

Current form

ADVICE TO APPLICANT

PLEASE READ CAREFULLY. FEES WILL NOT BE RETURNED.

I. Aliens eligible for Suspension of Deportation: You may be eligible to have your deportation suspended and to become an alien lawfully admitted to the United States for permanent residence under former section 244 of the Immigration and Nationality Act (INA). To qualify for this benefit, you must establish in a hearing before an immigration judge that:

- A. You have been physically present in the United States for a continuous period of not less than seven (7) years immediately preceding the date of this application;

NOTE: If you have been battered or subjected to extreme cruelty in the United States by your United States citizen spouse or parent, or you are the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent, you must establish that you have maintained continuous physical presence in the United States for three (3) years or more.

NOTE: If you are deportable under paragraphs (2), (3), or (4) of former section 241(a) of the INA, you must establish that you have been physically present in the United States for a continuous period of not less than ten (10) years immediately following the commission of an act or assumption of a status constituting a ground of deportation.

NOTE: If you have served on active duty in the Armed Forces of the United States for at least 24 months, you do not have to meet the requirements of continuous physical presence in the United States. You must, however, have been in the United States when you entered the Armed Forces. If you are no longer in the Armed Forces, you must have been separated under honorable conditions.

- B. You are, and have been during the qualifying period described in "A" above, a person of good moral character as described in section 101(F) of the INA; and
- C. Your deportation would result in extreme hardship to you or your United States citizen or lawful permanent resident spouse, parent, or unmarried child under 21 years of age.

NOTE: If you are deportable under paragraphs (2), (3), or (4) of former section 241(a) of the INA, you must establish that your deportation would result in exceptional and extremely unusual hardship to you or your United States citizen or lawful permanent resident spouse, parent, or unmarried child under 21 years of age.

II. Aliens NOT Eligible for Suspension of Deportation: You are not eligible for suspension of deportation if you:

- A. Entered the United States as a crewman after June 30, 1964;
- B. Were admitted to the United States as, or later became, a nonimmigrant exchange alien as defined in section 101(a)(15)(J) of the INA in order to receive graduate medical education or training, regardless of whether you are subject to or have fulfilled the 2-year foreign residence requirement of section 212(e) of the INA;
- C. Were admitted to the United States as, or later became, a nonimmigrant exchange alien as defined in section 101(a)(15)(J) of the INA, other than to receive graduate medical education or training, and are subject to the 2-year foreign residence requirement of section 212(e) of the INA, but have neither fulfilled nor obtained a waiver of that requirement;
- D. Are subject to deportation under former section 241(a)(4)(D) of the INA, as an alien who assisted in Nazi persecution or engaged in genocide.

III. How to Apply for Suspension of Deportation

If you believe that you have met all the requirements for suspension of deportation, you must answer all the questions on the attached Form EOIR-40 fully and accurately. You must pay the filing and biometrics fees and comply with the Department of Homeland Security (DHS) instructions for providing biometric and biographic information to USCIS. (available at <http://uscis.gov>). You must also serve a copy of your application on the Assistant Chief Counsel for the DHS, U.S. Immigration and Customs Enforcement (ICE) as required in the proof of service on page 8 of this application, and you must file your application with the appropriate Immigration Court. Please read the following instructions carefully before completing your application.

Application for Suspension of Deportation

INSTRUCTIONS

1. PREPARATION OF APPLICATION.

To apply for suspension of deportation under former section 244 of the Immigration and Nationality Act (INA), you must fully and accurately answer all questions on the attached Form EOIR-40. A separate application must be prepared and executed for each person applying for suspension of deportation. All applications from a family unit may be submitted together and may be supported by the same documentary evidence, if practicable. An application on behalf of an alien who is mentally incompetent or is a child under 14 years of age shall be executed by a parent or guardian.

Your responses must be typed or printed legibly in ink. Do not leave any questions unanswered or blank. If any questions do not apply to you, write "none" or "not applicable" in the appropriate space.

To the extent possible, answer all questions directly on the form. If there is insufficient room to respond fully to a question, please continue your response on an additional sheet of paper. Please indicate the number of the question being answered next to your response on each additional sheet, write your alien registration number, print your name, and sign, date, and securely attach the additional sheet to the Form EOIR-40.

2. BURDEN OF PROOF.

The burden of proof is on you to prove that you meet all of the statutory requirements for suspension of deportation under former section 244 of the INA and that you are entitled to such relief as a matter of discretion. To meet this burden, your responses to the questions on the application should be as detailed and complete as possible. You should also attach to your application any documents that demonstrate your eligibility for suspension of deportation (see "SUPPORTING DOCUMENTS" below).

3. SUPPORTING DOCUMENTS.

Unless you qualify through military service, you should submit documentary evidence to show that you have maintained continuous physical presence in the United States for a required period. Documents which may show evidence of your physical presence in the United States include, but are not limited to, bankbooks, leases, deeds, licenses, receipts, letters, birth records, church records, school records, employment records, and evidence of tax payments.

You should submit documents which help to show that you are and have been, a person of good moral character during the entire period of continuous physical presence in the United States required for eligibility for suspension of deportation. You should submit police records from each jurisdiction in which you resided during such period. To show good moral character, it is recommended that you submit the affidavits of witnesses attesting to your good moral character, preferably citizens of the United States, and if you are employed, your employer. The affidavit from your employer should include information regarding the nature and duration of your employment and your earnings.

You should submit official certification to establish your relationship to those you claim would suffer hardship by your removal, and if such persons are citizens of the United States or lawful permanent residents, evidence of their citizenship or lawful permanent resident status. Documentary evidence of such relationships may include, but are not limited to, birth records, marriage certificates, proof of divorce or termination of marriage, and death certificates.

You should also submit with your application copies of any documents which you were issued by the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service. The Immigration Judge may require you to submit additional records relating to your request for suspension of deportation. These documents may include, but are not limited to, documents which reflect payment of taxes, court convictions, or payment of child support during your physical presence in the United States.

The original of all supporting documents must be available for inspection at the hearing. If you wish to have the original documents returned to you, you should also present reproductions.

4. REQUIRED BIOMETRIC AND BIOGRAPHIC INFORMATION.

Each applicant 14 years of age or older must also comply with the requirement to supply biometric and biographic information. You will be given instructions on how to complete this requirement. You will be notified in writing of the location of the Application Support Center (ASC) or the designated Law Enforcement Agency where you must go to provide biometric and biographic information. You will also be given a date and time for the appointment. It is important to furnish all the required information. Failure to comply with this requirement may result in a delay in your application or in your application being deemed abandoned and dismissed by the Immigration Court.

