

# **USCIS Form I-929 Petition for Qualifying Family Members of U Nonimmigrant Status Holders: A Legal Analysis**

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February 3, 2026

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## FINDINGS

# USCIS FORM I-929 PETITION FOR QUALIFYING FAMILY MEMBERS OF U NONIMMIGRANT STATUS HOLDERS: A COMPREHENSIVE LEGAL ANALYSIS

### Overview and Key Findings

The Form I-929 petition process represents a critical mechanism for U nonimmigrant status holders to bring qualifying family members into lawful permanent resident status after the principal has achieved adjusted status. Unlike the derivative U nonimmigrant visa route available through Form I-918A, the I-929 process applies exclusively to family members who never held U nonimmigrant status and provides an alternative pathway to permanent residence at the adjustment stage rather than the initial petition stage. This report provides comprehensive guidance on eligibility criteria, extreme hardship standards, discretionary considerations, filing procedures, and practical implementation strategies for practitioners representing both U visa principals and their qualifying family members. The critical distinction between I-929 and I-918A petitions centers on timing, eligibility categories, and the absence of age-out protections in the I-929 context, creating significant time-sensitive considerations for families separated at the initial petition stage or those whose circumstances changed after the principal's U visa approval.

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### Statutory and Regulatory Framework

#### Foundational Statutory Authority

The I-929 petition authority derives from section 245(m)(3) of the Immigration and Nationality Act, which provides that upon approval of an adjustment of status application for a principal U nonimmigrant, the Secretary of Homeland Security may adjust the status or issue an immigrant visa to a spouse, a child, or in the case of an alien child, a parent who did not receive derivative U visa status under section 101(a)(15)(U)(ii) of the INA.[1][10] This statutory provision represents a narrowly tailored exception to the standard derivative visa framework, permitting principal U-1 visa holders a second opportunity to include certain family members in their immigration benefit, provided those family members never previously held U nonimmigrant status themselves.[1]

The fundamental prerequisite under the statute is that the family member must not have been admitted to the United States as a U-1, U-2, U-3, U-4, or U-5 nonimmigrant.[1] This requirement distinguishes the I-929 process from the I-918A derivative route and prevents double-dipping of immigration benefits for family members who were already included as derivatives. The statutory framework also requires that the qualifying family member be in one of the specified categories-spouse, child, or parent of a U-1 principal child-and that the relationship continue throughout the adjudication process.

#### Regulatory Framework: 8 C.F.R. § 245.24

The implementing regulations governing I-929 petitions are found primarily in 8 C.F.R. § 245.24(g) and (h), which establish the eligibility criteria, required documentation, and adjudication standards.[2][19][22][35] Under 8 C.F.R. § 245.24(a)(2), a "qualifying family member" is defined as a U-1 principal applicant's spouse, child, or in the case of an alien child, a parent who has never been admitted to the United States as a nonimmigrant under sections 101(a)(15)(U) and 214(p) of the Act.[19][22]

The regulation at 8 C.F.R. § 245.24(g) delineates the foundational filing requirements, establishing that a principal U-1 applicant may file an immigrant petition on behalf of a qualifying family member provided that the qualifying family member has never held U nonimmigrant status; the qualifying family relationship exists at the time of the U-1 principal's adjustment and continues to exist through the adjudication of the adjustment or issuance of the immigrant visa for the qualifying family member; the qualifying family member or the principal U-1 alien would suffer extreme hardship if the qualifying family member is not allowed to remain in or enter the United States; and the principal U-1 alien has adjusted status to that of a lawful permanent resident, has a pending application for adjustment of status, or is concurrently filing an application for adjustment of status.[2][19][22]

The procedural requirements under 8 C.F.R. § 245.24(h) specify the required documents for I-929 petitions, including the Form I-929 completed in accordance with form instructions, the applicable fee or a fee waiver application, evidence of the qualifying relationship such as birth or marriage certificates with secondary evidence or affidavits permissible if primary evidence is unavailable, and evidence establishing that either the qualifying family member or the U-1 principal alien would suffer extreme hardship if the qualifying family member is not allowed to remain in or enter the United States.[2][35][44]

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## **Eligibility and Qualifying Relatives: Scope and Limitations**

### **Who May Be Petitioned: Principal Age-Based Categories**

The I-929 eligibility framework is bifurcated based on the principal U nonimmigrant's age at the time of adjustment, mirroring the derivative visa categories but with critical differences. If the principal U nonimmigrant is under 21 years of age at the time of adjustment, the principal may file I-929 petitions on behalf of spouse, unmarried children under 21 years of age, and parent(s).[1][4][7][27][45] If the principal U nonimmigrant is 21 years of age or older, the principal may file I-929 petitions on behalf of spouse and unmarried children under 21 years of age.[1][4][7][27][45]

A critical limitation applies across both categories: regardless of the age of the principal U nonimmigrant, the principal cannot file a Form I-929 on behalf of a sibling.[1][4][27][31][43][45] This prohibition represents a significant departure from the derivative visa framework, where principal applicants under 21 years of age can include unmarried siblings under 18 years of age on their U visa petitions. The rationale for excluding siblings from I-929 eligibility reflects the statutory language limiting the I-929 process to spouse, child, or (for child principals) parent relationships.

