

ARISE CHICAGO NO MATCH TOOLKIT

*Protecting workers' jobs
in times of crisis*



PREPARED BY
ARISE CHICAGO

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WWW.ARISECHICAGO.ORG

Arise Chicago No Match Toolkit

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About Arise Chicago

Arise Chicago builds partnerships between workers and faith communities to fight workplace injustice through education and organizing and advocating for public policy changes.

Founded in 1991 by religious leaders to end poverty, Arise Chicago is a nationally leading local worker power organization that develops innovative ways to organize workers directly at workplaces and to win family-supporting policies. Arise Chicago opened its Worker Center in 2002 to support primarily non-union immigrant workers working in the lowest paid and least regulated industries. Arise trains, organizes, and develops the leadership of low-wage workers to make concrete improvements in their workplaces. Since 2002, Arise has supported workers to recover more than \$8.7 million in owed wages and compensation, and passed several policies including Chicago and Cook County Anti-Wage Theft ordinances, creating the Chicago Office of Labor Standards; with our partners, won Chicago and Cook County Paid Sick Days; and with our coalition, passed the Illinois Domestic Workers Bill of Rights.

Arise Chicago No Match Toolkit 2021

Arise Chicago is not a law office and does not offer legal representation. This Toolkit does not serve as legal advice.

All original material was prepared by Arise Chicago.



Background Information on “No Match” Letters

What are No Match letters?

No Match letters are an educational communication from the Social Security Administration to employers stating that a worker’s personal information (like her name or Social Security number) does not match the agency’s records.

The letters invite employers to check information and make any corrections using the Social Security database to make sure contributions sent by employers are deposited in the corresponding account for the worker to enjoy benefits such as retirement, Medicare, pension, disability and, if it is the case, survivor benefits.

Many things can generate a no match and the letters cite some examples. They may happen due to typographical errors (for example, your employer could accidentally put the wrong Social Security Number with the wrong name), unreported name changes (like in the case of marriage or divorce), or information that is missing data, and names in languages other than English.

A No Match letter, on its own, does not tell an employer anything about a worker’s immigration status. The No Match letter clearly specifies that receiving them does not imply that the worker intentionally gave wrong information. **The letter states that it is “not related to work permits or immigration status”.**

Also, No Match letters state that employers should not “use this letter to take any adverse action against an employee, such as laying off, suspending, firing or discriminating against that individual, just because his or her SSN or name does not match our records. Any of those actions could, in fact, violate State or Federal law and subject you to legal consequences”.



What does an employer have to do if they receive a No-Match letter?

The letters only ask the employer to “review” the information and notify the Social Security Administration if there are any needed changes, so the SSA has better information, and gives exact instructions on how to make any needed corrections.

But at the end the letters clearly say that if after following all the steps it is not possible to correct any errors, **there is no need to do anything else. In short, there are no time frames or deadlines to correct anything, there is no need to fill out new forms, and there is no need to ask the worker for new information.**

Old letters requested “corrections in 60 days”, but new No Match letters establish **there are no time limits.**

In a letter from the Acting Commissioner of the Social Security Administration to Congressman Jim Costa, clarifies that **the SSA will “not take any action, nor are there any SSA-related consequences, for employers’ non-compliance with our letters”**. It adds that “SSA takes no specific action other than to send the EDCOR (No Match) letter to the employer”, and that “SSA is not a law enforcement agency and our role is limited in scope to trying to ensure we credit each employee with his or her earnings...”

In simple words, the Social Security Administration does not fine or punish employers who do not reply to a No Match letter.



What should you do when your employer receives a No Match letter?

First, thank him or her for the information. Second, make clear that this is a problem between you and Social Security involving your benefits. Third, tell them that you are going to review the information.

If the employer wants to give you a deadline to correct the information, remind them that the letter does not give any deadline or time frame requirement.

If there is a mistake with information, you can go to a local Social Security office and explain the situation. The staff there should be able to help you correct your record.

If you do not have valid work authorization, you should not give your employer a false Social Security number. Even if you used a false Social Security number when you were hired, you should not present that number to your employer again and should not provide a new invalid number.

Remember that everyone has the right to keep silent regarding their immigration status. If a worker admits to their employer that they are undocumented, or lacking work authorization, the employer must by law, fire him or her immediately.

If your employer questions you about your immigration status while telling you about the No Match letter, you can say the following:

My understanding is that No Match letters do not tell you anything about my immigration status. When I was hired, you checked my documents. You should not ask me about my status because it could violate several laws.

Tell your employer that you and other workers are going to consult with an attorney or a worker center like Arise Chicago, to find the best advice to solve the problem. If you are a labor union member, immediately notify the union.

Do not resign or abandon your job just because the employer received a No Match letter.

Your employer cannot use a no match letter to retaliate or discipline you for exercising your rights.

If you were fired after the employer received a No Match letter, request a clarification and your immediate reinstatement. We can help you with letters explaining the situation to the employer.

Remember: do not give up your rights!

Contact Arise Chicago by texting to 773-769-6000, or send an email to info@arisechicago.org, and come to one of our Worker Rights Workshops, where you can learn more and talk about the details of your situation.



