

# Instructions for Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100, NACARA)

OMB No. 1615-0072

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## What Is the Purpose of Form I-881?

This **application is used** by any alien eligible to apply for suspension of deportation or special rule cancellation of removal under section 203 of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA 203).

If you are in immigration proceedings before the Executive Office for Immigration Review (EOIR) and are not eligible to apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA **because you do not meet the criteria listed below**, you must use Form EOIR-40, Application for Suspension of Deportation (if you are in deportation proceedings) or Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents (if you are in removal proceedings).

**WARNING:** Applicants who are in the United States illegally are subject to deportation or removal if their suspension of deportation or special rule cancellation of removal claims are not granted by **an asylum officer, an immigration judge, or the Board of Immigration Appeals (BIA)**. We may use any information you provide in completing this application as a basis for placing you in immigration proceedings before an immigration judge or as evidence in these proceedings, even if you withdraw your application later. If you have any concerns about **this process**, you may **want to** consult with an attorney or representative before you submit this application to **U.S. Citizenship and Immigration Services (USCIS)** or EOIR.

## Who May File Form I-881?

To file Form I-881, you **must not have** been convicted of an aggravated felony, **and you must belong** in one of **the six categories listed below**:

**1.** A Salvadoran national who:

**A.** First entered the United States on or before September 19, 1990;

**B.** Registered for benefits under the ABC settlement agreement (**American Baptist Churches v. Thornburgh**, 760 F. Supp. 796 (N.D. Cal. 1991)) on or before October 31, 1991 (either **directly** or by applying for temporary protected **status**); **and**

**C.** Was not apprehended at the time of entry after December 19, 1990.

You may **file this Form I-881** with **USCIS** if you **applied** for asylum on or before February 16, 1996, and **your asylum application is pending a decision by USCIS**. Even if you have been placed in deportation or

removal proceedings, you may still be eligible to apply with USCIS, if those proceedings have been administratively closed under the ABC settlement agreement.

To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

**2.** A Guatemalan national who:

**A.** First entered the United States on or before October 1, 1990;

**B.** Registered for benefits under the ABC settlement agreement (*American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991)) on or before December 31, 1991; and

**C.** Was not apprehended at the time of entry after December 19, 1990.

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You may file this application with USCIS if you applied for asylum on or before January 3, 1995, and your asylum application is pending a decision by USCIS. Even if you have been placed in deportation or removal proceedings, you may still be eligible to apply with USCIS, if those proceedings have been administratively closed under the ABC settlement agreement.

To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

**3.** A Guatemalan or Salvadoran national who filed an application for asylum on or before April 1, 1990.

You may apply with USCIS only if your asylum application is still pending a decision by USCIS.

To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

**4.** An alien who:

**A.** Entered the United States on or before December 31, 1990;

**B.** Filed an application for asylum on or before December 31, 1991; and

**C.** At the time of filing the application, was a national of the Soviet Union, Russia, any republic of the former Soviet Union (including Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan), Albania, Bulgaria, Czechoslovakia, East Germany (German Democratic Republic), Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Yugoslavia, or any state of the former Yugoslavia (including Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Slovenia, and Serbia).

You may apply with USCIS only if your asylum application is still pending with USCIS. To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

**5.** The spouse, child, unmarried son, or unmarried daughter of an individual described in **Items 1. - 4.** above, who has been granted suspension of deportation or special rule cancellation of removal.

If this section applies to you, the relationship to your spouse or parent must exist at the time that your spouse or parent is granted suspension of deportation or cancellation of removal. If you are an unmarried son or unmarried daughter who is at least 21 years of age at the time your parent is granted the benefit, you must have entered the United States on or before October 1, 1990. The term “child” includes a child born in or out of wedlock, a stepchild, a legitimated child, or an adopted child. Go to the Immigration and Nationality Act (INA) section 101(b) for more details.

You may apply with USCIS only if USCIS has granted your parent or spouse suspension of deportation or special rule cancellation of removal, or your parent or spouse has Form I-881 pending with USCIS. You must submit your application at the same time as your parent or spouse, while your parent's or spouse's application is still pending with USCIS, or after your parent or spouse has already been granted suspension of deportation or special rule cancellation of removal by USCIS. You may apply with USCIS if you were in deportation or removal proceedings and those proceedings have been closed to give you the opportunity to apply for suspension of deportation or special rule cancellation of removal with USCIS because your parent or spouse has applied with USCIS.

