

Frequently Asked Questions:

U Visas

The following information is subject to change. Attorneys should consult with www.uscis.gov for the current filing instructions, locations, and fees.

PRE-FILING: U Visa

1. Where can I find the government forms?

Form can be found at www.uscis.gov

2. What version of the forms should I use?

Please check www.uscis.gov for the most recent version of the forms. Upon updating the forms, USCIS will indicate on the website under the relevant forms section whether or not it will accept previous versions of the forms.

3. What forms do I need?

It depends on your client's individual case. Please see the manual for more details.

- If your client is applying as a principal applicant, he/she will need:
 - Form G-28, Notice of Appearance as Attorney
 - Form I-918, Petition for U Nonimmigrant Status
 - Form I-918 Supplement B, U Nonimmigrant Status Certification (original document)
 - Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (if your client is inadmissible under any ground found at INA § 212(a))
 - Form I-912, Request for Fee Waiver (if your client is eligible for a waiver of the Form I-192 filing fee)
 - Form I-765, Application for Employment Authorization (based on Deferred Action(c)(14))
- If your client is petitioning for derivative applicants:
 - Form G-28, Notice of Appearance as Attorney
 - Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient
 - Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (if derivative is inadmissible under any ground found at INA § 212(a))
 - Form I-765, Application for Employment Authorization (filed for derivative applicant only; not needed for principal) Form I-765, Application for Employment Authorization (based on Deferred Action (c) (14))
 - Form I-912, Request for Fee Waiver (if your client is eligible for a waiver of the Form I-192 and/or Form I-765 filing fee)

4. Does my client need to sign the forms or is the attorney signature sufficient?

Both the applicant and the person preparing the form (generally the attorney) need to sign the forms. Children under 14 years of age may have a parent or guardian sign on their behalf

5. Does the Form I-918, Supplement B, U Nonimmigrant Status Certification expire?

Yes. The Form I-918, Supplement B, is valid only six months from the date of certification.

Eligibility

6. What applications can my client file? Is my client inadmissible?

Please consult with NIJC if this is unclear. This information should be in the case summary as well as in the NIJC case notes. It is important to confirm eligibility for the application before filing.

COMMON INADMISSIBILITY GROUNDS FOR U VISA

CIMT	INA § 212 (a)(2)(A)(i)(I)
Entering Without Inspection	INA § 212(a)(6)(A)(i)
Failure to Attend Removal Proceedings	INA § 212(a)(6)(B)
Fraud/Misrepresentation	INA § 212(a)(6)(C)(i)
False Claim to USC	INA § 212(a)(6)(C)(ii)
Smuggling	INA § 212(a)(6)(E)
Prior Removal Order	INA § 212(a)(9)(A)
Expedited Removal	INA § 212(a)(9)(A)(i)
10 Year Bar	INA § 212(a)(9)(B)(i)(II)
Permanent Bar	INA § 212(a)(9)(C)(i)

USCIS FEES AND FEE WAIVERS

7. What are the USCIS fees for the applications?

Please check www.uscis.gov for the current fees for each application

8. Can we submit a request for a waiver of the fees? If so, how do we submit this request?

U Visa applicants can request a fee waiver for the I-192 and I-765. There is no fee for the I-918 and I-918.

- A request for a fee waiver should be made on Form I-912. USCIS will exercise its discretion to grant a fee waiver in the case of an applicant who: a) is receiving a means-tested benefit, b) has a household income of 150% or below of the poverty guidelines or c) can demonstrate financial hardship. An applicant may claim eligibility for a fee waiver on more than one ground. It is recommended that you submit any documentation that would substantiate the fee waiver request such as

means-tested benefits statements, taxes, pay stubs, utility bills, rent receipts, medical bills, etc.

- Note in the cover letter that the client is requesting a fee waiver request.

