



**AILA Policy Brief:
USCIS’s “No Blank Space” Policy Leads to Capricious Rejections of Benefits Requests**

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Contact Sharvari (Shev) Dalal-Dheini, sdalal-dheini@aila.org or Michael Turansick, mturansick@aila.org¹

Highlights

- *In a deviation from long-established agency policy, in fall 2019, USCIS suddenly began rejecting humanitarian benefit applications that left nonmaterial form questions blank.*
- *These rejections occurred without adequate notice and primarily impacted particularly vulnerable populations, such as asylees, crime victims, and individuals who have been subjected to human trafficking.*
- *The “no blank space” rejections create unnecessary processing delays for the applicants and the agency, which can affect eligibility for primary and ancillary benefits, as well as increase costs and inefficiencies for all parties.*
- *USCIS has signaled its plan to expand the “no blank space” policy to a broad array of applications and petitions.*
- *The “no blank space” policy is unfair, inefficient, and contrary to the best interests of the agency and its stakeholders and should be rescinded.*

Last fall, the United States Citizenship and Immigration Services (USCIS) upended long-standing practice, without notice, and began rejecting forms that left questions blank or did not use specific terminology to indicate that a question was inapplicable. This has led to capricious rejections of many humanitarian benefit applications leading to significant consequences for

¹ Special thanks to Kathryn Hardy, graduate of the University of Maryland School of Public Policy, and Andrew DeFalco and Gregory Haffner, students at Georgetown University Law School.

vulnerable individuals. These rejections are particularly egregious as the majority of rejected applications left spaces blank for information that was not relevant to an individual's eligibility, such as leaving blank the space asking for an individual's name in a native alphabet when the native alphabet was the same as English.

USCIS began by implementing this practice against the most vulnerable populations. In October 2019, USCIS began rejecting Form I-589, Application for Asylum and for Withholding of Removal, under the guise of the "no blank space" policy. Subsequently, USCIS similarly changed its practice related to Form I-918, Petition for U Nonimmigrant Status, in December 2019, and Form I-914, Application for T Nonimmigrant Status, in March 2020. USCIS clearly intends to expand this practice to other form types, as evidenced by recent form and instructions changes that further this policy.²

USCIS's justification for this dramatic policy shift is based upon an assertion that it is necessary to preserve the integrity of our immigration system.³ Without any specific evidence demonstrating how accepting a form that is missing nonmaterial information degrades our ability to protect the homeland, this major modification to a long-established, practical, and effective policy will create further inefficiencies and costs for an agency already faced with unprecedented processing delays and significant financial issues.

Moreover, as a matter of fundamental fairness, this change in policy by USCIS was not announced to the public before it took effect. This has led to a steep increase in rejected applications for technical, non-substantive reasons. Of particular concern is the fact that the types of applications this new policy currently impacts are highly time-sensitive and prejudice vulnerable individuals who are applying for lawful status in the United States.

Given the deeply troublesome nature of this policy change, the American Immigration Lawyers Association (AILA) sought examples of rejections to study its impact on individuals and their cases. The findings are detailed in this policy brief and in the accompanying study, "[USCIS Accountability: An Examination of 'Blank Space' Rejections](#)."⁴

² For example, in connection with its recently proposed changes to Form I-485, Application to Register Permanent Residence or Adjust Status, USCIS has included similar language to its proposed instructions for the form. 85 Fed. Reg. 38151 (June 25, 2020), AILA Doc. No. 20062535. Specifically, Form I-290B, Notice of Appeal or Motion, and Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant, have had the "if any/if applicable" language removed.

³ See Catherine Rampell, *The Washington Post*, "The Trump administration's No-Blanks Policy Is the Latest Kafkaesque Plan Designed to Curb Immigration," Aug. 6, 2020, https://www.washingtonpost.com/opinions/the-trump-administration-imposes-yet-another-arbitrary-absurd-modification-to-the-immigration-system/2020/08/06/42de75ca-d811-11ea-930e-d88518c57dcc_story.html?hpid=hp_opinions-float-right-4-0_opinion-card-d-right%3Ahomepage%2Fstory-ans.

