

USCIS Form I-192 Waiver for U Visa Applicants: Legal Analysis

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FINDINGS

USCIS FORM I-192 WAIVER FOR U VISA APPLICANTS: COMPREHENSIVE LEGAL ANALYSIS

Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, represents a critical procedural mechanism within the U nonimmigrant visa framework, serving as the gateway through which individuals with grounds of inadmissibility may overcome statutory barriers to admission and proceed with their claims to protected status based on victimization and cooperation with law enforcement.[1][2] The I-192 waiver process for U visa applicants operates under a discretionary standard codified in INA § 212(d)(14), which authorizes the Secretary of Homeland Security to waive virtually all grounds of inadmissibility when the Secretary determines it to be in the national or public interest, creating a substantially more favorable waiver regime than the general nonimmigrant waiver standard available to other visa classes.[2][11][39] This comprehensive report examines the statutory framework, regulatory implementation, current USCIS adjudicatory practices, and strategic considerations that practitioners must navigate when representing U visa applicants confronted with inadmissibility determinations, with emphasis on the practical realities of waiver approval rates, heightened scrutiny for criminal grounds, and the critical intersection between initial waiver approval and post-approval travel or adjustment of status scenarios.

Legal Framework for Inadmissibility Waivers in U Visa Proceedings

Statutory Authority and the INA Section 212(d)(14) Waiver Standard

The foundational statutory authority for I-192 waivers specific to U visa applicants derives from INA § 212(d)(14), which establishes the Secretary of Homeland Security's authority to determine whether grounds of inadmissibility exist with respect to U nonimmigrants and, in the Secretary's discretion, may waive the application of virtually any ground of inadmissibility except those enumerated at INA § 212(a)(3)(E), if the Secretary considers the waiver to be in the public or national interest.[2][14][39] This statutory provision represents Congress's deliberate choice to create a uniquely expansive waiver mechanism for trafficking victims and witnesses to serious crimes, distinguishing U visa waivers from the narrower discretionary authority available under INA § 212(d)(3), which governs general nonimmigrant waivers and carries more restrictive limitations on waivable grounds and heightened procedural requirements.[5][27][39] The distinction between these two waiver standards has become increasingly important in practice, as USCIS has on occasion conflated the standards when adjudicating I-192 applications for U visa applicants, applying the more restrictive § 212(d)(3) framework when the more generous § 212(d)(14) standard should apply, a practice that has generated significant advocacy concerns within the immigration practitioner community.[9][14][27][43]

The statutory language authorizing waiver when determined to be "in the public or national interest" has never been defined with specificity in published USCIS policy guidance, rendering the waiver approval process inherently discretionary and fact-intensive.[27][36][43] USCIS adjudication officers have noted informally that each I-192 waiver application should include a statement explaining the discretionary grounds for granting the waiver, details of the victimization that the applicant experienced, the reasons and circumstances for needing the waiver, and any supporting documentation that demonstrates why the national or public interest would be served by admission of the inadmissible applicant.[27][43] In practice, USCIS has considered the following factors in making positive discretionary determinations: the applicant's loss of access to the U.S. court system and justice system if the waiver is not granted; the nature and extent of the applicant's

physical or mental abuse suffered as a crime victim; the applicant's contributions to the investigation or prosecution of the underlying crime; the strength of evidence of rehabilitation and reformed character; and the length of time that has elapsed since any criminal conduct occurred.[27][36][43] These factors must be weighed against adverse factors including the nature of the inadmissibility ground itself, the presence of multiple or serious violations of immigration law, the existence of a criminal record and its severity, and evidence suggesting bad character or undesirability as a resident.[27][36][42][43]

Regulatory Framework Implementing Waiver Standards

The regulatory implementation of U visa waiver authority appears primarily in 8 CFR § 212.17, which establishes the procedural and substantive framework for exercise of discretion in waiver applications.[17][20][22] This regulation provides that when U nonimmigrant applicants are inadmissible on criminal or related grounds, USCIS will consider the number and severity of the offenses of which the applicant has been convicted in exercising its discretion.[17][20][22] The regulation also establishes a heightened standard for criminal grounds, specifying that in cases involving violent or dangerous crimes, or inadmissibility based on security and related grounds under INA § 212(a)(3), USCIS will only exercise favorable discretion in extraordinary circumstances.[14][17][20][22][26][39] This heightened standard has proven to be a significant practical limitation on waiver approval for applicants with certain conviction histories, as "extraordinary circumstances" is undefined in the regulation and remains subject to discretionary interpretation by USCIS adjudication officers at the Vermont Service Center, which processes all U visa petitions and waivers.

The regulation further provides that there is no appeal of a decision to deny a waiver, though nothing in the regulation prevents an applicant from refileing a waiver request in appropriate cases with new or additional evidence.[17][20][22] This absence of appellate review has created substantial practical limitations for practitioners seeking to challenge USCIS waiver denials, and has led to increased reliance on motions to reconsider or reopen under 8 CFR § 103.5, requests for agency reconsideration or correction of error, or in limited circumstances, federal litigation under the Administrative Procedure Act challenging USCIS's discretionary determination.[50][53] The regulation also provides that USCIS may revoke a waiver previously authorized under INA § 212(d) at any time, and under no circumstances will an alien or party acting on their behalf have a right to appeal from a decision to revoke a waiver.[17][20][22]

Current Legal Landscape and Recent Developments

Form I-192 Updates and Procedural Changes

The Form I-192 was updated as recently as January 20, 2025, incorporating procedural refinements and clarifications to the application structure.[1][6][19] The current version of the form requires applicants to specifically identify all grounds of inadmissibility that are being waived, using statutory citations and detailed factual explanations of how each ground applies to the applicant's circumstances.[1][6][19][25] The form instructions specify that applicants must disclose all inadmissibility grounds that apply or may apply, as approval of the I-192 is limited only to grounds that were listed on the application, and USCIS will not waive grounds that were not disclosed during the adjudication process.[6] This requirement creates significant practitioner responsibility to conduct thorough inadmissibility analysis prior to filing, as the discovery of additional grounds after approval can lead to complicated scenarios involving revocation or denial of subsequent applications.

