

T Nonimmigrant Visa Final Rule



National Stakeholder Engagement

Aug. 15, 2024

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Final Rule Background



- On April 30, 2024, USCIS published the Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status Final Rule (T Final Rule).
- Applies to all applications pending or filed on or after Aug. 28, 2024.
- No pending applicant who filed before Aug. 28, 2024, who would be eligible for a T visa under the regulations in place before the Final Rule takes effect will be made ineligible by the Final Rule taking effect.
- The modified bona fide determination process generally does not apply to pending applications.

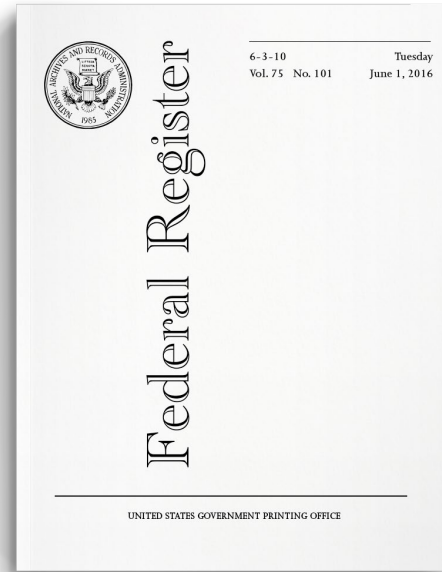
Final Rule Background (cont.)



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The T Final Rule:

- Codified existing policies;
- Modified certain provisions to reflect statutory changes; and
- Clarified eligibility requirements for noncitizens seeking T nonimmigrant status and related adjustment of status.





T Nonimmigrant Status Criteria

- Victim of severe form of trafficking in persons (SFTIP)
- Physically present in the United States or at a port of entry, because of trafficking
- Comply with any reasonable request for assistance (unless qualifying for an exception or exemption)
- Suffer extreme hardship involving unusual and severe harm upon removal
- Admissible to the United States or granted a waiver

There are **no** changes to:

- Documents required for submission
- Rights, benefits, and services that T nonimmigrants receive
- Duration of the status or eligibility for permanent residence, other than minor changes that reduce barriers and align with the statute

Summary of Changes



- Updated and clarified definitions
- Clarified evidentiary standards
- Clarified reporting requirements
- Changed physical presence eligibility requirements
- Modified bona fide determination process



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Definitions



New Definitions

- Serious harm
- Abuse or threatened abuse of the legal process
- Incapacitated or incompetent
- Law enforcement involvement

Modified Definitions

- Involuntary servitude
- Law Enforcement Agency
- Law Enforcement Agency declaration
- Reasonable request for assistance

Evidentiary Standards, Standard of Proof, and Burden of Proof



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Any credible evidence:

- 8 CFR 214.204(l): applicant may submit “any credible evidence”
- 8 CFR 214.204(f): law enforcement cooperation
- 8 CFR 214.208(e): any credible evidence of applicant’s age

Key takeaway: No form of evidence is preferred over another, and an applicant’s evidence (regardless of form) may be sufficient if it is detailed, plausible, consistent, and probative.

Evidentiary Standards, Standard of Proof, and Burden of Proof (cont.)



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Standard and burden of proof:

- 8 CFR 214.204(l): Burden is on the applicant to establish eligibility *by a preponderance of the evidence*.
- Preponderance of the evidence means an applicant must establish their claim is *'more likely than not'* true.

Reporting to Law Enforcement

- Single contact to report trafficking may be enough (must provide credible and probative evidence).
- Anonymous reports generally will not satisfy the requirement.
- Reports to the National Human Trafficking Hotline may be enough, if the victim requests or consents for a report to be referred to law enforcement.
- Report must be made to law enforcement with jurisdiction over the reported crime.

Establishing Physical Presence



- T Final Rule clarifies that applicants may establish physical presence may be established regardless of how much time passed between the trafficking and when they apply. 8 CFR 214.207(a)(2)-(4)
- Adds scenarios where an individual's departure from the United States will not prevent them from establishing physical presence. 8 CFR 214.207(b)(4)-(5)
- Current presence on account of past or current participation in investigative or judicial processes associated with trafficking; and
- Receipt of treatment or services not available in their home country or last place of residence outside the United States. ** See Policy Manual updates for additional guidance.*

Modified Bona Fide Determination Process



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The T Final Rule modifies the bona fide determination process, which allows individuals with bona fide applications who merit a favorable exercise of discretion to receive deferred action and work authorization before USCIS finishes adjudicating their T visa application.

Generally, only applies to cases filed on or after Aug. 28, 2024.

Initial review to determine if application is bona fide.

Application complete? Initial background check results raise no concerns?

If yes, does applicant merit a favorable exercise of discretion to receive deferred action and employment authorization?

If yes, USCIS may grant deferred action and issue a Bona Fide Determination work authorization.