### **Definition of "Unmarried Child" and "Spouse"**

The term "unmarried child" in the I-929 context applies to biological children, adopted children, stepchildren, and children born outside of wedlock where a bona fide parent-child relationship was established before the child reached 21 years of age.[1][7] The "unmarried" requirement is jurisdictionally absolute and is not waived by passage of time; children must remain unmarried until the I-929 is approved and the beneficiary's own adjustment of status (or immigrant visa issuance) is complete.[33][36] Unlike derivative visa provisions where marriage after derivative status approval does not jeopardize adjustment eligibility, there is no "marry-out" protection in the I-929 framework.

The definition of "spouse" encompasses individuals in a valid marriage to the principal at the time of the principal's adjustment of status. Notably, unlike certain other family-based categories, a spouse acquired after the principal's U-1 visa approval but before the principal's adjustment of status remains eligible for I-929

petitioning.[1][4][59] This represents an important practical advantage of the I-929 process compared to the I-918A route, which requires that family relationships exist before the U visa is filed.

### **The Never-Held-U-Status Requirement**

The requirement that the qualifying family member has never held U nonimmigrant status is absolute and non-waivable.[1][4][7][27][31] This preclusion applies regardless of whether the family member was previously included as a derivative on the principal's original U-918 petition or whether the family member applied for independent U visa status prior to the principal's adjustment. The intent of this requirement is to prevent a single family member from receiving two separate grants of U visa status or from obtaining derivative benefits outside the usual derivative framework.

The practical application of this requirement has created strategic considerations in practice. Family members included as derivatives on the original U-918 petition are permanently ineligible for I-929 petitioning, even if their derivative status was denied, abandoned, or never adjudicated. Practitioners must therefore carefully counsel principals who wish to include family members at the adjustment stage regarding whether to prioritize including such family members as I-918A derivatives at the initial petition stage or preserving them for potential I-929 petitioning at adjustment. This decision matrix depends heavily on the timing considerations, the age of the qualifying family member, and whether the family relationship existed at the time of the original U-918 petition.

### **Family Relationship Continuity Requirement**

The regulation at 8 C.F.R. § 245.24(g)(2) requires that the qualifying family relationship exists at the time of the U-1 principal's adjustment and continues to exist through the adjudication of the adjustment or issuance of the immigrant visa for the qualifying family member.[2][4][31][43] This requirement means, for example, that if the principal marries or has a child after adjusting status, the principal could not file a Form I-929 on behalf of the spouse or child because the relationship did not exist at the time of adjustment.[4][31][43]

Conversely, the relationship must continue through the complete adjudication process. If a spouse is divorced before the I-929 is approved, or if a child exceeds age 21 before the I-929 is approved (for child beneficiaries), the petition becomes ineligible for approval. The temporal endpoints of the required relationship are therefore clearly defined: existence at principal adjustment and continuation through qualifying family member adjustment/visa issuance.

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## **The Extreme Hardship Standard: Analysis and Application**

### **The Extreme Hardship Requirement Under 8 C.F.R. § 245.24(h)(1)(iv)**

The I-929 petition must be accompanied by evidence establishing that either the qualifying family member or the U-1 principal alien would suffer extreme hardship if the qualifying family member is not allowed to remain in or enter the United States.[2][19][35][44] Extreme hardship is evaluated on a case-by-case basis, taking into account the particular facts and circumstances of each case, and no single factor taken in isolation need rise to the level of extreme hardship when the aggregate of factors demonstrates extreme hardship.[1][3][4][20][31][33]

The regulatory definition specifies that where the qualifying family member is physically present in the United States, the applicant must demonstrate that removal of the qualifying family member would result in a degree of hardship beyond that typically associated with removal.[2][19][35] This formulation establishes a threshold

requirement: the hardship must exceed the ordinary consequences of family separation or relocation. Ordinary consequences include family separation itself, economic detriment, difficulties of readjusting to life in the foreign country, quality and availability of educational opportunities abroad, and inferior quality of medical services and facilities.[3][6]

### **Enumerated Hardship Factors Under Regulation**

The regulation identifies specific factors that may be considered in evaluating whether removal or exclusion would result in extreme hardship to the alien or to the alien's qualifying family member.[2][19][35][44] These factors include the type and degree of the physical or mental abuse suffered as a result of being a victim of crime or as a result of the crime that is the subject of the U visa petition; the effect on the U-1 principal alien or the qualifying family member of losing access to the United States courts or criminal justice system; the probability that the perpetrator's family, friends, or others acting on behalf of the perpetrator in the home country would harm the applicant or the applicant's children; the applicant's needs for social, medical, mental health, or other supportive services for victims of crime that are unavailable or not reasonably accessible in the home country; in domestic violence cases, the existence of laws and social practices in the home country that punish the applicant or the applicant's child(ren) because they have been victims of domestic violence or have taken steps to leave an abusive household; the perpetrator's ability to travel to the home country and the ability and willingness of authorities in the home country to protect the applicant or the applicant's children; and the age of the applicant, both at the time of entry to the United States and at the time of application for adjustment of status.[2][19][35][44]

