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# **U Visa and Bona Fide Determination Process for Victims of Qualifying Crimes**

**USCIS National Engagement  
Oct. 20, 2021**

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# LAWFUL STATUS AND PATH TO PERMANENT RESIDENCY: U VISA



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- Lawful nonimmigrant status for four years (with possibility for permanent residency after three years)
- Work authorization
- Lawful nonimmigrant status for certain family members
- Subject to an annual cap for “principals”:
  - U visas—10,000 per fiscal year



# BASIC U VISA REQUIREMENTS



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- Victim of qualifying criminal activity
- Crime occurred in U.S. or violated U.S. law
- Victim has specific, credible, and reliable information about qualifying criminal activity
- Victim was, is being, or is likely to be helpful to law enforcement in detection, investigation, prosecution, conviction, or sentencing of criminal activity – *ongoing requirement*
- Victim suffered substantial physical or mental abuse as a result of qualifying crime
- Victim is admissible to the United States or has all grounds of inadmissibility waived



# QUALIFYING FAMILY MEMBERS



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Petitioner	Qualifying Family Member
A principal petitioner 21 years of age or older at the time of filing the petition may file for:	<ul style="list-style-type: none"><li>• Spouse (U-2)</li><li>• Unmarried children under the age of 21 (U-3)</li></ul>
A principal petitioner <b>under</b> the age of 21 years old at the time of filing the petition may file for:	<ul style="list-style-type: none"><li>• Spouse (U-2)</li><li>• Unmarried children under the age of 21 (U-3)</li><li>• Parents (U-4)</li><li>• Unmarried siblings under the age of 18 (U-5)</li></ul>

# BONA FIDE DETERMINATION PROCESS



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- USCIS implemented the Bona Fide Determination process on June 14, 2021.
- This process applies for principal petitioners and qualifying family members living in the United States with pending, bona fide petitions.
  - Bona fide generally means made in good faith, without fraud or deceit.
- Under this process, USCIS exercises its discretion on a case-by-case basis to grant BFD Employment Authorization Documents (BFD EADs) and deferred action.

# PROCESS OVERVIEW



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## **Step 1:** Is the petition bona fide?

- USCIS conducts an initial review of Form I-918 filing.
  - Properly filed and complete Form I-918
  - Includes all required initial evidence except for the Application for Advance Permission to Enter as a Nonimmigrant (Form I-192)
    - U Nonimmigrant Status Certification, Form I-918 Supplement B
    - Personal Statement
- USCIS has received the result of the principal petitioner's background and security checks based upon biometrics.

# PROCESS OVERVIEW (cont'd)



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## Step 2: If principal petition is bona fide...

- Does the principal petitioner pose a risk to national security or public safety?
  - Reviewing results of background checks
  - Consider relevant discretionary factors
- Does the principal petitioner warrant a favorable exercise of discretion to receive employment authorization under INA 214(p)(6) and deferred action?