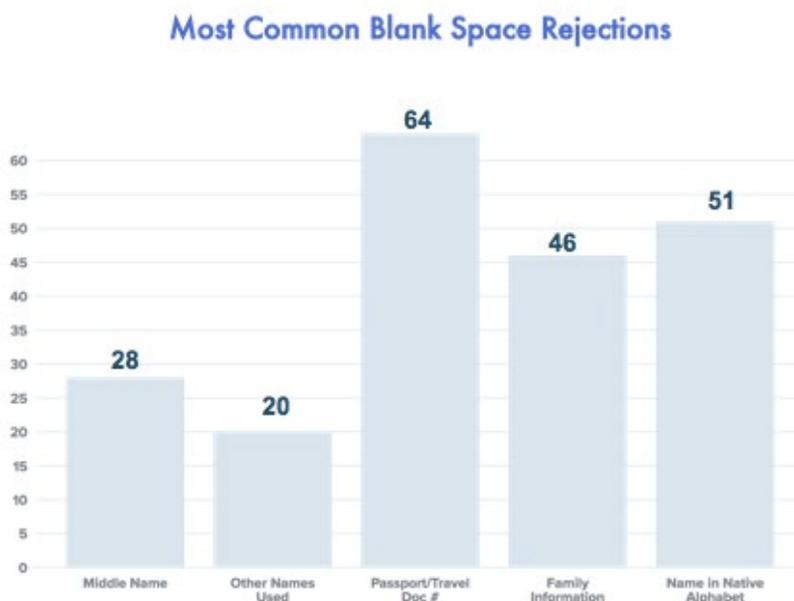
⁴ See American Immigration Lawyers Ass'n, "USCIS Accountability: An Examination of 'Blank Space' Rejections" (July 24, 2020), AILA Doc. No. 20072494, <https://www.aila.org/infonet/an-examination-of-blank-space-rejections->.

Capricious Rejections of Humanitarian Benefit Requests

Rejections of Asylum Applications

Form I-589 is the principal form used by foreign nationals to apply for asylum and withholding of removal in the United States. Although there was a discreet reference added to the webpage for Form I-589, USCIS did not otherwise notify affected stakeholders of its new policy regarding blank items on the form or in the form instructions. Not surprisingly, a significant number of applicants received rejection notices.

In an analysis of 189 examples of rejected Form I-589 applications received during a 6-month period,⁵ every application was rejected for at least one blank space on the form. The most common spaces left blank by applicants can be seen in the graph below.



Of the 189 rejected applications analyzed, **28** were rejected for leaving blank the middle name, **20** for leaving blank other names used, **64** for leaving blank passport or travel document (Form I-

AILA details its findings of more than 200 rejections of Form I-589 and Form I-918 applications it received between November 25, 2019, and May 1, 2020. AILA continues to receive examples of rejections for “no blank spaces” for varying form types.

⁵ See *id.*

94) number,⁶ 46 for incomplete family information, and 51 for not writing their name in their native language.

The formatting of the Form I-589 also enhances the likelihood of “no blank space” rejections. The family information section of Form I-589, for instance, requires applicants who do not have large numbers of siblings to carefully mark “N/A” in each unnecessary space or risk rejection of the application. The first example below would likely be rejected by USCIS, whereas the second would likely be accepted. In both examples, the applicant would have made full disclosure of all required information, yet one applicant’s request for asylum would have been rejected for non-substantive, nonmaterial reasons.

5. Provide the following information about your parents and siblings (brothers and sisters). Check the box if the person is deceased.
 (NOTE: Use Form I-589 Supplement B, or additional sheets of paper, if necessary.)

Full Name	City/Town and Country of Birth	Current Location
Mother Jane Doe	Managua, Nicaragua	<input type="checkbox"/> Deceased New York, United States
Father John Doe	Managua, Nicaragua	<input checked="" type="checkbox"/> Deceased
Sibling John Doe Jr.	Managua, Nicaragua	<input type="checkbox"/> Deceased New York, United States
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased
Sibling		<input type="checkbox"/> Deceased

Full Name	City/Town and Country of Birth	Current Location
Mother Jane Doe	Managua, Nicaragua	<input type="checkbox"/> Deceased New York, United States
Father John Doe	Managua, Nicaragua	<input checked="" type="checkbox"/> Deceased
Sibling John Doe Jr.	Managua, Nicaragua	<input type="checkbox"/> Deceased New York, United States
Sibling N/A	N/A	<input type="checkbox"/> Deceased N/A
Sibling N/A	N/A	<input type="checkbox"/> Deceased N/A
Sibling N/A	N/A	<input type="checkbox"/> Deceased N/A

*Pulled from Form I-589, Pt. A.III Q. 5.