No Match letter from Social Security Administration to Employers

Social Security Administration **Retirement, Survivors and Disability Insurance** Employer Correction Request

(Insert SSA Address)

(Insert SSA Address)

Date:

EIN:

Tax Year:

Receipt Year:

WFID:

Version #:

W3 Sequence #:

Processed W2 Count:

EMPLOYER'S NAME

STREET ADDRESS

CITY, STATE ZIP

Why You Are Getting This Letter

You reported **X#** employee names and Social Security numbers (SSNs) on the Wage and Tax Statements (Forms W-2) for tax year **xxxx** that do not match our records. There are a number of reasons why reported names and SSNs may not agree with our records, such as typographical errors, unreported name changes, and inaccurate or incomplete employer records. However, when the information reported does not match our records, we cannot credit employees' earnings to their Social Security records. Accurate earnings records are important because these records can determine if someone is entitled to Social Security retirement, disability, and survivors benefits, and how much he or she can receive.

This letter provides useful information about *free* online wage reporting tools, including how to view and correct name and SSN mismatches.

IMPORTANT: This letter does not imply that you or your employee intentionally gave the government wrong information about the employee's name or SSN. This letter does not address your employee's work authorization or immigration status.

Do not take 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.

See Next Page

Visit socialsecurity.gov

SSA will not supply the entire nine-digit SSN

SSA does not mail lists of the name/SSN mismatches, nor do we provide the information by telephone. In SSA's *free* Business Services Online (BSO), SSA will show the name and only the last four (4) digits of the SSN. Please see the attachment to learn how to register for and use BSO.

If You Have Any Questions

If you have any questions, please call our toll-free at **1-800-772-6270** (TTY **1-800-325-0778**) between 7 a.m. and 7 p.m., Eastern Time zone, Monday through Friday, or send us an email to **employerinfo@ssa.gov**. We can answer most questions over the phone or by e-mail. We cannot provide names/SSNs over the phone or by e-mail. If you call, please have this letter with you. It will help us answer your questions.

General wage reporting information is available on our website at www.ssa.gov/employer.

For more detailed information, please see the enclosed attachment.

Social Security Administration

Attachment

Attachment from SSA included with No Match letter send to employers

Attachment - Helpful Information about Our *Free* Online Wage Reporting Services

Resources

To help you get started, visit the Employer Correction Request Notices page at www.ssa.gov/employer/notices.html. Here you will find many useful resources, including videos and instructions to help you view name/SSN mismatches.

You need a Business Services Online account to view a mismatch

Whether you filed your W-2s on paper or electronically, you can only view the name and SSN mismatches referred to in this letter at SSA's Business Services Online (BSO) website. You must have a *free* BSO Suite for Employers account that includes "Report Wages" and "View Wage Report Name/SSN Errors" services to view the name/SSN mismatch.

Step-by-step instructions to register for a BSO Account

1. Start at www.ssa.gov/bsowelcome.htm. Select the Register button in the upper right side.
2. Read the User Registration Attestation page and select I Accept.
3. Provide your personal information. Then, select the Next button at the bottom of the screen.
4. Create a password and choose five security questions in case you forget your password. Select the Next button at the bottom of the screen.
5. Read the Review and Submit screen. Read the User Certification for Online Services box and check the I Accept button. At the bottom of the page, select the Submit button.
6. We will provide you with a User ID. Please keep this information handy because you will need it every time you log into BSO. Select the Next button.
7. On the Select Service Suites page, check the SSA Services Suite for Employers box. At the bottom of the page, select the Next button.
8. If the Employer information has not been entered, you will see a red message with a blue link at the top of the page. Please select the blue link, Add Your Employer Information, to continue.
9. Read the certification information on the screen and then select the I Accept button at the bottom.
10. Enter your employer information. If you don't know the company's full name, you can look it up by entering the Employer Identification Number and selecting the Look Up Name button. Then, select the Submit Employer Information button.
11. Select the Request Access to BSO Services button to add the ability to see name/SSN mismatches.
12. Once again, check the SSA Services Suite for Employers button and select the Next button at the bottom.
13. Review the employer information you previously provided and select the Next button.
14. Answer YES to the two questions on the page.
 - a. Do you want to report wages to Social Security and/or test wage files using AccuWage and,
 - b. Do you want to View Wage Report Name SSN Errors?

Select the Next button.

15. On the next screen, we recommend answering Yes to the Social Security Number Verification Service or SSNVS. Select the Next button.
16. We will show you all of the services for which you signed up. Please select the Confirm button at the bottom of the page.
17. This page is your receipt of the services you selected. You can print your summary for your records by selecting the Print button on this screen.
18. SSA will mail a notice, including activation code(s), to the employer at the address the Internal Revenue Service has in their records.
19. Select Log Out in the upper left corner of the page.

Activation Code

Activation codes for name SSN errors and SSNVS will come in the same letter, but on separate pieces of paper. It can take between 10-14 business days for your employer to receive this code. Once your employer receives it, your employer will provide it to you. You will need to enter the code within 60 days of requesting it.

1. Start at www.ssa.gov/bsa/bsowelcome.htm. Select the Log In button.
2. At the Log In to Online Services page, type your User Name and password. Read and Select the, I have read and agree to these terms box. Select the Log In button.
3. The Business Services Online Main Menu screen will appear displaying the services to which you have access. The options to manage your account, services, and update employer information appear on the left side of the page.
4. Select Enter Activation Codes.
5. Enter your Activation Code and select Activate Services.
6. You are now at the Confirmation page.

If you already have a BSO account

If you already have a BSO account, but do not have the option to View Wage Report Name/SSN Errors you can add it. For detailed instructions, go to www.ssa.gov/employer/notices/roleAddingInstructions.pdf.

Viewing Mismatches

Once you have a BSO User ID, password, and View Wage Report Name/SSN Errors access, you may view the name/SSN mismatch through BSO.

