

Standard Operating Procedure for Employment Authorizations

An employer is required to verify and track an employee's valid work authorization by requesting proof of work authorization, and by completing the I-9 Form. This Standard Operating Procedure (SOP) provides guidance to certify the I-9 requirement and for the employee to provide updated documents to show continued authorization to work.

1. Employment Authorization Document (EAD) end dates must be added to the calendar upon hire with reminders at the following intervals prior to expiration.
 - a. 150 days (5 months),
 - b. 90 days (3 months),
 - c. 30 days (1 month),
 - d. 14 days (2 weeks), and
 - e. the day before the expiration date of the document
2. Follow up with the employee at each interval listed above on the status of employment authorization renewal.
3. Depending on the EAD category, the employee may be eligible for an automatic extension of 180 days if the application has been filed with United States Citizenship and Immigration Services (USCIS) and is pending. A list of Automatic EAD Extensions can be found here: <https://www.uscis.gov/eadautoextend>.
 - a. If eligible for an automatic extension, the employee must provide proof of automatic extension through Form I-797C Notice of Action, Receipt Notice.
4. If the EAD is not on the automatic extension list, the employee must provide a new EAD for review and verification before the expiration date of the EAD on file.
5. Approximately thirty (30) days before the expiration date, HR should notify the Administrative Authority as well as the employee and their Director of the status of the work authorization, and let them know HR is working with the employee on the status of their work authorization.
 - a. If a new EAD is received update the Administrative Authority, and the employee's Director immediately.
6. Approximately fourteen (14) days before the expiration date, notify the employees' supervisor, manager, and division director of the status of the work authorization expiring to allow them to plan in the event the employee is not able to provide a new EAD as proof of authorization to continue working past the current expiration date. HR should not share immigration status or type of work permit but, only that we are working with them due to the documents expiring.
 - a. If a new EAD is received update the Administrative Authority, Division Director, Manager, and Supervisor immediately.

7. If the employee is unable to provide proof of work authorization, the employee must be separated effective on the date the EAD on file expires.
 - a. Employees SHOULD NOT be placed on an unpaid leave of absence and MUST be separated.
8. The SHARE Job Data Action and Reason Code to use would be Termination/(Reason Code depends, see below) of Employment. The separated employee would be paid out in accordance with the NMJBPR 5.14 S. Compensation for PTO Leave – Upon Separation (1) which states “An employee who separates from the judiciary shall be compensated for a maximum of 240 hours of PTO leave at the employee’s current base pay rate.”
 - a. Use the Action/Reason code “Termination/Failed Conditions of Employment” for employees who are unable to provide proof of work authorization before current EAD expires.
 - b. Use the Action/Reason code “Termination/Return to School” for employees who are transferring their SEVIS/Visa from one university to another. Add a note to the entry stating the exact conditions of the transfer.
9. The court may consider holding the position vacant should the employee receive new Employment Authorization Documents to satisfy the I-9 form requirements within a certain number of days/months and this shall be applied consistently.
10. An exception request to the NMJBPR 4.03 Recruitment of Personnel A. “Recruitment for permanent positions and term positions shall be open” would need to be requested if the vacancy is not advertised. Proof of new work authorization shall be attached to this request.
11. The rehired employee must serve a new probationary period and would have to re-elect insurance benefits to be effective the first day of the third full-pay period worked.
12. When processing the rehire in SHARE, use the Action/Reason Code “Rehire/Rehire” with the approved effective date.
 - a. Review and audit the Benefits Service Date, Seniority Pay Calc Date, and Professional Experience Date (aka Judiciary Service Date) in SHARE to reflect the break in service.