Another example of form ambiguity can be seen in Part D of the application, where applicants are asked to print their name, and then write it again in their native language. For many applicants, these two boxes would be filled out in the same way because the native language uses the same alphabet; so they only print their name once. Despite that, many applications have been rejected for leaving this space blank.

⁶ It is important to note that most applicants applying for asylum do not have a Form I-94 Arrival/Departure Record, a travel document number, or a passport. This directly results in many blank spaces at Pt. A.I, Q.21 of the form.

There are also numerous ambiguous uses of the words “if any” or “if applicable” after many questions.⁷ The use of these words makes it seem that, if the question does not apply to the applicant, then it is acceptable for the applicant to skip the question. Despite the inherent ambiguity of the forms, failure to include N/A, when appropriate, resulted in rejection of the application.

Even where there is no ambiguity, rejections appeared to contravene the plain language of the instructions. For example, the instructions for Form I-589 read:

If any question does not apply to you or you do not know the information requested, answer “none,” “not applicable,” or “unknown.”

In many of the cases examined, however, the only accepted answer for questions that do not apply to the applicant is “N/A.” Applications that used other terminology enumerated in the instructions, such as “none” or “not applicable” were rejected.

Rejections of Applications from Victims of Crimes

Form I-918 is used to apply for a U visa, which is available for victims of certain criminal activity who have been physically or mentally abused and who have helped law enforcement. Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient, allows for derivative family members to be included in the petition. An additional critical component of the application is the Form I-918, Supplement B, U Nonimmigrant Status Certification, provided by the certifying law enforcement agency involved in the investigation or prosecution.

A warning about blank spaces for the Form I-918/I-918A was also discretely placed⁸ on the USCIS I-918 webpage in December 2019. The alert read:

We may reject your Form I-918 or your Form I-918 Supplement A if you leave a field blank, unless the field is optional. Optional fields include the safe mailing address as well as fields you should only complete if you answered yes to a previous question. You must provide a response to all other questions, even if the response is “none,” “unknown” or “n/a.” We will reject a Form I-918 or a Form I-918 Supplement A that has, for example, an empty field for middle name, for current immigration status, or for information pertaining to a spouse or child.

⁷ For example, questions 1, 2, 4, and 18 at Pt. A.II of the family information sections of Form I-589 contain “if any” references.

⁸ See, American Immigration Lawyers Ass’n, “Practice Pointer: USCIS Rejection of U Visa Petitions Due to Alleged Incompleteness.” (Jan. 30, 2020), AILA Doc. No. 20013001, <https://www.aila.org/advo-media/aila-practice-pointers-and-alerts/uscis-rejection-of-u-visa-petitions>

In June 2020, USCIS further extended this policy to I-918 Supplement B, U Nonimmigrant Status Certification. The Form I-918 webpage states:

We may reject your Form I-918, Petition for U Nonimmigrant Status; Form I-918, Supplement A, Petition for a Qualifying Family Member of a U Nonimmigrant; and Form I-918 Supplement B, U Nonimmigrant Status Certification; if you leave a field blank, unless the field is optional.⁹

Despite the plain language quoted above, USCIS was unable to follow its own instructions and rejected forms for using “none” and “not applicable” instead of “N/A,” in direct contrast to the instructions given to applicants. AILA received 19 examples of the Form I-918 in a period of two months, all of which were rejected by USCIS for having blank spaces or filling in a blank space with something other than “N/A.”¹⁰

Rejections of Applications from Victims of Human Trafficking

The latest blow was dealt to Form I-914, Application for T Nonimmigrant Status. In March 2020, USCIS issued an alert further extending the “no blank space” policy to victims of human trafficking applying for T nonimmigrant status. Specifically, it noted:

We will reject a Form I-914 and, if applicable, a Form I-914, Supplement A, that has, for example, an empty field for gender, other names used, marital status, current immigration status, information about a spouse or child, or tables not completed where appropriate.