1. Start at www.ssa.gov/bsa/bsowelcome.htm. Select the Log In button.
2. At the Log In to Online Services page, type your User Name and password. Read and Select the, I have read and agree to these terms box. Select the Log In button.
3. This will open the Business Services Online Main Menu. Select Report Wages to Social Security.
4. Read the Wage Reporting Attestation statement and select the I Accept button.

5. You are now at the Electronic Wage Reporting home screen. Select the View Employer Report Status link. The link is in the middle of the page in the Employer Report Status box.
6. Use the drop-down menu to select the tax year that the wages were earned. The current tax year is the default value. Select the Continue button.
7. You are now on the Search Results page.
8. Identify the corresponding report by hovering over the Report Details hyperlink located in the last column to the right titled Details. The Wage File Identifier or WFID, report version and report number will display, which should correspond with your letter. Once you have identified the corresponding report, select the Report Details link.
9. You are now at the Report Details page. It displays details and errors identified in the submitted file. To view the name/SSN mismatch errors, select the Error Details link.
10. The Error Details page displays the name/SSN combinations that do not match SSA's records.
11. You can print this page by selecting the Print Page button at the bottom of the page.
12. Select Log Out at the top of the page.

Helpful Tips about Resolving Name/SSN Mismatches

Resolving a mismatch

- You may have made a typographical error when submitting your report. You can correct a typographical error by submitting a Form W-2C (Corrected Wage and Tax Statement) to correct the error. See section titled **Correcting mismatches with a W-2C**.
- You may have accurately reported an employee's SSN and name based on your employment records, but an error in your records caused the mismatch. Ask your employee to check their Social Security card and inform you of any name or SSN difference between your records and his or her card. You should report the SSN and name as they appear on the employee's Social Security card. Correct your records and correct the error by submitting Form W-2C. See section titled **Correcting mismatches with a W-2C**.
- If your employment records and the employee's Social Security card match, ask the employee to check with any local Social Security office to resolve the issue. Once the employee has contacted the Social Security office, they should inform you of any changes. Correct your records accordingly and submit Form W-2C if necessary. See section titled **Correcting mismatches with a W-2C**.
- If you are unable to resolve the mismatch using these tips, you will not be able to correct the corresponding error at this time. There is no need to take any further action.

Correcting mismatches with a W-2C

Submit a Form W-2C to correct any name/SSN mismatch as soon as you can. You may use your own software to create a W-2C file to upload to SSA. We also offer a *free* W-2C online service. Both of these options are only available through BSO.

File Upload

1. Start at www.ssa.gov/bsowelcome.htm. Select the Log In button.
2. At the Log In to Online Services page, type your User Name and password. Select the Log In button.
3. This will open the Business Services Online Main Menu. Select Report Wages to Social Security.
4. Read the Wage Reporting Attestation statement and select the I Accept button.
5. You are now at the Electronic Wage Reporting home screen. Select the blue tab titled Upload Formatted Wage File tab. Then select the Submit/Resubmit a Formatted Wage File link.
6. Read this page for steps you can take to ensure your file is formatted correctly. Select Continue.
7. To choose the type of wage file you want to submit select the second button, New W-2Cs/ W-3Cs to correct mistakes on previously processed W-2 forms. Select Continue.
8. Either enter the name of your wage file in the Choose file field or select Browse to locate a file from your computer. Select Submit to upload your file.
9. Next is a summary of your report and it includes a unique WFID you can use to track your file. Save this information for your records.
10. Select Log Out in the upper left corner of the page.

Online Method

1. Start at www.ssa.gov/bsowelcome.htm. Select the Log In button.
2. At the Log In to Online Services page, type your User Name and password. Select the Log In button.
3. This will open the Business Services Online Main Menu. Select Report Wages to Social Security.
4. Read the Wage Reporting Attestation statement and select the I Accept button.
5. You are now at the Electronic Wage Reporting home screen. Select the blue tab titled, Forms W-2C/W-3C Online. Then, select the Create Resume Forms W-2C/ W-3C Online link.
6. Answer the three questions on the Before You Create Your Forms page.
 - a. First, "For which tax year is the wage report being corrected?"
 - b. Next, "For whom are you filing?"
 - c. Finally, "Have you received a reconciliation letter?"

Select Continue.

7. Enter or review the following fields:
 - a. Employer Information,

- b. Contact Person information,
- c. Kind of Payer, and
- d. Kind of Employer

Select Continue

8. To correct an employee's name or SSN, complete Boxes D through I. When you are finished entering your corrections, select Save and Go to W-2C List. A Form W-3C is created for each W-2C online report.
9. The system may display a name/SSN mismatch alert if the information you entered does not match our records. If you have the social security card and verified the SSN and name are correct, select the box to override the alert. If you have additional corrections, select Save and Start Next W-2C box. If you are finished entering your corrections, select Save and Go to W-2C List.
10. If you have verified all the information, select Continue to W-3C Preview.
11. Review the displayed data. If the information is correct, select Continue at the bottom of the page.
12. Print Forms W-2C/W-3C that you have not submitted yet. Select Continue.
13. Select the check box attesting to the accuracy of the report and select Submit this Wage Report Correction.
14. Next is the Confirmation page. Select OK in the pop-up window to print the page.
15. Select Go to Save Official PDF to go to the next page.
16. Save the official PDF file to your hard drive so you can reference it later because the file will only be available in BSO for 30 days.
17. Select Log Out in the upper left corner of the page.

Paper W-2Cs

If you need to mail paper W-2C forms to SSA, please mail them to:
SSA/WBDOC
P.O. Box 3333
Wilkes-Barre, PA 18767-3333

Visit www.ssa.gov/employer/paperFormInstr.htm for instructions on how to complete paper W-2c forms.

