

U.S. Department of Justice

Immigration and Naturalization Service

NACARA Supplement to Form I-485 Instructions

EXCEPT AS NOTED BELOW, THE INSTRUCTIONS CONTAINED ON THE FORM I-485 PERTAIN TO APPLICATIONS FOR ADJUSTMENT OF STATUS UNDER THE PROVISIONS OF SECTION 202 OF PUBLIC LAW 105-100, THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT (NACARA):

Purpose of Form I-485

In addition to the other purposes of the form listed in the instructions, Form I-485 may be used by a national of Nicaragua or Cuba who is seeking lawful permanent resident status pursuant to NACARA and title 8 of the Code of Federal Regulations, section 245.13.

Who may file

This application may be filed by an alien who:

- Is a national of Nicaragua or Cuba;
- Has been physically present in the U.S. (see below) continuously since on or before December 1, 1995 (except that an otherwise-eligible spouse or child of an eligible alien need not meet this particular requirement);
- Is admissible to the U.S., **and**
- Is physically present in the U.S. when the application is filed.

Persons who are ineligible as inadmissible aliens

You are ineligible for adjustment of status under NACARA if you are inadmissible to the U.S. under any of the grounds of inadmissibility contained in section 212(a) of the Immigration and Nationality Act (INA), with the exception of those grounds which do not apply to NACARA applicants or from which an individual waiver has been granted. The following inadmissibility sections of the INA do not apply to NACARA adjustment applicants:

- § 212(a)(4) (an alien likely to become a public charge);
- § 212(a)(5) (an alien without a labor certification or proper qualifications for certain occupations);
- § 212(a)(6)(A) (an alien present without admission or parole);
- § 212(a)(7)(A) (an alien not in possession of a valid immigrant visa); and
- § 212(a)(9)(B) (an alien unlawfully present in the U.S.).

In addition, you may be eligible for an individual waiver pertaining to certain medical, criminal, documentary and other grounds of inadmissibility.

Initial evidence

If you are 14 years of age or older, you **must** submit a police clearance from each municipality where you have resided for six months or longer since arriving in the U.S. You are **not** required to submit either an employment letter or an Affidavit of Support.

Evidence of eligibility - Principal applicants

Commencement of Physical Presence -- You must prove commencement of physical presence by demonstrating that prior to December 1, 1995, you did at least one of the following:

- Applied for asylum;
- Were issued an order to show cause by INS;
- Were placed in exclusion proceedings by INS;
- Applied for adjustment of status;
- Applied to INS for employment authorization;
- Performed service, or engaged in a trade or business, within the U.S. which is evidenced by records maintained by the Commissioner of the Social Security Administration;
- Applied for any other immigration benefit under the INA by means of an application establishing your presence in the U.S. prior to December 1, 1995; **or**
- Were issued a document by any other Federal, State or local governmental authority which bears the seal of such authority and the date of issuance prior to December 1, 1995 (such as a State driver's license, State identification card issued to non-drivers, county or municipal hospital records, college or public school transcript or income tax records).

Normally, such demonstration will be made through submission of a photocopy of a Government-issued document. In some cases, you may submit other evidence which may be verified through INS records.

Continuity of Physical Presence -- In determining whether an applicant has maintained continuous physical presence in the U.S. since December 1, 1995, the law allows absences from the U.S. totaling 180 days or less. You are required to submit a statement on a separate piece of paper listing the dates of departure and return of **all** absences from the U.S. since your last arrival on or prior to December 1, 1995. If you have not been absent from the U.S., write "I have not been outside the U.S. since my arrival on the date indicated in Part 1 of Form I-485."

You must also support your statement regarding continuity of physical presence since December 1, 1995, by submitting documentation from one or more governmental or non-governmental authorities. This evidentiary requirement is in addition to the list of departures and returns discussed above. The document(s) must bear your name, the date of issuance and the signature of the issuing authority (if applicable). While you do not need to submit documents covering each and every day or month since December 1, 1995, there should be no large, unexplained gaps in the documentation. (Normally, gaps of 3 months or less are not considered large.) Examples of such documents might include (but are not limited to) rent receipts, school records, utility bills, other dated receipts, personal checks, employment records, and credit card statements. Additionally, if you have received correspondence or had other interaction with the Service, and know that your immigration file contains copies of such correspondence or record of such interaction, you may simply submit a statement listing the type and dates of such evidence which is already contained in your immigration file.

Evidence of eligibility - Dependents

If you are the spouse or unmarried, minor (i.e., under 21 years of age) child of a principal applicant, you do not need to submit any documentation establishing either commencement or continuity of presence. You must, however, be present in the U.S. at time of filing.

Where to file

Unless you are currently in exclusion, deportation, or removal proceedings, the application should be mailed to:

USINS Texas Service Center
P.O. Box 851804
Mesquite, TX 75185-1804

However, if you **are** in exclusion, deportation, or removal proceedings, you should submit the application to the Immigration Court which has jurisdiction over your case.

When to file

This application may be filed on or after June 22, 1998, and before April 1, 2000. Applications received before June 22, 1998, or after March 31, 2000, may be rejected as improperly filed.

Employment authorization while adjustment application is pending

You may request authorization to work in the United States while your application for adjustment of status under NACARA

is pending by filing Form I-765, Application for Employment Authorization. You should follow all the directions on that form pertaining to "Adjustment Applicant --(c)(9)," EXCEPT that you must file the application with the Texas Service Center (at the address listed above) rather than with the local INS office. Normally, such interim work authorization will be granted only if your application is pending with INS for 180 days. However, work authorization may be issued earlier if:

- You file your application for adjustment of status under NACARA and your Application for Employment Authorization concurrently, **and**
- Your application for adjustment of status is supported by evidence that on or prior to December 1, 1995, you were issued an Order to Show Cause, placed in exclusion proceedings, or applied to INS for a benefit under the Act.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information is in 8 U.S.C. 1203 and 1225. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

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. We try to create forms and instructions that are accurate, can be easily 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 estimated average time to complete and file this application (above and beyond the time necessary to complete and file Form I-485, to which this form is a supplement) is as follows: (1) 10 additional minutes to learn about the law and form; and (2) 5 additional minutes to complete the form. If you have questions about the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, NW, Room 5307, Washington, DC 20536; OMB No. 1115-0221.