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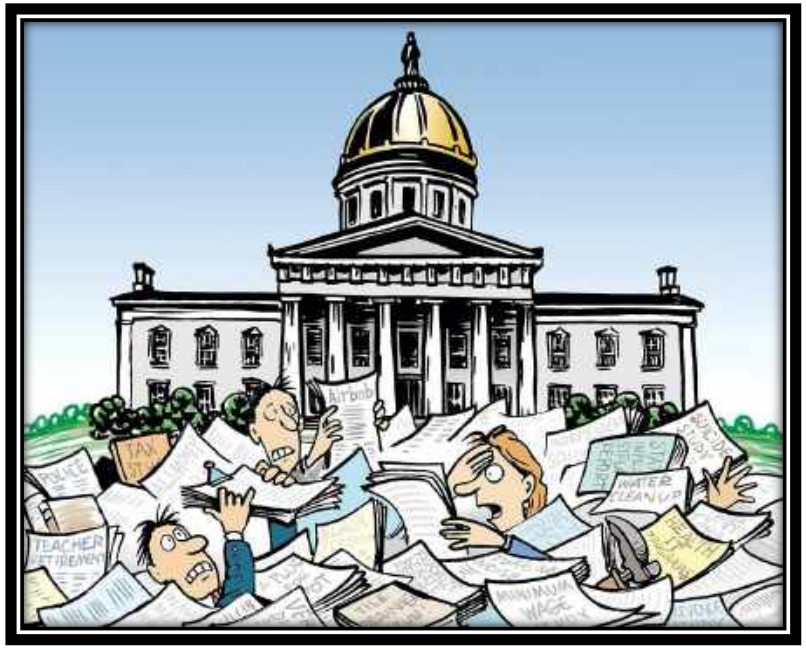
Let's Talk Immigration: Where do we go from here?

By: Michael C. Saqui

LEGISLATIVE UPDATES

New California and Federal Legislation



California: AB 1783: Farmworker Housing Act.

AB 1783: H-2A worker housing: state funding: streamlined approval process for agricultural employee housing development.

- Significantly alters how farmworker housing will be administered in California.
- AB 1783 was sponsored by the United Farm Workers and UFW Foundation.
- The bill discontinues any state funding for the development of H-2A housing and places the authority of ag worker housing into the hands of a third-party designated as an “affordable housing organization”.

California: SB 225: Citizens of the State.

- Old law: A person is eligible to hold an elective civil office if the person is 18-years-old and a **citizen** of the state.

- New addition: A person is eligible to hold an elective civil office if the person is 18-years-old and a **resident** of the state regardless of citizenship or immigration status meaning no lawful status required.

- Elected Civil Offices (to name a few):
  - Mayor
  - City Council
  - School Board Members
  - Superintendent
  - District Attorney
  - State Assembly Member
  - State Senator

California: SB 188: Hairstyle Discrimination.

- Expands the Fair Employment and Housing Act's definition of race to include traits historically associated with race, such as hair texture and protective hairstyles.
- The law defines "protective hairstyles" as "braids, locks, and twits." The law prohibits workplace dress code and grooming policies that prohibit natural hair, including afros, braids, twists, and locks.
- It applies to public schools, private employers with five or more employees and public employers, but excludes religious and nonprofit organizations.

The Interactive Process for Hair? You Heard Right.

- FEHA makes it unlawful for an employer "to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.“ (Gov. Code § 12940(k).)

- HOWEVER, an employee must - with or without reasonable accommodations - be capable of performing the essential functions of that position.

- SO, what is a reasonable accommodation for hair? No idea. Employer must engage in the “interactive process” to find out.

- "[T]he interactive process requires communication and good-faith exploration of possible accommodations between employers and individual employees' with the goal of identify[ing] an accommodation that allows the employee to perform the job effectively.

Counsel to Management: Best Practices

- Revisit your Company Handbook policies regarding discrimination, appearance, and dress code.
  - Does your Company policy have safety or health reasons for its hair policies?
  - Does your Company policy refer to “professional” appearance?
- Educate key management and supervisors so they know what to do when accommodation is needed.

California Legislative Refresher

- **AB 263 Employment: retaliation: immigration-related practices** (2013-2014)
  - Unlawful for employer to engage in "unfair immigration-related practices" in retaliation for exercises protected labor and employment rights under state law.
  - "Unfair immigration-related practices" include: Using E-Verify to check a person's status at a time not required by federal law, threatening to file or filing a false police report, threatening to contact or contacting immigration authorities.
- **SB 666 Employment: retaliation** (2013-2014)
  - Sister statute to AB 263 above to close the loopholes.
  - Reporting or threatening to report a prospective, current or former employee's suspected citizenship or immigration status is adverse action for purposes of establishing a violation of labor and employment rights.
- **AB 2751 Retaliation (2013/2014)**
  - "Clean up" bill to above statutes to clarify penalties.
  - Employer may not discharge, discriminate, retaliate or take adverse action because the employee updates or attempts to update personal information based on name change or social security number.
- California Supreme Court **Salas v. Sierra Chemical Co.** (2014)

Federal: H.R. 3401: Emergency Assistance and Security at the Southern Border.

