

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

Instructions

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet of paper. Write your name and Alien Registration Number (A-Number), if any, at the top of each sheet of paper and indicate the section and number of the item to which the answer refers.

What Is the Purpose of This Form?

This form is to be 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).

You may use this form only if:

1. You are a national of El Salvador or Guatemala; or
2. On December 31, 1991, you were 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), Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany (German Democratic Republic), Yugoslavia, or any former state of Yugoslavia (including Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Slovenia, and Serbia); or
3. You are the spouse, child, or unmarried son or unmarried daughter of one of the above described nationals. In addition, you must meet the other requirements explained in these instructions. Certain individuals who have been battered or subjected to extreme cruelty, or whose child has been battered or subjected to extreme cruelty, may also use this form if they meet the criteria outlined in Part I of these instructions.

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, 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).

These instructions are presented in eight parts:

1. **Part I** explains who is eligible to apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA.
2. **Part II** explains eligibility in order to be granted NACARA relief.
3. **Part III** explains how to complete this application.
4. **Part IV** explains how to apply before the U.S. Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS).
5. **Part V** explains how to apply before the Immigration Court.
6. **Part VI** contains information regarding the types of supporting documents you must submit with your application to show that you are eligible for NACARA relief.
7. **Part VII** contains information about employment authorization.
8. **Part VIII** contains information about change of address notification requirements.

Read these instructions carefully. The instructions will help you complete your application and understand how it will be processed.

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 a asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, deportation or removal proceedings, even if the application is later withdrawn. If you have any concerns about this, you must consult with an attorney or representative before you submit this application to USCIS or EOIR.

Warning: If filing with USCIS, unexcused failure to appear for an appointment to provide biometrics (such as fingerprints) and other biographical information within the time allowed may interrupt eligibility for work authorization and result in a dismissal of your application or a referral to an immigration judge. Applicants and eligible dependents in removal proceedings who fail to provide DHS with their biometrics or other biographical information as required within the time allowed, except for good cause, may have their applications found abandoned by the immigration judge.

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Part I. Who Is Eligible to Apply?

If you have not been convicted of an aggravated felony and if you are described in one of the following five categories, you are eligible to apply for suspension of deportation or special rule cancellation of removal under section 203 of NACARA.

You **must** be described in one of these categories to use this form:

- A. A Salvadoran national who:**
1. First entered the United States on or before September 19, 1990;
 2. 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 by submitting an ABC registration form or by applying for temporary protected status - TPS); and

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

You may apply with USCIS only if you have also applied for asylum on or before February 16, 1996, and USCIS has not issued a final decision on your asylum application. 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.

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

B. A Guatemalan national who:

1. First entered the United States on or before October 1, 1990;
2. 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
3. Was not apprehended at the time of entry after December 19, 1990.

You may apply with USCIS only if you have also applied for asylum on or before January 3, 1995, and USCIS has not issued a final decision on your asylum application. 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.

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

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

You may apply with USCIS only if USCIS has not issued a final decision on your asylum application.

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 **(b)** in **Part 2** of the attached form.

D. An Alien who:

1. Entered the United States on or before December 31, 1990;
2. Filed an application for asylum on or before December 31, 1991; and
3. At the time of filing the application was a national of the Soviet Union, Russia, any Republic of the former Soviet Union, Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Yugoslavia, or any state of the former Yugoslavia.

You may apply with USCIS only if USCIS has not issued a final decision on your asylum application. 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 (c) in **Part 2** of the attached form.

- E. The spouse, child, unmarried son, or unmarried daughter** of an individual described in **Part I (A), (B), (C), or (D)** above, who has been granted suspension of deportation or special rule cancellation of removal. 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 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.

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 must also 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 refer your application to the Immigration Court for a decision in removal proceedings.

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.

- F. An alien who has been battered or subjected to extreme cruelty** by an individual described in **Part I (A), (B), (C), or (D)**, and who was the spouse or child of that individual at the time that individual:

1. Was granted suspension of deportation or cancellation of removal;
2. Filed an application for suspension of deportation or cancellation of removal;
3. Registered for ABC benefits;
4. Applied for temporary protected status (TPS); or
5. Applied for asylum.

An alien whose child has been battered or subjected to extreme cruelty by an individual described in **Part I (A), (B), (C), or (D)**, and who was the spouse of that individual at any of the times described in the bullets above is also eligible to apply.

