



**DEPARTMENT OF FAIR EMPLOYMENT  
AND HOUSING  
ENFORCEMENT DIVISION  
DIRECTIVE**

**DIRECTIVE NUMBER  
317**

**DISTRIBUTION DATE  
January 25, 2016**

1. **SUBJECT: COMPLETING U VISA CERTIFICATIONS IN DFEH CASES**
2. **PURPOSE:** To set forth the procedures for certifying, under limited circumstances, requests for a “*U Visa*.”<sup>1</sup>
3. **BACKGROUND:** The federal *Victims of Trafficking and Violence Protection Act of 2000* created the *U Visa*, which is available to immigrant victims of serious crimes. The purpose behind the *U Visa* is to recognize that many undocumented crime victims fear that assisting law enforcement could lead to deportation. The *U Visa* encourages these victims to report crimes and assist in their prosecution by offering temporary legal status and work authorization. To obtain a *U Visa*, victims must demonstrate to the U.S. Citizenship and Immigration Services (USCIS), via certification by a law enforcement agency, their willingness to cooperate in a qualifying investigation or prosecution.

Because the Department of Fair Employment and Housing (DFEH) investigates claims under the Fair Employment and Housing Act (FEHA) and the Ralph Civil Rights Act, the DFEH may qualify as a law enforcement agency that can sign such certifications that applicants submit to the USCIS as part of a *U Visa* application. Completing such certifications will provide the DFEH with an effective tool to ensure the thorough investigation of alleged FEHA or Ralph Act violations and the enforcement of these laws.

There are, however, several factors which would need to be present before DFEH could submit a *U Visa* certification.

4. **PROCEDURES:**
  - A. **When a *U Visa* Should be Completed:**
    - 1) The first step in determining when a *U Visa* certification should be completed is when the DFEH case at issue involves alleged acts that, if proven, would constitute a “qualifying” criminal activity as defined by the *U Visa* statute: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact;

---

<sup>1</sup> This Directive may be applied to U Visas created by future amendments to the *Victims of Trafficking and Violence Protection Act*.

prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting (as defined in section 1351 of Title 18); or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The above list of qualifying criminal activities is a list of “general categories” of qualifying crimes which are not tied to any particular statutory definition. The list is not exhaustive and similar activities may serve as qualifying criminal activity where the nature and elements of the offenses are substantially similar to offenses included in the list.<sup>2</sup>

- 2) The second step is for the DFEH to determine that the *U Visa* petitioner “has been helpful, is being helpful or is likely to be helpful” in the investigation or prosecution.
- 3) The complainant or his/her representative must request that the DFEH complete the *U Visa* certification on his or her behalf.

**B. Submitting the Request for *U Visa* Certification:**

- 1) If all the factors listed in 4.A. above are present, DFEH staff should prepare and submit a law enforcement certification form (Form I-918, Supplement B, U Nonimmigrant Status Certification).
- 2) The Investigator or attorney shall complete the form including the following information:
  - a) Details of the crime;
  - b) Complainant’s personal data;
  - c) Knowledge of the incident; and
  - d) Helpfulness to the investigation or prosecution.
- 3) The Investigator or attorney shall then submit the form to the Chief of Enforcement, Chief Counsel (or his or her designee), for review and signature. Signing the form does not indicate DFEH’s sponsorship for the complainant/immigrant and DFEH may notify USCIS if the complainant failed to meet his or her ongoing responsibility to cooperate with the Department.
- 4) DFEH staff are not to question complainants regarding their immigration status and DFEH’s new *U Visa* Practice does not change this approach. However, if a complainant voluntarily raises

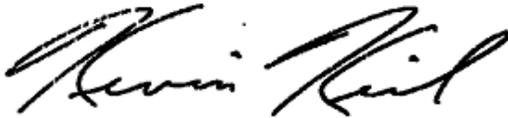
---

<sup>2</sup> 8 U.S.C. § 1101(a)(15)(U)(iii), and United States Department of Homeland Security, *U Visa Law Enforcement Certification Guide for Federal, State, Local, Tribal and Territorial Law Enforcement*, page 3, available at: [http://www/dhs.gov/xlibrary/assets/dhs\\_u\\_visa\\_certification\\_guide.pdf](http://www/dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf).

his or her immigration status with DFEH staff, and DFEH staff believes that pursuing a *U Visa* for the complainant would be appropriate under the circumstances, then please immediately contact, through your District Administrator/Regional Administrator, the Chief of Enforcement or Chief Counsel. The Chief of Enforcement or Chief Counsel will review any certification before it is submitted to the complainant or complainant's representative.

- 5) The *U Visa* request *should **not** be maintained in the case file*. All documentation and notes relating to a *U Visa* request are confidential and should be forwarded to the Chief of Enforcement or Chief Counsel.

5. **APPROVAL:**



---

Kevin Kish, Director

January 25, 2016

---

Date