

# **Research Report: Form I-485 Filings in Executive Office for Immigration Review (EOIR) Immigration Courts**

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## FINDINGS

# COMPREHENSIVE RESEARCH REPORT: FORM I-485 FILINGS IN EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR) IMMIGRATION COURTS

### Executive Summary

Form I-485, the Application to Register Permanent Residence or to Adjust Status, may be filed with either United States Citizenship and Immigration Services (USCIS) service centers or with immigration courts operating under the Executive Office for Immigration Review (EOIR) jurisdiction, depending on whether the applicant is subject to removal proceedings.[1][4][10] When an applicant has been served with a Notice to Appear (Form I-862) or other charging documents initiating removal proceedings, the immigration judge obtains exclusive jurisdiction over the I-485 application, requiring simultaneous filing with the immigration court and USCIS with a filing fee of \$2,980.00 as of February 1, 2026.[7][20][23] This comprehensive report addresses the jurisdictional distinctions, procedural requirements, fee structures, recent policy amendments effective December 2024 and February 1, 2026, relief category-specific considerations, and the critical Pre-Order Filing Instructions that govern the mechanics of immigration court I-485 applications.

**Key Findings:** Immigration court I-485 filings are exclusively available to respondents in active removal proceedings and are subject to mandatory concurrent filing with both the immigration court and USCIS, along with required biometric appointments at USCIS Application Support Centers (ASCs). The December 2024 revisions to Form I-485 introduce the requirement that Form I-693 (Report of Medical Examination and Vaccination Record) be submitted with the I-485 application at the time of filing, eliminating the ability to submit this form separately or in response to a Request for Evidence.[8][11][14][17] Fee waivers are available under 8 C.F.R. § 1003.24(d) upon a showing of inability to pay, though asylum applications (Form I-589) submitted to immigration court do not permit fee waivers on the \$100 initial application fee or the \$102 Annual Asylum Fee.[36] The February 1, 2026 fee increase adjusted the EOIR component of the I-485 filing fee from \$1,500 to \$1,540, affecting all filings postmarked on or after that date.[20][23] Different relief categories available in immigration court—including cancellation of removal (INA § 240A), withholding of removal (INA § 241(b)(3)), and VAWA-based relief—carry distinct procedural, evidentiary, and jurisdictional implications that directly affect filing procedures and documentation requirements.

**Qualitative Assessment of Legal Landscape:** High confidence exists regarding jurisdictional framework, fee structure, and the mandatory I-693 concurrent filing requirement, as these are established in controlling CFR provisions and recent USCIS/EOIR official guidance. Moderate to high confidence applies to the practical implementation of Pre-Order Filing Instructions, as these are published by EOIR and contain specific procedural directives. Moderate confidence applies to how the February 1, 2026 fee increase affects applications filed before that date versus after, and whether pending applications receive protective grandfather treatment, as specific administrative guidance on this transition issue was not definitively located. The interaction between different relief categories and their specific filing procedures presents areas of moderate complexity where appellate guidance has not fully standardized all procedures across all circuits.

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### **Jurisdictional Framework: When Immigration Courts Obtain Exclusive Jurisdiction Over I-485 Applications**

## **Statutory and Regulatory Basis for Immigration Court Jurisdiction**

The threshold question determining whether Form I-485 is filed with USCIS or with an immigration court depends on whether the applicant is subject to ongoing removal proceedings.[1][4] Under 8 C.F.R. § 1003.1, the Board of Immigration Appeals exercises appellate jurisdiction over immigration judge decisions in various matters, including "[d]ecisions of Immigration Judges on applications for adjustment of status referred on a Notice of Certification (Form I-290C) to the Immigration Court in accordance with §§ 1245.13(n)(2) and 1245.15(n)(3) of this chapter or remanded to the Immigration Court." [1] More fundamentally, 8 C.F.R. § 1003.14(a) establishes that "[j]urisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service." [25][28] The charging document that initiates removal proceedings in the modern immigration system is Form I-862, Notice to Appear, which must be served on the respondent (the term used for the respondent party in immigration proceedings) and subsequently filed with the immigration court to vest jurisdiction. [10][24]

The statutory foundation for exclusive immigration court jurisdiction over adjustment applications in removal proceedings derives from INA § 245(c) and implementing regulations at 8 C.F.R. § 245.13 for certain categories and 8 C.F.R. § 245.15 for others. Section 245.13(d)(1), which applies to adjustment of status under section 202 of Public Law 105-100 (the Nicaraguan Adjustment and Central American Relief Act, or NACARA), explicitly provides that "[e]xcept as provided in paragraph (d)(3) of this section, while an alien is in exclusion, deportation, or removal proceedings pending before an immigration judge, or has a pending motion to reopen or motion to reconsider filed with an immigration judge on or before May 21, 1998, sole jurisdiction over an application for adjustment of status under section 202 of Public Law 105-100 shall lie with the immigration judge." [13][16] This language "sole jurisdiction" demonstrates the exclusive character of immigration court authority once removal proceedings have been initiated.

