confirming the employee's employment eligibility or indicating that the employee needs to take further action to complete the case.

UNCG communicates with new hire employees and provides them with information to explain and assist in completing the I-9 process using the E-Verify system. Specifically, UNCG provides detailed instructions and links to the E-Verify system to each individual who has accepted an official job offer from UNCG.

# Objective, Scope, and Methodology

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## **OBJECTIVE:**

The audit objective was to determine whether UNCG verified new hires' identities and eligibility to work in the United States within three days of the new hires' start date as required by federal laws and university policies.

## **SCOPE:**

The scope of the internal audit is all employees who began employment with UNCG between 2/1/2023 and 4/30/2023. There were 353 new hire employees with start dates during this period.

## **METHODOLOGY:**

To determine the timeliness of I-9 employment verification by Human Resources (HR), Career and Professional Development (CPD), and the Graduate School, auditors performed the following procedures:

- Obtained and reviewed employment eligibility laws, regulations, policies, and procedures.
- Interviewed HR, CPD, and Graduate School staff to gain an understanding of employee eligibility verification processes, procedures, and key controls and to determine whether there were any respective fraud indicators.
- Determined UNCG's employment eligibility verification operating procedures and key controls by department.
- Obtained and reviewed relevant data for all new hire employees during the scope period.
- Determined the timeliness of all 353 new hire employees by comparing employee start dates with I-9 approval dates and using UNCG policies and federal laws.
- Reviewed I-9 employment verifications that were not processed timely to determine the cause of processing delays and the potential impact of those delays.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses, lack of compliance, or fraud.

As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.



# Findings and Recommendations

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## **UNTIMELY EMPLOYMENT ELIGIBILITY VERIFICATION COULD RESULT IN MONETARY PENALTIES**

UNCG did not verify that **all** new hire employees were eligible to work in the United States (US) within three business days of their employment start date as required by 8 CFR 274a.2(b). Specifically, 18 out of 353 (5.1%) new hire employees with start dates between 2/1/2023 and 4/30/2023 did not have approved I-9s within three business days following their employment start dates. As a result, the University could have unknowingly employed and paid individuals who are not authorized to work in the US and UNCG could be subject to criminal and civil penalties. UNCG's timeliness was negatively impacted, at least in part, by hiring departments that failed to notify the appropriate HR staff when new employees were hired.

### **UNTIMELY EMPLOYMENT VERIFICATION**

UNCG did not verify that **all** new hire employees were eligible to work in the United States (US) in accordance with requirements in 8 CFR 274a.2(b). Specifically, 18 out of 353 (5.1%) new hire employees with start dates between 2/1/2023 and 4/30/2023 did not have approved I-9s<sup>5</sup> within three business days following their employment start dates. Additionally, the error rate of 5.1% is more than double the error rate noted in the prior year audit (2.05%).

Auditors did not identify any instances of UNCG employing individuals who were ineligible to work in the US during the scope period; though untimely, all new hire employees were eventually verified as authorized to work in the US. However, federal employment laws require that employers verify eligibility to work in the US for **all** new employees **within three business days** following respective employment start dates.

For new hire employees with start dates between 2/1/2023 and 4/30/2023, three different departments processed I-9s and verified new hire employment eligibility: Graduate School staff processed graduate student employees, Career and Professional Development (CPD) processed undergraduate student employees, and Human Resources (HR) processed all other new hire employees.

The proportion and timeliness of all I-9's processed differed based on the processing department. As shown in Table 1, below, the Graduate School's I-9 processing was not timely for 6 of 29 (20.7%) new hire employees. The Human Resources office's I-9 processing was not timely for 9 of 67 (13.4%) new hire employees. Finally, the Career and Professional Development office's I-9 processing was not timely for 3 of 257 (1.2%) of new hire employees.

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<sup>5</sup> An approved I-9 provides evidence that eligibility to work in the US was verified.