While there is insufficient data currently available to analyze the implementation of USCIS’s policy change, none of the listed examples are so material as to require rejection, rather than a request for additional evidence, particularly as it relates to traumatized victims of a heinous crime such as human trafficking.

Impact of Rejections

While the effect of a rejected application may be different for every individual, all are significant. Overall, the overnight change in policy and the inartful design of the form, when combined with the vague wording of both its questions and instructions has led to confusion, delay, and expense to applicants, their legal representatives, and the agency itself. The

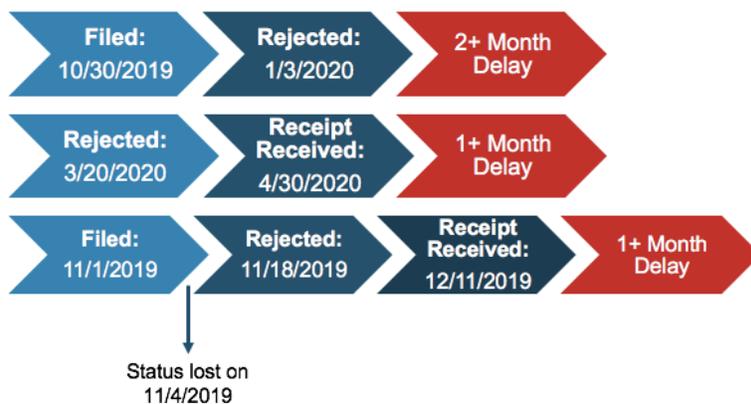
⁹ See, American Immigration Lawyers Ass’n, “Practice Pointer: USCIS Rejection of U Visa Petitions Due to Alleged Incompleteness Extended to Form I-918, Supplement B Certifications” (Aug. 10, 2020), AILA Doc. No. 20081035, <https://www.aila.org/advo-media/aila-practice-pointers-and-alerts/practice-pointer-uscis-rejection-of-u-visa>.

¹⁰ Unlike with Form I-589, there was no individual question that was left blank more often than others.

imposition of a “no blank space” policy, without the existence of simple, intuitive, and easily-prepared forms, is unfair, inefficient, and contrary to the best interests of the agency and its stakeholders.

The policy is compounded by USCIS’s failure to provide advance notice and clear instructions on its forms. Recently, in what is effectively an admission of the agency’s lack of clarity, USCIS has commenced removing the “if any/if applicable” language from its forms. Specifically, Form I-290B, Notice of Appeal or Motion, and Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant, have had the “if any/if applicable” language removed.¹¹ While this reduces the latent ambiguity of these forms, it also indicates that an expansion of the “no blank space” policy change, with all its attendant negative consequences, is likely to occur across an increasing number of application types.

The rejections not only cause delays in the processing of forms, but also in receiving notice that a case has been rejected, being able to refile the case, and obtaining receipt notices of cases that are eventually accepted. Until a receipt is received, applicants and counsel have no way of knowing if the application was rejected. The graphic below shows some of the processing delays in the applications analyzed.



Refiling the application costs both time and money for all involved. USCIS recently finalized a filing fee of \$50 for asylum applications which was scheduled to take effect on October 2, 2020, but was enjoined on September 29, 2020.¹² Months may pass before a rejection notice is

¹¹ USCIS has also proposed removing the “if any” and “if applicable” language from a significant number of forms in connection with proposed revisions to its fee schedule. See American Immigration Lawyers Ass’n, “Practice Pointer: New USCIS Forms, Fees, and Procedures in Effect as of October 2, 2020” (Sept. 18, 2020) AILA Doc. No. 20091805, <https://www.aila.org/advo-media/aila-practice-pointers-and-alerts/new-uscis-forms-fees-procedures>. Although the rule is currently enjoined by a federal court, the systematic removal of these terms signals an intention to expand the “no blank space” policy to an expanding array of forms and services.

¹² See *Immigrant Legal Resource Center, et al. v. Wolf*, Order Granting Plaintiffs’ Motion for Preliminary Injunction and Request for Stay of Effective Date of Rule and Denying Request for Administrative Stay, Case No. 20-cv-05883-JSW (N.D. Cal., Sept. 29, 2020), available at <https://www.aila.org/infonet/ilrc-et-al-v-wolf-et-al-9-29-20>.

received by the applicant and the individual is able to refile. Thus, if the \$50 fee for Form I-589 eventually takes effect, an individual who was able to file without fee, may only be able to file if they pay a fee. In addition, the cost to mail an application can be as much as an additional \$50. USCIS is also encumbered by its own policy change, requiring unnecessary duplicative review and costs to mail back often voluminous petitions.