Visit www.ssa.gov/employer/bsohbnew.htm for more information about electronic W-2Cs.

Social Security Number Verification Service (SSNVS)

We provide the *free* SSNVS through BSO that allows you to compare reported employees' names and SSNs with our records before filing Forms W-2. Using SSNVS can significantly reduce errors. Visit www.ssa.gov/employer/ssnv.htm for more information about SSNVS, and how to sign up for this *free* service.

Definition of Terms

EIN	Employer Identification Number
Tax year	Year when wages were earned
Receipt Year	Year SSA processed your W-2 report
WFID	Wage File Identifier is used to track files and wage reports through SSA's processing system.
Version #	Most files are Version 1, but if SSA has to process your report more than once then we use a sequential number: 2, 3, etc. to help track the file.
W3 Sequence #	This is a special identifier for SSA to track your report after it was processed.
Processed W-2 Count	The number of W-2 forms in your report.
Business Services Online (BSO)	BSO is Social Security's free suite of services that allows you to file W-2/W-2Cs online, view the status of your wage reports, and view any errors in your report. It also allows you to verify your employees' names and Social Security numbers against our records using the <i>free</i> Social Security Number Verification Service.

Sample letter from SSA for employers to give to workers

Sample Letter Employers Can Give to Employees

We verified the following information with Social Security on this date:

_____.

Name _____

Social Security Number _____

According to Social Security, the information above does not match Social Security's records. You should:

•

Check to see if the information above matches the name and Social Security Number on your social security card. If it does not match, please provide me with the exact information as it is shown on your Social Security card.

•

If the information above matches your card, please check with any local Social Security office to resolve the issue. Once resolved, please inform me of any changes. Go to www.ssa.gov or call 1-800-772-1213 to find the office nearest you.

NOTE: This notice does not imply that you intentionally provided incorrect information about your name or Social Security Number, nor does this adversely affect your employment.

Congressional letter to the Social Security Administration

Congress of the United States Washington, DC 20515

May 2, 2019

Nancy Berryhill
Acting Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-6401

RE: Employer Correction Request Notices

Dear Acting Commissioner Berryhill:

We are writing to strongly oppose the directive to impose Employer Correction Request Notices also referred as “No-Match Letters.” This action will cause numerous problems by diverting resources away from frontline workers whose primary mission is administering benefits. Additionally, this rule can result in increased discrimination and abuses against U.S. workers, particularly women.

The Social Security Administration’s (SSA) current policy already uses “front-end validation routines” to identify and address possible errors in worker names and Social Security Numbers, such as typographical errors, transpositions, and misspellings. We do not oppose the routine practice of removing records from the Earnings Suspense File (ESF). In fact, these first validation processes resolve approximately 60 percent of the reports initially categorized as mismatches.¹ On the other hand, the cost of producing and mailing No-Match Letters and handling follow-up calls to employers was approximately \$1.3 million and resulted in only 35,000 items being removed from the ESF with a case file of 39 million inaccurate records.

The \$1.3 million “No-Match Letter” production cost can be used for better means to serve America’s growing Social Security beneficiary population -- growing at a rate of nearly 1 million yearly. These investments could include: (1) sending earning statements to American wage earners, as the law requires, but is not being done; (2) more fully staffing existing field offices and re-opening those that have been closed in underserved areas; (3) hiring additional SSA customer service staff to operate the 1-800 number, so the American people are not confronted with long waits and busy signals; (4) clear disability back logs; (5) increasing SSA’s core operating budget; (6) increasing field office hours; (7) improve technological advancements to aid in clearing backlogs, and (8) hiring additional administrative law judges (ALJ).

It is imperative to recognize that many legal workers -- including U.S. citizens-- will receive No-Match Letters because of clerical errors, unreported name changes, and other discrepancies in their records. The consequences include: (1) causing the firing of employment-authorized workers and U.S. citizens; (2) imposing additional costs and fees on employers; (3) increased discriminations and abuses on the basis of citizenship, nationality, or by pursuing unfair

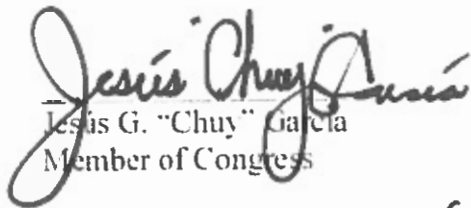
¹ Hincapié, Marielena, Tyler Moran, and Michele Waslin. “The Social Security Administration No Match Program Inefficient, Ineffective, and Costly.” *Immigration Policy in Focus* 6, no. 2 (May 2008). Accessed March 15, 2019. <https://www.americanimmigrationcouncil.org/sites/default/files/research/InFocusSSANo-Match05-08.pdf>

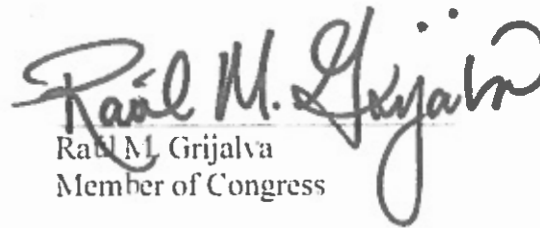
documentary practices in violation of the Immigration and Nationality Act (INA); and ultimately, (4) overwhelming SSA by diverting resources away from its mission of processing benefits in a timely way.


For the reasons above, we urge you to immediately suspend the employer No-Match letter program. Experience has proven that the program does not effectively serve its purpose and causes harmful impacts on the Social Security Administration, American workers and small businesses – serious consequences which outweigh any benefits derived from them.