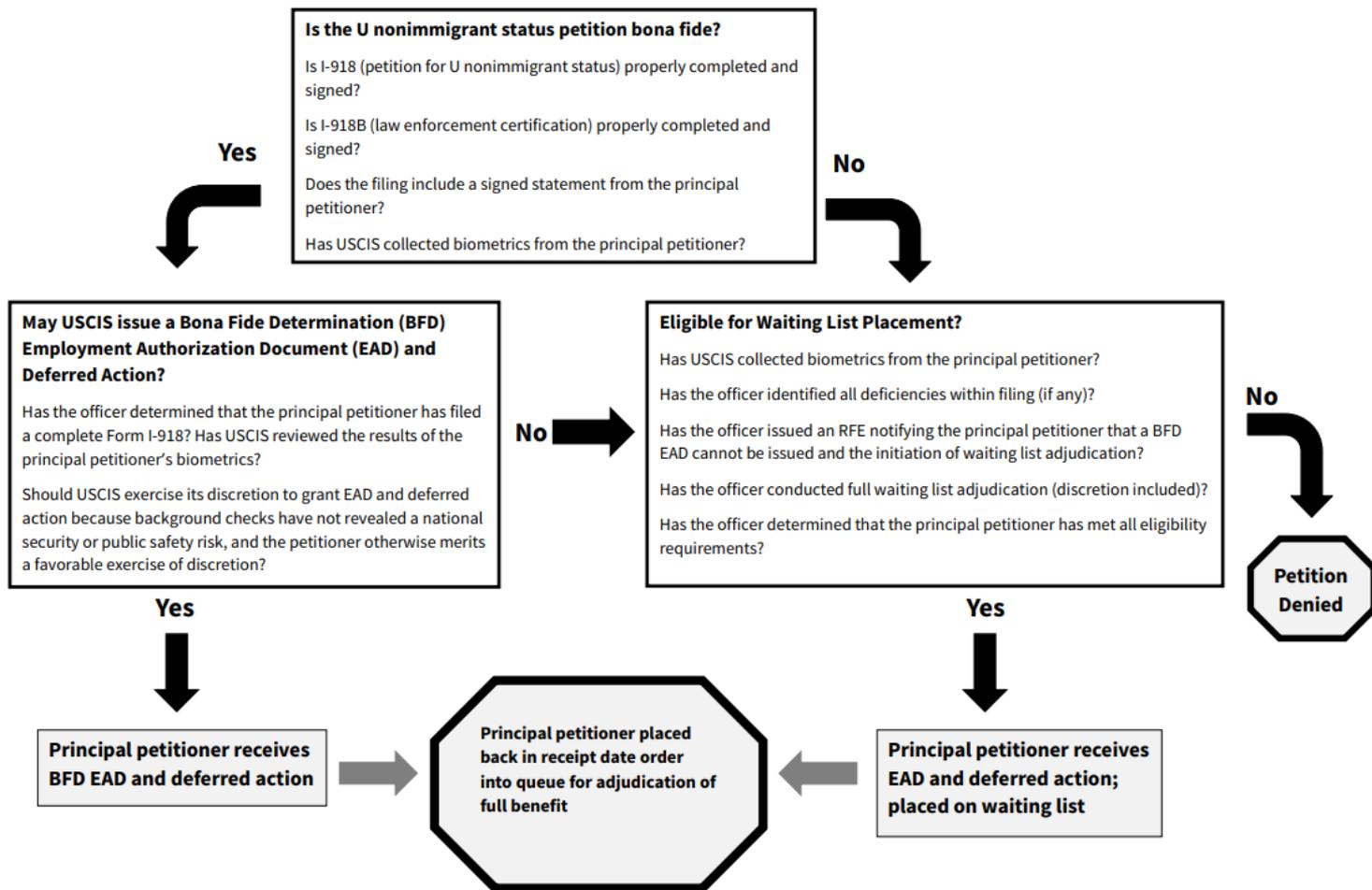
## PROCESS OVERVIEW (cont'd)



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Petitioners who do not receive a BFD EAD proceed to the full waiting list adjudication. If their petitions are approvable but for the statutory cap, principal petitioners and their qualifying family members are:

- Placed on the waiting list.
- Receive deferred action.
- Receive an EAD valid for 4 years, if they have properly filed for employment authorization.



# QUALIFYING FAMILY MEMBERS



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- Not guaranteed a BFD EAD solely because the principal petitioner receives a BFD EAD.
- Must independently demonstrate Form I-918, Supplement A, is bona fide.
- USCIS determines a qualifying family member's petition is bona fide when:
  - The principal petitioner receives a BFD EAD;
  - The petitioner has properly filed a complete Form I-918, Supplement A;
  - The petition includes credible evidence of the qualifying family relationship;
  - USCIS received the results of the qualifying family member's background and security checks based upon biometrics.

