THE U VISA: OBTAINING STATUS FOR IMMIGRANT VICTIMS OF CRIME Immigrant Legal Resource Center

2016

TABLE OF CONTENTS

Chapter 1 Introduction

§ 1.1	Overview of Benefits and Eligibility for U Nonimmigrant Status	1-1
§ 1.2	How to Use This Manual	1-4
§ 1.3	Contents of This Manual	1-5
§ 1.4	Resources	1-6
Chapter 2	U Nonimmigrant Status Eligibility	
§ 2.1	U Nonimmigrant Status Eligibility Requirements	
§ 2.2	Victim of a Criminal Activity Listed in the Statute	2-4
§ 2.3	Victim Definitions	2-8
§ 2.4	Suffered Substantial Physical or Mental Abuse	2-14
§ 2.5	Helpful, Has Been Helpful, or Is Likely to Be Helpful in the Criminal	
	Investigation or Prosecution	2-17
§ 2.6	The Victim's Helpfulness Must Be Certified by a Government Agency	
	with Authority to Detect, Investigate, or Prosecute the Qualifying	
	Criminal Activity	2 10

	Criminal Activity	2-19
§ 2.7	Victim of a Criminal Activity That Violated the Laws of the United	
	States or Occurred in the United States	2-24
§ 2.8	Admissible to the United States	2-25

Chapter 3 U Nonimmigrant Status Process

§ 3.1	Overview	3-1
§ 3.2	Screening for Eligibility	3-2
§ 3.3	The I-918 Application Form	3-4
§ 3.4	Completing Form I-918	
§ 3.5	Filing Fees	3-13
§ 3.6	Filing Fee Waiver Requests	3-14
§ 3.7	The Law Enforcement Certification Form: Form I-918 Supplement B	3-15
§ 3.8	Working with Law Enforcement to Request and Complete the Form I-	
	918 Supplement B	3-19
§ 3.9	Additional Documentation Regarding Victim Helpfulness	3-25
§ 3.10	Victim's Statement	3-26
§ 3.11	Documentation of Substantial Physical or Mental Abuse	3-30
§ 3.12	Identification Documentation	3-30
§ 3.13	Accompanying Immigration Application Forms	3-31
§ 3.14	Assembling and Submitting a U Nonimmigrant Status Application	3-32

Immigrant Legal Resource Center February 2016

§ 3.15	Notices from USCIS	3-33
§ 3.16	Requests for More Evidence (RFEs)	3-38
§ 3.17	The U Visa Waitlist, Deferred Action and Employment Authorization	
§ 3.18	Approvals	
§ 3.19	Denials	
§ 3.20	Duration and Extension of Status	
§ 3.21	Revocation of U Nonimmigrant Status	
§ 3.22	Public Benefits and Other Benefits	
Chapter 4	Inadmissibility Grounds and I-192 Waiver	
§ 4.1	Overview of Inadmissibility and Waivers	4-1
§ 4.2	Common Grounds of Inadmissibility	4-2
§ 4.3	Identifying an Applicant's Grounds of Inadmissibility to be Waived	4-3
§ 4.4	Addressing Inadmissibility on the Form I-918	4-9
§ 4.5	Filling Out Form I-192	4-11
§ 4.6	Documenting Why the Applicant Merits a Waiver	4-14
§ 4.7	Filing Fees and Fee Waivers	
§ 4.8	Requests for Evidence (RFEs)	4-19
§ 4.9	I-192 Denials and Resubmissions	4-19
§ 4.10	Inadmissibility Factors Discovered or Triggered after Filing the I-192	4-20
§ 4.11	Whether a Granted I-192 Waives the Inadmissibility Grounds for Other	
	Purposes	4-22
Chapter 5	Adjustment of Status Eligibility	
Chapter 5 § 5.1	Overview of Eligibility Requirements for U Adjustments	5-1
•		5-1
§ 5.1 § 5.2	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status	
§ 5.1	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant	5-4
§ 5.1 § 5.2 § 5.3	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status.	5-4 5-5
<pre>§ 5.1 § 5.2 § 5.3 § 5.4</pre>	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues	5-4 5-5
§ 5.1 § 5.2 § 5.3	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or	5-4 5-5 5-6
<pre>§ 5.1 § 5.2 § 5.3 § 5.4 § 5.5</pre>	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution	5-4 5-5 5-6
<pre>§ 5.1 § 5.2 § 5.3 § 5.4</pre>	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or	5-4 5-5 5-6 5-8
<pre>§ 5.1 § 5.2 § 5.3 § 5.4 § 5.5</pre>	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to	5-4 5-5 5-6 5-8
 § 5.1 § 5.2 § 5.3 § 5.4 § 5.5 § 5.6 Chapter 6 § 6.1 	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to Ensure Family Unity, or Is in the Public Interest Adjustment of Status Process Documentation Requirements for U Adjustment	5-4 5-5 5-6 5-8 5-10
<pre>§ 5.1 § 5.2 § 5.3 § 5.4 § 5.5 § 5.6 Chapter 6 § 6.1 § 6.2</pre>	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to Ensure Family Unity, or Is in the Public Interest Adjustment of Status Process	5-4 5-5 5-6 5-8 5-10
 § 5.1 § 5.2 § 5.3 § 5.4 § 5.5 § 5.6 Chapter 6 § 6.1 § 6.2 § 6.3 	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to Ensure Family Unity, or Is in the Public Interest Adjustment of Status Process Documentation Requirements for U Adjustment Forms I-485 and G-325 Biometrics	5-4 5-5 5-6 5-8 5-10 6-2 6-5 6-6
 § 5.1 § 5.2 § 5.3 § 5.4 § 5.5 § 5.6 Chapter 6 § 6.1 § 6.2 § 6.3 § 6.4 	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to Ensure Family Unity, or Is in the Public Interest Adjustment of Status Process Documentation Requirements for U Adjustment Forms I-485 and G-325 Filing Fees and Fee Waivers	5-4 5-5 5-6 5-8 5-10 6-2 6-5 6-6 6-6
 § 5.1 § 5.2 § 5.3 § 5.4 § 5.5 § 5.6 Chapter 6 § 6.1 § 6.2 § 6.3 	Overview of Eligibility Requirements for U Adjustments Granted U Nonimmigrant Status and Continue to Hold U Nonimmigrant Status Continuous Physical Presence for Three Years in U Nonimmigrant Status Inadmissibility and Discretionary Issues Has Not Unreasonably Refused to Provide Assistance in Investigation or Prosecution Presence in the United States Is Justified on Humanitarian Grounds, to Ensure Family Unity, or Is in the Public Interest Adjustment of Status Process Documentation Requirements for U Adjustment Forms I-485 and G-325 Biometrics	5-4 5-5 5-6 5-8 5-10 6-2 6-5 6-6 6-6 6-7