INTERPRETATION / TRANSLATION

9. Does NIJC provide interpreters for client phone calls and/or interview?

No. Unfortunately, NIJC does not have the resources to provide interpreters. We ask that pro bono attorneys attempt to find a interpreters. If this is not an option, please check with the client to see if she/he has a interpreters. It is strongly recommended not to use the client's family member as interpreters.

10. Does the interpreter/translator need to be certified to conduct the interpretation/translation?

No, but they should be competent in both English and the foreign language.

11. Do all documents that contain foreign language require translations?

Yes, except when the entire document is issued in both English and the foreign language.

12. What if only part of the document is in a foreign language?

You need to submit a translation for the foreign language portion of the document.

13. What are the requirements for the translation?

The English translation must have a signed certificate of translator's competence:

Certificate of Interpreter Competence

I, (translator's name), hereby certify that the above is an accurate transcription of the original statements in (foreign language) and that I am competent in both English and (foreign language) to render such a transcription.

Signature

Date

14. Do translations need to be notarized?

No, but they must be signed by the translator.

15. Is there a format for translation of foreign birth certificates, marriage certificates, and divorce decrees?

Yes, please see the appendix for samples.

16. Is a full translation of the entire document required or can you submit a translation of only the relevant portion?

A full translation is generally required. However, USCIS will accept the translation templates for birth, marriage, and divorce certificates found in the appendix.

FILING THE APPLICATION: U Visa

17. When an immigrant qualifies to file multiple applications simultaneously, including Forms I-918, I-918A, and I-192, should these be mailed in the same envelope?

Yes. However, each individual applicant should submit their forms and supporting evidence as its own application packet including a separate cover letter.

It is helpful to place each application packet in its own individual envelope labeled accordingly (e.g., "Patricia Flores I-918"), then place all envelopes together in one large envelope for mailing.

18. Where should I mail the U visa application packets?

U.S. Citizenship and Immigration Services
Vermont Service Center
Attn: VAWA Unit
75 Lower Welden St.
St. Albans, VT 05479

19. Should the application and supporting documents be professionally bound?

No. Instead, two-hole punch the entire filing (including the cover letter, applications, and documents) and either use a two-hole fastener to bind the filing or a binder clip.

20. Should the supporting documents be tabbed?

Vermont Service Center discourages the use of tabs and has commented that they often times have to remove the tabs in order to fit the filing in their government files. Instead of using tabs, please use page numbers or exhibit stickers that stick directly on the exhibit and do not extend past the edge of the paper.

21. When do I need to send passport photos?

The Form I-765 requires 2 passport-style photos at the time of filing.

22. Should the passport photos be stapled or clipped and to what?

Place them in a small envelope writing the clients name and A number (if the client has one) both on the back of the photo (in pencil) and on the envelope. Staple the envelope to the upper left corner of the relevant application.

23. Should letters of support from family and friends be notarized?

We recommend notarizing letters, but it is not required as long as the writer has signed the letter himself/herself.

POST FILING: U Visa

PROCESSING TIMES

1. How long will it take for my client to receive Deferred Action?

At this time, USCIS does not publish its processing times. If you filed a (c)(14) EAD with the U visa application, USCIS will automatically issue the I-765, Application for Employment Authorization, upon a grant of Deferred Action.

If you did not file a (c)(14) EAD with the U visa application, you can file the EAD application once the client is placed on the U visa waitlist and granted Deferred Action.

2. How long will it take VSC to adjudicate the U visa application?

At this time, USCIS does not publish its processing times. Processing times will vary and are continuing to grow.

3. How long will it take for my client to receive her work permit?

Principal U visa applicants will receive a work permit automatically upon approval of the U visa.

Derivative U visa applicants will receive a work permit automatically upon approval of the U visa if the (a)(20) I-765 was filed concurrently with the Form I-918A.

A derivative applicant may elect to file the I-765 after approval of the U visa, at any point during its validity. Please check the processing times at www.uscis.gov for the VSC for I-765.

