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## The National Directory of New Hires

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# The National Directory of New Hires

## **Abstract**

[Excerpt] The National Directory of New Hires is a database that contains personal and financial data on nearly every working American, as well as those receiving unemployment compensation. Contrary to its name, the National Directory of New Hires includes more than just information on new employees. It is a database that includes information on (1) all newly hired employees, compiled from state reports (and reports from federal employers), (2) the quarterly wage reports of existing employees (in Unemployment Compensation (UC)-covered employment), and (3) unemployment compensation claims. The National Directory of New Hires was originally established to help states locate noncustodial parents living in a different state so that child support payments could be withheld from that parent's paycheck. Since its enactment in 1996, the National Directory of New Hires has been extended to several additional programs and agencies to verify program eligibility, prevent or end fraud, collect overpayments, or assure that program benefits are correct. Although the directory is considered very effective, concerns about data security and the privacy rights of employees remain a part of debates regarding expanded access to the National Directory of New Hires.

## **Keywords**

National Directory of New Hires, financial data, personal information, privacy, security

## **Comments**

### **Suggested Citation**

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# The National Directory of New Hires

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## Summary

The National Directory of New Hires is a database that contains personal and financial data on nearly every working American, as well as those receiving unemployment compensation. Contrary to its name, the National Directory of New Hires includes more than just information on new employees. It is a database that includes information on (1) all newly hired employees, compiled from state reports (and reports from federal employers), (2) the quarterly wage reports of existing employees (in Unemployment Compensation (UC)-covered employment), and (3) unemployment compensation claims. The National Directory of New Hires was originally established to help states locate noncustodial parents living in a different state so that child support payments could be withheld from that parent's paycheck. Since its enactment in 1996, the National Directory of New Hires has been extended to several additional programs and agencies to verify program eligibility, prevent or end fraud, collect overpayments, or assure that program benefits are correct. Although the directory is considered very effective, concerns about data security and the privacy rights of employees remain a part of debates regarding expanded access to the National Directory of New Hires.

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## Background

The National Directory of New Hires is a database of personal information and wage and employment information of American workers. Employers are required to provide to the State Directory of New Hires a report that contains the name, address, and Social Security number of each new employee and the employer's name, address, and tax identification number. The State Directory of New Hires is then required to furnish these six data elements on new employees to the National Directory of New Hires. States also are required to send quarterly wage information of existing employees (in UC-covered employment) and unemployment compensation claims information to the National Directory of New Hires. Federal agencies send their new hire information and quarterly wage information directly to the National Directory of New Hires. It contains three components. (1) The first component of the National Directory of New Hires is the new hires file (i.e., report). It contains information that is also on each employee's W-4 form.<sup>1</sup> Employers are required by P.L. 104-193<sup>2</sup> to send new hire reports to the State Directory of New Hires, which then sends the required information to the National Directory of New Hires. Federal employers (i.e., agencies) send their new hire reports directly to the National Directory of New Hires. (2) The second component of the National Directory of New Hires is the quarterly wage file.<sup>3</sup> The quarterly wage file contains quarterly wage information on individual employees in UC-covered employment. This information comes from the records of the State Workforce Agencies (sometimes called State Employment Security Agencies) and the federal government. When an individual has more than one job, separate quarterly wage records are established for each job. (3) The third component of the National Directory of New Hires is the Unemployment Compensation file. The Unemployment Compensation file contains information pertaining to persons who have received or applied for unemployment compensation, as reported by State Workforce Agencies.<sup>4</sup> With respect to this file, the state can only submit information that is already contained in the records of the state agency (i.e., generally the State Workforce Agency) that administers the Unemployment Compensation program.

Thus, the National Directory of New Hires obtains its data from State Directories of New Hires, State Workforce Agencies, and federal agencies.

The National Directory of New Hires, itself, is a component of the Federal Parent Locator Service (FPLS), which is maintained by the federal Office of Child Support Enforcement (OCSE) and is housed at the Social Security Administration's National Computer Center in Baltimore, MD. According to the Department of Health and Human Services (HHS), during FY2008 about 698 million records were posted to the National Directory of New Hires.