If USCIS does not grant suspension of deportation or special rule cancellation of removal to your spouse or parent and you appear to be inadmissible or deportable, USCIS will place you in immigration proceedings and refer your application to the Immigration Court so that an immigration judge can make a final decision.

To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

If you are described in this category, check (d) in Part 2 of the attached form.

6. An alien who has been battered or subjected to extreme cruelty by an individual described in Items 1. - 4. above, and who was the spouse or child of that individual at the time that individual:

- A. Was granted suspension of deportation or cancellation of removal;
- B. Filed an application for suspension of deportation or cancellation of removal;
- C. Registered for ABC benefits;
- D. Applied for temporary protected status; or
- E. Applied for asylum.

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You are also eligible to apply if your child has been battered or subjected to extreme cruelty by an individual described above, and you were the spouse of that individual at any of the times described above.

Only the Immigration Court can decide your eligibility for NACARA 203 relief under Item Number 6. USCIS does not have the authority to do so. Therefore, if you are applying as a spouse or child who has been battered or subjected to extreme cruelty, you must submit your application before the Immigration Court. To make an initial application before the Immigration Court, you must be in deportation or removal proceedings.

## Who May Be Eligible to Be Granted Relief?

You may be eligible for NACARA 203 relief from USCIS or EOIR if you fall into one of the categories described on Form I-881, **Part 2., Item Numbers 1. - 4.** if you show that you have had seven years of continuous physical presence in the United States, that during those seven years you were of good moral character and that you or your U.S. citizen or lawful permanent resident spouse, parent, or child will experience extreme hardship if you are returned to your country. In this instance, USCIS or EOIR can grant your application.

You may be eligible for NACARA 203 relief from EOIR if you fall into the category described on Form I-881, **Part 2., Item Number 6.** if you show that you have had three years of continuous physical presence in the United States, that during those three years you were of good moral character and that you or your spouse, parent, or child who is a U.S. citizen or lawful permanent resident will experience extreme hardship if you are returned to your country.

You may be required to show ten years physical presence and a showing of exceptional and extremely unusual hardship upon your return to your country, if you are deportable or removable from the United States based on certain provisions in the immigration law. Also, there are special provisions for individuals who have served in the U.S. military.

## Who Is Not Eligible for Relief by USCIS?

USCIS cannot grant your application for suspension of deportation if you are deportable under any of the following grounds found in the INA section 241(a), as it existed before April 1, 1997:

1. Criminal grounds, paragraph (2);
2. Failure to register and falsification of documents, paragraph (3); or
3. Security and related grounds, paragraph (4).

USCIS cannot grant your application for special rule cancellation of removal if you are found to be:

1. Inadmissible under criminal and related grounds, INA section 212(a) paragraph (2);
2. Deportable under criminal offense, INA section 237(a) paragraph (2);
3. Deportable under failure to register and falsification of documents, INA section 237(a) paragraph (3); or
4. Deportable under security and related grounds, INA section 237(a) paragraph (4).

However, if you are deportable or inadmissible under these provisions (other than those related to security concerns), you may be eligible for relief from deportation or removal by an immigration judge if you meet higher eligibility standards (physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act that renders you removable, that you have been a person of good moral character during the required period of continuous physical presence, and that your removal from the United States would result in exceptional and extremely unusual hardship to you or your spouse, parent, or child who is a U. S. citizen or a permanent resident).

USCIS cannot grant your Form I-881 if you are eligible to apply only as someone described in the **Who May File Form I-881** section, **Item Number 6.** of these Instructions. Instead, if you are someone described in **Item Number 6.**, you may be eligible to apply with EOIR as provided for in the **How to Apply With the Immigration Court** section below.

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## General Instructions

USCIS provides forms free of charge through the USCIS website. To view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have internet access, you may order USCIS forms by calling the Forms Request Line at **1-800-870-3676**. The Forms Request Line provides information in English and Spanish. For TTY (deaf or hard of hearing), call **1-800-767-1833**.

**Signature.** Each application must be properly signed and filed. For all signatures on this application, USCIS will not accept a stamped or typewritten name in place of a signature. If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf. A legal guardian may also sign for a mentally incompetent person.

