

U Visa Quick Reference for Judges

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Purpose of the U visa¹	<ul style="list-style-type: none"> • The U visa facilitates the reporting of criminal activities to government officials including but not limited to: courts, law enforcement, prosecutors, adult and child protective services, and state and federal administrative agency officials by immigrant victims of domestic violence, child abuse, sexual assault, dating violence, stalking, human trafficking, and other U visa listed criminal activities. This ensures immigrant victims have access to justice in civil, family, criminal and administrative law cases.
Benefits of the U visa²	<ul style="list-style-type: none"> • The U visa strengthens the ability of courts, law enforcement, prosecutors, and state and federal government agencies to detect, investigate, prosecute, convict and sentence perpetrators of criminal activity while offering immigrant crime victims legal immigration status, work authorization, and protection from deportation. • Immigrant victims are ensured access to justice by alleviating fears like deportation, that keep victims from participating in the civil, family, and criminal justice systems. The U visa certification promotes access to justice by enhancing accessibility to these systems and ensuring fairness.
Who is eligible for a U visa?	<ul style="list-style-type: none"> • To be eligible for a U visa an individual: <ul style="list-style-type: none"> ○ Must be a victim of a criminal activity listed in the U visa statute or a similar criminal activity; ○ Must possess information concerning the criminal activity; ○ Must be helpful, have been helpful, or be likely to be helpful to a federal, state, or local government agency or family, civil or criminal court in the detection, investigation, prosecution, conviction or sentencing of the criminal activity;³ ○ Must have suffered substantial physical or mental abuse as a result of having been a victim of one or more qualifying criminal activities; and ○ The criminal activity must have violated the federal or state laws of the U.S. or have been perpetrated in the U.S. or its territories and possessions.⁴ • To prove helpfulness, the applicant must obtain a certification from a law enforcement official, prosecutor, <i>judge</i>, DHS official, or other federal, state or local government authority involved in detecting, investigating, prosecuting, convicting or sentencing any of the qualifying criminal activities.⁵
Eligible Family Members	<ul style="list-style-type: none"> • The victim may apply for their eligible family members to receive derivative U visas. • For victims under 21 years of age, qualifying family members include the principal crime victim’s spouse, children, parents, and unmarried siblings who are under 18 years of age (on the filing date of the principal crime victim’s petition).⁶ • For victims who are 21 years of age or older, qualifying family members include their spouse and children.⁷

¹ See VAWA 2000, § 1513(a)(2), Pub. L. No. 106-386, 114 Stat. 1464.

² *Id.*

³ An exception to the helpfulness requirement applies to alien victims who are under 16 years of age, incapacitated, or incompetent. Such alien victims can satisfy the helpfulness requirement if their parent, guardian, or next friend provides the required assistance. I.N.A. § 101(a)(15)(U)(i)(II), 8 U.S.C. 1101(a)(15)(U)(i)(II).

⁴ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(b)) (2007).

⁵ 72 Fed. Reg. 53013, 53036 (codified at 8 C.F.R. § 214.14(a)(2)) (2007).

⁶ I.N.A. § 101(a)(15)(U)(ii)(I), 8 U.S.C. 1101(a)(15)(U)(ii)(I).

⁷ I.N.A. § 101(a)(15)(U)(ii)(II), 8 U.S.C. 1101(a)(15)(U)(ii)(II).