Beyond these enumerated categories, applicants are encouraged to document all applicable factors in their applications, as the presence or absence of any one factor may not be determinative in evaluating extreme hardship.[1][2][19][33][35] Evidence demonstrating extreme hardship may relate to the extent of abuse suffered, the impact of loss of access to the U.S. social justice system, social practices and likelihood of harm in the home country, the applicant's need for services in the United States, and the age of the applicant.[27] The regulation provides specific guidance that family ties, social and cultural issues, economic issues, health conditions and care, and country conditions represent particularly relevant categories of analysis.[3]

### **The Heightened "Exceptional and Extremely Unusual Hardship" Standard**

Under 8 C.F.R. § 245.24(h)(1)(v), if there are serious adverse factors weighing against the approval of the Form I-929, the evidence may have to rise to establishing "exceptional and extremely unusual hardship" that would result if the petition were to be denied.[2][4][20][31][35][44] This heightened standard represents a significant prosecutorial defense mechanism available to USCIS where a qualifying family member has committed a serious violent crime, a crime involving sexual abuse of a child, multiple drug-related crimes, or where there are security or terrorism-related concerns regarding the applicant.[20][31][35]

Critically, even if an applicant sustains the burden of establishing exceptional and extremely unusual hardship, USCIS may still deny the petition notwithstanding the hardship showing, depending on the severity of the adverse factors.[2][4][20][31][35][44] This language represents a discretionary override mechanism that prevents hardship evidence from providing an absolute guarantee of approval when serious adverse factors are implicated. The regulation therefore establishes a tiered approach: where adverse factors are absent or minimal, extreme hardship suffices; where adverse factors exist, the standard rises to exceptional and extremely unusual hardship; and even exceptional and extremely unusual hardship may be insufficient if the adverse factors are of sufficient gravity.

### **Discretion and Favorable Exercise of Discretion**

Under 8 C.F.R. § 245.24(h)(1)(v), the Form I-929 must be accompanied by a signed statement from the qualifying family member and other supporting documentation to establish that the qualifying family member warrants the favorable exercise of discretion.<sup>[2][19][35][44][45]</sup> Although qualifying family members are not required to establish that they are admissible on any of the grounds set forth in section 212(a) of the INA other than on section 212(a)(3)(E) (relating to participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing), USCIS may take into account all factors, including acts that would otherwise render the applicant inadmissible, in making its discretionary decision on the application.<sup>[2][19][35][44]</sup>

Where adverse factors are present, an applicant may offset these by submitting supporting documentation establishing mitigating equities that the applicant wants USCIS to consider when determining whether favorable exercise of discretion is appropriate.<sup>[2][19][35][44][45]</sup> The adverse factor categories requiring heightened scrutiny include criminal convictions (particularly violent crimes, crimes involving sexual abuse of children, or multiple drug-related offenses), security-related concerns, fraud or misrepresentation in immigration matters, and other factors reflecting on moral character or immigration law compliance.

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## **Filing Procedures and Operational Requirements**

### **Timing of Filing and Concurrent Filing Options**

The I-929 can be filed after the U-1 has adjusted status, when the U-1 has a pending I-485 application for adjustment of status, or concurrently with the U-1's I-485 application.<sup>[1][8][18][23][32][49][56]</sup> However, critically important is the restriction that the I-929 cannot be approved unless or until the U-1's I-485 is granted.<sup>[1][4][8][18][23][32][35][49][56]</sup> This requirement means that even if an I-929 is filed and thoroughly reviewed while the principal's I-485 is pending, USCIS will not issue an approval notice for the I-929 until after the principal's adjustment of status is approved.

The timing implications are significant: a principal who files I-929 for multiple family members must do so serially (one form per family member) or by filing multiple I-929 forms concurrently. If the I-929 is filed prior to the principal U-1 nonimmigrant being granted adjustment of status, and if the principal U-1 nonimmigrant's application for adjustment of status is then denied or withdrawn, the Form I-929 will be denied automatically with no grounds for appealing such automatic denial.<sup>[4][10][20][31][43]</sup>

### **Concurrent Filing Restrictions for Qualifying Family Members' Adjustments**

Notably, concurrent filing of the I-929 and the qualifying family member's I-485 is not permitted.<sup>[8][18][23][49][56]</sup> The qualifying family member must wait for I-929 approval before filing their own I-485 application. This sequential requirement creates a timing bottleneck where qualifying family members who are present in the United States must wait for both the principal's I-485 approval and then the I-929 approval before they can file their own adjustment applications. For qualifying family members abroad seeking consular processing, the process proceeds through the National Visa Center after I-929 approval.