***BIOMETRICS APPOINTMENT** : You must notify your client that they have been scheduled for biometrics. Your client will not receive any notices if you do not mail them.*

4. My client has been scheduled for a biometrics appointment. What is this appointment and should I attend with my client?

The biometrics appointment is required for all U visa applicants aged 14-75. At the appointment, the official will take client's digital fingerprints and a digital photograph. Your client must attend this appointment or she will abandon her application. There is no need for you to accompany your client to the appointment.

5. What should my client take to the appointment?

The client should take the original biometrics appointment notice and a photo identification

6. My client is outside of the United States and has received a "Request for Evidence" with an enclosed FBI fingerprint card. What should I do with this?

You or your client should send the Request for Evidence and attached fingerprint card to the derivative family member residing abroad. The family member should take this to the nearest U.S. embassy or consular office where Department of State officials will process the fingerprints and then send the results directly to the VSC. The family member should not return the card to you for you to send to VSC.

7. My client abroad is having difficulty scheduling an appointment for fingerprinting at their nearest consulate or embassy.

As fingerprinting procedures vary widely from consulate to consulate, we recommend reviewing the website of the particular embassy/consulate for specific instructions.

www.usembassy.gov. If you still are experiencing difficulties, please contact NIJC as we may be able to provide you with country-specific instructions.

8. I received a Request for Evidence (RFE), what should I do?

Please contact NIJC's U-Visa and VAWA *pro bono* team. Sylvia Wolak, sywolak@heartlandalliance.org and Trisha Teofilo Olave, tteofilo@heartlandalliance.org

POST DECISION: U Visa

U VISA APPROVAL

1. The Vermont Service Center approved my client's U visa and employment authorization for 4 years. Is this a normal time frame for validity?

Yes, the VSC may issue U nonimmigrant status for a maximum period of four years under 8 C.F.R. § 214.14(g)(1).

2. My client's derivatives were granted U visa status for less than four years. Why?

Derivative U status (U-2, U-3, U-4, and U-5) cannot be granted for a period not to exceed the initial grant period of the principal U applicant (U-1).

If you believe that your client's period of authorization in U nonimmigrant status was issued in error, please contact the Vermont Service Center directly via either the attorney hotline or inquiry email address.

3. My client's derivative was granted U visa status for less than three years which means s/he will not be able to accrue the continuous physical presence required for adjustment of status. Is there any way to extend the U visa validity period?

Yes. Your client's derivatives may be eligible to extend their U visa status to allow them to accrue sufficient continuous physical presence for purposes of adjusting.

Please refer these individuals to NIJC for an assessment of eligibility and assistance in this process. At this time, we do not have sufficient resources to provide technical support to *pro bono* attorneys in U visa extension applications.

4. The U visas of my client's derivatives have been approved, but they are outside of the United States. Can they now travel to the United States with their U visas?

Yes. However, they must first complete a non-immigrant visa application and attend a non-immigrant visa at a U.S. embassy or consulate in their home country.

Because U nonimmigrant consular processing is still a relatively recent and constantly evolving process that requires the complex coordination of the Department of Homeland Security and the Department of State, we strongly recommend that you refer your clients back to NIJC for updated information on consular processing procedures and for assistance in this additional application process.

U VISA DENIAL

5. I received a denial notice. What should I do?

Please contact NIJC's U-Visa and VAWA *pro bono* team. Sylvia Wolak, sywolak@heartlandalliance.org and Trisha Teofilo Olave, tteofilo@heartlandalliance.org

EMPLOYMENT

6. What are the consequences of my client working under a false name?

It depends. There are permanent bars to several forms of immigration relief for individuals who make a false claim to U.S. citizenship on a Form I-9 in order to work. On the other hand, if your client did not make a false claim to U.S. citizenship, it is likely that they did not trigger an inadmissibility ground and he/she remains eligible for the U visa. *Please contact NIJC if your client states that she made a false claim to U.S. citizenship.*

7. What are the categories under which a U Visa client qualifies for employment authorization?

The regulations providing eligibility for employment authorization are found at 8 CFR § 274a.12:

- (a)(19) – an alien in valid U-1 nonimmigrant status
- (a)(20) – an alien in valid U-2, U-3, U-4, or U-5 nonimmigrant status
- (c) (14) - Deferred Action

8. My client received her employment authorization card. What does she need to do to work?

The client should go to the nearest social security office with her employment authorization card and request a social security number. Upon receipt of the social security number, the client can work lawfully so long as the employment authorization is valid.

