



News & Types: Client Advisories

Updated Guidance from USCIS about Employment Eligibility for E or L Dependent Spouses

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Practices: Immigration

The U.S. Citizenship & Immigration Services (USCIS) is working to provide updated documentation to spouses having E or L nonimmigrant visa status who are now authorized to work incident to their immigration status in light of the recent USCIS policy change.

When working in the United States, an employer is required to complete a Form I-9, *Employment Eligibility Verification* (Form I-9) and request the employee to provide documentation of the employee's identity and legal authorization to work in the United States. For E or L nonimmigrant spouses, the employment authorization used to be in the form of an Employment Authorization Card (EAD). However, based upon the implementation of the above policy change for Form I-9 completion, an employer may now accept from an E or L nonimmigrant spouse, a Form I-94 issued in the E-1S, E-2S, E-3S or L-2S classification.

Beginning January 30, 2022, CBP began issuing such Forms I-94 to E or L nonimmigrant spouses upon their entry into the United States. On this date, USCIS also began issuing such Forms I-94 to E or L nonimmigrant spouses when their Form I-539 applications were approved. For E or L nonimmigrant spouses who had a Form I-539 approved before January 30, 2022, USCIS is now working to issue updated notices with the E-1S, E-2S, E-3S or L-2S classification (instead of E-1, E-2, E-3 or L-2 classification). The USCIS has indicated that such notices should arrive in the U.S. mail by April 30th. If not received by this date, a request to receive the notice may be emailed to: E-L-married-U21@uscis.dhs.gov. CBP will not be revising the Forms I-94 for E or L visa spouses who entered the United States prior to January 30, 2022. These spouses will either need either to travel internationally and reenter the United States in order to be issued an updated Form I-94 or to apply for an extension through the USCIS (if eligible).

If you have questions about completing the Form I-9 or E or L spouse employment authorization eligibility, please contact our firm.