



NIWAP Newsletter

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Helping Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking and Domestic Violence

I. Introduction

Dating violence, sexual assault, stalking, domestic violence, and sexual harassment on college and university campuses has been a longstanding and difficult problem. Students and other members of the campus community suffer victimization both on and off campus. Survivors of these crimes include students, faculty, staff, as well as their family members. Members of any race, ethnicity, economic class, national origin, sexual orientation, age, or disability may become victims. Victimization affects every segment of the campus community; however, the vulnerability of foreign-born and international students, faculty, and their family members to crime victimization is often greater. The amplified risk to foreign-born and international students is often a result of their immigration status, limited English proficiency, lack of understanding about what actions are crimes in the U.S., and lack of information about crime victims' legal rights to help from the U.S. justice, immigration, social, and legal services systems.

(This newsletter uses the terms "immigrant victims" and "immigrant survivors" interchangeably to refer to Foreign-born student immigrant victims of domestic violence, sexual assault, stalking, dating violence and/or victims of human trafficking.)

Foreign-born survivors of domestic violence, sexual assault, dating violence, stalking, and sexual harassment have the same rights to access protection and help in the United States as all other crime victims, without regard to their immigration status. It is important to note that foreign-born victims may be the spouse or children of students or employees who are legal dependents (spouse and children) of international students or employees in F-1, J-1, M-1 categories. Dependents of individuals in F-1, J-1, or M-1 categories may enter the United States as F-2, J-2, M-3 visa holders. The status of the dependents is completely dependent on that of the principal applicant. Therefore, the above listed reliefs would be available to any dependents as a pathway to immigration relief.

When foreign-born survivors are students, they additionally have access to protections available to crime victims under Title IX and the Clery Act. However, campus staff, administrators, and professors cannot effectively meet their obligations to foreign-born student victims if they fail to provide foreign-born student victims with information about the forms of immigration relief created by the Violence Against Women Act (VAWA) to help immigrant crime victims. This obligation includes setting up interviews for foreign-born student victims with local legal and/or social services programs that have expertise in serving immigrant crime victims who qualify for relief under VAWA.

All of VAWA's immigration protections were designed to help both lawful and undocumented immigrant survivors. The vast majority of foreign-born crime victims on campus will qualify for relief under the U visa or VAWA self-petition programs. [Screening](#) for foreign-born victims for the U visa or VAWA immigration relief eligibility as soon as possible after receiving a report of crime victimization plays a central role in promoting survivor safety, protection, and healing. Offering student victims help with other interim measures or accommodations without this screening and information and without considering the impact of each remedy recommended to a foreign-born student on the victim's immigration status can be ineffective and can greatly enhance danger for foreign-born student victims.

This newsletter provides campus officials, campus staff, victim advocates, and attorneys working with foreign-born student survivors with an overview of legal rights and options

available to help foreign-born victims of dating, domestic and sexual violence, and stalking on campus. It also provides links to resources, tools, and training materials that support professionals working with immigrant and foreign-born survivors who are students or members of campus communities across the country. The foreign-born student legal rights information discussed here applies equally to students in elementary schools, secondary schools, high schools, college and university campuses, and trade schools.

II. National findings on University and Colleges Responses to Foreign-born Student Victims

In the spring of 2016, the National Immigrant Women's Advocacy Project (NIWAP) conducted a national survey to learn about the experiences of foreign-born college and university students who are survivors of sexual assault, dating violence, domestic violence, stalking, human trafficking, and sexual harassment. The foreign-born students that were the subject of this survey include students who:

- Are undocumented
- Have been granted Deferred Action for Childhood Arrivals (DACA)
- Have F, J or M visas
- Are VAWA self-petitioners, U, or T visa victims
- Are lawful permanent residents

Victims who are students may also have one of several forms of immigration visas that permits them to attend school on a part-time or full-time basis. Immigrant visas that authorize the visa holder to attend school part-time in addition to providing work authorization include:

- Individuals holding H-1B (specialty occupation),
- L-1 (multinational manager or executive), or
- O-1 ("extraordinary" aliens in sciences, arts, education, business, or athletics).

