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Chapter 9 - Applicants in Removal Proceedings

Guidance

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An applicant in removal proceedings who wishes to apply for T nonimmigrant status must file the Application for T Nonimmigrant Status ([Form I-914](#)) or Application for Derivative T Nonimmigrant Status ([Form I-914, Supplement A](#)) directly with USCIS.

A. Administrative Closure

In its discretion, DHS may agree to the request of a person who is in proceedings, whether a principal or derivative applicant, to file with the immigration judge or the Board of Immigration Appeals (BIA) a joint motion to administratively close or terminate proceedings without prejudice, whichever is appropriate, while USCIS adjudicates an application for T nonimmigrant status.^[1]

B. Final Orders of Removal

A person subject to a final order of removal, deportation, or exclusion may file an application for T-1 nonimmigrant status directly with USCIS.^[2] If a family member eligible for derivative status is the subject of a final order of removal, deportation, or exclusion, the principal may file an application for derivative T nonimmigrant status directly with USCIS.

The filing of an application for T nonimmigrant status, whether for a principal or derivative applicant, does not automatically stay a final order of removal and has no effect on DHS's authority or discretion to execute a final order of removal, although the person who is in proceedings may request an administrative stay of removal.^[3]

If the person, whether the principal or derivative applicant, is in detention pending execution of the final order, the period of detention reasonably necessary to bring about the applicant's removal^[4] is extended during the period that any stay is in effect.

Neither an immigration judge nor the BIA has jurisdiction to adjudicate an application for T nonimmigrant status, deportation, or exclusion based on the filing of an application for T nonimmigrant status.



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rests with U.S. Immigration and Customs Enforcement (ICE).^[6]

By operation of law, a USCIS approval of an application for T nonimmigrant status cancels any order of removal, deportation, or exclusion issued by DHS as of the date of the approval.^[7] Upon approval of an application for T nonimmigrant status, an applicant who is the subject of an order of removal, deportation, or exclusion issued by an immigration judge or the BIA may seek cancellation of such order by filing a motion to reopen and terminate removal proceedings with the immigration judge or the BIA, whichever is appropriate.^[8] Upon a final denial of the application for T nonimmigrant status, any stay of removal, deportation, or exclusion issued due to the pending application for T nonimmigrant status is lifted.^[9]

Footnotes

^[^1] See [8 CFR 214.204\(b\)\(1\)\(ii\)](#).

^[^2] See [8 CFR 214.204\(b\)\(2\)](#).

^[^3] See [8 CFR 241.6\(a\)](#) (procedures to request administrative stay).

^[^4] See [8 CFR 241.4](#) (discussing duration of detention).

^[^5] See [8 CFR 214.205\(g\)\(3\)](#).

^[^6] See [INA 237\(d\)](#).

^[^7] See [8 CFR 214.204\(o\)\(1\)](#).

^[^8] See [8 CFR 214.204\(o\)\(2\)](#).

^[^9] See [8 CFR 214.204\(q\)\(3\)](#).

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