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# USCIS Questions and Answers on Consular Processing for Overseas Derivative T and U Nonimmigrant Status Family Members

## USCIS Questions and Answers on Consular Processing for Overseas Derivative T and U Nonimmigrant Status Family Members <sup>[1]</sup>

Submitted by Editor on Apr 9th 2012

### Introduction

USCIS provides immigration relief to victims of various crimes?including domestic violence and human trafficking?by granting one of two forms of relief: T nonimmigrant status <sup>[2]</sup> and U nonimmigrant status <sup>[3]</sup>.

Principal victims granted T or U nonimmigrant status may additionally apply or petition USCIS on behalf of overseas family members for derivative T or U nonimmigrant status so that these family members can join them in the United States.

Before family members of principal T or U visa holders can enter the United States, they must first undergo processing with the U.S. Department of State (DOS) at a U.S. Embassy or Consulate to obtain a T or U visa abroad. This is known as consular processing <sup>[4]</sup>.

USCIS will decide on the basis of the application or petition filed by the principal T or U nonimmigrant status holder whether an overseas family member qualifies for derivative T or U nonimmigrant status. DOS will then separately determine that family member?s eligibility to receive a visa in order to enter the United States.

### Definition of a Derivative Family Member

A T or U nonimmigrant derivative family member is someone who may be eligible for a T or U visa because of their family relationship with the principal victim. If a principal victim receives T or U nonimmigrant status, a family member may "derive" their status from their family relationship with the principal. See INA 101(a)(15)(T)(ii) and INA 101(a)(15)(U)(ii).

For Whom Can A Principal Victim Apply on Behalf of?

If the principal victim	They may apply on behalf of
Is under 21	A spouse, child, parent, or unmarried sibling under 18.
Is over 21	A spouse or child
Is eligible for a special T visa principal category in which family members face a present danger of retaliation	A parent or sibling under 18

### Overall Process for Overseas Family Members

1. The T or U principal (the primary victim of the crime) applies or petitions with USCIS on behalf of the overseas family member for derivative T or U nonimmigrant status, using either:
  - For T nonimmigrant status, [Form I-914](#) [5], Supplement A, Application for Immediate Family Member of T-1 Recipient, or
  - For U nonimmigrant status, [Form I-918](#) [6], Supplement A, Petition for Qualifying Family Member of U-1 Recipient.
2. USCIS sends a fingerprint notice for the overseas family member to the attorney, representative or principal T or U nonimmigrant in the United States (as supplied on the form).
3. The overseas family member contacts the appropriate U.S. Embassy or Consulate to schedule an appointment for fingerprinting. Depending on the location, either Department of Homeland Security (DHS) or DOS will conduct the fingerprinting.
4. The department that conducts the fingerprinting sends the fingerprints to the USCIS Vermont Service Center.
5. USCIS adjudicates (approves or denies) the application or petition for derivative T or U nonimmigrant status.
6. If approved, USCIS sends notice of approval to the attorney, representative or principal T or U nonimmigrant (as supplied on the form) and to DOS.
7. The overseas family member schedules an interview with DOS at the nearest U.S. Embassy or Consulate to apply for their visa in order to enter the United States. It is the responsibility of the family member, and not DOS, to schedule an interview. The overseas family member should not wait to be contacted.
8. DOS interviews the overseas family member. This step may take several visits and further evidence. It then approves (if applicable) a T or U visa.

9. Following the approval, DOS sends the visa to the overseas family member.
10. The overseas family member makes travel arrangements to enter the United States on their derivative T or U visa.

## **Questions and Answers**

### **Q1. What should family members overseas do when they receive a notice from USCIS instructing them to report to the nearest U.S. Embassy or Consulate to have fingerprints taken?**

A1. They should contact the nearest U.S. Embassy or Consulate directly using the information provided on the U.S. Embassy's or Consulate's website at <http://www.usembassy.gov/> [7]. When contacting the U.S. Embassy or Consulate, they must indicate that the fingerprint appointment is for a derivative T or U nonimmigrant visa.

### **Q2. How do family members overseas complete consular processing to enter the United States once they receive USCIS approval of a derivative T or U nonimmigrant application or petition?**

A2. After receiving notice from USCIS that their derivative nonimmigrant application or petition has been approved, overseas family members must contact the nearest U.S. Embassy or Consulate to schedule an interview to receive a T or U visa. This step is required before the overseas family members can process into the United States. To find the nearest U.S. Embassy or Consulate and detailed information about nonimmigrant visa processing, overseas family members should visit [www.usembassy.gov](http://www.usembassy.gov) [7].

### **Q3. Will DOS contact overseas family members to schedule their appointments for an interview at the U.S. Embassy or Consulate?**

A3. No. Once overseas family members receive their USCIS approval notice of derivative nonimmigrant status, they must contact the nearest U.S. Embassy or Consulate to schedule an interview to receive their T or U nonimmigrant visa. USCIS and DOS are not responsible for contacting applicants to schedule this interview.

### **Q4. Will overseas family members receive the T or U nonimmigrant visa at this interview?**

A4. No. U.S. Embassies or Consulates generally require 48 hours to process a visa after the interview, and will then mail the passport and visa to the overseas family members. This time period can be lengthened if, based on the interview, it is found that applicants will require additional evidence for processing. Remember that the U.S. Embassy or Consulate determines whether an overseas derivative family member is eligible to receive a visa to enter the United States, and can take action that results in the visa being denied.

