

**From:** Rebecca Heller [mailto:rheller@Door.org]

**Sent:** Tuesday, May 31, 2016 8:21 PM

**To:** USCISFRComment@uscis.dhs.gov

**Subject:** OMB Control Number 1615-0023; USCIS; Docket ID USCIS-2009-0020.

Please find The Door's Legal Services Center's comments regarding the proposed changes to the Application to Register Permanent Residence or Adjust Status, Form I-485 Supplement A, and Instruction Booklet for Filing Form I-485 and Supplement A, Form I-485; Revision of a Currently Approved Collection attached. A copy of our comments is also submitted in text below.

Best Regards,

Rebecca Wilson Heller, Esq.  
Supervising Attorney and Pro Bono Coordinator  
The Door Legal Services Center  
(p) (212) 941-9090 ext. 3217  
(f) (212) 941-9579  
[rheller@door.org](mailto:rheller@door.org)

[www.door.org](http://www.door.org)

[www.facebook.com/TheDoorNYC](https://www.facebook.com/TheDoorNYC)

[http://twitter.com/Door\\_NYC](http://twitter.com/Door_NYC)

May 26, 2016

Laura Dawkins  
Chief, Regulatory Coordination Division  
USCIS Office of Policy and Strategy  
20 Massachusetts Avenue N.W.  
Washington, DC 20529-2140

Submitted via email to: [USCISFRComment@uscis.dhs.gov](mailto:USCISFRComment@uscis.dhs.gov)

**RE: Comments to Agency Information Collection Activities: Application to Register Permanent Residence or Adjust Status, Form I-485 Supplement A, and Instruction Booklet for Filing Form I-485 and Supplement A, Form I-485; Revision of a Currently Approved Collection**

**OMB Control # 1615-0023  
Docket ID USCIS-2009-0020**

Dear Ms. Dawkins,

The Door's Legal Services Center respectfully submits these comments in response to USCIS's draft amendments to proposed revisions to the Application to Register Permanent Residence or Adjust Status on Form I-485 ("Form I-485").

The Door's Legal Services Center is nationally recognized as a leader in providing free legal assistance to young people ages 12-21. Established in 1992 in response to the lack of free legal assistance for young people in New York City, the program offers legal representation and consultations on issues such as public benefits, housing, foster care, immigration, emancipation, criminal law and family law. The Door represents hundreds of applicants for adjustment of status based on Special Immigrant Juvenile Status, asylum and other forms of humanitarian relief.

We commend USCIS's efforts to update the form and offer the following comments and recommendations to highlight some concerns regarding these amendments that are particularly relevant to our young, vulnerable clients.

**I. Recommended amendments to the proposed Form I-485:**

The length of the proposed Form I-485 is concerning. In its current form, it nearly triples the number of pages an applicant must complete for the same benefit, and requests information from the applicant that is unnecessary or duplicative. Further, some of the questions on the proposed Form I-485 are phrased in a confusing manner and/or use language that does not comport with statutory or regulatory requirements. Lastly, the new 40-page long accompanying instructions (the

“Instruction Booklet”) is unduly complicated, poorly organized, and contains factually incorrect information.

**Page 1, Part 1, Question 1.a - “Family Name”**

The number of characters allotted in response to this question (for applicants to list their last name) is insufficient. As a result, applicants from certain backgrounds are prevented from listing their full legal last names.

**Page 1, Part 1, Question 5 - “Sex”**

“Sex” should be replaced with “Gender” here, in line with other USCIS forms (*e.g.*, I-589, I-130). USCIS itself has recognized that “gender” is the appropriate term by, for example, issuing a guidance document on “Adjudication of Benefits for Transgender Individuals” in which “gender” is the preferred term.

**Page 2, Part 1, Question 23 – Status at Entry**

Restore “without inspection” as one of the example answers for the question “In what status did you last enter?” This restoration would render the form more sensitive to the likelihood that unaccompanied alien children applying for adjustment based on SIJS or asylum may have entered without inspection.

**Page 2, Part 1, Questions 13.a-e - “Alternate and/or Safe Mailing Address”**

The proposed Form I-485 notes that the option of including a safe mailing address is only available to VAWA self-petitioners and T, U, and SIJS applicants. However, all applicants should be able to provide a safe mailing address separate and apart from their physical address, regardless of the specific underlying application case type which provides their eligibility for adjustment of status.

**Page 4, Part 3, Question 1 - Whether the applicant has “ever applied for an immigrant (permanent resident) visa at a U.S. Embassy or U.S. consulate abroad”**

The answer to this question should also include “unknown,” as many noncitizens in vulnerable populations (for example, children) are unaware of legal processes previously undertaken on their behalf.

