

**PROPOSED REVISIONS TO THE RULES OF EVIDENCE
PROPOSAL 2026-021**

March 6, 2026

The Rules of Evidence Committee has recommended the adoption of new Rule 11-515 NMRA for the Supreme Court’s consideration.

If you would like to comment on the proposed new rule set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court’s website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s website for public viewing.

[NEW MATERIAL]

11-515. U Visa, T Visa, VAWA Self-Petition, and Cancellation of Removal Application Privilege.

- A. **Definitions.** For purposes of this rule,
- (1) an “applicant” is a person who has applied for relief under 8 U.S.C. § 1101(a)(15)(T), (15)(U), or (51) or 8 U.S.C. § 1229(b).
 - (2) an “application” is an application, petition, or materials submitted in support of a request for relief under 8 U.S.C. § 1101(a)(15)(T), (15)(U), or (51) or 8 U.S.C. § 1229(b).
 - (3) a “beneficiary” is a person who is intended to receive the benefit of an application.
- B. **Scope of the privilege.** An applicant or a beneficiary of a pending or approved application has a privilege to refuse to disclose, or to prevent any other person from disclosing, the application and information which relates to the application for relief.
- C. **Who may claim the privilege.** The privilege may be claimed by the applicant or a beneficiary.
- D. **Waiver.** Necessary disclosure to law enforcement to complete an application is not a waiver. Disclosure to anyone of the fact of an application is not a waiver.
- E. **Exceptions.** The privilege shall not apply in circumstances set forth in 8 U.S.C. § 1367(b), including if the applicant and all beneficiaries are adults and waive the privilege. The privilege no longer exists if an application is denied and all opportunities for appeal of the denial

have been exhausted. The privilege shall not prevent the prosecution from making required disclosures under *Brady v. Maryland*, 373 U.S. 83 (1963), including the fact of an application when the prosecution is aware of an application and information within the application to the extent it is material to guilt, punishment, or may be used as impeachment evidence.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. This rule was drafted in accordance with the holdings set forth in *Ramirez v. Marsh*, S-1-SC-39966, S-1-SC-40114.

[Adopted by Supreme Court Order No. _____.]