**Validity of Signatures.** USCIS will consider a photocopied, faxed, or scanned copy of the original handwritten signature valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten signature in ink.

**Filing Fee.** Each application must be accompanied by the appropriate filing fee. (See the **What Is the Filing Fee** section of these Instructions.)

**Evidence.** At the time of filing, you must submit all evidence and supporting documents listed in the **What Evidence Must You Submit** sections of these Instructions.

**Biometric Services Appointment.** USCIS may require that you appear for an interview or provide biometrics at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application or petition. After USCIS receives your application and ensures it is complete, we will inform you if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment.

If you are required to provide biometrics, at your appointment you must sign an oath reaffirming that:

1. You provided or authorized all information in the application;
2. You reviewed and understood all of the information contained in, and submitted with, your application; and
3. All of this information was complete, true, and correct at the time of filing.

If you fail to attend your biometric services appointment, USCIS may deny your application. For applicants and dependents who appear before an immigration judge, failure to attend a biometric services

appointment, without good cause, may result in the immigration judge finding that your application was abandoned, and USCIS may also deny any other application you filed with USCIS.

**Copies.** You should submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application or petition. If USCIS requests an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

**NOTE:** If you submit original documents when not required or requested by USCIS or the Immigration Court, **your original documents may be immediately destroyed after we receive them.**

**Translations.** If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must also include the translator's signature, printed name, the signature date, and the translator's contact information.

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## **How to Complete Form I-881**

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this application, use the space provided in **Part 15. Additional Information** or attach a separate sheet of paper. Type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A" unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None" unless otherwise directed.
4. **USCIS Online Account Number** (if any). If you have previously filed an application or petition using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account and going to the profile page. If you previously filed certain applications or petitions on a paper form through a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. You may find your USCIS Online Account Number at the top of the notice. The USCIS Online Account Number is not the same as an A-Number. If you were issued a USCIS Online Account Number, enter it in the space provided.
5. **Part 8. Biographic Information.** Provide the biographic information requested. Providing this information as part of your application may reduce the time you spend at your USCIS ASC appointment as described in the **Biometric Services Appointment** section of these Instructions.
  - A. **Ethnicity and Race.** Select the boxes that best describe your ethnicity and race.

## **B. Categories and Definitions for Ethnicity and Race**

**(1) Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. (**NOTE:** This category is only included under Ethnicity in **Part 8., Item Number 1.**)

**(2) American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

**(3) Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

**(4) Black or African American.** A person having origins in any of the black racial groups of Africa.

**(5) Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**(6) White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**C. Height.** Select the values that best match your height in feet and inches. For example, if you are five feet and nine inches, select “5” for feet and “09” for inches. Do not enter your height in meters or centimeters.

**D. Weight.** Enter your weight in pounds. If you do not know your weight or need to enter a weight under 30 pounds or over 699 pounds, enter “000.” Do not enter your weight in kilograms.

**E. Eye Color.** Select the box that best describes the color of your eyes.

**F. Hair Color.** Select the box that best describes the color of your hair.

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**6. Part 11. Applicant’s Statement, Contact Information, Certification, and Signature.** Select the appropriate box to indicate whether you read this application yourself or whether you had an interpreter assist you. If someone assisted you in completing the application, select the box indicating that you used a preparer. Further, you must sign and date your application and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every application **MUST** contain the signature of the applicant (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.

**7. Part 12. Interpreter’s Contact Information, Certification, and Signature.** If you used anyone as an interpreter to read the Instructions and questions on this application to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the application.

**8. Part 13. Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Applicant.** This section must contain the signature of the person who

completed your application, if other than you, the applicant. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 12.** and **Part 13.** If the person who completed this application is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this application **MUST** sign and date the application. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your application is an attorney or accredited representative, he or she may also need to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your application.

**We recommend that you print or save a copy of your completed application to review in the future and for your records. We recommend that you review your copy of your completed application before you go to your biometric services appointment at a USCIS ASC.** At your appointment, USCIS will permit you to complete the application process only if you are able to confirm, under penalty of perjury, that all of the information in your application is complete, true, and correct. If you are not able to make that attestation in good faith at that time, USCIS will require you to return for another appointment.