USCIS does not have authority to decide eligibility for NACARA 203 relief for individuals described only in paragraph (F). Special provisions for individuals described in that paragraph are applied only to cases decided in Immigration Court. Therefore, if you are applying as a spouse or child who has been battered or subjected to extreme cruelty, you must make your initial application before the Immigration Court.

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 (e) in **Part 2** of the attached form.

Part II. Eligibility to Be Granted Relief

You may be eligible for NACARA 203 relief if you fall into category (a), (b), (c), or (d) of **Part 2** of the form and you have established seven years of continuous physical presence in the United States, good moral character for that time period, 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 eligible for NACARA 203 relief if you fall into category (e) of **Part 2** of the form and you have established three years continuous physical presence, good moral character for that time period, and 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.

Other requirements may apply, including 10 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. There are also special provisions for individuals who have served in the U.S. military.

Part III. How to Complete the Application

A. General Instructions

Submit a separate application for each applicant. A separate application must be prepared and submitted for each person applying for suspension of deportation or special rule cancellation of removal. An application on behalf of a person who is mentally incompetent or is a child under 14 years of age must be signed by a parent or guardian. Applicants who check category (d) only in Part 2 on the first page of the form must submit proof of relationship to the parent or spouse who is applying or has applied for suspension of deportation or special rule cancellation of removal.

Applicants who check category (e) of Part 2 on the first page of the form must also submit evidence of the past relationship with the individual described in Part I (A), (B), (C), or (D) of these Instructions. If you checked category (e) of Part 2 of the form, you will also be asked to submit evidence of the battery or extreme cruelty.

Answer in English. You must fully and accurately answer all your questions, providing explanations as required on the attached Form I-881. **Your answers must be in English.** Your responses must be typed or printed legibly in black ink. Do not leave any questions unanswered or blank. If any question does not apply to you, write "None" or "N/A" in the appropriate space. **An incomplete form may be returned to you for completion.**

Attach additional sheets and documents where necessary.

Answer questions directly on the form, where possible. However, if you do not have enough space on the form to respond to a question fully, continue your answer on an additional sheet. You may use Page 8 of the form for this purpose. **You must attach additional written statements and documents that support your claim.** ABC class members who check category (a) or (b) in Part 2 of the attached form do not need to submit documentation to support a claim that removal would result in extreme hardship. (See Part VI of these Instructions.)

If you need more than one additional sheet, photocopy Page 8 or attach additional sheets that show your Alien Registration Number (A-Number), name (exactly as it appears in Part I of the form), signature, date, and the number of the question being answered.

You may amend and supplement your application. You will be permitted to amend or supplement your application at the time of your hearing in Immigration Court or at your interview with a USCIS Asylum Officer, by providing additional information and explanations about your claim.

B. Translation of Documents

Any document you submit that is in a language other than English must be accompanied by an English language translation and a certificate signed by the translator stating that

he or she is competent to translate the document and that the translation is true and accurate to the best of the translator's abilities. The certification must be printed legibly or typed.

C. What is the Fee?

To apply with USCIS for suspension of deportation or special rule cancellation of removal, you must pay the filing fee of **\$1,800** per individual application submitted. **Certain individuals may be eligible to request a fee waiver under 8 CFR 106.3.** You will need to follow the instructions on **How to Pay When Applying with USCIS**, and those at **Part IV, How to Apply Before USCIS.**

To apply with EOIR for suspension of deportation or special rule cancellation of removal, the fees you must pay if you are applying in Immigration Court are different from the fees you must pay if you are applying with USCIS. If you are filing your application with the Immigration Court, you must pay a **\$165** fee to the U.S. Department of Homeland Security. A single fee of **\$165** will be charged whenever applications are filed by two or more aliens in the same proceedings. You will need to follow the instructions on **How to Pay When Applying with EOIR** and those at **Part V, How to Apply With the Immigration Court.** **NOTE:** The **\$165** fee is not required if USCIS refers the application to the Immigration Court.

In addition, each person applying with EOIR must pay a biometric services fee of **\$30** for USCIS to take their fingerprints and photograph, and, if also required, their signature.

If you are applying through EOIR, you can find information on fee waivers under 8 CFR 106.3 please review the instructions for USCIS Form I-912 found at www.uscis.gov.

