

National Network to End Violence Against Immigrant Women
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FACT SHEET AND GUIDANCE¹

**Filing Fees and Fee Waivers
For T and U Nonimmigrant Status & Adjustment Applicants**

**“Adjustment of Status to Lawful Permanent Residence for Aliens in T or U
Nonimmigrant Status Regulations”**

Regulations Issue Date: December 12, 2008

Effective Date: January 12, 2009

This analysis is intended to amplify your reading of the regulations and statute. It is not a substitute for reading the regulation and the supplementary information (preamble). You may find the regulations at this link: <http://edocket.access.gpo.gov/2008/E8-29277.htm>. 73 Fed. Reg. 75540-75564 (December 12, 2008) (to be codified at 8 C.F.R. 245.23 and 245.24). This document is a summary for those with immigration practice background. If you are an advocate or filing this petition on your own behalf, we recommend you consult with an attorney or accredited representative who is familiar with the statute and regulations. If you don't know such a person, the Network may be able to connect you with someone. If you qualify for technical assistance from our agencies, you may consult with one of our attorneys. Technical assistance is available through ASISTA and Legal Momentum's Immigrant Women Program using the contact information above. If you are a member of the National Immigration Project of the National Lawyers Guild, you may also obtain technical assistance by emailing ellen@nationalimmigrationproject.org.

For More Information about Fee Waivers: <http://www.uscis.gov/feewaiver>

- **Breaking Related News!** The **William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)** is expected to be signed imminently by the President. The bill adds a **statutory** provision for fee waivers of any fees associated with Ts, Us, VAWA self-petitioners, VAWA cancellation, VAWA suspension, and abused derivative nonimmigrant visa holders seeking employment authorization under INA 106. *TVPRA, Title II, Subtitle A, Section 201(d)(3)*

¹ This *Fact Sheet and Guidance: Filing Fees and Fee Waivers for T and U Nonimmigrant Status & Adjustment Applicants* was prepared by the Family Violence Prevention Fund, Ellen Kemp of National Immigration Project of the National Lawyers Guild, and Gail Pendleton of ASISTA, on behalf of the National Network to End Violence against Immigrant Women.
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Fee Waiver Fix for Applicants for T and U Nonimmigrant Status

Summary: Good News!

- Good news! Applicants seeking T or U nonimmigrant status may request a fee waiver for the \$545 fee associated with the Form I-192 Waiver (grounds of inadmissibility) and/or with the Form I-193 Waiver (passport requirement.) *See new 8 C.F.R. 103.7(c)(5)(iii).*

Fee Waivers for Approved T and U Nonimmigrant Status Holders Seeking Adjustment of Status

Summary: Good News! Fee waivers are available for all filing fees related to T and U adjustment of status.

- Approved T and U nonimmigrant status holders may request a fee waiver for the \$930 fee associated with Form I-485 (for filing an application to adjust status) *8 C.F.R. 103.7(c)(5)(ii)*
- Approved T and U nonimmigrant status holders may request a fee waiver for the \$80 fee associated with biometrics (for fingerprints, etc.) *8 C.F.R. 103.7(c)(5)(i)*
- Approved T and U nonimmigrant status holders may request a fee waiver for the \$340 fee associated with Form I-765 (for filing an application for employment authorization) based on a pending adjustment application *8 C.F.R. 103.7(c)(5)(i)*
- Approved T nonimmigrant status holders may request a fee waiver for the \$545 fee associated with the Form I-601 Waiver (for filing an application for waiver of ground of inadmissibility) *8 C.F.R. 103.7(c)(5)(ii)*

Special Announcement: Approved U Nonimmigrant Status Holders Seeking Adjustment of Status Not Subject to Grounds of Inadmissibility

Summary: Good News! No Waiver Required = No Filing Fee!

- Approved U nonimmigrant status holders are exempt from almost all of the grounds of inadmissibility at time of adjustment, with one exception which is not waivable, thus they will not be required to submit the Form I-601 Waiver. *8 C.F.R. 245.24(b)(4); Supplementary Information Part IV, Section B, pp.32-33.* Since no I-601 waiver is required, a fee waiver is not necessary.
- **Related Practice Pointer:** It is even more important than ever to disclose and get waived all grounds of inadmissibility at the U status acquisition stage. Otherwise, the combination of possible status revocation and the high standard for overcoming negative discretionary factors (which the National Network and other organizations will challenge in comments, but will be in place at least for awhile) may cause people to lose their U status or not obtain adjustment if they fail to disclose all inadmissibility issues. Please see the National Network's Fact Sheet on U Status Adjustment by Sally Kinoshita for more information.

