

## Instructions

### What Is the Purpose of Form I-485 Supplement E?

The purpose of Supplement E to Form I-485 is to provide additional instructions for filing of adjustment of status based on:

1. T Nonimmigrant Visa - Victim of a severe form of trafficking in persons (section 101(a)(15)(T) of the Immigration and Nationality Act (INA)); or
2. U Nonimmigrant Visa - Victim of certain qualifying criminal activities (section 101(a)(15)(U) of the INA).

### T Nonimmigrant Visa Status

#### 1. You are eligible to file for adjustment of status based on T-1 nonimmigrant status if:

- A. You are a T-1 nonimmigrant as defined under section 101(15)(T)(i) of the INA;
- B. You have been physically present in the United States for:
  - i. A continuous period of a least three years since the first date of admission as a T-1 nonimmigrant; or
  - ii. A continuous period during the investigation or prosecution of acts of trafficking, and the Attorney General has determined the investigation or prosecution is complete, whichever period of time is less;
- C. You have been a person of good moral character since first being admitted as a T-1 nonimmigrant and until the decision on your Form I-485;
- D. You have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking since first being admitted as a T-1 nonimmigrant and until a decision on your Form I-485, or you would suffer extreme hardship involving unusual and severe harm upon removal from the United States; and
- E. You are admissible to the United States as a lawful permanent resident.

#### 2. You are eligible to file for adjustment of status based on T nonimmigrant status as a family member if:

- A. You are the family member of a T-1 principal applicant;
- B. You are in lawful T-2, T-3, T-4, or T-5 nonimmigrant status;

- C. The T-1 principal applicant's Form I-485 has been approved, is currently pending, or is concurrently filed;
- D. The T-1 principal meets the eligibility requirements for adjustment of status; and
- E. You are admissible to the United States as a lawful permanent resident.

### Evidence of T Nonimmigrant Status

You must submit the following evidence of T nonimmigrant status:

1. Copy of Form I-797, Notice of Action, for approval of your T nonimmigrant status;
2. Copy of your Form I-94, Arrival-Departure Record; and
3. Copy of all pages of your your passport with a T nonimmigrant visa (or explanation of why you do not have a passport).

### Evidence of Continuous Physical Presence

If you departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days, you will be considered to have failed to maintain continuous physical presence.

Documentation to show presence on every single day of the 3-year T nonimmigrant status period is not necessary; however, there should be no significant chronological gaps in documentation either.

If documentation to establish continuous physical presence is not available, you must explain why in an affidavit and provide additional affidavits from others with first-hand knowledge who can attest to your continuous physical presence by specific facts.

You must submit:

1. Copies of every page of your passport (or equivalent travel document); and
2. Documentation regarding any departure from the United States and reentry including:
  - A. Date of departure;
  - B. Place of departure;

- C. Length of departure;
- D. Manner of departure (plane, boat, etc.);
- E. Date of return; and
- F. Place of return.

Evidence establishing continuous physical presence includes, but is not limited to:

1. Documentation issued by any governmental or nongovernmental authority, provided such evidence:
  - A. Contains your name;
  - B. Was dated at the time it was issued; and
  - C. Contains a signature, seal, or other authenticating instrument of the authorized representative of the issuing authority, if the document would normally contain such an authenticating document;
2. College transcripts;
3. Employment records;
4. Certification of the filing of Federal or state income tax returns, to show that you attended school or worked in the United States throughout the entire continuous physical presence period;
5. Documents showing installment periods, such as a series of monthly rent receipts or utility bills; and
6. A list of documents giving the type and date, already contained in your DHS file that establish physical presence, such as but not limited to:
  - A. A written copy of a sworn statement given to a DHS officer;
  - B. A document from the law enforcement agency attesting to the fact that you have continued to comply with requests for assistance;
  - C. The transcript of a formal hearing; and
  - D. Record of Deportable-Inadmissible Alien, Form I-213.

Your declaration alone will not be sufficient to show continuous physical presence.

If you have not maintained continuous physical presence of at least three years since the first date of admission as a T-1 nonimmigrant, then you must submit a document signed by the Attorney General, or designee, stating that the investigation or prosecution is complete.

## Evidence of Good Moral Character

Section 101(f) lists classes of persons who cannot be found to be persons of good moral character, and specifies that persons who are not listed within any of these classes may also be found to lack good moral character.

