



MEMORANDUM

TO: Mayor and Council

THROUGH: Susana Carbajal, Chief of Staff *sc*

FROM: Susan Sinz, Human Resources Director *SS*

DATE: September 19, 2024

SUBJECT: Employment Authorization Assistance (Resolution No. 20231214-100)

I want to provide you an update regarding [Resolution Number 20231214-100](#), which requests a policy to assist employees in seeking employment reauthorization or help with adjusting their immigration status, providing resources for employees to naturalize, providing legal support or other resources, and connecting employees with community resources to assist in navigating the US immigration system.

Background

Beginning in December 2023, staff from the Law Department, Equity and Civil Rights Offices, and the Human Resources Department began meeting and researching how the City can support employees with immigration matters related to DACA, H1B visas, and other immigration statuses. The Law Department consulted outside counsel immigration attorneys to ensure any City process would align with federal regulations.

Policy

Attached is a new Administrative Bulletin (AB) related to Employment Authorization Assistance. This AB contains ways the City can support employees seeking employment reauthorization, those with lapsed employment authorization, and those with reestablished authorization. The City will provide advanced notification when it becomes aware of the expiring status, develop a webpage for assistance, and have designated a DACA Liaison Officer in the Equity Office.

The resolution requested a policy that:

Resolution Request	Administrative Bulletin Language
Protect employees whose employment is terminated or suspended as a result of a lapsed DACA work authorization.	If an employee's work authorization lapses, the employee shall be placed on a leave without pay and without benefit status the business day after the lapse. Within two weeks, if current employment authorization forms cannot be provided, the following must occur: <ul style="list-style-type: none">• Non-sworn Employee within 6 months of Employment or other non-sworn Employee not covered by MCS – employment terminated.• Non-sworn Employee with over 6 months of Employment – Consistent with the MCS Rules, issue a Notice of Pre-Disciplinary Action indicating discharge for ineligibility and proceed with the discharge

Resolution Request	Administrative Bulletin Language
	<p>process. Employee may appeal their discharge, per the MCS Rules.</p> <ul style="list-style-type: none"> • Sworn Employee – follow contract or Chapter 143 for indefinite suspension or discharge. • Employee may resign.
<p>Process for employees to resume employment in their former or new position if separated and obtain work authorization.</p>	<p>If an employee has been separated from the City based on lapsed employment authorization and gains reauthorization at a later date, the employee may:</p> <ul style="list-style-type: none"> • Apply and compete for any position in which they meet minimum qualifications. • Coordinate with Department Human Resources Management to discuss other options, including the process for potential reinstatement. • Eligible persons previously employed as sworn EMS personnel may seek reappointment under Civil Service Rule 5.18.
<p>Retain seniority, benefits, and wage level with appropriate cost of living adjustments once an employee secures the legally required work authorization.</p>	<p>If an employee is reemployed with the City, they will be treated like all other employees who have left the City but returned at a later date.</p>
<p>Provide alternative work (as legally possible) for non-US workers who are prohibited from performing any of their job duties because of pending approval.</p>	<p>Per legal requirements, the City cannot knowingly keep a person as an employee in any capacity without proper work authorization.</p>
<p>Employees should not be required to use any leave, benefit time, or compensatory time.</p>	
<p>Prohibit any adverse action for an employee placed in a limited or restricted duty.</p>	
<p>Designate a city employee as a liaison officer for DACA recipients.</p>	<p>Rocio Villalobos in the Equity Office has been designed as the DACA Liaison Officer for City Employees.</p>

Legal Assistance


The City’s Legal Insurance Plan provides access to immigration assistance. By enrolling in this plan, employees can contact a network attorney by phone as often as needed to ask questions for legal advice and consultation, review any immigration forms, and prepare for immigration hearings. Employees may join the legal plan when they first enroll in benefits or during open enrollment each year. Upon release and notice to Employees about this new AB, the Human Resources Department Benefits Division will process any employee wishing to add the legal plan benefit who is not already a member for 30 days. Additionally, information will be provided during New Employee Orientation to ensure that employees know the immigration assistance they can receive if they elect the benefit.