§ 6.7	Proving Three Years Continuous Physical Presence	6-10
§ 6.8	Proving an Applicant Has Not Unreasonably Refused to Assist in	
	Investigation or Prosecution	6-12
§ 6.9	Inadmissibility	6-14
§ 6.10	Evidence That Discretionary Approval Is Warranted	
§ 6.11	Approvals and Denials	6-16
§ 6.12	Applicants with Removal Issues	6-17

Chapter 7 Assisting Family Members

§ 7.1	Overview of Options for Assisting Family Members7-	1
§ 7.2	Family Member Definitions under Immigration Law	3
§ 7.3	Assisting Derivative Family Members at the U Nonimmigrant Status	
	Stage	5
§ 7.4	U Nonimmigrant Application Procedure for Derivative Family Members7-	9
§ 7.5	Adjustment Procedure for U Nonimmigrant Derivative Family Members 7-1	7
§ 7.6	Assisting Qualifying Family Members at the Time of the Principal	
	U Nonimmigrant's Adjustment of Status	8
§ 7.7	Adjustment Procedure for Qualifying Family Members	0
§ 7.8	Petitioning Requirements for Qualifying Family Members	2
§ 7.9	Proving the Qualifying Family Relationship7-2	2
§ 7.10	Documenting Extreme Hardship	5
§ 7.11	Adjustment of Status	8

Chapter 8 Removal Issues

§ 8.1	Applicants Who Are Currently in Removal Proceedings	. 8-1
§ 8.2	Applicants with Prior Removal, Deportation, or Exclusion Orders	. 8-8
§ 8.3	Stays of Removal	8-12
§ 8.4	Motions to Reopen with Stays of Removal	8-17
§ 8.5	Bases for Motions to Reopen with EOIR	8-17
§ 8.6	Time Limits on Motions to Reopen	8-19
§ 8.7	Filing Fees and Fee Waivers	8-19
§ 8.8	Documentary Requirements for Motions to Reopen and Stays	8-20
§ 8.9	Supporting Evidence	8-20
§ 8.10	Seeking U Nonimmigrant Status as a Defense from Removal for LPRs	8-21

Chapter 9 U Travel Issues

§ 9.1	Initial Applications for Applicants Abroad	
§ 9.2	Fingerprints for Applicants Abroad	
§ 9.3	Passports for Applicants Abroad	
§ 9.4	Travel before Approval Notice Issued	
§ 9.5	Approval Notice for Applicants Abroad	
§ 9.6	Decision to Travel	
-		