<p>Status of Crime Perpetrator</p>	<ul style="list-style-type: none"> The U visa applicant does not have to be married to the crime perpetrator and there may or may not be any familial relationship between the victim and the perpetrator. The perpetrator may have any immigration or citizenship status including but not limited to U.S. citizen, legal permanent resident, diplomat, work-visa holder, or undocumented.
<p>U visa Qualifying Criminal Activities</p>	<ul style="list-style-type: none"> U visa qualifying criminal activities include, but are not limited to the following non-exhaustive list:⁸ <ul style="list-style-type: none"> Rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, stalking, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, fraud in foreign labor contracting,⁹ solicitation to commit any of the above-mentioned criminal activity, or <i>any similar activity</i> in violation of federal, state, or local criminal law and solicitation, attempts, or conspiracy to commit any such criminal activity. The term <i>any similar activity</i> accounts for the wide variety of state and federal criminal laws, which may be named differently than the enumerated criminal activity in the statute but are comparable in nature and elements to the U visa listed criminal activity. The term “criminal activity” in the statutory language was intentionally chosen by Congress to accomplish two goals – to be broadly inclusive of “any similar activity” and to focus on the actions of the victim in coming to state or federal government officials and courts with information about the criminal activity. This language is meant to take into account “the wide variety of state criminal statutes in which the terminology used to describe the criminal activity may not be identical to that found on the statutory list, although the nature and elements of both criminal activities are comparable.”¹⁰ For example, the statute lists domestic violence as a U visa qualifying crime. Immigration laws define domestic violence as battering or extreme cruelty.¹¹ However, many states do not specify domestic violence as a crime, but instead list crimes that constitute domestic violence, such as harassment, assault, battery, criminal threats, menacing, criminal trespass, burglary, malicious mischief, reckless endangerment, stalking, child abuse, elder abuse, or malicious property damage.¹² Even though these crimes are not specifically enumerated in the U visa, they are incorporated within the qualifying crime of domestic violence.
<p>Why Judges are Certifiers and Which Judges Can Certify</p>	<ul style="list-style-type: none"> Which judges can certify. Federal or state criminal, civil, family court judges, administrative law judges, commissioners, magistrates, aldermen, judicial referees, surrogates, masters, chancellors and any other person with delegated authority from the court to issue decisions can be U visa certifiers. A judicial officer who heard the case involving the victim could certify based on the court proceedings. Additionally, any other judicial officer may certify based on the court records and/or court orders, findings or rulings made by another court. Some courts have designated one judge to sign certifications and have issued U visa certification protocols or policies.¹³ Judges have legal training and experience with crime victims and witnesses. Judges are certifiers because they are familiar with administering justice as a neutral party and often have considerable training on issues affecting crime victims.¹⁴

⁸ 72 Fed. Reg. 53013, 53036 (codified at 8 C.F.R. § 214.14(a)(9)) (2007).

⁹ 8 U.S.C. § 1351.

¹⁰ 72 Fed. Reg. 53013, 53018 (2007).

¹¹ Battering or extreme cruelty is defined broadly to include all activities that would qualify as domestic violence under all state protection order, family, and criminal laws and to include forms of abuse that is not criminal under state laws. For more information on the definition of battering or extreme cruelty, including the definition in the immigration regulations and the types of activities and actions that can contribute to proof of battering or extreme cruelty see, <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2>.

¹² See Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 HOFSTRA L. REV. 801, 849–76 (1993), <http://niwaplibrary.wcl.american.edu/pubs/hofstra-dv-symposium>.

¹³ See e.g., San Francisco Superior Court Civil Division, U VISA CERTIFICATION PROTOCOL, <http://niwaplibrary.wcl.american.edu/pubs/san-francisco-court-civil-division-u-visa-certification-protocol/>.

¹⁴ See Kendall Niles, Veronica Thronson and Leslye Orloff, *Understanding the Judicial Role in U Visa Certification*, AM. J. FAM. L., V. 31 N. 4 Winter 208–37 (2018). Copies available from NIWAP niwap@wcl.american.edu.