Application for Suspension of Deportation

5. TRANSLATIONS.

Any document in a foreign language must be accompanied by an English language translation and a certificate signed by the translator stating that he/she is competent to translate the document and that the translation is true and accurate to the best of the translator's abilities. Such certification must be printed legibly or typed.

6. PHOTOGRAPHS.

Unless you are incarcerated or detained in a facility which prevents your compliance with this instruction, you must submit two glossy, unretouched, color photographs of yourself taken within 30 days of the date of this application. These photos must have a white background and must not be mounted. The dimension of your facial image in the photograph should be about one (1) inch from chin to top of your hair and you should be shown in full frontal/passport-style view with your eyes open. Using a pencil or felt pen, you should lightly print your name and alien registration number on the back of each photograph.

7. FEES.

Before you file your Form EOIR-40 with the Immigration Court, you must pay the required \$100 filing fee and the biometric fee to the Department of Homeland Security (DHS). Evidence of payment of these fees in the form of a copy of the DHS, U.S. Citizenship and Immigration Services (USCIS) ASC notice of fee receipt and biometrics appointment instructions must accompany your Form EOIR-40. These fees will not be refunded, regardless of the action taken on your application. Therefore, it is important that you read the advice, instructions, and application carefully before responding. **If you are unable to pay the filing fee, you may ask the Immigration Judge to permit you to file your Form EOIR-40 without fee [by filing a fee waiver request (Form EOIR-26A)].**

DO NOT SEND CASH. All fees must be submitted in the exact amount. Remittance 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 and payable to the "Department of Homeland Security" in United States currency. If the applicant resides in the Virgin Islands, the check or money order must be payable to the "Commissioner of Finance of the Virgin Islands." If the applicant resides in Guam, the check or money order must be payable to the "Treasurer Guam." Personal checks are accepted subject to collectibility. An uncollectible check will render the application and any documents issued pursuant thereto invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank of which it is drawn. When the check is drawn on an account of a person other than the applicant, the name and alien registration number of the applicant must be entered on the face of the check. All checks must be drawn on a bank located in the United States.

8. SERVING AND FILING YOUR APPLICATION.

A. You must first comply with the DHS instructions for providing biometric and biographic information to USCIS, which involves sending a copy of the application to the appropriate USCIS Service Center. The DHS instructions also address payment of the application fees.

B. You must then serve the following documents on the Assistant Chief Counsel for DHS, U.S. Immigration and Customs Enforcement (ICE):

- a copy of your Form EOIR-40, Application for Suspension of Deportation, with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- the original Biographical Information Form G-325A; and
- a photograph of you which meets the requirements of instruction #6 above.

You must file the following documents with the appropriate Immigration Court:

- the original Form EOIR-40 with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- a copy of Biographical Information Form G-325A;
- a photograph of you which meets the requirements of instruction #6 above; and
- a completed certificate showing service of these documents (See Part 10 of the Application on page 8) on the ICE Assistant Chief Counsel, unless service is made on the record at the hearing.

Retain your USCIS ASC biometrics confirmation document or a copy of your Fingerprint Card, FD-258, if applicable, as proof that your biometrics were taken, and bring it to your future Immigration Court hearings.

Application for Suspension of Deportation

9. PENALTIES.

You must answer all questions on Form EOIR-40 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 and whether you should be granted permanent resident status. Any answer you give and any supporting document you present may also be used as evidence in any proceeding to determine your right to be admitted or readmitted, re-enter, 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. section 1546 and/or subject you to civil penalties under 8 U.S.C. section 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 documents contain any false statement with respect to a material fact. If convicted, you could be fined up to \$250,000, imprisoned for up to ten (10) years, or both. 18 USC sections 1546(a), 3559(a)(4), 3571(b)(3). If it is determined 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. section 1324c, relating to civil penalties for document fraud, you will be removable from the United States.

10. PAPERWORK REDUCTION ACT NOTICE.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a current valid OMB control number. We try to create forms and instructions that are accurate, can easily be understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The reporting burden for this collection of information is computed as follows: 1) learning about the form, 45 minutes, 2) completing the form, 2 hours, and 3) assembling and filing the form, 3 hours, for an average of 5 hours, 45 minutes per application. If you have comments regarding the accuracy of this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, you may write to the U.S. Department of Justice, Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Application for Suspension of Deportation

(Under former Section 244 of the Immigration and Nationality Act)

**PLEASE READ ADVICE AND INSTRUCTIONS
BEFORE FILLING IN FORM**

PLEASE TYPE OR PRINT

Fee Stamp (Official Use Only)

PART 1 - INFORMATION ABOUT YOURSELF

1) My present true name is: (Last, First, Middle)		2) Alien Registration or "A" Number(s):		
3) My name given at birth was: (Last, First, Middle)		4) Birth Place: (City and Country)		
5) Date of Birth: (Month, Day, Year)	6) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	7) Height:	8) Hair Color:	9) Eye Color:
10) Current Nationality and Citizenship:	11) Social Security Number:	12) Home Phone Number: ()	12) Work Phone Number: ()	
14) I currently reside at: Apt. number and/or in care of _____ Number and Street _____ City or Town _____ State _____ Zip Code _____		15) I have been known by these additional name(s): _____ _____ _____		

16) I have resided in the following locations in the United States: (List PRESENT ADDRESS FIRST, and work back in time for at least 10 years).

Street and Number - Apt. or Room# - City or Town - State - Zip Code	Resided From: (Month, Day, Year)	Resided To: (Month, Day, Year)
		PRESENT

PART 2 - INFORMATION ABOUT THIS APPLICATION

17) I, the undersigned, hereby request that my deportation be suspended under the provisions of former section 244 of the Immigration and Nationality Act (INA). I believe that I am eligible for suspension of deportation because such deportation would result in extreme hardship (or exceptional and extremely unusual hardship if I am subject to deportation under section 241(a)(2), (3), or (4) of the INA) to: (Place a C in the box if the family member is a citizen of the United States, an L if the family member is a lawful permanent resident of the United States, an X if the family member is neither, and leave BLANK if not applicable.)

Myself (and/or my) Husband Wife Father Mother Child or Children.

Please state the basis for your claim that your deportation would result in extreme hardship to each of the individuals checked in the boxes above: _____

I, or my child, have been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident spouse or parent.

