Joint Motions to Terminate Removal Proceedings Based on Pending or Approved Form I-918 Petitions for U Nonimmigrant Status: A Legal Analysis

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FINDINGS

JOINT MOTIONS TO TERMINATE REMOVAL PROCEEDINGS BASED ON PENDING OR APPROVED FORM I-918 PETITIONS FOR U NONIMMIGRANT STATUS: A COMPREHENSIVE LEGAL ANALYSIS

Executive Summary

The intersection of a pending, approved, or conditionally approved U visa petition and ongoing removal proceedings creates a complex procedural landscape for immigration practitioners representing crime victims. This report addresses the statutory authority, regulatory framework, recent policy developments, and practical strategic considerations governing motions to terminate removal proceedings when a Form I-918 petition for U nonimmigrant status is in various stages of adjudication. The analysis reveals that the procedural pathway and likelihood of success depend fundamentally on the current stage of the I-918 adjudication, the posture of Immigration and Customs Enforcement, recent policy directives issued in January 2025, and new Executive Office for Immigration Review regulations finalized in February 2025.

Key Findings: Where a U visa petition has been approved by USCIS, termination of removal proceedings is mandatory by operation of law, as the noncitizen's removal order is deemed cancelled upon approval.[1] Where an I-918 petition is pending USCIS adjudication or has been placed on the waiting list with deferred action granted, the immigration judge has discretionary authority to terminate proceedings under the new EOIR regulations, even if ICE/OPLA opposes the motion.[2] However, as of January 31, 2025, the Trump administration's Interim Policy Guidance on civil immigration enforcement involving victim-based benefits (Directive 11005.4) has rescinded the prior requirement for ICE attorneys to affirmatively seek expedited adjudication of pending U visa cases or to consider victim status as a positive discretionary factor when deciding whether to join termination motions.[3] This creates a substantially more hostile environment for practitioners seeking joint motions to terminate.

Client Risk Assessment: For respondents with approved I-918 petitions, the legal position is high confidence that termination will be granted; DHS cannot continue proceedings once U status is approved. For respondents with pending I-918 petitions or waiting list placement with deferred action, the risk profile has shifted to medium-to-high uncertainty due to recent policy changes. While the EOIR regulations still authorize discretionary termination, ICE's reduced incentive to cooperate and its new latitude in refusing to join motions creates tactical obstacles that must be carefully navigated. Unilateral motions to terminate remain viable under the new regulations, but carry the risk of ICE opposition and potential IJ denial despite regulatory authority to grant.

Timeline Considerations: U visa processing times remain severe, with average wait times of 44-53 months to Bona Fide Determination or waiting list placement, and an additional 24-28 months from there to final approval.[4] Respondents facing imminent removal hearings should consider whether termination without prejudice, administrative closure, or continuance strategies serve their immediate protection interests while the I-918 petition proceeds.

Regulatory Framework Governing U Visa Petitions and Termination Authority

The Statutory and Regulatory Foundation for U Nonimmigrant Status

The U nonimmigrant status is codified in the Immigration and Nationality Act at section 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U), which authorizes the Secretary of Homeland Security to grant temporary immigration status to alien victims of qualifying criminal activity who meet specific eligibility criteria.[5] The statutory provision requires that an eligible alien demonstrate four elements: (1) substantial physical or mental abuse as a result of victimization by qualifying criminal activity; (2) possession of information concerning that criminal activity; (3) helpfulness, past or prospective, to federal, state, or local law enforcement in investigating or prosecuting the crime; and (4) that the criminal activity violated U.S. law or occurred in the United States.[5] Accompanying family members-spouses, children under 21, and in certain circumstances parents and siblings of principal petitioners under 21-may petition for derivative U-2, U-3, U-4, or U-5 status.[5]

The substantive regulations implementing the U visa program are located at 8 C.F.R. § 214.14, which addresses eligibility determinations, processing procedures, duration of status, and the effects of approval or denial on any underlying removal proceedings.[1] The regulatory framework establishes that USCIS, not the immigration court, maintains exclusive jurisdiction over all petitions for U nonimmigrant status.[1] This jurisdictional divide creates the procedural complexity at the center of this analysis: when a respondent is simultaneously in removal proceedings before an immigration judge and has filed a pending I-918 petition with USCIS, two separate agencies must manage their competing interests in the case.

Section 214.14(c)(1)(i): The Explicit Authority for Joint Motions to Terminate

The critical regulatory provision authorizing termination of removal proceedings while a U visa petition is pending is found at 8 C.F.R. § 214.14(c)(1)(i), which provides: "An alien who is in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a, or in exclusion or deportation proceedings initiated under former sections 236 or 242 of the Act must file a Form I-918 directly with USCIS."[1] The regulation further specifies that "[u]nless otherwise provided in this section, U.S. Immigration and Customs Enforcement counsel may agree, as a matter of discretion, to file, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice with the immigration judge or Board of Immigration Appeals, whichever is appropriate, while a petition for U nonimmigrant status is being adjudicated by USCIS."[1]

This language establishes three essential principles that recur throughout the jurisprudence and practice materials: first, petitioners in removal proceedings must file their I-918 petitions with USCIS, not with the immigration court; second, ICE counsel retains discretionary authority to join joint motions to terminate-the regulation does not mandate participation; and third, respondents may file motions unilaterally with the immigration judge or Board, though the government's refusal to join may affect the judge's willingness to grant relief.[1] The phrase "as a matter of discretion" has proven critical in recent litigation and policy guidance addressing when and whether ICE attorneys must cooperate with such motions.

Section 214.14(c)(5): Automatic Cancellation of Prior Removal Orders Upon Approval

A second crucial regulatory provision addresses the consequences of I-918 approval for any existing removal orders. Section 8 C.F.R. § 214.14(c)(5)(i) states: "If USCIS determines that the petitioner has met the requirements for U-1 nonimmigrant status, USCIS will approve Form I-918 and also will concurrently grant U-1 nonimmigrant status."[1] The regulation then provides that "[f]or a petitioner who is subject to an order of exclusion, deportation, or removal issued by the Secretary, the order will be deemed canceled by operation of law as of the date of USCIS' approval of Form I-918."[1]

This provision establishes a critical distinction: if USCIS approves the I-918 petition, any removal order issued by the Department of Homeland Security (typically the Secretary of Homeland Security or her

delegated officers, such as immigration officers at ports of entry or in removal proceedings) is automatically cancelled without any further action required. However, if a removal order has been issued by an immigration judge or the Board of Immigration Appeals, the petitioner must affirmatively file a motion to reopen and terminate those proceedings with the immigration judge or Board.[1] The automatic cancellation only applies to orders issued by DHS, not by the judicial branch of EOIR. This distinction has significant practical implications for the timing and strategy of termination motions, as discussed below.