Thank you for the opportunity to comment on the upcoming directive.

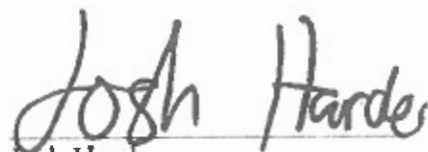
Sincerely,

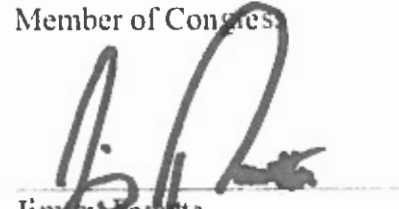

Jesús G. "Chuy" García
Member of Congress

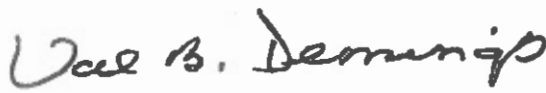

Raúl M. Grijalva
Member of Congress

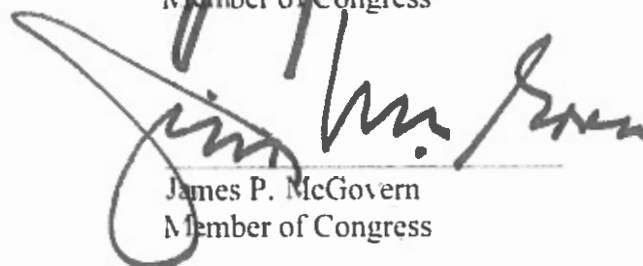

Barbara Lee
Member of Congress


Debbie Mucarsel-Powell
Member of Congress

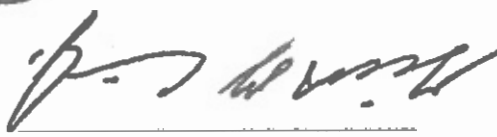

Josh Harder
Member of Congress


Jimmy Panetta
Member of Congress


Val Demings
Member of Congress


James P. McGovern
Member of Congress


Jamie Raskin
Member of Congress


Gilbert R. Cisneros
Member of Congress

**An additional 37 members of Congress signed the letter to the SSA*

Response Letter from Social Security Administration to U.S. Representatives



SOCIAL SECURITY

The Commissioner

June 3, 2019

The Honorable Jim Costa
House of Representatives
Washington, DC 20515

Dear Mr. Costa:

Thank you for your April 11, 2019 letter regarding our resumption of mailing Educational Correspondence (EDCOR)/Employer Correction Request (i.e. “no-match”) letters. Last year, we decided to resume mailing revised EDCOR letters to improve the accuracy of our wage reporting process. We use wage information to determine eligibility for, and the amount of, Social Security benefits that a worker – and his or her spouse or dependents – may receive. If we cannot match the name and Social Security Number (SSN) reported by the employer on a Form W-2, we cannot credit earnings to the employee’s record, which may cause errors to the benefits the employee is due.

Accordingly, our current EDCOR letters inform employers whenever they submit at least one name and SSN combination on Form W-2 that does not match our records. The letters advise employers that corrections are needed for us to properly post the employee’s earnings to the correct record, while also educating employers and encouraging them to use our online wage reporting tools to improve the accuracy of their wage reporting. Employers who use our online tools can eliminate most mismatches before submitting their wage reports, and can view and correct wage reports we could not post to an individual’s earnings record. This should have a positive effect on the accuracy of our wage reporting process. We have seen an increase in businesses using our online electronic wage reporting system and an increase in the number of users who have registered for authorization to view detailed name/SSN mismatch error information.

Enclosed, we provide responses to your specific questions. We hope you find this information helpful. If you have further questions, please contact me or have your staff contact Royce Min, our Acting Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030. We are sending similar responses to the cosigners of your letter.

Sincerely,

Nancy A. Berryhill
Acting Commissioner

1. How did SSA decide to reinstate the practice of sending non-match letters? Did SSA consult with Department of Homeland Security, Department of Labor, Department of Justice, Department of the Treasury, or the White House in making this decision? If so, which agencies were consulted?

We decided to resume sending the letters to improve the accuracy of our wage reporting process. However, the current EDCOR letter contains key differences from our previous letters. Specifically, the new EDCOR letter:

- does not include any Social Security Numbers (SSNs), consistent with the *Social Security Number Fraud Prevention Act of 2017* (P.L. 115-59);
- is mailed to all employers who submit at least one name and SSN on a Form-W2 for an employee that does not match our records; and,
- educates employers about online services available through Business Services Online (BSO), which helps employers submit accurate wage reports by reducing the instances of no-matches before, during, and after they submit wage reports.

This last change – encouraging employers to our free and easy-to-use online services – is consistent with SSA OIG reports that concluded we should focus efforts on encouraging use of online employer tools.

Because we process wage reports as an agent of the Internal Revenue Service (IRS), we vetted the revised EDCOR letter with IRS. Consistent with longstanding SSA practice, we engaged in pre-deliberative discussions both internally and externally with relevant stakeholders throughout the executive branch.

2. Who is receiving these letters? Is SSA attempting to reconcile W-2s and social security records for every employee in the United States? If not, how does SSA determine which employers to review? How many letters were sent and how many letters does SSA anticipate sending?

As noted above, we are sending the revised EDCOR letter to employers that submit at least one name and SSN on a Form W-2 for an employee that does not match our records (no-matches). The current letters will cover all no-matches for tax year 2018. As of April 26, 2019, we have mailed 577,349 letters. Later this fall, we plan to mail the remaining letters generated from processing paper Forms W-2 that do not match our records for tax year 2018.

