

# ALERTS

## Implementation Of Spousal Work Authorization Changes for E and L dependents

02.2022

### Background

In mid-November a settlement between U.S. Citizenship & Immigration Services (USCIS) and the litigants in the *Shergill v. Mayorkas* lawsuit resulted in a change in USCIS policy regarding spousal work authorization. Specifically, under the terms of the settlement, E and L dependent spouses would be work authorized incident to status. This means that they no longer would be required to apply for separate employment authorization documents after entering the U.S.

Importantly, while the policy change was effective immediately and USCIS recognized that E and L spouses were authorized to work incident to status, there wasn't guidance for employers on how to complete the Form I-9 until now. In order to implement the change, USCIS had to create new codes for E and L derivatives so that the spouse and children were distinguishable.

### E and L Derivative Spouse Admission Codes

On February 9, 2022, the government confirmed the implementation of the new codes of admission for E and L derivatives. The new codes of admission went live on January 31, 2022, and accordingly E and L dependents will be admitted under one of the following categories:

E-1S - Spouse of E-1

E-1Y - Child of E-1

E-2S - Spouse of E-2

E-2Y - Child of E-2

E-3S - Spouse of E-3

E-3Y - Child of E-3

L-2S - Spouse of L-1A or B

L-2Y - Child of L-1A or B

## IMPLEMENTATION OF SPOUSAL WORK AUTHORIZATION CHANGES FOR E AND L DEPENDENTS

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Notably CBP will be not able to change I-94's for E and L spouses already in the U.S. Rather, if an E or L spouse is already in the U.S. and they want to have the new designation, they will be required to depart the United States and re-enter. Change of status filings submitted to USCIS for E or L will reflect the new codes on the I-94's issued with the approval notice.

Finally, USCIS has also updated its I-9 and E-Verify sites to reflect this change in policy officially recognizing that Form I-94 as an acceptable List C document for Form I-9 purposes for E and L spouses annotated with the new code of admission.

Please contact a MVA Immigration Team Member if you have any questions.