



Questions & Answers

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QUALIFYING FAMILY MEMBERS OF U VISA BENEFICIARIES MAY OBTAIN LAWFUL PERMANENT RESIDENCE

U.S. Citizenship and Immigration Services recently published an interim final rule that allows T and U nonimmigrants to adjust status to become lawful permanent residents.

The T nonimmigrant status (also known as the ‘T’ Visa) was created to provide immigration protection to victims of a severe form of trafficking in persons. The U nonimmigrant status (or ‘U’ visa) is set aside for victims of crimes who have suffered mental or physical abuse because of the crime and who are willing to assist law enforcement and government officials in the investigation of the criminal activity.

The rule also establishes a two-stage application process for qualifying family members who have never held U nonimmigrant status to obtain lawful permanent residence.

Questions & Answers

Q: What are the eligibility requirements for qualifying family members who have never held U nonimmigrant status to be granted permanent resident status?

A: The statute allows USCIS to extend these derivative benefits to spouses, children, and parents based upon their relationship to the principal U (“U-1”) nonimmigrant if:

- (1) The qualifying family member was never admitted to the U.S. in U nonimmigrant status, and
- (2) It is established that either the family member or the U-1 principal applicant would suffer extreme hardship if the qualifying family member is not allowed to remain in or be admitted to the U.S.

Q: What are the procedures for such qualifying family members to apply for lawful permanent residence?

A: The U-1 status holder must file an immigrant petition on the new Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant. If the I-929 is approved on their behalf, qualifying family members in the U.S. may file Form I-485, Application to Register Permanent Residence or Adjust Status. Qualifying family members outside the U.S. may visit a U.S. embassy or consulate to obtain their immigrant visas.

Q: Can a U-1 nonimmigrant file an I-929 on behalf of a sibling?

A: No. According to the statute, only the spouse, children, and parents (if the petitioner is under 21) of a U-1 nonimmigrant are eligible.

Q: When can a U-1 nonimmigrant file an I-929 on behalf of a qualifying family member?

A: U-1 nonimmigrants may file the I-929 concurrently with, or at any time after they have filed, their Form I-485 based upon their U status.

Q: Can the I-929 beneficiary file his/her I-485 concurrently with the I-929?

A: No. Only the petitioner can file his/her I-485 concurrently with the I-929.

Q: Can the I-929 be approved before the petitioner's I-485 is approved?

A: No. The petitioner's I-485 must be approved prior to the approval of the I-929. If the petitioner's I-485 is denied, the I-929 will automatically be denied.

Q: Is a biometric fee required for the I-929?

A: No. The only fee required is the filing fee.

Q: Can the filing fee be waived?

A: Applicants who can show they are financially unable to pay specific fees may submit an application for a fee waiver. The decision to grant such waivers lies within the sole discretion of USCIS. Further guidance on fee waivers is found on the USCIS Web site at <http://www.uscis.gov/feewaiver>.

Q: If the petition is approved, what status is given to the beneficiary?

A: Approval of the I-929 petition does not confer status upon the beneficiary.

Q: Does approval of the petition grant employment authorization?

A: No. Approval of the petition only makes the beneficiary eligible to apply for adjustment of status.

Q: Is there an annual limit on the number of I-929 beneficiaries who can be approved?

A: No. There is no numerical limitation.

Q: Can a T visa holder file an I-929 on behalf of his or her family members?

A: No, Form I-929 may only be filed by a U-1 status holder on behalf of eligible family members.