The filing fee for the Form I-192 is \$545 for U visa applicants, a reduction from the standard nonimmigrant waiver fee structure.[1][6] U visa applicants may request a fee waiver using Form I-912, Request for Fee

Waiver, if they meet the income thresholds established by USCIS, which currently require household income at or below 150 percent of the federal poverty guidelines or a demonstration of financial hardship.[31][34] The fee waiver option is significant given that many U visa applicants are trafficking victims or economically disadvantaged crime victims, and practitioners should routinely file the I-912 concurrently with the I-192 for eligible clients.[31][34]

Processing Times and Pending Application Status

As of December 2025, the Vermont Service Center, which maintains exclusive jurisdiction over all U visa petitions and related waivers, continues to experience substantial processing backlogs affecting both the I-918 principal petition and the concurrent I-192 waiver application.[48][51] Current processing times for I-192 applications filed with USCIS average between nine to twelve months, though individual cases may experience longer delays depending on the complexity of the inadmissibility issues, the completeness of the initial filing, and the nature of the evidence required by USCIS.[48][51] Recent practitioner reports indicate that eSAFE (electronic submission system) filings may move slightly faster than paper submissions, though the difference is marginal and both submission methods remain subject to the same processing queue.[51] The practical implication of these extended processing times is that U visa applicants should be counseled regarding the availability of deferred action under the bona fide determination (BFD) framework, which may provide employment authorization and protection from removal while the I-918 and I-192 applications remain pending.[56]

Recent Policy Shifts and Enforcement Trends

While comprehensive published guidance on recent USCIS policy shifts regarding I-192 waiver adjudication remains limited, practitioners have reported an observable shift toward stricter application of waiver standards, particularly regarding criminal grounds of inadmissibility.[27][36][43][46] Prior to approximately 2018-2019, USCIS was described as "generous" in exercising its discretion favorably to grant inadmissibility waivers, but in recent years a "stricter approach" has emerged, particularly when criminal grounds of inadmissibility are at issue.[27][46] This shift appears to reflect both increased enforcement prioritization at the agency level and heightened discretionary scrutiny of applications involving violence-related or drug-trafficking convictions. Additionally, practitioner reports indicate that USCIS has at times conflated the standard applicable under INA § 212(d)(14) (applicable to U visa applicants) with the more restrictive standard under INA § 212(d)(3) (applicable to general nonimmigrants), requiring applicants with "serious, but not violent" criminal violations to meet the Hranka factors rather than the more generous national/public interest standard.[9][27][43] This practice has generated advocacy arguments that USCIS is impermissibly narrowing the waiver standard created by Congress for U visa applicants, and practitioners confronting such RFEs should specifically assert in their responses that the INA § 212(d)(14) standard applies and demand that USCIS explain why it is applying the more restrictive framework.[9][27][43]

Grounds of Inadmissibility Applicable to U Visa Applicants

Comprehensiveness of Inadmissibility Grounds and Exceptions

All U visa applicants, including derivative family members, are subject to the grounds of inadmissibility established in INA § 212(a) with one significant statutory exception: U nonimmigrants are specifically exempt from the public charge ground of inadmissibility at INA § 212(a)(4).[11][14][26][39] This exemption is particularly meaningful for applicants with limited economic means or who have experienced economic exploitation as crime victims. Additionally, certain inadmissibility grounds do not apply to nonimmigrant applications at all or only apply in specific circumstances. For example, INA § 212(a)(7)(A), which bars

immigrants without valid travel documents, does not apply to U nonimmigrant applicants.[11][14][26][39] Similarly, INA § 212(a)(7)(B)(i)(II), which applies only at the border and to individuals refusing to submit to examination, does not apply to U nonimmigrant petitioners seeking status from within the United States.[11][14][26][39] However, INA § 212(a)(7)(B)(i)(I), which requires nonimmigrants to present a valid passport or travel document, does apply to U visa applicants and may require a waiver for applicants without valid travel documents.[11][14][26][39]

The most commonly encountered inadmissibility grounds among U visa applicants include entry without inspection under INA § 212(a)(6)(A)(i); fraud or willful misrepresentation under INA § 212(a)(6)(C)(i); false claim to U.S. citizenship under INA § 212(a)(6)(C)(ii); crimes involving moral turpitude under INA § 212(a)(2)(A)(i)(I); controlled substance violations under INA § 212(a)(2)(A)(i)(II); drug trafficking under INA § 212(a)(2)(C); failure to attend removal proceedings under INA § 212(a)(6)(B); unlawful presence bars under INA § 212(a)(9)(B) (three-year and ten-year bars); the permanent bar under INA § 212(a)(9)(C)(i)(I); prior removal orders under INA § 212(a)(9)(A); and alien smuggling under INA § 212(a)(6)(E).[11][12][26][39]