Please do not hesitate to contact me at susan.sinz@austintexas.gov if you have further questions.

cc: T.C. Broadnax, City Manager
City Manager Executive Team

City of Austin



Administrative Bulletin	Employment Authorization Documentation Assistance
Number	24-03
Department/Division	City Manager's Office
Effective Date	10/01/2024
Revision Date	
Manager's Approval	

Purpose

To provide direction to City of Austin departments on assisting employees with Employment Authorization Documents or visa, including Deferred Action for Childhood Arrivals (DACA) and H-1B visas.

Policy

Any City employee with an expiring Employment Authorization Document or visa may seek support from the City. Departments must coordinate with the Law Department, Human Resources Department, and Equity Office to determine the specific support the City can provide to the employee. The support available will depend on several factors, including the employee's particular circumstance, City resources, and applicable laws. The City will work to preserve employment and provide employer-paid support where legally feasible.

Applies To

<input checked="" type="checkbox"/> All Non-sworn Employees	<input type="checkbox"/> Temporary Seasonal Employees
<input checked="" type="checkbox"/> Regular Full-Time MCS Employees	<input type="checkbox"/> Interns
<input checked="" type="checkbox"/> Regular Part-Time MCS Employees	<input type="checkbox"/> Grant-Funded Employees
<input type="checkbox"/> Probationary Employees	<input checked="" type="checkbox"/> Sworn Civil Service Employees (Police, Fire, EMS)
<input type="checkbox"/> Temporary Employees	<input checked="" type="checkbox"/> Executive Employees
<input type="checkbox"/> External & Internal Applicants	<input type="checkbox"/> Volunteers

Definitions

<p><u>I-9</u></p>	<p>Form I-9 is used to verify the identity and employment authorization of individuals hired for employment in the United States. All U.S. employers must properly complete Form I-9 for every individual they hire for employment in the United States, including citizens and noncitizens. Both employees and employers (or authorized representatives of the employer) must complete the form.</p> <p>On the form, employees must attest to their employment authorization. Employees must also present their employer with acceptable documents as evidence of identity and employment authorization. The employer must examine these documents to determine whether they reasonably appear genuine and relate to the employee, then record the document information on the employee's Form I-9.</p>
<p><u>Deferred Action for Childhood Arrivals (DACA)</u></p>	<p>On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of 2 years, subject to renewal. They are also eligible to request work authorization. Deferred action is an exercise of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.</p>
<p><u>Employment Authorization Documents (EAD)</u></p>	<p>U.S. employers must ensure all employees, regardless of citizenship or national origin, are authorized to work in the United States. Having an Employment Authorization Document (Form I-766/EAD) is one way to prove that you are authorized to work in the United States for a specific time period.</p>
<p><u>E-Verify</u></p>	<p>E-Verify, authorized by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), is a web-based system through which employers electronically confirm the employment eligibility of their employees.</p> <p>In the E-Verify process, employers create cases based on information taken from an employee's Form I-9, Employment Eligibility Verification. E-Verify then electronically compares that information to records available to the U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA). The employer usually receives a response within a few seconds either confirming the employee's employment eligibility or indicating that the employee needs to take further action to complete the case.</p>
<p><u>H1B Visas</u></p>	<p>The H-1B program allows companies and other employers in the United States to temporarily employ foreign workers in occupations that require the theoretical and practical application of a body of highly specialized knowledge and a bachelor's degree or higher in the specific specialty, or its equivalent. H-1B specialty occupations may include fields such as architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts.</p>
<p><u>USCIS</u></p>	<p>U.S. Citizenship and Immigration Services</p>
<p><u>Work Visa</u></p>	<p>Documentation required for several employment-based nonimmigrant and immigrant visa classifications and other categories of noncitizens who are eligible for employment authorization to work in the United States.</p>
<p>Roles & Responsibilities</p>	
<p><u>City Manager</u></p>	<ul style="list-style-type: none"> • Provide direction and resources to Departments for employees seeking an Employment Authorization Document or visa.
<p><u>Law Department</u></p>	<ul style="list-style-type: none"> • Work with Departments when there are legal questions related to Employment Authorization Documents, visas, or city support for employees.