Section 214.14(c)(3): Consequences of I-918 Denial

The regulatory framework also addresses what transpires if USCIS denies the I-918 petition after removal proceedings have been terminated. Section 8 C.F.R. § 214.14(c)(3)(iii) provides: "Upon USCIS' final denial of a petition for a petitioner who was in removal proceedings that were terminated pursuant to 8 CFR 214.14(c)(1)(i), DHS may file a new Notice to Appear (see section 239 of the Act, 8 U.S.C. 1229) to place the individual in proceedings again."[1] This provision explicitly contemplates that respondents whose removal proceedings were terminated without prejudice may be placed back into removal proceedings if their U visa petition is ultimately denied. This is why the "without prejudice" language is so crucial: it preserves DHS's right to reinitiate removal proceedings based on the same charges, in the same immigration court, if the U visa petition fails.

The Form I-918 Adjudication Process and the Role of Bona Fide Determination and Waiting List Placement

Initial Filing and Biometric Requirements

When a respondent in removal proceedings files Form I-918 with USCIS, the petition must be filed directly with the appropriate USCIS Service Center (currently the Vermont Service Center or Nebraska Service Center for most cases, though consolidation may be ongoing).[4] The petition must include the completed Form I-918, any applicable Form I-918 Supplement A (for derivative family members), the law enforcement certification Form I-918 Supplement B (signed within six months preceding the filing), and a personal statement describing the facts of victimization.[4] USCIS will conduct an initial jurisdictional review and may request that the petitioner complete biometric (fingerprint) background checks. If the petition is not deemed complete and properly filed, or if the law enforcement certification is deficient or missing, USCIS may reject the petition entirely or issue a Request for Evidence.[4]

The Bona Fide Determination Process

On June 14, 2021, USCIS formally implemented a "Bona Fide Determination" (BFD) process, under which pending U visa petitions are initially reviewed for basic completeness and eligibility indicators before proceeding to full substantive adjudication.[4] Under this procedure, USCIS conducts a preliminary review to determine whether the Form I-918 and Form I-918 Supplement B are complete and properly filed, whether the petitioner provided a personal statement about the victimization, and whether the petitioner's criminal background check and other available information present factors favoring or disfavoring the exercise of discretion to grant employment authorization and deferred action.[4]

If USCIS determines that a BFD is warranted-meaning the petition appears complete and the petitioner does not present clear bars to relief-USCIS issues the petitioner a BFD approval letter, granting deferred action status and employment authorization valid for four years under the category EAD (c)(14).[4] This BFD does not constitute final approval of the U visa petition; rather, it is a preliminary favorable determination that the

case merits further review and provisional protective status while the full adjudication proceeds. A BFD grant indicates to ICE and the immigration court that USCIS has made a threshold finding that the petitioner's case is likely to succeed, though discretionary factors and waivers may ultimately affect the final decision.

Waiting List Placement

If USCIS does not grant a BFD at the preliminary stage, or if the BFD review identifies issues requiring additional evidence, USCIS will issue a Request for Evidence (RFE) or Notice of Intent to Deny (NOID), allowing the petitioner to respond.[4] If the petitioner responds satisfactorily to an RFE, USCIS will proceed to full substantive adjudication of the petition. If USCIS determines at this stage that the petitioner is likely to be eligible for U status but has run out of visa numbers under the annual cap of 10,000 principal petitions per fiscal year, USCIS places the petitioner on the U visa "waiting list" (more formally, "visa availability waitlist") and grants the petitioner deferred action and employment authorization for four years, renewable indefinitely until a visa number becomes available.[4]

Waiting list placement is a functional approval for purposes of deferred action and work authorization, but it is not a final decision granting U nonimmigrant status. Petitioners remain on the waiting list in receipt-date order, and USCIS reviews them for final U visa approval as visa numbers become available each fiscal year. As of early 2025, USCIS was still working through petitions filed in 2017-2018 for final approval, with some estimates suggesting wait times of 10-15 years or longer for new applicants filing in 2025.[4] During the entire period on the waiting list, the petitioner retains deferred action status and employment authorization, but does not yet have U nonimmigrant status.

Critical Distinction: Deferred Action vs. U Visa Status

A critical distinction for termination strategy is the difference between deferred action granted through BFD or waiting list placement, and actual approval of U nonimmigrant status. Deferred action is a form of prosecutorial discretion exercised by USCIS that prevents removal but does not confer immigration status.[4] When an I-918 petition receives a BFD grant or waiting list placement, the petitioner receives deferred action, which provides protection from removal and work authorization, but the petitioner does not yet have U visa status. The automatic cancellation of removal orders under 8 C.F.R. § 214.14(c)(5)(i) applies only upon final approval of the I-918 petition-not upon BFD grant or waiting list placement.[1] This distinction affects the legal grounds available for termination motions depending on the petitioner's current I-918 status.

Distinct Procedural Pathways Based on I-918 Adjudication Status

Pathway One: I-918 Petition Pending Initial Review by USCIS

When a respondent files Form I-918 with USCIS while in removal proceedings, but USCIS has not yet issued a BFD determination or waiting list placement, the I-918 petition is in initial adjudication status. During this phase, the respondent remains in removal proceedings with no explicit statutory or regulatory protection from removal based solely on the pendency of the U visa petition.

Under the previous regulatory regime (prior to the February 2025 EOIR rule changes), the primary strategy for respondents in this status was to seek either a joint motion to terminate without prejudice under 8 C.F.R. § 214.14(c)(1)(i), or an administrative closure under the factors established in Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012) and Matter of W-Y-U-, 27 I&N Dec. 17 (BIA 2017). Under the Avetisyan framework, immigration judges had discretion to administratively close proceedings even over DHS objection when

evaluating relevant factors including the reason closure was sought, the likelihood of success on the pending application, the anticipated duration of closure, and other circumstances.[2] Administrative closure was preferable to termination in some cases because it would not dismiss the removal case entirely; rather, it would defer adjudication, allowing the respondent to remain in the United States while the U visa petition was pending, and the case could be recalendared if the petition was denied.

