

U VISAS: What You Need To Know

What is a U visa?

The U visa, or humanitarian/material witness visa, is available for up to 10,000 victims of specific crimes per year who cooperate in the investigation or prosecution of the persons charged with the criminal activity.

What are the eligibility requirements for a U visa?

- The victim must have suffered substantial physical or mental abuse as a result of the criminal violation;
- The victim must have information concerning the criminal activity;
- The victim has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity;
- The victim must have certification from a federal, state, or local law enforcement authority certifying his/her helpfulness in the investigation or prosecution of the criminal activity; and
- The criminal activity must have violated the laws of the United States or have occurred in the United States.

What are the benefits of having a U visa?

If you have U visa status, you can live and work lawfully in the U.S. for three years and there is the possibility of adjusting your status after three years to that of a lawful permanent resident (aka greencard holder). With a U visa, you are also able to sponsor certain family members to immigrate to the U.S. If the U visa holder is under 21, he or she can include a spouse, child, parent, or unmarried sibling under the age of 18 as a derivative family member. If the U status holder is 21 or older, he or she can include a spouse or child as a derivative family member.

What kinds of crimes are covered?

Crimes covered include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact; prostitution; sexual exploitation, female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

Even though immigration is supposed to also consider “similar criminal activity” to those crimes listed in the law, so far advocates have noted that immigration is NOT approving any application for U visa interim relief unless one of the listed crimes in the law is actually involved.

How do I get a U visa?

Right now, no one can get a U visa because the government still has not issued the rules that would make the visas available. NO U VISAS have been issued and none are available yet.

Then what do I do if I am eligible for a U visa?

U.S. Citizenship and Immigration Services (CIS), the branch of the federal government that is responsible for issuing U visas, has made available “U visa interim relief” or “U interim relief.” With U interim relief, you are placed into “deferred action” status, which is NOT a visa status, and only means that immigration authorities are agreeing not to try to remove you from the U.S. for the time being. You are eligible for a work permit. With U interim relief, you can also apply for the same categories of family members as explained above depending on your age.

How do I apply for U interim relief?

You need to submit an application package to CIS that includes the following:

- Cover letter outlining the applicant’s eligibility for the relief
- Applicant’s declaration showing how he/she meets the eligibility requirements for the relief
- Applicant’s personal ID information
- A law enforcement certification form signed within the past 6 months
- Other documentation verifying the criminal activity if it’s available
- Documentation about the substantial physical and/or mental abuse suffered by the applicant
- If applicable, information and documentation about the derivative family members included in the application (i.e., birth certificate proving the relationship between mother, primary applicant, and daughter, derivative)

Do not submit an application for a work permit at the same time because the applicant is not eligible for a work permit unless and until CIS approves the application for U interim relief.

Are there risks to applying for U interim relief?

YES. Anyone who has a criminal record, a previous removal/deportation order, or is already in a valid visa status should talk to an immigration attorney before submitting any application for U interim relief.

Anytime you file an application for immigration benefits or relief, you open yourself to the risk of exposure to the federal immigration authorities, which may result in removal proceedings if you are in violation of certain criminal and/or immigration laws of the U.S.

Also, there is no guarantee that your application for U interim relief will be approved. If it is denied, again, you risk possibly exposing yourself to the risk of being put into removal proceedings.

Can I travel if I have applied for or received U interim relief?

NO. There is no procedure right now for applicants or approved U interim relief grantees to travel outside the U.S. If you leave, even for a very short trip, you may not be able to re-enter, even if you already have U interim relief.

All of the above is general information about the U visa and U interim relief. It does not cover all the details about either form of relief and it is not meant to be legal advice about any specific situation or case.

Please consult with an immigration attorney for advice about your specific situation before you file any application with CIS, including U interim relief.

Asian Pacific Islander Legal Outreach – www.apilegaloutreach.org -- (415) 567-6255 or (510) 251-2846