

Westlaw.

85 NO. 15 INTERREL 1075  
 85 No. 15 Interpreter Releases 1075  
 (Cite as: 85 No. 15 Interpreter Releases 1075)

Page 1

Interpreter Releases Report and analysis of immigration and nationality law  
 © 2008 Thomson/West.

April 7, 2008

**\*1075 11. USCIS Provides Guidance on U Nonimmigrant Petitions**

U.S. Citizenship and Immigration Services (USCIS) has released to the public a March 27, 2008 memorandum from Associate Director for Domestic Operations Michael L. Aytes to the field giving guidance on the U nonimmigrant classification. This visa classification was created by the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) [FN44] for undocumented immigrant victims of violent crimes who report the crimes and cooperate with law enforcement to prosecute violent criminals. The interim rule implementing these provisions was not published until September 17, 2007, [FN45] and USCIS was therefore not processing applications for U status, although, in the absence of final regulations, USCIS granted interim relief to individuals who established a prima facie case for U nonimmigrant status. [FN46] This memorandum now provides necessary guidance establishing the requirements and procedures for adjudicating U nonimmigrant petitions which are filed on Form I-918, Petition for U Nonimmigrant Status, and Form I-918, Supplement A. The guidance was immediately effective.

Significantly, the memorandum clarifies eligibility requirements for qualifying family members who were granted interim relief. The memorandum explains that the U regulations set forth general eligibility requirements for derivative U nonimmigrants [FN47] but do not address eligibility requirements for derivatives who are in interim relief status. The memorandum points out that many qualifying family members who were granted interim relief do not meet the general age requirements in the regulations. The regulations provide that, upon approval of a petition for U nonimmigrant status, principal petitioners and derivative family members who were granted relief will be accorded U nonimmigrant status as of the date that the request for U interim relief was approved. The memorandum provides that, with regard to qualifying family members who were granted interim relief, the family member's age on the date of the U interim relief filing shall be controlling for the age eligibility requirement, just as the interim relief approval date is controlling in designating the initial date of U nonimmigrant status.

The memorandum updates the Adjudicator's Field Manual (AFM) to add a new Chapter 39, which, in addition to eligibility, covers application procedures, evidentiary requirements, approval and denial, employment authorization, and extension and revocation of U status.

The memorandum, including new AFM Chapter 39, is reproduced in Appendix IV of this Release.

[FN44]. Pub. L. No. 106-386, 114 Stat. 1464 (Oct. 28, 2000). See 77 Interpreter Releases 1562 (Nov. 6, 2000) for analysis of the VTVPA.

[FN45]. See 72 Fed. Reg. 53014 (Sept. 17, 2007), discussed and reproduced in 84 Interpreter Releases 2172, 2194 (Sept. 24, 2007). See also Minwalla, "Protecting Noncitizen Crime Victims Under the New U Visa Interim Regulations," 08-01 Immigration Briefings 1 (Jan. 2008).

© 2008 Thomson/West. No Claim to Orig. U.S. Govt. Works.