

Does Enrolling In E-Verify Violate Labor Law?

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Many employers utilize E-Verify in an effort to ensure compliance with pertinent immigration laws. This web-based system run by the Department of Homeland Security enables companies to verify eligibility of their workers to be employed in the U.S. But does an employer's decision to enroll in E-Verify violate the National Labor Relations Act (NLRA)? According to a new National Labor Relations Board (NLRB) decision, in some circumstances, it may.

On August 27, the board issued its ruling in [Ruprecht Co., 366 NLRB No. 179 \(2018\)](#). In that case, the company was alleged to have violated the NLRA when it enrolled in E-Verify without first notifying and bargaining with the union who represented its employees over its decision to enroll in the program.

Under the NLRA, unionized companies generally have a duty to bargain with a union before taking action that directly impacts the union employees' terms and conditions of employment. The NLRB found in this case that an employer's use of E-Verify does affect terms and conditions of employment, so the company violated the NLRA when it failed to bargain with the union over its decision to enroll in the E-Verify program. As a remedy, the board ruled the company must withdraw from the E-Verify program to the extent the union requested it do so.

Accordingly, this case serves as [another important reminder](#) to companies with unionized workforces that they may have to honor certain bargaining obligations before taking unilateral action on issues affecting their employees' employment. Failing to do so can result in the NLRB upending the company's decision at a later date.

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