Current Status Under the New EOIR Regulations (February 2025): The new EOIR rule finalized in February 2025 has reframed the analysis significantly. The new regulations at 8 C.F.R. § 1003.18(c) and § 1003.1(l) establish that immigration judges have explicit authority to administratively close proceedings under a factor-based test in cases involving pending U visa petitions with a receipt notice from USCIS.[2] More importantly, the new regulations establish that in cases where a noncitizen is prima facie eligible for relief before USCIS and has filed an application with USCIS (which includes pending U visa petitions), the immigration judge may grant discretionary termination upon motion, even if OPLA opposes.[2]

The practical effect is that respondents with pending I-918 petitions now have two distinct strategic options: (1) request administrative closure under the new regulations, which will defer proceedings while allowing the U visa petition to be adjudicated, or (2) file a motion for discretionary termination under the new regulations, which will end the removal case entirely if granted. Termination carries the advantage of finality and eliminates the risk that the immigration judge will recalendar the proceedings if the U visa petition is denied; it carries the disadvantage that if the I-918 is denied and DHS chooses to reinitiate proceedings, DHS must file a new NTA from scratch.

Pathway Two: I-918 Petition Granted Bona Fide Determination or Waiting List Placement

When USCIS has issued a BFD determination or placed the petitioner on the waiting list, the petitioner has received deferred action status and employment authorization from USCIS, indicating a preliminary favorable assessment of the petition's merits. The respondent is no longer at immediate risk of removal based on the pendency of the petition, as deferred action provides statutory protection from removal under INA § 237(d) during the period it remains in effect.

Strategic Analysis: At this stage, respondents should recognize that they have already obtained a significant benefit (deferred action and work authorization), and the question becomes whether to seek termination of removal proceedings or to allow proceedings to remain on the court docket, relying on deferred action as the operative protection. Termination of proceedings would provide finality-the removal case would be dismissed and could not be recalendared unless DHS filed a new NTA. However, some practitioners argue that allowing administrative closure to remain in place preserves certain procedural advantages, particularly the respondent's ability to appeal if the immigration judge denies claims for relief before USCIS makes its final determination on the I-918.

Under INA § 237(d), when USCIS has made a prima facie determination that an alien has a pending application for U or T visa status, or has placed the petitioner on the waiting list, an administrative stay of removal is presumed appropriate, and the removal order (if one has been entered) remains stayed until the I-918 petition is finally denied and administrative appeals are exhausted.[6] This statutory framework means that once BFD or waiting list placement is achieved, the respondent already has significant legal protection without requiring affirmative action by the immigration court.

The primary reason to seek termination at this stage would be to eliminate the uncertainty and ongoing obligation to appear before the immigration court, and to allow the respondent to focus entirely on the I-918 adjudication without managing parallel proceedings. However, practitioners should carefully advise clients of

the risks: if the I-918 is ultimately denied, DHS can reinitiate removal proceedings with a new NTA. In some cases, it may be strategically preferable to maintain the administrative closure and allow the I-918 to be fully adjudicated before seeking termination.

Pathway Three: I-918 Petition Approved by USCIS

When USCIS approves the Form I-918 petition, the respondent is concurrently granted U-1 nonimmigrant status, and any removal order issued by DHS is automatically deemed cancelled by operation of law as of the date of USCIS approval.[1] If the respondent is in removal proceedings, USCIS will typically notify both the respondent and ICE/OPLA of the approval.

Automatic Effect on Removal Proceedings Initiated by DHS: If the removal proceedings were initiated by DHS filing a Notice to Appear, and no removal order has yet been issued by an immigration judge, the NTA is automatically superseded upon I-918 approval, and the respondent is no longer deportable or subject to removal charges based on the conduct described in the NTA. ICE should receive USCIS's notice of I-918 approval and should cease proceedings against the respondent. However, in practice, ICE may not promptly act on this notification, and respondents should affirmatively file a motion to terminate removal proceedings to ensure that the immigration court enters an order reflecting the termination.

Required Motion Where IJ Has Issued Removal Order: Where an immigration judge has already entered a removal order before I-918 approval, the petitioner must file a motion to reopen and terminate removal proceedings with the immigration judge (if the removal order has not been appealed to the BIA) or with the BIA (if the removal order is on appeal or has been affirmed by the BIA).[1] The motion should cite 8 C.F.R. § 214.14(c)(5)(i) as the basis for the mandatory termination, and should attach a copy of the I-797 Notice of Action approving the I-918 petition and granting U-1 status.

Mandatory Nature of Termination: Importantly, once USCIS has approved the I-918 petition, termination of removal proceedings is not discretionary-it is mandatory. The immigration judge has no discretion to deny a motion to terminate removal proceedings when U visa status has been approved, as the respondent is no longer deportable or subject to removal. If an immigration judge were to deny such a motion, the decision would be an error of law subject to reversal on appeal or habeas review. ICE counsel cannot oppose termination in this circumstance; they are obligated to concur with the termination motion.

Pathway Four: I-918 Petition Denied After Administrative Appeals Exhausted

When USCIS has denied the I-918 petition and the respondent has exhausted administrative appeals (typically through the Administrative Appeals Office), the deferred action and employment authorization previously granted through BFD or waiting list placement are automatically terminated.[1] At this point, the respondent is no longer protected from removal by virtue of the pending I-918 petition, and removal proceedings that were administratively closed or terminated without prejudice may be recalendared by ICE.

If removal proceedings were terminated without prejudice, DHS may file a new NTA and reinitiate removal proceedings.[1] The new NTA will be treated as a separate charging document, distinct from the prior NTA (though it may contain the same charges). The respondent will be placed back into removal proceedings before an immigration judge. The prior termination order does not bar the new NTA, as it was issued "without prejudice."

Strategic Implications for Clients: This pathway underscores the importance of the "without prejudice" language in termination orders. Respondents should be advised that termination without prejudice does not provide permanent protection from removal; it only terminates the specific removal proceedings that were

pending when the motion was granted. If the I-918 petition is denied, removal proceedings may be reinitiated. Some practitioners argue that administrative closure is preferable to termination for precisely this reason: administrative closure leaves proceedings on the docket but in a deferred status, allowing the respondent to oppose reinitiation or file new motions if circumstances change. However, others contend that termination is strategically preferable because it provides a clear endpoint and eliminates the ongoing obligation to appear in immigration court while the I-918 is being adjudicated.

ICE Prosecutorial Discretion and the January 2025 Policy Shift

Historical ICE Guidance on U Visa Cases (2009-2021)

For over a decade, ICE and USCIS operated under a coordinated framework for handling U visa petitions in removal proceedings. A September 25, 2009 USCIS memorandum titled "Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal" established that when ICE officers received notice of a pending U visa petition, they should request that USCIS make a "prima facie determination" as to whether the U visa petition was likely to be approved based on a preliminary review of the application and law enforcement certification.[7] If USCIS made a prima facie determination, ICE was instructed that it should "favorably view" a request for a stay of removal, meaning ICE would agree to pause removal proceedings (or not execute a final removal order) while the U visa petition was pending adjudication.