### **Filing Fee and Current Costs**

The Form I-929 filing fee is currently \$215, with applicants able to request fee waivers if they meet the fee waiver income criteria under 8 C.F.R. § 106.2.<sup>[1][27][45]</sup> Historical fee notices reference earlier amounts of \$230 as of 2016, demonstrating that the fee has been adjusted within the past decade.<sup>[4][10][31][43]</sup> The fee waiver application uses Form I-912 and follows standard USCIS fee waiver procedures allowing applicants to

establish inability to pay through submission of income documentation and household size information.

### **Required Documentation and Evidence**

For each qualifying family member, the principal must submit the following required documents in accordance with 8 C.F.R. § 245.24(h)(1)(i)-(v): the Form I-929 completed in accordance with form instructions; the fee prescribed in 8 C.F.R. § 106.2 or an application for a fee waiver; evidence of the qualifying relationship such as a birth certificate or marriage certificate, with primary evidence preferred but secondary evidence or affidavits permissible if primary evidence is unavailable; evidence establishing that either the qualifying family member or the U-1 principal alien would suffer extreme hardship if the qualifying family member is not allowed to remain in or enter the United States; and a signed statement from the qualifying family member and other supporting documentation to establish that the qualifying family member warrants favorable exercise of discretion.[2][19][35][44][45]

The evidence of qualifying relationship must specifically address the nature of the family relationship. For spouses, the petition should include a copy of the marriage certificate, evidence showing the termination of any prior marriages, and evidence of any legal name changes.[1][7][29][30] For children of the principal, documentation varies depending on whether the child was born in wedlock, born outside of wedlock with paternity established, adopted, or placed as a stepchild. For parents of the principal, the petition should include the principal's birth certificate showing the parent's name and identifying information, the parent's marriage certificate establishing the parent was married to the principal's other parent before the principal's birth, and evidence showing the termination of any prior marriages.[1][7][29][30]

All documents must be recently taken clear photographs of the family member for whom the petition is being filed. Non-English language documents must be translated into English.[1][7][29][30] The evidence packet should also include the principal's proof of LPR status or evidence of a pending I-485 based on U nonimmigrant status, such as approval of the Form I-918 petition and a receipt notice showing that the Form I-485 has been filed with USCIS.[1][7][29][30]

### **Filing Location**

The principal U nonimmigrant files Form I-929 with the USCIS service center having jurisdiction over the principal's case. Historically, principals have filed I-929 petitions with the USCIS Vermont Service Center (VSC) and USCIS Nebraska Service Center (NSC) depending on geographic jurisdiction.[57] Current filing locations should be verified through the USCIS website and form instructions to ensure compliance with any updates to service center jurisdictional divisions.

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## **Adjustment of Status and Post-Approval Procedures**

### **Adjustment of Status Process for Qualifying Family Members In the United States**

Upon I-929 approval, qualifying family members physically present in the United States become eligible to file their own Form I-485 applications for adjustment of status to lawful permanent resident status.[1][4][8][23][31][45][49] The qualifying family member must demonstrate that they have continuous physical presence for 3 years, as defined in the U nonimmigrant adjustment regulations, for purposes of adjustment under INA section 245(m).[2][8][23][32][45][49][55][56]

The qualifying family member's I-485 must include an approved Form I-929, proof of the principal's U nonimmigrant status and adjustment to LPR status, medical examination results from a USCIS-designated

civil surgeon, two passport-style photographs, the filing fee (currently \$985 for the application fee plus \$85 biometric fee, with fee waiver options available), and supporting documentation of admissibility or evidence for discretionary approval where adverse factors exist.[2][8][19][35][44][45][55][56]

Importantly, the approval of the Form I-929 does not guarantee the subsequent approval of the Form I-485.[4][10][20][31][43] The qualifying family member's I-485 application is subject to a separate discretionary determination under 8 C.F.R. § 245.24(i)(2), meaning that USCIS will conduct an independent review of admissibility and discretionary factors when adjudicating the qualifying family member's adjustment application. Additionally, the applicant must maintain their relationship to the U-1 principal alien and, if a child, must remain under 21 years of age at the time the adjustment of status application is fully adjudicated.[4][10][20][31][43]

### **Consular Processing for Qualifying Family Members Abroad**

Where a Form I-929 is approved and the qualifying family member is outside the United States, USCIS will forward notice of the approval either to the Department of State's National Visa Center (NVC) so that the applicant can apply to the consular post for an immigrant visa, or to the appropriate port of entry for a visa-exempt alien.[2][8][19][35][44] The beneficiary is classified in the SU category, which is not numerically limited, meaning there is no wait time associated with the SU visa category and no backlogs from the overall 10,000 U visa annual cap.[14][20][27][43][45]

The consular processing procedure involves several steps. Once USCIS forwards the I-929 approval to NVC, the beneficiary will receive a "Welcome" email and/or letter with an NVC case number, invoice, and instructions to access the Consular Electronic Application Center (CEAC) website.[17] The beneficiary then pays immigrant visa fees and completes Form DS-260 (Immigrant Visa Application) and Form I-864W (Affidavit of Support exemption certificate, as no affidavit of support is required for SU visas). After NVC receives all required information, the beneficiary receives interview instructions and an interview date at the nearest U.S. embassy or consulate.[17][20][27][45] The beneficiary must complete medical examination through an approved panel physician, register for courier service, and gather all required supporting documentation before the interview.

