

QUESTIONS AND ANSWERS FOR U VISA APPLICANTS



What is the U-visa?

The U visa is a special visa for the victims of certain crimes, including crimes of domestic violence and sexual assault, among others. The person must be the victim, or “indirect victim” of the crime, cooperate with law enforcement in the investigation of the crime and show that they have suffered on account of the crime. Some of the victim’s family members can be included in a U-visa application. Your attorney or representative will talk with you more about which family members can be included.

What is a waiver? Why do I need it? What does it require?

Immigration law defines many categories of people who are not eligible to receive visas. These include people who commit crimes, people who have been deported, or entered the country illegally, or who have stayed in the U.S. illegally for certain periods of time. It also includes people who have certain health related conditions, including mental health issues and drug or alcohol problems, and people who have committed immigration fraud (lied to immigration), or who have said they are U.S. citizens when they are not. These are just some examples.

Your attorney will review your case very carefully to see if any of these apply to your case. If any of these apply, you will need to file a waiver (form I-192), and prove that it is in the public interest for you to stay in the U.S. Your attorney or representative will give you more information on the waiver and will help you prepare it. **It is very important to tell your attorney or representative the truth at all times.** His/her role is to help you win your case. Remember all the information you tell your attorney or representative is confidential, until the case is filed with immigration. The information you tell him/her is used to figure out how to protect you and prepare the best possible case.

Can I be deported while my case is pending?

As a general rule, immigration has not been deporting U visa applicants, but it could happen. When you submit your application for a U visa, immigration will have your address and will know where to find you. If you are picked up by immigration while your case is pending, you should call your attorney immediately to see what can be done. It is also possible to obtain approval of the U visa after deportation and visa process back into the United States. It is important to remember that if you are in the U.S. illegally, you are always at risk of being placed in removal, or deportation proceedings.

Will immigration deport me if my case is denied?

There is not a “confidentiality” agreement within immigration offices in the U visa filing process. This means that immigration could decide to forward your information to another branch of the Department of Homeland Security, including ICE (deportation) if

they decide to do so. However, this is true with most applications that are filed with immigration. While it is possible, we have not yet seen this happen.

It is important to remember that if you are in the U.S. illegally, you are always at risk of being placed in removal, or deportation proceedings.

What if I was deported before?

If you have an outstanding order for deportation, or if you came back to the U.S. after being deported, there are additional legal issues to consider in your case. Your attorney or representative will talk with you in detail about this. In general, immigration has the right to “reinstate” deportation papers, or execute an old deportation order. There are special legal procedures that can be used to try stop this process if immigration decides to take action to remove you from the country if you qualify for a U visa. This is called a “Stay of Removal”.

Again, your attorney or representative will talk to you in detail about this if it applies to your case.

Can my family members be at risk for deportation if I file for a U visa?

Identifying information for family members that you include on your application as “qualifying family members” will be listed on the forms. The answer for them is the same as for you. It is possible that immigration could share their information with other offices in their system, like ICE (deportation). However, we have not yet seen this occur.

Other people who live with you, and are here without legal status but are NOT included in your application could be at risk if ICE (deportation) decides to take action against you. Remember, we have not seen this happen with U visa applications.

Again, it is important to remember that if a person is in the U.S. illegally, he/she is always at risk of being placed in removal, or deportation proceedings.

What about the person who committed the crime against me? Will he/she be deported if I file for a U visa?

Your U visa application is not an application against the person who committed the crime against you. It is an application for you as the victim.

The perpetrator of the crime could be deported through his/her own contact with the criminal system, since ICE (deportation) typically investigates or places “holds” on non-citizens in jail or with criminal charges against him/her. If he/she is a Lawful Permanent Resident, his/her legal status could be taken away for the conviction of certain crimes.

Will immigration contact the person who committed the crime against me? Will he/she find out what is in my application?

Your application and documentation will not be revealed to the person who committed the crime against you, or to others individuals in the community. The person who committed the crime will not be contacted or interviewed about your U visa case.

When will my case be approved?

We cannot tell you how long it will take to process your case. We can tell you that there are thousands of cases pending at the Vermont Service Center, where your case will be filed. As time goes on, we may be able to give you a better estimate. Cases that have recently received decisions were pending for many years.

Can I get a work card? When?

Some people who filed their cases before 11/17/07 were given something called “interim relief” and received work card under a status called “deferred action”. These people can renew their work cards and “deferred action” status every year while their cases are pending.

For U visa cases filed after 11/17/2008, no work cards have been issued yet. There is a provision in the law for you to get a work card while your case is pending, but the actual filing process has not been defined. We are watching this issue carefully because we know that a work card is one of the most important things for you. ***We will let you know as soon as there is a way to file an application for a work card.***

Can I continue to work if I have been working in the past?

It is against the law to work without proper documents.

What happens after I file my application?

You will receive several notices of receipt for your applications, usually a few weeks after the case is sent. These are very important because they contain case numbers and prove that you have filed your application.

Within several weeks of filing, you will also receive an appointment letter to complete your biometrics process. Immigration will take your fingerprints and picture at this appointment. This is to begin a background check. Your attorney or representative will send you more information about this when it arrives. This process is very simple, but it is very important. Please let your attorney or representative know if you cannot go to the appointment or if you miss it. Typically, you will go to this appointment without your attorney or representative, since there is no interview or any questions about your case at this appointment.

Will I be interviewed about my application?

The U visa application is filed in Vermont. You will not be personally interviewed on your U visa application. For this reason it is very important to submit strong statements

and as much evidence as possible with your case. The person who makes the decision on your case will never meet you in person.

What happens if my case is approved?

If your case is approved, immigration will grant you U visa status for four years.

If immigration needs more information before making a decision in your case, they will send a Request for Evidence. Your attorney or representative will notify you with more information if this happens.

Can I become a Permanent Resident (Can I get my green card/mica)

If you are approved for a U visa for four years, you will have the right to apply for your Lawful Permanent Residency three years from the date of the approval. You will need to be eligible for residency at that time.

What if I move?

It is very important to let your attorney or representative know right away if you move or change phone numbers! By law you must do a change of address with immigration within 10 days if you move. Your attorney or representative can help you with this. In addition, your attorney or representative must be able to communicate with you at all times.

If you move out of the state, you will need to close your case with our legal office and find legal representation near your new residence. Depending on where you move, we can give you some referrals.

What else should I know?

- Do not leave the U.S.
- Do not commit any crimes
- Continue to participate in your community, be a good community member, participate with your children's school, volunteer, learn English!
- Notify your attorney or representative if there are any changes, or if you have any questions.