With the exception of the absences described in question #23, I have resided in the United States since:

(Month, Day, Year) _____

PART 3 - INFORMATION ABOUT YOUR PRESENCE IN THE UNITED STATES

18) I first arrived in the United States under the name of: *(Last, First, Middle)* _____ 19) I first arrived in the United States on: *(Month, Day, Year)* _____

20) Place or port of first entry: *(Place or Port, City, and State)* _____

21) I: was inspected and admitted.
 I entered using my Lawful Permanent Resident card which is valid until _____ *(Month, Day, Year)*
 I entered using a _____ visa which is valid until _____ *(Month, Day, Year)*
(Specify Type of Visa)
 was not inspected and admitted.
 I entered without documents. Explain: _____
 I entered without inspection. Explain: _____
 Other Explain: _____

22) I applied on _____ *(Month, Day, Year)* for additional time to stay and it was granted on _____ *(Month, Day, Year)*
and valid until _____ *(Month, Day, Year)*, or denied on _____ *(Month, Day, Year)*

23) Since the date of my first entry, I departed from and returned to the United States at the following places and on the following dates:
(Please list all departures regardless of how briefly you were absent from the United States.)
If you have never departed from the United States since your original date of entry, please mark an X in the box:

	Port of Departure <i>(Place or Port, City, and State)</i>	Departure Date <i>(Month, Day, Year)</i>	Purpose of Travel	Destination
1	-----	-----	-----	-----
	Port of Return <i>(Place or Port, City, and State)</i>	Return Date <i>(Month, Day, Year)</i>	Manner of Return	Inspected and Admitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
2	-----	-----	-----	-----
	Port of Return <i>(Place or Port, City, and State)</i>	Return Date <i>(Month, Day, Year)</i>	Manner of Return	Inspected and Admitted? <input type="checkbox"/> Yes <input type="checkbox"/> No

24) Have you ever departed the United States: a) under an order of deportation, exclusion, or removal?..... Yes No
b) pursuant to a grant of voluntary departure? Yes No

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE *(Continued on page 3)*

25) I am not married: 26) If married, the name of my spouse is: *(Last, First, Middle)* _____ 27) Date of Marriage: *(Month, Day, Year)* _____
I am married:

28) The marriage took place in: *(City and Country)* _____ 29) Birth place of spouse: *(City and Country)* _____

30) My spouse currently resides at:
Apt. number and/or in care of _____
Number and Street _____
City or Town _____ State/Country Zip Code _____

31) Birth Date of Spouse: *(Month, Day, Year)* _____

32) My spouse is a citizen of: *(Country)* _____

33) If your spouse is other than a native born United States citizen, answer the following:
He/she arrived in the United States at: *(Place or Port, City and State)* _____
He/she arrived in the United States on: *(Month, Day, Year)* _____
His/her alien registration number is: A# _____
He/she was naturalized on *(Month, Day, Year)* _____ at _____ *(City and State)*

34) My spouse - is - is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
_____	\$ _____
_____	\$ _____
_____	\$ _____

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE (Continued)

35) I - have - have not been previously married: (If previously married, list the name of each prior spouse, the dates on which each marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began: Date marriage ended:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:

36) My present spouse - has - has not been previously married: (If previously married, list the name of each prior spouse, the dates on which the marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began: Date marriage ended:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:

37) Have you been ordered by any court, or are otherwise under any legal obligation, to provide child support and/or spousal maintenance as a result of a separation and/or divorce? - Yes - No

PART 5 - INFORMATION ABOUT YOUR EMPLOYMENT AND FINANCIAL STATUS

38) Since my entry into the United States, I have been employed by the following named persons or firms: (Please begin with present employment and work back in time. Any periods of unemployment or school attendance should be specified. Attach a separate sheet for additional entries, if necessary.)

Full Name and Address of Employer	Earnings Per Week (Approximate)	Type of Work Performed	Employed From: (Month, Day, Year)	Employed To: (Month, Day, Year)
	\$			PRESENT
	\$			
	\$			

39) If self-employed, describe the nature of the business, the name of the business, its address, and net income derived therefrom:

40) My assets (and if married, my spouse's assets) in the United States and other countries, not including clothing and household necessities, are:

Self		Jointly Owned With Spouse	
Cash, Stocks, and Bonds.....	\$ _____	Cash, Stocks, and Bonds.....	\$ _____
Real Estate.....	\$ _____	Real Estate.....	\$ _____
Auto (dollar value minus amount owed)	\$ _____	Auto (dollar value minus amount owed)	\$ _____
Other (describe on line below).....	\$ _____	Other (describe on line below).....	\$ _____
TOTAL \$ _____		TOTAL \$ _____	

41) I - have - have not received public or private relief or assistance (e.g. Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.) If you have, please give full details including the type of relief or assistance received, date for which relief or assistance was received, place, and amount received during this time: _____

42) Please list each of the years in which you have filed an income tax return with the Internal Revenue Service: _____

PART 6 - INFORMATION ABOUT YOUR FAMILY (Continued on page 5)

43) I have _____ (Number of) children. Please list information for each child below, include assets and earnings information for children over the age of 16 who have separate incomes:

Name of Child: (Last, First, Middle) Child's Alien Registration Number:	Citizen of What Country: Birth Date: (Month, Day, Year)	Now Residing At: (City and Country) Birth Date: (City and Country)	Immigration Status of Child?
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			

44) If your application is denied, would your spouse and all of your children accompany you to your:
Country of Birth - Yes No. Country of Nationality - Yes No, and/or Country of Last Residence - Yes No.
 If you answered "NO" to any of the responses, please explain: _____

45) Members of my family, including my spouse and/or child(ren) -have -have not received public or private relief or assistance (e.g., Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.). If any member of your immediate family has received such relief or assistance, please give full details including identity of person(s) receiving relief or assistance, dates for which relief or assistance was received, place, and total amount received during this time: _____

46) Please give the requested information about your parents, brothers, sisters, aunts, uncles, and grandparents, living or deceased. As to residence, show street address, city, and state, if in the United States; otherwise show only country:

Name: (Last, First, Middle) Alien Registration Number:	Citizen of What Country: Birth Date: (Month, Day, Year)	Relationship to Me: Birth Date: (City and Country)	Immigration Status of Listed Relative
A#: Complete Address of Current Residence, if living: _____			
A#: Complete Address of Current Residence, if living: _____			

PART 6 - INFORMATION ABOUT YOUR FAMILY *(Continued)*

IF THIS APPLICATION IS BASED ON HARDSHIP TO A PARENT OR PARENTS, QUESTIONS 49-52 MUST BE ANSWERED.

