



U.S. Department of Justice

Civil Rights Division

*Office of Special Counsel for Immigration Related
Unfair Employment Practices - NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530*

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Via Electronic Mail

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Lisa A. Cornett
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Dear Ms. Cornett:

This letter is sent in response to your inquiry to the Office of Special Counsel for Immigration Related Unfair Employment Practices ("OSC"), posing the question of whether an unsigned Social Security card is a valid List C document for employment eligibility verification purposes.

As you may know, OSC enforces the anti-discrimination provision of the Immigration and Nationality Act ("INA"), as amended, 8 U.S.C. § 1324b. The anti-discrimination provision prohibits four types of unlawful conduct: (1) citizenship status discrimination; (2) national origin discrimination; (3) unfair documentary practices during the employment eligibility verification (Form I-9) process ("document abuse"); and (4) retaliation for filing a charge or asserting rights under the anti-discrimination provision.

This office cannot give you an advisory opinion on any set of facts involving a particular individual or company. However, we can provide some general guidelines regarding compliance with the anti-discrimination provision of the INA.

The U.S. Department of Homeland Security (DHS) administers the rules and regulations regarding which documents are acceptable for employment eligibility verification and completion of the Employment Eligibility Verification (I-9) Form. DHS' Handbook for Employers: Instructions for Completing the Form I-9 (Form M-274) provides critical guidance about which documents are acceptable to complete the Form I-9. As you noted in your inquiry, a Social Security card is acceptable under List C. Specifically, Form I-9 states that an employer may accept a "U.S. Social Security card issued by the Social Security Administration (SSA) (other than a card stating it is not valid for employment)."

The Handbook does not specifically address the situation where a Social Security card has not been signed by the cardholder. However, the Handbook makes clear that an employer "must

accept any document(s) from the Lists of Acceptable Documents presented by the individual which reasonably appear on their face to be genuine and to relate to the person presenting them.”¹

Since your question implicates DHS and SSA jurisdiction, we recommend that you contact DHS’s United States Citizenship and Immigration Services Office at 1-800-375-5283 and the SSA at 1-800-772-1213 for the official DHS and SSA position on this issue. However, we would like to bring to your attention that the United States Court of Appeals for the Eighth Circuit found that an unsigned Social Security card can be valid for work authorization verification purposes. The Court of Appeals stated:

*The critical fact for a verifying employer is whether the Social Security Administration has issued a social security account number card, which means that the Commissioner has verified that the alien may lawfully work in the United States. Whether the alien signed the card after it was issued may affect its validity for other purposes. But signing is irrelevant to a verifying employer*²

We hope this information is of assistance to you. For further information on immigration-related unfair employment practices, please feel free to contact us through our toll free number at 1-800-255-7688.

Sincerely,


Patrick P. Shen
Special Counsel

¹ The Handbook for Employers: Instructions for Completing the Form I-9 (Form M-274) at 6, found at <http://www.uscis.gov/files/nativedocuments/m-274.pdf>.

² United States v. Pool-Chan, 453 F.3d 1092, 1094 (8th Cir. 2006) (Court of Appeals analyzed the use of unsigned Social Security cards in the context of the employment eligibility verification process).