At the consular interview, the beneficiary brings the appointment letter, passport, two passport-style photographs, DS-260 confirmation page, and supporting documents. If approved, the beneficiary receives a passport with the immigrant visa and a sealed packet for U.S. Customs and Border Protection. The beneficiary must enter the United States with this visa before its expiration, typically within six months, or before their 21st birthday, whichever is earlier.[14][17][20][27][43][45]

### **Critical Age-Out Limitations**

Unlike U visa derivatives who benefit from age-out protections under VAWA 2013, there are NO age-out protections in the I-929 process.[1][8][18][23][32][36][49][56] For beneficiaries in the United States, both the I-929 and the qualifying family member's I-485 must be approved before the beneficiary turns 21. For beneficiaries abroad pursuing consular processing, the immigrant visa must be issued and the beneficiary must enter the United States before turning 21.[1][8][18][23][32][36][49][56] This creates substantial time pressure on I-929 cases involving child beneficiaries approaching age 21, as processing delays can result in age-out before approval.

The absence of age-out protection was confirmed in an unpublished Administrative Appeals Office (AAO) decision, Matter of C-J-C-A, where the AAO held that an individual who was the beneficiary of an I-929 petition and who aged out before being able to adjust status was ineligible for adjustment.[20][31][43] This

decision reflects USCIS's strict interpretation that age-out protection under VAWA 2013 applies only to U-918A derivative visa recipients, not to I-929 beneficiaries.

### **Work Authorization During Pending Adjustment**

Qualifying family members with pending I-485 applications based on approved I-929 petitions can obtain work permits (Employment Authorization Documents) by filing Form I-765 under the (c)(9) category for adjustment of status applicants.[1][8][18][23][32][49][56] Form I-765 filing is optional but strategic, as it provides work authorization while the I-485 is pending. However, no EAD is available at the time of I-929 approval; work authorization only becomes available after the I-929 is approved and an I-485 is filed.

As of December 5, 2025, significant changes to EAD policy became effective, with the maximum EAD validity period for adjustment of status applicants (C09 category) reduced to 18 months, and automatic EAD extensions ended for applications filed on or after October 30, 2025.[15][42] This means qualifying family members must file timely EAD renewals or face gaps in work authorization if their I-485 processing extends beyond the EAD validity period.

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### **Admissibility Requirements and Discretionary Standards**

#### **Admissibility for I-929 Beneficiaries: Narrowed Grounds**

Unlike U-918A derivative visa recipients who are subject to full admissibility requirements (except public charge), qualifying family members adjusting on the basis of an approved I-929 are not required to establish that they are admissible on any of the grounds set forth in section 212(a) of the INA except for section 212(a)(3)(E), relating to participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing.[2][19][35][44][45][56] This narrowed inadmissibility framework represents a substantial advantage in the I-929 context compared to other adjustment categories.

However, USCIS may take into account all factors, including acts that would otherwise render the applicant inadmissible, in making its discretionary decision on the application.[2][19][35][44] This means that while the qualifying family member is not technically required to waive inadmissibility grounds that would normally bar adjustment, USCIS will consider negative factors (such as prior criminal convictions, fraud, or immigration law violations) as discretionary considerations weighing against approval.

#### **Role of Discretion Where Adverse Factors Exist**

Where adverse factors are present, the qualifying family member must submit supporting documentation establishing mitigating equities for USCIS consideration when determining whether favorable exercise of discretion is appropriate.[2][19][35][44] The regulation provides that depending on the nature of the adverse factors, the applicant may be required to clearly demonstrate that the denial of adjustment of status would result in exceptional and extremely unusual hardship.[2][19][35][44][45] If there is serious criminal conduct, terrorism concerns, or other grave adverse factors, the regulatory language indicates that even exceptional and extremely unusual hardship may be insufficient to support approval.

USCIS guidance issued in August 2025 clarified that officers must weigh positive versus negative factors when discretion is required, and that any connection to terrorism, antisemitic extremism, or anti-American activity carries overwhelming negative weight.[37][40] Updated policy guidance indicates that officers will now conduct expanded social media vetting for immigration benefit applications to identify evidence of anti-American or antisemitic views, which will be treated as overwhelmingly negative discretionary

factors.[37][40] Legal compliance with immigration law, by contrast, remains an important positive discretionary factor.