3. The no-match letter asks each employer to provide any corrections within *60 days of receipt of the letter. What are the consequences for non-compliance?

These are educational letters intended to alert employers of a no-match, and to provide useful information about the online tools they can use to improve the accuracy of their wage reporting. However, if the information the employer reported is incorrect, eventually the employee may not receive the correct Social Security benefit that is due. Accordingly, we ask employers to take timely action on no-matches to ensure employees' wages are posted correctly to our records. However, we do not take any action, nor are there any SSA-related consequences, for employers' non-compliance with our letters.

* "No match" letters no longer contain a 60 day requirement. There is no deadline included in the letter.
A communication from the SSA on November 12, 2019 confirms the removal of the 60 day correction requirement.

4. In implementing this program, has SSA shared any information about employers and employees whose records do not match with other agencies?

Forms W-2 data, including the EDCOR letter data, is considered Federal Tax Information under section 6103 of the Internal Revenue Code (IRC); thus, we are prohibited from sharing this information with other agencies unless for a specific purpose authorized under IRC section 6103. We note that, because we process all wage reports as an agent of the IRS and its work, we share all Forms W-2 information with IRS on a daily basis, and include an indicator code when the name and SSN do not match our records.

5. If it is discovered that an employee was undocumented and/or was not authorized to work in the United States, what actions would SSA take?

As noted in the EDCOR letter, a name and SSN no-match is not an indication of an employee's work authorization or immigration status. Because a no-match provides insufficient information to determine its cause, SSA takes no specific actions other than to send the EDCOR letter to the employer to try to resolve the no-match and ensure proper crediting of wages to employee records. SSA is not a law enforcement agency and our role is limited in scope to trying to ensure we credit each employee with his or her earnings to determine eligibility for and the amount of program benefits. Additionally, the EDCOR letter specifically advises employers not to take an adverse action against an employee based on the letter.

Accurate wage information is vital to the administration of our programs. We hope that by sending EDCOR letters to all employers, we will help them reconcile name and SSN no-matches, and, over time, use our online services to prevent such no-matches on the front-end. This will help improve the accuracy of our wage records, and ultimately ensure employees receive the benefits they are due.

6. In the letter sent to employers, SSA described reasons why the records may not be reconciled. What proportion of these records does SSA anticipate are incorrect because an employee used a false name or social security number? What proportion does SSA anticipate are incorrect because of a name change, clerical or typographical error, or incomplete information?

We do not know why an individual's name and SSN combination do not match our records – whether it is a problem with the name or the SSN – and we do not know why employers do not make corrections. As part of our annual wage reporting process, we make every attempt to match employer reported Forms W-2 for its employees to our records. Initially, about six percent of Forms W-2 have an invalid name/SSN combination. However, by using 25 automated program routines that identify commonly occurring errors and discrepancies, such as compound hyphenated surnames or transposed digits of an SSN, we are able to post about half of these wage reports to our records. In FY 2018, we posted over 284 million earnings items to individual's records. We do not know the reason for the remaining three percent that we could not match. Although we may not know the reason for these no-matches, it is clear that the earlier employers become aware of the errors, the easier it is to resolve them. For example, as years pass, employees may no longer work for the same company, or move. Swift corrections allows us to credit wages appropriately, keep earnings off the Earnings Suspense File and prevent future scrambled earnings workloads for the agency.

NO MATCH?



What are "No Match" Letters?

According to the Social Security Administration, "No Match" letters are **educational tools** for employers to learn to use the SSA databases and correct workers' information. The letters tell employers which workers have discrepancies in their information and ask for corrections in order to deposit the worker's contributions in the correct account to for their benefits such as Medicare, retirement, pension, and others.

Discrepancies may be due to typographic errors, wrong birth dates, name changes such as married or divorced last names, and error while writing or typing many names in languages other than English. The letters from the SSA specifically state **"this letter is not related to work permits or immigration status of your workers."**

The letters also advise the employer to not **"use this letter to take any adverse action against an employee, such as laying off, suspending, firing or discriminating against that individual, just because his or her SSN or name does not match our records. Any of those actions could, in fact, violate State or Federal law and subject you to legal consequences"**. According to the Social Security Administration, they will not punish, fine or take any action against any employer who does not respond to their letters. In other words, **the employer is not mandated to do anything**.

*Informational videos about "No Match" letters can be found on the Arise Chicago Facebook page in Spanish, Polish, and English. Additional information: www.arisechicago.org/NoMatch

Arise Chicago supports workers to improve their working conditions through education, organizing, and fighting for changes in public policies.

NO MATCH?



What to do when your employer receives a "No Match" letter

Thank him/her for the information and make it clear that this is a problem between you and the Social Security Administration, since this is about your benefits, and that it is not related to your immigration status or work situation.

If the employer gives a deadline such as 10 days or 90 days, to "correct the situation", remind them that the letter does not give any deadline or time frame.

If there is an error in your information, use the SSA Form W-2C and make the correction.

Remember you have the right to keep silent about your immigration status. Do not talk to anyone about your immigration status, because this may carry some legal consequences. If you admit to not having papers, your employer is mandated, by law, to immediately fire you.

Do not resign or abandon your job. Your employer may need a better explanation, and Arise Chicago can assist you with this clarification.

Come to Arise Chicago Worker Center or consult with an attorney. If you are a union member, immediately notify your union.