Crimes Involving Moral Turpitude and Criminal Convictions

Crimes involving moral turpitude, or CIMTs, represent one of the most frequently encountered inadmissibility grounds among U visa applicants, particularly those whose own criminal histories may be secondary to the crimes perpetrated against them.[10][23][30] Under INA § 212(a)(2)(A)(i)(I), any noncitizen convicted of, or who admits having committed or admits committing acts constituting the essential elements of, a crime involving moral turpitude is inadmissible.[10][23][30] However, the statute contains two important exceptions that practitioners must carefully analyze. First, the petty offense exception at INA § 212(a)(2)(A)(ii)(II) applies when the noncitizen has committed only one CIMT, the maximum possible sentence for the offense does not exceed one year, and the noncitizen was sentenced to six months or less imprisonment.[11][21][23] If all three elements are satisfied, the petty offense exception applies, no inadmissibility ground is triggered, and no waiver is required.[11][21][23][26]

Second, the youthful offender exception at INA § 212(a)(2)(A)(ii)(I) provides that if a noncitizen committed only one CIMT while under eighteen years of age, and the crime was committed and the alien was released from any confinement related to the crime (or if no confinement was imposed) before the alien turned twenty-five years of age, the CIMT inadmissibility ground does not apply.[11][21][23] This exception is particularly relevant for young victims of trafficking and exploitation who may have committed crimes in circumstances of coercion or duress. If either exception applies, practitioners should carefully analyze whether the exception truly eliminates the inadmissibility ground or whether other grounds (such as deportability or bars to establishing good moral character) remain applicable.[11][21][23]

The determination of whether a conviction constitutes a CIMT requires application of the "categorical analysis" established in immigration jurisprudence, which examines the statutory elements of the crime as written, rather than the specific conduct in the defendant's case.[10][23][30] The categorical analysis employs a "minimum conduct test," which provides that the minimum or least offensive conduct that could violate the statute must involve moral turpitude for a conviction under that statute to constitute a CIMT.[10][23][30] If the statute is "divisible"-meaning it contains multiple alternative elements and the conviction record does not specify which element the defendant was convicted of-the conviction may not trigger the CIMT ground unless the record clearly establishes the specific element of conviction.[10][23][30]

Entry Without Inspection and Unlawful Presence Bars

Entry without inspection under INA § 212(a)(6)(A)(i) is the most straightforward and commonly waived

inadmissibility ground for U visa applicants, as it requires only a factual showing that the applicant entered the United States without being admitted or paroled by an immigration officer.[11][14][26][39] This ground applies regardless of how many times the applicant entered without inspection, and even if the sole ground of inadmissibility is entry without inspection, a waiver under INA § 212(d)(14) must be requested and approved.[11][14][26][39]

More complex are the unlawful presence bars established in INA § 212(a)(9)(B), which render an applicant inadmissible for a three-year period following departure from the United States if the applicant accumulated more than 180 days of unlawful presence, or for a ten-year period if the applicant accumulated one year or more of unlawful presence.[11][14][26][39][55] A critical point of law frequently misunderstood by both applicants and some practitioners: the unlawful presence bars are only triggered when an applicant departs the United States after accruing the requisite period of unlawful presence.[11][14][26][39][55] Therefore, an applicant who entered the United States only once without inspection and has never departed, no matter how much unlawful presence they have accrued, has not triggered the unlawful presence bars and requires no waiver of INA § 212(a)(9)(B).[11][14][26][39][55] This distinction is critical for U visa applicants who have continuously resided in the United States without departing, as they may not face the three-year or ten-year bars even if they have accumulated years of unlawful presence.

The permanent bar at INA § 212(a)(9)(C)(i)(I) applies when an applicant has accumulated one year or more of unlawful presence, departed the United States, and then attempts to return without consent.[11][14][26][39][55] Similarly, an applicant who enters the United States without inspection after April 1, 1997, the effective date of the bar, and then departs and attempts to return, is subject to the permanent bar under INA § 212(a)(9)(C)(i)(II) unless the applicant obtained consent to reapply through Form I-212 (Consent to Reapply for Admission) or INA § 212(a)(9)(A)(iii) consent.[11][14][26][39]

Health-Related Grounds and Communicable Diseases

Health-related grounds of inadmissibility applicable to U visa applicants are established in INA § 212(a)(1) and include inadmissibility due to having or having had a communicable disease of public health significance, physical or mental disease or disorder, lack of required vaccinations, and drug abuse or addiction.[37] For most health-related grounds except drug abuse or addiction, a waiver is potentially available, though the process requires consultation with the Centers for Disease Control and Prevention (CDC) and may impose conditions such as medical treatment or bonding requirements.[37] Importantly, if a U visa applicant is inadmissible only for failure to present documentation of vaccination, that ground does not apply to nonimmigrants and no waiver is required.[6][14][26][39] Practitioners representing applicants with health-related inadmissibility concerns should obtain the Form I-693 (Report of Medical Examination and Vaccination Record) performed by a panel physician and carefully review the findings to understand the basis for any health-related inadmissibility determination.

Unwaivable Grounds: INA Section 212(a)(3)(E)

The only grounds of inadmissibility that cannot be waived under the INA § 212(d)(14) U visa waiver provision are those found in INA § 212(a)(3)(E), which relates to participation in Nazi persecution, genocide, torture, or extrajudicial killings.[2][6][11][14][26][39] This provision bars from U visa status any applicant who ordered, incited, assisted, or otherwise participated in Nazi persecution of persons based on race, religion, national origin, or political opinion between March 23, 1933, and May 8, 1945; who participated in genocide as defined in 18 U.S.C. § 1091; who committed, ordered, incited, assisted, or otherwise participated in torture outside the United States under color of law as defined in 18 U.S.C. § 2340; or who was involved in extrajudicial killings.[6][8][11][14][26][39] The unwaivability of these grounds recognizes that Congress

intended to exclude from protected status in the United States any applicant complicit in the most serious human rights violations, regardless of the applicant's otherwise compelling circumstances as a victim.