### **Waiver Framework: Form I-192 Not Required for I-929 Adjustment**

A critical procedural distinction between I-929 and I-918A processes is that there is no waiver application (Form I-192) required for I-929 beneficiaries adjusting status.[1][8][18][23][32][45][49][56] Form I-192 waivers are available only for I-918A derivative visa recipients to overcome security-related grounds of inadmissibility under INA § 212(a)(3)(B), (C), and (F). For I-929 beneficiaries, the only ground of inadmissibility that cannot be waived is INA § 212(a)(3)(E) (Nazi persecution, genocide, torture, extrajudicial killing). All other grounds of inadmissibility are either not applicable (under the narrowed admissibility framework) or are addressed through the discretionary approval mechanism rather than formal waiver procedures.

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## **Strategic Comparisons: I-929 Versus I-918A Derivative Route**

### **Eligibility and Category Differences**

The I-929 route differs significantly from the I-918A derivative visa approach in terms of eligible family members and timing. For I-918A derivatives filed at the time of the U-918 petition, a principal under 21 years of age may include spouse, children, unmarried siblings under age 18, and parents.[1][8][18][23][32][46][49][56] A principal 21 years of age or older may include only spouse and children.[1][8][18][23][32][46][49][56] Conversely, for I-929 petitions, a principal under 21 years of age may include spouse, unmarried children under 21, and parents, while a principal 21 or older may include only spouse and unmarried children under 21, with siblings permanently ineligible.[1][8][18][23][32][46][49][56]

This means that siblings of principals under 21 are eligible as I-918A derivatives but cannot be included through the I-929 process at adjustment. Practitioners must strategically decide whether to include minor siblings as derivatives during the initial U-918 petition stage if they cannot do so at the I-929 adjustment stage. Similarly, parents of adult principals (over 21) cannot be included through either route, whereas parents of minor principals (under 21) can only be included as derivatives if included by the I-918A route or through I-929 at adjustment.

### **Timing and Procedural Differences**

The I-918A derivative route requires that family members be included before the principal adjusts status, and the derivative must be admitted into derivative U status before the U-1 adjusts.[1][8][18][23][32][49][56] The I-929 route allows inclusion at the adjustment stage or after adjustment, but the I-929 cannot be approved until after the principal's I-485 is approved.[1][8][18][23][32][49][56] These timing requirements create distinct strategic considerations.

A family member included as an I-918A derivative files concurrently with the I-918 principal petition, with the I-918A approved concurrently with the I-918, and the derivative then adjusts status independently after the principal adjusts.[1][8][18][23][32][49][56] The I-929 beneficiary, by contrast, must wait for both the principal's I-485 approval and then the I-929 approval before filing their own adjustment (or proceeding to consular processing).

### **Age-Out Protections**

Critically, I-918A derivative children receive age-out protection under VAWA 2013, whereby child derivatives are protected from aging out if the derivative child turns 21 while their U-1 parent's I-918 is pending.[1][8][18][23][32][46][49][56] I-929 beneficiaries receive NO such protection; child beneficiaries must remain under 21 through their own I-929 adjustment approval or immigrant visa issuance.[1][8][18][23][32][36][46][49][56]

This age-out difference represents perhaps the most significant distinction between the two routes. A child approaching age 21 should be included as an I-918A derivative if at all possible to obtain the age-out protection. Only if the family relationship did not exist at the time of the I-918 filing, or if the derivative inclusion was missed for other reasons, should such a child be pursued through the I-929 route, with full recognition that age-out will occur immediately upon turning 21 if the I-929 and child's adjustment are not both approved before that date.

### **Extreme Hardship Requirement**

I-918A derivative visa recipients are not required to demonstrate extreme hardship.[1][8][18][23][32][49][56] I-929 beneficiaries must demonstrate extreme hardship (or exceptional and extremely unusual hardship in cases with adverse factors) as a prerequisite for petition approval.[1][8][18][23][32][49][56] This represents a substantial additional burden for I-929 petitions compared to the derivative route.

### **Work Authorization and EAD Availability**

I-918A derivatives are eligible for an EAD upon I-918A approval (though they must file Form I-765 to obtain the actual document).[1][8][18][23][32][49][56] I-929 beneficiaries have no EAD available at the time of I-929 approval; work authorization only becomes available after I-929 approval and after the beneficiary files their own I-485 application.[1][8][18][23][32][49][56] This creates a work authorization gap for I-929 beneficiaries who must wait for sequential approvals.

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## **Processing Times, Backlogs, and Current Operational Status**

### **Current USCIS Processing Times**

As of February 2026, USCIS does not publish specific processing times for Form I-929 petitions. However, the latest available data from February 2025 indicates that USCIS processes approximately 80% of I-918A cases within 37 months, with the note that although the I-929 can be filed concurrently with the U-1's I-485, it will not be adjudicated unless and until the U-1's I-485 is approved.[49] This 37-month benchmark should be understood as reflective of the overall U visa processing timeline, which includes both the initial I-918 petition stage and subsequent adjustment proceedings.