- Introduced on June 21, 2019 and passed less than a month later, H.R. 3401 sent additional funding to federal government operations along the Southern Border.

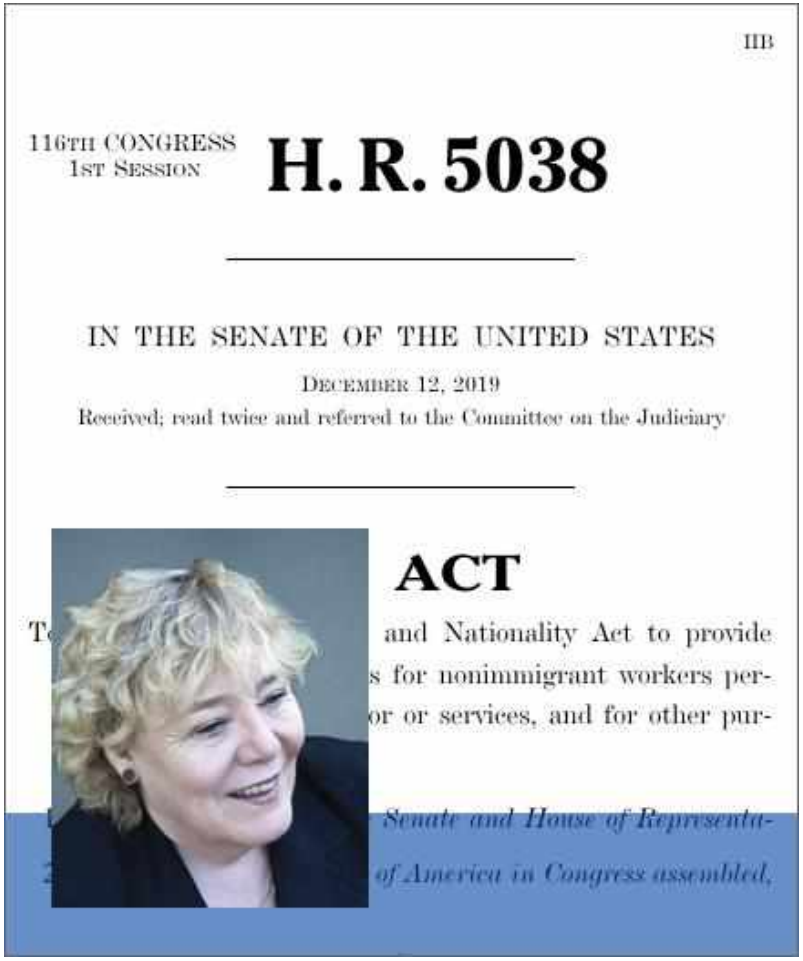
- In part, H.R. 3401 allocated funding for:
  - $65 million for immigration courtroom space and equipment, additional new judges, and support staff
  - $155 million for prisoner detention
  - $1 billion to Border Patrol for enforcement activities
  - $208 million to Immigration Enforcement (ICE) for operations and support including transportation, background investigations and personnel costs

LEGISLATIVE “PROGRESS”

Bills to Watch in California and D.C.

Federal: H.R. 5038: Farm Workforce Modernization Act

- **Purpose:** Provide a stable legal workforce in agriculture that establishes a certified agricultural worker (CAW) status and changes the current H-2A temporary worker program.
- **Basics:** Three-pronged approach
  1. Create a Certified Agricultural Work (CAW) status for individuals who have past experience in agriculture.
     - Requires 100+ days working in agriculture each year to provide a stable workforce.
  2. Update the current H-2A temporary worker program.
  3. E-Verify becomes mandatory for agricultural employers.



IIB

116TH CONGRESS
1ST SESSION

H. R. 5038

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2019

Received; read twice and referred to the Committee on the Judiciary

ACT

and Nationality Act to provide
s for nonimmigrant workers per-
or or services, and for other pur-

Senate and House of Representa-
of America in Congress assembled,

Certified Agricultural Worker (CAW) under H.R. 5038

- **Certified Agricultural Worker (CAW) provides:**
  - Agricultural work authorization for 5 ½ years (renewable)
  - Protection to spouse and children
  - Right to travel
  - Option to adjust to permanent status with additional requirements
  - Protection to Employer from civil and/or criminal prosecution or investigation for prior unlawful employment of that individual

- **CAW requires:**
  - 180 work days in ag in the two years prior to the law
  - No disqualifying criminal or immigration action

Updates to H-2A Program under H.R. 5038

- **Electronic Updates:**
  - Streamline H-2A process with an electronic platform.

- **Adverse Effect Wage Rate (AEWR):**
  - Wage freeze on Adverse Effect Wage Rate (AEWR) for 2020.
  - With capped incremental changes in calendar years 2021 through 2029.