This restriction creates a categorical bar that cannot be overcome through demonstration of rehabilitation, changed circumstances, or even the most compelling evidence of victimization in other respects.^{[2][6][11][14][26][39]} Practitioners must carefully investigate any allegations, historical records, or government information suggesting involvement in these specified human rights violations and must counsel applicants that if such involvement is established, U visa status is categorically unavailable regardless of the applicant's victimization by other crimes.

Heightened Waiver Standards for Violent and Dangerous Crimes

The Extraordinary Circumstances Requirement

Distinct from the general national or public interest standard applicable to most inadmissibility grounds under INA § 212(d)(14), the regulatory framework at 8 CFR § 212.17(b)(2) establishes a heightened standard for criminal grounds, specifying that in cases involving violent or dangerous crimes, USCIS will only exercise favorable discretion in extraordinary circumstances.^{[14][17][20][22][26][39][43][46]} This heightened standard applies only to U visa applicants and has become increasingly significant in recent USCIS practice, as adjudication officers have interpreted "violent or dangerous crimes" broadly to include not only convictions explicitly categorized as violent felonies under state law, but also crimes involving weapons, bodily injury, or threats of harm.^{[14][20][22][26][39][43][46]}

The regulation does not define "extraordinary circumstances," leaving this term to case-by-case discretionary interpretation by USCIS adjudication officers.^{[14][17][20][22][26][39][43]} In response to this ambiguity, some practitioners and advocates have argued that the extraordinary circumstances standard is itself an arbitrary and capricious application of agency discretion when applied to crime victims—individuals whose status as trafficking or crime victims should, by definition, constitute extraordinary circumstances warranting waiver.^[43] However, USCIS has maintained that even for crime victims, convictions for violent or dangerous offenses require demonstration of truly exceptional circumstances beyond the mere fact of victimization in order to support waiver approval.^{[9][14][27][43][46]}

Practical experience suggests that USCIS views "extraordinary circumstances" as potentially including factors such as: the applicant's significant cooperation with law enforcement in the prosecution of major criminal enterprises; substantial rehabilitation over extended periods; compelling family unity interests with U.S. citizens or permanent residents; the applicant's humanitarian or community service contributions; the length of time that has passed since the offense; documented evidence of changed character and conduct; and clear evidence that denial of the waiver would result in severe hardship to the applicant or family members.^{[20][43][46]} However, even the cumulative presence of these factors does not guarantee waiver approval; rather, they provide foundation for arguing that the extraordinary circumstances standard has been satisfied.^{[9][14][20][43][46]}

Distinction from Other Inadmissibility Grounds

The extraordinary circumstances requirement applies only to criminal grounds and security-related grounds under INA § 212(a)(3), not to immigration-related grounds such as entry without inspection, fraud, or misrepresentation.^{[14][17][20][22][26][39][43]} This means that an applicant with a conviction for a violent or dangerous crime triggering the extraordinary circumstances requirement may simultaneously have entry without inspection or fraud grounds for which the general national or public interest standard applies, and

these non-criminal grounds may be viewed more favorably for waiver purposes.[43] Some practitioners have strategically emphasized the non-criminal grounds in waiver applications in order to establish that at minimum, the non-criminal grounds warrant waiver under the more generous standard, potentially creating a pathway for USCIS to exercise discretion more favorably on the criminal grounds as well.[27][43]

Application to Common Criminal Convictions

Convictions commonly categorized as falling within the violent or dangerous crimes heightened standard include convictions for assault, battery, domestic violence, sexual abuse, robbery, burglary, weapons offenses, and drug trafficking.[14][20][43][46] Even relatively less serious convictions such as aggravated assault or assault with a deadly weapon have been treated as "violent or dangerous crimes" requiring demonstration of extraordinary circumstances.[14][20][43][46] Conversely, USCIS has treated some property crimes, fraud offenses, and drug possession offenses (as distinguished from trafficking) as potentially falling outside the heightened standard, though individual adjudication varies significantly across different USCIS officers and field offices.[27][43][46]

Practitioners confronting RFEs requesting additional evidence regarding criminal grounds should explicitly address whether the heightened standard applies and, if it does, should present comprehensive evidence addressing the extraordinary circumstances inquiry in a structured format that clearly demonstrates how the applicant's circumstances exceed the ordinary or typical case.[27][43][46] The absence of explicit discussion of the extraordinary circumstances standard in USCIS RFEs does not indicate the standard is not being applied; rather, USCIS may be implicitly applying a heightened discretionary analysis without explicitly labeling it as such.[9][27][43]

Strategic Timing, Filing Procedures, and Concurrent Waiver Applications

Concurrent Filing of I-918 and I-192

U visa applicants facing inadmissibility should, in the vast majority of cases, file the I-192 waiver application concurrently with the Form I-918 principal petition and, if applicable, Form I-918A petitions for derivative family members.[5][10][12][27][38] Concurrent filing is permitted by regulation and is the standard practice among experienced immigration practitioners representing U visa applicants, as it streamlines the adjudication process and ensures that USCIS addresses all relevant issues in a single proceeding.[5][10][12][27] Additionally, concurrent filing with Form I-918 Supplement B (the law enforcement certification, discussed below) is required, as USCIS will not accept an I-918 application without the signed certification form.[44][49]