Certification Requirements

- U.S. Citizenship and Immigration Services (USCIS) Form I-918 Supplement B, must be completed by a qualifying certifier, such as a judge. On the I-918B certification form the certifying official verifies that the victim applying for a U visa meets the following four criteria:¹⁵
 - The individual has been the victim of qualifying criminal activity;
 - The victim possesses information about the qualifying criminal activity;
 - The qualifying criminal activity was perpetrated in the U.S. or violated U.S. federal or state law;
 - The victim has been, is being or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of one or more qualifying criminal activities;
 - Helpfulness includes providing information about the criminal activity in a pleading, testimony, or other statements or a victim's appearance in court in a civil, family, criminal, or administrative law case.¹⁶
- The criminal activity may have occurred at **any time** in the past.¹⁷ There is no statute of limitations and certification can be made even when the state statute of limitations for the criminal activity has passed. Once the certification is complete, the victim is required to file the U visa application within six (6) months of the date the certification was signed.¹⁸
- The certification should provide specific details about the nature of the criminal activity being detected, investigated, prosecuted, convicted and/or sentenced and describe the victim's helpfulness in the case.¹⁹
- U visa certification does not require the criminal prosecution to be completed or successful, nor does it require law enforcement to investigate the criminal activity.²⁰ U visa certification can be based solely on the victim having taken any number of actions including but not limited to: seeking a civil protection order, providing evidence of the abuse in a custody case, testifying about the abuse in a divorce, custody, protection order, child abuse, housing, employment or criminal court action, calling police for help, making a police report, or speaking with investigators. The certification only attests to the U visa victim's helpfulness in one or more of the following: detection, investigation, prosecution, conviction or sentencing.

¹⁵ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(c)(2)(ii)) (2007).

¹⁶ See also Peter Helein et al., *U-Visa: "Helpfulness" Checklist*, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Oct. 2019), <http://niwaplibrary.wcl.american.edu/pubs/u-visa-helpfulness-checklist>.

¹⁷ *DHS U and T Visa Resource Guide* at 15.

¹⁸ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(c)(2)(ii)) (2007).

¹⁹ 72 Fed. Reg. 53013, 53024 (2007).

²⁰ *DHS U and T Visa Resource Guide* at 19.

Judges as U Visa Certifiers

- Judges are specifically listed in the federal statute as possible certifiers to complete the U visa Certification Form I-918, Supplement B.²¹
- The certification is necessary to establish eligibility for the U visa, but by itself does not grant a visa to the victim.²² To obtain a U visa, a victim must meet eligibility requirements, in addition to obtaining a U visa certification.²³ The Department of Homeland Security (DHS) has sole authority to grant or deny a U visa and completes a full background check on all applicants.²⁴
- Judges may amend the language of the form to accurately reflect the findings upon which the judge is signing the certification. In Part 6 of the Certification form, “Based upon investigation of the facts, I certify...” may be amended with the following examples:
 - “Based upon my findings and issuance of a civil protection order...I certify”
 - “Based upon my finding of probable cause in...I certify”
 - “Based on my having presided over the criminal case ... I certify”
 - “Based upon my findings of [domestic violence/child abuse/stalking/ in a [custody/divorce/dependency] case... I certify”
- **The unique role of judges in the U visa certification process:**
 - **Judges make a range of determinations and findings under probable cause.** By regulation, the terms “investigation or prosecution” include the *detection* of criminal activities, giving effect to Congress’ intent to include judges as certifiers.²⁵ Detection of criminal activities is a part of the initial proceedings that take place in a court, both civil and criminal. It, like probable cause findings, is the first step in a criminal or civil case. Under DHS regulations, judges are authorized under federal law to sign certifications at detection (e.g. when the judge has made findings that a criminal activity occurred, when the judge has probable cause to believe the immigrant has been a victim of criminal activity) as well as when the judge has been involved in conviction and/or sentencing. A certification can be signed by a judge at any stage in the process from “detection”) by the court through or after sentencing in a criminal case or the issuance of the court’s final order in a civil or family court case.²⁶
 - **Judges make findings and issue orders based on qualifying criminal activities.** In civil protection order, custody, divorce, and child abuse cases, family court judges “detect” criminal activity when issuing protection orders, making determinations in child/elder abuse or juvenile court proceedings, or when making findings in custody, divorce, adoption, and employment cases.²⁷
 - **Judges were included as certifiers to increase victims’ access to relief.** Immigrant crime victims – especially those with limited English proficiency (LEP) – do not always know or understand the range of available relief.²⁸ A judge may be the first certifying official the victim encounters who is knowledgeable about the U visa that the victim has encountered. In some jurisdictions, certifiers such as police and prosecutors have not been adequately trained on how the U visa supports crime detection, investigation and prosecution. In other jurisdictions, the courts will be the first agency that LEP victims can communicate effectively with because the court provides the victim a qualified interpreter. There are cases in which the only potential certifier will be a judge.²⁹ Since the victim is not required to pursue a remedy in the criminal justice system, victims who turn to the courts for help in civil or sexual assault protection order, domestic violence or child abuse related custody or divorce cases, or in sexual assault based employment and/or other civil matters will seek judicial certification.