**Table 1. I-9 Timeliness Errors for Employees with Start Dates of 2/1/2023 through 4/30/2023.**

Processing Dept	Total I-9s Processed	I-9s Processed Untimely	% Processed Untimely
Graduate School	29	6	20.7%
Human Resources (HR)	67	9	13.4%
Career and Professional Development (CPD)	257	3	1.2%
<b>Total</b>	<b>353</b>	<b>18</b>	<b>5.1%</b>

As of July 1, 2023, CPD assumed responsibility for processing I-9s previously managed by the Graduate School. Audit procedures were applied to I-9s processed prior to this change.

**UNTIMELY EMPLOYMENT VERIFICATION COULD RESULT IN FINES**

**Penalties may be assessed** for failing to verify employee eligibility **timely**. For the **three-month period** between 2/1/2023 and 4/30/2023, UNCG could be subject to fines **between \$4,896 and \$48,618** for the 18 untimely I-9’s because penalties can range from \$272 to \$2,701 per individual occurrence depending on the circumstances. For example, in determining the penalty amount, the following will be taken into consideration: size of business/employer being charged, good faith of employer, seriousness of violation, whether or not the individual was an unauthorized alien, and history of previous violation of the employer.

Additionally, if UNCG does not perform **timely** employment eligibility verifications, UNCG could unknowingly employ and pay individuals who are not authorized to work in the US. Knowingly paying an employee who is unauthorized to work in the US could result in federally assessed civil penalties up to \$3,000 per instance and imprisonment up to six months for the entire pattern or practice *if* violations show a pattern or practice of hiring unauthorized employees.

According to 8 CFR 274a.1(l)(1):

*“The term **knowing** includes not only actual knowledge but also **knowledge which may fairly be inferred** through notice of certain facts and circumstances which would lead a person, **through the exercise of reasonable care, to know about a certain condition. Constructive knowledge** may include, but is not limited to, **situations where an employer: (i) Fails to complete or improperly completes the Employment Eligibility Verification Form, I-9; ...**” [emphasis added]*

When criminal or civil penalties are assessed for failure to comply with federal employment laws, **individual hiring departments or staff may be held liable.**

**EMPLOYMENT ELIGIBILITY VERIFICATION IS NOT TIMELY WHEN UNCG POLICIES ARE NOT STRICTLY FOLLOWED**

UNCG’s employment eligibility verification was not timely for 18 of 353 new hire employees because UNCG’s policies were not strictly followed or enforced.

In some instance, HR, CPD, or Graduate School staff failed to ensure that new hire employees completed the I-9 process to verify employment eligibility timely or were removed from payroll. UNCG policies require compliance with federal employment laws, and procedures were designed and implemented to ensure compliance.

HR, CPD, and Graduate School staff all have specific procedures to ensure that all new hire employees complete the federally required employment eligibility verification process timely. For example, when an official employment offer is made, UNCG staff notifies the new hire employee of the UNCG policy that requires completion of the I-9 process on the first day of work and provides instructions and guidance for completion of the I-9 process. UNCG staff responsible for processing I-9s track and monitor I-9 status for new hire employees who do not have an approved I-9 on file, and they follow-up by phone and email to remind new hire employees of the requirement. Any new hire employee who does not complete the I-9 process must be removed from payroll on the fourth day following his/her start date.

However, UNCG staff responsible for processing I-9s did not consistently remove new hire employees from payroll by the fourth day, when employment eligibility was not verified for respective employees.

In other instances, HR, CPD, or Graduate School staff who are responsible for processing I-9s were unaware that new employees had been hired until after new employees began working. When the applicable I-9 processing staff were not informed that a new individual was hired, they were unable to inform the new hire employee of I-9 requirements and they had no way of knowing that the I-9 was already late.

Additionally, good faith efforts of UNCG staff who are responsible for I-9 processing will continue to fall short of meeting federal requirements when supervisors with new employees do not ensure that their new employees complete UNCG's onboarding requirements, including reporting to the respective office on their first day to complete the I-9 process.

