



**PHIL MURPHY**  
*Governor*

**SHEILA OLIVER**  
*Lt. Governor*

**OFFICE OF THE ATTORNEY GENERAL**  
**RJ HUGHES JUSTICE COMPLEX**  
**25 MARKET STREET, BOX 080**  
**TRENTON, NJ 08625-0080**

**GURBIR S. GREWAL**  
*Attorney General*

**ROBERT ASARO-ANGELO**  
*Commissioner*

**RACHEL WAINER APTER**  
*Director*

Dear Employer:

This past March, the Social Security Administration (SSA) began sending “Employer Correction Request” letters, sometimes referred to as “no-match letters,” to employers that have one or more Social Security “no-match.” On behalf of the New Jersey Department of Labor and Workforce Development and the New Jersey Division on Civil Rights, we write to provide critical information about no-match letters and to affirm our commitment to protecting workers and immigrant communities.

**What is a no-match letter?** A no-match letter informs an employer that the information it filed in its Wage and Tax Statement (Form W-2) about one or more of its employees’ names and social security numbers does not match the information in the SSA’s records. The letter’s purpose is to notify the employer of the discrepancy, which can affect the accuracy of the employee’s earnings record for the purposes of Social Security benefits.

Here is some of the most important information to know if you receive a no-match letter:

- **A no-match letter provides no information about an employee’s immigration status.** As stated in the SSA’s October 2019 sample no-match letter: “This letter does not address your employee’s work authorization or immigration status.” Discrepancies between information reported to the SSA and SSA records could exist for many reasons, including typographical errors, name changes, or errors in either the SSA’s database or the employer’s records.
- **You should not take any adverse action against an employee based solely on the fact that the employee’s name is listed in a no-match letter.** As stated in the SSA’s October 2019 sample no-match letter: “Do not take any adverse action against an employee, such as laying off, suspending, firing, or discriminating against that individual, just because this letter identifies a mismatch between his or her SSN or name as reported to us. Those actions could violate state or federal law and subject you to legal consequences.”
- **You must continue to pay an employee’s wages for all work performed even if you have received a no-match letter listing that employee’s name.** Withholding of wages owed to an employee for work already performed based on the receipt of a no-match letter listing that employee would violate the Wage Payment Law. *See* N.J.S.A. 34:11-4.2. In addition, an employee who has filed an administrative labor claim or workplace-based lawsuit against an employer may continue that proceeding regardless of whether the employee has been listed in a no-match letter.

- **Taking adverse action against an employee based on unfounded assumptions relating to national origin or other protected categories is unlawful discrimination in violation of the New Jersey Law Against Discrimination (LAD).** The LAD prohibits an employer from discriminating against an employee due to their actual or perceived national origin, nationality, race, ethnicity, and other protected characteristics. Therefore, if an employer, for example, takes adverse action against an employee listed in a no-match letter based solely on the fact that the person was born outside of the United States, this would violate the LAD and constitute unlawful disparate treatment.
- **Adopting a policy or practice of automatically taking adverse action against an employee based solely on the receipt of a no-match letter may constitute unlawful discrimination in violation of the LAD.** The LAD also prohibits employers from engaging in any policy or practice that has a disparate impact on employees due to their national origin, nationality, race, or ethnicity. An employer engaging in such a policy or practice violates the LAD, unless the employer can demonstrate that no alternative policy or practice could be adopted that would serve the employer's legitimate, non-discriminatory business interest with less of a disparate impact. Such interests may include avoiding liability for knowingly employing workers who lack work authorization. Because it is likely not the least discriminatory means of addressing this or any other legitimate, non-discriminatory business interest, taking adverse action against an employee based solely on a no-match letter may violate the LAD. Less discriminatory means of addressing your concerns as an employer include: (1) reviewing the name and social security number information that you submitted on the Form W-2 and providing the SSA with corrections, if any are appropriate; and (2) asking the employees to verify or correct the information that you submitted to the SSA on the Form W-2, and giving them a reasonable amount of time to do so.
- **You have no legal obligation to re-verify an employee's immigration status based solely on having received a no-match letter that lists that employee's name.** Requiring only those employees of a certain national origin, nationality, race, or ethnicity to re-verify their immigration status based on a no-match letter could violate state and federal antidiscrimination laws, including the LAD. If you choose to conduct a re-verification of immigration status, you should do so in a non-discriminatory manner that includes all employees listed in the no-match letter, and you must allow employees to choose which documents they provide.

You should be aware that our offices possess broad authority to investigate potential violations of the LAD and the Wage Payment Law, to initiate proceedings to protect the rights of workers, and to recover unpaid wages. Violations of these laws may also be punished by fines and administrative penalties. We urge you to review any applicable laws, including the LAD and the Wage Payment Law, carefully to ensure you do not take unlawful action in response to receiving a no-match letter. We will enforce the law according to its terms, and we will not tolerate wage theft or discriminatory practices against workers of any national origin, nationality, race, or ethnicity.

Do not hesitate to contact the Division of Wage & Hour Compliance at (609) 292-2305 with any questions about compliance with labor laws or the Division on Civil Rights at (973) 648-2700 with any questions about compliance with the Law Against Discrimination.

Sincerely,



Gurbir S. Grewal  
*Attorney General*



Robert Asaro-Angelo  
*Commissioner of Labor*



Rachel Wainer Apter  
*Director, Division on Civil Rights*