²¹ I.N.A. § 214(p)(1), 8 U.S.C. § 1184(p)(1).

²² *DHS U and T Visa Resource Guide* at 6.

²³ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(b)) (2007).

²⁴ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(c)(1)) (2007); DEP’T OF HOMELAND SECURITY, INSTRUCTIONS FOR SUPPLEMENT B, FORM I-918 at 1 (expires 04/30/2021).

²⁵ 72 Fed. Reg. 53013, 53020 (2007).

²⁶ *DHS U and T Visa Resource Guide* at 18–19.

²⁷ See DHS BLUE CAMPAIGN, WHAT CAN YOU DO? RECOGNIZING AND SUPPORTING VICTIMS IN THE COURTROOM (2019), <https://www.dhs.gov/sites/default/files/publications/blue-campaign/materials/pamphlet-judicial/bc-pamphlet-judicial-english.pdf>; JUDICIAL COUNCIL OF CAL., HUMAN TRAFFICKING IN CALIFORNIA: TOOLKIT FOR JUDICIAL OFFICERS 45 (2017).

²⁸ See *DHS U and T Visa Resource Guide* at 4.

When Judges are Able to Grant U visa Certification

- If the judge finds or has probable cause to believe that criminal activity occurred and that the victim was helpful, is being helpful or is willing to be helpful in detection, investigation, prosecution, conviction or sentencing, a certification can be signed at any of the following stages of the court case.
 - Arraignment
 - Preliminary hearings or grand jury proceedings
 - Judge to whom the grand jury presents the true bill of indictment can sign a certification based on those findings.
 - Pre-trial motions
 - During all stages of the criminal trial/civil or family court proceeding
 - After the criminal/civil/family proceeding has closed
- Judges may certify regardless of whether the certifying judge continues to preside over the case. Judges signing U visa certifications in open cases may need to consider whether state judicial ethics rules will allow the judge to continue to hear the case in the future.
- Judicial authority to certify exists whether or not law enforcement opens an investigation or the prosecutor ultimately pursues prosecution of the perpetrator for the U visa criminal activity.³⁰

Assessing the Helpfulness of the U visa Applicant³¹

- “Helpful” means the victim has been, is presently, or is likely to assist law enforcement, prosecutors, judges, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which they are a victim.³²
- There is no degree of helpfulness required; instead, the standard is that the victim must not unreasonably refuse to provide help, cooperation, or assistance to law enforcement and prosecutors that is reasonably requested.
- Judges need only assess the helpfulness using the same standard the judge uses in issuing temporary protection orders or making probable cause determinations. DHS advises that certification be granted on “any credible evidence.”³³
- The U visa helpfulness requirement allows an individual to seek U visa relief at various stages of the case including providing information that helps courts or other government officials detect, investigate, prosecute, convict or sentence, **including past helpfulness and willingness to be helpful in the future.**³⁴ Congress intended for individuals to be eligible for U visa at the very early stages of a case.³⁵
- If a U visa victim has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction or sentencing, the certifying official may prepare the certification even when investigation or prosecution efforts have been abandoned or did not result in conviction.³⁶ A judge may also certify when the only case the victim participated in was a family or civil court matter.³⁷
- In order to apply for lawful permanent residency after being granted a U visa, the victim must prove that they fulfilled an ongoing responsibility to provide assistance or they must prove that they did not unreasonably refuse to cooperate with reasonable requests for assistance from government officials.
- DHS confirms that judges may sign a certification if they are unsure whether the victim meets the helpfulness requirement. USCIS will ultimately determine whether the victim meets these requirements.³⁸

²⁹ “Judges should be aware of potential trafficking victims in the courtroom because other justice stakeholders may have failed to identify red flags, so the judge may be the last hope for a victim.” JUDICIAL COUNCIL OF CAL., HUMAN TRAFFICKING IN CALIFORNIA: TOOLKIT FOR JUDICIAL OFFICERS 45 (2017).

