

Comparison Chart of U visa, Special Immigrant Juvenile Status (SIJS), and Deferred Action for Childhood Arrivals (DACA)¹

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	U Visa	Special Immigrant Juvenile Status (SIJS)	Deferred Action for Childhood Arrivals (DACA)
ELIGIBILITY			
Applicant			
Typical Recipients	<p>Victims of certain criminal activities (i.e. violent criminal activity and fraud), including:</p> <ul style="list-style-type: none"> ▪ <i>Direct victims</i>: individuals who experienced substantial physical and mental abuse as a result of the qualifying criminal activity ▪ <i>Indirect victims</i>: certain family members* of direct victims where the direct victim is: <ul style="list-style-type: none"> ○ Deceased due to manslaughter or murder, or ○ Incompetent, or incapacitated and therefore not able to give information concerning the qualifying criminal activity (i.e. parent of a sexually abused child) 	<p>The applicant must:</p> <ul style="list-style-type: none"> • Be under 21 years old and unmarried (most jurisdictions will not declare a youth dependent of the court once they are 18 or older);² • Have been abused, neglected, or abandoned by one or both parents; • Demonstrate that reunification with parent who abused, neglected or abandoned is not viable; • That it is not in the best interest of the child to return to home country; and • Have a court order placing the child/juvenile under jurisdiction of a state juvenile, family, or probate court. 	<p>The applicant must:</p> <ul style="list-style-type: none"> • Be at least 15 years of age at the time of application and under 31 years of age as of 06/15/2012; • Have been physically present in the U.S. on 06/15/2012; • Have entered without inspection before 06/15/2012 or lawful status expired before this date; • Have been continuously in the U.S. since 06/15/2007 (brief absences for humanitarian reasons do not count); • Be in school, graduated from high school, has GED, or have been honorably discharged from the coast guard or armed forces <i>at the time of applying</i> for DACA; and • Have not been convicted of a felony or a significant misdemeanor, and/or has not accumulated three or

¹ Copyright © The National Immigrant Women’s Advocacy Project, American University, Washington College of Law 2014. This project was supported by Grant No. 2013-AT-AX-K009 awarded by the Office of Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author and do not necessarily reflect the view of the Department of Justice, Office of Violence Against Women. This document was also developed under grant number SJI-13-E-199 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.

² State laws generally require that a child be under age 18 at the time he or she first is declared a juvenile court dependent. State laws vary as to how long a child can remain a juvenile court dependent once he or she has been declared a dependent. Some states end dependency at age 18, others extend it to age 19 (especially if the child must complete high school), and others potentially can extend dependency to age 21. Similarly, different states have different laws on how old a young person must be to enter or stay under juvenile court jurisdiction in a delinquency case.

			more misdemeanors, and must not pose a national security or public safety threat
*Family Members Who May Qualify as Indirect Victims	If direct victim is over 21: spouse, and children under 21 years old. If direct victim is under 21: parents, and unmarried siblings under 18 years old.	Not applicable	Not applicable
Proof of Good Moral Character	Proof of good moral character is not required for the U visa application, but is required to be granted lawful permanent residency.	Not required	Good moral character is not required, but applicant cannot have a felony, a significant misdemeanor, or three or more misdemeanor convictions, and the applicant must not pose a national security or public safety threat.
Applicant's Criminal History	The applicant may apply for a discretionary waiver for crimes they may have committed. No waivers are available for participants in Nazi persecutions, genocide, acts of torture, or extrajudicial killings.	Criminal history involving drugs, prostitution, fraud, smuggling, or felonies may bar SIJS approval.	The applicant has not been convicted (as an adult) of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.
*Applicant's Criminal History That Is Related to Domestic Violence Suffered	The applicant may apply for a discretionary waiver for crimes they may have committed including domestic violence. No waivers are available for participants in Nazi persecutions, genocide, acts of torture, or extrajudicial killings.	Not applicable	The applicant has not been convicted (as an adult) of a felony, significant misdemeanor, three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.
Criminal Activity Suffered by Victim			
Qualifying Criminal Activity	Any of the following: abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, female genital mutilation, felonious assault, fraud in foreign labor contracting, hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, stalking, torture, trafficking, witness tampering, unlawful criminal restraint, other related criminal (including attempt, conspiracy, or solicitation to commit any of the above and other related criminal activity).	Not applicable	Not applicable