In order to demonstrate good moral character, you must submit:

1. An affidavit attesting to your good moral character;
2. Local police clearance or a state-issued criminal background check from each locality or State in the United States in which you have resided for six or more months during the period in T-1 nonimmigrant status; and
3. If police clearances, criminal background checks, or similar reports are not available for some or all locations, you may include an explanation and submit other evidence with your affidavit.

If you are under the age of 14 years, you are generally presumed to be a person of good moral character and are not required to submit evidence of good moral character. However, if there is reason to believe that you may lack good moral character, USCIS may require evidence of good moral character.

## Evidence Relating to Discretion

Adjustment of status is a discretionary benefit, so you bear the burden of showing that discretion should be exercised in your favor.

Generally favorable factors such as family ties, hardship, and length of residence in the United States may be sufficient to merit a favorable exercise of discretion. However, where adverse factors are present, you may offset these by submitting supporting documentation establishing mitigating equities you wish USCIS to consider.

## Evidence of Compliance with Reasonable Requests for Assistance In the Investigation or Prosecution

You must submit a document issued by the Attorney General or designee, certifying that you have complied with any reasonable request for assistance in the investigation or prosecution of trafficking of persons, unless you establish that you would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

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In such case, you must then submit evidence of extreme hardship involving unusual and severe harm upon your removal from the United States. However, if your extreme hardship claim represents a continuation claimed in your application for T nonimmigrant status, you do not need to re-document the entire claim, but rather submit evidence to establish that the previously established hardship is ongoing. Note: USCIS is not bound by its previous hardship determination.

### Admissible to the United States

You must be admissible to the United States under section 212 of the INA. The following grounds of inadmissibility can be waived in the national interest:

1. 212(a)(1) - Health-related grounds;
2. 212(a)(4) - Public charge; and
3. Any other ground of inadmissibility (with following exclusions) if the activities rendering you inadmissible were caused by or were incident to your trafficking victimization.

The following grounds of inadmissibility cannot be waived:

1. 212(a)(3) - Security and related grounds;
2. 212(a)(10)(C) - International child abduction; and
3. 212(a)(10)(E) - Former citizens who renounced citizenship to avoid taxation.

If you are inadmissible by reason of a ground that has not already been waived in connection with your T nonimmigrant status, you must file Form I-601, Application for Waiver of Grounds of Inadmissibility.

If you are seeking an exemption from section 212(a)(9)(B) of the INA - unlawful presence, you are not required to submit Form I-601, but you must submit evidence to demonstrate that the victimization suffered was a central reason for the unlawful presence.

### U Nonimmigrant Visa Status

1. You are eligible to file for adjustment of status based on U nonimmigrant status if:
  - A. You are a U nonimmigrant as defined under section 101(a)(15)(U) of the INA;
  - B. You have been physically present in the United States for a continuous period of at least three years since the date of lawful admission as a U-1, U-2, U-3, U-4, or U-5 nonimmigrant.

- C. You have not unreasonably refused to provide assistance in the criminal investigation or prosecution; and
  - D. You are admissible to United States as a lawful permanent resident.
2. You are eligible for adjustment of status if you are a U nonimmigrant qualifying family member who has not held U nonimmigrant status and are in the United States. You must demonstrate that:
    - A. You have an approved Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant;
    - B. You can establish that you or the U-1 principal would suffer extreme hardship if you were not allowed to remain in the United States; and
    - C. You are admissible to the United States as a lawful permanent resident.

### Evidence of U Nonimmigrant Status

You must submit the following evidence of U nonimmigrant status:

1. Copy of Form I-797, Notice of Action, for approval of your U nonimmigrant status;
2. Copy of your Form I-94, Arrival-Departure Record; and
3. Copy of all pages of your passport with a U nonimmigrant visa (or explanation of why you do not have a passport).

### Evidence of Continuous Physical Presence

If you departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days, you will be considered to have failed to maintain continuous physical presence.

Absences in excess of 90 days or exceeding an aggregate of 180 days are only permissible in order to assist in the investigation or prosecution of the qualifying crime. You must submit evidence from the official involved in the investigation or prosecution certifying in writing that the absence was in order to assist the investigation or prosecution, or was otherwise justified.

Documentation to show presence on every single day of the three-year U nonimmigrant status period is not necessary; however, there should be no significant chronological gaps in documentation either.

If documentation to establish continuous physical presence is not available, you must explain why in an affidavit and provide additional affidavits from others with first-hand knowledge who can attest to your continuous physical presence by specific facts.

