

SSA NO-MATCH LETTERS

FREQUENTLY ASKED QUESTIONS (FAQs) Workers' Guide



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1. *What is a SSA no-match letter?*

No-match letters are notices that employers receive from the Social Security Administration (SSA) stating that SSA is unable to match the name and Social Security number (SSN) provided for specific workers to its records. The purpose of sending no-match letters to employers is to help them improve the accuracy of their wage reporting. SSA stated that a “no match” can occur for a number of reasons: (i) transcription or typographical errors; (ii) incomplete name or SSN; (iii) name changes; (iv) cases where the name or SSN reported is false; or (v) the SSN has been assigned to someone else. For example, Korean Americans can receive the letter because of the spacing of their name (i.e. Ok hee v. Okhee).

2. *How does this letter differ from previous no-match letters?*

On August 16, 2007, the Department Homeland Security (DHS) published the final rule on "safe-harbor" procedures for employers who receive a no-match letter. Under this final rule, DHS can use the no-match letter as an immigration enforcement tool by allowing the Immigration and Customs Enforcement (ICE) agency to use receipt of the no-match letter as evidence that the employer has "*constructive knowledge*" that an employee is unauthorized to work. If employers are found to have “constructive knowledge,” they might face civil and criminal penalties unless they follow certain regulations, known as “safe harbor” procedures. These letters sent out to employers will be used as such evidence.¹ Also DHS/ICE letters will accompany these SSA no-match letters and provide additional guidance regarding what an employer should do upon receipt of SSA no-match letters to achieve safe harbor.

3. *What is the DHS/ICE letter referred to as "Notice of Suspect Documents"?*

Most no-match letters will be sent from SSA. Letters can also be sent from DHS/ICE. The “Notice of Suspect Documents” informs the employer that according to the records checked by DHS/ICE, workers identified in the notice appear, at the present time, not authorized to work in the United States. The notice informs employers that documents submitted by the worker were found to relate to other individuals, that there was no record of the alien registration numbers being issued, or that the employment authorized document has expired. Accordingly, the documentation previously provided to the employer for these workers does not satisfy the I-9, or employment eligibility verification form requirements of the Immigration and Nationality Act (INA).

¹ On August 31, 2007, a federal judge in Northern California issued a temporary restraining order against DHS and SSA prohibiting DHS from implementing the rule and SSA from sending the no-match letters with the DHS insert to employers. This means that the **DHS rule will not go into effect on September 14th** and **SSA will not send out the no-match letters** with the DHS insert until the Court issues a decision following a court scheduled hearing on October 1, 2007.

4. Does DHS/ICE have access to the list of employees & employers who have received no-match letter from the Social Security Administration (SSA)?

No, SSA will not give DHS the names of employees & employers that have received no-match letters. The regulation does not change the current legal restrictions that bar SSA from sharing this information with DHS/ICE, absent a legal or legislative process.

5. What is the anticipated impact of no-match letters on the Korean American and other communities?

The SSA database was not created for the purpose of immigration enforcement and contains numerous errors that will inevitably lead to mass confusion on the part of the employers. The no-match letter regulation will also contribute to widespread cases of racial profiling, discrimination, and unjust termination of authorized worker. Employers need to be aware that such unjust termination will violate some federal labor laws. It is also expected that the no-match letters regulations will drive undocumented workers further underground, promote an unregulated cash economy and fuel the market for counterfeit identity documents.

6. I received a letter from the Social Security Administration (SSA) advising that my name and Social Security number information does not match SSA records. What should I do?

You should follow any instructions in the letter from SSA and contact your employer and SSA to begin resolving the issue immediately.

7. I am an authorized worker. Can I get a no-match letter?

Yes. In December 2006, SSA's Inspector General reported 17.8 million records with inconsistencies. That included close to 13 million native-born Americans as well as 4.8 million non-citizens. Based on these statistics, many authorized workers are also expected to receive the letters.

8. My employer fired me after he received a no-match letter even though I am an authorized worker. Do I have any legal remedy? Whom should I contact?

The Office of Special Counsel for Immigration-Related Unfair Employment Practices ("OSC"), Civil Rights Division, U.S. Department of Justice can assist employers and workers with any questions about responding to SSA no-match letters in a non-discriminatory fashion. OSC's employer hotline is 1-800-255-8155 and its worker hotline is 1-800-255-7688, or visit <http://www.usdoj.gov/crt/osc/>. Also Title VII of the Civil Rights Act of 1964 makes it unlawful for employers to discriminate against workers in employment based on race, national origin, religion, color, and sex. You can also contact the National Immigration Law Center at 213-639-3900. For assistance in Korean, call:

NAKASEC – 323.937.3703, ext. 209, Becky Bae
YKASEC – 718.460.5600, Kathy Chae
KRCC – 773.506.9158, Youngsun Song
KRC – 323.937.3718, Yongho Kim or HeeJoo Yoon

9. What should I do when my employer asks me about a discrepancy?

You need to request a copy of the no-match letter to ensure that your employer is indeed responding to notices from SSA or DHS. It is also very important for employees to document who the employer has notified of discrepancy and how many days each person was allowed to correct the information. If you are represented by a union, you need to contact her or his union as s/he has additional rights under their union contracts.