- **Program Caps:**
  - Temporary/Seasonal H-2A remains uncapped

- **Other Program Changes:**
  - Expands H-2A to year-round positions with 3-year admission

Mandatory E-Verify under H.R. 5038

- **Phases in E-Verify for agricultural employers**
  - For employers with 500+ employees, mandatory E-Verify will start 6 months after law passes
  - For employers with 100-500 employees, mandatory E-Verify will start 9 months after law passes
  - For employers with 20-100 employees, mandatory E-Verify will start 12 months after law passes
  - For employers with less than 20 employees, mandatory E-Verify will start 15 months after law passes

- Does not require employers to reverify for current employees, except in the case the employee has a limited period of employment authorization.

Federal: H.R. 5038: Farm Workforce Modernization Act

- **Status of the Bill:** On December 11, 2019, the House passed the Bill. Currently, 62 cosponsors with support from both Republicans and Democrats.
- Advocates for the Bill anticipate changes and possibly a conflicting bill to come from the Senate that may require special committee to finalize Bill language.
- **Forecasting:** The Bill has been referred to the Judiciary Committee which also oversees impeachment proceedings so anticipate slowdown. Senate will also face deadlines in the summer and fall for funding to keep the federal government running.
- **Support for the Bill:** Some of the supporters for the Bill are highlighted below.

WESTERN GROWERS

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS

A BIPARTISAN AGRICULTURAL IMMIGRATION BILL
FARM WORKFORCE MODERNIZATION ACT

Wonderful citrus

California Citrus Mutual

STATE/NATIONAL TREND REPORT

Workforce Trends: Who is Coming, Staying or Going?

- Aging workforce (average age of 40-years-old)
- Unauthorized Mexican-born men
- Recent statistics reflect 85% have “several years” experience
- Most want to continue in agriculture (75-80%)
- Apples #1 in U.S. employment with average 38,000 U.S. direct-hire workers.



The statistics are the work of Dr. Philip Martin, Professor Emeritus at UC Davis (last updated 12/2019)

AGENCY UPDATES

Dotting the i's and Crossing the t's

Immigration Form I-9

- I-9 (edition date 08/31/2019) is expired but still in play until further notice.

- ¿Se Habla Español? The Spanish version of Form I-9 may be filled out by employers and employees in **Puerto Rico ONLY.**

- Revisions to List of Acceptable Documents: Consular Report of Birth Abroad (Form FS-240) was added to List C.

- Reminder: Form I-9 must be retained and stored by the employer EITHER three years after the date of hire OR for one year after employment is terminated, whichever is later.

Application Fee Increases

- Unlike most federal government agencies, the Immigration Office (USCIS) is fee-funded.
- USCIS last updated its fee structure in 2017, by a weighted average increase of 21%
- In November 2019, USCIS posted proposed fee increases:

Immigration Form	Current Fee	Proposed Fee Increase
I-129 Petition for H-2A	$460	$860 (named)
	$460	$425 (unnamed)
Premium Process	$1,410	None proposed
I-131 Travel Document	$575	$545
I-539 Application to Extend/Change Status	$370	$400

Civil Monetary Penalty Increases

- Department of Labor (DOL) is authorized to increase civil penalties through the Inflation Adjustment Act to "improve the effectiveness of civil monetary penalties and to maintain their deterrent effect."
- Effective January 15, 2019, the annual adjustment of certain penalties:

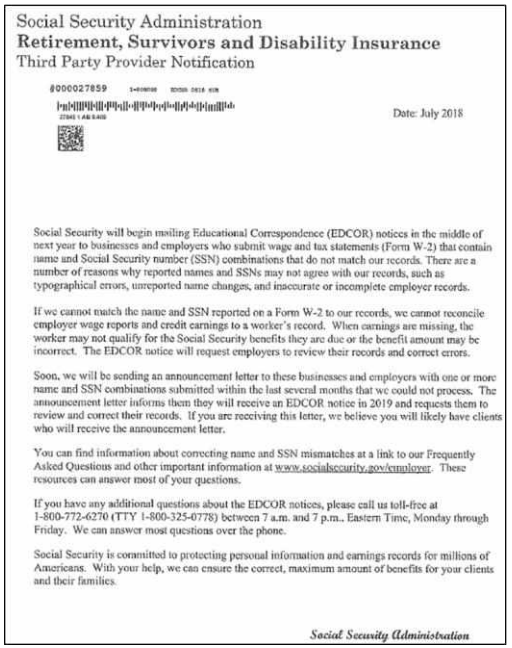
Violation	2019 Fee	2020 Fee Increase
H-1B	$1,895	$1,928
H-1B retaliation	$7,710	$7,846
H-1B willful or discrimination	$7,710	$7,846
H-1B willful resulting in displacement of a U.S. worker	$53,969	$54,921
H-2A	$1,735	$1,766
H-2A willful or discrimination	$5,839	$5,942
H-2A displacing a U.S. worker	$17,344	$17,650
H-2B	$12,695	$12,919

ENFORCEMENT ACTIONS

Social Security (SSA) Mismatch/No Match Letters

- The Social Security Administration (SSA), beginning in April 2019, is now sending "Employer Correction Request" letters, also known as "no-match letters," to every employer that has at least one Social Security "no-match".

- The letters are likely meant to intimidate employers, but explicitly state that they do not have anything to do with any employee's work authorization or immigration status.