Other students authorized to attend school full-time or part-time include family members of the following work visa holders:

- E-2 (treaty investor),
- H-4 (specialty occupation), and
- L-2 (multinational manager or executive).

Survey participants were victim advocates and attorneys who worked with campus based foreign-born survivors. The survey collected information on **198 foreign born victims** attending colleges and universities in six U.S. states. The results found that the crimes perpetrated against foreign-born students included the following:

- Dating violence 21.7%
- Sexual assault 19.2%
- Stalking 19.2%
- Domestic violence 18.7%
- Abusive sexual conduct 13.1%
- Sexual harassment 7.6% and
- Human trafficking 0.5%.

Victimization occurred both on campus (84.3%) and off campus (15.7%). The survey revealed that under half (48.4%) of all crimes experienced are reported by foreign-born student victims to any campus, state, or local law enforcement officials. Foreign-born students were more willing to report crimes committed off campus (57.1%) than crimes committed on campus (48.4%).

Among the foreign-born survivors who reported suffering dating violence, domestic violence, sexual assault, stalking, or sexual harassment, the people to whom they reported were:

- Campus police (54.8%)
- Other students (36.6%)
- Campus staff (36.6%)
- Student organizations (9.3%)
- Campus student health workers (9.3%)
- Campus faith based program staff (9.3%)

Programs serving foreign-born survivors reported that survivors gave multiple reasons for being reticent and fearful of reporting crimes, including:

- Fear of retaliation from the perpetrator (72.5%)
- Thought no one would believe them (52.5%)
- Fear of being ostracized by other students (45%),
- Threats of deportation (42.5%)
- Feared being blamed for the abuse (42.5%)
- Their cultural community (40%)
- Fear of treatment they would receive from school officials (37.5%)
- Lack of knowledge of legal rights (37.5%)
- Did not know what happened to them was crime (25%)
- Believed that that would not be able to continue their education if they reported the abuse (20%)

To read the executive summary, see: [Executive Summary: National Findings on University and College Responses to Foreign-born Student Victims](#) (October 27, 2016) and for the full report, see: ["National Findings on University and College Responses to Foreign-born Student Victims"](#) (October 27, 2016)

III. Immigration Remedies Designed to help Immigrant Student Victims and Immigrant Victims on Campus Community

A crucial part of addressing a foreign-born student survivor's safety, health, and mental health needs following crime victimization is providing information about and referrals to victim and legal services organizations with expertise serving immigrant victims of sexual assault, dating violence, domestic violence, and stalking. All foreign-born student survivors need to be informed about and screened for eligibility for VAWA immigration relief as early as possible after the survivor provides information about the victimization to campus staff, victim advocates, health care providers, or attorneys. Almost all foreign-born student and other campus-based victims will qualify for one of the following forms of immigration relief based on the victimization they suffered. Each of the following forms of immigration relief is available to provide help, stability, protection, and a path to lawful permanent residency for both undocumented immigrants victims and immigrants victims who have legal immigration status (e.g., student,

work, diplomatic, religious worker, international organization visas, and visas provided to family members of immigrants who have visas). Immigration options for student victims of dating violence, stalking, sexual assault, dating violence or child abuse are summarized in the brochure: [Beyond DACA: Pathways to Immigration Relief for Students](#) (November 12, 2014)

IMMIGRATION REMEDIES:

1. U Visa

The U visa is a form of immigration relief designed to help immigrant survivors who suffered any statutorily enumerated qualifying criminal activity in the United States. The qualifying criminal activities include, but are not limited to, sexual assault, domestic violence (including dating violence and child abuse), stalking, human trafficking, kidnapping, false imprisonment, felonious assault, extortion, and [other violent crimes](#). The U Visa remedy is available to foreign-born persons who are not citizens or lawful permanent residents. The victims who may qualify for U visas on campus will include foreign-born students, staff, faculty, and their dependent family members (spouses and children), who have been, are being, or are willing to be helpful to state, local or campus police, prosecutors, courts, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity suffered. In order to apply, victims must receive certification from one of these law enforcement or government agencies. Campus officials can assist victims in learning about this immigration remedy, in obtaining required certification from campus police (if they are sworn officers) or local law enforcement, and in documenting injuries observed that can help victims prove that they have suffered substantial physical or mental harm as a result of the criminal activity. A U visa victim may include certain family members in their application. Survivors under age 21 can include their spouse, unmarried child under age 21, parent(s) and/or unmarried siblings under age 18. Survivors over age 21 can include their spouse and unmarried children under age 21 in their applications. When the survivor is an under 21 year old citizen or lawful permanent resident, their foreign born parent who is helping support the student survivor may also qualify for a U visa. It is important to file for U visa immigration relief as soon as possible because filing an application offers victims some protection against deportation and, depending on the state, some access to [state funded benefits](#). An applicant for the U visa may have to wait up to 36 months to receive work authorization.

To read further on U Visa as an immigration relief, see [U-VISAS: VICTIMS OF CRIMINAL ACTIVITY](#)

2. Violence Against Women Act ("VAWA") Self-Petitioning

- This form of immigration relief was designed to offer a path to lawful permanent residency, independent of the abuser, for foreign-born survivors who are subjected to domestic violence by a U.S. citizen or lawful permanent resident spouse, parent, or step-parent. Domestic violence is defined under immigration law as ["battering or extreme cruelty"](#) and includes spouse abuse, child abuse, sexual assault, and forms of emotional abuse that constitute extreme cruelty. All cases that would qualify for a protection order under state law will qualify as "battering or extreme cruelty." For a description of VAWA self-petitioning requirements, click [here](#). It is important to screen all survivors of

domestic violence, sexual assault and stalking in the campus community for VAWA self-petitioning eligibility in addition to U visa eligibility because VAWA self-petitioning cases are adjudicated more quickly (within 8 months of filing) and [bring greater access to public benefits and services](#). VAWA self-petitioners and their children are eligible, for example, to [receive post-secondary educational grants and loans](#), and public and assisted housing. VAWA self-petitioners can include their own children in their application, and in cases where a child was the victim, the child can include his or her non-abusive parent in the application. Examples of victims in the campus community who may qualify for VAWA self-petitioning include:

- Student visa holders married to U.S. citizen or lawful permanent resident abusive spouses (including former spouses within 2 years of divorce)
- Abused foreign-born children, spouses, or former spouses of citizens or lawful permanent residents who work for or are students attending university or college
- Foreign-born student victims of domestic violence, sexual assault, stalking, dating violence, or sexual harassment who were also victims of child abuse (including sexual assault or incest) perpetrated by the student's U.S. citizen or lawful permanent resident parent. The child abuse must have occurred before the child turned 21, but the child has up until they turn 25 to file their VAWA self-petition;
- Foreign-born student victims who are under 21 years of age and whose immigrant parent suffered battering or extreme cruelty by the parent's U.S. citizen or lawful permanent resident spouse. If the abused immigrant parent files a VAWA self-petition, the parent can include their child in their VAWA self-petition application.
- It is important to note that immigrant survivors eligible for VAWA self-petitioning who are placed in removal proceedings may also qualify for [VAWA cancellation of removal or VAWA suspension of deportation](#).
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- To read further ON THE VAWA Self Petition and Applying for residence process, see: [PREPARING THE VAWA SELF-PETITION AND APPLYING FOR RESIDENCE](#)