The I-918 Supplement B certification, which must be signed by a certifying official from a law enforcement agency, state attorney general's office, federal prosecutor's office, or certain other investigative agencies, remains valid for only six months from the date of certification.[12][38][49] This six-month validity period creates significant procedural urgency, as the I-918 and I-192 must be filed within the certification validity period or a new certification must be obtained from the certifying agency.[12][38][49] Practitioners should counsel applicants to obtain the certification well in advance of the filing deadline and should file all applications promptly once the certification is received, as delays risk the certification expiring before USCIS receives the application.[12][38][49]

Filing at Vermont Service Center

All U visa petitions and related I-192 waivers for U visa applicants must be filed at the USCIS Vermont Service Center, which maintains exclusive jurisdiction over these applications.[5][12][38][48] The mailing

address for filing is USCIS Vermont Service Center, 38 River Road, Essex Junction, Vermont 05479. Practitioners should include a detailed cover letter with each application package that identifies all forms being filed, explains the applicant's circumstances and inadmissibility grounds, references the law enforcement certification and its validity date, and requests that the I-192 be adjudicated concurrently with the I-918.[5][10][12][27]

Multiple Applications and Envelope Organization

When U visa applicants are filing concurrently for themselves and derivative family members, multiple applications must be submitted simultaneously, each with its own complete set of supporting documentation and evidence.[12][38] Best practice requires that each individual applicant (principal and each derivative) have their own separate application package with duplicate copies of shared documents (such as law enforcement certifications or country conditions reports) and unique documents specific to that individual (such as birth certificates, marriage certificates, or individual affidavits).[12][38] Each application package should be placed in its own individually labeled envelope (e.g., "Principal U-1 Application - [Name]," "Derivative I-918A - Spouse," "Derivative I-918A - Child"), and then all envelopes should be placed together in a larger outer envelope for mailing to the Vermont Service Center.[12][38]

Fee Submission and Waiver of Fees

The I-192 filing fee is \$545 as of the current fiscal year, and each derivative family member filing an I-918A also faces a separate \$545 I-192 fee if that derivative is inadmissible.[12][31][34][38] U visa applicants may request a fee waiver for the I-192 (and for Form I-765 employment authorization applications) using the Form I-912 submitted simultaneously with the I-192.[31][34][38] Fee waivers are available for applicants receiving means-tested benefits, with household income at or below 150 percent of the federal poverty guidelines, or who can demonstrate financial hardship through supporting documentation such as medical bills, eviction notices, unemployment documentation, or other evidence of hardship.[31][34][38] Unlike the I-918 principal petition itself, which carries no filing fee, the I-192 filing fee is mandatory unless a fee waiver is approved.[1][6][12][38]

Documentation and Evidence Requirements for I-192 Waiver Applications

Structural Requirements and Form Completion

The Form I-192 as updated January 20, 2025 contains specific sections addressing identity information, inadmissibility grounds, criminal history, and employment history, each of which requires accurate and complete disclosure.[1][6][25] Section 26 of the form requires applicants to identify all grounds of inadmissibility that apply or potentially apply, using both the INA statutory citations (e.g., "INA § 212(a)(6)(A)(i)") and a detailed narrative explanation of how each ground applies to the applicant's specific circumstances.[1][6][25][27] The instructions explicitly state that the approval of the waiver application is limited only to the grounds listed on the application, and USCIS will not waive grounds that were not disclosed during adjudication, making comprehensive identification of inadmissibility grounds critical.[1][6][27]

Best practice requires that practitioners complete Form I-192 with meticulous attention to all item numbers, provide detailed narrative explanations in Part 8 (Additional Information) addressing each inadmissibility ground and the discretionary factors supporting waiver approval, and attach a comprehensive cover letter that provides a roadmap of the evidence and arguments contained in the application package.[1][6][27][43] The narrative statement should include explicit discussion of why the waiver is in the national or public interest,

the nature and extent of the applicant's victimization, the value of the applicant's cooperation with law enforcement, evidence of rehabilitation (if criminal grounds are involved), family unity considerations, and humanitarian grounds supporting approval.[27][43]

Criminal Records Documentation

If the I-192 application addresses criminal inadmissibility grounds, the applicant must provide certified court documentation of all convictions, including the formal charging document, conviction judgment, sentencing orders, and any post-sentencing modifications (such as probation modifications, sentence reductions, or diversions).[6][7][10][30] Official police records or evidence from the appropriate jurisdiction that no record exists must be obtained from the applicant's country of residence or nationality, and must be dated and endorsed within 15 months of submission with the I-192.[6][7] For applicants with criminal history in multiple jurisdictions, separate official records from each jurisdiction are required.[6][7][30]

The Form I-192 instructions require applicants to provide a statement signed under penalty of perjury specifying each crime name and the criminal statutes for which the applicant was convicted; the country in which the conviction occurred; the dates and places of commission of each crime; the dates and places of conviction including the name of the court; and the sentences received and any other court judgments related to the crimes.[6][7] Each crime must be listed separately, and practitioners should ensure that this statement is detailed and accurate, as discrepancies between the applicant's declaration and official court records can result in RFEs or denials based on credibility concerns.[6][7][10][30]