More broadly, 8 C.F.R. § 1003.14(b) establishes that "[w]hen an Immigration Judge has jurisdiction over an underlying proceeding, sole jurisdiction over applications for asylum shall lie with the Immigration Judge." [25][28] By extension, this principle applies to other applications for relief that must be adjudicated within removal proceedings, including cancellation of removal, withholding of removal, and other discretionary forms of relief. The practical effect is that once DHS serves a respondent with a Notice to Appear (or in legacy cases, an Order to Show Cause), the immigration judge obtains exclusive jurisdiction over any adjustment application that the respondent files, and such applications cannot be processed by USCIS service centers until the immigration proceedings are terminated or administratively closed by the immigration judge.

### **Distinction Between Affirmative and Defensive Filing**

A critical procedural distinction exists between affirmative and defensive filing contexts, though both ultimately require immigration court jurisdiction once removal proceedings have been initiated. An affirmative application is one filed proactively by an applicant with USCIS before any removal proceedings commence, seeking benefits such as asylum or adjustment of status. [35][50] A defensive application is one filed in response to removal proceedings that have already been initiated, typically presented to the immigration judge as part of the respondent's defense to the deportation charge. [35] However, once removal proceedings have commenced through service of a Notice to Appear, even an application that was initially filed affirmatively with USCIS will be diverted to immigration court jurisdiction if the respondent is subsequently placed in removal proceedings before USCIS has adjudicated the application.

The implications for I-485 filing venue are significant. An applicant who filed an I-485 affirmatively with USCIS but is subsequently served with a Notice to Appear will have the I-485 application transferred to

immigration court jurisdiction, and must thereafter comply with immigration court filing procedures.[13][16] Conversely, an applicant in removal proceedings cannot file an I-485 affirmatively with a USCIS service center; the only venue for filing is the immigration court that has jurisdiction over the removal proceedings.

### **"Sole Jurisdiction" and Its Implications for Concurrent USCIS Filing**

The language "sole jurisdiction" in the controlling regulations-particularly in 8 C.F.R. § 1003.14(b) regarding asylum and by extension other relief applications in removal proceedings-might appear to suggest that USCIS plays no role in I-485 adjudication when removal proceedings are pending. However, this interpretation would be incorrect. The "sole jurisdiction" language refers to the adjudicatory authority: the immigration judge, not USCIS, has the authority to approve or deny the I-485 application when removal proceedings are pending.[1][4][13][25][28] Nonetheless, USCIS retains responsibility for conducting background and security checks through biometric identification, and the filing must be submitted to USCIS in parallel with the immigration court filing. This parallel filing requirement is addressed in detail in the Pre-Order Filing Instructions discussed below.[21][57]

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## **Procedural Requirements: Filing Form I-485 With Immigration Courts**

### **Pre-Order Filing Instructions and DHS Directives**

The procedures for filing Form I-485 with immigration courts are not solely governed by regulations; they are also shaped by Pre-Order Filing Instructions issued by the relevant DHS office with jurisdiction over the respondent's case.[21][57] These Pre-Order Filing Instructions constitute binding procedural directives that specify how applications must be submitted, to which addresses, in what format, and with what supporting documentation. The Immigration Justice Campaign has published a template of Pre-Order Filing Instructions (DEFA format) that provides the standard framework, though specific instructions may vary based on the DHS office issuing them.[21][57]

The Pre-Order Filing Instructions distinguish between different types of applications and impose distinct requirements for Form I-589 (asylum applications) versus other applications such as Form I-485. For Form I-589 applications filed with immigration courts, the instructions specify that applicants do not submit copies to USCIS, as asylum is adjudicated entirely within the immigration court system.[21][57] By contrast, for Form I-485 and related forms (Form I-191, Application for Advance Permission to Return to Unrelinquished Domicile; Form I-601, Application for Waiver of Ground of Inadmissibility; Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal; Form EOIR-40, Application for Suspension of Deportation; Form EOIR-42A, Application for Cancellation of Removal and Adjustment of Status for Permanent Residents; and Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents), the applicant must file the form with the immigration court AND simultaneously submit it to USCIS with the appropriate filing fee.[21][57]

The Pre-Order Filing Instructions for I-485 require applicants to send four specified items to the USCIS Texas Service Center: a clear copy of the entire application (or applications) filed with the immigration court; the appropriate application fee or a copy of the immigration judge's order granting a fee waiver; the completed Biographical Information Form (though this requirement has been superseded by the December 2024 I-485 revisions); and copies of any documents issued by USCIS or other immigration-related documentation.[21][57] Critically, the instructions emphasize that applicants should send "only the completed form or forms" to USCIS and NOT supporting documents, as supporting documents are filed only with the

immigration court.[21][57] This distinction prevents the duplication of evidence and streamlines the processing of biometric information through USCIS.

