

## Know Your Rights About E-Verify

E-Verify (formerly known as the Basic Pilot program) is an Internet-based program that is voluntary at the federal level (except for certain federal [contractors](#)) and that allows participating employers to electronically verify workers' employment eligibility with the U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA). E-Verify is supposed to be used only after a worker is hired, and after the employer verifies the worker's employment eligibility using an official government form called "Form I-9, Employment Eligibility Verification," usually referred to as the "I-9 form." Because the government databases upon which E-Verify relies contain errors that may affect you and many employers do not follow program rules, it is important that you know what your rights are.

### Your Rights

- You have the right to know whether your employer is using the E-Verify program. The employer is required to post, in an area clearly visible to applicants and new employees, a notice provided by DHS that says the company is participating in E-Verify.
- You have the right to choose which documents, of those listed on the I-9 form, you present to your employer to prove your identity and employment eligibility. If you present an I-9 form "List B" document as proof of your identity, however, your employer can accept it only if the document includes a photograph.
- You do not have to comply with requests for additional documents after you have presented those required for completing the I-9 form.
- You have the right not to have your information entered into the E-Verify system until after you have been offered a job and have completed the I-9 form.
- Your employer should not resubmit your information to E-Verify after the initial verification process at hire (for example, to retaliate against you if you file a wage-and-hour claim against the employer). However, your employer is allowed to reverify your employment eligibility upon the expiration of a time-limited work authorization document or if it receives a contract or subcontract from the federal government.
- You have the right to know if E-Verify cannot confirm your information, the right to receive and review a "Further Action Notice" in English or Spanish, the right to receive a "Referral Notice" to SSA or DHS, and the right to challenge the finding. Notices in other languages are not currently available.
- You have the right to be provided eight federal working days after receipt of the "Referral Notice" in which to challenge an E-Verify finding with DHS or SSA. This does not mean that you resolve the nonconfirmation (or mismatch) within that time, just that you initiate contact with DHS or SSA within eight federal working days.
- You have the right not to be terminated, or for any adverse employment action to be taken against you (for example, pay cut, demotion, suspension, etc.), while you challenge an E-Verify finding, regardless of how long it takes the government to resolve the error.

## How to Protect Your Rights

If you have reason to believe that an employer is using its access to government databases under E-Verify in violation of the rules and procedures explained above, you or an advocate should contact one or more of the agencies listed below.

If you are in a labor union, you should notify your union representative or steward immediately if your employer is not following the E-Verify rules. Any adverse action by your employer will most likely violate the “just cause” and nondiscrimination clauses of your union contract. Your contract may also have specific provisions that protect you from employer misuse of E-Verify. You should also tell your employer that you want a union representative present at any meetings that may lead to you being disciplined or losing your job because of questions about your employment eligibility.

- The Immigrant and Employee Rights section (IER) of the U.S. Department of Justice. Contact IER if you believe you have been discriminated against based on your national origin or citizenship status — for example, if the employer is stating a preference for hiring U.S. citizens or permanent residents because it is “easier” to verify their work eligibility.
  - Free information and Worker Hotline: 1-800-255-7688; or TDD for those with hearing impairment: 1-800-237-2515
- Equal Employment Opportunity Commission (EEOC). Contact EEOC if you believe you have been discriminated against based on national origin, race, color, sex (including pregnancy and related conditions, gender identity, and sexual orientation), religion, age, disability, or genetic information. For example, it is unlawful for employers to use E-Verify to verify the employment eligibility of workers of a certain race or ethnicity while not subjecting workers of other races or ethnicities to the process.
  - Contact information for EEOC field offices: [www.eeoc.gov/field/index.cfm](http://www.eeoc.gov/field/index.cfm).
  - If there is no field office in your immediate area, call 1-800-669-4000; or TDD for those with hearing impairment: 1-800-669-6820.
- National Labor Relations Board (NLRB). Contact NLRB if your employer has retaliated against you for organizing or joining a labor union, or for acting collectively with other workers to improve your working conditions. For example, it is unlawful for an employer to use E-Verify to verify or reverify the employment eligibility only of those workers who are either collectively complaining about working conditions or organizing a union.
  - Information Hotline: 1-866-667-NLRB (1-866-667-6572)
  - TDD for those with hearing impairment: 1-866-315-NLRB (1-866-315-6572)