**Page 4, Part 3, Question 3 - “Decision”**

The explanatory language in this question is duplicative; there is little difference between “refused” and “denied.” Also, “unknown,” one of the options on the current Form I-485, should be added as a possible answer to this question, as there is a high likelihood that applicants will not know the answer, and having only “yes” or “no” as a potential answer creates a significant risk of unwitting misrepresentation.

**Page 6, Part 4, Questions 1-16 - “Information About Your Parents”**

Please specify whether you are asking for information about legal or biological parents, *e.g.*, which parents to include when a child has been legally adopted. Also, the form should provide clear instruction if information about one’s parent is unknown.

**Page 8, Part 7, Questions 1-2 - “Ethnicity” and “Race”**

The concepts of ethnicity and race are not universally understood and so these questions create great confusion. Hence, these questions should include an “unknown” or “other” option, or simply instruct applicants that they need not answer if they do not know or do not identify with one of the listed ethnicities or races.

**Page 9, Part 8, Questions 14-23 - Removal, Exclusion, Rescission, or Deportation**

We commend USCIS for instructing applicants who are unsure of the appropriate response to this question to answer “no” and to provide an explanation. However, we suggest that the inclusion of an “unknown” or “unclear” checkbox would be more efficient and clear. Many young applicants for adjustment are unaware of prior applications filed on their behalf by parents, caregivers, legal guardians or other relatives. We also encourage USCIS to define the legal terminology (rescission, exclusion, deportation, etc.) used throughout these questions.

**Page 9, Part 8, Question 17 - “Have you EVER violated the terms or conditions of your nonimmigrant status?”** is an overbroad question that most young applicants would not understand as encompassing the full array of answers that USCIS would expect to result in a “Yes” answer.

**Page 10, Part 8, Question 25 - “Health”**

The issue of illicit drug use/abuse is a determination made by a civil surgeon. It is duplicative to include it on the Form I-485.

**Pages 10 - 11, Part 8, Questions 26–46.** Some of these questions are overbroad or vague; please track the language of the statute and/or cite the statute. Clarify whether these questions on criminal history apply to acts inside the United States, or both inside and outside the United States. Please include the current language excluding traffic violations from disclosure. It would also be helpful if the form indicated that arrests or criminal history do not necessarily bar adjustment.

Lastly, please specify on the Form I-485 or in the Instruction Booklet how minor children should answer these questions.

**Page 13, Part 8, Question 63 - Whether the applicant has “failed or refused to remain in attendance at [his or her] removal, exclusion, or proceeding”**

This question should track the statutory language at INA § 212(a)(6)(B) by including the language “without reasonable cause.” We are also concerned that the proposed language would give an adjustment officer discretion over an issue previously resolved at immigration court.

**Page 13, Part 8, Question 65 - Whether the applicant has “lied about, concealed, or misrepresented any information” for an immigration benefit**

Please include an “unknown” option to address circumstances where a child had applications filed on his/her behalf but is unaware of their contents.

**Page 13, Part 8, Question 70 - Whether the applicant has “ever obtained a student nonimmigrant visa and violated the terms or conditions of [the] student nonimmigrant status”**

This question is redundant with Part 8, Question 17.

**Page 13, Part 8, Note after Question 73b – “You were unlawfully present in the United States if you entered the United States without being inspected and admitted or inspected and paroled, or if you legally entered the United States but stayed longer than permitted.”**

This note fails to specify that minors do not accrue unlawful presence until they turn 18 years old.

**Page 14, Part 10, Applicant’s Certification - Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.**

This certification is overly broad and fails to account for records that are protected by state and federal law.

**Page 15, Part 10 Applicant’s Statement, Contact Information, Certification, and Signature (continued) – “I understand that USCIS will require me to appear for an appointment to take my biometrics (fingerprints, photograph and/or signature) and, at that time, I will be required to sign an oath reaffirming that:**

- 1) I reviewed and provided or authorized all of the information in my application;**
- 2) I understood all of the information contain in, and submitted with, my application; and**
- 3) All of this information was complete, true, and correct at the time of filing.**

This oath is duplicative to the certification on the I-485 form itself and, furthermore, raises concerns that non-English speakers and applicants who are minors will be asked to swear to it at the time of their biometrics without fully understanding what they are swearing to.

Thank you for the opportunity to comment on the proposed revisions to the Application to Register Permanent Residence or Adjust Status on Form I-485 (“Form I-485”) and Instruction Booklet. If you have any questions of comments, please do not hesitate to contact our office.

Respectfully submitted,

The Door’s Legal Services Center

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May 26, 2016

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Chief, Regulatory Coordination Division  
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