

NEW YORK CITY POLICE DEPARTMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Police Department is proposing a new rule regarding requests for law enforcement declarations for T nonimmigrant status, the processing of such requests, and the appeals process for denied requests.

When and where is the hearing? The Police Department will hold a public hearing on the proposed rule. The public hearing will take place from 1:30 PM to 4:30 PM on Thursday, December 1, 2016. The hearing will be in the Police Department's auditorium at One Police Plaza, First Floor, New York, New York 10038.

This location has the following accessibility option(s) available: wheelchair accessible; sign language interpretation.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Police Department through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to nycrules@nypd.org.
- **Mail.** You can mail written comments to the Police Department of the City of New York, Commanding Officer, Legal Bureau, One Police Plaza, Room 1406, New York, New York 10038.
- **Fax.** You can fax comments to the Police Department, Commanding Officer, Legal Bureau at 646-610-8377.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 646-610-5400. You can also sign up in the hearing room before the hearing begins on December 1, 2016. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by December 1, 2016.

Do you need assistance to participate in the hearing? You must tell the Legal Bureau if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 646-610-5400. You must tell us by November 28, 2016.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a recording of the hearing will be available to the public at the Legal Bureau.

What authorizes the Police Department to make this rule? Sections 1043 and 435 of the City Charter authorize the Police Department to make this proposed rule. This proposed rule was not included in the Police Department’s regulatory agenda for this Fiscal Year because it was not contemplated when the Police Department published the agenda.

Where can I find the Police Department’s rules? The Police Department’s rules are in Title 38 of the Rules of the City of New York.

What rules govern the rulemaking process? The Police Department must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

In 2000, Congress passed the Victims of Trafficking and Violence Protection Act to encourage victims, regardless of immigration status, to report crimes, and to support law enforcement efforts to investigate and prosecute human trafficking, such as sex or labor trafficking as defined by federal law. The law authorized T nonimmigrant status (commonly referred to as “T visa”), which can be sought by immigrants who are victims of a severe form of human trafficking and who assist law enforcement in the investigation or prosecution of human trafficking. T nonimmigrant status is issued by the United States Citizenship and Immigration Services (“USCIS”), and once granted it provides these victims with temporary nonimmigrant status so that they can remain in the United States while assisting law enforcement.

Immigrant victims must satisfy several federal statutory requirements to apply for T nonimmigrant status, which include demonstrating that he or she has been a victim of a severe form of human trafficking and has complied with any request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking. A primary way that victims can demonstrate this is to submit a law enforcement declaration (USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons). Although this declaration is not required for the T nonimmigrant status application, USCIS considers the signed law enforcement declaration as primary evidence that the victim has been the victim of a severe form of human trafficking and is assisting or has assisted in the investigation or prosecution of human trafficking. Victims may apply for declarations on their own, and the assistance of an attorney is not required.

Under the law, law enforcement agencies, such as the New York City Police Department (“NYPD”), have the discretion to approve or deny a declaration. The NYPD is committed to serving all communities in the City of New York, especially those vulnerable to victimization, and recognizes the value of completing declarations and supporting immigrant victims of human trafficking who are helpful in investigations or prosecutions. USCIS has sole authority to grant immigration benefits, including the T nonimmigrant status. Therefore, an approved and completed declaration by the NYPD does not guarantee T nonimmigrant status or any legal immigration status. The NYPD does not charge any fee to review requests.

The NYPD is proposing the following rule to inform the public about the NYPD’s T declaration process. The rule:

- Directs the manner by which applicants may request T declarations,
- Provides a timetable within which the NYPD will process the requests, and
- Specifies the appeals process for denials of the requests.

New material is underlined

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section one. Title 38 of the Rules of the City of New York is amended to add a new Chapter 23 to read as follows:

CHAPTER 23

REQUESTING DECLARATIONS FOR T NONIMMIGRANT STATUS (T DECLARATIONS)

§ 23-01 Introduction

In 2000, Congress passed the Victims of Trafficking and Violence Protection Act to encourage victims, regardless of immigration status, to report crimes, and to support law enforcement efforts to investigate and prosecute human trafficking, such as sex or labor trafficking as defined by federal law. The law authorized T nonimmigrant status (commonly referred to as “T visa”), which can be sought by immigrants who are victims of a severe form of human trafficking and who assist law enforcement in the investigation or prosecution of human trafficking. T nonimmigrant status is issued by the United States Citizenship and Immigration Services (“USCIS”), and once granted it provides these victims with temporary nonimmigrant status so that they can remain in the United States while assisting law enforcement.