***Remember: Do not take any action or declare anything before getting the correct information.**

If your employer receives a No Match letter, contact Arise Chicago. Send a text message to (773) 769-6000 or (312) 715-8141, send an email to jorge@arisechicago.org or info@arisechicago.org, and come to a workshop on labor rights to talk about the details of your situation. We can also support you to take action in cases of stolen wages, unpaid overtime, discrimination, and to organize if you are interested in joining a labor union to improve your working conditions.

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www.arisechicago.org 773-769-6000

¿NO MATCH?



¿Qué son las Cartas No-Match?

Son cartas para educar a los patrones para usar la base de datos del Seguro Social y corregir errores en las cuentas de los trabajadores, y le avisan qué trabajadores tienen discrepancias en su información, para depositar las contribuciones del trabajador en las cuentas “correctas” de sus beneficios de Medicare, jubilación, pensión, y otros.

Las discrepancias pueden ser por errores de escritura, fechas de nacimiento equivocadas, cambios de nombre (como de soltera a casada y al revés), y muchos nombres y apellidos en idiomas extranjeros, y las cartas dicen que **“esta carta no está relacionada con el permiso para trabajar o el estatus migratorio de sus trabajadores”**.

Le advierten al patrón **“no usar esta carta para tomar alguna acción en contra de un trabajador, como descansarlo, suspenderlo, despedirlo o discriminar en su contra porque su número de Seguro Social o su nombre no coincide con nuestros datos. Cualesquiera de esas acciones podría, de hecho, violar leyes estatales y federales y hacerlo a usted legalmente responsable de las consecuencias”**. El Seguro Social asegura que no hay castigos, multas ni acciones contra los patrones que no respondan sus cartas. Es decir, **el patrón no está obligado por ley a hacer nada**.

Mas información: www.arisechicago.org/NoMatch

Arise Chicago es un organización de la comunidad basada en la afiliación de los trabajadores para conocer sus derechos y organizarse con los compañeros de trabajo para mejorar las condiciones del lugar de trabajo.

¿NO MATCH?



¿Qué hacer si el patrón recibe la carta?

Agradezca la información y déjele claro que este es un problema entre usted y el Seguro Social; dígame que usted va a tomar cartas en el asunto.

El patrón no puede darte fechas límites para “corregir la información”. Si el patrón le da un plazo, recuérdale que la carta dice que si no se puede corregir no hay nada que hacer.

Si hay un error en la información, use la forma W-2C del Seguro Social para hacer la corrección.

Recuerde que puede guardar silencio sobre su situación migratoria. No hable con nadie sobre su situación, pues esto puede acarrear algunas consecuencias legales. Si se admite no tener documentos migratorios correctos, el patrón está obligado a despedirlo de inmediato.

Vaya a un Centro de Trabajadores como Arise Chicago o con un abogado para tener asesoría correcta. Si tiene sindicato o unión, avísele de inmediato a la organización.

No renuncie o abandone el trabajo solo porque el patrón recibió una carta No-Match. Se pueden pedir extensiones de tiempo y recibir asesoría adecuada antes de dejar el trabajo.

***Recuerde: No tome ninguna acción ni haga ninguna declaración sin consultar antes y conseguir información correcta.**

Si su patrón recibe una carta No-Match, comuníquese al Centro de Trabajadores Arise Chicago. Puede enviar un mensaje de texto a los teléfonos (773) 769-6000, ó (312) 715-8141, enviar un correo electrónico a jorge@arisechicago.org, o a info@arisechicago.org, y venir a un Taller sobre Derechos en el Trabajo, para hablar sobre su situación particular, y hacerse miembro de nuestra organización. Tenemos talleres informativos, documentos, educación y apoyo constante para nuestros miembros cuando tienen algún problema en el trabajo con salarios robados, horas extra, o si quieren unirse a un sindicato para tener mejores protecciones en el trabajo.

Más información: www.arisechicago.org/NoMatch

Arise Chicago es una organización de la comunidad basada en la afiliación de los trabajadores para conocer sus derechos y organizarse con los compañeros de trabajo para mejorar las condiciones del lugar de trabajo.

www.arisechicago.org 773-769-6000

Excerpt from MOU between the US Department of Labor and Homeland Security

Immigration and Labor Enforcement in the Workplace:
The Revised DOL-DHS Memorandum of Understanding (2011)

On March 31, 2011, the U.S. Department of Labor (DOL) and Department of Homeland Security (DHS) entered into a revised Memorandum of Understanding (MOU) to ensure that the two agencies' worksite-based enforcement activities do not conflict. This 2011 MOU updates a 1998 MOU between DOL and the then-Immigration and Naturalization Service.

The purpose of the MOU is to establish a national policy goal that "immigration enforcement will not interfere with employment and labor rights enforcement in the workplace". The MOU limits the worksite enforcement power of DHS's Immigration and Customs Enforcement agency (ICE) when a DOL investigation is pending, and requires DOL to communicate with ICE concerning DOL's worksite investigations, and it outlines the agencies' commitment to protecting workers against retaliation and intimidation by employers and other parties who use threats of immigration enforcement.

The MOU is designed to protect against immigration interference during ongoing labor disputes at a workplace, including:

- the right to be paid the correct wages and overtime pay;
- the right to work under safe conditions;
- the right to workers' compensation, family and medical leave, and employee benefits;
- the right to be free from unlawful discrimination by federal contractors; and
- the right to protection from retaliation for seeking enforcement of any of these rights.