Proof of Harm	Must show substantial physical or mental abuse as a result of the criminal activity.	Must show that the child has been abused, neglected, or abandoned by one or both parents. “Abuse, abandonment or neglect” includes behaviors and patterns of treatment and coercive control that are not limited to physical or sexual abuse and would constitute “extreme cruelty.” ³	Not applicable
Perpetrator			
Applicant's Relationship to Perpetrator	Any individual	Applicant must be the perpetrator’s child.	Not applicable
*If Applicant Is/Was Married to Perpetrator	Not required	Applicant must be unmarried.	Not applicable
Effect of Marriage for Child Applicant	No effect	Applicant must be unmarried	No effect
Requirement of Applicant and Perpetrator's Shared Residence	Not required	Not required	Not applicable
Perpetrator's Immigration Status	Any status (including undocumented)	Any status (including undocumented)	Not applicable
Cooperation with Law Enforcement Requirement	Applicant must submit a U visa certification (Form I-918 Supplement B) signed by a designated law enforcement officer, judge, prosecutor, or other state or federal government official involved in detection, investigation, conviction, prosecution, conviction or sentencing of a listed criminal activity. Applicant may be certified if she is a victim of a qualifying criminal activity and has been, is being, or is	Not required	Not applicable

³ Leslye Orloff, Brittnay Roberts and Stefanie Gitler, *Battering and Extreme Cruelty: Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Oct. 13, 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law/Extreme-Cruelty-BIA-training-memo.pdf/view>.

	likely to be helpful in the detection, investigation, prosecution conviction or sentencing of criminal activity. Certification is encouraged as soon as possible and certifying helpfulness does not hinge on a case proceeding beyond detection or investigation of a criminal activity.		
PROCESS			
What to File	U visa Application. Title: Application for U Nonimmigrant Status (Form I-918; including I-918 Supplement B).	Form I-360 ⁴ (and Form I-485 Application for Lawful Permanent Residency Title: “Adjustment of Status” if the child is filing affirmatively).	Application for DACA Title “Consideration of Deferred Action for Childhood Arrivals” Form Number: I-821 D
Where to File	VAWA Unit of Vermont Service Center of the Department of Homeland Security (DHS).	USCIS Chicago Lockbox. For US Postal Service: USCIS, P.O. Box 805887, Chicago, IL 60680-4120. For Express Mail & Courier: USCIS, Attn: FBAS, 131 South Dearborn – 3 rd Floor, Chicago, IL 60603-5517. ⁵	VAWA Unit of Vermont Service Center of the Department of Homeland Security (DHS).
Family Members Whom Applicant Can Include in His or Her Application	If applicant is over 21: spouse and unmarried children under the age of 21 at the time of filing. If applicant is under 21: spouse, children under the age of 21 at the time of filing, parent(s), unmarried siblings under the age of 18 at the time of filing.	Cannot include family members. A child who immigrates as SIJS essentially ceases to be the “child” of his or her natural or prior adoptive parent who subjected the child to abuse, abandonment or neglect for immigration purposes. This means that the child who obtains lawful permanent residence through SIJS and later becomes a naturalized citizen will not be able to file an immigration application to confer any legal immigration status on the parent who abused, abandoned or neglected the parent, even when the parent’s parental rights were not terminated. ⁶	Cannot include family members
Number of Visas given/year	10,000 each fiscal year	No limit	No limit

⁴ Form I-360 must be filed with the underlying custody order from family court, dependency order, and the child’s translated birth certificate.

⁵ If filing I-360 without the I-485, send to USCIS Phoenix or Dallas. Phoenix: For US Postal Service - USCIS, P.O. Box 21281, Phoenix, AZ 85036. For Express Mail & Courier – USCIS, Attn: AOS, 1820 E. Skyharbor Circle S, Suite 100, Phoenix, AZ 85034. Dallas: For US Postal Service – USCIS, P.O. Box 660867, Dallas, TX 75266. For Express Mail & Courier – USCIS, Attn: AOS, 2501 S. State Hwy. 121, Business Suite 400, Lewisville, TX 75067.

⁶ In some cases where children want to help a non-offending parent to also obtain lawful immigration status, applying for U visa may be a better option. Moreover, an SIJS with lawful permanent residency can apply for citizenship in 5 years, and a U.S. citizen of at least 21 years of age would be able to file for her immediate family members, parents, and siblings.