These fees will not be refunded, regardless of the action taken on your application. Therefore, it is important that you read the instructions and application carefully before applying.

Notice to Those Making Payment by Check. If you send us a check, USCIS 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 may reject your application.

How to Pay When Applying with USCIS. You must include the required fees with your application when you send it to USCIS. You may use one check to cover the application fee and the biometrics services **fee**.

How to Pay When Applying with EOIR. If you are in deportation or removal proceedings and you are applying for suspension of deportation or special rule cancellation of removal 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 also be provided this information and these instructions at the master calendar hearing by counsel for DHS. You must follow these instructions before the immigration judge can grant relief in your case. These instructions may also be obtained at www.uscis.gov.

You must submit the following to:

USCIS Texas Service Center
P.O. Box 852463
Mesquite, Texas 75185-2463

1. A clear copy of the completed application form(s), minus supporting documents, for you and any immediate family members who are in the same proceedings.
2. A copy of Form EOIR-28, Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court, if you are represented.
3. If you are filing your application with the Immigration Court, you must pay a **\$165** application filing fee to the U.S. Department of Homeland Security. A single fee of **\$165** will be charged whenever applications are filed by two or more aliens in the same proceedings. **NOTE:** The **\$165** is not required if USCIS refers the application to the Immigration Court.
4. Additionally, if you are unable to pay the required application filing fee, you must submit a fee waiver request to the immigration judge. Submit the immigration judge's fee waiver decision with your application. **NOTE:** If you received a fee waiver from the immigration judge, USCIS suggests that you make a copy of the decision for your **records**.
5. A copy of the *DHS Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to USCIS*.

NOTE: All fees must be submitted in the form of a check or a money order made payable to the **Department of Homeland Security**.

After you submit the above referenced items as instructed in the *DHS Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to USCIS*, Side B to the USCIS Texas Service Center, you will receive:

1. A USCIS fee receipt notice for the paid application fee(s). Keep a copy for yourself and submit the receipt to the Immigration Court when you file your application.
2. A USCIS notice with instructions to appear for an appointment at a nearby Application Support Center (ASC) for collection of your biometrics (photographs, fingerprints, and signature). Separate ASC notices will be sent to each immediate family member in removal proceedings with you if you submitted a copy of an application for them and the biometrics fee(s). You must show this notice to the ASC. Call **1-800-375-5283** if you do not receive an ASC notice within 3 weeks. Keep copies of all ASC notices for your records.

You (and your dependents) must then:

1. Attend the ASC biometrics appointment and obtain a biometrics confirmation document from the ASC.
2. File at the Immigration Court with jurisdiction over your case and within the time frame directed by the immigration judge: (1) the original application form, (2) all supporting documents, and (3) a copy of USCIS fee receipt that serves as evidence that you paid the application filing fee(s). See the discussion of **How to Apply with the Immigration Court at Part V** of these Instructions; and
3. Retain your ASC biometrics confirmation as proof that your biometrics were taken, and bring it to your future Immigration Court hearings.

How to Check If the Fees Are Correct. The fees on this form are current as of the edition date appearing in the lower right corner of this page. However, because USCIS and EOIR fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit the USCIS website at www.uscis.gov, select "FORMS" and check the appropriate fee;
2. Telephone the USCIS National Customer Service Center at **1-800-375-5283** and ask for the fee information. For TTY (deaf or hard of hearing) call: **1-800-767-1833**;
3. Visit the EOIR website at www.justice.gov/eoir/forms to check the appropriate fees if you are in proceedings before EOIR.

NOTE: If your application requires a biometrics services fee for USCIS to take your fingerprints, photograph, or signature, you can use the same procedure above to confirm the biometrics fee.

D. Biometrics Services for Fingerprints, Photograph, and Signature

Each applicant 14 years of age or older must be fingerprinted and photographed as part of USCIS biometrics services. Your fingerprints and photograph must be taken at a designated Application Support Center or Law Enforcement Agency. You will be notified in writing of your appointment date and exact location where you must go for the biometric services. If required, USCIS may also take your signature.

If filing with USCIS, unexcused failure to appear for a scheduled appointment or to provide your required biometrics, including fingerprints and photographs or to provide other biographical information within the time allowed, may delay eligibility for work authorization and/or result in an asylum officer dismissing your applications or referring your case to an immigration judge.

