

Form EOIR-40 Application for Suspension of Deportation

The submission includes 13 pages, broken down into three sections: Information for Applicant (1 page); Instructions (3 pages) and the form itself (8 pages)

Footers on each page of “Information for Applicant,” “Instructions” and the form.

1. Change the revision date from “October 2008” to “2012” at the bottom right-hand corner.

Page 1 of “Information for Applicant”

1. Change the heading from “Advice to Applicant” to “Information for Applicant.”
2. Add “if your deportation proceedings commenced prior to April 1, 1997” at the end of the first sentence of (I).
3. Add “or lawful permanent resident” between “citizen” and “spouse” in the first line of the first “NOTE”
4. Remove “or more” and add “or more years preceding the date of the application” at the end of the first “NOTE”
5. Remove the “and” following the semicolon at (I)(B)
6. Delete the period and replace it with “; and” at the end of (I)(C)
7. Add a new (I)(D) as follows: “D. You are deserving of a favorable exercise of discretion.” The format should be the same as the other existing sections.
8. Add “U.S. Citizenship and Immigration Services” before “USCIS” and put “USCIS” in parentheses in the second sentence of “III.”

Page 1 of Instructions

1. At Part 1, change “practicable” to “applicable” at the end of the third sentence in the first paragraph.
2. At Part 3, change “bankbooks” to “bank records,” in the second sentence of the first paragraph.
3. At Part 3, add a new paragraph between the third and fourth existing paragraphs as follows:

Applicants for “Suspension of Deportation” must establish that their deportation would result in a certain level of hardship to the applicant or a family member. If you are deportable under paragraph (2), (3), or (4) of former section 241(a), you are required to show that you or your legal permanent resident or U.S. citizen husband/wife, mother, father and/or child would suffer **exceptional and extremely unusual hardship** if you were deported from the U.S. If you have been battered or subjected to extreme cruelty in the U.S. by a lawful permanent resident or U.S. citizen spouse or parent (or you are the parent of a child of a lawful permanent resident or U.S. citizen and the child has been battered or subjected to extreme cruelty in the U.S. by that citizen or permanent resident parent) you are required to show that your deportation would result in **extreme hardship** to you or your parent or child. If you are otherwise deportable, you are required to show that you or your legal permanent resident or U.S.

citizen husband/wife, mother, father and/or child would suffer **extreme hardship** if you were deported from the U.S. For each of these, there are various types of hardship such as emotional, financial or medical. It is recommended that you submit certified documents, affidavits, notarized letters, and/or medical records to help prove the exceptional and extremely unusual hardship or the extreme hardship required.

Page 2 of Instructions

1. At Part 7, under "Do Not Send Cash," in the seventh sentence, change "of" to "on."

Page 3 of Instructions

1. Add a section "11" for a Privacy Act Notice (with layout and font to match existing parts) as follows:

11. PRIVACY ACT NOTICE

The information on this form is authorized by former 8 U.S.C. § 1254 in order to apply for Suspension of Deportation. The information you provide is mandatory and required to obtain the relief of Suspension of Deportation. Failure to provide the requested information may result in denial of your request. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice EOIR-001, Records and Management Information System.

Page 1 of Form

1. At Part 1, question 10: this should be changed from "Current Nationality and Citizenship:" as follows:
 - a) Current Nationality:
 - b) Current Citizenship:
2. At least two inches of space needs to be left at the bottom of the form to provide sufficient space for the immigration court's stamps.

Page 2 of Form

1. At Part 4, question 36, add "spouse was" after "If" in parenthetical; and add "spouse's" after "Name of" in the first box.
2. At Part 3, question 21, subpart headings "a)", "b)" and "c)" should be added to differentiate among the different questions being asked within this question. These subpart headings should precede each check box.
3. At Part 3, question 24, add a subpart "c" as follows: "c) voluntarily, other than by a grant of voluntary departure?" Additionally, punctuation, boxes and language should be added so this matches what already exists for 24(a) and 24(b).
4. At Part 4, question 25, add subpart designations and add a third possible response, as follows:
 - c) I am not married:
 - d) I am married:

Written Narrative of Changes

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e) I have a common law spouse:

5. At Part 4, question 33, add subpart designations “a)”, “b)”, “c)” and “d)” before each of the four existing questions.
6. At Part 4, question 34, add “spouse’s” between “the” and “place(s)”; add “Spouse’s” as follows in “Full Name and Address of **Spouse’s** Employer”

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- ✓ 1. At Part 4, question 36, add “spouse was” after “If” in parenthetical; and add “spouse’s” after “Name of” in the first box.
2. At Part 5, question 38 insert the word “first” into the first clause of the sentence as follows: “Since my **first** arrival into the United States”
3. At Part 5, question 40, insert the following parentheticals following “Real Estate” as follows: “(dollar value minus amount owed)” under “Self” and “Jointly Owned with Spouse”
4. At Part 5, question 41, add a comma after “e.g.” and add the following forms of assistance to the parenthetical after “AFDC” and before “etc.”: “Housing Subsidies and WIC Benefits,”

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1. At Part 6, question 43 in the third column heading (which begins “Now Residing At:”) change “Birth Date” to “Birth Place”.
2. At Part 6, question 43 add a new column heading and column between “Now Residing At” and “Immigration Status of Child”. The column heading should state “Sex” and each of the three rows should contain the following column:
Male
Female
3. At Part 6, question 44, add subpart designations “a)”, “b)”, and “c)” before “Country of Birth”, “Country of Nationality” and “Country of Last Residence” respectively.
4. At Part 6, add a new question 45 as follows:
45) Describe in detail what specific hardship you or each of your United States Citizen or lawful permanent resident spouse, parent or unmarried child under 21 years of age would suffer if you were deported _____

5. At Part 6, renumbered “46)” add the following forms of assistance to the parenthetical after “AFDC” and before “etc.”: “Housing Subsidies and WIC Benefits,”
6. At Part 6, renumber 46 to “47)” and in the third column heading (which begins “Relationship to Me:”) change “Birth Date” to “Birth Place”.

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1. At Part 6, renumber 47 to "48)"
2. At Part 6, renumber 48 to "49)"
3. At Part 6, renumber 49 to "50)"
4. At Part 6, renumbered "51)" insert the following parentheticals following "Real Estate" as follows: "(dollar value minus amount owed)" under both "Assets of father consist of the following:" and "Assets of mother consist of the following:"
5. At Part 7, renumber 51 to "52)"
6. At Part 7, renumber 52 to "53)"
7. At Part 7, renumber 53 to "54)"
8. At Part 7, renumber 54 to "55)"
9. At Part 7, renumber 55 to "56)"

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1. At Part 7, renumber 56 to "57)"
2. At Part 7, renumber 57 to "58)"
3. At Part 7, renumber 58 to "59)"
4. At Part 7, renumber 59 to "60)"
5. At Part 7, renumbered "61)" add subpart designations "a)", "b)", and "c)" before each box
6. At Part 7, renumbered "62)" add subpart designations "a)", "b)", "c)", "d)", "e)", "f)", "g)", "h)", "i)", "j)" and "k)" before each box.

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1. At Part 7, renumber 62 to "63)"
2. At Part 7, renumber 63 to "64)"