³⁰ *Id.* at 19.

³¹ See also Peter Helein et al., *U-Visa: “Helpfulness” Checklist*, NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT (Oct. 2019), <http://niwaplibrary.wcl.american.edu/pubs/u-visa-helpfulness-checklist>.

³² Helpfulness is defined in the U visa statute 8 U.S.C. 1101(a)(15)(U)(i)(III); The U visa regulations 8 C.F.R. 214.14(5) define “investigation or prosecution” as follows: “Investigation or prosecution refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.”

³³ DHS is required to consider “any credible evidence.” I.N.A. § sec. 214(p)(4); 8 U.S.C. 1184(p)(4); 8 C.F.R. 214.14(c)(4) & (f)(5). As per Congress’s intention that evidentiary rules alone should not be used to block an immigrant victim’s access to U visa, “any credible evidence” would suffice to establish helpfulness. See Lesley E. Orloff et al., *Mandatory U-visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigrant Protections and Its “Any Credible Evidence” Rules — A Call for Consistency*, 11 GEO. J. GENDER & L. 619, 621 (2010).

³⁴ 72 Fed. Reg. 53013, 53019 (2007).

³⁵ *Id.*

³⁶ *DHS U and T Visa Resource Guide* at 7; 72 Fed. Reg. 53013, 53020 (2007).

³⁷ *DHS U and T Visa Resource Guide* at 19, 22.

³⁸ *DHS U and T Visa Resource Guide* at 18.

<p>Attesting to Helpfulness on the Certification Form</p>	<p>Judges should provide on the certification form a general description of victim helpfulness which may include any of the following examples:</p> <ul style="list-style-type: none"> • Victim called police to report the crime. • Victim spoke freely with responding officers. • Victim sought a protection order. • Victim provided photographs of any injuries. • Victim presented evidence in court that lack of qualified interpreters interfered with the victim’s efforts to report the crime, call the police for help and cooperate with police or prosecutors. • Court observed evidence of the victim’s helpfulness in a court case including: attending hearings, testifying, speaking with police or prosecutors, seeking court orders or other evidence of the victim’s past or present willingness to be helpful. • Victim testified in court before the grand jury or at any other stage of a criminal case.
<p>Applicant’s Responsibility After Helpfulness Is Established</p>	<ul style="list-style-type: none"> • In order to obtain a U visa, the victim must provide continuing assistance when reasonably requested,³⁹ or the certifier may revoke the certification.⁴⁰ Similarly, in order to apply for lawful permanent residency after being granted a U visa, the victim must prove that they fulfilled an ongoing responsibility to provide assistance or they must prove that they did not unreasonably refuse to cooperate with reasonable requests for assistance from government officials.⁴¹ However, “continuing assistance” is a standard used after the victim files for and after the victim obtains their U visa. For the purpose of obtaining an initial certification from a judge, only the victim’s helpfulness or likelihood of future helpfulness should be considered. • Note: If the victim’s ongoing cooperation in the criminal investigation or case may jeopardize the victim’s safety or the safety of family members in the U.S. or abroad, then the victim’s failure to cooperate is not unreasonable. The victim’s helpfulness must be examined in the totality of the circumstances including the nature of the victimization, victim’s fear of the abuser, trauma suffered, and the abuser’s use of force, fraud, coercion, threats, and/or ongoing abuse.⁴²
<p>Timing of U visa Certification</p>	<ul style="list-style-type: none"> • Judges may certify at any time the court has information about the helpfulness of a person who has been a victim of a U visa listed criminal activity.⁴³ • Judges may prefer to sign certifications after the completion of a case, but can grant certifications after arraignment, during a probable cause hearing (grand jury or preliminary hearing), or while the case is still pending. • Certifications signed after the court proceeding has concluded or after the court has issued its final appealable order are signed as an administrative function of the court. Courts considering requests for certification while a civil, family or criminal case is pending will need to provide the parties an opportunity to be heard on the certification request. • A completed certification will be valid for six months from the date of signature.⁴⁴

³⁹ 72 Fed. Reg. 53013, 53037 (codified at 8 C.F.R. § 214.14(b)(3)) (2007); DEP’T OF HOMELAND SECURITY, INSTRUCTIONS FOR SUPPLEMENT B, FORM I-918 at 4 (expires 04/30/2021).

