



**Important Legal References**

Per O.C.G.A. §50-36-1 (b) – every public employer is required to verify the lawful presence in the United States of any person who applies for public benefits.

O.C.G.A. §50-36-1 (a) (4) – defines public benefits by including a list of benefits subject to this verification. There are 28 public benefits that are subject to these provisions. These include:

- Adult education;
- Apprenticeships;
- Authorization to conduct a commercial enterprise or business;
- Business certificate, license, or registration;
- Business loan;
- Cash allowance;
- Disability assistance or insurance;
- Down payment assistance;
- Energy assistance;
- Food stamps;
- Gaming license;
- Grants;
- Health benefits;
- Housing allowance, grant, guarantee, or loan;
- Loan guarantee;
- Medicaid;
- Occupational license;
- Professional license;
- Public and assisted housing;
- Registration of a regulated business;
- Rent assistance or subsidy;
- Retirement benefits;
- State grant or loan;
- State issued driver’s license and identification card;
- Tax certificate required to conduct a commercial business;
- Temporary assistance for needy families (TANF);
- Unemployment insurance; and
- Welfare to work.

O.C.G.A. §50-36-1 (f) provides that an agency or political subdivision providing or administering a public benefit shall require every applicant for such benefit to:

- (A) Provide at least one secure and verifiable document, as defined in Code Section 50-36-2, or a copy or facsimile of such document; and

(B) Execute a signed and sworn affidavit verifying the applicant's lawful presence in the United States under federal immigration law; provided, however, that if the applicant is younger than 18 years of age at the time of the application, he or she shall execute the affidavit required by this subparagraph within 30 days after his or her eighteenth birthday. Such affidavit shall affirm that:

- (i) The applicant is a United States citizen or legal permanent resident 18 years of age or older; or
- (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the United States and provide the applicant's alien number issued by the Department of Homeland Security or other federal immigration agency.

According to O.C.G.A. §50-36-1 (h), for any applicant who has executed an affidavit that he or she is an alien lawfully present in the United States, eligibility for public benefits shall be made through the SAVE program.

O.C.G.A. §50-36-2 (b) (3) (A) defines “Secure and verifiable document” as - a document issued by a state or federal jurisdiction or recognized by the United States government and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies and shall include:

- An original or certified birth certificate issued by a state, county, municipal authority, or territory of the United States bearing an official seal;
- A certification of report of birth issued by the United States Department of State;
- A certification of birth abroad issued by the United States Department of State; or
- A consular report of birth abroad issued by the United States Department of State.

The term “secure and verifiable document” shall not include any foreign passport unless the passport is submitted with a valid United States Homeland Security Form I-94, I-94A, or I-94W, or other federal document specifying an alien’s lawful immigration status, or other proof of lawful presence in the United States under federal immigration law, or a Matricula Consular de Alta Seguridad, matricula consular card, consular matriculation card, consular identification card, or similar identification card issued by a foreign government regardless of the holder’s immigration status.

Only those documents approved and posted by the Attorney General pursuant to subsection (g) of this Code section shall be considered secure and verifiable documents. This listing can be obtained through the following link: [Secure and Verifiable Documents Under O.C.G.A. 50-36-2.pdf](#)

**What are the compliance requirements for public entities?**

When a person applies for one or more of the public benefits noted above, the public employer is required to obtain an affidavit from the applicant in which the applicant attests to his/her status of eligible within the United States. Click this link to access a copy of the affidavit [SAVE-Affidavit-July-21-2017.pdf](#).

The applicant must also provide a copy of a secure and verifiable document as noted in the approved list above.

If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, the applicant must provide the alien number they were issued by the Department of Homeland Security of other Federal agency.

If the applicant provides sufficient proof of citizen or proof they are a legal permanent resident of the United States, no further action is required before the application can be reviewed.

For any applicant who has executed an affidavit and stated that he or she is an alien lawfully present in the United States, the public employer must use the federal SAVE program (Systematic Alien Verification of Entitlements Program) to verify their lawful presence.

If it is determined that the applicant is not lawfully present in the United States, the public employer should not award the benefits. Please note that O.C.G.A. §50-36-1 (d) (1-7) provide for certain exceptions to this law.