You must submit:

1. Copies of every page of your passport (or equivalent travel document); and
2. Documentation regarding any departure from the United States and reentry including:
  - A. Date of departure;
  - B. Place of departure;
  - C. Length of departure;
  - D. Manner of departure (plane, boat, etc.);
  - E. Date of return; and
  - F. Place of return.

Evidence establishing continuous physical presence includes, but is not limited to:

1. Documentation issued by any governmental or nongovernmental authority, provided such evidence:
  - A. Contains your name;
  - B. Was dated at the time it was issued; and
  - C. Contains a signature, seal, or other authenticating instrument of the authorized representative of the issuing authority, if the document would normally contain such an authenticating document;
2. College transcripts;
3. Employment records;
4. Evidence showing installment periods, such as a series of monthly rent receipts or utility bills; and
5. Certification of the filing of Federal or state income tax returns, to show that you worked in the United States throughout the entire three-year U nonimmigrant status period.

Your declaration alone will not be sufficient to show continuous physical presence.

If you have not maintained continuous physical presence of at least three years since the first date of admission as a U nonimmigrant, then you must submit a document signed by the Attorney General, or designee, stating that the investigation or prosecution is complete.

### **Evidence of Compliance with Reasonable Requests for Assistance In the Investigation Or Prosecution**

You are required to provide ongoing cooperation to law enforcement agencies involved in the investigation or prosecution of the qualifying criminal activity as needed. 8 CFR 245.24(a)(5) defines "unreasonable refusal to provide assistance in a criminal investigation or prosecution," as a refusal by the U nonimmigrant to provide assistance to law enforcement authorities after the alien has been granted U nonimmigrant status.

The determination of what is an unreasonable refusal will be based on the totality of the circumstances. USCIS' evaluation of the reasonableness of an applicant's refusal to provide assistance will take into account factors such as:

1. General law enforcement, prosecutorial, and judicial practices;
2. The kinds of assistance asked of other victims of crimes involving an element of force, coercion, or fraud;
3. The nature of the request to the alien for assistance;
4. The nature of the victimization;
5. The applicable guidelines for victim and witness assistance; and
6. The specific circumstances of the victim, including fear, severe traumatization (both mental and physical), and your age and maturity.

You must submit:

1. A new law enforcement certification stating that you have not failed to comply with reasonable requests for law enforcement assistance during the period you maintained lawful U nonimmigrant status. If you so choose, you may satisfy this evidentiary requirement by submitting a newly executed Form I-918 Supplement B, U Nonimmigrant Status Certification;

**OR**

2. An affidavit describing your efforts, if any, to obtain a newly executed Form I-918 Supplement B, or other evidence describing whether or not you received any request to provide assistance in a criminal investigation or prosecution, and your response to any such request.

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The affidavit should include a description of all instances, of which you are aware of, that you were requested to provide assistance in the criminal investigation or prosecution of persons in connection with the qualifying criminal activity after you were granted U nonimmigrant status and how you responded to such requests.

If you have refused a request for assistance in the investigation or prosecution, you must provide a detailed description of situations where you declined to comply with requests for assistance because you believed that the failure to comply with such requests for assistance was reasonable under the circumstances.

You should also include, when possible:

- A. Identifying information about the law enforcement personnel involved in the case and any information of which you are aware of about the status of the criminal investigation or prosecution, including any charges filed and the outcome of any criminal proceedings, or whether the investigation or prosecution was dropped and the reasons; and
- B. Court documents, police reports, news articles, copies of reimbursement forms for travel to and from court, and affidavits of other witnesses or officials.

### Admissible to the United States

With the exception of section 212(a)(3)(E) of the INA (Participants in Nazi persecution, genocide, or the commission of any act, torture, or extrajudicial killing), section 212(a) of the INA does not apply to U nonimmigrants. However, under section 245 (m)(1)(B) of the INA, the Secretary of Homeland Security must determine that your continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

### Where To File?

Submit your Form I-485 based on either T or U nonimmigrant status to:

Vermont Service Center  
75 Lower Welden Street  
St. Albans, VT 05479

### Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-485, we will deny your Form I-485 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

### Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form.

### Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 1 hour per response, which includes the time for reviewing instructions. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, Office of the Executive Secretariat, 20 Massachusetts Avenue N.W., Washington, DC 20529-2020. OMB No. 1615-0023. This form expires January 31, 2013. **Do not mail your application to this address.**