#### **FEDERAL LAWS AND UNCG POLICIES REQUIRE TIMELY EMPLOYMENT ELIGIBILITY VERIFICATION**

UNCG is required to verify employment eligibility in accordance with UNCG Policies and Procedures and federal laws within three business days of a new hire employee's start date.

- 8 CFR 272a.2b(1)(ii)(A)(AB) states:
  - **“Within three business days** of the employee's hire date, the employer must physically examine ... the documentation presented by the individual establishing identity and employment authorization ... and ensure that the documents presented appear to be genuine and relate to the individual; and complete section 2 of the form I-9 within three business days of hire and sign the attestation with a handwritten or electronic signature.”  
[emphasis added]
- UNCG I-9/E-Verify and Employment Eligibility policy states:
  - “The I-9/E-Verify programs consist of the following employment verification checks and must be completed sequentially **within the first three days** a new employee reports to work.” [emphasis added]
  - **“If an employee fails to appear on the third day of work at HRS to complete the I-9/E-Verify documentation**, the Pre-Employment Coordinator will contact the Office of the Senior Associate Provost for EHRA positions or the appropriate Vice Chancellor's Office for

SHRA positions by the beginning of the fourth work day and indicate that **the new employee must be terminated immediately.**" *[emphasis added]*

## **RECOMMENDATIONS**

HR should continue to enforce federal employment eligibility laws and UNCG policies by removing from payroll every employee who does not complete the I-9 process by the fourth day of employment.

UNCG should implement policies and procedures to establish and enforce disciplinary action for hiring supervisors and managers who do not comply with UNCG's HR policies.

UNCG should consider centralizing employment eligibility verification processes in HR.

# Auditee Response

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Jeanne Madorin, Associate Vice Chancellor of Human Resources, reviewed a draft copy of this report and provided the following response:

UNCG uses LawLogix, a cloud based software to ensure I-9 compliance. LawLogix provides for electronic completion of the I-9 as well as a dashboard to monitor compliance. Use of this software has made it much easier to track and monitor I-9's as well as measure those that are out of compliance.

When HR is notified that an individual has been hired, the new employee is sent a link to the I-9 form to begin the process of initiating the I-9 as well as a link to a scheduling document to schedule a time to come to the HR office and present their supporting documents. If an individual is remote, they are scheduled to meet remotely with a Talent Acquisition Specialist to complete their documentation.

A review was conducted of the I-9's that were not completed timely. Three were due to HR not being informed of the employee starting work. Three were due to the new employee not presenting documentation timely. The remaining three were due to other issues.

As a result of the audit, the following has been implemented in HR:

- Employees have received retraining on I-9 compliance emphasizing that any employee who has not completed their I-9 by the third day of employment will be removed from payroll.
- Prior to removing the employee from payroll, the I-9 coordinator will notify the department that the employee has not completed their I-9 and is unable to continue to work until notification has been received by HR that the I-9 has been completed.
- Training has been conducted in the Quarterly HR Liaison group meeting (11/28/23) and the HR Supervisor Information Session (12/12/23) on the requirement of the supervisor to obtain approval from HR prior to allowing any individual to begin work.

Notification will be sent to the VC/Dean of any supervisor that allows an employee to work without receiving prior approval from HR or who allows an employee to continue working after being notified the employee has not completed their I-9.

# Appendix

## LISTS OF ACCEPTABLE DOCUMENTS All documents must be UNEXPIRED

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card	OR	1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	AND	1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-645, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Native American tribal document
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
	7. U.S. Coast Guard Merchant Mariner Card	7. Employment authorization document issued by the Department of Homeland Security		
	8. Native American tribal document			
	9. Driver's license issued by a Canadian government authority			
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI	<b>For persons under age 18 who are unable to present a document listed above:</b>			
	10. School record or report card			
	11. Clinic, doctor, or hospital record			
	12. Day-care or nursery school record			

Examples of many of these documents appear in the Handbook for Employers (M-274).

Refer to the instructions for more information about acceptable receipts.