



U.S. DEPARTMENT OF JUSTICE
IMMIGRANT & EMPLOYEE RIGHTS SECTION
CIVIL RIGHTS DIVISION

PROTECTING YOUR RIGHT TO WORK

The Immigration and Nationality Act (INA) prohibits employers from discriminating against U.S. citizens and other work-authorized individuals based on their citizenship, immigration status, or national origin. The Immigrant and Employee Rights Section (IER) in the U.S. Department of Justice's Civil Rights Division enforces this law, found at [8 U.S.C. § 1324b](#), and its regulations, found at [28 C.F.R. Part 44](#). This flyer gives general information about this law. Contact IER for more information.

Under the law that IER enforces, the general rule is that an employer is not allowed to refuse to hire you, or fire you, because of your citizenship, immigration status, or national origin. This part of the law is found at 8 U.S.C. § 1324b(a)(1).

Examples of when an employer might be discriminating include:

- » The employer prefers workers with temporary work visas over qualified and available U.S. workers based on their citizenship status or national origin.
- » An employer has a policy of only hiring U.S. citizens without a legal requirement to do so (you can learn more about the rare situations where an employer might have to limit hiring to only U.S. citizens by contacting IER and at 8 U.S.C. § 1324b(a)(2)(C)).
- » An employer refuses to hire asylees or refugees because they are not U.S. citizens or lawful permanent residents.
- » An employer refuses to hire a qualified worker based on the country the worker is from.

Under the law that IER enforces, when verifying your work authorization, employers also are not allowed to demand more or different documents than necessary, request specific documents, or reject reasonably genuine-looking documents because of your citizenship, immigration status, or national origin. This type of discrimination generally happens during the Form I-9 and E-Verify processes. The part of the law that prohibits this type of discrimination is at 8 U.S.C. § 1324b(a)(6).

Examples of when an employer may be discriminating include if, based on a worker's citizenship status or national origin:

- » The employer demands that certain workers show "green cards" but lets other workers decide which documents to show.
- » The employer asks certain workers for more documents than needed to complete the Form I-9.
- » The employer rejects valid work authorization documents from certain workers.
- » The employer refuses to allow certain workers to work based on a name and Social Security number no-match.
- » The employer refuses to hire certain workers whose work authorization documentation has a future expiration date.
- » The employer asks certain workers for work authorization documents before offering them jobs.



Examples of unlawful discrimination in the E-Verify Process

E-Verify is an electronic program some employers use to confirm that their employees have permission to work. With some exceptions, employers use this program only for newly hired workers and are not allowed to use E-Verify on job applicants. You can get more information about the rules for using E-Verify by contacting E-Verify or IER, and at 8 U.S.C. § 1324a note Sect. 403(a)(3)(A). An employer's E-Verify use may violate the law that IER enforces if the employer treats workers differently in the E-Verify process based on their citizenship, immigration status, or national origin. You can learn more by contacting IER and at 8 U.S.C. § 1324b(a)(1) and (a)(6). An employer may be discriminating in its use of E-Verify if, based on a worker's citizenship status or national origin:

- » The employer uses E-Verify to check only some, but not all, new hires.
- » The employer refuses to allow certain workers with Tentative Nonconfirmations (TNCs) to work, or delays their start date while those workers are correcting their TNCs.
- » The employer asks certain workers to use E-Verify's Self Check service.
- » The employer requests that certain workers show specific documents for E-Verify.



Immigrant and Employee Rights Section (IER)

1-800-255-7688

www.justice.gov/ier

Calls can be anonymous and language services are available.

TTY 1-800-237-2515

This guidance document is not intended to be a final agency action, has no legally binding effect, and has no force or effect of law. The document may be rescinded or modified at the Department's discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent. For more information, see "Memorandum for All Components: Prohibition of Improper Guidance Documents," from Attorney General Jefferson B. Sessions III, November 16, 2017.