Fee Waiver for Derivatives Seeking Adjustment of Status without Possessing a U Nonimmigrant Status

Summary: Good news for family members of principal U status holders!

- The adjustment of status provision at INA 245(m) (8 U.S.C. 1255(m)) allows for derivatives of U status holders to adjust status or receive an immigrant visa even if the derivative did not receive a U nonimmigrant status, if the grant is necessary to avoid extreme hardship.
- The rule creates a new immigration petition called Form I-929 (petition for qualifying family member of a U-1 Nonimmigrant). Its filing fee is \$215. *8 C.F.R. 103.7(b)(1)*
- A fee waiver may be requested in association with Form I-929. *8 C.F.R. 103.7(c)(5)(i)*
- A fee waiver is available to these special derivatives for filing fees associated with applications for adjustment of status *8 C.F.R. 245.24(i)(1)(iii) and (iv)*.
- It is not yet clear if a fee waiver will be available to special derivatives for immigrant visa application processing fees associated with consular processing abroad.

Fees Associated With Traveling on Advance Parole

Summary: New rule addresses travel in adjustment of status context only

- T and U nonimmigrant status holders seeking adjustment of status who wish to travel outside of the U.S. must apply for Advance Parole on Form I-131 (application for travel document.) *8 C.F.R. 245.2(a)(4)(ii)(B)*. If submitted as a stand-alone application, the fee is \$305 and there is no fee waiver. There is, however, an exemption to the \$305 fee if the applicant files and pays the fee for Form I-485 to adjust status as a permanent resident. See www.uscis.gov, *Forms, Form I-485*. USCIS also stated on a recent conference call that the exemption will also be allowed if the I-131 is concurrently filed with an I-485 requesting a fee waiver.

Related Travel Warnings

- **Adjustment Applicants:** Adjustment applicants who re-enter on advance parole may negatively affect the nonimmigrant status of derivative family members.
- **Travel Warning for T and U Status Holders (Not Adjustment Applicants):** Although regulations indicate that T and U nonimmigrant status holders may travel abroad, it may be very risky. An individual who travels abroad may not be able to return to the U.S. quickly (or at all!) and/or may trigger inadmissibility bars upon leaving. *As of December 3, 2008, the USCIS U-Visa/Status Policy Liaison reported that the Department of State is still finalizing guidance on Us and that individuals cannot yet obtain U re-entry visas from US embassies and consulates abroad.*
- **Extra Caution!** Anyone who travels may have to show admissibility every time they re-enter. Even with a waiver for prior acts, admissibility may be challenged at a port of entry. In addition, applicants may have become inadmissible after having received the waiver. Finally, being paroled into the U.S. on advance parole versus being admitted on a non-immigrant visa may lead to “arriving alien” classification and have significant legal repercussions for derivatives and for the types of immigration relief available to the principal. Please also see the Network Fact Sheets on T Status Adjustment by Kavitha Sreeharsha and U Status Adjustment by Sally Kinoshita.

QUICK REFERENCE CHART: Filing Fees Affected by New T and U Rule*

	T STATUS	U STATUS
I-192 (waiver of inadmissibility in nonimmigrant status context)	\$545 or fee waiver	\$545 or fee waiver
I-193 (waiver of passport requirement in nonimmigrant status context)	\$545 or fee waiver	\$545 or fee waiver
I-131 (advance parole)	No fee if I-485 fee paid; no fee if I-131 is filed concurrently with an I-485 with fee waiver. BUT: No separate fee waiver available. Regular filing fee is \$305.	No fee if I-485 fee paid; no fee if I-131 is filed concurrently with an I-485 with fee waiver. BUT: No separate fee waiver available. Regular filing fee is \$305.
I-485 (adjustment of status)	\$930 or fee waiver	\$930 or fee waiver
I-601 (waiver of inadmissibility in adjustment of status context)	\$545 or fee waiver	n/a
I-765 (employment authorization)	<i>Chart refers to adjustment-based EAD only.</i> No fee if I-485 fee paid; \$340 or fee waiver	<i>Chart refers to adjustment-based EAD only.</i> No fee if I-485 fee paid; \$340 or fee waiver
I-929 (petition for qualifying family member of a U-1 Nonimmigrant)	n/a	\$215 or fee waiver
Biometrics	\$80 (ages 14-79) or fee waiver	\$80 (ages 14-79) or fee waiver

*This *Quick Reference Chart: Filing Fees Affected by New T and U Nonimmigrant Status Rule* was prepared by the Family Violence Prevention Fund, Ellen Kemp of National Immigration Project of the National Lawyers Guild, and Gail Pendleton of ASISTA, on behalf of the National Network to End Violence against Immigrant Women.