⁴⁰ 72 Fed. Reg. 53013, 53041 (codified at 8 C.F.R. § 214.14(h)(2)(A)) (2007).

⁴¹ 73 Fed. Reg. 75540, 75561 (codified at 8 C.F.R. § 245.24(e)) (2008).

⁴² 73 Fed. Reg. 75540, 75560 (codified at 8 C.F.R. § 245.24(a)(5)) (2008).

⁴³ *DHS U and T Visa Resource Guide* at 18–19.

⁴⁴ DEP’T OF HOMELAND SECURITY, INSTRUCTIONS FOR SUPPLEMENT B, FORM I-918 at 2 (expires 04/30/2021).

<p>U visa, Time Line & Attaining Lawful Permanent Residency</p>	<ul style="list-style-type: none"> • Within a few weeks after filing the U visa, the victim’s case is logged in a specialized computer VAWA confidentiality system at DHS that offers victims some protection from deportation.⁴⁵ DHS will run a background check based on the applicant’s fingerprints.⁴⁶ • Approximately 4-6 years⁴⁷ after filing, DHS will adjudicate the case and conduct another finger print check. Approvable cases receive wait-list approval, “deferred action status” which provides formal protection from deportation and legal work authorization.⁴⁸ • The victim is then placed on a waitlist for a U visa. Only 10,000 visas can be issued each year and the current waiting time is at least 11 years.⁴⁹ Once the victim’s case reaches the top of the waitlist, fingerprint checks are run again prior to issuing the victim a U visa. The U visa lasts for 4 years. It is at this point that U visa holder may be able to travel abroad.⁵⁰ • After three (3) years as a U visa holder, the victim may apply for lawful permanent residency. To obtain lawful permanent residency as a U visa holder the victim must prove: <ul style="list-style-type: none"> ○ Their helpfulness in the detection, investigation, prosecution, conviction or sentencing of criminal activity or that they did not unreasonably refuse to cooperate with reasonable requests for assistance. Some victims may return to the certifying agency for a new certification to provide evidence of their helpfulness to support the victim’s application for lawful permanent residency. ○ That they are eligible for lawful permanent residency as a U visa holder due to either: <ul style="list-style-type: none"> ▪ Humanitarian need; ▪ Family unity; or ▪ Public interest ○ That they have continuous presence in the U.S., since receiving their U visa. Due to the “continuous presence” requirement, if the U visa holder departed the U.S. for any single period of time longer than 90 days, or for shorter periods in the aggregate exceeding 180 days, they must include a certification with their application for lawful permanent residency. The certification must be from the original U visa certifying agency verifying that the victim’s absence was necessary for the investigation or prosecution or otherwise justified. ○ Fingerprint checks are run as part of this adjudication.⁵¹
<p>More Information</p>	<ul style="list-style-type: none"> • Please visit NIWAP’s web library for more information http://niwaplibrary.wcl.american.edu/ and for training or technical assistance contact NIWAP at (202) 274-4457 or niwap@wcl.american.edu.

⁴⁵ 72 Fed. Reg. 53013, 53022 (2007).

⁴⁶ *DHS U and T Visa Resource Guide* at 5.

⁴⁷ The time frames in this section were current as of October 2019.

⁴⁸ 72 Fed. Reg. 53013, 53039 (codified at 8 C.F.R. § 214.14(d)(2)) (2007).

⁴⁹ I.N.A. § 214(p)(2); 8 U.S.C. 1184(p)(2); 72 Fed. Reg. 53013, 53039 (codified at 8 C.F.R. § 214.14(d)(1)) (2007).

⁵⁰ 72 Fed. Reg. 53013, 53030 (codified at 8 C.F.R. § 212.1) (2007).

⁵¹ 73 Fed. Reg. 75540, 75560 (codified at 8 C.F.R. § 245.24(b)) (2008).