Average Case Processing Times	As of April 2014, 7 months.	As of August 2017, DHS is required to process applications within 180 days (6 months).	DHS states it takes 6 months as of April 2014.
	Prior to December 2013: research shows that processing times vary between 6-18 months from filing.		
How Long Relief Lasts	4 years – may be extended if U visa holder is certified by law enforcement to be required for an investigation, prosecution, exceptional circumstances, or because U visa holder was unable to apply for lawful permanent residence due to a DHS delay in issuing regulations.	SIJS leads directly to lawful permanent residency	2 years, may be renewable
What Wait-List Approval Provides	Pursuant to the limit of 10,000 U visas a year, the Department of Homeland Security provides certain immigrants with "wait-list" approvals. This classification does not grant the individual with all benefits that come with a U visa status, but it does provide deferred action, which: <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization 	Not applicable	Not applicable
What Approval Provides	Conditional approval provides deferred action, which: <ul style="list-style-type: none"> ▪ Protects against removal/deportation ▪ Provides basis for work authorization U visa approval provides <ul style="list-style-type: none"> ▪ U visa that lasts for 4 years ▪ Ability to apply for lawful permanent residency after 3 years ▪ *May be extended if U visa holder is certified by law enforcement to be required for an investigation, prosecution, exceptional circumstances, or because U visa holder was unable to apply for lawful permanent residence due to a DHS delay in issuing regulations. 	SIJS approval allows the applicant to apply for lawful permanent residency.	Approval provides deferred action for 2 years, which: <ul style="list-style-type: none"> • Protects against removal/deportation • Provides work authorization • *May be extended for another 2 years.⁷ No path to lawful permanent residency

⁷ DACA is renewable as long as the applicant (1) did not leave the U.S. without obtaining advance parole, (2) has kept continuous presence since applying for DACA, and (3) have not been convicted of a felony or a significant misdemeanor, and/or has not accumulated three or more misdemeanors, and must not pose a national security or public safety threat. For more information on DACA renewal, see <http://www.nilc.org/dacarenewalprocess.html>.

BENEFITS

Immigration Benefits

<p>Protection Against Deportation</p>	<p>Upon filing, applicant is flagged as "384" in Department of Homeland Security's system as a VAWA confidentiality-protected case. This stops the Department of Homeland Security from taking any enforcement action against the victim, including detention and removal. Cannot rely on information provided by the perpetrator or their family member to harm the victim.</p>	<p>Upon filing, applicants are protected against deportation until their cases are decided.</p>	<p>DACA provides an administrative protection from deportation.</p>
	<p>Work authorization upon conditional approval based on deferred action status if cap is reached.</p> <p>Work authorization for 4 years upon receipt of the U visa.</p>	<p>Applicants, who have submitted affirmative SIJS petitions and have also submitted an application for lawful permanent residency, are granted employment authorization while their cases pending.</p> <p>Applicants who are in removal (deportation) proceedings and cannot obtain a work authorization until their SIJS application has been approved by USCIS and their application for lawful permanent residency is filed with the immigration judge.</p>	<p>Work Authorization (for two years) upon approval</p>
	<p>Form to file: None required for approvals. Application for Employment Authorization (Form I-765) is required for wait-list approvals with deferred action status.</p>	<p>Forms to file: Form I-485 "Adjustment of Status Application." This is the application for lawful permanent residency. Additionally, the applicant will need to file an Application for Employment Authorization (Form I-765) – fee waivers are available.</p>	<p>Forms to file: I-765 Application for Employment Authorization and I-765WS Worksheet explaining the applicant's economic need to work.</p>
<p>Waivers Available for Ineligibility Factors So That Victim Can Receive Lawful Permanent Residency</p>	<p>There is an exception to the public charge grounds of inadmissibility.</p> <p>Discretionary waiver of inadmissibility available if it is in the public or national interest. No waiver available for participants in Nazi persecution, genocide, torture, or extrajudicial killing.</p>	<p><u>Grounds of inadmissibility that are statutorily waived:</u> public charge, misrepresentation (including false claim to U.S. citizenship), stowaways, smuggling/trafficking of people, being present without inspection, unlawful presence, being present without admission or parole</p> <p><u>For other grounds of inadmissibility, waivers are discretionary.</u> The applicant must show that the inadmissibility should be waived:</p> <ul style="list-style-type: none"> • For humanitarian purposes, family unity, or when it is otherwise in the public interest. 	<p>Not applicable because DACA recipients cannot apply for lawful permanent residency with their DACA approval.</p>