Social Security Administration
Retirement, Survivors and Disability Insurance
Third Party Provider Notification

#000027859

Date: July 2018

Social Security will begin mailing Educational Correspondence (EDCOR) notices in the middle of next year to businesses and employers who submit wage and tax statements (Form W-2) that contain name and Social Security number (SSN) combinations 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.

If we cannot match the name and SSN reported on a Form W-2 to our records, we cannot reconcile employer wage reports and credit earnings to a worker's record. When earnings are missing, the worker may not qualify for the Social Security benefits they are due or the benefit amount may be incorrect. The EDCOR notice will request employers to review their records and correct errors.

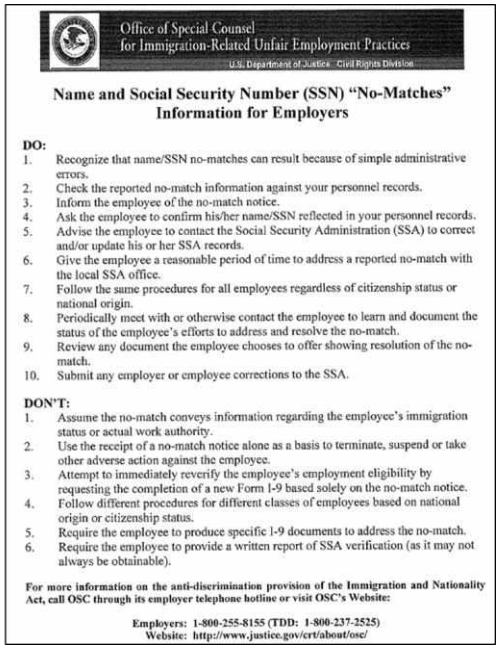
Soon, we will be sending an announcement letter to these businesses and employers with one or more name and SSN combinations submitted within the last several months that we could not process. The announcement letter informs them they will receive an EDCOR notice in 2019 and requests them to review and correct their records. If you are receiving this letter, we believe you will likely have clients who will receive the announcement letter.

You can find information about correcting name and SSN mismatches at a link to our Frequently Asked Questions and other important information at www.socialsecurity.gov/employer. These resources can answer most of your questions.

If you have any additional questions about the EDCOR notices, please call us toll-free at 1-800-772-6270 (TTY 1-800-325-0778) between 7 a.m. and 7 p.m., Eastern Time, Monday through Friday. We can answer most questions over the phone.

Social Security is committed to protecting personal information and earnings records for millions of Americans. With your help, we can ensure the correct, maximum amount of benefits for your clients and their families.

Social Security Administration



Office of Special Counsel
for Immigration-Related Unfair Employment Practices
U.S. Department of Justice Civil Rights Division

Name and Social Security Number (SSN) "No-Matches" Information for Employers

DO:

1. Recognize that name/SSN no-matches can result because of simple administrative errors.
2. Check the reported no-match information against your personnel records.
3. Inform the employee of the no-match notice.
4. Ask the employee to confirm his/her name/SSN reflected in your personnel records.
5. Advise the employee to contact the Social Security Administration (SSA) to correct and/or update his or her SSA records.
6. Give the employee a reasonable period of time to address a reported no-match with the local SSA office.
7. Follow the same procedures for all employees regardless of citizenship status or national origin.
8. Periodically meet with or otherwise contact the employee to learn and document the status of the employee's efforts to address and resolve the no-match.
9. Review any document the employee chooses to offer showing resolution of the no-match.
10. Submit any employer or employee corrections to the SSA.

DON'T:

1. Assume the no-match conveys information regarding the employee's immigration status or actual work authority.
2. Use the receipt of a no-match notice alone as a basis to terminate, suspend or take other adverse action against the employee.
3. Attempt to immediately reverify the employee's employment eligibility by requesting the completion of a new Form I-9 based solely on the no-match notice.
4. Follow different procedures for different classes of employees based on national origin or citizenship status.
5. Require the employee to produce specific I-9 documents to address the no-match.
6. Require the employee to provide a written report of SSA verification (as it may not always be obtainable).

For more information on the anti-discrimination provision of the Immigration and Nationality Act, call OSC through its employer telephone hotline or visit OSC's Website:

Employers: 1-800-255-8155 (TDD: 1-800-237-2525)
Website: http://www.justice.gov/crt/about/osc/

Social Security (SSA) Mismatch/No Match Letters

What actions does SSA want an employer to take
in response to receiving a "No-Match" letter?

The "No-Match" letter directs employers to:

1. Review the names and SSN information submitted by the employer to SSA;
2. Provide any necessary corrections to SSA on the Form W2-C within 60 days of receiving the no-match, or
3. Respond to SSA that the employer has confirmed that the names and SSN information provided match the information provided by its employees.

Social Security (SSA) Mismatch/No Match Letters

What actions should an employer take in response to receiving a no-match letter?

- That is electronic verification and technically is not required by law or the no match letter.
- The catch is that once employers do access the website, which the government is intending them to believe they have to by using this tool, and start comparing, they are now with direct knowledge of the specific employee and number with an issue and at that point become exposed for potential unlawful employment.
- **The only responsibility under the SSA for the employer is to ensure that the records provided to the IRS/SSA match the records provided by the employee so that accurate deposits are made to the individual SSA accounts. Nothing more.**

Social Security (SSA) Mismatch/No Match Letters

What actions should an employer take in response to receiving a no-match letter?