3. The T Visa

- Some students or other victims in the campus community may have suffered from human trafficking either prior to getting to campus or while they are students. The T visa is a form of immigration relief designed to help victims of severe forms of human trafficking. Although victims of human trafficking also qualify for the U visa, it is important to screen potential victims of human trafficking for T visa eligibility as well as [continued presence](#). Trafficking victims who qualify can obtain T visas within 4-6 months of filing and can be granted continued presence prior to their T visa case being filed. The T visa and continued presence include protection against deportation, work authorization and significant public benefits access including post-secondary educational grants and loans, food stamps, subsidized health care, and public and assisted housing. To qualify for a T visa, a victim must meet the following eligibility requirements:
- They must be physically present in the U.S. on account of the trafficking,
- They must comply with any reasonable request for assistance with an investigation or prosecution (unless the victim is under age 18), and
- Must demonstrate that they would suffer extreme and unusual hardship if they were removed from the U.S.
- Federal law provides protection to two groups of human trafficking victims.

- Sex trafficking requires: recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18 years of age.
- Labor trafficking requires: recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

It is important to note that some foreign-born students may also qualify for [Special Immigrant Juvenile Status \(SIJS\)](#) that is generally only available to children who are under the age of majority in the state (usually 18). SIJS will be an option that brings swifter access to protection from deportation and more benefits access than the U visa. To qualify, the foreign-born student must have suffered abuse, abandonment, or neglect by one or both of his or her parents. This could have occurred in the U.S. or abroad. The applicant must be unmarried, under the age of majority in the state when filing, and must obtain a state family court order containing specific findings to be eligible to file their application.

Additionally, foreign student victims with Deferred Action for Childhood Arrivals (DACA) should be screened for VAWA, T or U visa, or SIJS eligibility to determine whether they have a path to lawful permanent residency available to them based on crime victimization.

To read further on T Visas as immigration relief for victims of crime, see [HUMAN TRAFFICKING AND THE T-VISA](#)

IV. Interim Measures for Foreign Born Survivors on Campus

Colleges, universities, high-schools, elementary schools and other educational institutions who receive federal financial assistance are required to comply with [Title IX and the Cleary Act](#) with regard to foreign-born and U.S. born students. Title IX requires that schools take steps to ensure equal access to educational programs and activities including taking steps to offer protection and assistance to students who are victimized by:

- Dating violence
- Sexual violence (including sexual assault and abusive sexual conduct)
- Stalking
- Domestic violence, and
- Sexual harassment

This includes ensuring that student victims are aware of:

- Legal rights and protections available to them under the following laws:
 - Title IX/Cleary Act
 - Immigration
 - Civil protection orders
 - Victims of Crime Act (VOCA)
 - State criminal and family laws
- Educational options for changing:
 - Courses
 - Course sections

- Extracurricular activities
- Testing schedules
- Assignments
- Housing, dining, and/or work locations or schedules; and
- Services available to assist victims including victim advocacy, health and mental health care, housing assistance, academic support, counseling, disability services, legal assistance, and rights under civil and criminal laws.

All foreign born students in U.S. elementary, high schools, colleges and universities who become victims of sexual assault, dating violence, stalking, domestic violence, or sexual harassment have the same legal rights and a wide range of protections as all students available to them. [Title IX and the U.S. Department of Education \(DOE\)](#) states that these protections are available to all students at schools receiving federal assistance in the United States without “discrimination based on race, color, national origin, sex, disability, or age.”

