

## S.C. Illegal Immigration & Reform Act of 2011

“Unauthorized Workers and  
Private Employment”

## UPDATE



- **Homeland Security** challenges LLR's right to access employer E-Verify data

## UPDATE

Governor Haley makes  
the case for South  
Carolina



**State of South Carolina**  
**Office of the Governor**

NIKKI R. HALEY  
GOVERNOR

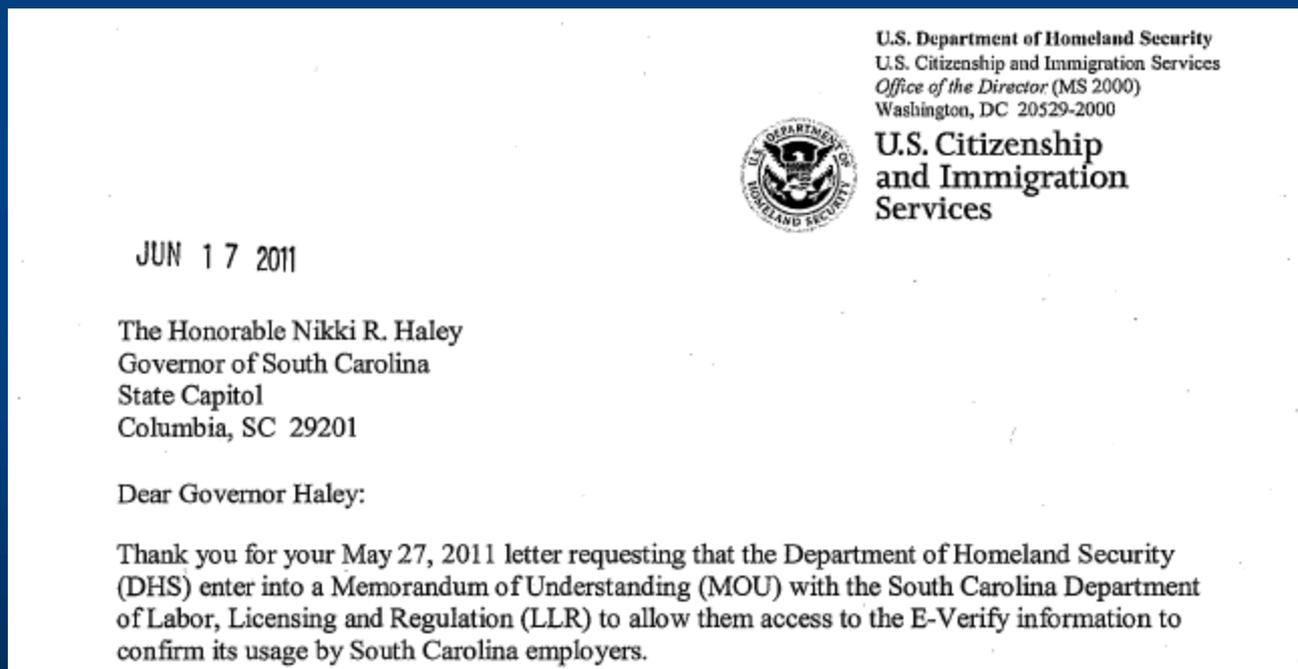
1205 PENDLETON STREET  
COLUMBIA 29201

May 27, 2011

Secretary Janet Napolitano  
United States Department of Homeland Security  
245 Murray Lane Southwest  
Washington, District of Columbia 20528

Dear Secretary Napolitano,

## Homeland Security responds to Governor Haley



## **To all E-Verify Employers in the State of South Carolina:**

The Department of Homeland Security (DHS) is now permitting E-Verify Employers in the State of South Carolina to disclose information received from E-Verify to the South Carolina Department of Labor, Licensing and Regulation (LLR).

## WHAT TO GIVE LLR?

<u>Fields to Include</u>	<u>Fields to Delete</u>
Company ID Number	Parent Company ID
Company Name	User ID
City	Access Code
State	Pilot
Initiated By	Card Number
Initiated Date	Alien Number
Case Verification Number	I-94 Number
Last Name	SSN
First Name	Three Day Exception
Hire Date	Three Day Exception (Other)
Initial Resolution	
Additional Resolution	
DHS 3rd Step Resolution	
Additional 3rd Step Resolution	
Case Closure Date	
Closure Descr	

## **Los Angeles Times**

### **Supreme Court upholds Arizona immigration law targeting employers**

The high court ruling allows the state, and others, to penalize businesses that hire illegal immigrants.

