
**ORANGE COUNTY SOCIAL SERVICES AGENCY
PDU DISPATCH**

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U-Visa Certification

Background

The United States Citizenship and Immigration Services (USCIS) is a federal agency within the Department of Homeland Security (DHS) responsible for determining whether immigration benefits and immigration status will be granted or denied to undocumented persons.

In October 2000, Congress created the U nonimmigrant visa (U-Visa) with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act). The legislation was intended to:

- Strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes
- Protect victims who have suffered substantial mental or physical abuse due to the crime who are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity

Victims of eligible criminal activities as described in Immigration and Naturalization Act [INA 101\(a\)\(15\)\(U\)\(iii\)](#) and 8 Code of Federal Regulations (CFR) 214.14(b), may apply for temporary U-Visa. Only USCIS may grant or deny a U-Visa.

USCIS Requirements for U-Visa

Pursuant to 8 CFR 214.14(b), an undocumented victim may be eligible for a U-Visa if all of the following are true:

- The person named in the application has been a victim of a qualifying criminal activity
- The person named in the application possesses information about the qualifying criminal activity
- The person named in the application has been, is being, or is likely to be helpful to the investigation and/or prosecution of that qualifying criminal activity

- The criminal activity occurred in the United States

An *I-918 Petition for U Nonimmigrant Status (U-Visa I-918 petition)* and *I-918 Supplement B U Nonimmigrant Status Certification (U-Visa I-918B certification)* are required by USCIS to apply for U-Visa. A signed *U-Visa I-918B certification* does not automatically grant the undocumented victim a U-Visa.

Certifying Agency

Pursuant to 8 CFR 214.14 (a)(2), the Orange County Social Services Agency (SSA), Department of Children and Family Services (CFS) qualifies as a Certifying Agency. The Immigration Liaison Supervisor has been designated by the CFS Division Director as SSA’s certifying official for *U-Visa I-918B certifications* to sign on behalf of the agency ([8 CFR 214.14\[a\]\[3\]\[i\]](#)).

Note: For a complete listing of additional Certifying Agencies, refer to 8 CFR 214.14(a)(2).

Certifying Discretion

Under the guidelines set forth by USCIS ([U Visa Law Enforcement Certification Resource Guide](#)), SSA is not legally obligated to review and certify *U-Visa I-918B certifications* presented by undocumented victims. An agency’s decision on whether or not to provide *U-Visa I-918B certifications* is entirely discretionary according to both the USCIS and the Federal Courts ([Orosco v. Napolitano, 598 F.3d 222, 226 \[5th Cir. 2010\]](#)).

SSA has chosen to exercise its discretion to certify *U-Visa I-918B certifications* and will limit review of *U-Visa I-918B certifications* to only those submitted by or on behalf of current or former dependents of the Orange County Juvenile Court.

Cases involving undocumented children who have been declared dependents of the Orange County Juvenile Court have been previously reviewed and thoroughly investigated by CFS social workers.

Additionally, the underlying allegations in the dependency case have been pled in a Welfare and Institutions Code (WIC) § 300 petition. Due process was afforded to all parties in a noticed hearing on the WIC § 300 petition. The WIC § 300 petition allegations were adjudicated by a Juvenile Court Judge and found to be true.

U-Visa Certification

Under the guidelines set forth by USCIS ([U Visa Law Enforcement Certification Resource Guide](#)), by signing *U-Visa I-918B certification*, on behalf of current and former undocumented dependents of the Orange County Juvenile Court, SSA as the Certifying Agency “attests that the information is true and correct to

the best of the certifying official's knowledge.”

The *U-Visa I-918B certification* may include information about any harm sustained by the victim that the Certifying Agency has knowledge of or observed.

**Procedure for
U-Visa I-918B
Certification**

The Immigration Liaison Supervisor typically receives U-Visa certification requests from immigration attorneys, but may also receive U-Visa requests from other sources. All U-Visa requests will be made in writing and will include a completed *U-Visa I-918B certification* and supporting documents.

Note: If an assigned SSW receives a request on behalf of a former undocumented dependent, the SSW will complete the auto-populating fillable template in CWS/CMS, [Legal Residency Documents Request \(F063-25-200\)](#). The completed referral will be emailed to the Immigration Liaison Inbox, to request *U-Visa I-918B certification*.

U-Visa certification will be processed by completing the following steps:

- A. Review the *U-Visa I-918B certification* and supporting documents. The information in the *U-Visa I-918B certification* must specifically match the supporting documents.

Supporting documents may consist of:

- Child Abuse Registry (CAR) reports (i.e., Screener Narrative)
- Investigation Court Reports (i.e., Investigation Narrative, Petition, Jurisdictional/Dispositional Hearing Report)
- Police reports
- Other documents, as provided (e.g., restraining orders, hospital records, etc.)

Note: SSA will not consider *U-Visa I-918B certification* when the victim is not a current or former dependent of the Orange County Juvenile Court.

- B. Determine the following:

- The alleged crime as documented in *U-Visa I-918B certification* is identified in the child's sustained petition
- The applicant provided credible and reliable information establishing knowledge of the details of the abuse and/or neglect
- The applicant has been helpful, is being helpful, or is likely

to be helpful to the investigation of the abuse and/or neglect on which the *U-Visa I-918B certification* is based

- The abuse and/or neglect occurred in the United States (including Indian Country, U.S. military bases, or U.S. territories)

Note: A parent, guardian, or next friend (i.e., a person appearing in a lawsuit to act for the benefit of the child; may be the assigned Senior Social Worker [SSW]) may provide information when the child was under the age of 16 years at the time of the alleged abuse and/or neglect or if the child or applicant is incapacitated or incompetent.

If the criteria above are met, the Immigration Liaison Supervisor will sign *U-Visa I-918B certification*.

- C. The original *U-Visa I-918B certification*, supporting documents, and completed U-Visa Certification Advisement Letter will be mailed back to the applicant or applicant's legal representative.

Note: Ensure original *U-Visa I-918B certification* includes an original signature in an ink color other than black.

- D. Document the U-Visa certification in CWS/CMS on the Demographics Page of the Client Notebook.
- E. Maintain a copy of the *U-Visa I-918B certification* and supporting documents in the Immigration Liaison's immigration files.

Administrative Review

Current or former undocumented dependents of the Orange County Juvenile Court may request an Administrative Review for *U-Visa I-918B certification*, if there is disagreement with the final decision made by the Immigration Liaison Supervisor.

A written, signed request for an Administrative Review must be received by CFS within 60 days of the date of this U-Visa Certification Advisement Letter and include facts and/or documentation which are believed to provide the basis of a certification.

If requesting an Administrative Review, the request must be mailed to:

Orange County Social Services Agency
Children and Family Services
Division Director
888 N. Main Street
Santa Ana, CA 92701

The CFS Division Director will review for abuse of discretion and ensure that the decision promotes the interests of justice. The CFS Division Director will provide a final decision within 45 days. A copy of the final decision will be sent to the victim by Immigration staff and a copy maintained in the Immigration Liaison's immigration files.

An Administrative Review for *U-Visa I-918B certification* will not be available for those victims who are not current or former undocumented dependents of the Orange County Juvenile Court.

Questions

For questions regarding this PDU Dispatch, contact PDU Analyst Alix Kaainoa-Thomas at (714) 704-6175.