<u>Equity Office</u>	<ul style="list-style-type: none"> • Assist employees with questions on Employment Authorization Documents or visas. • Designate an employee to assist employees as the DACA Liaison Officer. • Create and maintain a web page with information regarding assistance for Employees seeking Employment Authorization Documents or visas.
<u>Human Resources Department</u>	<ul style="list-style-type: none"> • Coordinate processing of Form I-9 and E-Verify. • Ensure timelines are met for processing Form I-9 and E-Verify • Work with departments when employment authorization documents expire or have expired. • Employee Relations Division to work with department HR Management if an employee’s Employment Authorization Document or visa has expired.
<u>Department Human Resources Staff</u>	<ul style="list-style-type: none"> • Monitor the E-Verify system and alert employees 120 days in advance of when their Employment Authorization Documents expire. • Coordinate with Human Resources Department if documents have expired. • Coordinate with the Human Resources Department and Law Department if a separated employee receives employment authorization after discharge.
<u>Employees</u>	<ul style="list-style-type: none"> • Monitors Employment Authorization Documents or visa expiration. • Work on renewing status as soon as feasible. • Follow up with Department HR on status throughout the process.

Corresponding Procedures and Policies

- [Council Resolution 20231214-100](#)
- [Municipal Civil Service Rules](#)
- [Article IX, City of Austin Charter](#)

Guidelines

The City cannot knowingly keep a person as an employee in any capacity without proper work authorization. An employer does not know when an employee has applied for reauthorization or if an application is pending. The Federal Government expects the City’s I-9 process to identify when a DACA or other work authorization expires. The City receives a notice at 120, 90, 60, 30, and 15 days before the work authorization expires from the I-9 management system. Department Human Resources staff who receive this notice will alert employees 120 days before their Employment Authorization Documents expire. When a DACA recipient (or other person with temporary work authorization) presents their I-9 documents, the employer must reverify employment when the previous work authorization expires. An employer is not notified if/when reauthorization is approved or denied.

Lapsed Employment Authorization

If an employee’s work authorization lapses, the employee shall be placed on a leave without pay and without benefit status the business day after the lapse. Within two weeks, if current employment authorization forms cannot be provided, the following must occur:

- Non-sworn Employee within 6 months of Employment or other non-sworn Employee not covered by MCS – employment terminated.
- Non-sworn Employee with over 6 months of Employment – Consistent with the MCS Rules, issue a Notice of Pre-Disciplinary Action indicating discharge for ineligibility and proceed with the discharge process. Employee may appeal their discharge, per the MCS Rules.

- Sworn Employee – follow contract or Chapter 143 for indefinite suspension or discharge.
- Employee may resign.

Separation

If an employee is separated from the City under this process, they will be treated as any other employee who leaves City employment with the same terminal pay and benefits.

Reestablished Authorization

If an employee has been separated from the City based on lapsed employment authorization and gains reauthorization at a later date, the employee may:

- Apply and compete for any position in which they meet minimum qualifications.
- Coordinate with Department Human Resources Management to discuss other options, including the process for potential reinstatement.
- Eligible persons previously employed as sworn EMS personnel may seek reappointment under Civil Service Rule 5.18.

Physical copies of the approved Employment Authorization Documents are required. Notification that documents have been approved but the employee does not have them in hand cannot be accepted.

Reemployment

If an employee is reemployed with the City, they will be treated like all other employees who have left the City but returned at a later date.

DACA Liaison Officer

The Equity Office will designate an employee as the “DACA Liaison Officer” to guide and assist employees on DACA matters, including questions about Employment Authorization Documents and visas. The DACA Liaison Officer will not be an attorney and will not provide legal advice. However, the DACA Liaison Officer will be able to connect employees to City and community resources. The Equity Office will create and maintain an internal city web page with information regarding assistance for employees seeking Employment Authorization Documents or visas.