## UPDATE

- Shutdown of LLR enforcement program effective May 31, 2011



## Illegal immigration bill pushed through to Haley

BY SEANNA ADCOX  
Associated Press  
Wednesday, June 22, 2011

COLUMBIA -- A bill that requires police in South Carolina to check suspects' immigration status and mandates that all businesses check their hires through a federal online system received final legislative approval Tuesday.

All private employers must:

- register and participate in E-Verify
- verify the work authorization of every new employee within three business days



**IMMIGRATION**



**REQUIRED BY LAW  
EFFECTIVE  
01-01-2012**



 **E-Verify**<sup>®</sup>

The logo for E-Verify features a stylized American flag with stars and stripes on the left, followed by the text "E-Verify" in a large, bold, blue, sans-serif font. A registered trademark symbol (®) is located at the bottom right of the word "Verify".

## “Licenses”

**Under the new law, a “license” means**

- an agency permit,
- certificate,
- approval,
- registration,
- charter,
- or similar form of authorization that is required by law and that is issued by any agency political subdivision of the state for the purpose of operating a business in the state.

## “Licenses”

- Professional licenses are excluded, but “license” includes employment licenses, articles of organization, articles of incorporation, a certificate of partnership, a partnership registration, a certificate to transact business, or similar forms of authorization issued by the South Carolina Secretary of State, and any transaction privilege tax license.

## “Illegal Aliens & Private Employment”

A private employer shall not knowingly or intentionally employ an unauthorized worker.

## Failure to E-Verify in 3 Days

First occurrence prior to July 1, 2012:

- Swear compliance with federal law covering employment of unauthorized aliens since November 6, 1986; and
- comply with the state law on verification of new hires within three business days.

## Failure to Comply

- Probation for one year (with a 3 year look back).
- During one year probation, employer must submit quarterly reports to LLR demonstrating compliance with 41-8-20.

## Subsequent Violations

- Suspension of the private employer's licenses for 10-30 days.
- Prior offenders of 41-8-30 must be suspended – no grace provision

## Knowing or Intentional Employment 1<sup>st</sup> Occurrence

- Suspension of the private employer's licenses for 10-30 days.
- During suspension, the employer may not engage in business, open to the public, employ an employee, or otherwise operate.

## Reinstatement

- Employer demonstrates that the unauthorized alien has been terminated, and
- pays for cost of investigating and enforcing the matter, not to exceed \$1,000.

## Knowing or Intentional Employment 2d Occurrence

- Suspension of the private employer's licenses for 30-60 days.
- During the period of suspension, employer may not engage in business, open to the public, employ an employee, or operate.
- Reinstatement requirements same as 1<sup>st</sup> Offense

## Knowing or Intentional Employment 3d Occurrence

- Licenses are **revoked**.
- After 90 days, employer may petition LLR Director for **provisional license**.
- Under provisional license, employer is on probation for **three years**.
- Employer must submit **quarterly reports** to LLR demonstrating compliance, terminate unauthorized alien, and pay reinstatement fee of up to \$1,000.

## Penalty

- If an employer engages in business or employs a new employee during suspension, the private employer's licenses **must be revoked for five years.**

## Other key changes in law

- All employers who are disciplined under the law are published on the LLR website.
- LLR must notify applicable licensing agency if it determines a private employer's license must be suspended or revoked.