		<ul style="list-style-type: none"> Because of health related reasons (physical/mental disorder) <p>No waiver for certain crimes involving moral turpitude, drug offenses, multiple criminal convictions, terrorist activities, genocide, torture, extrajudicial killing.</p>	
Applicant's Access to a Permanent Residency Card <i>Also known as a "Green Card"</i>	<p>A U visa holder can apply for lawful permanent residence, if the applicant has:</p> <ol style="list-style-type: none"> Maintained continuous presence in the U.S. for 3 years; Complied with reasonable requests to cooperate in investigation or prosecution, Good moral character, and Is admissible or qualifies for a waiver of inadmissibility. 	<p>Applicants can apply for permanent residency upon approval of SIJS application.</p>	<p>No path to lawful permanent residency</p>
Access to Services Not Considered Public Benefits Open to All Immigrants⁸			
Life and Safety Services⁹	Eligible	Eligible	Eligible
Transitional Housing	Eligible	Eligible	Eligible
Emergency Medicaid	Eligible	Eligible	Eligible
Healthcare from HHS-funded Community Clinics www.HRSA.gov	Eligible	Eligible	Eligible

⁸ Leslye Orloff, Aditi Kumar and Krisztina Szabo, *Public Benefits Toolkit*, NIWAP (March 2014) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/Public%20Benefits%20Toolkit%20FINAL%203%2024%2014%20leo.pdf/view> (Hereinafter "Public Benefits Toolkit").

⁹ For more information about the benefits available to all immigrants regardless of status, see Catherine Longville and Leslye E. Orloff, *Programs Open To Immigrant Victims And All Immigrants Without Regard To Immigration Status*, NIWAP (June 2014) available at <http://niwaplibrary.wcl.american.edu/public-benefits/unrestricted-benefits/Programs%20Open%20To%20All%20Immigrants%20Regardless%20of%20Status.pdf/view>.

Assistance from a Legal Services Corporation Funded Program	Eligible under <i>anti-abuse regulations</i> for “related legal assistance” including matters related to escaping abuse, ameliorating the effects of the abuse, preventing future abuse, prevention of or obtaining relief from any U visa criminal activity. Upon filing an application for lawful permanent residency based upon a U visa the victim is eligible for all legal assistance offered with no relationship to the abuse required.	Eligible under anti-abuse regulations because “abuse, abandonment or neglect” includes behaviors and patterns of treatment and coercive control that are not limited to physical or sexual abuse and would constitute “extreme cruelty.” ¹⁰	Not eligible, unless the DACA recipient is a victim of crime eligible under anti-abuse regulations.
Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	Eligible	Eligible	Eligible
Access to Federal and State Public Benefits¹¹			
General Access to Public Benefits	U visa holders are not “qualified immigrants,” and are not eligible to receive federal public benefits or federal means-tested public benefits.	SJIS applicants are lawfully present for health care purposes and states have the option of providing subsidized health care to lawfully present children. SIJS recipients are lawful permanent residents and qualified immigrants for public benefits purposes, but they must wait 5 years before they are eligible for federal means tested public benefits. SIJS recipients are eligible for Title IV-E federal foster care funds and federal financial aid to go to college.	DACA recipients are not eligible to receive federal public benefits or federal means-tested public benefits.
Post-secondary Education	U visa holders are not able to file for FAFSA or other governmental scholarships, grants, or loans, until they become Lawful Permanent Residents. However, recipients may be eligible to apply for non-governmental, and state	Eligible upon receipt of Lawful Permanent Residency	Not eligible. However, recipients may be eligible to apply for non-governmental, and state scholarships,

¹⁰ Leslye Orloff, Brittnay Roberts and Stefanie Gitler, *Battering and Extreme Cruelty: Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (Oct. 13, 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts/family-law/Extreme-Cruelty-BIA-training-memo.pdf/view>

¹¹ This section highlights some of the public benefits available to qualified immigrants for a more complete list of benefits available see Public Benefits Toolkit, *supra* note 7.