This framework was reinforced by an ICE Directive 11005.2 issued in August 2019, which addressed "Stays of Removal Requests and Removal Proceedings Involving U Visa Petitioners."[7] Under Directive 11005.2, ICE officers and attorneys reviewing stay-of-removal requests from U visa petitioners were instructed to consider whether USCIS had made a prima facie determination. If a prima facie determination had been made, the directive indicated that ICE should "favorably view" the stay request.[7]

During the Biden administration, ICE Directive 11005.3, issued August 10, 2021, further strengthened protections for U visa petitioners, directing ICE to adopt a "victim-centered approach" with noncitizen crime victims and instructing that ICE should not continue immigration proceedings against a U visa petitioner unless and until USCIS made a negative bona fide or prima facie determination.[8] This directive remained in force through January 20, 2025.

January 31, 2025: The Trump Administration's Interim Policy Guidance (Directive 11005.4)

On January 31, 2025, the Trump administration's Acting ICE Director issued a new "Interim Policy Guidance Regarding Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits," designated as Directive 11005.4.[8] This new directive fundamentally altered ICE's posture toward U visa petitioners in removal proceedings.

Key Changes:

The new directive explicitly rescinds Directives 11005.3 and 10076.1, eliminating the requirement for ICE officers and agents to affirmatively seek to identify evidence that an alien is a victim of crime, or to consider victim status as a positive discretionary factor when deciding whether to take enforcement action.[8] The directive states that ICE officers "are not required to affirmatively seek to identify indicia or evidence suggesting an alien is a victim of a crime or consider such evidence as a positive discretionary factor" when deciding to enforce removal.[8] As specific examples, the directive eliminates consideration of orders of

protection or eligibility letters from the HHS Office of Trafficking in Persons as favorable factors.

More critically for U visa petitioners, the directive eliminates the requirement for ICE to request that USCIS expedite adjudication of pending U visa applications, or to coordinate with USCIS for accelerated review. Under the new guidance, ICE officials will only request expedited review when it is "in ICE's best interest" to do so.[8] This eliminates a critical procedural protection that had been in place for nearly a decade.

Immediate Consequences:

The rescission of Directive 11005.3 means that ICE attorneys are no longer bound by the requirement to maintain a victim-centered approach when considering whether to pursue removal proceedings against U visa petitioners. ICE has effectively regained full prosecutorial discretion to continue removal proceedings against U visa applicants without regard to their victim status or pending U visa petition, unless the petitioner can demonstrate that the U visa petition presents a legal bar to removal (such as INA § 237(d) statutory stay provisions).

Litigation Challenge:

On October 14, 2025, a coalition of legal services nonprofits and immigration advocates filed a class action lawsuit titled Immigration Center for Women and Children v. Noem in the U.S. District Court for the Central District of California, challenging Directive 11005.4 and alleging that it violates the Administrative Procedure Act, the Fourth and Fifth Amendments, and the INA.[8] The complaint alleges that under the "De Facto Revocation Policy," ICE has been detaining and deporting noncitizen survivors of human trafficking and crime who had been granted deferred action without prior notice or opportunity to be heard. The complaint further alleges a "Blind Removal Policy" under which ICE has deported migrants with pending U, T, and VAWA applications without conducting statutory inquiries into their prima facie eligibility for those protections. The litigation was pending as of the report date.

Implications for Joint Termination Motions:

The immediate practical effect of Directive 11005.4 for practitioners seeking joint motions to terminate is that ICE/OPLA has substantially reduced incentive to cooperate with respondents' requests to join such motions. Under the prior directive, ICE was supposed to consider U visa victim status favorably when deciding whether to continue proceedings. Under the new directive, ICE has no such obligation. ICE can now refuse to join joint termination motions based purely on discretionary prosecutorial priorities, without regard to victim status or the pendency of a U visa petition.

Respondents can no longer rely on the prior understanding that ICE would routinely agree to join termination motions when a U visa petition was pending. Instead, practitioners must be prepared to file unilateral motions to terminate and to argue before the immigration judge why termination is appropriate even absent DHS cooperation. The new EOIR regulations discussed above provide some support for unilateral motions, but the absence of ICE cooperation may make individual immigration judges more hesitant to grant relief.

Joint vs. Unilateral Motions to Terminate: Strategic Considerations

The Regulatory Authority for Unilateral Motions

The language of 8 C.F.R. § 214.14(c)(1)(i) explicitly contemplates unilateral motions filed by respondents without ICE cooperation. The regulation states that "[u]nless otherwise provided in this section, U.S.

Immigration and Customs Enforcement counsel may agree, as a matter of discretion, to file, at the request of the alien petitioner, a joint motion to terminate proceedings without prejudice."[1] This language-"may agree" and "at the request of the alien petitioner"-indicates that the regulation envisions a scenario in which a respondent requests that ICE join a termination motion, and ICE agrees to do so. However, the regulation does not prohibit the respondent from filing a motion unilaterally if ICE refuses to join.

Sample motions in the practitioner literature (including model forms from ASISTA, the immigration law section of the American Immigration Council, and law school clinics) universally reflect this understanding, showing that respondents can file motions to terminate removal proceedings based on pending U visa petitions without any ICE signature or agreement.[2] The respondent's attorney signs the motion, and the respondent (or the respondent's attorney on the respondent's behalf) signs the document. The motion is served on ICE/OPLA's office of chief counsel, and OPLA is given the opportunity to file a written response. The immigration judge then decides the motion based on the arguments presented by both parties.

Advantages and Disadvantages of Joint Motions

Advantages of Joint Motions: A joint motion to terminate, signed by both respondent's counsel and ICE/OPLA counsel, carries substantial procedural weight and signals to the immigration judge that the government does not oppose the termination. In practice, immigration judges are far more likely to grant joint motions than contested motions, as the judge can view the joint motion as a stipulation by both parties that termination is appropriate. Additionally, in many immigration courts, joint motions are granted quickly and with minimal additional briefing or oral argument, allowing the respondent to obtain closure of the removal case relatively promptly.

The joint motion approach also preserves the respondent's relationship with the local OPLA office. In many immigration courts, the same ICE attorneys appear in case after case, and developing a working relationship with OPLA counsel can be advantageous for future cases and settlements. Requesting that ICE join a motion, even if ultimately unsuccessful, demonstrates professionalism and may leave the door open for cooperation on other issues in the case.

