



OSC UPDATE

Office of Special Counsel for Immigration-Related Unfair Employment Practices

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) investigates and prosecutes allegations of national origin and citizenship status discrimination in hiring, firing, and recruitment or referral for a fee, as well as unfair documentary practices during the employment eligibility verification process and retaliation under the anti-discrimination provision of the Immigration and Nationality Act (INA). In addition, OSC conducts outreach aimed at educating employers, workers and the general public about their rights and responsibilities under the INA's anti-discrimination provision.

OSC Releases New Guidance on Social Security Number Mismatches

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On November 19, 2010, OSC published on its website revised guidance regarding how employers can respond to notices indicating that an employee's name and Social Security number (SSN) do not match information on record. These notices include Social Security Administration (SSA) "no-match" letters, usually issued in response to an employee wage report, which advise that the name or SSN reported by the employer for one or more employees does not "match" a name or SSN combination reflected in SSA's records. In addition, other organizations, including other government agencies, commercial businesses, and third party entities, issue notices or provide alerts similar to SSA no-match letters. SSA sends three types of no-match letters: (1) a letter sent directly to a worker at his or her home; (2) one sent to an employer about an individual employee when SSA does not have the employee's correct home address; and (3) one sent to an employer about multiple employees when at least ten employees during the year, or one-half of one percent of the employer's workforce, have mismatched records. This final type of letter was last issued by the SSA in October 2007.

Reports or alerts from other sources, such as commercial businesses that conduct employee background checks, third party identity theft inquiries, and health care providers, should be treated cautiously, because the organizations may not have access to current information contained in SSA's databases. In responding to a no-match letter from a source other than SSA, an employer should, at a minimum, follow the same policies, procedures, and timelines as it does for SSA no-match letters.

OSC's guidance is part of a packet of information developed with input from SSA, U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS). The packet includes no-match information for employees, no-match information for employers, and "Frequently Asked Questions." The guidance emphasizes that, on its own, the receipt of an SSA no-match letter is not a sufficient basis to terminate, suspend or take any other adverse action against an employee. Instead, upon receipt of a no-match letter, employers should periodically meet with employees and work to resolve the no-

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WE'RE ON THE
WEB:
[WWW.JUSTICE.GOV
/CRT/about/OSC](http://WWW.JUSTICE.GOV/CRT/about/OSC)

OSC Employer Hotline:

1-800-255-8155

1-800-237-2515 (TDD)

OSC Worker Hotline:

1-800-255-7688

1-800-237-2515 (TDD)

New Guidance on SSN Mismatches

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match, allowing a reasonable period of time for such resolution.

The guidance packet is available on [OSC's web-site](#). For more information regarding the receipt of a no-match letter, contact OSC at 1-800-255-8155 or visit our website at www.justice.gov/crt/about/osc.

OSC's Telephone Interventions

OSC's telephone intervention program is an innovative form of alternative dispute resolution. It allows a caller to OSC's worker or employer hotline to work informally with OSC's staff to resolve potential immigration-related employment disputes within hours or minutes, rather than months, without contested litigation.

Worker Hotline: 1-800-255-7688

Employer Hotline: 1-800-255-8155

Recent OSC Enforcement Activity

Below are examples of some of OSC's enforcement activity during the first quarter of fiscal year 2011.

OSC Settles Document Abuse Claim Against Hoover, Inc.

On November 10, 2010, OSC settled a claim against Hoover Inc., a leading manufacturer of vacuum and carpet cleaners, resolving allegations that Hoover engaged in a pattern or practice of employment discrimination by imposing unnecessary and discriminatory hurdles upon lawful permanent residents in the employment eligibility verification (Form I-9) process, in violation of 8 U.S.C. § 1324b(a)(6). The investigation found that Hoover required all permanent residents who presented a Permanent Resident Card (green card) for Form I-9 purposes to produce a new green card when theirs expired. In contrast, Hoover did not require U.S. citizen employees to present new Form I-9 documents. As part of the settlement agreement, Hoover paid \$10,200 in civil penalties and trained its human resources personnel about employers' nondiscrimination responsibilities in the Form I-9 process. Hoover will also provide periodic reports to OSC for one year.

OSC Settles Document Abuse Claim Against Oakwood Healthcare Inc.

On December 22, 2010, OSC entered into a settlement agreement with Oakwood Healthcare Inc., resolving allegations that its Asheville, North Carolina facility unlawfully discriminated against a lawful permanent resident by rejecting her employment

eligibility verification documents and rescinding an offer of employment. As part of the settlement agreement, Oakwood agreed to compensate the individual for lost wages totaling \$732, pay a \$1,100 civil penalty, and train its human resources employees regarding compliance with the anti-discrimination provision of the INA.

OSC Settles Document Abuse Claim Against Collins Management Corp.

On December 29, 2010, OSC entered into a settlement agreement with Collins Management Corporation (Collins), a logging company located in Oregon, resolving a document abuse claim under U.S.C. § 1324b(a)(6). OSC's investigation found that Collins requested an unexpired green card from a lawful permanent resident for Form I-9 purposes, even though the individual possessed a driver's license and unrestricted Social Security card. The investigation further found that the company fired the individual when he was unable to present an unexpired green card and refused to consider him for re-hire two months later because the company erroneously believed the individual did not possess proper documentation in the past. As part of the settlement agreement, Collins agreed to pay \$15,200 in back pay to the former employee and a \$600 civil penalty. The company also agreed to train its managers and human resources representatives involved in the Form I-9 process on the anti-discrimination provision of the INA.

Civil Rights Division Launches New Website, OSC Posts Updated Outreach Materials

On December 16, 2010, the Civil Rights Division and OSC launched its newly-designed website which has a more user-friendly interface and navigation tools. Some of the features of the new website are a “Report a Violation” link to file charges of discrimination, a “Featured Items” column with previous editions of OSC Update, and a column with OSC’s latest press releases under “OSC Section News.” Also new is the “Form I-9 and Verification Guidance” link which contains information and OSC’s guidance on Asylee/Refugee, Temporary Protected Status (TPS), E-Verify, and Social Security Number “No-Match” issues during the verification process.

In addition, we have expanded our outreach resources section, including new items for reference and distribution and updated versions of existing materials. These OSC outreach materials are posted under the “Education, Grants, and Outreach” link.

OSC’s new website can be found at:
www.justice.gov/crt/about/osc/.

U S D E P A R T M E N T O F J U S T I C E

Office of Special Counsel for Immigration-Related
Unfair Employment Practices
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. (NYA)
Washington, D.C. 20530

Main Number: (202) 616-5594

Toll Free Information Number and Worker Hotline:

1-800-255-7688/(202) 616-5594 or 1-800-237-2515 (TDD for hearing impaired)
(Language interpretation available)

Employer Hotline: 1-800-255-8155 or 1-800-237-2515 (TDD for hearing impaired)

Fax Number: (202) 616-5509

Website Address: <http://www.justice.gov/crt/about/osc>

Special Counsel Vacant	Deputy Special Counsel Katherine A. Baldwin	Special Litigation Counsel Elizabeth I. Hack	Acting Special Policy Counsel Jennifer Sultan
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**WE VALUE YOUR FEEDBACK! IS THERE A TOPIC YOU WOULD LIKE TO READ ABOUT IN OUR NEWSLETTER?
EMAIL US AT OSCCRT@USDOJ.GOV**