### **Concurrent Filing: Immigration Court and USCIS Simultaneously**

The operative requirement is that Form I-485 filings with immigration courts follow a concurrent filing model: the same form is submitted to both the immigration court and USCIS, but with different sets of supporting documents and to different addresses, with specific timing requirements. An applicant must first file the I-485 with the immigration court, along with all supporting documentation, and serve a copy on the appropriate DHS office (typically the ICE Office of the Principal Legal Advisor, or OPLA, at the field office with jurisdiction over the respondent's case).[21][57] Simultaneously or immediately thereafter, the applicant must submit the application form (without supporting documents) to USCIS with the appropriate filing fee and any required biometric appointment information.[21][57]

The failure to follow these concurrent filing procedures precisely can result in the application being deemed abandoned and dismissed by the immigration judge.[21][57] The instructions explicitly warn that "failure to follow these instructions and follow any additional instructions that the Immigration Judge has given you could result in delay in deciding your application or in your application being deemed abandoned and dismissed by the court." [21][57] This stern warning reflects the complexity of the procedure and the immigration courts' intolerance for procedural defects.

### **Biometric Collection and Application Support Center Appointments**

Following submission of the I-485 to USCIS with the filing fee, the applicant will receive notification of a biometrics appointment at a USCIS Application Support Center (ASC).[21][57] The Pre-Order Filing Instructions specify that the applicant will receive an ASC Appointment Notice with instructions to appear at the ASC to submit biometrics (fingerprints, photograph, and signature).[21][57] The ASC Appointment Notice contains the applicant's USCIS application receipt number, which must be presented at the ASC appointment.[21][57] If the applicant or any dependents do not receive the ASC Appointment Notice within three months of submitting the application to USCIS, or if the applicant has a merits hearing date (individual hearing on the underlying removal case) scheduled within the next six months, the applicant should call the USCIS Contact Center at 1-800-375-5283 to follow up.[21][57]

After attending the ASC appointment and obtaining biometric confirmation from USCIS, the applicant must file specific documents with the immigration court within the timeframe directed by the immigration judge.[21][57] These documents include the original application form (if not already filed), all supporting documentation, and the USCIS fee receipt notice (which serves as evidence that the applicant filed the application and paid the filing fees, unless the immigration judge has granted a fee waiver).[21][57] Additionally, the applicant should keep the ASC biometrics confirmation document as proof that USCIS collected the biometrics and bring it to all immigration court hearings.[21][57]

### **Form I-693 Medical Examination Requirements and Concurrent Submission**

One of the most significant changes introduced by the December 2024 Form I-485 revisions is the mandatory concurrent submission of Form I-693 (Report of Medical Examination and Vaccination Record) with the I-485 application.[8][11][14][17] Prior to this change, applicants could submit Form I-485 and submit Form I-693 later, either in response to a USCIS Request for Evidence (RFE) or at the immigration interview. The revised Form I-485 instructions, effective February 10, 2025, mandate that applicants submit both forms simultaneously.[17][38][41][50]

Form I-693 must be completed by a USCIS-designated civil surgeon.[8][11][51] The civil surgeon performs a medical examination that includes screening for communicable diseases of public health significance, assessment of vaccinations, and screening for certain physical or mental disorders.[11][54] The medical examination can be scheduled at any time before the Form I-485 is filed, though the instructions specify that the Form I-693 must be signed no more than 60 days before the I-485 submission.[8] However, a critical change to Form I-693 policy, announced by USCIS but applicable generally, provides that Form I-693 forms signed on or after November 1, 2023 do not expire, whereas forms signed before that date are valid for two years from the signature date.[8][11][51]

The civil surgeon provides the completed Form I-693 in a sealed envelope with the notation "DO NOT OPEN. FOR USCIS USE ONLY" on the front.[11][54] The applicant must not open, tamper with, or alter this envelope; USCIS will reject any Form I-693 that is submitted in an unsealed or altered envelope.[11][54] The applicant should request a courtesy copy of the I-693 from the civil surgeon for personal records before leaving the office.[11][54]

For immigration court filings specifically, the December 2024 changes to Form I-485 do not appear to alter the requirement that Form I-693 be submitted. While the Pre-Order Filing Instructions do not explicitly mandate I-693 submission (those instructions predate the December 2024 revisions), the updated Form I-485 instructions, which apply generally across all filing venues, require concurrent I-693 submission.[14][17][41] This creates a practical requirement that applicants filing I-485 in immigration court should obtain and submit Form I-693 concurrently with the I-485, consistent with the new USCIS policy.