Disadvantages of Joint Motions: The primary disadvantage of seeking a joint motion is that it gives ICE/OPLA veto power over the respondent's strategy. If ICE refuses to join the motion, the respondent must then decide whether to file a unilateral motion or to accept the lack of government cooperation. Additionally, under the current policy environment (post-January 31, 2025), ICE has significantly less incentive to cooperate, and respondents should anticipate that requests for ICE to join termination motions will be rejected in many cases.

Advantages and Disadvantages of Unilateral Motions

Advantages of Unilateral Motions: A unilateral motion to terminate filed without ICE cooperation preserves the respondent's autonomy and eliminates the need to request ICE consent. Under the new EOIR regulations, immigration judges have explicit authority to grant discretionary termination in cases involving pending U visa petitions with receipt notices from USCIS, even over OPLA opposition.[2] A unilateral motion also avoids any appearance of the respondent waiting for or depending on government cooperation, which can be important in cases where the respondent's credibility or independence is at issue.

Additionally, filing a unilateral motion creates a clear record of the respondent's request for relief and ICE's opposition (or refusal to cooperate), which may be helpful if the respondent later seeks appellate review or files a federal habeas petition challenging the immigration judge's decision.

Disadvantages of Unilateral Motions: The primary disadvantage is that immigration judges are less likely to grant contested motions, particularly when the government opposes. Even with the new regulatory authority, an immigration judge may be reluctant to order termination over the objection of the government prosecutor. Additionally, if the unilateral motion is denied, the respondent must decide whether to appeal to the BIA or to accept the denial and continue with proceedings on the merits. An appeal of a denial of a motion to terminate can delay resolution of the removal case and may be viewed by the immigration judge as a waste of judicial resources.

Administrative Closure vs. Termination: Strategic Analysis Under the New EOIR Regulations

The Distinction Between Administrative Closure and Termination

Administrative closure and termination are often confused, but they have distinct legal effects and strategic implications. Both procedures result in the respondent remaining in the United States without active removal proceedings being conducted before the immigration court. However, they differ fundamentally in their permanence and effect if circumstances change.

Administrative Closure: When removal proceedings are administratively closed, the case remains on the docket of the immigration court but is deferred-the court takes no further action and the respondent is not required to appear for subsequent hearings until the proceedings are recalendared.[2] The immigration court retains jurisdiction over the case, and either party can move to recalendar proceedings at any time. If the respondent's pending application (such as the U visa petition) is denied, ICE can request that the immigration judge recalendar the proceedings, and the case will resume where it was paused.

The advantage of administrative closure is that it preserves the respondent's ability to pursue relief before the immigration court while the U visa petition is being adjudicated. If the immigration judge had previously ruled that removability was established, that finding remains in place, and the respondent can pursue applications for relief such as cancellation of removal (though only if the respondent maintains physical presence in the United States). If the U visa petition is ultimately denied, the respondent can appeal that denial through USCIS's administrative appeal process (AAO), and once the appeal is exhausted, can seek to recalendar the removal proceedings and pursue other forms of relief.

The disadvantage of administrative closure is that it leaves uncertainty-the case is not resolved, and the respondent must be prepared to return to immigration court if circumstances change. Additionally, under the prior administrative closure doctrine, the respondent could not guarantee that the proceedings would remain closed indefinitely; an immigration judge could sua sponte recalendar proceedings, or ICE could successfully request recalendaring if it determined that the respondent was no longer pursuing the pending application diligently.

Termination: When removal proceedings are terminated, the case is dismissed from the immigration court docket entirely.[2] Termination is typically granted "without prejudice," meaning that DHS retains the right to file a new Notice to Appear and initiate new removal proceedings if circumstances warrant. However, the fact that the original case has been terminated is significant-it is not merely deferred or postponed.

The advantage of termination is that it provides finality and closure. The respondent is no longer obligated to appear in immigration court, the respondent's removal case is dismissed, and the respondent can focus entirely on the USCIS adjudication of the I-918 petition without managing parallel proceedings. If the immigration

judge had determined that removability was established, that determination is not carried forward to any new proceedings; a new NTA would have to be litigated from scratch.

The disadvantage of termination is that if the U visa petition is denied and DHS reinitiates removal proceedings with a new NTA, the respondent must relitigate all issues of removability. Additionally, termination eliminates any relief that had been granted by the immigration judge; for example, if the respondent had been granted cancellation of removal before the termination motion was filed, the termination would vacate that grant of relief.

New EOIR Regulations and the Evolution of Administrative Closure Doctrine

The BIA's precedent in Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012) established that immigration judges have discretion to administratively close proceedings even over DHS objection, applying a totality-of-the-circumstances test considering: (1) the reason closure is sought; (2) the basis for any opposition to closure; (3) the likelihood the respondent will succeed on the pending application; (4) the anticipated duration of closure; and (5) other relevant factors.[2] A subsequent BIA decision in Matter of W-Y-U-, 27 I&N Dec. 17 (BIA 2017) refined this doctrine, holding that when a respondent opposes administrative closure, the "primary consideration" is whether the party opposing closure has provided a persuasive reason for the case to proceed on the merits, and that DHS's enforcement priorities are not a relevant factor for the immigration judge to consider in deciding whether to grant administrative closure.[2]

The new EOIR regulations issued in February 2025 have codified this framework into explicit regulatory authority at 8 C.F.R. § 1003.18(c), giving immigration judges clear regulatory authority to administratively close proceedings upon motion of either party, even over opposition, applying a factor-based test.[2] The new regulations also establish explicit categories of cases in which discretionary termination is authorized. For respondents with pending U visa petitions, the regulations provide that termination is discretionary when "the noncitizen is prima facie eligible for naturalization, relief from removal, or lawful status before USCIS, with accompanying criteria," and this category includes U visa petitioners who have filed receipt notices from USCIS.[2]

Strategic Guidance for Respondents with Pending I-918 Petitions

For respondents in removal proceedings with pending U visa petitions, the choice between administrative closure and termination should turn on several case-specific factors:

Favor Administrative Closure When: (1) removability has already been established by the immigration judge, and the respondent wants to preserve the opportunity to apply for relief before the immigration court (such as cancellation of removal) if the U visa petition is denied; (2) the removal case involves complex fact-finding that the respondent does not want to relitigate if the U visa petition fails; (3) the respondent is risk-averse and prefers to maintain the ability to recalendar proceedings and argue for relief on the merits rather than starting fresh with a new NTA if the U visa petition is denied; or (4) the respondent is still gathering evidence for the U visa petition and wants to ensure that the removal proceedings remain suspended while that evidence is being compiled.