47) If your parent is not a citizen of the United States, give the date and place of arrival in the United States, including full details as to the date, manner, and terms of admission into the United States: _____

48) My father -is -is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
	\$ _____

49) My mother -is -is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
	\$ _____

50) My parent's assets in the United States and other countries not including clothing and household necessities are:

Assets of father consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed) \$ _____
 Other (describe on line below)..... \$ _____
 _____ **TOTAL \$** _____

Assets of mother consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed) \$ _____
 Other (describe on line below)..... \$ _____
 _____ **TOTAL \$** _____

PART 7 - MISCELLANEOUS INFORMATION *(Continued on page 6)*

51) I - have -have not been admitted as, or after arrival in the United States acquired the status of, an exchange alien.

52) I - have -have not submitted address reports as required by section 265 of the Immigration and Nationality Act.

53) I - have -have never (either in the United States or in any foreign country) been arrested, summoned into court as a defendant, convicted, fined, imprisoned, placed on probation, or forfeited collateral for an act involving a felony, misdemeanor, or breach of any public law or ordinance (including, but not limited to, traffic violations or driving incidents involving alcohol). *(If answer is in the affirmative, please give a brief description of each offense including the name and location of the offense, any penalty imposed, any sentence imposed, and the time actually served.)*

54) Have you ever served in the Armed Forces of the United States? -Yes -No. If "Yes," please state branch (*Army, Navy, etc.*) and service number. _____

Place of entry on duty: (*City and State*) _____

Date of entry on duty: (*Month, Day, Year*) _____ Date of discharge: (*Month, Day, Year*) _____

Type of discharge: (*Honorable, Dishonorable, etc.*) _____

I served in active duty status from: (*Month, Day, Year*) _____ to (*Month, Day, Year*) _____

55) Have you ever left the United States or the jurisdiction of the district where you registered for the draft to avoid being drafted into the military or naval forces of the United States?

Yes No

Please continue answers on a separate sheet as needed.

PART 7 - MISCELLANEOUS INFORMATION *(Continued)*

56) Have you ever deserted from the military or naval forces of the United States while the United States was at war? Yes No

57) If male, did you register under the Military Selective Service Act or any applicable Selective Service (Draft) Laws? Yes No
If "Yes," please give date, Selective Service number, local draft board number, and your last draft classification: _____

58) Were you ever exempted from service because of conscientious objection, alienage, or any other reason? Yes No

59) Please list your present or past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or any other place since your 16th birthday. Include any foreign military service in this part. If none, write "None." Include the name of the organization, location, nature of the organization, and the dates of membership.

Name of Organization	Location of Organization	Nature of Organization	Member From: (Month, Day, Year)	Member To: (Month, Day, Year)

60) Have you ever:
 Yes No been ordered deported, excluded, or removed?
 Yes No overstayed a grant of voluntary departure from an Immigration Judge or the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service (INS)?
 Yes No failed to appear for deportation?

61) Have you ever been:
 Yes No a habitual drunkard?
 Yes No one whose income is derived principally from illegal gambling?
 Yes No one who has given false testimony for the purpose of obtaining immigration benefits?
 Yes No one who has engaged in prostitution or unlawful commercialized vice?
 Yes No involved in a serious criminal offense and asserted immunity from prosecution?
 Yes No a polygamist?
 Yes No one who aided and/or abetted another to enter the United States illegally?
 Yes No a trafficker of controlled substance, or a knowing assister, abettor, conspirator, or colluder with others in any such controlled substance offense (not including a single offense of simple possession of 30 grams or less of marijuana)?
 Yes No inadmissible or deportable on security-related grounds under sections 212(a)(3) or 237(a)(4) of the INA?
 Yes No one who has ordered, incited, assisted, or otherwise participated in the persecution of an individual on account of his or her race, religion, nationality, membership in a particular social group, or political opinion?
 Yes No a person previously granted relief under former sections 212(c) or 244(a) of the INA or whose removal has previously been cancelled under section 240A of the INA?

If you answered "Yes" to any of the above questions, explain: _____

PART 7 - MISCELLANEOUS INFORMATION *(Continued)*

62) Are you the beneficiary of an approved visa petition? Yes No

If yes, can you arrange a trip outside the United States to obtain an immigrant visa? Yes No If no, please explain:

63) The following certificates or other supporting documents are attached hereto as a part of this application: *(Refer to the Instructions for documents which should be attached.)*

PART 8 - SIGNATURE OF PERSON PREPARING FORM, IF OTHER THAN APPLICANT

(Read the following information and sign below.)

I declare that I have prepared this application at the request of the person named in Part 1, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in a language the applicant speaks fluently for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form EOIR-40 may subject me to civil penalties under 8 U.S.C. 1324c.

Signature of Preparer:	Print Name:	Date:
Daytime Telephone #: ()	Address of Preparer: (Number and Street, City, State, Zip Code)	

PART 9 - SIGNATURE

APPLICATION NOT TO BE SIGNED BELOW UNTIL APPLICANT APPEARS BEFORE AN IMMIGRATION JUDGE

I swear or affirm that I know the contents of this application that I am signing, including the attached documents and supplements, and that they are all true to the best of my knowledge, taking into account the correction(s) numbered _____ to _____, if any, that were made by me or at my request.

(Signature of Applicant or Parent or Guardian)

Subscribed and sworn to before me by the above-named applicant at _____

Immigration Judge

Date (Month, Day, Year)

PART 10 - PROOF OF SERVICE

I hereby certify that a copy of the foregoing Form EOIR-40 was: - delivered in person - mailed first class, postage prepaid

on _____ to the Assistant Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement - ICE)
(Month, Day, Year)

at _____
(Number and Street, City, State, Zip Code)

Signature of Applicant (or Attorney or Representative)

September 29, 2008

MEMORANDUM

TO: Gus Villageliu
Senior Associate General Counsel

FROM: Brooke B. Grandle
OCIJ Deputy Chief Counsel

SUBJECT: OCIJ comments on Form EOIR-40: Application for Suspension of Deportation

Please find below OCIJ's proposed revisions to **Form EOIR-40: Application for Suspension of Deportation**.

In light of the limited use of Form EOIR-40 now that the relief is no longer available to individuals in removal proceedings, no changes to the form are necessary other than to correct a typo on page one. (Page 1, Section I: "eligible" needs to be capitalized in the heading "Aliens 'E'ligible for Suspension of Deportation").