Rehabilitation and Character Evidence

All I-192 applications should include evidence demonstrating rehabilitation and character reformation related to the applicant's inadmissibility, with particular emphasis on evidence addressing criminal grounds if applicable.[6][7][27][42][43] Evidence of rehabilitation may include documentation of counseling, rehabilitation programs attended or completed, achievements in community service, letters of reference from community members, employers, educators, or religious leaders attesting to the applicant's changed character, documentation of steady employment, proof of family support and community ties, and evidence of contributions to the community.[6][7][27][42][43][46]

For applicants with criminal convictions, evidence of rehabilitation should clearly connect the type of rehabilitation to the nature of the underlying offense; for example, applicants with substance abuse-related offenses should provide documentation of substance abuse treatment and participation in recovery programs such as Alcoholics Anonymous or Narcotics Anonymous, while applicants with violence-related offenses should provide evidence of anger management counseling or domestic violence intervention programs.[27][43][46] Affidavits from third parties (family members, employers, community leaders, religious leaders) often carry more weight than self-serving declarations from the applicant and should be solicited whenever possible.[27][42][43][46]

Country Conditions and Victimization Documentation

All U visa applicants must include documentation supporting their claims of victimization by qualifying crimes, which may include law enforcement reports, case files, witness statements, medical records documenting injuries, psychological evaluations addressing trauma, employment records documenting wage theft or labor violations, and other evidence corroborating the crime committed against them.[10][27][43] For applicants whose U visa eligibility is based on trafficking victimization, specialized documentation such as trafficking victim assessment forms, evidence of labor trafficking (such as wage statements, communications with the trafficker, evidence of controlled living conditions), or evidence of commercial sexual exploitation

may be required.[10][27][43]

Additionally, for applicants from countries experiencing gang violence, persecution, or other crime victimization situations, country conditions documentation from authoritative sources such as the State Department Country Report on Human Rights Practices, Human Rights Watch reports, Amnesty International reports, or UNHCR assessments may strengthen arguments that denial of the waiver would deprive the applicant of access to justice for crimes committed against them.[27][43]

Documentation of Family Relationships and Ties to the United States

Where the applicant has family members in the United States who are U.S. citizens or lawful permanent residents, documentation of those relationships through birth certificates, marriage certificates, divorce decrees, and family photographs can support discretionary waiver arguments based on family unity.[27][43] Evidence of employment history in the United States, property ownership or rental agreements, educational enrollment, medical relationships with U.S. healthcare providers, and organizational memberships all demonstrate ties to the United States and can support arguments that the applicant warrants discretionary relief.[27][43][46]

Post-Approval Inadmissibility and Travel Implications

Triggering New Grounds of Inadmissibility After I-192 Approval

One of the most challenging practical scenarios practitioners face involves U visa holders who, after receiving approval of their I-192 waiver and being granted U nonimmigrant status, subsequently trigger a new ground of inadmissibility through conduct or circumstances unknown at the time of initial waiver approval.[15][18][19] This scenario most commonly arises when an applicant departs the United States after being granted U status, thereby triggering the unlawful presence bars under INA § 212(a)(9)(B), or when an applicant is arrested for a new offense creating an additional criminal inadmissibility ground.[15][18][19] The regulation at 8 CFR § 214.14(h)(2)(B) permits USCIS to revoke U nonimmigrant status granted in error at any time, and provides that U status may be revoked if the applicant is found to have been inadmissible at the time of the grant of status and was granted status without a required waiver, or if the applicant has been convicted of certain serious crimes, has misrepresented material facts in the U visa application, or has unreasonably refused to cooperate with law enforcement.[15][18][19][37]

When an applicant in U status departs the United States and triggers a new ground of inadmissibility such as the unlawful presence bars, the applicant must file a new Form I-192 waiver prior to attempting reentry into the United States.[12][15][18][19][37][38] Practitioners must immediately counsel clients in this situation to file the supplemental waiver and to remain outside the United States during the adjudication of that waiver, as attempting to reenter without the waiver will result in the applicant being found inadmissible at the port of entry.[12][15][18][19] This scenario is particularly complicated when it involves applicants who have accrued the maximum four-year validity period of U nonimmigrant status and are attempting to file for adjustment of status, as the applicant must be continuously physically present in the United States for the three-year period required for adjustment, and any departure triggering the unlawful presence bars can break that continuous physical presence.[15][18][19]

Filing a Supplemental Waiver for Post-Approval Inadmissibility

If an applicant with a pending I-918 and I-192 subsequently discovers or discloses an additional inadmissibility ground not included in the original I-192, practitioners should file a supplemental request with USCIS requesting amendment of the pending I-192 to include the new ground, rather than allowing USCIS to

discover the ground through its own review.[15][18][19] This supplemental request should include a cover letter explaining the newly discovered ground, a written statement from the applicant detailing the additional inadmissibility ground and requesting that it be waived, a new declaration from the applicant explaining the omission or the new ground, a copy of the receipt notice for the principal applicant's I-918, and any supporting documentation related to the new ground (such as certified court records if a criminal conviction is involved, or evidence of mitigating circumstances).[15][18][19]

After U visa approval and admission to U status, if an applicant discovers that an inadmissibility ground was not properly waived prior to approval, USCIS's position regarding "nunc pro tunc" waiver requests (requests for waiver "of the same date" or retroactively) has become increasingly restrictive in recent years.[15][18][19] While USCIS has indicated on some occasions that it would consider nunc pro tunc waiver requests on a case-by-case basis, numerous practitioner reports indicate that USCIS has denied nunc pro tunc requests on the ground that the applicant no longer holds U status after adjustment of status to permanent residence, or has questioned whether a retroactive waiver is appropriate for grounds that should have been addressed prior to the initial U visa approval.[15][18][19][37] The safest practice remains to comprehensively identify and seek waiver of all potential inadmissibility grounds prior to U visa approval, in order to avoid the need for subsequent nunc pro tunc relief.[15][18][19]