ICE should not conduct worksite enforcement activities, including DHS Form I-9 audits, during a DOL investigation, subject to some exceptions (if enforcement activity is warranted for purposes of national security or protection of infrastructure, or if it concerns a federal crime other than an unauthorized employment violation. This provision does not mean routine cases where a worker may have used a false Social Security Number or a borrowed Employment Authorization Document to get a job), and agrees to permit DOL to interview any person detained because of ICE worksite enforcement activities.

ICE agrees to "be alert to and thwart attempts by other parties to manipulate its worksite enforcement activities for illicit or improper purposes", and will evaluate if tips or leads concerning worksite enforcement are meant to "manipulate a pending labor dispute", meaning retaliations carried out by an employer's surrogate (such as local police or insurers).

The MOU is triggered by information from DOL about a labor dispute or a current investigation. DOL agrees to inform ICE of attempts made by employers and others to retaliate against workers for exercising their workplace rights or to manipulate in other ways pending labor disputes. Advocates should clarify with the DOL whether particular worker complaints or investigations are in the database that could trigger the conflict notice at ICE.

Workers who are victims of abuses under the MOU may be granted parole or deferred action as witnesses for a DOL investigation or related proceeding, and both will consider to seek visas for DOL witnesses, for example, to certify worker victims of crime for U and T visas.

To ensure the MOU is triggered, worker advocates should file complaints with DOL about unpaid wages or other violations of their labor rights, and make sure that the complaint is accepted and logged in the database. In cases where threats of retaliation have been made, or if it appears that an ICE enforcement action is imminent, the worker or advocate should immediately inform DOL of the threat.

With information from the National Employment Law Project, and the National Immigration Law Center



Excerpt of NLRB ruling on E-verify

Use of E-Verify in Union workplaces: The Ruprecht Co and UNITE-HERE Local 1

The E-Verify system, a voluntary web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States, is only mandatory for federal contractors and the federal government. Alabama, Arizona, Mississippi, and Tennessee made it mandatory for all companies by state law. Companies with over 10,000 workers and companies monitored by the Department of Homeland Security use it regularly.

On August 27, 2018, the National Labor Relations Board ruled in favor of UNITE-HERE Local 1, regarding the use of the E-Verification system with workers of a bargaining unit. The Ruprecht Co., a meat processor, was ordered by a National Labor Relations Board judge to provide the union with private immigration documents and to cease E-Verification participation upon the union's request. Administrative Law Judge Joel Biblowitz ruled the Illinois-based company should negotiate with the union over its use of E-Verify.

The NLRB's decision started with an I-9 Audit by Immigration and Customs Enforcement. After the Audit, Ruprecht enrolled in E-Verify to prevent losing workers in future Audits. The company did it without consulting the Union. After the Union challenged Ruprecht use of E-Verify, the NLRB ruled that since federal regulations give unions the right to an opportunity to bargain when terms and conditions of employment are set to be changed, and since enrollment in E-Verify is voluntary, and that the use of the program can fundamentally change the hiring process, the Union had the right to bargain such use. The union had also requested documents from ICE identifying employees subject to the I-9 Form, and Ruprecht provided them with the employees' names redacted. The union requested the unaltered documents, and the NLRB ruled that the letters were relevant to the union's role as a protector and representative of affected employees. Ultimately, the judge ruled that Ruprecht should provide the union with letters from ICE and rescind its participation in E-Verify.



NLRB decision that immigration-related worker intimidation violates federal law

In October of 2019, the National Labor Relations Board (Region 13), issued a decision against the results of an NLRA election where the employer (RAYMUNDO'S FOOD GROUP, LLC) had used immigration language to scare workers.

The Case (13-RC-244834), brought up by the UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 881 was that the employer had hired a “labor consultant” who told the workers “that the federal government would go and ‘knock on our doors.’ (Tr. 24, 27-28) The employee witness testified that she interpreted this statement to mean that immigration officials would knock on her door and she would be deported.” (*)

“The Board has determined that an employer’s statements can be objectionable conduct where the statements threaten employees by telling them that their union conduct can lead to a heightened scrutiny of their immigration status... Statements that touch on employees’ immigration fears are the most intense, and they invoke the fear “not only of employment loss, but of removal from their very homes as well.” *Id.* at 413 (citing *Viracon, Inc.*, 256 NLRB 245, 246-247 (1981)).”

The union campaign had arisen from a No Match letter situation, and the NLRB took this fact into consideration. “These principles articulated in *Labriola* (361 NLRB 412, 414 (2014)) are applicable to the facts of this case. The Employer’s “the federal government would go and knock on our doors” statement was an implied threat linked to the employees’ immigration status and potential deportation. The implication that the government would “knock on our doors” in the context of a union campaign was patently false, and from the perspective of a reasonable employee was said for no other purpose than to stoke fear among the employees as it relates back to the no-match letters. To conclude that the statement credited to (labor consultant Gustavo) Flores was not sufficiently linked to the immigration status of the employees and/or potential deportation is to ignore the employees’ heightened concern surrounding the no-match letters (Tr. 76, R. Exhibit 2) and the conversations that the Employer was having with its employees about its no-match letters.”

The NLRB, considered that “Accordingly, given the threatening nature of the repeated statement to employees, and the contemporaneous no-match letters as discussed above, the decision to overturn the election is appropriate.”, and ordered a new election.

A second election was won overwhelmingly by the workers in favor of union representation.

(*) Full NLRB decision can be found here:

<https://drive.google.com/file/d/1umJeXBYJqebCXIjWa7UMahpf0uXO2Qlt/view?usp=sharing>



ARISE CHICAGO NO MATCH TOOLKIT

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WWW.ARISECHICAGO.ORG/NOMATCH

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