Applicants and eligible dependents in removal proceedings who fail to provide USCIS with their biometrics or other biographical information as required within the time allowed, except for good cause, may have their applications found abandoned by the immigration judge.

Passport-style photos must be 2" x 2." The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1" to 1 3/8" from top of hair to bottom of chin, and eye height is between 1 1/8" to 1 3/8" from bottom of photo. Your head must be bare unless you are wearing a headdress as required by a religious order of which you are a member. Using pencil or felt pen, lightly print your name and Alien Registration Number on the back of the photo.

Part IV. How to Apply Before USCIS

A. Are You Eligible to Apply Before USCIS?

Not everyone who is eligible to apply for suspension of deportation or special rule cancellation of removal is eligible to submit an application for decision by USCIS. Some persons who are eligible to apply may ask for the benefit only in proceedings in Immigration Court. See **Part 1** of these Instructions to determine whether you are eligible to apply with USCIS.

B. 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, 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 section C below.

C. What to Include With Your Application

You must send to the appropriate USCIS Service Center the following documents (see **section D** below for addresses):

1. An original completed Form I-881 with all attachments and copies of your supporting documents;
2. One copy of a completed Form I-881 with all attachments and supporting documents;
3. **Two** passport-style photographs of you that meet the requirements described in **Part III (C)** of these Instructions;
4. Payment for the fees as explained in **Part III (B)**, **What Is the Fee** of these Instructions or a request for a waiver of the fees under 8 CFR **106.3**; and
5. Proof of relationship to the spouse or parent who is applying for or has applied for suspension of deportation or special rule cancellation or removal under NACARA 203, if you check only box **(d)** in **Part 2** on the first page of the Form I-881.

Submit **two copies** of supporting documents and bring the originals with you to your interview with an asylum officer. Any original documents you submit will not be returned to you.

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 before June 21, 1999, and are eligible to apply with USCIS, then you may apply with USCIS by submitting Form EOIR-40 attached to a completed first page of Form I-881. If you are filing Form I-881 or Form EOIR-40 (with **Page 1** of Form I-881 attached) 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.

D. Where to File the Application

If you are eligible to apply for suspension of deportation or special rule cancellation of removal with USCIS, mail your completed Form I-881 and all supporting documents with the required fees to the USCIS Service Center indicated below:

If you live in:	Mail your application to:
Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, U.S. Virgin Islands, Vermont, Virginia, West Virginia, or Wyoming,	USCIS Vermont Service Center Attn: I-881 75 Lower Welden St. St. Albans, VT 05479-0881
Alaska, Arizona, California, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, Ohio, South Dakota, Washington, or Wisconsin	USCIS California Service Center P.O. Box 10881 Laguna Niguel, CA 92607-0881

E. Interview Process

You will be notified by the USCIS Asylum Office of the time, date, and place (address) of a scheduled 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, including any passport(s), other travel or identification documents, or 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 provide at no expense to USCIS a competent interpreter fluent in both English and a language that you speak fluently.

Your interpreter must be at least 18 years of age. The following persons 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. Such assistance must be obtained, at your expense, prior to the interview.

Failure without good cause to bring a competent interpreter to your interview may be considered an unexcused failure to appear for the interview. Any unexcused failure to appear for an interview may result in dismissal of your application, or it may be referred 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.

F. 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.

Certain Applicants Not Eligible for a Grant by USCIS

USCIS will not be able to grant your application for suspension of deportation if you are deportable under any of the following grounds found in former section 241(a) of the Immigration and Nationality Act (INA), as it existed prior to 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 will not be able to grant your application for special rule cancellation of removal if you are found:

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

However, if you are deportable or inadmissible under these provisions (other than those related to security concerns), you may still be eligible for relief from deportation or removal by an immigration judge under certain higher eligibility standards.

USCIS is not able to grant your Form I-881 if you are eligible to apply only as someone described in **Part I (F)** of these Instructions. Instead, if you are someone described in **Part I (F)**, you may be eligible to apply with the Immigration Court as provided for in **Part V** below.

Part V. 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 only with the Immigration Court, unless proceedings have been administratively closed because (1) you are eligible for an asylum interview with USCIS under the terms of the ABC settlement agreement; or (2) 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 provided 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 case.