Adjustment of Status and Re-Adjudication of Inadmissibility Grounds

A separate critical issue that has emerged in recent USCIS practice involves the re-adjudication of inadmissibility grounds that were previously waived during the U visa petition stage when the applicant later files for adjustment of status under INA § 245(m).[15][18][36][37][43] While INA § 245(m) does not explicitly require applicants to be admissible at the time of adjustment (unlike most other immigrant visa categories), the regulation at 8 CFR § 245.24(b)(2)(i) requires that applicants for U-based adjustment "have been lawfully admitted to the United States as either a U-1, U-2, U-3, U-4, or U-5 nonimmigrant." [15][18][37][43] USCIS has on occasion interpreted "lawful admission" to require that all inadmissibility grounds have been properly waived prior to the grant of U status, and has issued RFEs or NOIDs during the adjustment stage requesting evidence addressing inadmissibility grounds that were not waived during the original U visa adjudication.[15][18][37][43]

Practitioners confronting these RFEs or NOIDs at the adjustment stage should argue that: (1) the regulation at 8 CFR § 245.24(b) does not impose an admissibility requirement for U-based adjustment, as it requires only "lawful admission" in U status, not admissibility under the INA § 212(a) grounds; (2) re-adjudication of grounds of inadmissibility at the adjustment stage, after the applicant has already established U nonimmigrant status based on victimization and cooperation with law enforcement, constitutes an abuse of discretion; (3) the standard for adjustment under INA § 245(m) explicitly permits approval "on humanitarian grounds, to ensure family unity, or [when the denial] is in the public interest," a standard that explicitly permits equitable considerations to override strict admissibility requirements; and (4) forcing applicants to relitigate grounds of inadmissibility at the adjustment stage that were already addressed during the U visa petition stage imposes an unreasonable burden on crime victims.[15][18][37][43] These arguments have succeeded in some cases but have been rejected in others, indicating that the issue remains unsettled in USCIS practice and may ultimately require judicial resolution.[15][18][37][43]

Practical Implementation: Processing, Procedures, and Case Management

Bona Fide Determination and Deferred Action

In recognition of the lengthy processing times for U visa petitions, USCIS established the bona fide

determination (BFD) process in June 2021, under which USCIS may grant temporary employment authorization and deferred action to applicants with pending U visa petitions while those petitions remain under review.[56] The BFD process requires that the applicant have properly filed a complete Form I-918 with all required initial evidence, except the Form I-192 (which USCIS will not require to be complete for the BFD determination), including a properly completed Form I-918 Supplement B certification, a personal statement from the applicant, and USCIS receipt of the applicant's biometric services appointment.[56]

If USCIS determines that the petition is bona fide and the applicant warrants a favorable exercise of discretion based on non-national security risk factors, USCIS will grant deferred action and issue an EAD to the principal applicant for a four-year period.[56] This deferred action and EAD issuance is significant, as it permits the applicant to remain in the United States and obtain employment authorization while the underlying I-918 and I-192 remain pending, and does not require complete and final adjudication of the I-192 prior to the grant of work authorization.[56] Practitioners should affirmatively request BFD consideration in the cover letter accompanying the I-918 if the applicant meets the requirements and would benefit from early grant of employment authorization.[56]

Response to Requests for Evidence and Notices of Intent to Deny

USCIS frequently issues Requests for Evidence (RFEs) in U visa cases, either because initial documentation is incomplete or because USCIS requires additional evidence addressing discretionary factors, inadmissibility grounds, or the strength of the applicant's cooperation with law enforcement.[15][18][19][27][43] The RFE will specify the additional evidence required and establish a deadline (typically 12-16 weeks) for submission of the response.[15][18][19] Practitioners should develop a comprehensive response that precisely addresses each question raised in the RFE, provides all requested documentation, and includes a supplemental narrative statement explaining how the newly submitted evidence addresses the agency's concerns.[15][18][19][27][43]

In cases where USCIS issues a Notice of Intent to Deny (NOID) rather than an RFE, the notice will indicate that USCIS is inclined to deny the application based on specific deficiencies, and will provide an opportunity to submit additional evidence or arguments explaining why the application should not be denied.[15][18][19] A NOID is more serious than an RFE, as it indicates that USCIS has already made a preliminary decision to deny, and the applicant's response should include not only additional evidence but also detailed legal arguments explaining why the NOID basis for denial is erroneous or does not warrant denial.[15][18][19][43]

Heightened Scrutiny for Criminal Grounds and Strategic Evidence Submission

Where an RFE addresses criminal grounds of inadmissibility, practitioners should anticipate heightened scrutiny and be prepared to submit comprehensive evidence of rehabilitation, changed character, family unity, and humanitarian circumstances.[27][43][46] Rather than submitting all evidence simultaneously with the initial application in criminal cases, some practitioners employ a strategic approach of withholding certain strong pieces of discretionary evidence for submission in response to an RFE, based on the theory that the evidence will be more persuasive when submitted in direct response to USCIS's expressed concerns.[43][46] This strategy carries risk, however, as it may be perceived as evidence spoliation or strategic withholding, and may result in USCIS viewing the delayed submission as evidence that the strongest evidence was not available at the time of initial filing.[27][43]