- HOWEVER, since the new no match letters only provide the total number of "no matches" without the employee name, it is up to the employer whether to login to the SSN portal online (Business Services Online ("BSO")) to get the actual employee names at issue.
- The letters do not provide the names and numbers of the employees that allegedly do not match as the SSA should be prohibited from disclosing numbers. That information only comes from the employer voluntarily utilizing the website cited to conduct a match process him or herself.
- At this time, we are recommending that employers take no further action after receiving a no match letter beyond the three (3) steps described above. If an employer elects to create a BSO account and use the Social Security Number Verification Service, the employer will be given the names of the affected employees.

Social Security (SSA) Mismatch/No Match Letters

What actions should an employer take in response to receiving a no-match letter?

- Unlike the SSA no-match letters from a decade ago, these new letters do not carry a requirement to retain them in your personnel records.
- Retaining the letter creates an unnecessary risk in the event of a future ICE document audit.
- As such, we recommend that you not retain the no-match letter once you have taken the steps described above.

FAQ's: Mismatch/No Match Letters

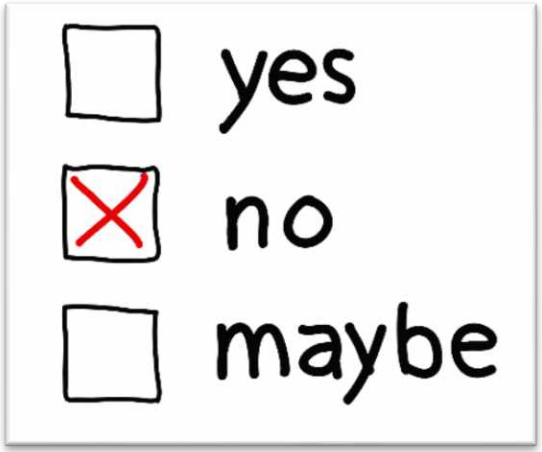
IF AN EMPLOYER CHOOSES TO USE SSNVS OR IF SSA STARTS NAMING NAMES

- If the law changes and SSA begins specifically identifying employees with a no-match, or if the employer voluntarily chooses to use the SSNVS system or otherwise learns of a specific employee having a no-match situation, what should the employer do and what should they avoid doing?

FAQ's: Mismatch/No Match Letters

Does being named in a no-match letter indicate that a worker lacks work authorization or is undocumented?

- NO. The no-match letter itself states that it does not make any statement about an employee's immigration status, and there is agency guidance and legal authority stating that an SSA no-match makes no statement about the worker's immigration status.



FAQ's: Mismatch/No Match Letters

Should an employer terminate an employee based solely on the employee being named in a no-match letter?

- NO. An employer should not terminate a worker based solely upon the employee being named in one or more SSA no-match letters received by the employer. The SSA itself advises employers not to take adverse action against an employee named in a no-match letter.
- Such adverse action may include "laying off, suspending, firing, or discriminating against that individual" just because their information does not match SSA records.

FAQ's: Mismatch/No Match Letters

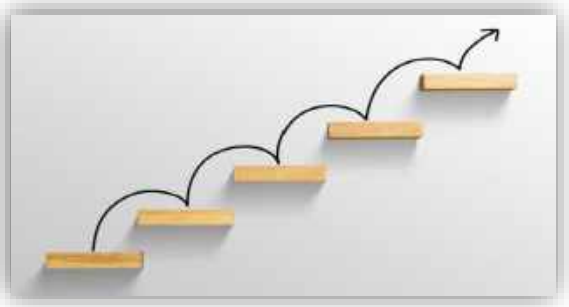
Should an Employer re-verify an employee's I-9 immigration status if that Employee is named in an SSA no-match letter?

- Employers have no legal obligation to re-verify a worker's immigration status based solely on having received an SSA no-match letter that names the worker.
- In fact, an employer who requires employees of certain national origin, racial, or ethnic groups to re-verify their Immigration status or employment eligibility based solely on having received a no-match letter may be liable for committing national origin discrimination in violation of the anti-discrimination provisions of federal immigration law.

Counsel to Management: Mismatch/No Match Letters

What Does our Company Do If We Decide to Use SSNVS or If We Receive A No-Match Letter From The Social Security Administration Naming Names?

- If your company receives a SSA letter that identifies specific names of the affected employees, ignoring it may be at great risk. ICE enforcement officials and plaintiff lawyers bringing immigration-related RICO lawsuits routinely seek no-match letters and related personnel documents in their efforts to establish that employers had constructive knowledge they were hiring unauthorized workers.
- Employers should consider taking certain practical steps when they receive no-match letters, including the following:



Counsel to Management: Mismatch/No Match Letters

1. **Establish Company Policy and Apply it Consistently.**
   Establish and implement a written policy and procedure for responding to no-match letters and for maintaining records of your response to mismatch letters. However, you must be careful to apply the policy consistently to all employees in order to avoid claims of discrimination.