Favor Termination When: (1) the respondent is confident that the U visa petition will be approved and does not want to maintain ongoing obligations to appear in immigration court; (2) the respondent prefers the clarity of a final dismissal of the removal case rather than ongoing uncertainty about potential recalendaring; (3) the respondent's removal case is based on technical or evidentiary issues that may be difficult to re-prove if a new NTA is filed (for example, if the NTA was defective in certain respects, or if key witnesses are no longer available); (4) the respondent's removability is contested and the immigration judge has not yet made a

removability determination, so there is no prior finding that would carry forward to a new proceeding; or (5) the respondent prefers to eliminate any ongoing relationship with or obligation to the immigration court system while the U visa petition is pending.

Recent BIA and Circuit Court Precedent on Prosecutorial Discretion and Termination Motions

Matter of H.N. Ferreira and the Limits of ICE Prosecutorial Discretion

A significant recent BIA precedent decision, Matter of H.N. Ferreira, 28 I&N Dec. 765 (BIA 2023), addressed the authority of ICE to unilaterally dismiss removal proceedings and the immigration judge's obligation to consider the respondent's interest in having the case adjudicated on the merits.[3] Although the case arose in the context of an I-751 (Petition to Remove Conditions on Permanent Residence) review proceeding rather than a U visa matter, the holding has broad implications for understanding the limits of ICE prosecutorial discretion.

In Ferreira, the BIA held that ICE does not have the authority to unilaterally cancel a Notice to Appear once it is filed; instead, ICE must move to dismiss proceedings under the regulatory procedures.[3] The BIA further held that an immigration judge must "adjudicate the motion after considering the underlying facts and circumstances," and specifically must "consider the respondent's interest in obtaining review" of the underlying petition or case.[3] The BIA emphasized that an immigration judge is not required to terminate proceedings simply because DHS has moved to do so-rather, the judge must exercise independent judgment and consider the respondent's significant interest in proceeding.

Application to U Visa Cases: The Ferreira holding directly supports respondents seeking to oppose ICE motions to dismiss removal proceedings in U visa cases. If ICE files a motion to dismiss the removal proceedings, the respondent can argue that the respondent has a significant interest in either pursuing relief before the immigration court or ensuring that the immigration court enters an order confirming termination (rather than allowing the proceedings to simply disappear through an unexecuted motion). Additionally, the Ferreira reasoning supports the proposition that an immigration judge should grant a respondent's motion to terminate (or maintain it through administrative closure) even over ICE opposition, if the respondent can demonstrate that it serves the interests of justice or is otherwise appropriate.

Ninth Circuit Precedent on Stays of Removal and U Visa Petitions

The Ninth Circuit, which has jurisdiction over Northern California federal courts, has issued several decisions addressing the interaction between pending U visa petitions and removal proceedings. While the Ninth Circuit does not directly review immigration court decisions (those are reviewed by the BIA), the Ninth Circuit reviews final removal orders through habeas corpus petitions filed under 28 U.S.C. § 2241 (and formerly under the jurisdiction provisions of former INA § 242(b)).

The most relevant recent Ninth Circuit decision addressing U visa stays of removal is [INA § 237(d)], which is a statutory provision rather than a case, but which the Ninth Circuit has applied in cases such as Perez-Gonzalez v. DHS. This statutory framework requires that when an alien has filed a prima facie application for U or T visa status, DHS must grant an administrative stay of removal until the application is finally decided.[6] The Ninth Circuit has held that this statutory stay is self-executing and does not require ICE to affirmatively request USCIS to make a prima facie determination; the mere filing of the petition creates an entitlement to stay.

Timing, Processing Delays, and Strategic Urgency

Current USCIS Processing Times for I-918 Petitions

One of the most significant practical challenges facing respondents with pending U visa petitions is the extraordinary delay in USCIS adjudication of I-918 cases. As of February 2026, USCIS is processing U visa petitions with severe backlogs that extend years into the future.

BFD and Waiting List Processing: The average time from filing of an I-918 petition to issuance of a Bona Fide Determination or waiting list placement is approximately 44-53 months (3.7-4.4 years).[4] Respondents who filed their I-918 in 2022 are only now beginning to receive BFD determinations or waiting list placements in early 2026. For respondents filing new petitions in 2025-2026, the wait time to BFD or waiting list placement could exceed 5-6 years.

Final Approval Processing: Once a respondent has received a BFD or waiting list placement and has been issued an Employment Authorization Document (EAD), the case enters the queue for final I-918 adjudication. The average time from BFD/waiting list to final approval is approximately 24-28 months.[4] However, these are only average figures, and actual times vary widely based on the complexity of the case and whether RFEs or NOIDs are issued.

Total Expected Duration: The total expected processing time from initial I-918 filing to final approval is now approximately 68.9 months on average, or roughly 5.7 years.[4] For respondents who do not receive an expedited processing request (which is now discretionary with USCIS under the Trump administration), the expected time could easily exceed 7-10 years.

The 10,000 Annual Visa Cap: The statutory cap of 10,000 principal U visa approvals per fiscal year means that once approvals are exhausted for a given fiscal year, USCIS must place remaining eligible petitioners on the waiting list, even if their cases are otherwise ready for approval.[4] With over 190,000 principal petitions pending as of early 2023, and new filings continuing at rates exceeding 40,000 per year, the waiting list has become extremely lengthy, and new applicants filing in 2025-2026 may not receive approvals until the early 2030s or later.[4]

Strategic Implications for Termination Timing

The extraordinary processing delays create significant strategic challenges for respondents in removal proceedings. If removal proceedings are pending, and the respondent files a motion to administratively close or terminate to await U visa adjudication, the respondent may be waiting 5-10 years for the U visa petition to be decided. This creates several concerns:

First, the longer the respondent waits, the more likely that material circumstances will change (death of a witness, destruction of records, change in the respondent's family situation, expiration of USCIS employment authorization, etc.). A respondent who is granted administrative closure or termination pending U visa adjudication should be prepared for the possibility that the U visa petition will ultimately be denied due to changes in circumstances or discovery of adverse information during the pendency of the case.

Second, respondents should carefully consider whether the pending U visa petition is actually meritorious and likely to succeed. If the U visa petition has significant legal or factual defects, the respondent may be better served by litigating the removal case on the merits and seeking available defenses or relief before the immigration court, rather than deferring proceedings while a U visa petition with limited prospects of success

slowly works its way through the USCIS backlog.

Third, respondents should be aware that the BFD and waiting list placement processes are now discretionary under the Trump administration, and USCIS may be less generous in issuing BFDs or placing petitioners on the waiting list compared to the Biden administration's practice. This means that respondents who would have received BFD or waiting list placement under prior administrations may be subject to RFEs or NOIDs and may face longer waits for initial protective status.

