

HRIFA 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 902 OF PUBLIC LAW 105-277, THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT (HRIFA):

What is the 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 Haiti who is seeking lawful permanent resident status pursuant to HRIFA and title 8 of the Code of Federal Regulations, section 245.15.

Who may file this application?

You may file this application if you:

- Are a national of Haiti;
- Qualify as either a principal applicant or a dependent applicant under HRIFA (see below);
- Are admissible to the U.S.;
- Were physically present in the U.S. on December 31, 1995 (except that a dependent of a principal applicant need not meet this particular requirement);
- Have been continuously present in the U.S. since December 31, 1995, (except that a spouse or child of a principal applicant need not meet this particular requirement); **and**
- Are physically present in the U.S. when the application is filed.

What is a "principal applicant"?

You may qualify as a principal applicant if you meet the requirements under "Who may file this application?" **and**:

- You filed for asylum before December 31, 1995;
- You were paroled into the U.S. prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest;
- You were a child at the time of arrival in the U.S. and on December 31, 1995, who arrived in the U.S. without parents in the U.S. and has remained without parents in the U.S. since such arrival;
- You were a child at the time of arrival in the U.S. and on December 31, 1995, who became orphaned subsequent to arrival in the U.S.; **OR**
- You were a child at the time of arrival in the U.S. and on December 31, 1995, who was abandoned by parents or guardians prior to April 1, 1998, and has remained abandoned since such abandonment.

Evidence of qualification as a principal applicant -- The evidence needed to qualify as a principal applicant depends on which type of principal applicant you claim to be:

- **Asylum applicant** -- If you applied for asylum prior to December 31, 1995, submit either a copy of the application or a statement giving the date you submitted the application and the location of the INS office or Immigration Court to which it was submitted.
- **Parolee** -- If you were paroled into the U.S. prior to December 31, 1995, submit a copy of the parole document issued at the time of your arrival. If you no longer have that parole document, submit a statement to that effect giving the date of your parole and the location of the INS office or port-of-entry at which you were granted parole.
- **Child without parents in the U.S.** -- If you are applying as a child who arrived without parents in the U.S., submit evidence that your parents did not accompany you to the U.S. and that they have not been in the U.S. at any time since your arrival.
- Sec. 212(a)(6)(A) - an alien present without admission or parole;
- Sec. 212(a)(7)(A) - an alien not in possession of a valid immigrant visa; and
- Sec. 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.

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. If your local police authority refuses to provide such clearance, you may submit written evidence to that effect and request that this requirement be waived. You are **not** required to submit either an employment letter or an Affidavit of Support.

- **Orphaned or abandoned child** -- If you are applying as an orphaned or abandoned child, submit a statement explaining how you became an orphaned or abandoned child, with relevant supporting documentation (such as copies of death certificates, court decrees, etc.)

What is a "dependent applicant"?

You may qualify as a dependent applicant if you meet the requirements under "Who may file this application?" **and** are the spouse, child, or unmarried son or daughter (over 21 years of age) of a principal applicant. Your relationship to the principal applicant must have been created prior to the date on which the principal applicant becomes or became a permanent resident.

Evidence of qualification as a dependent applicant -- The evidence needed to qualify as a dependent applicant depends on which type of dependent applicant you claim to be:

- **Spouse or child of a principal applicant** -- If you are the spouse or unmarried, minor (i.e., under 21 years of age) child of a principal applicant, you must submit evidence of your relationship to the principal applicant. You do not need to submit any documentation establishing either presence in the U.S. on December 31, 1995, or continuity of presence since that date. You must, however, be present in the U.S. at time of filing.
- **Unmarried son or daughter of a principal applicant** -- If you are the unmarried son or daughter (i.e., over 21 years of age) of a principal applicant, you must submit evidence of your relationship to the principal applicant. You must also submit evidence of your continuity of presence since December 31, 1995, along with the statement regarding all departures and arrivals from the U.S. (see requirements for principal applicants). You do not need to submit evidence of your presence in the U.S. on December 31, 1995. You must, however, be present in the U.S. at time of filing.

IMPORTANT NOTE: When completing the application for adjustment under HRIFA you **MUST** indicate, in Part 2, the classification you are seeking. Check Block H and write whichever ONE of the following is appropriate:

- HRIFA Principal - Asylum applicant
- HRIFA Principal - Parolee
- HRIFA Principal - Child without parents
- HRIFA Principal - Orphaned child
- HRIFA Principal - Abandoned child
- HRIFA Dependent -Spouse
- HRIFA Dependent -Child under 21 years old
- HRIFA Dependent -Unmarried son or daughter

What is meant by "admissible to the U.S."?

You are ineligible for adjustment of status under HRIFA 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 HRIFA applicants or from which an individual waiver has been granted. The following inadmissibility sections of the INA do not apply to HRIFA adjustment applicants:

- Sec. 212(a)(4) - an alien likely to become a public charge;
- Sec. 212(a)(5) - an alien without a labor certification or proper qualifications for certain occupations;

How does one establish physical presence on December 31, 1995?

You must submit evidence to prove physical presence in the U.S. on December 31, 1995, such as (but not limited to) a copy of the entry document (Form I-94) issued to you at the time of your **last** arrival in the U.S. **prior** to that date. If you do not have that Form I-94, you may submit other documentary evidence issued by a Federal, state or local governmental agency prior to December 31, 1995. If you were a child at the time of your arrival, you may submit school records. You must also submit evidence that you did not depart from the U.S. between the date of such documentation and December 31, 1995.

How does one establish continuity of physical presence since December

31, 1995?

In determining whether an applicant has maintained continuous physical presence in the U.S. since December 31, 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 31, 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 31, 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 (if the document normally contains it) the signature, seal or other authenticating instrument of the issuing authority. While you do not need to submit documents covering each and every day or month since December 31, 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.

When can the application be filed?

If you are applying as a principal applicant, this application may be filed on or after June 11, 1999, and before April 1, 2000. Applications received before June 11, 1999, or after March 31, 2000, may be rejected as improperly filed.

If you are applying as a dependent of a principal applicant, you may file the application at any time after June 11, 1999.

Where should the application be filed?

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

USINS Nebraska Service Center
PO Box 87245
Lincoln, NE 68501-7245

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. However, if such proceedings have been administratively closed, submit the application to the Nebraska Service Center.

Can an applicant receive employment authorization while the adjustment application is pending?

You may request authorization to work in the United States while your application for adjustment of status under HRIFA 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 Nebraska Service Center (at the address listed above) rather than with the local INS office. You may receive work authorization if your application has been pending with INS for more than 180 days. However, work authorization may be issued earlier if your application for adjustment of status is supported by evidence that is verified by INS from its records.

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; (2) 5 additional minutes to complete the form, and (3) 15 additional minutes to assemble and file the application. 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. 1115-0229.