TRAVEL

9. Now that my client has an approved U visa, can she travel outside of the United States?

Technically, individuals in U nonimmigrant status are eligible to apply for a U visa abroad at a U.S. consulate and may be able to use that visa to reenter the United States after a trip abroad. However, NIJC strongly urges all U visa holders to avoid overseas travel until they become lawful permanent residents. Some areas of concern with regard to travel:

If the U visa holder accrued “unlawful presence,” departure from the United States may trigger a three- or ten-year bar to admissibility. Once a U nonimmigrant that is outside of the country has triggered a new ground of inadmissibility such as the unlawful presence bars, she will need to apply for a new waiver of inadmissibility on Form I-192 and remain outside of the United States during the adjudication of this waiver.

In order for U visa holders to apply for adjustment of status to lawful permanent residence, she must demonstrate continuous physical presence in the United States. The regulations state that “an alien shall be considered to have failed continuous physical presence...if the alien has departed from the United States for any period in excess of 90 days or for any

periods in the aggregate of 180 days.” Because it may take longer than 90 days to process the visa and/or waiver if needed, your client will risk losing eligibility for adjustment of status.

ADJUSTMENT OF STATUS

10. My client’s U visa was approved. When can she apply for lawful permanent residence?

Pursuant to INA § 245(m), a U nonimmigrant must be able to demonstrate three years of continuous physical presence in the United States, in valid U nonimmigrant status, in order to be eligible to apply for lawful permanent residence.

11. Are there any other eligibility requirements for lawful permanent residence besides the above?

Yes. According to INA § 245(m) a U nonimmigrant must also be able to demonstrate that:

- The applicant is not inadmissible under INA § 212(a)(3)(E);
- The applicant has not unreasonably refused to provide assistance to an official or law enforcement agency...after the alien was granted U nonimmigrant status, as determined by the Attorney General, based on affirmative evidence; and
- A favorable exercise of discretion is “justified on humanitarian grounds, to ensure family unity, or is in the public interest.”

12. I have accepted a *pro bono* case for representation on a U visa application. Does this mean that I should also be filing the adjustment of status application three years from the date of approval of the U visa?

No. Your representation is limited to the U visa application for the principal applicant and any qualifying derivatives only.

At this time NIJC does not have the resources to provide technical support to *pro bono* attorneys in U Adjustment of Status cases. We recommend that you refer your clients back to NIJC for a consultation regarding lawful permanent once the U visa applications have been approved.

CLOSING A CASE

13. My client has been placed on the waitlist and has been granted Deferred Action. What do I do?

You have the option of transferring the case back to NIJC.

Send NIJC a copy of all applications and approvals, along with the client’s updated mailing address. You may send this information electronically or as a hard-copy. Please check with your firm for internal case closing procedures. We also recommend sending the client a closing letter.

NIJC will assist client in filing for an employment authorization document (EAD) under the (c)(14) category. NIJC will monitor the client’s case until the client receives a U Visa approval and then close out the case.

14. My client has been granted her U visa application and employment authorization. What do I need to do to close out the case with the client and NIJC?

Please check with your firm for internal case closing procedures. We recommend sending the client a closing letter.

Send NIJC a copy of all applications and approvals, along with the client's updated mailing address. You may send this information electronically or as a hard-copy. Upon receipt of the file, NIJC will mail the client our closing letter with advice regarding her status and will close out the case.