### **Q5. What DOS visa application form must approved T or U nonimmigrant overseas family members submit to the U.S. Embassy or Consulate?**

A5. Overseas derivative family members must submit DOS Form DS-160, Online Nonimmigrant Visa Application, to apply for a T or U nonimmigrant visa. Most U.S. Embassies and Consulates require that the Form DS-160 be filled out before the overseas family member

can make an appointment for an interview, although the process may vary at certain locations.

Please visit [www.usembassy.gov](http://www.usembassy.gov) [7] for specific information on that U.S. Embassy or Consulate. The Form DS-160 can be found online at <https://ceac.state.gov/genniv/> [8]. The Form DS-160 must clearly state the request for derivative T or U nonimmigrant visa.

**Q6. What should derivative family members do when they arrive at the U.S. Embassy or Consulate for an interview?**

A6. Overseas derivative family members should enter the U.S. Embassy or Consulate with other visa applicants and clearly indicate that their appointment is for a T or U nonimmigrant visa. DOS strongly recommends they bring a copy of the online submission of Form DS-160 and the USCIS notice of the T or U application or petition approval to the interview to avoid potential processing delays. A consular officer will ask a series of questions to determine eligibility to obtain a T or U visa to enter the United States. The officer may request that additional information be mailed, or be hand-delivered, if a second interview is scheduled. For further information, please visit the ?Visas? section of the specific U.S. Embassy or Consular website available at [www.usembassy.gov](http://www.usembassy.gov) [7].

**Q7. Overseas family members can receive a waiver for a ground of inadmissibility, if USCIS approves Form I-192, Application for Advance Permission to Enter as a Nonimmigrant. However, DOS sometimes discovers additional grounds of inadmissibility for family members with approved Forms I-192. When this occurs, what must these overseas family members do to enter the United States?**

A7. The approved Form I-192 in conjunction with an application or petition for T or U nonimmigrant status waives only the inadmissibility ground(s) listed on the Form I-192. If additional inadmissibility grounds are found by the consular officer or stated during the consular interview, the overseas derivative family member will not be allowed to enter the U.S. unless they are able to waive the inadmissibility ground(s) by filing a new Form I-192 with USCIS. If the new Form I-192 waiver is approved, USCIS will notify the overseas derivative family member and the DOS of the decision. It will again be the responsibility of the overseas derivative family member to schedule an appointment with the U.S. Embassy or Consulate to continue with their consular processing.

**Q8. Can DOS request that an overseas derivative family member provide DNA test results ?or any other evidence or documentation?before they may receive a T or U nonimmigrant visa?**

A8. Yes. DOS, through the consular interview process, may request any and all evidence that is deemed necessary to determine if an overseas derivative family member is eligible for a T or U nonimmigrant visa. This may include DNA test results to establish family relationships and any other evidence needed to address ineligibility issues raised during the consular interview.

**Q9. What can a principal T or U nonimmigrant in the United States do if overseas derivative family members are told when they arrive for an interview at a U.S. Embassy or Consulate that DOS has no information or evidence from USCIS on their approved application or petition (e.g. derivative T or U nonimmigrant petition or Form I-192 waiver)?**

A9. If a T or U nonimmigrant application or petition is approved, USCIS will notify DOS of the decision. If DOS tells the overseas family member that no evidence of an approval has been received, the attorney, representative or principal T or U nonimmigrant should contact USCIS, either (please choose only one):

- By email at [hotlinefollowup19181914.vsc@dhs.gov](mailto:hotlinefollowup19181914.vsc@dhs.gov) [9] or
- By phone at 802-527-4888.

When you contact USCIS for this reason, please:

- Provide the derivative family member's name, "A" number and receipt number, and
- Describe the problem.

USCIS sends all information relating to an approval of T or U nonimmigrant status directly to the DOS to upload into the electronic database used by every U.S. Embassy and Consulate. Overseas family members can also avoid delays by bringing their USCIS approval notice to the interview.

**Q10. Where can I find more information on specific U.S. Embassies or Consulates? (Information such as office hours, scheduling an interview, and what a derivative family member should bring to the interview?) Who can I contact if there are issues with consular processing?**

A10. This information and more is available on the DOS website at [www.usembassy.gov](http://www.usembassy.gov) [7]. If, after contacting the U.S. Embassy or Consulate, there are issues with an overseas derivative family member's case, call the Department of State's public inquiries line at 202-663-1225.

### **Nonimmigrant Visas:**

[T Visa](#) [10]

[U Visa](#) [11]

### **Agency:**

[USCIS](#) [12]

### **Green Card:**

[Consular Processing](#) [13]

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### **Links:**

[1] <https://immigration.com/news/consular-processing/uscis-questions-and-answers-consular-processing-overseas-derivative-t-and-u>

[2] <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=02ed3e4d77d73>

[3] <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=ee1e3e4d77d73>

[4] <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=62280a5659083>

[5] <http://www.uscis.gov/i-914>

[6] <http://www.uscis.gov/i-918>

[7] <http://www.usembassy.gov/>

[8] <https://ceac.state.gov/genniv/>

[9] <mailto:hotlinefollowup19181914.vsc@dhs.gov>

[10] <https://immigration.com/visa/nonimmigrant-visas/t-visa>

[11] <https://immigration.com/visa/nonimmigrant-visas/u-visa>

[12] <https://immigration.com/agencies/agency/dhs/uscis>

[13] <https://immigration.com/greencard/green-card/consular-processing>