



## Office of Special Counsel for Immigration-Related Unfair Employment Practices

U.S. Department of Justice Civil Rights Division

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), in the Civil Rights Division, is responsible for enforcing the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b.

### **Citizenship or Immigration Status Discrimination\***

Employers with four or more workers *may not treat individuals differently because they are, or are not, U.S. citizens or work authorized individuals.* U.S. citizens, recent permanent residents, temporary residents, asylees and refugees are protected from citizenship status discrimination. *\*with respect to hiring, firing, and recruitment or referral for a fee.*

### **National Origin Discrimination\***

Employers with three to 14 workers *may not treat individuals differently because of their place of birth, country of origin, ancestry, native language, accent, or because they are perceived as looking or sounding "foreign."* All U.S. citizens, lawful permanent residents, and work-authorized individuals are protected from national origin discrimination. *\*with respect to hiring, firing, and recruitment or referral for a fee. The Equal Employment Opportunity Commission (EEOC) has jurisdiction over employers with 15 or more employees.*

### **Document Abuse Discrimination**

*Employers may not request more or different documents than are required by law to verify employment eligibility, reject reasonably genuine-looking documents, or specify certain documents over others with the purpose or intent of discriminating on the basis of citizenship status or national origin.* U.S. citizens and all work-authorized individuals are protected from document abuse.

### **Retaliation/Intimidation**

**Individuals who file charges with OSC**, who cooperate with an OSC investigation, who contest actions that may constitute unfair documentary practices or discrimination based upon citizenship or immigration status, or national origin, or who assert their rights under the INA's anti-discrimination provision **are protected from intimidation, threats, coercion, and retaliation.**

### **Form I-9 (Employment Eligibility Verification) Process**

In general, employers may not request more or different documents than are required to establish a worker's identity and eligibility to work in the United States or reject documents that appear to be reasonably genuine on their face and relate to the employee. **For example, all individuals who possess a driver's license and unrestricted Social Security card may present those documents to satisfy Form I-9 requirements.** Similarly, employers may not require aliens to produce "green cards" or U.S. citizens who appear "foreign" to produce birth certificates. Instead, it is the worker's choice which of the acceptable Form I-9 documents to present.



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### E-Verify

E-Verify is an electronic employment eligibility program administered by DHS and the Social Security Administration (SSA). **An employer may not terminate or take any adverse action against a worker who chooses to contest a tentative nonconfirmation (TNC).** An employer may not ask a worker who has received a tentative nonconfirmation to provide additional documentation of his or her employment eligibility.

### Asylees and Refugees

Refugee and asylum status may be granted to people who have been persecuted or fear they may be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. ***Refugees and asylees are authorized to work indefinitely*** but may receive temporary employment authorization documents (EADs) from the Department of Homeland Security (DHS).

### Temporary Protected Status (TPS)

TPS is a temporary immigration benefit that allows qualified individuals from designated countries who are in the United States to stay here for a certain time period, due to certain conditions such as on-going armed conflict, environmental disaster, or other extraordinary and temporary conditions in the country. ***DHS often issues automatic extensions of employment authorization for TPS recipients to allow sufficient time to process applications for EADs.***

### Social Security Name/Number No-Match

Employers sometimes receive notices that an employee's name and Social Security number (SSN) do not match the records on file with either the SSA or an outside entity drawing on publicly available Social Security number data. SSN no-matches are not necessarily the result of fraud or identity theft, and ***employers should not automatically assume that such notices mean that an employee is not authorized to work in the United States.***

***Employers with questions about completing the employment eligibility verification (Form I-9) process in a non-discriminatory manner should call the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) for guidance at: 1-800-255-8155, or TDD 1-800-237-2515 (for the hearing impaired), or visit OSC's website at: [www.justice.gov/crt/about/osc](http://www.justice.gov/crt/about/osc). OSC investigates charges of job discrimination under the Immigration and Nationality Act (INA), and provides guidance to both employers and workers through OSC's hotline and outreach and education programs.***