## What triggers an inspection?

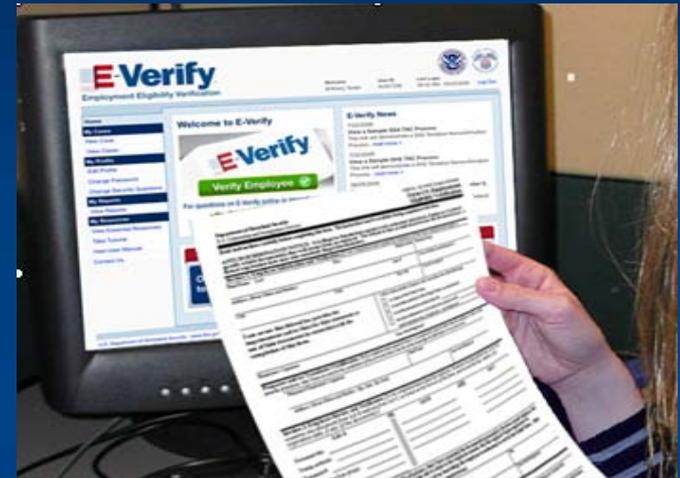
- Scheduled random audits
- Receipt of a complaint that is signed and in writing
- Investigation initiated by the Director of LLR for good cause

For the latest information, go to:

**[www.llr.state.sc.us/immigration](http://www.llr.state.sc.us/immigration)**

## What is E-Verify?

- No-cost Internet based system
- Fast & easy to use
- **Electronically** verifies the employment eligibility of newly hired employees
- Helps maintain a legal workforce
- Protects jobs for authorized workers
- Partnership between the **U.S. Department of Homeland Security** and the **Social Security Administration**



## How does it work?

OMB No. 1625-0047, Expires 06/30/12  
**Form I-9, Employment Eligibility Verification**  
 Department of Homeland Security  
 U.S. Citizenship and Immigration Services

Read instructions carefully before completing this form. The instructions must be available during completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document is they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification (To be completed and signed by employee at the time employment begins.)**

First Name	Last Name	First	Middle Initial	Last Name
Address (Street Name and Number)		City	State	Zip Code
Age	Date of Birth (month/day/year)	Sex	Country of Birth	

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I am a citizen of the United States.  
 I am now lawfully admitted for permanent residence (see instructions).  
 I am a lawful permanent resident (Alien #) \_\_\_\_\_  
 An alien authorized to work (Alien # or Authorization #) \_\_\_\_\_ and expiration date (if applicable - month/day/year) \_\_\_\_\_

Employer's Signature \_\_\_\_\_ Date (month/day/year) \_\_\_\_\_  
 Preparer and/or Employer Certification (To be completed and signed by preparer and/or employer other than the employee. I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.)  
 Preparer's/ Employer's Signature \_\_\_\_\_ Title \_\_\_\_\_  
 Address (Street Name and Number), City, State, Zip Code \_\_\_\_\_ Date (month/day/year) \_\_\_\_\_

**Section 2. Employer Review and Verification (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)**

Document Title	List A	List B	List C
Document #			
Expiration Date (if any)			

**CERTIFICATION:** I attest, under penalty of perjury, that I have examined the document(s) presented by the above named employee, that the above listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_\_ and that to the best of my knowledge the employee is authorized to work in the United States. (State employment authorization only when the date the employee began employment.)  
 Signature of Employer or Authorized Representative \_\_\_\_\_ Title \_\_\_\_\_  
 Address (Street Name and Number), City, State, Zip Code \_\_\_\_\_ Date (month/day/year) \_\_\_\_\_

**Section 3. Updating and Reverification (To be completed and signed by employee.)**

A. New Hire (if applicable) \_\_\_\_\_ B. Date of Expiry (month/day/year) (if applicable) \_\_\_\_\_

C. If employer's previous agent of record notification has expired, provide the information below for the document that establishes current employment authorization.  
 Document Title \_\_\_\_\_ Document # \_\_\_\_\_ Expiration Date (if any) \_\_\_\_\_  
 I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) have remained proper to be genuine and to relate to the individual.  
 Signature of Employer or Authorized Representative \_\_\_\_\_ Date (month/day/year) \_\_\_\_\_

Form I-9 (Rev. 08/14/09) - Page 4



Form I-9



## Access methods

### Employer

#### Most common

Allows E-Verify users in your company to electronically verify the employment eligibility of newly hired employees

### Employer Designated Agent

#### Least common

Employer designates 3<sup>rd</sup> party to perform verifications

### Corporate Administrator

Allows you to create, manage, and administer new & existing E-Verify accounts as well as create and view reports