### **What is the SAVE Program?**

SAVE is an online service administered by U.S. Citizenship and Immigration Services (USCIS) that provides point in time immigration status and naturalized/acquired U.S. citizenship information to federal, state, and local governments. The program enables registered user agencies to verify whether persons who attest to be qualified aliens are lawfully present in the United States. This will assist public employer in making accurate decisions for applicants seeking benefits and licenses. To learn more about the SAVE Program click this link: [SAVE | USCIS](#)

Public employers must register for the program and receive authorization to use SAVE before they can access information. If your entity provides any of the public benefits noted in O.C.G.A. §50-36-1 (a) (4) and you are not currently authorized to use the SAVE program, please access the website to determine what actions are needed.

### **What are the reporting requirements?**

Per O.C.G.A. §50-36-4 (d) (4), every public employer must submit an annual report to the Department of Audits and Accounts which a listing of each public benefit administered by the agency or political subdivision and a listing of each public benefit for which SAVE program authorization for verification has not been received.

The collection system will require the public employer to:

1. Identify each of the public benefits they provide, and
2. Indicate through a Yes/No response if they have been granted SAVE program authorization.

The Guidelines for Immigration Compliance and Reporting provides a detailed overview of how to complete the required annual report.

Click this link [Georgia Department of Audits and Accounts](#) to access the collection system used by DOAA for annual reporting. All persons completing the report must have an account. If you already have an account, you can sign-in on the homepage. If you do not have an account, you may request credentials through this same page.

The annual report is due to the Department of Audits and Accounts by December 31<sup>st</sup> of each year.

### **Who is required to file a report?**

In accordance with the law, all agencies and political subdivisions are required to file an annual report with the Department of Audits and Accounts.

However, the Central Offices of the University System of Georgia and the Technical College System of Georgia will file a report on behalf of all their schools. Individual schools do not need to file a separate report related to the Title 50 (Public Benefits) requirements.

Additionally, the reports of county governments should include any benefits provided by the county sheriff's office. The county sheriff's office does not need to file a separate report related to the Title 50 (Public Benefits) requirements.

### **Important Points**

- A public entity is only required to obtain such documents when the applicant first applies for the benefits. If the person is applying for a renewal and they have previously provided the required secure and verifiable documents, the public employer does not need to request such documents again.
- If an applicant is applying for more than one public benefit, it is not necessary for the public employer to ask for multiple sets of secure and verifiable documents.
- Original documents are not required. Applicants may provide copies.
- The documents may be submitted in person, by mail, or electronically.
- If your entity does not provide any of the public benefits noted, you are still required to file an annual report with the Department of Audits and Accounts and indicate that you have nothing to submit.
- There is an application and approval process for entities seeking SAVE program authorization. An agency or political subdivision that takes all reasonable, necessary steps and submits all requested documents and information but has not been granted authorization or has not completed the process of obtaining access to use the program shall not be liable for failing to use SAVE.

### **Penalties for Noncompliance**

O.C.G.A. §50-36-1 (p) specifies that in the case of noncompliance with the provisions of this Code section by an agency or political subdivision, the appropriation committee of each house of the General Assembly may consider such noncompliance in setting the budget and appropriations.

O.C.G.A. §50-36-1 specifies that no employer, agency, or political subdivision shall be subject to lawsuit or liability arising from any act to comply with the requirements of this chapter; provided, however, that the intentional and knowing failure of any agency head to abide by the provisions of this chapter shall:

- (1) Be a violation of the code of ethics for government service established in Code Section 45-10-1 and subject such agency head to the penalties provided for in Code Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and
- (2) Be a high and aggravated misdemeanor offense where such agency head acts to willfully violate the provisions of this Code section or acts so as to intentionally and deliberately interfere with the implementation of the requirements of this Code section.

### **Penalties for Failure to Report**

The Department of Audits and Accounts will also consider all entities that do not submit an annual report as noncompliant and would be subject to penalties noted above, if applicable.

Furthermore, O.C.G.A. §50-36-1 (k) specifies that any agency or political subdivision failing to provide a report as required by this subsection shall not be entitled to any financial assistance, funds, or grants from the Department of Community Affairs.

### **Do you need assistance?**

The Department of Audits and Accounts' website includes resources to assist you in complying with the immigration laws and submitting your report. Click this link [Immigration - DOAA](#) to access these resources.

If you have questions relating to immigration compliance and/or reporting, please contact [immhelp@audits.ga.gov](mailto:immhelp@audits.ga.gov).