10. Will an employer be liable for discrimination charges if he/she terminates me after following the safe harbor procedure?

Yes. An employer that receives such a letter and terminates employees without attempting to resolve the no-matches, or who treats employees differently based upon national origin, perceived citizenship status or other prohibited characteristics, may be found to have engaged in unlawful discrimination. However, if an employer that follows all of the procedures outlined by DHS/ICE in this letter (and <http://www.ice.gov>) cannot determine that an employee is authorized to work in the United States, and therefore terminates that employee, and if that employer applied the same procedures to all employees referenced in the no-match letter, then that employer will not be in violation of the Immigration and Nationality Act's anti-discrimination provisions.

11. If I get paid cash (because I cannot work legally with my social security number) and never filed a W-2 Form, is there a possibility that my employer will get a no-match letter with my name on it?

No, the employer will not receive a no-match letter because there is no SSA record. However, it must be noted that it is unlawful to work without proper authorization.

12. How do I check the status of my immigration application?

You can check case status online at the U.S. Citizenship and Immigration Services website (www.uscis.gov) using your case number or make an appointment at the closest field office. You may also call USCIS at 1-800-375-5283.

13. How do I obtain replacement documents for lost or stolen U.S. immigration documents?

The employee should visit the USCIS website at <http://www.uscis.gov> for information on replacing documents. USCIS office provides nationwide information and customer service by phone at 1-800-375-5283.

14. What should I do if I lost my social security card?

Visit a local SSA office or call 1-800-772-1213. Please visit the SSA website at www.ssa.gov for more information. The following are the addresses of SSA offices located near NAKASEC's affiliates:

- Los Angeles, CA
4000 Wilshire Boulevard, Los Angeles, CA 90010
- Chicago, IL

2127 W Lawrence Avenue, Chicago, IL 60625

- Flushing, NY

138-50 Barclay Avenue, Flushing, NY 11355

15. What are the currently accepted documents for the I-9 Form?

The documents identified below are acceptable to establish identity and employment eligibility.

- Alien Registration Receipt Card or Permanent Resident Card (INS Form I-551)
- Unexpired Employment Authorization Card that contains a photograph (Form I-766, Form I-688, Form I-688A, Form I-688B)
- For non-immigrants authorized to work for a specific employer: an unexpired foreign passport with an Arrival-Departure Record, Form I-94, bearing an unexpired endorsement of the individual's nonimmigrant status.
- U.S. Passport
- Unexpired foreign passport with a MRIV containing temporary I-551 language and endorsed with an unexpired DHS admission stamp

Documents that Establish Identity

- Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
- ID card issued by federal, state or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
- School ID card with a photograph
- Voter registration card
- U.S. Military card or draft record
- Military dependent's ID card
- Driver's license issued by a Canadian government authority

For persons under 18 years who are unable to present a document listed above:

- School record or report card
- Clinic, doctor, or hospital record
- Day-care or nursery school record.

Documents that Establish Employment Eligibility

- U.S. Social Security card issued by the SSA (other than a card stating it is not valid for employment or valid only with INS work authorization)
- Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
- Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
- Native American tribal document
- U.S. Citizen ID Card (Form I-197)
- ID Card for use of Resident Citizen in the United States (Form I-179)
- Unexpired employment authorization document issued by the Department of Homeland Security

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This guide is produced by the National Korean American Service & Education Consortium (NAKASEC) in collaboration with its affiliates, the Korean American Resource & Cultural Center (KRCC), Korean Resource Center of Los Angeles, and YKASEC – Empowering the Korean American Community of New York. Special thanks to the National Immigration Law Center and Working Hands Legal Clinic.
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Sources:
8 CFR Part 274a, *Safe-Harbor Procedures for Employers Who Receive a No-Match Letter*, available at <http://www.ice.gov/doclib/finalsafe.pdf>.
American Immigration Lawyers Association (AILA), *AILA Summary of the ICE No-Match Letter*; and AILA’s teleconference, *"Late-Breaking Audio Seminar: Social Security No-Match Regulation."*
National Immigration Law Center (NILC), *DHS To Finalize Regulations On SSA No-Match Letters*.
Immigration and Customs Enforcement, www.ice.gov.
Greenberg Traurig’s Business Immigration and Compliance Group, *Department of Homeland Security Issues FINAL Regulations on Social Security Number No-Match Letters*.
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If you have further questions, please contact NAKASEC or one of our three affiliates:
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