

NEW YORK CITY POLICE DEPARTMENT

Notice of Adoption

Notice is hereby given that pursuant to the authority granted to the Police Commissioner by Section 435 of the New York City Charter ("Charter"), and in accordance with section 1043 of the Charter, the Police Department has promulgated a new Chapter 22 of Title 38 of the Official Compilation of the Rules of the City of New York, entitled "Requesting Certifications for U Nonimmigrant Status (U Certifications)."

A public hearing to consider the adoption of this rule was held by the Police Department on January 12, 2016. Comments received from the public in connection with the rulemaking are found at <http://rules.cityofnewyork.us/comments-view/25071>.

NOTE: New matter is underlined; deleted matter is in [brackets].

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of the Police Department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 38 of the Rules of the City of New York is amended by adding a new Chapter 22 to read as follows:

CHAPTER 22

REQUESTING CERTIFICATIONS FOR U NONIMMIGRANT STATUS (U CERTIFICATIONS)

§22-01 Introduction

In 2000, Congress passed the Victims of Trafficking and Violence Prevention Act to encourage victims regardless of immigration status to report crimes and contribute to investigations and prosecutions and to support law enforcement efforts to investigate and prosecute crimes committed against immigrant victims. The law authorized U nonimmigrant status, which can be sought by immigrant victims of certain crimes who previously assisted, are currently assisting, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime. U 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.

To be eligible for U nonimmigrant status, immigrant victims must satisfy several federal statutory requirements, which include a completed law enforcement certification. Immigrant victims may apply for certifications on their own, and the assistance of an attorney is not required. Under the law, local law enforcement agencies, such as the New York City Police Department (“NYPD”), have the discretion to approve or deny a request for certification. Certifications issued by the NYPD are free of charge. 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 certifications and supporting immigrant victims of crime who are helpful in investigations or prosecutions.

§22-02 Definitions

“Applicant” means a victim of a qualifying crime who requests U certification, or a person or organization who requests a U certification on behalf of a victim of a qualifying crime.

“Department” means the New York City Police Department.

“Derivative U 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)(U)(ii), of a victim who has been granted U nonimmigrant status.

“Qualifying crime” means the categories of crimes prescribed by 8 U.S.C. § 1101(a)(15)(U)(iii) and 8 C.F.R. § 214.14(a)(9).

“U nonimmigrant status” means a four year temporary nonimmigrant status granted to certain victims of qualifying criminal activity, as designated by U.S. Citizenship and Immigration Services (USCIS).

“U certification” means USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification, a document that the Department may, at its discretion, complete free of charge for an eligible victim of a qualifying crime who is petitioning USCIS for U nonimmigrant status.

§22-03 Request for U certification

- (a) Letter required. An applicant requesting a U certification 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 qualifying crime(s), including the date(s) and location(s) of the occurrence(s);
 - (3) Specify how the victim has assisted, is assisting, or is likely to be helpful to the Department in the investigation or prosecution of the qualifying crime(s);
 - (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 Custom 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 U nonimmigrant status, based on the victim’s or the qualifying family member’s age..
- (c) Submission. The applicant must submit the letter by mail to the Department’s designated U certification office, as prescribed on the Department’s website.

§22-04 Department Response and Appeals

- (a) Department response. Within 45 days of receiving a request for U certification, 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 U certification must mail a typed or clearly printed letter to the Department’s designated U certification appeals office as specified by the Department denial letter. The applicant’s letter must state the basis for appeal and include 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 U certification; 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.

Statement of Basis and Purpose of Rule

In 2000, Congress passed the Victims of Trafficking and Violence Prevention Act to encourage victims regardless of immigration status to report crimes and contribute to investigations and prosecutions and to support law enforcement efforts to investigate and prosecute crimes committed against immigrant victims. The law authorized U nonimmigrant status, which can be sought by immigrant victims of certain crimes who previously assisted, are currently assisting, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime. U 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.

To be eligible for U nonimmigrant status, immigrant victims must satisfy several federal statutory requirements, which include a completed law enforcement certification (USCIS Form I-918, Supplement B). Immigrant victims may apply for certifications on their own, and the assistance of an attorney is not required. Under the law, local law enforcement agencies, such as the New York City Police Department (“NYPD”), have the discretion to approve or deny a request for certification. Certifications issued by the NYPD are free of charge. 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 certifications and supporting immigrant victims of crime who are helpful in investigations or prosecutions. However, USCIS has sole authority to grant immigration benefits, including U nonimmigrant status. Therefore, an approved and completed certification by the NYPD does not guarantee U nonimmigrant status or any legal immigration status.

The NYPD is issuing the following rule to inform the public about the NYPD’s U certification process. The rule:

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