General USCIS processing times for family petitions as of February 2026 range from 12 to 18 months.[9][12] For adjustment of status applications more broadly, expected processing times are 8 to 14 months.[9][12] These benchmarks suggest that qualifying family members filing I-485 applications after I-929 approval should anticipate processing in the 12 to 18-month range, though individual variations occur based on service center workload, completeness of filing, and complexity of the individual case.

### **U Visa Program Backlogs and Wait List Considerations**

While the I-929 petition itself is not subject to the 10,000 annual visa cap applicable to principal U-1 applicants, the principal's original U-918 petition may have been subject to waitlist procedures if filed when

the annual cap was exceeded.[11][27] The I-929 beneficiary's pathway to adjustment is not subject to the visa cap, so no separate numerical limitation applies to I-929 approvals. However, for consular processing of I-929 beneficiaries abroad, the beneficiary is classified in the SU category (numerically unlimited), meaning no visa number is required and the beneficiary can proceed to immigrant visa issuance immediately upon meeting all documentary and medical requirements.

The practical impact is that I-929 beneficiaries abroad are not subject to visa bulletin delays or priority date waits that might affect other family-based immigrant visas. The timeline for such beneficiaries is driven purely by NVC processing efficiency and consular post availability, not by quota limitations.

### **Administrative Appeals Office Processing**

For I-929-related appeals, the Administrative Appeals Office (AAO) processes petition-related appeals from USCIS service center decisions. As of the first quarter of FY 2026, the AAO reported varying processing times depending on form type and complexity, with many categories seeing 80-100% of cases completed within 180 days.[28] However, I-929 appeals would typically be considered within the broader visa petition appeal category and may experience different processing timeframes than employment-based petitions.

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## **Discretionary Factors and USCIS Adjudication Practices**

### **Favorable Exercise of Discretion: Framework and Considerations**

The discretionary approval of I-929 petitions lies solely within USCIS's jurisdiction under 8 C.F.R. § 245.24(h)(2).[2][19][35][44] USCIS guidance issued in August 2025 clarified how officers evaluate discretionary factors when adjudicating immigration benefit requests, including I-929 petitions.[37][40] Key principles from this guidance include that officers must weigh positive factors versus negative factors; that any connection to terrorism, antisemitic extremism, or anti-American activity carries overwhelming negative weight; that social media vetting now extends to more immigration benefit applications; and that prior immigration law compliance is an important positive discretionary factor.[37][40]

The qualifying family member's positive discretionary factors might include: strong family and community ties in the United States; length of residence and assimilation into U.S. culture; employment history and economic stability; medical or educational needs that can only be met in the United States; age (particularly youth at time of entry and current age); and absence of any adverse immigration, criminal, or security history.[2][19][35][44][45]

### **Adverse Discretionary Factors and Heightened Scrutiny**

Adverse discretionary factors that trigger heightened scrutiny or the exceptional and extremely unusual hardship standard include criminal convictions (particularly violent crimes, crimes involving sexual abuse of children, or multiple drug-related offenses); fraud or misrepresentation in immigration matters; violations of immigration law; security-related concerns; evidence of antisemitic views or support for anti-American ideologies; and employment law violations or violations of the terms of any prior immigration status.[2][19][35][44][45][37][40]

The regulation specifies that USCIS generally will not exercise discretion favorably in cases where the applicant has committed a serious violent crime, a crime involving sexual abuse of a child, multiple drug-related crimes, or where there are security or terrorism-related concerns regarding the applicant.[20][31][35] Even where such grave adverse factors exist, however, an I-929 petition is not

categorically barred; rather, the burden shifts to exceptional and extremely unusual hardship, and even that showing may not overcome the adverse factors if they are of sufficient severity.

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## **Northern California Implementation Considerations**

### **San Francisco-Specific Procedural Context**

While I-929 petitions are adjudicated by USCIS service centers (Vermont Service Center or Nebraska Service Center depending on jurisdiction), Northern California practitioners should understand the San Francisco Asylum Office's role in U visa matters. The San Francisco Asylum Office conducts credible fear interviews for U visa applicants and may conduct interviews for U-918 petitions in certain circumstances. Practitioners should be aware of known interview patterns and officer tendencies in the San Francisco Asylum Office that may inform strategy for related I-929 hardship evidence.

For immigration court litigation involving I-929 beneficiaries (rare but possible in complex cases involving removal proceedings), the San Francisco Immigration Court at 100 Montgomery Street, Suite 800, San Francisco, CA 94104 has specific procedural rules and judge tendencies that practitioners should research. However, I-929 adjustment applications are decided exclusively by USCIS and are not subject to immigration court jurisdiction absent the beneficiary's placement in removal proceedings.

