

**Amicus Invitation No. 16-03-17**  
**AMICUS INVITATION (U NONIMMIGRANT STATUS), DUE April 18, 2016**

**MARCH 17, 2016**

The Board of Immigration Appeals welcomes interested members of the public to file amicus curiae briefs discussing the below issue:

**ISSUES PRESENTED:**

- 1) Does the present respondent remain in valid U nonimmigrant status at this time?
- 2) In light of the definition of “admission” at section 101(a)(13)(A) of the Act, can a person granted U nonimmigrant status from within the United States properly be considered to be “in and admitted to the United States” within the meaning of section 237(a) of the Act? In responding to this question, please discuss the Board’s decisions in *Matter of Agour*, 26 I&N Dec. 566 (BIA 2015); *Matter of Fajardo Espinoza*, 26 I&N Dec. 603 (BIA 2015); *Matter of V-X*, 26 I&N Dec. 147 (BIA 2013); and *Matter of Reza*, 25 I&N Dec. 296 (BIA 2010).
- 3) Was the Immigration Judge correct in ruling that a grant of U nonimmigrant status from within the United States must be an “admission,” otherwise such grantees would be disqualified from adjustment of status by section 245(m)(1)(A) of the Act, which limits adjustment to (U) nonimmigrants who have been physically present in the United States for a continuous period of at least 3 years “since the date of *admission as a nonimmigrant*”?
- 4) Does the legislative or regulatory history of the U nonimmigrant program reflect that Congress or the Attorney General intends or understands the phrase “in and admitted to the United States” to include a grant of U nonimmigrant status from within the United States?
- 5) How should the Board reconcile the text of section 245(m)(1) of the Act, which authorizes the DHS to “adjust the status of an alien admitted into the United States (*or otherwise provided nonimmigrant status*) under section 101(a)(15)(U),” with the text of 8 C.F.R. § 245.24(b)(2)(i), which states that an applicant for section 245(m) adjustment must prove that he/she was “lawfully admitted *to the United States* as either a U-1, U-2, U-3, U-4, or U-5 nonimmigrant”?
- 6) What is meant by § 245(m)(1)’s parenthetical language? In answering this question, please discuss whether similar asymmetries exist between the statutory and regulatory provisions governing the adjustment of status of (S), (T), and (V) nonimmigrants.

**Request to Appear as Amicus Curiae:** Members of the public who wish to appear as amicus curiae before the Board must submit a Request to Appear as Amicus Curiae (“Request to Appear”) pursuant to Chapter 2.10, Appendix B (Directory), and Appendix F (Sample Cover Page) of the Board of Immigration Appeals Practice Manual. The Request to Appear must explicitly identify that it is responding to Amicus Invitation No. 16-03-17. The decision to accept or deny a Request to Appear is within the sole discretion of the Board. Please see Chapter 2.10 of the Board Practice Manual.

**Filing a Brief:** Please file your amicus brief in conjunction with your Request to Appear pursuant to Chapter 2.10 of the Board of Immigration Appeals Practice Manual. The brief accompanying the Request to Appear must explicitly identify that it is responding to Amicus Invitation No. 16-03-17. An amicus curiae brief is helpful to the Board if it presents relevant legal arguments that the parties have not already addressed. However, an amicus brief must be limited to a legal discussion of the issue(s) presented. The decision to accept or deny an amicus brief is within the sole discretion of the Board. The Board will not consider a brief that exceeds the scope of the amicus invitation.

**Request for Case Information:** Additional information about the case may be available. Please contact the Clerk’s Office at the below address for this information prior to filing your Request to Appear and brief.

**Page Limit:** The Board asks that amicus curiae briefs be limited to 50 double-spaced pages.

**Deadline:** Please file a Request to Appear and brief with the Clerk’s Office at the address below by **April 18, 2016**. Your request must be received at the Clerk’s Office within the prescribed time limit. Motions to extend the time for filing a Request to Appear and brief are disfavored. The briefs or extension request must be RECEIVED at the Board on or before the due date. It is *not* sufficient simply to mail the documents on time. We strongly urge the use of an overnight courier service to ensure the timely filing of your brief.

**Service:** Please mail three copies of your Request to Appear and brief to the Clerk’s Office at the address below. If the Clerk’s Office accepts your brief, it will then serve a copy on the parties and provide parties time to respond.

**Joint Requests:** The filing of parallel and identical or similarly worded briefs from multiple amici is disfavored. Rather, collaborating amici should submit a joint Request to Appear and brief. *See generally* Chapter 2.10 (Amicus Curiae).

**Notice:** A Request to Appear may be filed by an attorney, accredited representative, or an organization represented by an attorney registered to practice before the Board pursuant to 8 C.F.R. § 1292.1(f). A Request to Appear filed by a person specified under 8 U.S.C. § 1367(a)(1) will not be considered.

**Attribution:** Should the Board decide to publish a decision, the Board may, at its discretion, name up to three attorneys or representatives. If you wish a different set of three names or you have a preference on the order of the three names, please specify the three names in your Request to Appear and brief.

**Clerk's Office Contact and Filing Address:**

To send by courier or overnight delivery service, or to deliver in person:

Amicus Clerk  
Board of Immigration Appeals  
Clerk's Office  
5107 Leesburg Pike, Suite 2000  
Falls Church, VA 22041

Business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m.

**Fee:** A fee is not required for the filing of a Request to Appear and amicus brief.