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<sup>1</sup> The W-4 form, also called the Employee's Withholding Allowance Certificate, is the form all employees must complete so that employers can withhold the correct federal income tax from each person's paycheck.

<sup>2</sup> Federal law provisions related to the State Directory of New Hires are in Section 453A of the Social Security Act. Federal law provisions related to the National Directory of New Hires are in Section 453(i) and Section 453(j) of the Social Security Act. The National Directory of New Hires, together with the State Directories of New Hires and the federal and state child support case registries, were enacted as part of the 1996 welfare reform law (P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

<sup>3</sup> Employers are required to submit a wage report of UC-covered employees every three months to the State Employment Security Agency. About 90% of all private employers are covered by UC. The quarterly wage report contains the name, Social Security number, and total wages paid to each employee during the calendar quarter.

<sup>4</sup> Office of Child Support Enforcement. Department of Health and Human Services. Division of Federal Systems. *A Guide to the National Directory of New Hires* (January 2007).

## **Original Purpose**

The original purpose of the National Directory of New Hires was to help states locate child support obligors who were working in other states so that child support could be withheld from the noncustodial parent's paycheck. It is estimated that about 30% of child support cases involve noncustodial parents who do not live in the same state as their children. Moreover, because many noncustodial parents are in temporary employment or move from job to job, the quick reporting of information on new hires greatly increases the likelihood that the National Directory of New Hires will be able to locate a noncustodial parent and pass on the information to states, so that the Child Support Enforcement (CSE) agencies can collect child support via income withholding before the noncustodial parent changes jobs.<sup>5</sup> Since its enactment in 1996, access to the National Directory of New Hires has been expanded, mostly to prevent fraud and abuse, to certain other programs and agencies (discussed later).

## **National Directory Data**

Employers are required to collect from each newly hired employee and transmit to the State Directory of New Hires<sup>6</sup> a report that contains the name, address, and Social Security number of the employee and the employer's name, address, and tax identification number. Most states require only these six basic data elements in each new hires report; some states require or request additional information.

## **Data Deletion Requirements**

New hire reports must be deleted from the National Directory of New Hires 24 months after the date of entry. For CSE purposes, quarterly wage and unemployment compensation reports must be deleted 12 months after entry unless a match has occurred in the information comparison procedures. The reporting and deletion requirements result in a constant cycling of wage and employment data into and out of the National Directory of New Hires. (The HHS Secretary may keep samples of data entered into the National Directory of New Hires for research purposes.)

## **Data Verification**

The HHS Secretary has the authority to transmit information on employees and employers contained in the new hires reports to the Social Security Administration (SSA), to the extent necessary, for verification. SSA is required to verify the accuracy of, correct, or provide (to the

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<sup>5</sup> Although quarterly wage data to a certain extent duplicate information in the new hires report, quarterly wage data (alone) were not very useful to the CSE agencies. Many noncustodial parents changed jobs so frequently that the quarterly data were often out-of-date before the CSE agencies received the information. Generally, there is about a six-month lag between the time the quarterly wage data are submitted to the State Workforce Agency and when the data are available to the CSE agencies.

<sup>6</sup> P.L. 104-193 allows certain employees of a federal or state agency performing intelligence or counterintelligence functions to not be reported to the new hires directories. States have the option of imposing a civil monetary penalty for the failure of employers to report the required new hire information. The penalty cannot exceed \$25 per failure to meet the requirements with respect to each newly hired employee, or \$500, if under state law the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

extent possible) the employee's name, Social Security number, and date of birth and the employer's tax identification number.

According to OCSE, all Social Security numbers on new hire reports and unemployment compensation files are verified by SSA before the information is added to the database of the National Directory of New Hires. Quarterly wage files, however, often do not include all of the necessary elements for a successful verification. In such situations, the information is transmitted to the National Directory of New Hires, but it is flagged indicating that SSA was not able to verify the Social Security number and name combination.<sup>7</sup>

## **Time Frames**

Employers must provide a new hires report on each newly hired employee to the State Directory of New Hires generally within 20 days after the employee is hired.<sup>8</sup> The new hires report must be entered into the database maintained by the State Directory of New Hires within five business days of receipt from an employer.

