

Instructions

Application for Suspension of Deportation or Special Rule Cancellation of Removal Pursuant to Section 203 of Public Law 105-100, the Nicaraguan Adjustment and Central American Relief Act (NACARA)

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) You were, on December 31, 1991, 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 state of the former Yugoslavia (including Bosnia and Herzegovina, Croatia, Macedonia, Slovenia, and Serbia and Montenegro), 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 a Form EOIR-40 Application for Suspension of Deportation (if you are in deportation proceedings) or a 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 to be granted NACARA relief.
3. **Part III** explains how to complete this application.
4. **Part IV** explains how to apply before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS). USCIS is comprised of offices of the former Immigration and Naturalization Service (INS).
5. **Part V** explains how to apply before the Immigration Court.
6. **Part VI** contains information regarding the types of supporting documents you may wish to 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.

Please 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 an 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 should 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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- 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
- 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.

A.ii. A Guatemalan national who:

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

B. 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.

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.i. A Salvadoran national who:

- First entered the United States on or before September 19, 1990;

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

C. An Alien who:

- Entered the United States on or before December 31, 1990;
- Filed an application for asylum on or before December 31, 1991; and
- 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.

D. The spouse, child, unmarried son, or unmarried daughter of an individual described in Part I (A), (B), or (C) 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 a Form I-881 **pending** with USCIS. You may 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 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 to be decided 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.

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

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

An alien whose child has been battered or subjected to extreme cruelty by an individual described in Part I (A), (B), or (C), 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 (E). 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 United States 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 United States citizen or lawful permanent resident will experience extreme hardship if you are returned to your country.

Other requirements may apply, including 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. 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 should also submit evidence of the past relationship with the individual described in Part I (A), (B), or (C) 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 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, please continue your answer on an additional sheet. You may use page 9 of the form for this purpose. **You are strongly urged to 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, please photocopy page 8 or attach additional sheets that show your Alien Registration Number (A#), 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.

What Is the Fee?

Fees required. To apply with USCIS for suspension of deportation or special rule cancellation of removal. You must pay the filing fee of **\$285.00** per individual application submitted, with the exception 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 **\$570.00**. 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 **\$165.00** fee to the U.S. Department of Homeland Security. A single fee of **\$165.00** 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 **\$165.00** is not required if USCIS refers the application to the Immigration Court.

In addition, each person applying with either USCIS or EOIR must pay a biometric services fee of **\$80.00** for USCIS to take their fingerprints and photograph, and if also required, their signature. There is no family discount for the biometric services fee.

If you are unable to pay the application fees, you may ask permission to file your Form I-881 without fees, pursuant to 8 CFR § 103.7(c) and 8 CFR § 1003.24(d).

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.

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 fingerprint fee. All immediate family members (spouse, child, unmarried son or unmarried daughter) who wish to take advantage of a family discount for filing fees must send their applications in a single package.

How to Pay. All fees must be submitted in the exact amount. Payment may be made by, personal check, cashier's check, certified bank check, bank international money order, or foreign draft, drawn on a financial institution in the United States. Remittances must be payable in United States currency and made payable to the **Department of Homeland Security**.

If the check is drawn on an account of a person other than yourself, you must write your name and Alien Registration Number (A#) on the front of the check. An uncollectible check will make your application invalid, and any receipt issued by USCIS for the remittance shall not be binding on USCIS. A charge of \$30.00 will be imposed if the check in payment of a fee is not honored by the bank on which it is drawn.

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 <http://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 the 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 **\$165.00** application filing fee to the U.S. Department of Homeland Security. A single fee of **\$165.00** will be charged whenever applications are filed by two or more aliens in the same proceedings. **Note:** The **\$165.00** 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, it is suggested that you make a copy of the decision for your records.
5. An \$80.00 USCIS biometrics fee for each person in removal proceedings is required. **Note:** Only USCIS can decide whether to waive biometrics fees. Immigration Judges do not have the ability to waive these fees.
6. 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 (your 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 (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 USCIS website at www.uscis.gov and scroll down to "Forms and E-Filing" to check the appropriate fees, or
2. Review the Fee Schedule included in your form package, if you called us to request the form, or

3. Telephone USCIS National Customer Service Center at **1-800-375-5283** and ask for the fee information, or
4. Visit the EOIR website at www.usdoj.gov/eoir/ and scroll down to EOIR Forms to check the appropriate fees if you are in proceedings before EOIR.

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

C. Biometric Services for Fingerprints, Photograph and Signature.

Each applicant 14 years or older must be fingerprinted and photographed as part of USCIS biometric 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 Receipt 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. Please 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, pursuant to 8 CFR § 1003.43. Once the deportation proceedings have been reopened, you may 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 paragraph 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. Four 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 pursuant to 8 CFR § 103.7(c);
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.