**PROCESS FLOWCHART FOR QUALIFYING FAMILY MEMBERS IN THE US:  
PRINCIPAL PETITIONER RECEIVES A  
BONA FIDE DETERMINATION**

**Is the Petition for Qualifying Family Member (QFM) of U-1 Recipient bona fide?**

Is I-918A (petition for QFM of U1 recipient) properly completed and signed?

Does the petition include credible evidence of the qualifying family relationship?

Has USCIS received the results of the QFM's biometrics checks?

**Yes**

**No**

**May USCIS issue a Bona Fide Determination (BFD) Employment Authorization Document (EAD) and Deferred Action?**

Has USCIS reviewed the results of the QFM's biometrics?

Should USCIS exercise its discretion to grant EAD and deferred action because background checks have not revealed a national security or serious public safety risk?

**No**

**USCIS completes a full adjudication (not a waitlist adjudication) for that QFM**

Has the QFM resolved the deficiencies or concerns in the record?

**No**

**USCIS does not issue a BFD EAD for QFM; places them back into queue with principal petitioner for adjudication of full benefit**

**Yes**

**QFM receives BFD EAD and deferred action**

**Yes**

**QFM receives EAD and deferred action**

**QFM back in receipt date order into queue along with principal petitioner placed for adjudication of full benefit**

Form I-918, Supplement A filed by principal petitioner on behalf of qualifying family member (QFM) living in the United States is received by USCIS.



**Did the principal petitioner receive a BFD EAD?**

**No**

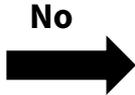


**Is the QFM eligible for waiting list placement?**

Has officer conducted full waiting list adjudication for the principal petitioner and was the principal petitioner found eligible for waiting list placement?

Has officer conducted a full waiting list adjudication for the QFM and was the QFM found eligible for waiting list placement?

Has USCIS received the results of the QFM's biometrics checks??



**I-918A  
Petition  
Denied**

**Yes**



**Qualifying family member receives EAD and deferred action; placed on waiting list along with principal petitioner**



**Qualifying family member along with principal petitioner are placed back in receipt date order into queue for adjudication of full benefit**

**QUALIFYING FAMILY MEMBERS  
FLOWCHART: PRINCIPAL PETITIONER  
DID NOT RECEIVE A BONA FIDE  
DETERMINATION**



# ADJUDICATION STAGES

## Pending

- Pending, no adjudicative action
- Pending, received Bona Fide Determination
  - Provides EAD and grant of deferred action
- Pending, placed on the waiting list
  - Provides EAD and grant of deferred action

## Adjudication completed

- Granted U nonimmigrant status
- Denied U nonimmigrant status
  - Appeal or motion to reopen and/or reconsider



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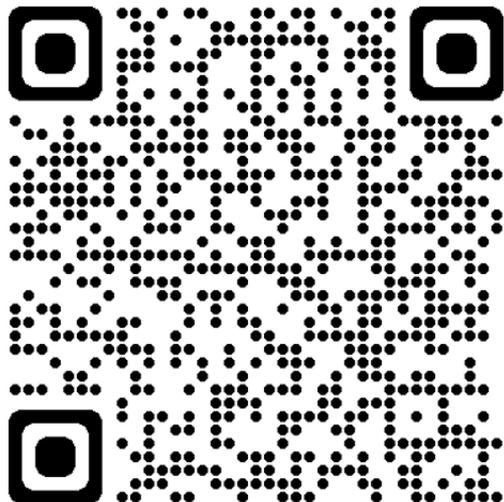
# Q&A

# USCIS WEBSITE ADDITIONAL SOURCES

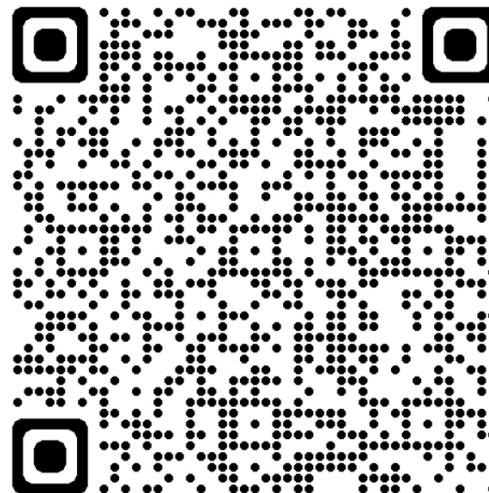


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- [USCIS Policy Manual V3 Chpt 5](#)