. 9-18
. 9-24
. 9-25
. 9-25
. 9-27
. 9-30
. 9-31
. 9-32

INDEX OF APPENDICES

Appendix A	Helpful Resources
Appendix B	Excerpt of the VTVPA 2000 Congressional Findings and Purpose of the U Visa
Appendix C	VSC 2015 Stakeholder Event Notes and Practice Tips
Appendix D	U Conditional Approval/Wait List/Deferred Action Materials
	Waitlist Information Flyer in English & Spanish
	Waitlist Process Information
	Sample Deferred Action Notice
	• Cover Letter for U Cap EAD
Appendix E	Outreach and Educational Materials for Community Members and Clients
	Document Gathering List
	Questionnaires in English & Spanish
Appendix F	Emotional Cruelty in Domestic Violence Cases
	Cycle of Violence Wheels
	Sample Declaration Language
	 Emotional Abuse Questionnaire in English & Spanish
Appendix G	U Nonimmigrant Application Materials
	Checklists
	 Screening Sheets in English & Spanish
	Interview Guide
	ICWC Truth Pact in English & Spanish
	Practice Pointers on Credibility
Appendix H	CA SB 674 Materials
	• SB 674
	• CA AG 674 Memo
Appendix I	Law Enforcement Agency Procedures
	U.S. Department of Labor Regional U Visa Coordinators List
	• U.S. Department of Labor Fact Sheet
	California DFEH U Certification Directive
	 NELP Fact Sheet: "The U Visa: A Potential Immigration Remedy for
	Immigrant Workers Facing Labor Abuse"
	 New York State DOL U Visa Certification Guidelines
	NLRB U Visa Procedures

	• EEOC Procedures for Handling Requests for U Visa Certification
	California DLSE U Visa Guidance
	Illinois DOL U Visa Protocols Memorandum
	Letter to CIS on Workplace Based Crimes
Appendix J	ICE Memo: "Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005" (Jan. 22, 2007)
Appendix K	Form I-918 Materials
	Cover Letters
	Checklists
	Model Form I-918 with Explanation for Each Question
	Form I-918 Receipt Notice
	Form I-918 Approval Notice and NGO Referrals
	Notice of Waitlist and Deferred Action
Appendix L	Fee Waiver Materials
11	• Fee Waiver Requests
Appendix M	Biometrics and Fingerprint Materials
11	Application Support Center Appointment Notice
	Client Biometrics Instructions
	Request for Derivative Fingerprints
	• Fingerprint Card Instructions
	 Letters in Spanish Explaining the Fingerprinting and Photo
	Requirements
Appendix N	Subpoenas and Motions to Quash Materials
11	Subpoenas Guide for Immigration Attorneys
	Model Motion to Quash a Subpoena
Appendix O	Form I-918 Supplement B Materials
	Sample Form I-918 Supplement B
	Instructions for Legal Advocates Completing the Form
	Sample Supplement B Language
Appendix P	USCIS Materials and Memoranda
	April 2011 USCIS Extension of Status Memorandum
	December 2012 USCIS Derivative U Age Out Protection Memorandum
	• June 2014 Interim Memorandum Implementing VAWA 2013
Appendix Q	Law Enforcement Materials
	• Requests and Letters to Law Enforcement for a Form I-918 Supplement
	В
	• U Visa Q&A for Law Enforcement
	Oakland Report in Support of U Visas
	Sample Police Report
	 Corrections and Clarifications to Police Report
	• U Visa Law Enforcement Certification Resource Guide for Federal,
	State, Local, Tribal and Territorial Law Enforcement, December 29,
	2011
	Police Report Request

Immigrant Legal Resource Center February 2016

	 NIWAP Report on U Visas as a Crime Fighting Tool DHS U Visa Q&A for Law Enforcement
Appendix R	Declaration Materials
11	• Outline for Applicants (English & Spanish)
	Declaration Instructions
	Sample U Application Declarations
Appendix S	Materials for and from Mental Health Counselors
	Domestic Violence Expert Guidelines
	• Supporting Letters from Counselor or Case Manager
	Model Psychiatrist Statement
	Authorization Form to Release Records
Appendix T	Translation Certifications
Appendix U	Requests for More Evidence (RFEs) Materials
11	• Sample RFE
	• Responses to RFEs regarding Robbery as a Qualifying Crime,
	Qualifying Victim, Any Credible Evidence
A 1' X7	Supervisory Review Request
Appendix V	Vermont Service Center Routing Sheets
Appendix W	Cover Letter for I-539 ApplicationDeclaration in Support of I-539 Application
Appendix X	Sample Correspondence with Clients
Appendix A	 Closing Letter in English & Spanish
	 Legal Contract
Appendix Y	Employment Authorization Materials
Аррения 1	EAD Cover Letters
	 EAD Cover Letters Employment Authorization Document and Approval Notice
Appendix Z	California Public Benefits Materials
	California All County Letters
	 Letter Explaining Verification of Eligibility
Appendix AA	California Student Information
	California In-State Tuition, Fee Waivers, Financial Aid and
	Scholarships Chart
	 ICWC Letter to Schools Explaining U Status
Appendix BB	Memo Summarizing Common Inadmissibility Grounds
Appendix CC	FBI Materials
11	• FBI Fingerprint Request Letter
	• Instructions for Obtaining an FBI Report (Spanish)
Appendix DD	Expedited Removal Materials
11	• Form I-867AB
	• Expedited Removal Screening Sheet in English & Spanish
	• FBI Fingerprint Reports Indicating Expedited Removal
	Form I-860 Notice of Expedited Removal Order
Appendix EE	Form I-192 Materials
	• Cover Letters
	• Model Form I-192

