E-Verify

What you need to know to confirm eligibility for employment in the United States.
E-Verify: Frequently Asked Questions

The University of Tennessee is required by law to electronically verify employment eligibility of workers. The E-Verify system requires that new employees have a valid Social Security Number. The following FAQs will help answer questions regarding the E-Verify process to ensure that the university complies with the new standards.

From Paper to Electronic

• What is E-Verify?

E-Verify is an Internet-based system that allows an employer to confirm the eligibility of an employee to work in the United States. The E-Verify system is operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). Through E-Verify, employers transmit information provided by the employee on the Form I-9 to the SSA and DHS to ensure authorization to work in the United States. It also validates that your name, social security number, date of birth, citizenship status, and any other non-citizen information you provide your employer on the Form I-9 are consistent with government records.

• What is a Form I-9?

The Form I-9 is a document that each new employee must complete (both U.S. citizens and non-citizens) if hired after November 6, 1986, to verify they are authorized to work in the United States.

Rules, Rights & Regulations

• How does this affect the University of Tennessee?

On June 8, 2008, Executive Order 12989 was amended to require all federal contractors, including colleges and universities, begin using an electronic verification system designated by the Department of Homeland Security (DHS) to verify the employment eligibility. On June 13, 2008, the secretary of DHS designated
E-Verify to be this system to be used immediately. The Executive Order was followed by a proposed rule which required public comments to be submitted by August 11, 2008.

In June 2009, the university began using the E-Verify process for employees that were paid from a grant or contract with a Federal Acquisition Regulation (FAR) clause. In the 2011 legislative session, several legislative bills were introduced into session this year to address illegal immigration in Tennessee. The final law that was passed requires that employers with six or more employees E-verify all new employees beginning January 1, 2012.

- **What is the Federal Acquisition Regulation (FAR) clause?**
  
  The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds. It became effective on April 1, 1984, and is issued within applicable laws under the joint authorities of the Administrator of General Services, the Secretary of Defense, and the Administrator for the National Aeronautics and Space Administration, under the broad policy guidelines of the Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

- **What if a new employee does not have a Social Security Number?**
  
  The E-Verify system requires that new employees have a valid SSN. If a newly hired employee does not yet have an SSN, complete the Form I-9 process as required and then wait until the employee obtains a SSN before running the E-Verify inquiry. Note on the Form I-9 why you have not yet run the E-Verify query, and instruct the employee to provide you with the new SSN as soon as possible. In the meantime, because you will have completed the I-9 process with that new employee to verify work authorization, the employee is allowed to work temporarily without the SSN or the E-Verify system result. The Form I-9 must be sent to Human Resources with the note about the SSN.
• **What rights do I have under the law as a current and/or new employee?**
  
  – E-Verify must be used for all new hires regardless of national origin or citizenship status. It may not be used selectively.
  
  – E-Verify must be used only after hire and after completion of the Form I-9. Employers may not pre-screen applicants through E-Verify.
  
  – If an employee receives an information mismatch which is a tentative non-confirmation (TNC) from their Form I-9 and SSA and DHS databases, the employer must promptly provide the employee with information about how to contest the TNC, including a written notice generated by E-Verify.
  
  – If an employee decides to contest the TNC, the employer must provide the person with a referral letter issued by E-Verify that contains specific instructions and contact information.
  
  – Employers may not take any adverse action against an employee because he/she contests the TNC. This includes firing, suspending, withholding pay or training, or otherwise infringing upon his/her employment.
  
  – The employee has eight federal government work days to contact the appropriate federal agency to initiate resolution of the TNC.

**Penalties for Non-compliance**

• **What are the penalties for not complying with E-Verify?**

  Penalties can range from daily fines (between $500 and $1,500 per incident) up to and including debarment from federal research.

• **What are the repercussions of not completing the E-Verify process?**

  Failure to comply may jeopardize the university’s ability to obtain future federal funding. Not being in compliance can place the university at risk of losing current research funding.
Approved Documentation

• Can I use expired documents (i.e., passport, driver’s license)?
  No, only unexpired documents will be accepted.

• My Social Security card is laminated. Is this acceptable?
  Yes, a laminated original Social Security card is acceptable.

• May I use a photocopy of a document to establish employment authorization?
  No. You must present original documents. The only exception is that an employee may present a certified copy of a birth certificate.