However, OCIJ suggests the possibility that wording be added to the form to alert aliens in removal proceedings, particularly pro se aliens without the benefit of counsel who can explain eligibility, that they might be eligible only for cancellation of removal. Accordingly, the following suggested phrasing could be inserted in Page 1, Section II ("Aliens NOT Eligible for Suspension of Deportation") as new item E: "This relief may not be available to individuals in removal proceedings."

ADVICE TO APPLICANT

PLEASE READ CAREFULLY. FEES WILL NOT BE RETURNED.

I. Aliens Eligible for Suspension of Deportation: You may be eligible to have your deportation suspended and to become an alien lawfully admitted to the United States for permanent residence under former section 244 of the Immigration and Nationality Act (INA). To qualify for this benefit, you must establish in a hearing before an immigration judge that:

- A. You have been physically present in the United States for a continuous period of not less than seven (7) years immediately preceding the date of this application;

NOTE: If you have been battered or subjected to extreme cruelty in the United States by your United States citizen spouse or parent, or you are the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent, you must establish that you have maintained continuous physical presence in the United States for three (3) years or more.

NOTE: If you are deportable under paragraphs (2), (3), or (4) of former section 241(a) of the INA, you must establish that you have been physically present in the United States for a continuous period of not less than ten (10) years immediately following the commission of an act or assumption of a status constituting a ground of deportation.

NOTE: If you have served on active duty in the Armed Forces of the United States for at least 24 months, you do not have to meet the requirements of continuous physical presence in the United States. You must, however, have been in the United States when you entered the Armed Forces. If you are no longer in the Armed Forces, you must have been separated under honorable conditions.

- B. You are, and have been during the qualifying period described in "A" above, a person of good moral character as described in section 101(F) of the INA; and
- C. Your deportation would result in extreme hardship to you or your United States citizen or lawful permanent resident spouse, parent, or unmarried child under 21 years of age.

NOTE: If you are deportable under paragraphs (2), (3), or (4) of former section 241(a) of the INA, you must establish that your deportation would result in exceptional and extremely unusual hardship to you or your United States citizen or lawful permanent resident spouse, parent, or unmarried child under 21 years of age.

II. Aliens NOT Eligible for Suspension of Deportation: You are not eligible for suspension of deportation if you:

- A. Entered the United States as a crewman after June 30, 1964;
- B. Were admitted to the United States as, or later became, a nonimmigrant exchange alien as defined in section 101(a)(15)(J) of the INA in order to receive graduate medical education or training, regardless of whether you are subject to or have fulfilled the 2-year foreign residence requirement of section 212(e) of the INA;
- C. Were admitted to the United States as, or later became, a nonimmigrant exchange alien as defined in section 101(a)(15)(J) of the INA, other than to receive graduate medical education or training, and are subject to the 2-year foreign residence requirement of section 212(e) of the INA, but have neither fulfilled nor obtained a waiver of that requirement;
- D. Are subject to deportation under former section 241(a)(4)(D) of the INA, as an alien who assisted in Nazi persecution or engaged in genocide.

E. This relief may not be available to individuals in removal proceedings.

III. How to Apply for Suspension of Deportation

If you believe that you have met all the requirements for suspension of deportation, you must answer all the questions on the attached Form EOIR-40 fully and accurately. You must pay the filing and biometrics fees and comply with the Department of Homeland Security (DHS) instructions for providing biometric and biographic information to USCIS, (available at <http://uscis.gov>). You must also serve a copy of your application on the Assistant Chief Counsel for the DHS, U.S. Immigration and Customs Enforcement (ICE) as required in the proof of service on page 8 of this application, and you must file your application with the appropriate Immigration Court. Please read the following instructions carefully before completing your application.

INSTRUCTIONS

1. PREPARATION OF APPLICATION.

To apply for suspension of deportation under former section 244 of the Immigration and Nationality Act (INA), you must fully and accurately answer all questions on the attached Form EOIR-40. A separate application must be prepared and executed for each person applying for suspension of deportation. All applications from a family unit may be submitted together and may be supported by the same documentary evidence, if practicable. An application on behalf of an alien who is mentally incompetent or is a child under 14 years of age shall be executed by a parent or guardian.

Your responses must be typed or printed legibly in ink. Do not leave any questions unanswered or blank. If any questions do not apply to you, write "none" or "not applicable" in the appropriate space.

To the extent possible, answer all questions directly on the form. If there is insufficient room to respond fully to a question, please continue your response on an additional sheet of paper. Please indicate the number of the question being answered next to your response on each additional sheet, write your alien registration number, print your name, and sign, date, and securely attach the additional sheet to the Form EOIR-40.

2. BURDEN OF PROOF.

The burden of proof is on you to prove that you meet all of the statutory requirements for suspension of deportation under former section 244 of the INA and that you are entitled to such relief as a matter of discretion. To meet this burden, your responses to the questions on the application should be as detailed and complete as possible. You should also attach to your application any documents that demonstrate your eligibility for suspension of deportation (see "SUPPORTING DOCUMENTS" below).

3. SUPPORTING DOCUMENTS.

Unless you qualify through military service, you should submit documentary evidence to show that you have maintained continuous physical presence in the United States for a required period. Documents which may show evidence of your physical presence in the United States include, but are not limited to, bankbooks, leases, deeds, licenses, receipts, letters, birth records, church records, school records, employment records, and evidence of tax payments.

You should submit documents which help to show that you are and have been, a person of good moral character during the entire period of continuous physical presence in the United States required for eligibility for suspension of deportation. You should submit police records from each jurisdiction in which you resided during such period. To show good moral character, it is recommended that you submit the affidavits of witnesses attesting to your good moral character, preferably citizens of the United States, and if you are employed, your employer. The affidavit from your employer should include information regarding the nature and duration of your employment and your earnings.

You should submit official certification to establish your relationship to those you claim would suffer hardship by your removal, and if such persons are citizens of the United States or lawful permanent residents, evidence of their citizenship or lawful permanent resident status. Documentary evidence of such relationships may include, but are not limited to, birth records, marriage certificates, proof of divorce or termination of marriage, and death certificates.

You should also submit with your application copies of any documents which you were issued by the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service. The Immigration Judge may require you to submit additional records relating to your request for suspension of deportation. These documents may include, but are not limited to, documents which reflect payment of taxes, court convictions, or payment of child support during your physical presence in the United States.

The original of all supporting documents must be available for inspection at the hearing. If you wish to have the original documents returned to you, you should also present reproductions.