Immigrant victims must satisfy several federal statutory requirements to apply for T nonimmigrant status, which include demonstrating that he or she has been a victim of a severe form of human trafficking and has complied with any request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking. A primary way that victims can demonstrate this is to submit a law enforcement declaration. Although this declaration is not required for the T nonimmigrant status application, USCIS considers the signed law enforcement declaration as primary evidence that the victim has been the victim of a severe form of human trafficking and is assisting or has assisted in the investigation or prosecution of human trafficking.

Victims may apply for declarations on their own, and the assistance of an attorney is not required. Under the law, law enforcement agencies, such as the Department, have the discretion to approve or deny a declaration. The Department is committed to serving all communities in the City of New York, especially those vulnerable to victimization, and recognizes the value of completing declarations and supporting immigrant victims of human trafficking who are helpful in investigations or prosecutions.

§23-02 Definitions

“Applicant” means a victim of human trafficking who is petitioning the United States Citizenship and Immigration Service (USCIS) for T nonimmigrant status, or a person or organization who requests a T declaration on behalf of a victim of human trafficking.

“Department” means the New York City Police Department.

“Derivative T nonimmigrant status” means a temporary nonimmigrant status of four years or less granted to one or more qualifying family members, as prescribed in 8 U.S.C. § 1101(a)(15)(T)(ii), of a victim of human trafficking who has been granted T nonimmigrant status.

“Human trafficking” means severe forms of trafficking in persons, including labor or sex trafficking, as defined by 22 U.S.C. § 7102(9) and 8 C.F.R. § 214.11(a).

“T declaration” means USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, a document that the Department may, at its discretion, review free of charge for eligible victims of human trafficking who are petitioning USCIS for T nonimmigrant status.

“T nonimmigrant status” means a temporary nonimmigrant status granted by USCIS to certain victims of human trafficking.

§23-03 Request for T declaration

- (a) Letter required. An applicant requesting a T declaration from the Department must submit a letter in accordance with the requirements of this section. The applicant must type or clearly print the letter. The letter may be printed in the applicant’s preferred language.
- (b) Required information. The letter must:
 - (1) Provide the victim’s full name (including any middle names and other names, such as maiden names or nicknames), date of birth, gender, phone number, and address;
 - (2) Describe the nature of the human trafficking, including the date(s) and location(s) of the occurrence(s);

- (3) Specify how the victim has complied with the Department's requests for assistance in the investigation or prosecution of human trafficking;
- (4) Designate a return mailing address directing where, and to whom, the Department may send written correspondence related to the request; and
- (5) If applicable, specify any of the following circumstances:
 - i. The victim is in U.S. Immigration and Customs Enforcement (ICE) custody,
 - ii. The victim is in immigration proceedings for removal or deportation from the United States, and/or
 - iii. One or more qualifying family members of the victim will become, within 3 months of the date of the letter, ineligible for derivative T nonimmigrant status, based on the victim's or the qualifying family member's age.

(c) Submission. The applicant must submit the letter to the Department's designated T declaration office, as prescribed on the Department's website.

§23-04 Department Response and Appeals

(a) Department response. Within 45 days of receiving a request for T declaration, the Department will notify the applicant, in a letter sent to the applicant's designated return mailing address, that: (1) the request is approved or denied, or (2) the request requires more than 45 days of review. If the request is denied, the Department will also notify the applicant of the basis for the denial and the process for appealing the denial ("Department denial letter"). If the request requires more than 45 days of review, the Department will also provide a reasonable estimate of when a determination will be made.

(b) Appeals.

(1) Within 90 days of the date of the Department denial letter, an applicant appealing a denial of a request for a T declaration must mail a typed or clearly printed letter to the Department's designated T declaration appeals office as specified by the Department denial letter. The applicant's letter must state the basis for appeal and include with the letter a copy of the Department denial letter.

(2) Within 90 days of receiving an applicant's letter appealing a denial, the Department will send a letter to the applicant's designated return mailing address notifying the applicant that the appeal:

(i) is rejected and the initial denial is upheld; or

(ii) is granted and the Department will issue a T declaration; or

(iii) requires more than 90 days to review, in which case the Department will also provide a reasonable estimate of when a determination will be made.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Certification for T Visa Status

REFERENCE NUMBER: NYPD-9

RULEMAKING AGENCY: New York City Police Department

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Shevani Patel
Mayor's Office of Operations

October 13, 2016
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Certification for T Visa Status

REFERENCE NUMBER: 2016 RG 074

RULEMAKING AGENCY: New York City Police Department

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 12, 2016