Rejections make the already lengthy process of obtaining employment authorization even longer. Also, a delay in being able to file could result in an applicant missing the statutory one-year filing deadline for asylum applications.¹³ As a result, otherwise eligible asylum applicants may be detained by Immigration and Customs Enforcement (ICE) or deported to their home country. Unique to applicants for U nonimmigrant status, however, is the expiration of the required law enforcement agency certification and the probable need to obtain a new Supplement B form. This can cause severe challenges, as some law enforcement officers are unable or unwilling to complete a new form, or applicants have to go to a new district for the supplement.

Children who arrive in the United States alone, or who are required to appear in immigration court on their own, are referred to as unaccompanied children or unaccompanied minors. “Unaccompanied alien child” (UAC) is a technical term defined by law as a child who has no lawful immigration status in the United States, has not attained 18 years of age, and with respect to whom there is no parent or legal guardian in the United States available to provide care and physical custody. Due to their vulnerability, these young migrants receive significant protections under U.S. law.¹⁴ A “no blank space” rejection of an asylum application by a UAC nearing the age of 18 can have enormous consequences on their eligibility. UACs who are in immigration proceedings and whose asylum applications are not yet pending with USCIS when they turn 18 years of age are at risk of losing their UAC status, which can lead to them going through a much more rigorous process with fewer support systems. Similarly, a child may benefit as the derivative of their parent’s eligibility for T or U nonimmigrant status, such that they do not need to prove their own suffering, so long as the child remains unmarried and under 21 years of age. Unnecessary delay in mailing initial applications, receiving rejected petitions or applications months later, and being forced to refile, sometimes more than once, can force a child to age out of eligibility.

¹³ [Proposed Executive Office for Immigration Review regulations](#) would exacerbate this problem and increase the possibility of rejections for nonmaterial reasons by creating, for those in asylum-only or withholding-only proceedings, a deadline of 15 days after the first master calendar hearing to submit Form I-589 and required supporting documents while also codifying the “no blank space” policy mandating rejection if legally irrelevant boxes on the form are not completed. *See* 8 C.F.R. §1208.4(d) (proposed Sept. 23, 2020).

¹⁴ For a more detailed analysis of the challenges faced by unaccompanied children in the U.S. immigration system, *See* American Immigration Council, “A Guide to Children Arriving at the Border: Laws, Policies and Responses” (June 26, 2015), <https://www.americanimmigrationcouncil.org/research/guide-children-arriving-border-laws-policies-and-responses>.

Finally, and most importantly, unnecessary rejections cause undue emotional stress and anxiety for applicants, many of whom have already been severely traumatized at the hands of their persecutors and are now seeking protection from the U.S. government.

Recommendations

In order to increase transparency and fairness, decrease case processing delays, enhance efficiency, and create financial stability, USCIS should do the following:

- Rescind the “no blank space” policy resulting in unfair rejections of asylum applications, U visa petitions, or T visa applications because of blank fields on the forms, especially when not material, including Form I-918 Supplement B, U Nonimmigrant Status Certification, and Form I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.
- Cease the expansion of the “no blank space” policy across additional form types, such as Form I-485, to prevent even greater numbers of applicants from having their benefit requests rejected for immaterial and non-substantive omissions.
- Allow individuals to refile applications, petitions, and supplements that were rejected because a space was left blank or did not use the terminology “N/A” and retain the original filing date. Remedy the status of individuals who may have been harmed by this policy.
- Ensure that rejections are done in accordance with regulations and form instructions, including the use of terminology other than “N/A.” USCIS officers should be properly trained to ensure consistent and fair decision making.
- Increase openness and transparency by providing a 60-day notice and comment period for any form and instruction changes to allow for a more thorough examination of the immense consequences these new policies and application changes have on some of the most vulnerable individuals touched by our immigration system.

In addition, Congress should exercise its oversight authority to ensure that USCIS adheres to its statutory mission of efficiently adjudicating immigration benefits applications, rather than wasting government and stakeholder resources to penalize individuals seeking legal immigration status unfairly and capriciously.