4. REQUIRED BIOMETRIC AND BIOGRAPHIC INFORMATION.

Each applicant 14 years of age or older must also comply with the requirement to supply biometric and biographic information. You will be given instructions on how to complete this requirement. You will be notified in writing of the location of the Application Support Center (ASC) or the designated Law Enforcement Agency where you must go to provide biometric and biographic information. You will also be given a date and time for the appointment. It is important to furnish all the required information. Failure to comply with this requirement may result in a delay in your application or in your application being deemed abandoned and dismissed by the Immigration Court.

5. TRANSLATIONS.

Any document in a foreign language must be accompanied by an English language translation and a certificate signed by the translator stating that he/she is competent to translate the document and that the translation is true and accurate to the best of the translator's abilities. Such certification must be printed legibly or typed.

6. PHOTOGRAPHS.

Unless you are incarcerated or detained in a facility which prevents your compliance with this instruction, you must submit two glossy, unretouched, color photographs of yourself taken within 30 days of the date of this application. These photos must have a white background and must not be mounted. The dimension of your facial image in the photograph should be about one (1) inch from chin to top of your hair and you should be shown in full frontal/passport-style view with your eyes open. Using a pencil or felt pen, you should lightly print your name and alien registration number on the back of each photograph.

7. FEES.

Before you file your Form EOIR-40 with the Immigration Court, you must pay the required \$100 filing fee and the biometric fee to the Department of Homeland Security (DHS). Evidence of payment of these fees in the form of a copy of the DHS, U.S. Citizenship and Immigration Services (USCIS) ASC notice of fee receipt and biometrics appointment instructions must accompany your Form EOIR-40. These fees will not be refunded, regardless of the action taken on your application. Therefore, it is important that you read the advice, instructions, and application carefully before responding. **If you are unable to pay the filing fee, you may ask the Immigration Judge to permit you to file your Form EOIR-40 without fee [by filing a fee waiver request (Form EOIR-26A)].**

DO NOT SEND CASH. All fees must be submitted in the exact amount. Remittance 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 and payable to the "Department of Homeland Security" in United States currency. If the applicant resides in the Virgin Islands, the check or money order must be payable to the "Commissioner of Finance of the Virgin Islands." If the applicant resides in Guam, the check or money order must be payable to the "Treasurer Guam." Personal checks are accepted subject to collectibility. An uncollectible check will render the application and any documents issued pursuant thereto invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank of which it is drawn. When the check is drawn on an account of a person other than the applicant, the name and alien registration number of the applicant must be entered on the face of the check. All checks must be drawn on a bank located in the United States.

8. SERVING AND FILING YOUR APPLICATION.

A. You must first comply with the DHS instructions for providing biometric and biographic information to USCIS, which involves sending a copy of the application to the appropriate USCIS Service Center. The DHS instructions also address payment of the application fees.

B. You must then serve the following documents on the Assistant Chief Counsel for DHS, U.S. Immigration and Customs Enforcement (ICE):

- a copy of your Form EOIR-40, Application for Suspension of Deportation, with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- the original Biographical Information Form G-325A; and
- a photograph of you which meets the requirements of instruction #6 above.

You must file the following documents with the appropriate Immigration Court:

- the original Form EOIR-40 with all supporting documents and additional sheets;
- a copy of the USCIS ASC notice of fee receipt and biometrics appointment instructions;
- a copy of Biographical Information Form G-325A;
- a photograph of you which meets the requirements of instruction #6 above; and
- a completed certificate showing service of these documents (See Part 10 of the Application on page 8) on the ICE Assistant Chief Counsel, unless service is made on the record at the hearing.

Retain your USCIS ASC biometrics confirmation document or a copy of your Fingerprint Card, FD-258, if applicable, as proof that your biometrics were taken, and bring it to your future Immigration Court hearings.

9. PENALTIES.

You must answer all questions on Form EOIR-40 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 and whether you should be granted permanent resident status. Any answer you give and any supporting document you present may also be used as evidence in any proceeding to determine your right to be admitted or readmitted, re-enter, 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. section 1546 and/or subject you to civil penalties under 8 U.S.C. section 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 documents contain any false statement with respect to a material fact. If convicted, you could be fined up to \$250,000, imprisoned for up to ten (10) years, or both. 18 USC sections 1546(a), 3559(a)(4), 3571(b)(3). If it is determined 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. section 1324c, relating to civil penalties for document fraud, you will be removable from the United States.

10. PAPERWORK REDUCTION ACT NOTICE.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a current valid OMB control number. We try to create forms and instructions that are accurate, can easily be understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The reporting burden for this collection of information is computed as follows: 1) learning about the form, 45 minutes, 2) completing the form, 2 hours, and 3) assembling and filing the form, 3 hours, for an average of 5 hours, 45 minutes per application. If you have comments regarding the accuracy of this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, you may write to the U.S. Department of Justice, Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Application for Suspension of Deportation

(Under former Section 244 of the Immigration and Nationality Act)

**PLEASE READ ADVICE AND INSTRUCTIONS
BEFORE FILLING IN FORM**

PLEASE TYPE OR PRINT

Fee Stamp (Official Use Only)

PART 1 - INFORMATION ABOUT YOURSELF

1) My present true name is: <i>(Last, First, Middle)</i>		2) Alien Registration or "A" Number(s):		
3) My name given at birth was: <i>(Last, First, Middle)</i>		4) Birth Place: <i>(City and Country)</i>		
5) Date of Birth: <i>(Month, Day, Year)</i>	6) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	7) Height:	8) Hair Color:	9) Eye Color:
10) Current Nationality and Citizenship:	11) Social Security Number:	12) Home Phone Number: ()	12) Work Phone Number: ()	
14) I currently reside at: <i>Apt. number and/or in care of</i> <i>Number and Street</i> <i>City or Town</i> <i>State</i> <i>Zip Code</i>		15) I have been known by these additional name(s): _____ _____		

16) I have resided in the following locations in the United States: (List PRESENT ADDRESS FIRST, and work back in time for at least 10 years).

Street and Number - Apt. or Room# - City or Town - State - Zip Code	Resided From: <i>(Month, Day, Year)</i>	Resided To: <i>(Month, Day, Year)</i>
		PRESENT

PART 2 - INFORMATION ABOUT THIS APPLICATION

17) I, the undersigned, hereby request that my deportation be suspended under the provisions of former section 244 of the Immigration and Nationality Act (INA). I believe that I am eligible for suspension of deportation because such deportation would result in extreme hardship (or exceptional and extremely unusual hardship if I am subject to deportation under section 241(a)(2), (3), or (4) of the INA) to: *(Place a C in the box if the family member is a citizen of the United States, an L if the family member is a lawful permanent resident of the United States, an X if the family member is neither, and leave BLANK if not applicable.)*

Myself *(and/or my)* Husband Wife Father Mother Child or Children.

