

U Derivatives

This chart summarizes situations to consider when working with principals with children. Principal U applicants may file derivative applications for their spouses, unmarried children under 21 and, if the applicant is under 21, for parents and unmarried siblings, INA § 101(a)(15)(U)(ii), by filing form I-918A.

DERIVATIVES FILING IN THE USA and the derivative is	ABOUT TO TURN 21, U NOT YET FILED	UNDER 21 AT TIME OF FILING BUT TURNED 21 WHILE APPLICATION PENDING	UNDER 21 AT TIME OF APPROVAL BUT TURNING 21 BEFORE 3 YEARS CONTINUOUS PRESENCE
	<p>FILE NOW!</p> <p>Mail application as soon as possible, even if no I-918B certification yet</p> <p>Request VSC NOT to deny, flagging age-out issue as reason for filing now</p> <p>Do not wait until the last day to file. VSC's VAWA unit does not receive Friday mail until Monday.</p>	<p>DO NOT ADJUST THE PRINCIPAL BEFORE THE DERIVATIVE IS APPROVED!!</p> <p>Ask for an extension citing U extensions memo for principals p. 3¹</p> <p>Request deferred action and EAD under 8 CFR § 274a.12(c)(14) unless in removal proceedings.</p> <p>For cases in proceedings, ask ICE to request prima facie determination from VSC. Move to terminate or continue proceedings. If final order in place file I-246 request for stay.</p>	<p>FILE EXTENSION OF U on form I-539. Can be filed 6 months before but VSC will not start adjudicating until 90 days of expiration</p> <p>Request deferred action and EAD under 8 CFR § 274a.12(c)(14)</p> <p>File to adjust principal once derivative accrues 3 years in continuous presence, request EAD for principal based on 8 CFR §274a.12(c)(9)</p>
DERIVATIVES FILING OUTSIDE OF THE USA	ABOUT TO TURN 21 U NOT YET FILED	UNDER 21 AT TIME OF APPROVAL BUT TURNED 21 WHILE APPLICATION PENDING	UNDER 21 AT TIME OF APPROVAL BUT TURNING 21 BEFORE 3 YEARS CONTINUOUS PRESENCE
	<p>FILE IMMEDIATELY TO PRESERVE DATE</p> <p>Explore alternative remedies such as family relative petition, humanitarian parole, asylum</p>	<p>DO NOT ADJUST PRINCIPAL!!</p> <p>Ask for an extension citing U extensions memo p. 3</p> <p>If denied, file an appeal to preserve potential eligibility after age-out memorandum</p>	<p>PROCESS DERIVATIVE INTO US IMMEDIATELY!</p> <p>AFTER derivative in US proceed with extension and EAD request based on deferred action, 8 CFR § 274a.12(c)(14)</p>