2. **Verify Your Records.**
   Compare the employee's SSN with your records. If your records do not match the W-4 form, then correct the W-4 form and report the correction to the SSA. Maintain copies of correspondence submitting corrected Information to the SSA.

Counsel to Management: Mismatch/No Match Letters

3. **Notify the Employee of the Discrepancy.**
   If checking your records show you have been reporting the number as provided by the employee, then inform the employee that the SSA has notified you of the problem and that he or she must resolve it with the SSA. Tell the employee to report the correct information to you once it has been resolved with the SSA.

4. **Confirm your Instructions In Writing.**
   Write a letter directing the employee to resolve the Issue with SSA and asking the employee to provide updated information. Also provide the company's written no-match policy. Place copies of the letters in the employee's personnel file. Maintain a list of the names of employees who received the written instructions. Remember, you must continue to pay payroll taxes for each employee, regardless of any mismatch.

Counsel to Management: Mismatch/No Match Letters

5. **Do Not Terminate an Employee Just Because They Get a No Match Letter.**

   Employers should never assume an employee with a reported mismatch is an undocumented immigrant, and should never terminate an employee because of a no-match letter. By the same token, employers cannot ignore information they receive when following up on mismatches and must act in a reasonably prompt and prudent manner following receipt of such information to attempt to resolve the issue.

Remember that there are good reasons for a no-match and suspicious ones: Did the employee provide a good reason for the discrepancy? Was there a name change that was not recorded properly? Is the employee's name difficult to spell? Was a number transposed in the documents submitted to SSA? Has there been an intervening immigration-related proceeding that resulted in a name change?

Counsel to Management: Mismatch/No Match Letters

5. Do Not Terminate an Employee Just Because They Get a No Match Letter. (cont.)

- If an employee returns with an entirely different social security number, but the same name, this should be a red flag. The SSA usually issues one number to an individual over a lifetime; in extremely limited circumstances related to domestic violence or identity theft SSA will issue a different number. Similarly, an employee who presents a social security card that has the social security number previously provided, but a completely different name should also be a red flag.
- In these circumstances the employer should inquire about the name and/or social security number change and request documentation showing how/why the change. For example, was there an immigration proceeding such as naturalization resulting in a name change? Was there a court order for a name change? Was there a request to the SSA for a new number?

Counsel to Management: Mismatch/No Match Letters

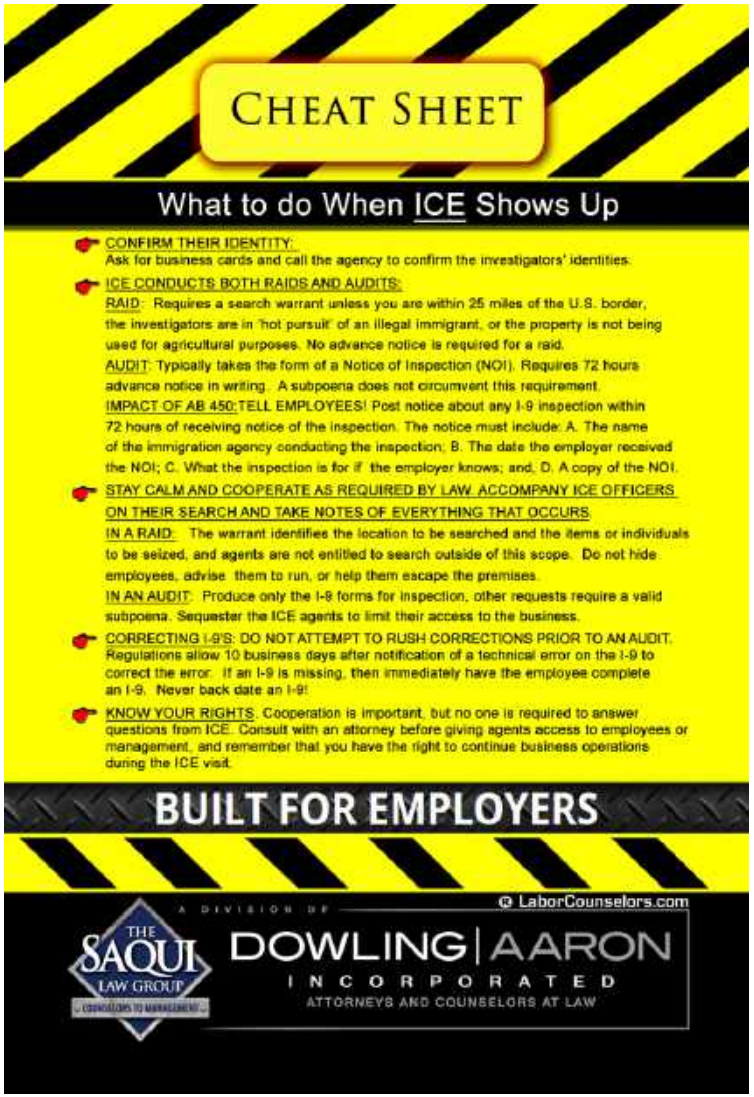
6. **Give Employees a Reasonable Amount of Time to Resolve the Problem.**

- There is no specific number as to how many days to give an employee to resolve the issue. Keep in mind that dealing with the bureaucracy of the Social Security Administration is not a quick process. Consideration should be given to suspending the employee without pay or termination after an employee has had enough time to correct the problem and fails to do so or shows up on more than one no-match letter.
- A self-imposed window to resolve the problem that does not exceed the 120 period that USCIS gives itself to address non-confirmation of work eligibility under E-Verify is probably a reasonable period, but the circumstances of each individual may vary. Most commentators believe that a 30-day time frame with extensions based on good cause is sufficient.