Table of Contents 6

	Form I-192 Receipt Notice
	• Form I-192 Approval Notice
	• Form I-192 Waiver Declarations
Appendix FF	Materials for Working with Clients on Form I-192
rr ·	Guide to I-192 Supporting Materials
	• Sample I-192 Supporting Letters
Appendix GG	Adjustment Checklists (English & Spanish)
Appendix HH	Red Flag Checklist
Appendix II	Form I-485 Filing Materials
	Cover Letters
	• Declarations
	• Sample Form I-485
	• Form G-325A
	Adjustment Approval Notice
	Adjustment Fee Waiver Request
Appendix JJ	I-485 Worksheet in Spanish
Appendix KK	BIA Case on U Nonimmigrant Status as an "Admission"
Appendix LL	Medical Exam Instructions for Clients (English & Spanish)
Appendix MM	Declarations in Support of I-539 Application
Appendix NN	Form I-918 Supplement B for Adjustment Applicants
Appendix OO	Letter to Law Enforcement Agency to Request Form I-918 Supplement B
Appendix PP	 Form I-918 Supplement A Materials Checklists and Intake Forms
	Sample Declarations Model Form L018 Supplement A and L765 with Semple Client
	 Model Form I-918 Supplement A and I-765 with Sample Client Instructions
	Cover Letters
	 Form I-918 Supplement A Approval Notice
Appendix QQ	Mutual Consent to Joint Representation Letter in English & Spanish
Appendix RR	Form I-929 Materials
- pponom rut	Checklist/Document List
	• Guide to Declarations for Petitioning Family Member in English &
	Spanish
	• Guide to Declarations for Qualifying Family Member in English &
	Spanish
	• Cover Letters
Appendix SS	Hardship Worksheets (English & Spanish)
Appendix TT	Sample Bond Request
Appendix UU	Prosecutorial Discretion Materials
	• 2014 DHS Memo
	• 2015 EOIR PD Guidance
	• 2015 OPLA PD Guidance
	• 2015 Practice Advisory on PD Requests
Appendix VV	Sample Motions for Continuance, Termination, Administrative Closure
	Substitution of Counsel, and Recalendaring

Immigrant Legal Resource Center February 2016

Appendix WW	Sample Stay Request and Attachments
Appendix XX	EOIR Memorandum on Continuances and Administrative Closure
Appendix YY	Step-by-Step FOIA Guide
Appendix ZZ	Sample FOIA requests
	Sample USCIS Track 3 FOIA Request
	Sample EOIR FOIA Request
Appendix AAA	Materials Regarding I-192 Jurisdiction
	Sample EOIR Motion
	NIJC Practice Advisory
Appendix BBB	ICE Stay Guidance and Sample
Appendix CCC	Poder Especial / Power of Attorney (English & Spanish)
Appendix DDD	D-S 160 Materials
	• DS-160 Questions in English & Spanish
	Photo Instructions
	Sample Confirmation Page
Appendix EEE	Sample DS-232
Appendix FFF	Correspondence to and from Government Agencies for Clients Who Are
	Abroad
	• Cover Letters
	Humanitarian Parole Request
Appendix GGG	Correspondence with Clients Regarding Travel
	 Instructions for Consular Processing in English & Spanish
	 Derivative Fingerprinting Instructions for Case Workers
	• Step-by-Step Consular Processing Instructions in English & Spanish
	 Letter to Clients about Fingerprinting Abroad
Appendix HHH	Consular Processing Materials
	• U.S. Dept. of State Foreign Affairs Manual: 9 FAM 41.85 & Notes
	Consular Processing Appointment Checklist
	• 2010 Dept. of State U Visa Cable
Appendix III	Redacted U Visa in Passport
Appendix JJJ	Parole Materials
	Humanitarian Parole Intake for Applicant on Waitlist
	• Sample Humanitarian Parole Request with Fee Waiver to VSC
	• Sample Humanitarian Parole Request with Fee Waiver to TX
	Advance Parole flowchart