



October 23, 2024

PA-2024-26

## Policy Alert

SUBJECT: T Nonimmigrant Status for Victims of Severe Forms of Trafficking in Persons

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to incorporate changes from the Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status Final Rule (T Final Rule), including updated citations, new definitions, and clarifications.<sup>1</sup>

### Background

Congress enacted the Trafficking Victims Protection Act (TVPA), part of the Victims of Trafficking and Violence Protection Act of 2000, to protect victims of trafficking. T nonimmigrant status (commonly referred to as the “T visa”) serves the dual purpose of protecting noncitizen victims of trafficking and strengthening the ability of law enforcement to investigate and prosecute acts of trafficking.<sup>2</sup>

T nonimmigrant status is available to noncitizen victims of a severe form of trafficking in persons who are physically present in the United States or at a port of entry on account of trafficking, have complied with reasonable requests for assistance from law enforcement (unless they are under the age of 18 or unable to cooperate due to trauma suffered), would suffer extreme hardship involving unusual and severe harm upon removal from the United States, and are admissible to the United States or qualify for a waiver.<sup>3</sup>

The T Final Rule, published on April 30, 2024, and effective August 28, 2024, codifies existing policies, modifies certain provisions to reflect statutory changes, and clarifies eligibility requirements for noncitizens seeking T nonimmigrant status and related adjustment of status. The rule also implements a bona fide determination process and makes other technical and procedural changes. USCIS is therefore updating policy guidance to incorporate these changes and clarifications from the T Final Rule.

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<sup>1</sup> See [89 FR 34864](#) (Apr. 30, 2024).

<sup>2</sup> See [Pub. L. 106-386](#), 114 Stat. 1464, 1470 (October 28, 2000), codified at [22 U.S.C. 7101](#).

<sup>3</sup> See [INA 101\(a\)\(15\)\(T\)](#).

This guidance, contained in Volume 3 and Volume 9 of the Policy Manual, is effective immediately and applies to applications pending or filed on or after August 28, 2024.<sup>4</sup> However, the bona fide determination process only applies to applications filed on or after August 28, 2024, unless USCIS is issuing a Request for Evidence on an application filed before that date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### **Policy Highlights**

- Emphasizes a victim-centered and trauma-informed approach to adjudicating applications for T nonimmigrant status.
- Explains the bona fide determination process for applicants for T nonimmigrant status.
- Provides additional exceptions to the general rule that departures from the United States after trafficking render an applicant unable to establish physical presence on account of their trafficking.
- Informs and provides clarification on the “any credible evidence” provision to assist officers.
- Revises the definition of law enforcement agencies.
- Clarifies the requirement that an applicant must establish that a perpetrator engaged in a specific prohibited action “for the purpose of” inducing a commercial sex act or subjecting the applicant to involuntary servitude, peonage, debt bondage, or slavery.
- Explains that an applicant generally must report their trafficking to law enforcement authorities with jurisdiction to investigate their trafficking to satisfy the reporting requirement.

### **Summary of Changes**

Affected Section: Volume 3 > Part B > Chapter 1, Purpose and Background

- Revises Section B (Background) throughout.

Affected Section: Volume 3 > Part B > Chapter 2, Eligibility Requirements

- Revises Section A (Overview of Eligibility Requirements) throughout.
- In Section C (Physical Presence on Account of Trafficking), revises second introductory paragraph and Subsections 1 (Establishing Physical Presence Requirement) and 2 (Departures From the United States) throughout.
- Revises Sections D (Requests for Law Enforcement Assistance) and E (Extreme Hardship) throughout.

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<sup>4</sup> However, no applicant who filed before August 28, 2024, who would be eligible under the regulations in place before the T Final Rule took effect, is made ineligible by the rule taking effect.

- Adds new Section F (Admissibility).