### **California State Law Implications**

California's criminal law provisions affecting immigration consequences are relevant for I-929 beneficiaries with criminal histories. Penal Code § 1473.7 provides a pathway for vacation of convictions with immigration consequences, and PC § 1203.43 allows post-conviction relief in certain circumstances. Practitioners representing I-929 beneficiaries with criminal histories should evaluate whether California post-conviction relief procedures could modify or eliminate adverse immigration consequences, thereby strengthening the discretionary approval posture of the I-929 petition. Similarly, Proposition 47 reductions under PC § 18.5 may reduce misdemeanor sentences that could otherwise trigger adverse discretionary factors.

SB 54 (California Values Act) limits immigration enforcement cooperation by state and local law enforcement with federal immigration authorities, which may be relevant in cases involving state law convictions that USCIS is considering as adverse discretionary factors. Understanding the interplay between state criminal law limitations and federal immigration consequences is essential for comprehensive representation of I-929 beneficiaries.

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## **Risk Assessment and Strategic Considerations**

### **High-Confidence Outcomes: Straightforward I-929 Cases**

High likelihood of I-929 approval is present where the principal has established LPR status without adverse factors; the qualifying family member has never held any U visa status; the family relationship clearly existed at the time of the principal's adjustment and continues without interruption; the qualifying family member has no criminal history, fraud, or security concerns; and substantial evidence demonstrates extreme hardship to either the principal or the qualifying family member through documentation of abuse, loss of justice system access, home country dangers, medical needs, or social integration in the United States. Processing timelines in these straightforward cases typically require 12 to 18 months from I-929 filing through principal I-485

approval, then an additional 12 to 18 months for the qualifying family member's I-485 approval (or consular processing completion), assuming no RFEs or complications arise.

### **Medium-Risk Outcomes: Age-Out Pressures and Minor Adverse Factors**

Medium likelihood of approval exists where qualifying family members are approaching age 21 and I-929 processing extends beyond anticipated timelines; where the qualifying family member has minor criminal history, immigration violations, or immigration law non-compliance that requires discretionary waiver consideration; or where extreme hardship evidence is present but somewhat attenuated (e.g., family separation combined with cultural displacement rather than specific persecution or medical emergency). These cases require careful timing management, proactive communication with USCIS regarding case status, and strong discretionary mitigation evidence. Age-out risk is particularly acute in these cases, requiring evaluation of expedited processing options or request for service center supervisory review if processing delays approach the qualifying family member's 21st birthday.

### **Low-Medium Risk: Serious Adverse Factors Requiring Exceptional Hardship Showing**

Cases involving serious criminal convictions, multiple immigration violations, or security concerns present low-medium likelihood of approval and require demonstrating exceptional and extremely unusual hardship even though USCIS retains authority to deny the petition notwithstanding such hardship showing. These cases require sophisticated discretionary analysis, potentially including expert evidence regarding country conditions, letters from treatment providers for trauma-related conditions, documentation of unique medical or mental health needs, and compelling evidence of the specific harms that would befall the qualifying family member or principal if separated. Legal representation by experienced immigration counsel is essential in these cases, as strategic decisions regarding evidence presentation and hardship framing can substantially impact outcome probability.

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## **Conclusion**

The Form I-929 petition process provides U nonimmigrant principals with a valuable mechanism to include qualifying family members who were not included as derivatives at the initial visa petition stage. The process is subject to strict procedural requirements, including the fundamental prerequisites that the family member never held U visa status, the family relationship existed at the time of the principal's adjustment and continues through adjudication, and the principal or qualifying family member would suffer extreme hardship absent approval. The absence of age-out protections creates time-sensitive urgency particularly for child beneficiaries approaching age 21, distinguishing I-929 strategy from the I-918A derivative route that provides such protections.

Practitioners must carefully evaluate whether family members should be included at the I-918 derivative stage or preserved for I-929 petitioning at adjustment, recognizing that strategic choices at the initial petition stage cannot be revisited. The extreme hardship standard, while more favorable than the exceptional and extremely unusual hardship standard applicable to cancellation of removal, requires comprehensive evidence gathering and strategic presentation. Discretionary approval authority retained by USCIS means that even substantial hardship evidence may be insufficient where serious adverse factors exist, necessitating multifaceted mitigation strategies addressing all possible equitable considerations.

For Northern California practitioners serving U visa populations from Central America, Mexico, and Asia, I-929 cases represent an important vehicle for family reunification, particularly where family relationships

developed after the principal's U visa approval or where derivative petitions were not filed initially due to incomplete information or logistical barriers. Successful I-929 practice requires coordination of multiple procedural tracks (principal's I-485 approval, I-929 filing, beneficiary's I-485 or consular processing), careful attention to age-out deadlines, and sophisticated discretionary analysis where adverse factors are implicated. The strategic opportunities presented by the I-929 process justify careful advance planning and thorough documentation of both extreme hardship factors and favorable discretionary equities.

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Report Generated by: Legal AI Assistant

Facilitated by: The Law Offices of Fernando Hidalgo, Inc.

Date: February 3, 2026