### **What Evidence Must You Submit?**

You must submit all evidence requested in these Instructions with your application. If you fail to submit required evidence, USCIS may reject or deny your application for failure to submit requested evidence or supporting documents in accordance with 8 CFR 103.2(b)(1) and these Instructions.

**Photographs.** You **must** submit two identical color passport-style photographs of yourself taken recently. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

The two identical color passport-style photos must be 2 inches by 2 inches. The photos must be in color with a full face, frontal view, on a white to off-white background. Head height should measure between 1 inches and 1 3/8 inches from the top of your hair to the bottom of your chin, and eye height should measure between 1 1/8 inches and 1 3/8 inches from the top of your eyes to the bottom of the photo. Your head must be bare unless you are wearing headwear as required by a religious denomination of which you are a member. Using a pencil or felt pen, lightly print your name and A-Number (if any) on the back of the photo.

### **Supporting Documents to Show Eligibility for Relief**

Your answers to the questions on this **application** and your testimony before an asylum officer or immigration judge may help you establish that you meet the requirements for this benefit. However, USCIS also recommends that you submit documents to help support your claim.

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Below is a list of documents that you may wish to submit in support of your claim. The list is not exclusive, and you may submit other documents you believe will help support your claim.

**Continuous Physical Presence.** Documents that may support your claim of continuous physical presence include, but are not limited to, the following:

1. Bankbooks;
2. Leases, deeds;

3. Licenses;
4. Receipts;
5. Letters;
6. Birth, church, school, or employment records;
7. Evidence of tax payments, which may include IRS computer printouts; and
8. Employment Authorization Documents or other documents issued by USCIS.

**Good Moral Character.** Documents that may support your claim of good moral character include, but are not limited to, the following:

1. Affidavits, declarations, or letters of at least two witnesses, preferably U.S. citizens;
2. Affidavits, declarations, or letters of your employer, if employed; and
3. Evidence of tax payments, which may include IRS computer printouts.

**Extreme Hardship.** If you meet the eligibility requirements for NACARA suspension of deportation or special rule cancellation of removal listed in either **Part 2., Item Numbers 1. or 2.,** you will be presumed to meet the extreme hardship requirement. If you qualify for a presumption of extreme hardship, you do not need to submit documents that support your claim that removal will result in extreme hardship. However, you will need to provide explanations to the answers to the questions in **Part 10.** of Form I-881, where required.

The Department of Homeland Security (DHS) can rebut the presumption of extreme hardship by showing that neither you nor your qualified relatives are likely to experience extreme hardship. If you are unsure if you qualify for a presumption of extreme hardship, you should submit documents that support your claim that removal would result in extreme hardship.

If you cannot select **Part 2., Item Number 1. or 2.,** we strongly urge you to submit documents that support your claim that removal would result in extreme hardship.

Documents that may support your claim for extreme hardship include, but are not limited to, the following:

1. Your children's school records;
2. Medical records, where relevant;
3. Records of your participation in community or religious organizations (for example, letters from others involved in the same organization);
4. Records of any volunteer work you have done;
5. If you are self-employed, documents showing the number of people you employ, if any, and balance sheets; and
6. Copies of permanent resident cards (also known as Green Cards) of any relatives who may suffer extreme hardship if you are deported or removed.

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**Additional Documents.** In addition to the documents described above, you must submit with your application copies of any documents that USCIS has issued to you. The immigration judge or USCIS asylum officer may require you to submit additional records relating to your **application** for suspension of deportation or special rule cancellation of removal. These documents may include, but are not limited to, court records, payment of child support during the time you have been physically present in the United States, or documents relevant to extreme **hardship**.

### **Submitting Form I-881 with USCIS**

#### **ABC Class Members Who Have Received a Final Order of Deportation**

If you are an ABC class member who is eligible for a new asylum interview with USCIS under the ABC settlement agreement and you are under a final order of deportation that has not been executed (**for example, you were ordered to be deported and have not left the United States**), you cannot apply for suspension of deportation with USCIS unless you have filed and been granted a motion to reopen your deportation proceedings under 8 CFR 1003.43. Once the deportation proceedings have been reopened, you must ask the immigration judge to administratively close the proceedings so that you may proceed with your suspension of deportation application with USCIS. To apply with USCIS, you will need to submit to USCIS the fees and documents described in **the What to Include With Your Application section (immediately below)**.