The Department of Education lists a number of [factors](#) that should be considered in determining what interim and supportive measures schools should offer victims. Like all students, immigrant students who have been victims need supportive measures designed that consider:

- Specific needs expressed by the student victim;
- Age of student(s) involved;
- The severity or pervasiveness of the allegations;
- Any continuing effects on the student victim;
- Whether the student victim and the perpetrator share similar locations;
- Whether judicial measures have been taken to protect the victim (e.g. a civil protection order)

Foreign-born students who are not U.S. citizens or lawful permanent residents additionally require as part of supportive measures in all instances without regard to the student’s immigration status:

- To receive a copy of the [DHS infographic](#) and [DHS Brochure](#) on crime victim remedies as well as information from DHS on [Special Immigrant Juvenile Status](#)
- To receive information on and be screened for eligibility as a crime victim for VAWA self-petitioning, U visa, T visa, and SIJS
- To receive assistance setting up appointments with programs that have expertise serving immigrant victims in the local community or state. For a list of such programs, see [NIWAP’s Directory](#).
- To be informed that they may be eligible for immigration protection as a crime victim for victimization occurring before and after they became students. All of these forms of immigration relief help victims who suffered abuse or victimization in the U.S. However, in limited types of cases, a student might qualify based on abuse occurring abroad if the victim is eligible for SIJS or VAWA self-petitioning.
- Students who are under the age of 21 should also be screened to determine whether their parent has been a victim of battering or extreme cruelty, human trafficking, or a U visa criminal activity because the student may be able to be included in their parent’s immigration application for crime victim related immigration relief.

Useful screening tools include:

- [Blue Card](#)
- [Infographic](#)
- [DHS Brochure](#)

Since some students who are survivors of abuse could qualify for multiple forms of immigration relief and other students will only qualify for one, comparison charts will help school officials, victim advocates, and attorneys working with immigrant students. For a useful comparison tool see:

- [Comparison Chart on VAWA, U Visas, T Visas, SIJS and DACA](#)

In September 2017, the Department of Education issued a [New Interim Guidance on Campus Sexual Misconduct](#) for schools on how to investigate and adjudicate allegations of campus sexual misconduct under federal law.

Interim Measures for Student Visa Holders

Student visa holders who become victims of sexual assault, dating violence, stalking, domestic violence, or sexual harassment are eligible for and will benefit from all of the abovementioned assistance. However, many types of academic-related relief that schools typically offer student victims can conflict with student visa requirements. This section lists modifications to interim measures that may be needed in cases of victims who are foreign-born student visa holders. Interim measures in student visa holder cases will also often need to include assistance in obtaining certifications from academic advisors, campus health care providers, and other campus officials. This cooperation is necessary for student visa holders to be able to obtain permission from the federal government to reduce a student visa holder's course load or to provide time off from school.

This section provides a brief overview of visa requirements that should be taken into consideration when designing interim measures for foreign-born students who have F, J, or M visas. NIWAP has developed detailed tools to assist university officials, victim advocates, and attorneys working with foreign-born student visa holders. These should be consulted before making any adjustments to a student visa holder's course load and before a student visa holder victim is encouraged to take any time off from school.

To read further on the availability of interim measures for foreign-born victims of Sexual Assault, Dating Violence, Stalking and Sexual Harassment, see [INTERIM AND SUPPORTIVE MEASURES TO PROTECT FOREIGN BORN STUDENT VICTIMS OF SEXUAL ASSAULT, STALKING AND SEXUAL HARASSMENT.](#)

F-1 Visa Holders: F Visas are issued to students in secondary, college, university, and other training programs for as long as it takes to complete the student's specified academic program. The F visa program requires that the student be in school full time. Full time means a minimum of 12 credits for an undergraduate or Juris Doctorate student per semester and 9 credits for a graduate student.

- **Reductions in Course Load or No Course Load:** The United States Citizenship and Immigration Services (USCIS) may authorize a reduced course load or if necessary no

course load for a period of time not to exceed an aggregate of 12 months. In calculating the aggregate of 12 months for students who were on F-1 visas during high school or at another academic institution, any reductions in course load the student previously received counts toward the 12-month maximum.

- Designated School Officials (DSOs) can, with support from the student's academic advisor, petition USCIS for the F-1 student to receive a reduced or no course load for:
 - Bona fide academic reasons
 - Medical conditions: Healthcare providers at the university can attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or time off from school.