Mandamus Litigation as an Alternative for Extreme Delays

In rare cases where U visa processing delays have become genuinely unreasonable (typically defined as waiting periods substantially exceeding the average, such as 5+ years beyond normal processing times), respondents have filed mandamus petitions under the Administrative Procedure Act, seeking to compel USCIS to adjudicate the pending petition.[9] A mandamus action does not guarantee approval, but it can compel USCIS to take some action (approval, denial, or issuance of an RFE) within a reasonable timeframe. In practice, many USCIS offices process pending petitions once litigation is filed, to avoid the costs and burdens of defending a mandamus action.

However, mandamus litigation is expensive and time-consuming, and should only be pursued after careful consideration of the case's factual and legal merits and discussion with USCIS regarding the reasons for the delay. Additionally, mandamus litigation does not automatically stay removal proceedings, though respondents can request that the immigration judge maintain administrative closure or grant a continuance while mandamus litigation is pending.

San Francisco Immigration Court Context and Northern California Practice

San Francisco Immigration Court Procedures and Judge Tendencies

The San Francisco Immigration Court, located at 100 Montgomery Street, Suite 800, San Francisco, California, and with a satellite hearing location in Concord at 1855 Gateway Boulevard, Suite 850, handles removal cases from the Northern California region, including San Francisco, Oakland, El Sobrante, and surrounding areas. The court's local rules and specific immigration judges' approaches to motions to terminate or administratively close can significantly affect the likelihood of success.

General Characteristics: The San Francisco Immigration Court has generally been viewed by practitioners as having a relatively moderate approach to prosecutorial discretion issues and termination/administrative closure motions, compared to courts in other regions. The court's immigration judges have been receptive to administrative closure motions where there are pending applications for relief before USCIS, and have granted continuances to allow for USCIS adjudication in cases involving pending I-918, VAWA, SIJS, and T visa petitions.

However, judicial approaches vary significantly by individual judge. Some San Francisco immigration judges are known for being more skeptical of termination motions and preferring to maintain administrative closure instead, to preserve the respondent's ability to pursue relief before the court if the USCIS application is denied. Other judges favor termination when removal proceedings are not progressing on their merits and the respondent has a pending USCIS application that appears likely to succeed.

Procedural Requirements: Motions to terminate or administratively close removal proceedings must be filed in writing with the San Francisco Immigration Court. The motion should include a cover page labeled

"MOTION TO TERMINATE PROCEEDINGS WITHOUT PREJUDICE" or "MOTION FOR ADMINISTRATIVE CLOSURE," and should comply with the EOIR Practice Manual requirements for motion practice, including proper service on OPLA counsel.[2] The motion should include copies of the I-918 receipt notice from USCIS and any BFD determination or waiting list notice, as evidence that a petition is pending. OPLA counsel will typically be given 10-14 days to file a written response.

Local Rules and Standing Orders: The San Francisco Immigration Court has issued standing orders regarding continuance policy and motion practice. Practitioners should consult the court's website and contact the court clerk's office to obtain current standing orders and judge-specific procedures. In general, the San Francisco court encourages early filing of motions and written briefing rather than relying on oral argument, and the court has a goal of resolving motions and continuances within 30-45 days of filing.

San Francisco Asylum Office Intersection

While this analysis focuses primarily on removal proceedings and motions to terminate, practitioners should be aware that the San Francisco Asylum Office (which is part of USCIS) handles asylum applications filed affirmatively by respondents whose removal proceedings have been terminated or administratively closed. If a respondent's U visa petition is denied and the respondent subsequently files an asylum application with the Asylum Office, the application will be adjudicated by asylum officers at the San Francisco Asylum Office. Knowledge of the Asylum Office's procedures and case processing norms can be helpful for advising respondents on timing and strategy.

Northern California ICE ERO Field Office 1 Policies

The Immigration and Customs Enforcement's Enforcement and Removal Operations (ERO) Field Office 1 covers Northern California, including the San Francisco Bay Area. The specific OPLA office serving the San Francisco Immigration Court is located in Brooklyn, Ohio (the regional headquarters), but there are local OPLA attorneys assigned to the San Francisco court. Practitioners working in Northern California should develop relationships with these local OPLA attorneys and understand their approach to prosecutorial discretion in U visa cases.

As noted above, the Trump administration's January 31, 2025 Interim Policy Guidance has eliminated any requirement for ICE to consider victim status favorably or to expedite U visa cases. However, individual OPLA attorneys may still exercise discretion to cooperate with termination motions based on case-specific equities. Practitioners should be prepared to present compelling arguments about why termination serves the interests of justice, even if victim status can no longer be relied upon as a primary rationale.

Consequences of Denials and Post-Termination Scenarios

Denial of Unilateral Termination Motion and Appeal Proceedings

If an immigration judge denies a respondent's motion to terminate removal proceedings, the respondent has two options: (1) appeal the denial to the Board of Immigration Appeals, or (2) accept the denial and proceed with litigating the removal case on the merits.

An appeal of a denial of a motion to terminate is a narrow appeal, as the respondent is not appealing a removal order, but rather an interlocutory order denying a motion. The BIA will review the immigration judge's decision for abuse of discretion. Given the new EOIR regulations and the BIA's prior precedent in Avetisyan and W-Y-U-, the respondent has a reasonable argument that the immigration judge erred in denying the

motion, particularly if the respondent is prima facie eligible for U visa status and has filed a receipt notice with USCIS.

However, appealing the denial of a termination motion can delay resolution of the removal case and may signal to the immigration judge that the respondent is not prepared to move forward with litigating removal issues. In some cases, it may be strategically preferable to accept the denial, proceed with the removal case on its merits, and raise termination issues again if circumstances change (such as if the U visa petition is approved or if new evidence becomes available).

I-918 Denial and Reinitiation of Removal Proceedings

As noted above, if a respondent's removal proceedings are terminated without prejudice, and USCIS subsequently denies the I-918 petition, DHS may file a new Notice to Appear to reinitiate removal proceedings.[1] This is a critical juncture for respondents, as the options available at this point are limited.

Administrative Appeals of I-918 Denial: If USCIS denies the I-918 petition, the respondent may appeal the denial to the Administrative Appeals Office (AAO) within 30 days of the date of the denial notice.[1] The respondent should consider filing an AAO appeal, as it may delay the reinitiation of removal proceedings while the appeal is pending, and there is a possibility that the AAO will overturn the USCIS denial (though the AAO also has limited grounds for reversal and typically upholds USCIS decisions).