• Can a person with a Social Security Card receipt start working?
  Yes. Employees that have a Social Security Card replacement receipt (due to lost or destroyed original SSN card), may present the receipt in lieu of the Social Security Card.

• Is the receipt of an Employment Authorization Document acceptable for employment?
  No. A receipt of an employment authorization renewal is never acceptable for employment.

• Is a notice of action for the Application for Employment Authorization Extension valid to continue employment if the previous authorization has expired?
  No. The valid document must be the Employment Authorization Card with a future expiration date.

• Are persons holding an asylum considered resident aliens?
  No. A person granted asylum is not a resident alien.

• Can a person work with no social security number?
  Any person can work without a social security number as long as they have applied for one, and they present appropriate documentation.
Difficult Cases

- **What is a tentative non-confirmation (TNC)?**
  A TNC is an information mismatch between the information submitted on an employee’s Form I-9 and the information contained in the Social Security Administration and/or Department of Homeland Security databases.

- **What is a SSA tentative non-confirmation (TNC)?**
  If an employee receives a Social Security Administration (SSA) tentative non-confirmation (TNC), they have the option of visiting an SSA field office to update their record or if the employee is a naturalized citizen, the employee may choose to call USCIS directly to resolve the TNC. The phone number can be found on the SSA referral letter. The system then either confirms to the employer that the worker is employment-authorized or it issues a “tentative non-confirmation” (TNC) notice indicating that the databases cannot immediately confirm that the worker is employment-authorized.

- **How many days do I have to contest the TNC with SSA and/or DHS?**
  If the employee receives a TNC, the worker then has eight federal working days from the issuance of the TNC to initiate resolution of the TNC with the SSA or DHS.

- **Can I continue working if I receive a TNC?**
  Yes, if you elect to contest the TNC. If you elect not to contest, then employment must be terminated immediately.

- **I am a naturalized U.S. citizen and the Social Security Administration is unable to confirm U.S. citizenship in the E-Verify system; what should I do?**
  You receive a Social Security Administration tentative non-confirmation for several reasons, one of them being that the “SSA is unable to confirm U.S. citizenship,” which means that the Social Security Administration cannot confirm that you are eligible to work because Social Security Administration records do not show that you are a U.S. citizen. If you choose to contest the TNC, your employer needs to provide you with the Social Security Administration referral letter. Read thoroughly the Instructions for the Employee found in pages 2-3 of the Social Security Administration referral letter.
If all of the information provided on the electronic Form I-9 is correct, you have eight federal government workdays from the date of the referral to resolve your case.

If the reason for the referral is that the “SSA is unable to confirm U.S. citizenship” and you are a naturalized U.S. citizen, you do not need to visit your local Social Security Administration field office to resolve your case. Instead, you may call the Department of Homeland Security to confirm your status as a U.S. citizen. You must give the DHS representative the following information:

– The Case Verification Number shown on the first page of the Social Security Administration referral letter; AND

– Your Naturalization Certificate Number OR your Permanent Resident Card Number.

If you do not have this information, you must visit your local Social Security Administration field office with the documents required to resolve your case (see the Instructions for the Employee found in pages 2-3 of the Social Security Administration referral letter for details). If you choose to call the DHS, the representative will inform you whether or not your case has been resolved.
Processing & Campus Impact

• How quickly will E-Verify provide a confirmation of work authorization?
  The E-Verify system compares the employee’s information against both the Social Security Administration and Department of Homeland Security databases and a confirmation will be generated in three to five seconds. A discrepancy with one or both databases may result in a tentative non-confirmation, and E-Verify will prompt a further review of the submitted information to assure its accuracy.

• Will this affect campus/institute departments?
  Entry into the E-Verify System will be handled centrally in Human Resources, but departments will still have responsibility to submit I-9 paperwork to HR within three days of a hire.

  Also, departments that have a Federal Acquisition Regulation (FAR) clause grant are required to submit E-Verify paperwork on all employees paid from this grant. The grant cost center should also be entered into the IRIS computer system. Documentation can be found at http://rwd.tennessee.edu/nav/index.htm then Reporting -> HR -> E-Verify.

• Are student employees subject to E-Verify?
  Yes; the legislation does not exclude students.

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