Please 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 an EOIR-40 before June 21, 1999, and are eligible to apply with USCIS, then you may apply with USCIS by submitting the EOIR-40 attached to a completed first page of the I-881. If you are filing an I-881 or EOIR-40 (with page 1 of the 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 should 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 I-881 application and all supporting documents with the required fees to the USCIS Service Center indicated below:

If you live in Alabama, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, the Commonwealth of Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, the United States Virgin Islands, Vermont, Virginia, West Virginia or Wyoming, mail your application to:

USCIS Vermont Service Center

Attn: I-881

75 Lower Welden St.

St. Albans, VT 05479-0881

If you live in Alaska, Arizona, California, the Commonwealth of Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, Ohio, South Dakota, Washington or Wisconsin, mail your application to:

USCIS California Service Center

P.O. Box 10881

Laguna Niguel, CA 92607-0881

E. Interview Process.

You will be notified by USCIS Asylum Office of the date, time and place (address) of a scheduled interview. You should bring a copy of your application and originals of your supporting documents with you when you have your interview. You should 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 should send a written request to reschedule your interview, as soon as you know that you cannot attend. You should send your request to 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 recalendar 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 paragraph (2) (criminal grounds), paragraph (3) (failure to register and falsification of documents), or paragraph (4) (security and related grounds) of former section 241(a) of the Immigration and Nationality Act (INA) as it existed prior to April 1, 1997. USCIS will not be able to grant your application for special rule cancellation of removal if you are inadmissible under paragraph (2) (criminal and related grounds) of section 212(a), or deportable under paragraph (2) (criminal offenses), paragraph (3) (failure to register and falsification of documents), or paragraph (4) (security and related grounds) of section 237(a) of the INA.

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 application if you are eligible to apply only as someone described in Part I(E) of these instructions. Instead, if you are someone described in Part I(E), 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 a 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 at the Master Calendar hearing by counsel for DHS. You must follow these DHS instructions before the Immigration Judge can grant relief in your case.

These DHS instructions may also be obtained at <http://www.uscis.gov>. Also see the discussion concerning these DHS instructions at Part III, "What Is the Fee," of these form instructions. In addition to following these DHS instructions, you must serve the following documents on the DHS District Counsel:

1. One copy of a completed Form I-881 with all attachments and supporting documents;
2. One passport-style photograph of you that meets the requirements explained in Part III(C) 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(B) 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(C) 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;
6. Biographic Information Sheet, G-325A, if you are between 14 and 79 years of age.

Please 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 an 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, it is also recommended 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;
8. Employment Authorization Documents (EAD) or other documents issued by USCIS (or former INS).

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 United States citizens;
2. Affidavits, declarations, or letters of your employer, if employed;
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 the 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 the 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;
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 should submit with your application copies of any documents that USCIS (or former INS) 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 should 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 should submit the fee for the Form I-765 EAD application using a separate check or money order from the check or money order submitted for the Form I-881 application.

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

A. Change of Address.

If you change your address, you must inform DHS in writing of your new address within ten (10) days of moving.

You must notify DHS of any change of address by submitting Form AR-11 (Change of Address Form) to the DHS address listed on the Form within ten (10) days after you change your address. While your application is pending with USCIS Asylum Office, you must also notify the 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 ten (10) days after you change your address. The address that you provide on the application, or the last change of address notification you submitted, will be used by DHS for mailing. Any notices mailed to that address will constitute adequate service, except where personal service is required. USCIS Form AR-11 is available online at <http://www.uscis.gov> or at U.S. Post Offices or USCIS District Offices.

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 (5) 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 (5) days of the change of address. EOIR Forms are available online at <http://www.usdoj.gov/eoir/formspage.htm> 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. Your answer to the questions on this form and the supporting documents you present will be used to determine whether your deportation should be suspended or your removal should be canceled. Any answer you give and any supporting documents you present may also be used as evidence in any proceeding to determine your right to be admitted, be readmitted, pass through, or reside in the United States. Your application may be denied if any of your answers or supporting documents are found to be false.

Presenting false answers or false documents may also subject you to criminal prosecution under 18 U.S.C. § 1546 and/or subject you to civil penalties under 8 U.S.C. § 1324c if you submit your application knowing that the application or any supporting document contains any false statement with respect to a material fact, or if you swear or affirm that the contents of your application and the supporting documents are true, knowing that the application or any supporting document contains any false statement with respect to a material fact. If convicted, you could be fined up to \$250,000, imprisoned for up to ten years, or both, according to 18 U.S.C. §§ 1546(a) and 3559(a)(4). If it is determined that you have violated the prohibition against document fraud and a final order is entered against you, you could be subject to a civil penalty up to \$2,000 for each document used or created for the first offense and up to \$5,000 for any second or subsequent offense. In addition, if you are the subject of a final order for violating 8 U.S.C. § 1324c, relating to civil penalties for document fraud, you will be removable from the United States.

USCIS Forms and Information.

To order USCIS forms, call our toll-free number at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our internet website at **www.uscis.gov**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our internet-based system, **InfoPass**. To access the system, visit our 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 Internet website at <http://www.usdoj.gov/eoir/>. EOIR forms are also available at the EOIR Immigration Courts.

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 Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0072. **Do not mail your application to this address.**