Affected Section: Volume 3 > Part B > Chapter 2 > Section B, Victim of Severe Form of Trafficking in Persons

- Revises Subsection 1 (General Definition) throughout.
- In Subsection 3 (Definition of Coercion), revises content under italicized subheadings “Threats of Serious Harm,” “Scheme, Pattern, or Plan,” and “Abuse or Threatened Abuse of the Legal Process.”
- In Subsection 4 (Labor Trafficking Concepts), revises content under italicized subheadings “Involuntary Servitude” and “Conditions of Servitude Induced by Domestic Violence,” as well as first paragraph under italicized subheading “Peonage.”
- In Subsection 6 (Key Principles of Trafficking in Persons), adds new final paragraph under italicized subheading “Labor or Services Might Include Non-Traditional Types of Work,” revises last paragraph under italicized subheading “No Timeframe Required,” retitles that subheading to “No Defined Length of Time Required,” and adds content under new italicized subheading “Trafficker Engaged in Prohibited Action for a Particular Purpose.”
- Revises Subsection 7 (Difference Between Trafficking and Smuggling) throughout.

Affected Section: Volume 3 > Part B > Chapter 3 > Section C (Evidence)

- Revises section throughout.

Affected Section: Volume 3 > Part B > Chapter 4, Family Members

- In Section C (Derivative Status Based on Fear of Retaliation), revises Subsection 2 (Adult or Minor Child of Derivative Family Member (T-6)) throughout.
- In Section D (Family Relationship at Time of Filing), revises and retitles Subsection 3 (Requirement to Remain Unmarried) to (Requirement to Be Unmarried).
- In Section D, Subsection 4 (Exceptions to General Rule: Relationship and Age-Out Protections), revises content under italicized subheading “Age-Out Protection for Child of a Principal Applicant 21 Years of Age or Older” and retitles to “Age-Out Protection for Child of a Principal Applicant.”

Affected Section: Volume 3 > Part B > Chapter 5 > Section A, Evidence

- Revises bulleted list under Subsection 2 (Establishing Danger of Retaliation).

Affected Section: Volume 3 > Part B > Chapter 6, Bona Fide Determinations

- Adds content to previously reserved chapter.

Affected Section: Volume 3 > Part B > Chapter 7, Adjudication

- Revises Sections A (Victim-Centered Approach), D (Requests for Evidence and Notices of Intent to Deny), and Section F (Denials) throughout.

Affected Section: Volume 3 > Part B > Chapter 8, Annual Cap and Waiting List

- Revises chapter throughout.

Affected Section: Volume 3 > Part B > Chapter 9 > Section B, Final Orders of Removal

- Revises last sentence of section.

Affected Section: Volume 3 > Part B > Chapter 10, Duration and Extensions of Status

- Adds two paragraphs at the end of Section C (Timing of Application).
- In Section D (Evidence), revises Subsections 1 (Law Enforcement Need) and 2 (Exceptional Circumstances) throughout.
- Revises Section E (Considerations for Family Members) throughout.

Affected Section: Volume 3 > Part B > Chapter 11 > Section B, Employment Authorization

- Revises section throughout.

Affected Section: Volume 3 > Part B > Chapter 12, Travel Outside the United States

- Retitles chapter from Travel to Travel Outside the United States and revises Sections A (Travel While Application for T Nonimmigrant Status is Pending) and B (Travel for T Nonimmigrants) throughout.

Affected Section: Volume 3 > Part B > Chapter 13 > Section A, Grounds for Revocation

- Revises third bullet in list.

Affected Section: Volume 9 > Part O, Victims of Trafficking

- In Chapter 2 (Waivers for Victims of Trafficking), revises third paragraph in Section A (Inadmissibility) and revises second paragraph and table in Subsection 1 (Waiver Authority) under Section B (Waivers).
- In Chapter 3 (INA 212(d)(13) Waivers), revises second paragraph in Section B (Discretionary Analysis).
- Adds new Chapter 5 (Waivers for T Nonimmigrants Applying for Adjustment of Status).

- Redesignates previous Chapter 5 (Adjudication and Post-Adjudication Matters) as new Chapter 6 and revises throughout.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

**Citation**

Volume 3: Humanitarian Protection and Parole, Part B, Victims of Trafficking [[3 USCIS-PM B](#)]  
(Chapters 1-13).

Volume 9: Waivers and Other Forms of Relief, Part O, Victims of Trafficking [[9 USCIS-PM O](#)]  
(Chapters 2, 3, 5, 6).