These DHS instructions may also be found at www.uscis.gov. Also see the discussion concerning these DHS instructions at **Part III, Section C, What Is the Fee** of these form Instructions. You must also serve the following documents on the DHS District Counsel:

1. One copy of a completed Form I-881 with all attachments and supporting documents; and

2. One passport-style photograph of you that meets the requirements explained in **Part III (D)** of these Instructions.

In addition, you must file the following documents with the appropriate Immigration Court:

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 **Part III, What Is the Fee** of these Instructions or a request for a waiver of the fee by an immigration judge;
3. A copy of the ASC scheduling notice that you received as explained in **Part III (C)** of these Instructions. If you have already complied with the notice and attended your biometrics appointment, include a copy of the confirmation of ASC attendance that you received;
4. One passport-style photograph of you that meets the requirements explained in **Part III (D)** of these Instructions;
5. A certificate showing service of these documents on the DHS District Counsel, unless service is made on the record at the hearing; **and**

Submit copies of supporting documents and bring the originals with you to your hearing with an immigration judge. Any original documents you submit will not be returned to you. Remember to keep copies of your fee receipts and ASC scheduling and confirmation notices for your records. Be prepared to provide copies of these documents to the immigration judge if requested to do so.

Form EOIR-40, Application for Suspension of Deportation, will not be accepted when applying for NACARA 203 relief after June 21, 1999, except if you have filed Form EOIR-40 before June 21, 1999, you do not need to file the Form I-881.

Part VI. Supporting Documents to Show Eligibility for Relief

Your answers to the questions on this form 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.

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 (EAD) 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 **category (a)** or **(b)**, under **Part 2, Page 1** of Form I-881, 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 9** of Form I-881, where required.

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.

All individuals who cannot check box **(a)** or **(b)** in **Part 2** on **Page 1** of the form are strongly urged to submit documents to support their 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. School records of your children;
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 alien cards ("Green Cards") of any relatives who may suffer extreme hardship if you are deported or removed.

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 request 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 for ABC class members.

Part VII. Employment Authorization

Applicants for suspension of deportation or special rule cancellation of removal under NACARA 203 are eligible to apply for and be granted employment authorization under 8 CFR 274a.12(c)(10). Applicants who wish to apply for employment authorization under this provision must submit a completed Form I-765, Application for Employment Authorization (EAD), following the instructions on that form.

If you are applying for employment authorization with your Form I-881, you must submit the fee for Form I-765 using a check or money order separate from the check or money order submitted for Form I-881.

Part VIII. Address Notification Requirements, Penalties, Forms, Privacy Act Notice and Paperwork Reduction

A. Change of Address

If you have changed your address, you must inform USCIS of your new address. For information on filing a change of address go to the USCIS website at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at **1-800-375-5283**.

While your application is pending with USCIS Asylum Office, you must also notify USCIS Asylum Office by submitting a copy of the completed Form AR-11, or a signed and dated letter containing the change of address, within 10 days after you change your address.

If you are already in proceedings in Immigration Court, you **MUST** notify the Immigration Court on Form EOIR-33/IC (Change of Address Form) of any change of address within five days of the change of address. You must send the notification to the Immigration Court having jurisdiction over your case.

If you are already in proceedings before the Board of Immigration Appeals, you **MUST** notify the Board on Form EOIR-33/BIA (Change of Address Form) of any change of address within five days of the change of address. EOIR Forms are available online at www.justice.gov/eoir/forms or at the EOIR Immigration Courts.

B. Penalties

You must answer all questions on Form I-881 truthfully and submit only genuine documents in support of your application. You will be required to swear or affirm that the contents of your application and the supporting documents are true to the best of your knowledge.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS website at 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 our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling our USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass**. To access the system, visit the USCIS website. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

EOIR Forms and Information

To obtain EOIR forms and information about immigration removal proceedings online you can visit the EOIR website at www.justice.gov/eoir/forms. EOIR forms are also available at the EOIR Immigration Courts.

USCIS Privacy Act Statement

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]. 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 OMB control number. The public reporting burden for this collection of information is estimated at 12 hours per response, including the time for reviewing instructions and completing and submitting the form. 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 Avenue NW, Washington, DC 20529-2140; OMB No. 1615-0072. **Do not mail your completed Form I-881 to this address.**