Does **NOT** allow you to create cases

## How to enroll

- Electronically sign a **Memorandum of Understanding** (MOU) with DHS and SSA
- User Name, Password, and E-Verify Web Address will be **e-mailed** to you within 48 hours
- Download and read the *E-Verify User Manual*
- Complete an **online tutorial** before creating cases

## Who to verify and when?

- Verify **all** new hires
- Do **not** verify existing employees
- Verify new hires within **3 business days**

## An E-Verify case

Initial verification results will be

**E mployment  
A uthorized**

The employee is  
authorized to work

**SSA Tentative  
N onconfirmation**

There is an information  
mismatch

**DHS Verification  
in Process**

DHS will usually respond  
within 24 hours with  
either:

**E mployment  
A uthorized**

or

**DHS Tentative  
N onconfirmation**

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**My Profile**

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[Change Password](#)

[Change Security Questions](#)

**My Company**

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[Edit Company Profile](#)

[Close Company Account](#)

**My Reports**

[View Reports](#)

**My Resources**

[View Essential Resources](#)

[Take Tutorial](#)

[View User Manual](#)

[Contact Us](#)

### Verify Employee

Employee Name  
Smith, Bill

Case Verification Number  
2010074153900AD

[View/Print Case Details](#)

Enter Form I-9 Information

Verification Results

Close Case

### Employment Eligibility:

Employment Authorized

**Bill Smith** is authorized to work in the United States. To complete the verification process, click **Close Case**

Last Name  
Smith

First Name  
Bill

Middle Initial  
--

Maiden Name  
--

Date of Birth  
January 03, 2001

Social Security Number  
\*\*\* \*\* 0007

Citizenship Status  
A noncitizen national of the United States

Document Type  
Unexpired U.S. Passport or U.S. Passport Card

Document Number  
999999999

Document Expiration Date  
--

Hire Date  
March 12, 2010

Employer Case ID  
--

Submitted By  
JG006407

Submitted On  
March 15, 2010

**Close Case**

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### Verify Employee

Employee Name  
Washington, George

Case Verification Number  
2010074145363ZC

[View/Print Case Details](#)

Enter Form I-9 Information

Verification Results

Close Case

### Employment Eligibility:

⚠ SSA Tentative Nonconfirmation (TNC) ?

The Social Security number entered in E-Verify is not valid according to SSA records.

This does NOT mean that the employee is not authorized to work in the United States; however, additional action is required.

▶ To begin TNC process click, **Continue**

If you created this case in error or no longer need to continue this verification, click **Close Case** ?

To return to this case at a later time, click **Save Case and Exit** ?

Close Case

Save Case and Exit

Continue

# Handling a TNC

- **Inform** the employee of the TNC
- **Print** the TNC Notice and **review** it with the employee

**CONTEST**

**Refer** employee to appropriate agency

**NOT  
CONTEST**

You may terminate the employee and close the case in E-Verify

## Handling a TNC

- The employee has **eight Federal Government workdays** from the referral date to visit or call the appropriate agency and resolve the discrepancy
- The **employee continues to work in full status** during the TNC resolution process
- **DO NOT** take any adverse action based on the TNC against the employee during the resolution process

