

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 23 of Title 38 of the Official Compilation of the Rules of the City of New York, entitled “Requesting Declarations for T Nonimmigrant Status (T Declarations).”

A public hearing to consider the adoption of this proposed rule was held by the Police Department on December 1, 2016. Comments received from the public in connection with the rulemaking are found at <http://rules.cityofnewyork.us/content/requesting-declarations-t-nonimmigrant-status>.

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 1. Title 38 of the Rules of the City of New York is amended by adding a new Chapter 23 to read as follows:

NEW YORK CITY POLICE DEPARTMENT

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.

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 New York City Police Department (“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 USCIS for T nonimmigrant status, or a person or organization who requests a T declaration on behalf of such 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 or electronic mail (e-mail) submission required. An applicant requesting a T declaration from the Department must send a letter or e-mail in accordance with the requirements of this section. The applicant must type or clearly print the letter or type the e-mail. The letter or e-mail may be typed or printed in the applicant’s preferred language.
- (b) Required information. The letter or e-mail 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 and, if available, an e-mail 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 or e-mail 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, either in a letter or e-mail sent to the applicant's designated return mailing address or e-mail 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 or e-mail"). 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 or e-mail, 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 or e-mail. The applicant's letter must state the basis for appeal and include with the letter a copy of the Department denial letter or e-mail.

(2) Within 60 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 60 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 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.

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.