Bona Fide Determination – Discretionary Factors



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- If an applicant was convicted of or arrested for certain acts, USCIS may not exercise discretion favorably to issue deferred action and a bona fide determination EAD.
- Instead, we may proceed to secondary review, which involves a full adjudication of T nonimmigrant status eligibility for the principal applicant and any family members.

Examples of Negative Factors

- | | |
|--|---|
| <ul style="list-style-type: none">• Murder, rape, or sexual abuse;• Offenses involving firearms, explosive materials, or destructive devices. | <ul style="list-style-type: none">• Offenses relating to trafficking in persons;• Aggravated assault;• An offense relating to child pornography;• Manufacturing, distributing, or selling of drugs or narcotics. |
|--|---|

***This is not an exhaustive list.

Best Practices/Filing Tips



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New T Filers:

- If filing after Aug. 28, file Form I-765 concurrently with Form I-914 or Form I-914A.

Pending T Applications:

- If you receive notice that you are eligible for a bona fide determination, file your Form I-765 timely.
- Do not refile a Form I-914/I-914A to get a bona fide determination review.



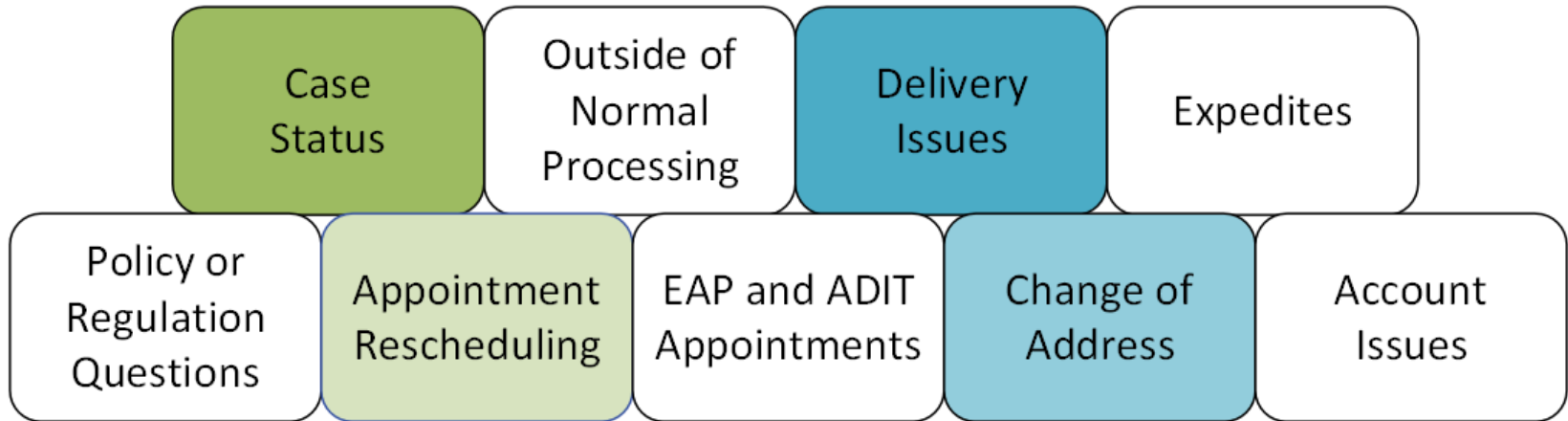
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Expanded Access to Contact Center



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Protected individuals (including applicants for T visas) can access the USCIS Contact Center for all customer service functions, including but not limited to:



Dedicated T Visa Email Hotline



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- Attorneys and representatives may use the dedicated email hotline for customer service inquiries.
 - T Visa - HotlineFollowupI918I914.vsc@uscis.dhs.gov
- To support more efficient processing and avoid duplicate work, attorneys and representatives should avoid submitting the same request that their client is submitting through the USCIS Contact Center.

Protect Yourself



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Before hiring someone to help with your case, do your diligence.

Warning signs:

- Money-back guarantees;
- Charging exorbitant fees;
- Asking you to sign a blank piece of paper or not letting you read a document you sign in a language you can read and understand;
- Not allowing you to view or receive correspondence about your case.
- Individuals making promises guaranteeing approvals of T visas or bona fide determinations for Employment Authorization Documents.

If you are a victim of a scam or aware of a scam, please visit uscis.gov/avoid-scams.



Questions

USCIS Resources



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- Victims of Human Trafficking webpage: uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes
- USCIS Policy Manual: uscis.gov/policy-manual
 - Volume 3, Part B – Victims of Trafficking (T Visa) – updated
 - Volume 7, Part J – Trafficking Victim-Based Adjustment – update pending
 - Volume 9, Part O – Victims of Trafficking (Waivers) – updated
- T Visa Law Enforcement Resource Guide
- T Visa - HotlineFollowupI918I914.vsc@uscis.dhs.gov
- Address changes: uscis.gov/addresschange

Closing Remarks



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