## Handling a TNC

Once the employee resolves the record discrepancy, he/ she should inform you

Check E-Verify periodically for one of the following responses

**Employment Authorized**

**Review & Update Employee Data**

**Case in Continuance**

**DHS Verification in Process**

**DHS No Show**

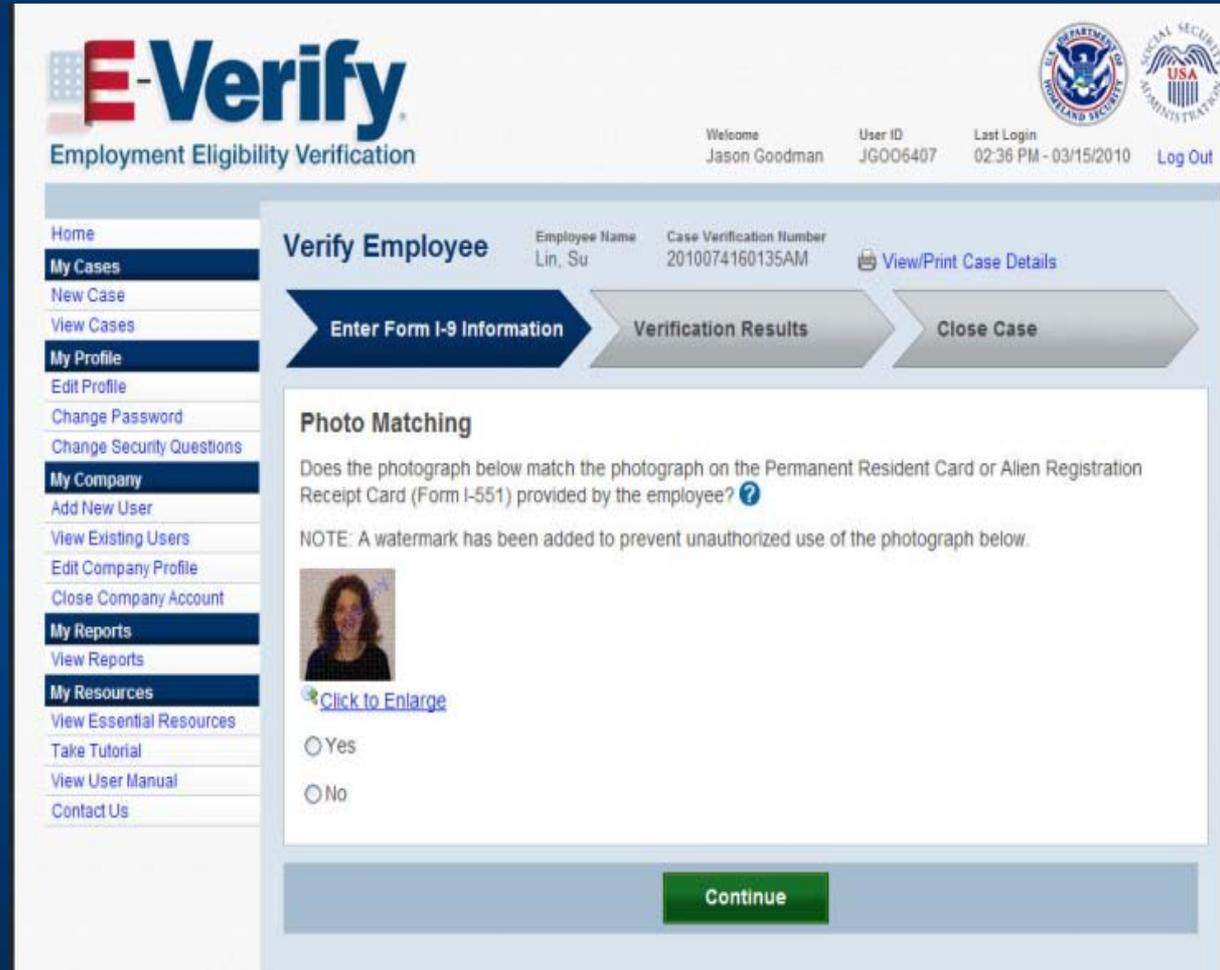
**Final Nonconfirmation**

## Photo Matching

Allows you to match the photo on an employee's

- Form I-766 (Employment Authorization Document)
- Form I-551 (Permanent Resident Card or "green card") to the photo that USCIS has on file for that employee
- U.S. Passport or passport card (new)

Helps detect instances of document fraud



The screenshot shows the E-Verify web interface. At the top, the E-Verify logo and "Employment Eligibility Verification" are displayed. The user is logged in as Jason Goodman (User ID: JG006407, Last Login: 02:36 PM - 03/15/2010). The main content area is titled "Verify Employee" and shows the employee name "Lin, Su" and case verification number "2010074160135AM". A navigation bar includes "Enter Form I-9 Information", "Verification Results", and "Close Case". The "Photo Matching" section asks: "Does the photograph below match the photograph on the Permanent Resident Card or Alien Registration Receipt Card (Form I-551) provided by the employee?". A note states: "NOTE: A watermark has been added to prevent unauthorized use of the photograph below." A small photo of a woman is shown with a "Click to Enlarge" link. Below the photo are radio buttons for "Yes" and "No". A green "Continue" button is at the bottom.

