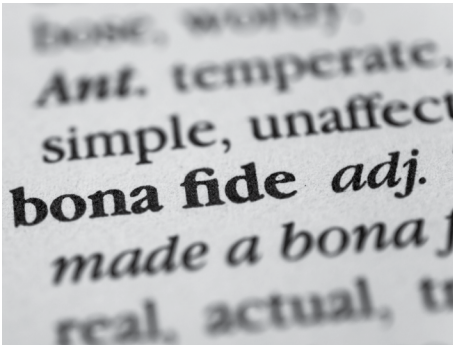




U-VISA PETITIONERS – BONA FIDE DETERMINATION AND EMPLOYMENT AUTHORIZATION



The U nonimmigrant status (U visa) is available to victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.

In June 2021, due to long backlogs, USCIS outlined the process to determine whether a U-visa petition is bona fide.¹ The bona fide determination (BFD) process is used to grant deferred action and issue employment authorization to U-visa petitioners who are found to have

bona fide applications. The BFD process was created with the goal of conducting initial reviews of petitions for U nonimmigrant status more efficiently and providing eligible victims of qualifying crimes with employment authorization and deferred action while they await a final adjudication of their petition for U nonimmigrant status under the annual statutory cap.

USCIS stated that the determination of whether a petition is bona fide is based on whether the application is complete, including evidence and background checks, as well as whether there are any national security or public safety risks. Keep in mind that this is a discretionary determination.

Once USCIS decides that the U-visa application is bona fide, the applicant will be granted deferred action and will be eligible for work authorization for four years. Qualifying family members are also eligible. If a Form I-765 was not included with the initial application packet, a Bona Fide Determination Notice will be issued, requesting that Form I-765 be submitted.

Please keep in mind that a BFD does not guarantee that USCIS will grant your U-visa petition. You do not need to take any affirmative action if your U-visa petition is currently pending. USCIS will review cases and make determinations. Unfortunately, there are no timelines for how long USCIS will take to review a pending petition.

If you have any questions regarding this process or believe that you may be eligible for employment authorization as a bona fide U-visa petitioner, you should reach out to an immigration attorney. If you need assistance finding a lawyer in your area, go to www.aialawyer.org.

¹<https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>

A complete U-visa application includes:

- A properly filed and completed Petition for U Nonimmigrant Status (Form I-918);
- A properly filed and completed U Non-immigrant Status Certification (Form I-918, Supplement B), submitted within six months of the certifier's signature;
- A personal statement from the petitioner regarding the facts of the case; and
- Completed biometrics (background checks).