Within three business days after the new hire information from the employer has been entered into the State Directory of New Hires, the State Directory of New Hires is required to submit its new hire reports to the National Directory of New Hires.

Within two business days after the new hire information is received from the State Directory, the information must be entered into the computer system of the National Directory of New Hires.

For purposes of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of child support, the HHS Secretary must compare information in the National Directory against information in the child support abstracts in the Federal Child Support Case Registry at least every two business days. If a match occurs, the HHS Secretary must report the information to the appropriate state CSE agency within two business days. The CSE agency is then required to instruct, within two business days, appropriate employers to withhold child support obligations from the employee's paycheck, unless the employee's income is not subject to withholding.

Quarterly wage information on existing employees is required to be transmitted to the National Directory of New Hires from the State Workforce Agencies within four months of the end of a calendar quarter. However, some states report quarterly wage data to the National Directory of New Hires on a monthly or weekly basis. Federal agencies are required to transmit quarterly wage information on federal employees to the National Directory of New Hires no later than one month after the end of a calendar quarter.<sup>9</sup>

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<sup>7</sup> Office of Child Support Enforcement. Department of Health and Human Services. Administration for Children and Families. *Accuracy of Data Maintained by the National Directory of New Hires and the Effectiveness of Security Procedures*. Report to the House of Representatives Committee on Ways and Means and the Senate Committee on Finance. July 31, 2002.

<sup>8</sup> Federal employers send their new hire reports directly to the National Directory of New Hires (generally within 20 days after an employee is hired).

<sup>9</sup> Office of Child Support Enforcement. Department of Health and Human Services. Division of Federal Systems. *A Guide to the National Directory of New Hires* (January 2007). p. 4.



Unemployment compensation information (which comes from State Workforce Agencies) is required to be transmitted to the National Directory of New Hires within one month of the end of a calendar quarter.<sup>10</sup>

## **Current Access to the National Directory of New Hires**

The National Directory of New Hires cannot be used for any purpose not authorized by federal law. Thus, in order for any agency not mentioned in this section to gain access to the National Directory of New Hires, Congress must authorize a change in law.

The HHS Secretary is required to share information from the National Directory of New Hires with state CSE agencies, state agencies administering the Title IV-B child welfare program, state agencies administering the Title IV-E foster care and adoption assistance programs, state agencies administering the Temporary Assistance for Needy Families (TANF) program, the Commissioner of Social Security, the Secretary of the Treasury (for Earned Income Tax Credit purposes and to verify income tax return information), and researchers under certain circumstances.<sup>11</sup>

P.L. 106-113 (enacted in November 1999) granted access to the Department of Education. The provisions were designed to improve the ability of the Department of Education to collect on defaulted student loans and grant overpayments. OCSE and the Department of Education negotiated and implemented a computer matching agreement in December 2000.<sup>12</sup>

P.L. 108-199 (enacted in January 2004) granted access to the Department of Housing and Urban Development. The provisions were designed to verify the employment and income of persons receiving federal housing assistance.<sup>13</sup>

P.L. 108-295 (enacted in August 2004) granted access to the State Workforce Agencies responsible for administering state or federal Unemployment Compensation programs. The provisions were designed to determine whether persons receiving unemployment compensation are working.<sup>14</sup>

P.L. 108-447 (enacted in December 2004) granted access to the Department of the Treasury. The provisions were designed to help the Treasury Department collect nontax debt (e.g., small business loans, Department of Veterans Affairs (VA) loans, agricultural loans, etc.) owed to the federal government.<sup>15</sup>

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<sup>10</sup> *Ibid.*, p. 4.

<sup>11</sup> See the following sections of the Social Security Act for additional information: 453(j)(3), 453(j)(4), 453(j)(5), and 453(h)(3). Note also that Section 105 of P.L. 110-351 (enacted October 7, 2008) added the Title IV-B and Title IV-E programs to the list of programs that have access to the National Directory of New Hires and other FPLS databases.

<sup>12</sup> See Section 453(j)(6) of the Social Security Act.