## Wrapping it up

### Employer responsibilities

- Once you begin using E-Verify, you must verify new employees **no later than the 3<sup>rd</sup> business day** after the employee begins working for pay
- You must apply E-Verify procedures to **ALL new hires**, regardless of citizenship status

# Wrapping it up Posters

## This Employer Participates in E-Verify



This employer will provide the Social Security Administration (SSA) and, if necessary, the Department of Homeland Security (DHS), with information from each new employee's Form I-9 to confirm work authorization.

**NOTICE:**  
Federal law requires all employers to verify the identity and employment eligibility of all persons hired to work in the United States.

**IMPORTANT:** If the Government cannot confirm that you are authorized to work, this employer is required to provide you written instructions and an opportunity to contact SSA and/or DHS before taking adverse action against you, including terminating your employment.

Employers may not use E-Verify to pre-screen job applicants or to re-verify current employees and may not limit or influence the choice of documents presented for use on the Form I-9.

**Employment Verification.  Done.**

For more information on E-Verify, please contact DHS at:  
**1-888-464-4218**



E-VERIFY IS A SERVICE OF DHS AND SSA

## IF YOU HAVE THE RIGHT TO WORK, Don't let anyone take it away.



**If you have a legal right to work in the United States, there are laws to protect you against discrimination in the workplaces.**

**You should know that –**  
No employer can deny you a job or fire you because of your national origin or citizenship status.

**In most cases employers cannot require you to be a U.S. citizen or permanent resident or refuse any legally acceptable documents.**

**If any of these things have happened to you, you may have a valid charge of discrimination that can be filed with the CoC. Contact the CoC for assistance in your own language.**

Call 1-800-255-7688, TDD for the hearing impaired is 1-800-237-2515.

In the Washington, D.C. area, please call 202-616-5594, TDD 202-616-5525

Or write to:  
U.S. Department of Justice  
Office of Special Counsel - NYA  
950 Pennsylvania Ave, N.W.  
Washington, DC 20530

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



## Wrapping it up

### Employee rights

- The employee has the right to contest a tentative nonconfirmation (TNC) from SSA or DHS
- Employees who believe they have been subjected to discrimination should call
  - Department of Justice
  - Civil Rights Division
  - Office of Special Counsel for
  - Immigration Related Unfair Employment Practices
  - 1-800-255-7688 (TDD: 1-800-237-2515)**

## Top E-Verify Dos

- Promptly provide & review with the employee the notice of tentative nonconfirmation (TNC)
- Promptly provide the referral notice from SSA or DHS to the employee who chooses to contest a TNC
- Allow an employee who is contesting a TNC to continue to work during that period
- Contact E-Verify if you believe a final nonconfirmation (FNC) has been issued in error
- Accept any Form I-9 List B document with a photo from an employee who chooses to provide a list B document



## Top E-Verify Don'ts

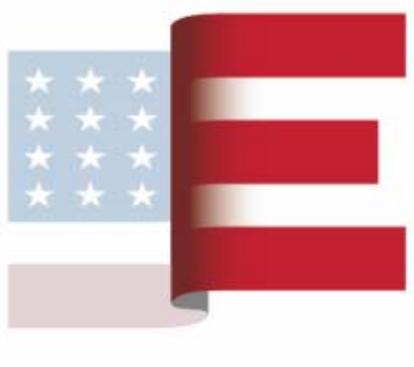
- Do not use E-Verify to pre-screen employment applicants
- Do not influence or coerce an employee's decision whether to contest a TNC
- Do not terminate or take adverse action against an employee who is contesting a TNC
- Do not ask an employee to provide additional documentation of his/her employment eligibility after obtaining a TNC for that employee
- Do not request specific documents in order to activate E-Verify photo matching

E-Verify E-Mail: [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov)

E-Verify Website: [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify)

LLR E-Mail: [immigrantinfo@llr.sc.gov](mailto:immigrantinfo@llr.sc.gov)

LLR Website: [www.llr.state.sc.us/immigration](http://www.llr.state.sc.us/immigration)



**E-Verify**®