



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

November 18, 2016

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Submitted via: www.regulations.gov
Docket ID No. USCIS- 2007-0034

**Re: OMB Control Number 1615-0067
USCIS 60-Day Notice and Request for Comments: Application for Asylum and for
Withholding of Removal, Form I-589; Extension, Without Change, of a Currently
Approved Collection**

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the above-referenced 60-Day Notice and request for comments on the proposed revisions to the Application for Asylum and for Withholding of Removal, Form I-589 and the accompanying instructions, published in the Federal Register on September 19, 2016.¹

AILA is a voluntary bar association of more than 14,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this notice and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

Comments on the I-589 Form:

- AILA suggests making **Supplement B** ("Additional Information About Your Claim to Asylum) a separate downloadable form. This would be helpful to both pro se applicants and attorneys.
- **Page 2, Part A. II, Box 8:** For the aliases or other names used for the spouse, the box is too small and should be enlarged.

¹ 81 Fed. Reg. 64190 (Sept. 19, 2016).

Comments on the I-589 Form Instructions:

- **Page 2, Part 1, I. Who May Apply and Filing Deadlines:** The proposed new language, “*Unless otherwise provided by statute or regulations, you* may apply for asylum....” is confusing and unnecessary. Given that asylum eligibility will be determined by an asylum officer or immigration judge, this language is vague and could potentially dissuade genuine asylum seekers from applying. Applicants cannot be expected to understand the full panoply of the statute and regulations regarding asylum eligibility, if an individual is deemed to be eligible for withholding only, he or she will still use the I-589 to apply. For these reasons, we urge USCIS to remove the proposed language.
- **Page 2, Part 1, I. Who May Apply and Filing Deadlines:** We appreciate the additional information defining the term “Unaccompanied Alien Child,” but ask USCIS to consider modifying or adding language to help asylum seekers understand what this means. For example, the proposed form says: “*The Asylum Division has initial jurisdiction over an asylum application filed by a UAC, including a UAC in removal proceedings before an immigration judge.*” This should be clarified to explain that the asylum office will conduct an asylum interview for a UAC, but not an asylum seeking child presenting a case initially in court before an immigration judge.
- **Page 7, VI, Required Documents and Required Number of Copies That You Must Submit with Your Application:** We suggest that USCIS clarify the number of copies that are required and provide consistent rules regarding quantity and organization. For *pro se* applicants, asking for two copies of some documents and only one copy of others is confusing. Additionally, if USCIS requires two copies of certain documents, the placement of those copies should be made clear under “Organizing your application.” For example:
 - **Page 7, Paragraph 1:** Requires one copy of the I-589, one copy of the supplemental sheets, and two copies of each document under additional evidence.
 - **Page 8, Paragraph 3:** Requires two copies of primary and secondary evidence, one copy of the affidavit, and two copies of the passport/travel document.
 - **Page 9, Part X:** Organizing your Application suggests that the order should be: Original I-589, G-28, Original Supplemental Sheets, one copy of all supporting documents, and one copy of documents demonstrating derivative relationship. But it is not clear where the other copies of primary/secondary evidence should go.
- **Pages 9-11, XII, Where to File:** Finally, we urge USCIS to add in instructions for filing a defensive I-589 with the immigration court on page 9. On September 14, 2016, the Executive Office for Immigration Review issued a policy memorandum outlining

instructions for filing an asylum application at the court window.² Further, the procedure and advantages of lodging an asylum application to start the work authorization “clock” should be made clear, per the *A-B-T*- settlement.

Conclusion

We appreciate the opportunity comment on the proposed changes and we look forward to a continuing dialogue with USCIS on these issues.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

² https://www.justice.gov/sites/default/files/pages/attachments/2016/09/14/oppm_16-01.pdf