<sup>13</sup> See Section 453(j)(7) of the Social Security Act.

<sup>14</sup> See Section 453(j)(8) of the Social Security Act.

<sup>15</sup> See Section 453(j)(9) of the Social Security Act.

P.L. 109-250 (enacted in July 2006) granted access to the state agencies that administer the Food Stamp program. These provisions were designed to assist in the administration of the Food Stamp program. P.L. 110-246 (enacted in June 2008) changed the Food Stamp program references to the Supplemental Nutrition Assistance Program (SNAP).<sup>16</sup>

P.L. 110-157 (enacted in December 2007) requires the Secretary of Veterans Affairs to provide the HHS Secretary with information for comparison with the National Directory of New Hires for income verification purposes in order to determine eligibility for certain veteran benefits and services. It requires the Secretary to (1) seek only the minimum information necessary to make such a determination; (2) receive the prior written consent of the individual before seeking, using, or disclosing any such information; (3) independently verify any information received prior to terminating, denying, or reducing a benefit or service; and (4) allow an opportunity for an individual to contest negative findings. P.L. 110-157 terminates the New Hires Directory comparison authority for the VA Secretary at the end of FY2011 (i.e., September 30, 2011).<sup>17</sup>

## **Concerns Regarding the National Directory of New Hires**

The National Directory of New Hires is almost unanimously viewed as a successful and pivotal element of the CSE program. According to HHS, in FY2009 4.8 million noncustodial parents and putative fathers were located through the National Directory of New Hires, up from 2.8 million in FY1999 (a 72% increase).

Since the establishment of the National Directory of New Hires, federal law has been amended six times to expand access of more programs and agencies to the National Directory (listed above). Although Congress specifically included several provisions that would safeguard the information in the National Directory, some advocacy groups are concerned that as more agencies and programs are granted access to the National Directory of New Hires, the potential for mismanagement of the database and accidental or intentional misuse of confidential information escalates.

The National Directory of New Hires is a database that contains personal and financial data on nearly every working American, as well as those receiving unemployment compensation. The size and scope of the National Directory has continued to cause much concern over whether the privacy of individuals will be protected. In addition to the data security safeguards, federal law includes privacy protection provisions that require the removal or deletion of certain information in the National Directory after specified time periods.<sup>18</sup> It has been argued that stronger safeguards may be needed to prevent the unauthorized intrusion into the personal and confidential information of millions of Americans associated with the National Directory.

The federal government and states administer numerous benefit programs that provide aid, in cash and noncash form, to persons with limited income. In theory, all of these programs could use the employment and income information contained in the National Directory of New Hires to

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<sup>16</sup> See Section 453(j)(10) of the Social Security Act.

<sup>17</sup> See Section 453(j)(11) of the Social Security Act.

<sup>18</sup> See earlier subsection on “Data Deletion Requirements.”

verify program eligibility, prevent or end unlawful or erroneous access to program benefits, collect overpayments, or assure that program benefits are correct. Some observers are worried that more of these federal and state programs will try to obtain access to the National Directory. They contend that expanded or wider access to, and use of, these data could potentially lead to privacy and confidentiality breaches, financial fraud, identity theft, or other crimes. They also are concerned that a broader array of legitimate users of the National Directory may conceal the unauthorized use of the personal and financial data in the National Directory.

Some policymakers maintain that, although many agencies and programs could potentially benefit from access to the National Directory of New Hires, those entities will not pursue access because many of these agencies currently do not have the computer capacity or capability to use an automated system such as the National Directory. Many of these agencies and programs are administered at the local level where computer availability is limited or computer capability to interface with the automated National Directory is nonexistent. Moreover, many of the privacy protections and strict security requirements tied to the National Directory may be administratively burdensome for many agencies.

Finally, some child support advocates are concerned that the wider access to the National Directory may have negative repercussions for the CSE program in that as other programs and agencies use the National Directory effectively and find matches in cases that involve an overpayment, those agencies will want to collect their money and may use income withholding as the mechanism to do so. Thus, these other programs will be in direct competition with the CSE program for the income of noncustodial parents.

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