For further information on this, see [Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking, and Sexual Harassment: Special Needs of F Visa holders](#)

J-1 Visa Holders: J Visas allow the student 24 months in the U.S. to complete his or her post-secondary degree or training. The J visa holder is required to pursue a full course load. Full time means a minimum of 12 credits for an undergraduate or Juris Doctorate student per semester and 9 credits for a graduate student.

Reductions in Course Load or Interruption of Study: In order for J-1 student visa holders to reduce or interrupt a full course load of study, they must meet the following requirements:

- The J visa holder must first consult with and gain approval for the requested change from:
 - The student's academic advisor and
 - The organization serving as the student's Designated Sponsor for the J student visa holder.
- The Designated Sponsor must file a request seeking USCIS approval for the change.
- The following qualify as legitimate reasons for a reduced course load or interruption of study:
 - Bona fide academic reasons
 - Medical conditions: Healthcare providers at the university attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or time off from school.

For further information on this, see [Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking, and Sexual Harassment: Special Needs of J-1 Visa Holders](#)

M-1 Visa Holders: The M Visa, which is issued to students in vocational and other recognized nonacademic institutions, lasts for a fixed period of time, not to exceed one year. The M-1 visa is usually granted for shorter time periods than the other student visas. The specific duration is stated on the M Visa holder's immigration document (I-20) and the holder is authorized to stay in the U.S. during their course of study and during training related to their course of study up to the amount of time listed on the I-20. The student must maintain a full course load.

Reductions in Course Load or No Course Load: In order for an M student visa holder to reduce or interrupt a full course load of study, they must meet the following requirements:

- The M visa holder must first consult with and gain approval for the requested change from:
 - The student's academic advisor and

- The organization serving as the student’s Designated Sponsor for the M student visa holder.
- The Designated Sponsor must file a request seeking USCIS approval for the change in course load or cessation of course load not to exceed 5 months. This may require that the DSO also submit a request for the student’s M-1 visa to be extended.
- The following qualify as legitimate reasons for a reduced course load or interruption of study:
 - Bona fide academic reasons
 - Medical conditions: Healthcare providers at the university attest that the victim student has significant physical and/or psychological needs as a result of the abuse suffered that merit a reduced course load or time off from school.
- At the end of the M-1 visa period, the student is given 30 days to depart the United States. If a student reduces the course load, even under approved circumstances, the student loses the additional 30 days.

For more information on this, see [Foreign Born Student Victims of Sexual Assault, Dating Violence, Stalking, and Sexual Harassment: Special Needs of M Visa Holders](#)

IV. Student Exchange Visitor and Information Service (SEVIS) Requirements

The U.S. Department of Homeland Security uses the “Student Exchange Visitor and Information Service” (SEVIS) computer system to process, track, and monitor the progress of students participating in the F, M, and J student visa programs and their dependent family members.

Since [SEVIS places mandatory institutional reporting requirements](#) on all participating schools and universities participating in the SEVIS program, the interim measures offered student visa holder survivors should include the following assistance:

- **Course Load Changes:** Enlist the assistance of counselors, residential advisors, faith based staff, advocates, attorneys, or other trusted staff to help victims who are student visa holders’ confidantes to approach academic advisors and DSOs to obtain approval for course load changes or time off, and enable confidantes to obtain the DSO’s assistance in filing the change request as required in the SEVIS reporting system. This will enable the victim who is a student visa holder to obtain the required USCIS approval for the course load change.
- **Name and Address Changes:** Victims who have fled domestic violence or dating violence relationships or who have been sexually assaulted may need to change the location of their residence to improve victim safety or healing from trauma. F and M visa holders must report any change of address to the DSO within 10 days of the move. J visa holders must report any change of address to DHS with the help of their DSO as soon as possible. Similarly, if the foreign student makes a legal name change, they will need to report that change to the DSO within 10 days of the change. Foreign-born students who have suffered sexual assault, dating violence, stalking, domestic violence, or sexual harassment and who need to change locations should be assisted with filing notice of the move with the DSO who will record the move in the SEVIS system.

