



U.S. DEPARTMENT OF JUSTICE
IMMIGRANT & EMPLOYEE RIGHTS SECTION
CIVIL RIGHTS DIVISION

IDENTIFYING POSSIBLE E-VERIFY RELATED EMPLOYMENT DISCRIMINATION

E-Verify is an electronic program the U.S. Department of Homeland Security runs. Some employers use E-Verify to check if their employees are eligible to work in the United States. The Immigrant and Employee Rights Section (IER) in the Department of Justice's Civil Rights Division investigates discrimination in the E-Verify process based on a worker's citizenship status or national origin. The law that IER enforces is found at [8 U.S.C. § 1324b](#) and the regulations for this law are at [28 C.F.R. Part 44](#). You can get more information about E-Verify at www.e-verify.gov, 8 U.S.C. § 1324a note (E-Verify law), and the E-Verify Memorandum of Understanding (E-Verify MOU).

This flyer provides information to help you as a worker, or a worker's representative, identify possible discrimination involving an employer's use of E-Verify.

What E-Verify is and when employers can use it

E-Verify verifies new hires' employment authorization based on information provided on the Form I-9.

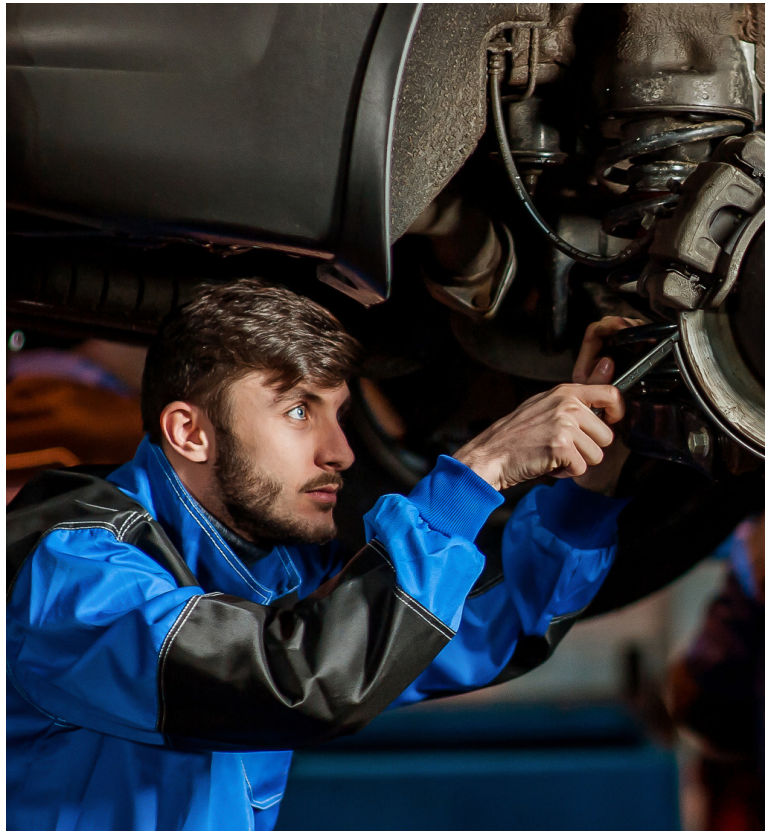
Under the E-Verify law and rules, employers are not allowed to use E-Verify to: (1) verify current employees unless a federal contract requires the employer to do so, (2) prescreen applicants, or (3) reverify a worker's employment authorization. You can get more information at www.e-verify.gov; Section 403(a)(3)(A) of the E-Verify law; and Article II.A, paragraph 11 of the E-Verify MOU.

Employers that use E-Verify must use the program consistently for all new hires. You can learn more about this requirement at www.e-verify.gov, Section 403(a) of the E-Verify law and Article II.A, paragraph 11 of the E-Verify MOU. An employer that treats workers differently in the E-Verify process based on their citizenship status or national origin may violate the law that IER enforces at 8 U.S.C. § 1324b(a)(1) or (a)(6).

If the Form I-9 information an employer enters into E-Verify does not match government records, E-Verify will issue a Tentative Nonconfirmation, or TNC. Workers have the right to take action to fix the error. Employers that take negative action (such as a delayed start date or termination) against a worker during the TNC resolution period, based solely on the worker's citizenship status or national origin, may also violate the law that IER enforces.

E-Verify discrimination and misuse

By following E-Verify's procedures, employers can better ensure equal treatment of work-authorized employees regardless of citizenship, immigration status, and national origin. However, some employers do not follow E-Verify rules for handling a TNC and wrongly take adverse action against a worker who chooses to contest a TNC, based on the TNC. Problems may also arise if the employer never informs the employee that it uses E-Verify or that the employee received a TNC. The law that IER enforces, found at 8 U.S.C. § 1324b, prohibits employers from discriminating against workers based on their citizenship status or national origin in the employment eligibility verification process, including through the use of E-Verify. If a worker receives a Final Nonconfirmation (FNC) that the employee believes to be in error, the worker can contact E-Verify's worker hotline listed at the end of this document.



Information for worker advocates

Advocates might not always know if their client's employer uses E-Verify. You can identify possible E-Verify issues if a worker who is authorized to work tells you:

- » My employer told me that my information didn't go through the system.
- » My employer told me my papers are not valid.
- » My employer told me my Social Security number is not valid.
- » My employer told me I am not work-authorized.

E-Verify offers a service called myE-Verify for workers, which allows workers to learn if an employer has created an E-Verify case for them. Workers can access this information at www.e-verify.gov/mye-verify.

Advocates may also uncover possible E-Verify issues by asking the following questions to workers who tell you they are having problems related to their paperwork at work even though they are authorized to work:

1. Did your employer give you any notices saying your papers are not valid? If so, do you have any copies?
2. Did your employer tell you to go to SSA to fix a problem with your Social Security card?
3. Did your employer tell you to contact DHS to fix a problem with your immigration status?
4. Were you fired within the first few days after starting work because of an issue with your papers?
5. Did your employer enter your information into a computer system, and then tell you your papers were not valid?
6. Did your job offer depend on the information from your papers going through a computer system?
7. Did your employer tell you to sign a paper stating that you did not want to contest your E-Verify results?

How to get help from IER

If a work-authorized individual suffered an adverse action and calls IER's hotline (1-800-255-7688), IER may be able to immediately contact the employer to resolve the issue and safeguard the worker's employment. If IER learns that an employer may be unlawfully discriminating in the E-Verify process under 8 U.S.C. § 1324b(a)(6), IER may also open a formal investigation and seek to identify other workers affected by the employer's practices.

How to get help from E-Verify

U.S. Citizenship and Immigration Services (USCIS) has an E-Verify hotline (1-888-897-7781) that can provide assistance with general E-Verify questions, resolving a TNC, helping an employer that does not know how to use E-Verify, or receiving reports of privacy concerns related to an employer's E-Verify use.

The longer a worker waits to address a potential E-Verify problem, the more difficult it is to resolve. Call the IER hotline to address potential discrimination, or call the E-Verify hotline for other E-Verify issues.

Immigrant and Employee Rights Section (IER)

1-800-255-7688

www.justice.gov/ier

Calls can be anonymous and language services are available.

TTY 1-800-237-2515

USCIS E-Verify

1-800-897-7781

www.e-verify.gov

TTY 1-800-767-1833

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