A more prudent approach is to submit all significant evidence with the initial application, while also maintaining reserve materials that can be submitted in response to an RFE if necessary.[27][43] This approach demonstrates that the applicant has made a comprehensive presentation at the outset while maintaining flexibility to respond to specific agency concerns with additional tailored evidence.[27][43]

Northern California Practice Considerations

San Francisco Immigration Court and Removal Proceedings Context

While Form I-192 waivers are primarily adjudicated by USCIS at the Vermont Service Center during the pendency of U visa petitions, practitioners in Northern California must also consider the possibility that clients may be in removal proceedings before the San Francisco Immigration Court or other Northern California immigration judges.[9][10][27] In removal proceedings, an applicant may seek to have an immigration judge exercise discretion to waive inadmissibility grounds under the less generous INA § 212(d)(3) standard, rather than pursuing the INA § 212(d)(14) waiver for U visa applicants.[5][27] Some circuit courts, including the Seventh Circuit in *L.D.G. v. Holder*, have held that immigration judges may have jurisdiction over I-192 waivers for U visa applicants, though the Ninth Circuit (controlling in Northern California) has not definitively resolved this question.[9][27]

Practitioners representing U visa applicants in removal proceedings in Northern California should file the I-918 petition contemporaneously with the removal proceedings and file a motion to continue the removal hearing to allow adequate time for adjudication of the U visa petition.[9][27] Additionally, filing the I-192 concurrent with the I-918 at USCIS may be preferable to requesting an immigration judge exercise waiver authority, as the USCIS INA § 212(d)(14) standard is more favorable than the § 212(d)(3) standard that immigration judges would apply.[5][9][27]

California State Law Protections and Conviction Modification

Practitioners representing U visa applicants in Northern California should also consider available state law remedies under California Penal Code § 1473.7 (Petition to Vacate Conviction on Grounds of Ineffective Assistance of Counsel or Prosecutorial Misconduct with Immigration Consequences) and PC § 1203.43 (Relief from Firearm Restrictions Based on Diminished Capacity Findings with Immigration Implications).[48] If an applicant's criminal conviction was obtained with ineffective assistance of counsel or based on prosecutorial misconduct and had immigration consequences, practitioners may seek vacatur of the conviction under PC § 1473.7, which could eliminate the criminal inadmissibility ground entirely and obviate the need for an I-192 waiver.[48] This approach is preferable to relying on a discretionary waiver, as it resolves the inadmissibility ground permanently rather than creating a continuing risk of revocation or re-adjudication.[48]

Conclusion and Strategic Recommendations

The Form I-192 waiver mechanism for U visa applicants represents a critical procedural tool that Congress has deliberately structured to be more favorable to victimized immigrants than the general nonimmigrant waiver standard available to other visa categories. The statutory framework at INA § 212(d)(14) and its regulatory implementation at 8 CFR § 212.17 establish the national or public interest standard as the governing threshold for waiver approval, with the significant exception that violent or dangerous crimes require demonstration of extraordinary circumstances. Practitioners representing U visa applicants confronting inadmissibility must understand that the I-192 waiver is a discretionary determination not subject to appeal, but that filing the waiver concurrent with the I-918 petition is standard practice and that comprehensive documentation of rehabilitation, family unity, victimization, and humanitarian grounds substantially enhances the likelihood of approval.

Key strategic recommendations for practitioners:

First, conduct thorough inadmissibility analysis prior to filing any U visa petition, identifying all grounds that

apply or potentially apply, as incomplete disclosure at the initial stage creates substantial risk of denial or subsequent revocation.[5][10][27]

Second, file the I-192 concurrent with the I-918 at the Vermont Service Center, utilizing the general national or public interest standard established in INA § 212(d)(14) rather than the more restrictive INA § 212(d)(3) standard, and explicitly assert in the cover letter and application narrative that § 212(d)(14) applies.[5][10][27][43]

Third, submit comprehensive evidence of rehabilitation, family unity, victimization, and humanitarian grounds with the initial I-192 application, rather than withholding evidence for later response to RFEs, to maximize the strength of the initial presentation.[27][43]

Fourth, if criminal grounds are at issue, anticipate heightened scrutiny under the extraordinary circumstances standard and prepare a detailed narrative explaining why the applicant's circumstances exceed the typical case and warrant the exercise of favorable discretion.[27][43][46]

Fifth, carefully track any new inadmissibility grounds that may be triggered after I-192 approval and immediately file supplemental waiver requests to address newly discovered or newly triggered grounds, in order to avoid subsequent revocation or denial of adjustment of status applications.[15][18][19]

Sixth, coordinate with criminal defense counsel regarding possible state court remedies under PC § 1473.7 or other provisions that could eliminate the underlying criminal conviction and thereby eliminate the need for a discretionary waiver.[48]

Finally, counsel clients regarding the availability of deferred action and employment authorization through the bona fide determination process while the I-918 and I-192 remain pending, and file a request for BFD consideration in appropriate cases to provide immediate work authorization during the extended processing period.[56]

Navigating the I-192 waiver process requires meticulous attention to statutory detail, comprehensive understanding of USCIS discretionary standards, and strategic deployment of evidence and legal arguments tailored to the applicant's specific circumstances. The legal framework provides meaningful relief for victimized immigrants with inadmissibility grounds, but only when practitioners understand the standards, procedural requirements, and practical limitations that govern these critical determinations.

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