Please state the basis for your claim that your deportation would result in extreme hardship to each of the individuals checked in the boxes above: _____

I, or my child, have been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident spouse or parent.

With the exception of the absences described in question #23, I have resided in the United States since:

(Month, Day, Year) _____

PART 3 - INFORMATION ABOUT YOUR PRESENCE IN THE UNITED STATES

18) I first arrived in the United States under the name of: *(Last, First, Middle)* _____ 19) I first arrived in the United States on: *(Month, Day, Year)* _____

20) Place or port of first entry: *(Place or Port, City, and State)* _____

21) I: was inspected and admitted.
 I entered using my Lawful Permanent Resident card which is valid until _____ *(Month, Day, Year)*
 I entered using a _____ *(Specify Type of Visa)* visa which is valid until _____ *(Month, Day, Year)*
 was not inspected and admitted.
 I entered without documents. Explain: _____
 I entered without inspection. Explain: _____
 Other Explain: _____

22) I applied on _____ *(Month, Day, Year)* for additional time to stay and it was granted on _____ *(Month, Day, Year)*
 and valid until _____ *(Month, Day, Year)*, or denied on _____ *(Month, Day, Year)*

23) Since the date of my first entry, I departed from and returned to the United States at the following places and on the following dates:
(Please list all departures regardless of how briefly you were absent from the United States.)

If you have never departed from the United States since your original date of entry, please mark an X in the box:

	Port of Departure <i>(Place or Port, City and State)</i>	Departure Date <i>(Month, Day, Year)</i>	Purpose of Travel	Destination
1	----- Port of Return <i>(Place or Port, City and State)</i>	----- Return Date <i>(Month, Day, Year)</i>	----- Manner of Return	----- Inspected and Admitted? <input type="checkbox"/> Yes <input type="checkbox"/> No
2	----- Port of Return <i>(Place or Port, City and State)</i>	----- Return Date <i>(Month, Day, Year)</i>	----- Manner of Return	----- Inspected and Admitted? <input type="checkbox"/> Yes <input type="checkbox"/> No

24) Have you ever departed the United States: a) under an order of deportation, exclusion, or removal?..... Yes No
 b) pursuant to a grant of voluntary departure?..... Yes No

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE *(Continued on page 3)*

25) I am not married: I am married: 26) If married, the name of my spouse is: *(Last, First, Middle)* _____ 27) Date of Marriage: *(Month, Day, Year)* _____

28) The marriage took place in: *(City and Country)* _____ 29) Birth place of spouse: *(City and Country)* _____

30) My spouse currently resides at: _____ 31) Birth Date of Spouse: *(Month, Day, Year)* _____

_____ *Apt. number and/or in care of*
 _____ *Number and Street*
 _____ *City or Town* _____ *State/Country* _____ *Zip Code*

32) My spouse is a citizen of: *(Country)* _____

33) If your spouse is other than a native born United States citizen, answer the following:

He/she arrived in the United States at: *(Place or Port, City and State)* _____
 He/she arrived in the United States on: *(Month, Day, Year)* _____
 His/her alien registration number is: A# _____
 He/she was naturalized on *(Month, Day, Year)* _____ at _____ *(City and State)*

34) My spouse - is - is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
_____	\$
_____	\$
_____	\$

Please continue answers on a separate sheet as needed.

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE (Continued)

35) I - have - have not been previously married: (If previously married, list the name of each prior spouse, the dates on which each marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began: Date marriage ended:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:

36) My present spouse - has - has not been previously married: (If previously married, list the name of each prior spouse, the dates on which the marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began: Date marriage ended:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:

37) Have you been ordered by any court, or are otherwise under any legal obligation, to provide child support and/or spousal maintenance as a result of a separation and/or divorce? - Yes - No

PART 5 - INFORMATION ABOUT YOUR EMPLOYMENT AND FINANCIAL STATUS

38) Since my entry into the United States, I have been employed by the following named persons or firms: (Please begin with present employment and work back in time. Any periods of unemployment or school attendance should be specified. Attach a separate sheet for additional entries, if necessary.)

Full Name and Address of Employer	Earnings Per Week (Approximate)	Type of Work Performed	Employed From: (Month, Day, Year)	Employed To: (Month, Day, Year)
	\$			PRESENT
	\$			
	\$			

39) If self-employed, describe the nature of the business, the name of the business, its address, and net income derived therefrom:

40) My assets (and if married, my spouse's assets) in the United States and other countries, not including clothing and household necessities, are:

<u>Self</u>		<u>Jointly Owned With Spouse</u>	
Cash, Stocks, and Bonds..... \$	_____	Cash, Stocks, and Bonds..... \$	_____
Real Estate..... \$	_____	Real Estate..... \$	_____
Auto (dollar value minus amount owed)	\$ _____	Auto (dollar value minus amount owed)	\$ _____
Other (describe on line below)..... \$	_____	Other (describe on line below)..... \$	_____
TOTAL \$	_____	TOTAL \$	_____

41) I - have - have not received public or private relief or assistance (e.g. Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.) If you have, please give full details including the type of relief or assistance received, date for which relief or assistance was received, place, and amount received during this time: _____

42) Please list each of the years in which you have filed an income tax return with the Internal Revenue Service: _____

PART 6 - INFORMATION ABOUT YOUR FAMILY (Continued on page 5)

43) I have _____ (Number of) children. Please list information for each child below, include assets and earnings information for children over the age of 16 who have separate incomes:

Name of Child: (Last, First, Middle) Child's Alien Registration Number:	Citizen of What Country: Birth Date: (Month, Day, Year)	Now Residing At: (City and Country) Birth Date: (City and Country)	Immigration Status of Child?
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			
A#: Estimated Total of Assets: \$ _____ Estimated Average Weekly Earnings: \$ _____			

44) If your application is denied, would your spouse and all of your children accompany you to your:
Country of Birth - Yes No, Country of Nationality - Yes No, and/or Country of Last Residence - Yes No.
 If you answered "NO" to any of the responses, please explain: _____

45) Members of my family, including my spouse and/or child(ren) -have -have not received public or private relief or assistance (e.g., Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.). If any member of your immediate family has received such relief or assistance, please give full details including identity of person(s) receiving relief or assistance, dates for which relief or assistance was received, place, and total amount received during this time: _____

46) Please give the requested information about your parents, brothers, sisters, aunts, uncles, and grandparents, living or deceased. As to residence, show street address, city, and state, if in the United States; otherwise show only country:

Name: (Last, First, Middle) Alien Registration Number:	Citizen of What Country: Birth Date: (Month, Day, Year)	Relationship to Me: Birth Date: (City and Country)	Immigration Status of Listed Relative
A#: Complete Address of Current Residence, if living: _____	/ /		
A#: Complete Address of Current Residence, if living: _____	/ /		

Please continue answers on a separate sheet as needed.

