
The blocking of the “no-match” rule: What employers and workers should know

A federal judge has blocked the proposed “no-match rule”

The Department of Homeland Security planned to start a new immigration enforcement scheme in September. Their goal was to make employers investigate their workers’ immigration status – and then fire them if they could not prove they had legal status. However, a federal judge has blocked this rule from going into effect. In his order, he noted that it could potentially harm millions of documented workers, as well as those without legal papers.

The current system, and what the “no-match” rule would have done

For years, companies have received “no-match” letters informing them that some of their workers’ Social Security numbers don’t correspond with their names. Companies have not been required to do anything after receiving the letters; the only time they have to confirm a person’s immigration status is at the moment of hiring.

However, a proposed rule from the Department of Homeland Security sought to change a company’s obligations. Upon receiving a “no-match” letter, an employer would have had to check that the cause of the problem was not a name change, spelling mistake, or other simple error. If the problem could not be quickly resolved, it would have been up to the worker to contact the Social Security Administration and fix the error.

After three months, if the “no-match” had not been resolved, the employee could have been fired. Otherwise, the company could have been punished for “knowingly” employing people without the legal right to work in the U.S.

The rule has been blocked until a trial is held – perhaps a year or more in the future

Since it was blocked by the judge, the rule cannot have any force. In the coming months, the court will hold a formal trial on the issue, when they will consider the rule once more. However, that decision may be more than a year down the road.

Social Security may continue sending letters to workers’ homes, and sending notes to companies regarding individual employees’ numbers. However, companies will not be directed to check anyone’s immigration status.

Key things people should know

1. **The proposed rule has been blocked by the court, and is not in effect.**
2. **Employers should not be checking anyone’s immigration status after they are on the job.** They only time they need to check documents is when they first hire people. At the moment, a company has no reason to fire a worker if there is a mismatch between the worker’s name and Social Security number.
3. **If a company is firing people based on suspicions that they are not documented, contact a community organization right away.** This kind of action may be illegal.

How to protect yourself in the future

1. **Make sure that your employer has your complete, current address.** That way, if there is a problem with your Social Security number, the notice will be sent directly to you and not to your workplace. If you receive a “no-match” letter at home, do not tell your employer.
2. **Do not talk to any government official, or to your company, about your immigrant status.** They cannot do anything unless they have proof a person is undocumented. Don’t give them the proof!
3. **Never claim to be a U.S. citizen (unless you are one).** A false claim of citizenship may make it impossible to become legal in the future.

If you need any help, call Melissa Brandan, immigration program assistant: 415-306-0427.

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