Counsel to Management: Mismatch/No Match Letters

AS A REMINDER: THIS ADVICE IS ONLY IN THE EVENT THAT THE EMPLOYER ACQUIRES INFORMATION IDENTIFYING SPECIFIC EMPLOYEES. THE CURRENT SSA LETTERS DO NOT PROVIDE ANY SUCH INFORMATION, AND THE ONLY ACTION REQUIRED IS CHECKING THE EMPLOYER'S OWN RECORDS FOR ACCURACY.

I-9 Audits: Immigration's Silent Raids



U.S. Immigration and Customs Enforcement

07/24/2018

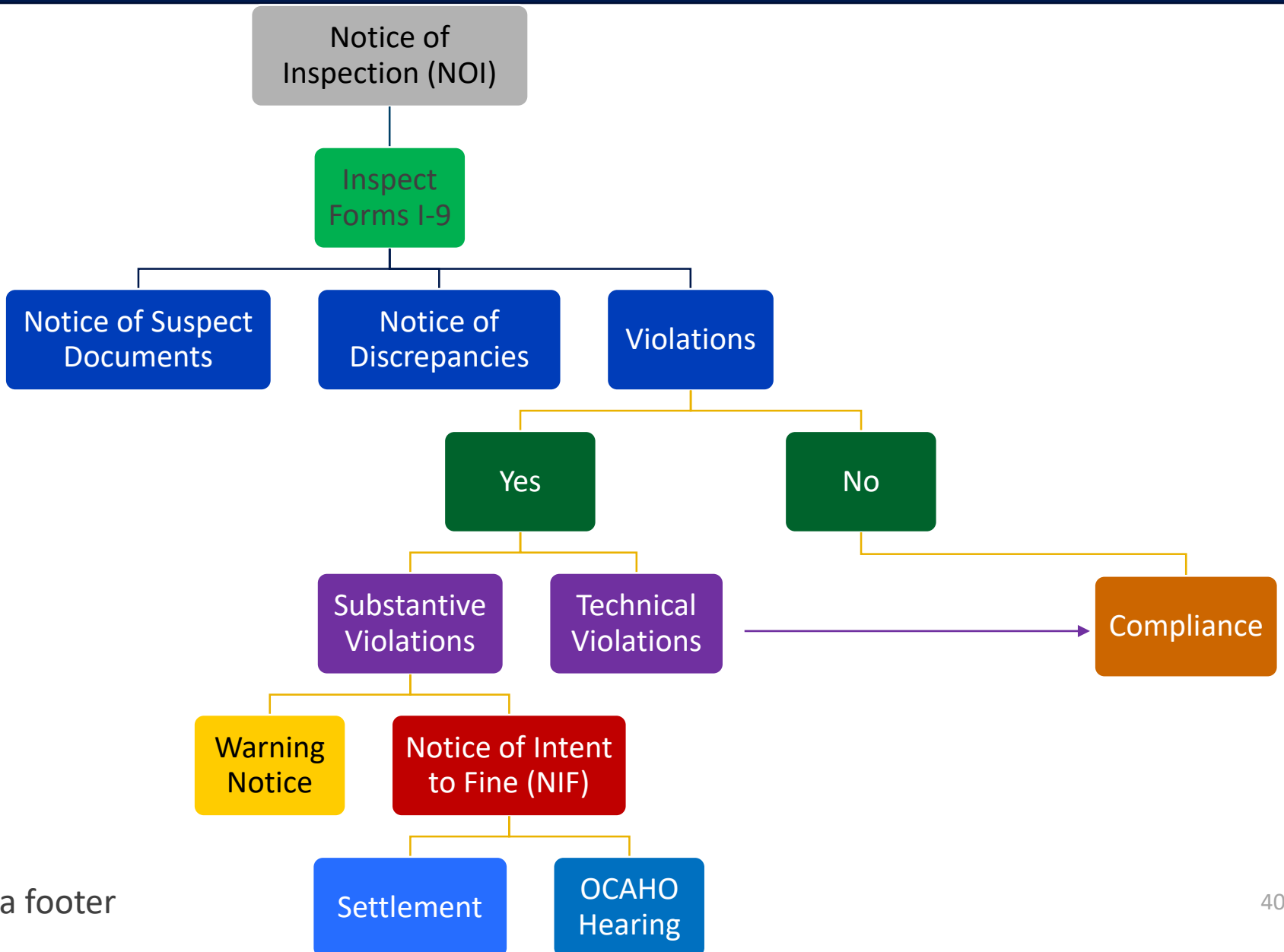
ICE delivers more than 5,200 I-9 audit notices to businesses across the US in 2-phase nationwide operation

ICE Chills the Summer with Thousands of Audit Notices Issued to Businesses Nationwide

August 5, 2019

ICE Confirms Surge of I-9 Audits

I-9 Audits: Immigration's Silent Raids



I-9 Audits: Immigration's Silent Raids

Employers found to have knowingly hired or continuing to employ may be subject to penalties and "enhancements" (i.e. additional fines).