#### **What to Include With Your Application**

You must **send the** following documents **to the appropriate USCIS service center**:

1. An original completed Form I-881 with all attachments and copies of **each of** your supporting documents;
2. One copy of a completed Form I-881 with all attachments **and copies of each of your** supporting documents; **and**
3. **Two** passport-style photographs of you that meet the requirements described in **the Photographs section** of these Instructions; **and**
4. Proof of relationship to the spouse or parent who is applying for or has applied for suspension of deportation or special rule cancellation of removal under NACARA 203 (**if you selected Part 2., Item Number 4.**).

**Bring** the originals with you to your interview with an asylum **officer**.

Form EOIR-40, Application for Suspension of Deportation, will not be accepted when applying for Section 203 NACARA relief after June 21, 1999, except in the following limited circumstance: If you filed Form EOIR-40, **Application for Suspension of Deportation**, before June 21, 1999, and are eligible to apply **for suspension of deportation or special rule cancellation of removal** with USCIS, then you may **complete the first page of Form I-881 and submit it to USCIS together with the Form EOIR-40**. **Otherwise, USCIS will not accept Form EOIR-40 if you are applying for section 203 NACARA relief.**

If you are **filing Form I-881 or Form EOIR-40 with USCIS** and you have an order to administratively close the proceedings issued by an immigration judge or Board of Immigration Appeals, you must attach a copy of the order to your application.

## **Interview Process**

The USCIS asylum office will notify you of the time, date, and place (address) of your interview. You must bring a copy of your application and originals of your supporting documents with you when you have your interview. You must also bring some form of identification to your interview, which can include any passports, other travel or identification documents, and Form I-94, Arrival-Departure Record. You have the right to legal representation at your interview at no cost to the U.S. Government.

**If you are unable to proceed with the interview in fluent English, you must bring a competent interpreter with you to the interview. The interpreter must be fluent in both English and a language that you speak fluently. USCIS will not pay for the interpreter.**

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Your interpreter must be at least 18 years of age. The following people cannot serve as your interpreter: your attorney or representative of record, a witness testifying on your behalf at the interview, or, if you have an asylum application pending, a representative or employee of your country. Quality interpretation may be crucial to your claim. You must obtain the interpreter before your interview.

**If you do not bring a competent interpreter to your interview, USCIS may consider your inability to proceed with the interview to be an unexcused failure to appear for the interview. Any unexcused failure to appear for an interview may result in USCIS dismissing your application or referring it directly to the Immigration Court.**

If you cannot attend the interview, you must send a written request to reschedule your interview as soon as you know that you cannot attend. You must send your request to the USCIS Asylum Office that sent you the interview notice.

## **Disability Accommodation Requests**

USCIS is committed to providing reasonable accommodations for qualified individuals with disabilities that will help them fully participate in USCIS programs and benefits. Reasonable accommodations vary with each disability. For example, USCIS can arrange for a sign language interpreter for persons who are deaf or hard of hearing. Visit the USCIS Contact Center at [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) to get answers to your questions, request an accommodation, and connect with a live USCIS representative. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

## **Decision Process and Admission of Deportability or Inadmissibility**

USCIS cannot grant suspension of deportation or special rule cancellation of removal unless you admit that you are inadmissible to or deportable from the United States. If USCIS determines that you are eligible for suspension of deportation or special rule cancellation of removal, you will be notified that USCIS has found you eligible for the benefit. At that time, you will be asked to sign an admission of deportability or inadmissibility. If you have any concerns about this, you should consult with an attorney or representative before you submit this application to USCIS.

If USCIS grants you suspension of deportation or special rule cancellation of removal, your status will be adjusted to that of a lawful permanent resident. If USCIS determines that you are not eligible for suspension of deportation or special rule cancellation of removal, and you appear to be inadmissible or deportable from the United States, you may be placed in removal proceedings or, if you previously were

in proceedings before an immigration judge or the Board of Immigration Appeals, which were administratively closed, USCIS will move to reschedule those proceedings. At the same time, USCIS will refer your application to EOIR for adjudication in deportation or removal proceedings.