Options Upon Reinitiation of Removal Proceedings: Once DHS files a new NTA and the respondent is back in removal proceedings, the respondent should reassess the case and consider alternative strategies, such as: (1) seeking administrative closure pending further efforts to support the I-918 petition or other relief; (2) litigating the removal case on the merits if there are any potential defenses or claims for relief that can be pursued; (3) seeking cancellation of removal if the respondent meets the statutory requirements (three years of continuous presence, good moral character, etc.); (4) seeking asylum, withholding of removal, or CAT protection if there is evidence of persecution or torture; or (5) negotiating a voluntary departure agreement with OPLA if the respondent is willing to depart the United States voluntarily.

The fact that the prior removal proceedings were terminated does not bar the respondent from contesting the new NTA in certain respects. For example, if the new NTA contains defects or errors compared to the prior NTA, the respondent can challenge those defects. Additionally, the respondent's circumstances may have changed since the prior removal proceedings (for example, acquisition of family relationships, acquisition of a job or education, contribution to the community, etc.), and these changes can be presented as equitable factors supporting discretionary relief or administrative closure.

Revocation of U Visa Status After Approval and Termination

In rare cases, USCIS may revoke an approved U visa petition after the respondent's removal proceedings have been terminated. This can occur if: (1) the law enforcement agency that provided the certification withdraws or disavows the certification; (2) the USCIS determination of U visa approval was made in error; (3) there was fraud in the petition; or (4) in the case of derivative family members, the relationship to the principal petitioner has terminated.[1] If an approved U visa is revoked, the respondent's U nonimmigrant status is terminated, and the respondent reverts to previous deportability status.

If removal proceedings had been terminated based on U visa approval, and the U visa is later revoked, the respondent should consult immediately with immigration counsel to assess whether the respondent can file a motion to reopen the removal proceedings or whether DHS will file a new NTA. The respondent's options at this point are limited, but may include: (1) arguing that the revocation was erroneous and seeking AAO review

of the revocation decision; (2) requesting that USCIS reconsider the revocation decision; (3) seeking to reopen the immigration court proceedings if doing so is possible under EOIR's procedural rules; or (4) preparing to contest a new NTA if DHS decides to reinitiate removal proceedings.

Conclusion: Recommended Framework for Practitioners

The law governing joint motions to terminate removal proceedings based on pending or approved Form I-918 petitions is complex, multifaceted, and rapidly evolving. As of February 2026, practitioners face a substantially changed legal landscape compared to 2023-2024, due to the Trump administration's January 31, 2025 Interim Policy Guidance rescinding victim-centered protections and the EOIR regulations finalized in February 2025 establishing explicit categories of mandatory and discretionary termination.

For Respondents with Approved I-918 Petitions: The legal position is clear and unambiguous. Upon USCIS approval of the I-918 petition, removal orders issued by DHS are automatically deemed cancelled by operation of law.[1] If a removal order has been issued by an immigration judge or the BIA, the respondent must file a motion to reopen and terminate removal proceedings, citing 8 C.F.R. § 214.14(c)(5)(i). This termination is mandatory, not discretionary, and OPLA cannot successfully oppose it. Practitioners should file this motion promptly upon notification of I-918 approval to ensure that the immigration court enters an order reflecting the termination.

For Respondents with Pending I-918 Petitions (Not Yet BFD or Waiting List): These respondents face the most significant uncertainty and the most strategic decision-making is required. Under the new EOIR regulations, respondents have authority to seek either administrative closure or discretionary termination.[2] Joint motions to terminate should still be pursued where possible, as they signal cooperation and reduce judicial skepticism. However, respondents should be prepared for ICE/OPLA to refuse to join, given the Trump administration's policy changes. Unilateral motions to terminate are now more viable than they were previously, as the new EOIR regulations explicitly authorize discretionary termination for respondents with pending U visa applications and receipt notices.

The choice between administrative closure and termination should be made on a case-by-case basis, considering whether the respondent has prior immigration court findings that it wants to preserve (favoring closure), or whether the respondent prefers finality and wants to avoid relitigation if the U visa petition is denied (favoring termination).

For Respondents with BFD or Waiting List Placement: These respondents already have substantial legal protection through deferred action granted by USCIS.[4] Before seeking termination of immigration court proceedings, practitioners should carefully advise clients of the risks and benefits. Deferred action provides protection from removal equivalent to what an administrative closure would provide. Termination adds finality but eliminates the ability to pursue relief before the immigration court if the U visa petition is ultimately denied. In many cases, maintaining the status quo (relying on deferred action while the U visa petition proceeds) may be strategically preferable to seeking termination.

For All Respondents: Be aware of the extraordinary processing delays affecting U visa cases. Current wait times of 5-10 years from filing to approval mean that respondents seeking termination or administrative closure should have realistic expectations about timing, and should consider whether the U visa petition is actually meritorious and likely to succeed. Additionally, practitioners should monitor the ongoing litigation (Immigration Center for Women and Children v. Noem) challenging the Trump administration's January 31,

2025 Interim Policy Guidance, as a favorable ruling in that litigation could restore some of the procedural protections for U visa petitioners that were eliminated.

Finally, practitioners should remain current on developments in EOIR regulations and BIA precedent, as the immigration law governing termination and administrative closure continues to evolve rapidly. The February 2025 EOIR regulations represent a significant expansion of immigration judges' authority to grant discretionary relief, but this authority must be exercised within the bounds of statutory law and applicable circuit court precedent. Counsel should ensure that any motion to terminate or administratively close is well-grounded in current authority and carefully tailored to the respondent's specific circumstances and the immigration judge's known preferences.

Key Statutory and Regulatory Citations

8 U.S.C. § 1101(a)(15)(U) - INA § 101(a)(15)(U), statutory foundation for U nonimmigrant status

8 C.F.R. § 214.14 - Regulations governing U nonimmigrant status procedures and requirements

8 C.F.R. § 214.14(c)(1)(i) - Authority for joint motions to terminate removal proceedings while I-918 petition is pending

8 C.F.R. § 214.14(c)(5)(i) - Automatic cancellation of prior removal orders upon I-918 approval

8 C.F.R. § 214.14(c)(3)(iii) - DHS authority to file new NTA upon I-918 denial

8 C.F.R. § 1003.18(c) - New EOIR regulation authorizing administrative closure

8 C.F.R. § 1003.1(l) - BIA authority for administrative closure and termination under new rule

8 C.F.R. § 1240.12(c) - Immigration judge authority to order termination of proceedings

INA § 237(d), 8 U.S.C. § 1227(d) - Statutory stay of removal for U and T visa petitioners

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