PART 6 - INFORMATION ABOUT YOUR FAMILY *(Continued)*

IF THIS APPLICATION IS BASED ON HARDSHIP TO A PARENT OR PARENTS, QUESTIONS 49-52 MUST BE ANSWERED.

47) If your parent is not a citizen of the United States, give the date and place of arrival in the United States, including full details as to the date, manner, and terms of admission into the United States: _____

48) My father -is -is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
	\$

49) My mother -is -is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week <i>(Approximate)</i>
	\$

50) My parent's assets in the United States and other countries not including clothing and household necessities are:

Assets of father consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed) \$ _____
 Other (describe on line below)..... \$ _____
 _____ **TOTAL \$** _____

Assets of mother consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed) \$ _____
 Other (describe on line below)..... \$ _____
 _____ **TOTAL \$** _____

PART 7 - MISCELLANEOUS INFORMATION *(Continued on page 6)*

51) I - have -have not been admitted as, or after arrival in the United States acquired the status of, an exchange alien.

52) I - have -have not submitted address reports as required by section 265 of the Immigration and Nationality Act.

53) I - have -have never (either in the United States or in any foreign country) been arrested, summoned into court as a defendant, convicted, fined, imprisoned, placed on probation, or forfeited collateral for an act involving a felony, misdemeanor, or breach of any public law or ordinance (including, but not limited to, traffic violations or driving incidents involving alcohol). *(If answer is in the affirmative, please give a brief description of each offense including the name and location of the offense, any penalty imposed, any sentence imposed, and the time actually served.)*

54) Have you ever served in the Armed Forces of the United States? -Yes -No. If "Yes," please state branch (*Army, Navy, etc.*) and service number. _____

Place of entry on duty: (*City and State*) _____

Date of entry on duty: (*Month, Day, Year*) _____ Date of discharge: (*Month, Day, Year*) _____

Type of discharge: (*Honorable, Dishonorable, etc.*) _____

I served in active duty status from: (*Month, Day, Year*) _____ to (*Month, Day, Year*) _____

55) Have you ever left the United States or the jurisdiction of the district where you registered for the draft to avoid being drafted into the military or naval forces of the United States?

Yes No

PART 7 - MISCELLANEOUS INFORMATION *(Continued)*

56) Have you ever deserted from the military or naval forces of the United States while the United States was at war? Yes No

57) If male, did you register under the Military Selective Service Act or any applicable Selective Service (Draft) Laws? Yes No
 If "Yes," please give date, Selective Service number, local draft board number, and your last draft classification: _____

58) Were you ever exempted from service because of conscientious objection, alienage, or any other reason? Yes No

59) Please list your present or past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or any other place since your 16th birthday. Include any foreign military service in this part. If none, write "None." Include the name of the organization, location, nature of the organization, and the dates of membership.

Name of Organization	Location of Organization	Nature of Organization	Member From: <i>(Month, Day, Year)</i>	Member To: <i>(Month, Day, Year)</i>

60) Have you ever:

- Yes No been ordered deported, excluded, or removed?
- Yes No overstayed a grant of voluntary departure from an Immigration Judge or the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service (INS)?
- Yes No failed to appear for deportation?

61) Have you ever been:

- Yes No a habitual drunkard?
- Yes No one whose income is derived principally from illegal gambling?
- Yes No one who has given false testimony for the purpose of obtaining immigration benefits?
- Yes No one who has engaged in prostitution or unlawful commercialized vice?
- Yes No involved in a serious criminal offense and asserted immunity from prosecution?
- Yes No a polygamist?
- Yes No one who aided and/or abetted another to enter the United States illegally?
- Yes No a trafficker of controlled substance, or a knowing assister, abettor, conspirator, or colluder with others in any such controlled substance offense (not including a single offense of simple possession of 30 grams or less of marijuana)?
- Yes No inadmissible or deportable on security-related grounds under sections 212(a)(3) or 237(a)(4) of the INA?
- Yes No one who has ordered, incited, assisted, or otherwise participated in the persecution of an individual on account of his or her race, religion, nationality, membership in a particular social group, or political opinion?
- Yes No a person previously granted relief under former sections 212(c) or 244(a) of the INA or whose removal has previously been cancelled under section 240A of the INA?

If you answered "Yes" to any of the above questions, explain: _____

PART 7 - MISCELLANEOUS INFORMATION *(Continued)*

62) Are you the beneficiary of an approved visa petition? Yes No

If yes, can you arrange a trip outside the United States to obtain an immigrant visa? Yes No If no, please explain:

63) The following certificates or other supporting documents are attached hereto as a part of this application: *(Refer to the Instructions for documents which should be attached.)*

PART 8 - SIGNATURE OF PERSON PREPARING FORM, IF OTHER THAN APPLICANT

(Read the following information and sign below.)

I declare that I have prepared this application at the request of the person named in Part 1, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in a language the applicant speaks fluently for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form EOIR-40 may subject me to civil penalties under 8 U.S.C. 1324c.

Signature of Preparer:	Print Name:	Date:
Daytime Telephone #: ()	Address of Preparer: (Number and Street, City, State, Zip Code)	

Please continue answers on a separate sheet as needed.

PART 9 - SIGNATURE

APPLICATION NOT TO BE SIGNED BELOW UNTIL APPLICANT APPEARS BEFORE AN IMMIGRATION JUDGE

I swear or affirm that I know the contents of this application that I am signing, including the attached documents and supplements, and that they are all true to the best of my knowledge, taking into account the correction(s) numbered _____ to _____, if any, that were made by me or at my request.

(Signature of Applicant or Parent or Guardian)

Subscribed and sworn to before me by the above-named applicant at _____

Immigration Judge

Date (Month, Day, Year)

PART 10 - PROOF OF SERVICE

I hereby certify that a copy of the foregoing Form EOIR-40 was: - delivered in person - mailed first class, postage prepaid

on _____ to the Assistant Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement - ICE)
(Month, Day, Year)

at _____
(Number and Street, City, State, Zip Code)

Signature of Applicant (or Attorney or Representative)