Knowing Hire / Continuing to Employ Fine Schedule
(Effective for penalties assessed after April 2019 whose associated violations occurred after November 2, 2015)

Knowing Hire and Continuing to Employ Violations	Standard Fine Amount		
	First Tier **$573 - $4,586**	Second Tier **$4,586 - $11,463**	Third Tier **$6,878 - $22,972**
0% – 9%	$573	$4,586	$6,878
10% – 19%	$1,192	$6,614	$8,942
20% – 29%	$1,834	$7,566	$11,693
30% – 39%	$2,522	$8,551	$14,444
40% – 49%	$3,210	$9,514	$17,333
50% or more	$3,898	$10,489	$20,130

Counsel to Management: I-9 Audits

REMEMBER PREPARATION STARTS WITH "P"

- **Plan to be investigated**! Then, if/when it happens, you will be good to go.
- **Point Person** – Designate someone who knows where documents are kept/stored.
- **Place** an SOP for investigations in order now so if/when the DOL shows employees are aware of what steps to take.
  - Who should be notified?
  - Who must know from the management team?
  - Who is your attorney and who is responsible for contacting the attorney?
  - Who is escorting DOL on premises?
- **Plan** for regularly scheduled self audits to ensure compliance.

Worksite Raids

August 08, 2019 03:10 PM

Immigration raid to cost Koch Foods 'millions'

ICE agents raided a Mississippi processing plant owned by the Park Ridge company, leaving some workers in federal custody, thousands of half-butchered chickens, and likely costing the firm "millions" before business returns to normal.

The New York Times

More Than 2,000 Migrants Were Targeted in Raids. 35 Were Arrested.

'Operation Border Resolve' ICE raids, touted by President Donald Trump, net 35 arrests, officials say

Vandana Ravikumar USA TODAY

Published 9:09 p.m. ET Jul. 23, 2019 | **Updated 1:55 p.m. ET Jul. 24, 2019**

Employer Obligations during a Worksite Raid

AB 450: Immigrant Worker Protection Act

- Effective January 1, 2018
- Requires employers to ask for a warrant/subpoena before granting the U.S. Immigration and Customs Enforcement ("ICE") access to nonpublic areas of work site or confidential employee records.
- Penalties for non-compliance range from $2,000 to $5,000 (initial violation) up to $10,000 (subsequent violations).
- Except as required by federal law, the bill prohibits an employer from re-verifying employment eligibility of a current employee at a time.

BUT, the Ninth Circuit Court has affirmed a court decision **blocking** the State of California from enforcing some of the law's key provisions. So where are we now?

Employer Obligations during a Worksite Raid

United States v. State of California (April 18, 2019)

- **Giving employees notice of I-9 inspections:**
  - Within 72 hours of NOI, employers must notify employees and labor union reps of a government inspection of I-9s or other employment records, including a copy of the notice.
  - After the inspection, employers must given affected employees notice of the results, the timeframe to correct any deficiencies, and the employee's right to representation during any scheduled meeting with the employer.
- **Granting access to employment records to immigration enforcement agents (ICE):** Until further notice, employers will not violate California state law if they grant access to ICE without a warrant. Employers may choose to require a subpoena or warrant.
- **Granting worksite access to ICE:** Until further notice, employers will not violate California state law if they grant worksite access (specifically, nonpublic spaces) to ICE without a warrant. Employers may choose to require a warrant.

Counsel to Management: Worksite Raids

What to Do When ICE Shows Up

- **Confirm their Identity.**
  - Ask for business cards and call the agency to confirm the investigators' identities.
- **Stay Calm and Cooperate as Required by Law.**
- **Accompany ICE officers on their search and take notes of everything that occurs.**
- **Know Your Rights.**
  - Cooperation is important, but no one is required to answer questions from ICE.
  - Consult with an attorney before giving agents access to employees or management.
  - Remember that you have the right to continue business operations during the ICE visit.

California: A "Non-Cooperative" Jurisdiction

- California is categorized as a "Non-Cooperative" jurisdiction by ICE because California 'Sanctuary' policy prohibits local law enforcement (jails and state prisons) from holding individuals without status for immigration purposes only.

'Sanctuary' California Failed to Honor Over 5,600 ICE Detainers

- In 2019, ICE Acting Director Matthew Albence issued a Press Release:

> California, with a recidivism rate among some illegal alien cohorts is 46 percent. King County, Washington; Chicago; New York City; New Jersey; Mecklenburg County, North Carolina; Denver, Colorado.
>
> You may be the first we're calling out, but you won't be the last. This needs to stop. Work with us.

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