[Electronic Reading Room - Bona Fide  
Determination Process FAQs](#)



# SELF-HELP TOOLS AND RESOURCES



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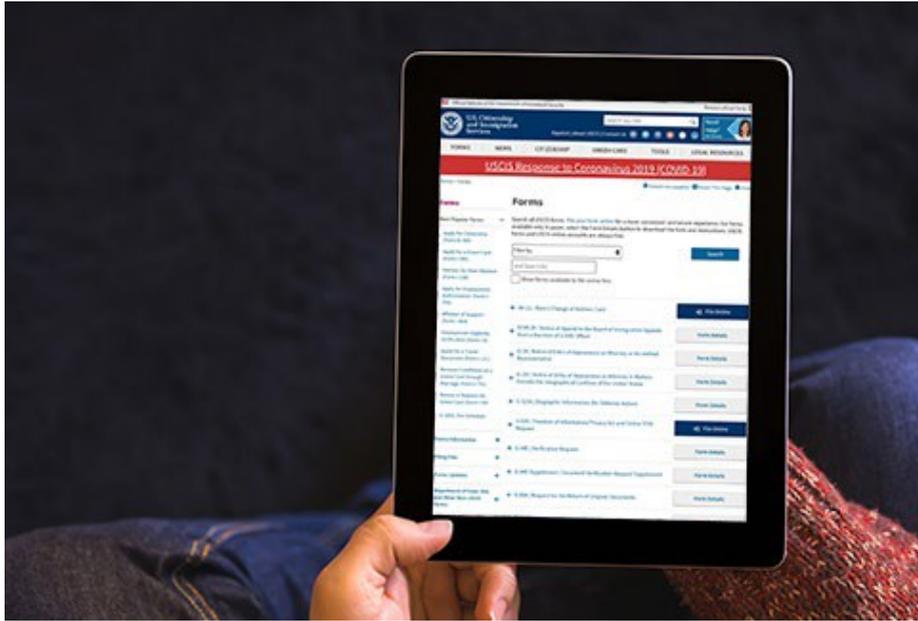
The [USCIS webpage](#) offers the following free services:

- ✓ Check your [case status](#)
- ✓ [Change your address](#)
- ✓ Check [processing times](#)
- ✓ “[How Do I](#)” fact sheets

# SELF-HELP TOOLS AND RESOURCES



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The [USCIS webpage](#) offers the following free services:

- ✓ Download [forms](#)
- ✓ [Online filing](#) (for some forms)
- ✓ Create an account on [myUSCIS](#)
- ✓ [BFD Frequently Asked Questions on Form I-918 webpage](#)

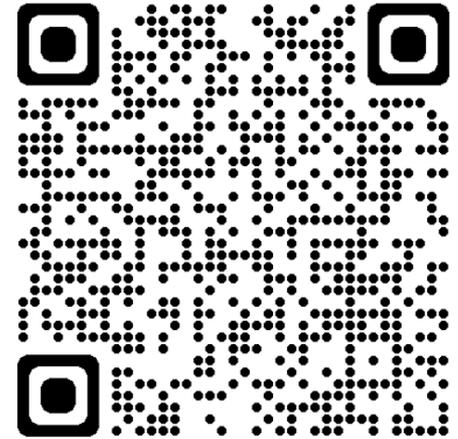
# AVOID SCAMS



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Visit the [USCIS Avoid Scams](#) webpage to learn more about:

- Common immigration scams;
- How to [report immigration scams](#);  
and
- How to find [legal services and help](#).



# DISSEMINATION



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