### **How to Apply With the Immigration Court**

If you are in deportation or removal proceedings, you may apply for suspension of deportation or special rule cancellation of **removal with** the Immigration Court, unless proceedings have been administratively closed **because you** are eligible for an asylum interview with USCIS under the terms of the ABC settlement **agreement or** you are a spouse, child, unmarried son, or unmarried daughter whose proceedings have been administratively closed because your spouse or parent has Form I-881 pending with USCIS.

To apply with the Immigration Court, you must follow the DHS Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to USCIS, Side B instructions. You will be given this information and these DHS instructions by counsel for DHS at the master calendar hearing. You must follow these DHS instructions before the immigration judge can grant relief in your **application**.

**You must follow the instructions in the What Is the Filing Fee section related to filing applications with the EOIR. When you appear in EOIR court, you must give a copy of your completed Form I-881 with all the attachments and supporting documents to the DHS attorney (also called ICE chief counsel or district counsel).**

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**The immigration judge will need the following:**

- 1. An original completed Form I-881 with all attachments and supporting documents;**
- 2. Evidence of payment of the application filing fee as explained in the What Is the Filing Fee section of these Instructions or a request for a waiver of the fee by an immigration judge;**
- 3. A copy of the ASC appointment scheduling notice that you received as explained in the General Instructions section of these Instructions. If you have already complied with the notice and attended your biometrics appointment, you must include a copy of the document showing that you attended your ASC appointment;**
- 4. One passport-style photograph of you that meets the requirements explained in the Photographs section of these Instructions;**
- 5. A certificate confirming that you submitted these documents to the DHS attorney, unless you submit these documents at the hearing; and**
- 6. Form G-325A, Biographic Information Sheet, if you are between 14 and 79 years of age.**

Submit **copies** of supporting documents **by mailing to the EOIR immigration court** and bring the originals with you to your hearing with an immigration judge. **This is where you can find the address of all the immigration courts:** <https://www.justice.gov/eoir/immigration-court-administrative-control-list>. Any original documents you submit will not be returned to you. Remember to keep copies of your fee

receipts and ASC **appointment** scheduling and confirmation notices for your records. Be prepared to provide copies of these documents to the immigration judge if **asked** to do so.

If you filed Form EOIR-40, Application for Suspension of Deportation, before June 21, 1999, you do not need to file Form I-881. Otherwise, the Immigration Court will not accept Form EOIR-40 if you are applying for NACARA 203 relief after June 21, 1999.

### **Employment Authorization**

You may apply for employment authorization if you are applying for suspension of deportation or special rule cancellation of removal under NACARA 203. See 8 CFR 274a.12(c)(10). To do so, you must submit a completed Form I-765, Application for Employment Authorization, following the instructions on that form.

If you are submitting Form I-765 with your Form I-881, you must pay the filing fees separately. Submit one check or money order for the Form I-765 filing fees and a separate check or money order for the Form I-881 fees.

### **What Is the Filing Fee?**

The filing fee for Form I-881 is **\$285** per individual application submitted, except that all immediate family members (spouse, child, unmarried son or unmarried daughter) who submit their applications together in a single package, are eligible for the family filing fee of **\$570**. A biometric services fee of **\$85** is also required for each applicant over 14 years of age.

If you are applying with the Immigration Court, you must pay a **\$165** fee to the U.S. Department of Homeland Security (DHS). A single fee of **\$165** will be charged whenever applications are filed by two or more aliens in the same proceedings.

The filing fee and biometric services fee are not refundable, regardless of any action USCIS or the Immigration Court takes on this application. **DO NOT MAIL CASH**. You must submit all fees in the exact amounts.

### **Payments by Checks or Money Orders**

Use the following guidelines when you prepare your checks or money orders for the Form I-881 filing fee and biometric services fee:

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**1.** The checks or money orders must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**

**2.** Make the checks or money orders payable to **U.S. Department of Homeland Security**.

**NOTE:** Spell out U.S. Department of Homeland Security; do not use the initials “USDHS” or “DHS.”

**Notice to Those Paying by Check.** If you send USCIS a check, we will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to

electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours, and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, we will re-submit the payment to the financial institution one time. If the check is returned as unpayable a second time, we will reject your application and charge you a returned check fee.

### **How To Check If the Fees Are Correct**

Form I-881's filing fee and biometric services fee are current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below.

