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. § 1229b;

(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. § 1229b; and

(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.**

(1) 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.

(2) The privilege no longer exists if an application is denied and all opportunities for appeal of the denial have been exhausted.

(3) The fact of an application is not privileged.

(4) The prosecution shall make required disclosures under *Brady v. Maryland*, 373 U.S. 83 (1963), including:

(a) the fact of an application when the prosecution is aware of an application; and

(b) 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. S-1-RCR-2025-00142, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. — This rule was drafted in accordance with the holdings set forth in *Ramirez v. Marsh*, 2025-NMSC-050, 580 P.3d 768.

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