- **Extension of Stay:** Faculty members, DSOs, and other university officials can assist foreign-born student victims in timely submitting to USCIS and obtaining extensions of stay for student survivors who need more time to complete their studies due to medical consequences of the crime victimization. If a student will need to change their major, research topic, or thesis advisor related to the victimization, USCIS can grant extensions of stay on academic grounds. If a student fails to obtain an extension of stay and falls out of student status, the student will need help from the university to obtain a reinstatement of student status from USCIS.

- **Transfer of Schools:** A foreign-born student victim may need to transfer to a new school for safety reasons to be able to complete their studies at a location that is at a distance from the university in which the crime victimization occurred. A transfer of schools may be helpful in providing safety and promoting the student victim's emotional and psychological healing. Campus staff and victim advocates/attorneys should assist F-1 visa holder students in notifying the DSO at the victim's current school of the student's intent to transfer to another SEVIS approved school. The student and the DSO will establish a "transfer out" date. Once the transfer date is approved, university staff can assist the student victim in identifying and reporting to the DSO at the new school no later than 15 days after the reporting date listed on the new school's SEVIS I-20 Certificate of Eligibility. This help and support from university officials, advocates, and attorneys in coordinating a transfer is very important because a student visa holder cannot remain in the United States while waiting to transfer to a new school if the start date for the new school is more than five months from the program completion date at the former school. Student victims will need help from schools in carefully coordinating transfers to avoid gaps and ensuring victim safety at the prior school if the student needs to continue attending school there until the transfer is completed.

- **Reinstatement of student status:** University staff, victim advocates, and attorneys need to take all steps necessary to assist foreign-born student visa holders who become victims in meeting each of the immigration law requirements of the student visa programs and SEVIS discussed in this newsletter. University officials assisting victims in developing interim measures that promote victim safety and healing must also focus on supporting student visa holders in completing their education to successfully help student visa holder victims. The goal of all interim measures should be to help the student victim without jeopardizing the victim's legal immigration status. If despite these efforts, foreign student visa holder victims fall out of status, they may apply for reinstatement from USCIS if the victim has not been out of status for more than five months. To gain approval for reinstatement the student survivor must demonstrate that they:
 - Never worked without employment authorization;
 - Are pursuing or intend to pursue a full course of study;
 - Do not have a record of repeated and willful violations of their immigration status; and

- Are not deportable on any ground other than overstaying their present student status.

In addition, the student victim must show that the violation of status was due to circumstances beyond their control, such as serious injury or illness; closure of the educational institution; a natural disaster; the inadvertence, oversight, or neglect of the DSO; **or** that the violation relates to a reduction in the student's course load that would have been within a DSO's power to authorize, and failure to approve reinstatement would result in extreme hardship to the student.

If the student is seeking reinstatement based on serious injury or illness caused by the sexual assault, dating violence, domestic violence, or stalking, the student will need to disclose the victimization to USCIS. Best practices include: submitting to USCIS documentation corroborating the former victimization including through medical records, psychological records, police reports, photographs, or third-party statements.

Resources:

Additional information is available on [access to benefits for immigrant survivors of domestic violence, sexual assault, stalking and dating violence](#)

For more information on NIWAP, please see our brochure and be sure to check out our Web Library:

The Resource Library and Technical Assistance Center provides timely information on a vast array of topics of interest to those working across the country to help immigrant victims, women, and children. The NIWAP library contains a wide range of materials, including legislative history, training manuals, toolkits, sample briefs and motions, factsheets, practice tools, research reports, bench cards, tools for law enforcement, and government policies and regulations. This [searchable library](#) of resources is designed to be used by OVW grantees and other advocates, attorneys, judges and service providers.