	scholarships, grants, and loans. ¹² Recipients may also be eligible to receive in-state tuition in certain states. ¹³		grants, and loans. ¹⁴ Recipients may also be eligible to receive in-state tuition in certain states. ¹⁵
Public and Assisted Housing	Not eligible	Eligible upon receipt of Lawful Permanent Residency	Not eligible
Child Care¹⁶	<p>All immigrants, regardless of immigration status, are eligible for Child Care Development Fund (CCDF) child care when:</p> <ul style="list-style-type: none"> • Child care is provided in settings subject to public educational standards, including public or private pre-kindergarten or public and private childcare provided after school or during school holidays. • Child care is subject to Head Start performance standards. • Eligibility for child care services is determined by a nonprofit charitable organization. 	<p><u>Child Care Development Fund (CCDF):</u> Children receiving lawful permanent residency through SIJS are qualified immigrants are eligible for CCDF child care.</p> <p><u>TANF Funded Child Care:</u> Varies by state. Depends on whether the state provides benefits for qualified immigrants during the 5 year bar.</p>	<p>All immigrants, regardless of immigration status, are eligible for CCDF child care when:</p> <ul style="list-style-type: none"> • Child care is provided in settings subject to public educational standards, including public or private pre-kindergarten or public and private childcare provided after school or during school holidays. • Child care is subject to Head Start performance standards. • Eligibility for child care services is determined by a nonprofit charitable organization.
State Public Benefits	Not available until the U visa holder becomes a Lawful Permanent Resident and completes the 5 year bar. Some states provide state funded benefits to qualified immigrants during the 5 year bar. A very limited number of states provide state funded benefits to U visa applicants who are PRUCOL (present under color of law) or U visa victims with U visas or deferred action status, as U visa victims with conditional approval who are considered lawfully present. ¹⁷	SIJS recipients are qualified immigrants eligible for state funded benefits. Whether, and which state funded benefits states provide to qualified immigrants varies by state and by benefit. ¹⁸	Not available to DACA recipients.

¹² For resources on financial aid and scholarships regardless of immigration status, please see <http://www.nilc.org/eduaccessstoolkit10.html#aid> and <http://www.maldef.org/leadership/Scholarships/>.

¹³ For information, see National Conference of State Legislators, *Undocumented Students: State Action* (June 14, 2014), available at <http://www.ncsl.org/research/education/undocumented-student-tuition-state-action.aspx>.

¹⁴ For resources on financial aid and scholarships regardless of immigration status, please see <http://www.nilc.org/eduaccessstoolkit10.html#aid> and <http://www.maldef.org/leadership/Scholarships/>.

¹⁵ For information, see National Conference of State Legislators, *Undocumented Students: State Action* (June 14, 2014), available at <http://www.ncsl.org/research/education/undocumented-student-tuition-state-action.aspx>.

¹⁶ Benish Anver and Leslye E. Orloff, *Immigrant Crime Victim Child Care Access*, NIWAP (March 13, 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/access-to-benefits-and-sevices-by-immigration-relief-for-immigrant-crime-victims/CHILDCAREChart-FINAL%204.17.13.docx/view>

¹⁷ For an overview of public benefits available by state see Public Benefits Toolkit, *supra* note 7, and NIWAP's state by state interactive demographics and benefits map available at <http://niwaplibrary.wcl.american.edu/public-benefits/public-benefits-tool-kit/Map%20Document%20backup%202.swf/view>.

¹⁷ *Id.*

¹⁸ *Id.*

Driver's Licenses¹⁹	Varies by state. In most states upon receipt of work authorization. Maine: Letter or notice acknowledging that the person is a U visa victim	Varies by state. In most states upon receipt of work authorization. Maine: Evidence of a pending SIJS application.	Varies by state. In most states upon receipt of work authorization.
Access to Means-Tested Benefits²⁰			
Temporary Assistance for Needy Families (TANF)	Not available until 5 years after attaining Lawful Permanent Residency.	Eligible	Not eligible
Food Stamps (SNAP)	Not eligible	Eligible	Not eligible
Medicaid/CHIP	Generally not available. U visa holders and wait-list approved U visa applicants with deferred action status may be able to receive subsidized healthcare for children, and pregnant women as lawfully present immigrants in some states.	Eligible upon filing the SIJS application as lawfully present children to access health care through the health care exchanges and are eligible for CHIP funded health care if available in their state of residence. ²¹	Not eligible

¹⁹ Angela Baker and Leslye Orloff, *Acceptable Forms of Identification for State Drivers License/Identification Card*, NIWAP (March 2013) available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/state-issued-drivers-licenses-and-identification/Drivers-License-Access.pdf/view>

²⁰ For a full discussion of qualified immigrant access to federal means tested public benefits see Public Benefits Toolkit, *supra* note 7.

²¹ For an overview of health care benefits available to lawfully present persons by state see Carly Erickson and Leslye E. Orloff, *Federal, Partnership, and State Exchanges That Provide State and State-Option Funded Medicaid or Medicaid-Like Services*, NIWAP (June 16, 2014) available at <http://niwaplibrary.wcl.american.edu/public-benefits/health-care/Affordable%20Care%20Act%20and%20Exchanges.pdf/view>.