1. Visit the USCIS website at [www.uscis.gov](http://www.uscis.gov), select "FORMS," and check the appropriate fee; or
2. Visit the USCIS Contact Center at [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) to get answers to your questions and connect with a live USCIS representative. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

### **Fee Waiver**

You may be eligible for a fee waiver under 8 CFR 103.7(c). If you believe you are eligible for a fee waiver and you are applying with USCIS, you must complete Form I-912, Request for Fee Waiver (or a written request), and submit it with any required evidence of your inability to pay the filing fee with this application. You can review the fee waiver guidance at [www.uscis.gov/feewaiver](http://www.uscis.gov/feewaiver).

If you are in proceedings in Immigration Court, an immigration judge has the discretion to waive a fee for an application for relief if you show that you cannot pay the fee. See 8 CFR 1003.24. If you believe you are eligible for a fee waiver, file a written request with the Immigration Court, along with any required evidence of your inability to pay the filing fee with this application. For additional information on filing a request for a fee waiver, see the Immigration Court Practice Manual at [www.justice.gov/eoir/office-chief-immigration-judge-0](http://www.justice.gov/eoir/office-chief-immigration-judge-0).

### **Where To File?**

Please see our website at [www.uscis.gov/I-881](http://www.uscis.gov/I-881) or visit the USCIS Contact Center at [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) to connect with a USCIS representative for the most current information about where to file this application. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing), call **1-800-767-1833**.

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### **Address Change**

An applicant who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. For information on filing a change of address, go to the USCIS website at [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange) or visit the USCIS Contact Center at

[www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter) for help. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing), call **1-800-767-1833**.

If you are already in proceedings in Immigration Court, you must **also** notify the Immigration Court on **EOIR Form 33/IC, Alien's Change of Address Form/Immigration Court**, of any **changes** of address within five days of the change in address. The EOIR Form 33/IC is available on the EOIR website at [www.justice.gov/eoir/form-eoir-33-eoir-immigration-court-listing](http://www.justice.gov/eoir/form-eoir-33-eoir-immigration-court-listing).

**NOTE:** Do not submit a change of address request to the USCIS Lockbox facilities because the Lockbox does not process change of address requests.

### **Processing Information**

You must have a United States address to file this application.

**Initial Processing.** Once USCIS accepts your application, we will check it for completeness. If you do not completely fill out this application, you will not establish a basis for your eligibility and USCIS may reject or deny your application.

**Requests for More Information.** USCIS may request that you provide more information or evidence to support your application. We may also request that you provide the originals of any copies you submit. If we request an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

**Requests for Interview.** We may request that you appear at a USCIS office for an interview based on your application. At the time of any interview or other appearance at a USCIS office, we may require that you provide your biometrics to verify your identity and/or update background and security checks.

**Decision.** The decision on Form I-881 involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS or the Immigration Court will notify you of the decision in writing.

### **USCIS Forms and Information**

To ensure you are using the latest version of this **application**, visit the USCIS website at [www.uscis.gov](http://www.uscis.gov) where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling the **Forms Request Line at 1-800-870-3676**. The **Forms Request Line offers services in English and Spanish**. For TTY (deaf or hard of hearing), call **1-800-767-1833**.

### **EOIR Forms and Information**

**EOIR** forms and information about immigration removal proceedings **are available** online at [www.justice.gov/eoir/forms](http://www.justice.gov/eoir/forms). EOIR forms are also available at the EOIR Immigration Courts.

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## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-881, we will deny your Form I-881 and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## DHS Privacy Notice

**AUTHORITIES:** The information requested on this application, and the associated evidence, is collected pursuant to Section 203 of Public Law 105-100 Nicaraguan Adjustment and Central American Relief Act (NACARA).

**PURPOSE:** The primary purpose of this form is to provide a means for eligible aliens to apply for suspension of deportation or special rule cancellation of removal under section 203 of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA 203).

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in the denial of your benefit request.

**ROUTINE USES:** The information you provide on this benefit application may be shared with other Federal, state, local, and foreign government agencies and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices (DHS/USCIS-010 - Asylum Information and Pre- Screening, which can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy)). The information may also be made available, as appropriate for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid **Office of Management and Budget (OMB)** control number. The public reporting burden for this collection of information is estimated at 14 hours per response, including the time for reviewing **instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes.** Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0072. **Do not mail your completed Form I-881 to this address.**