Certain categories of applicants are exempt from the Form I-693 requirement. For example, K nonimmigrant visa holders who underwent a medical examination by a CDC-designated physician abroad as part of their K visa application at a U.S. consulate or embassy are exempt from completing another medical examination in the U.S., provided the Form I-485 is filed within one year of the overseas medical examination.[17] Refugee applicants who received medical examinations during the refugee processing abroad are also exempt.[8] Asylee applicants, by contrast, are generally subject to the I-693 requirement unless they can establish exemption based on prior overseas medical examination.

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## **Fee Structure, Payment Methods, and Fee Waiver Procedures**

### **Current Fee Structure as of February 1, 2026**

The current filing fee for Form I-485 filed with immigration courts is \$2,980.00 as of February 1, 2026.[7][20] This fee consists of two components: the base EOIR fee and the biometric services fee. Under the One Big Beautiful Bill Act (OBBBA) adjustment effective February 1, 2026, the EOIR component of the I-485 fee increased from \$1,500 to \$1,540.[20][23] Additionally, a biometric services fee of \$30 per person is required.[7][36] The \$2,980.00 figure represents the total combined fee for a principal applicant.[7][20]

The Department of Justice announced these inflationary adjustments on January 21, 2026, noting that the fees are effective for any filing with an immigration court or the Board of Immigration Appeals postmarked on or after February 1, 2026.[20][23][52] Any filing without the proper fee or without an applicable fee waiver request will be rejected by the immigration court.[20][23] This creates a significant practical implication: applications submitted before February 1, 2026 are subject to the prior fee structure (\$1,500 EOIR component), while applications submitted on or after February 1, 2026 must include the new \$1,540 EOIR fee.

For other relief forms filed with immigration courts, the fee structure varies by application type. Form EOIR-42B (Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents) carries a fee of \$1,640.00 plus \$30 per person for biometrics.[7][36] Form EOIR-42A (Application for Cancellation of Removal and Adjustment of Status for Permanent Residents) carries a fee of \$710.00 plus \$30 per person for biometrics.[7][36] These fees also increased under the February 1, 2026 adjustment, though the specific amounts of the increases for these forms were not explicitly detailed in the Federal Register notice.[20][23]

### **Payment Methods: EOIR Payment Portal**

Effective with the recent fee adjustments, the EOIR Payment Portal has become the mandatory method for paying immigration court filing fees for most applications and motions.[49] The EOIR Payment Portal is a web-based application that allows parties to electronically pay filing fees 24/7 using a debit card, credit card, PayPal account, Amazon Pay, or through automatic clearing house (ACH) transfer from a checking or savings account.[49] The Portal generates an immediate electronic payment receipt that shows proof of payment, which must be included with the filing as required by the immigration court or BIA Clerk's Office.[49]

The mandatory use of the EOIR Payment Portal applies to all fees listed on the "Filing Type" drop-down menu on the Portal's webpage.[49] Parties must enter the lead respondent's Alien (A) number in the corresponding field when making a payment on the EOIR Payment Portal.[49] For consolidated proceedings involving multiple respondents or applicants, only one payment is needed provided that the payment includes all fees for all applications for all individuals in the proceeding.[49] The Portal processes electronic payments immediately upon submission, and parties receive a Payment Tracking ID that can be used to retrieve and print a copy of the receipt at any time.[49]

Importantly, the EOIR Payment Portal does not allow partial payments; all fees listed on the Filing Type drop-down menu must be paid in full as required.[49] EOIR will not issue refunds if a party believes they owe a lesser amount than prescribed.[49] If a party encounters issues with payment processing or needs to retrieve a receipt, they can contact the relevant immigration court for cases before the Immigration Court, or the BIA Clerk's Office at (703) 605-1007 for cases before the Board of Immigration Appeals.[49]

### **Fee Waiver Standards and Procedures**

Despite the general requirement that fees be paid in full through the EOIR Payment Portal, 8 C.F.R. § 1003.24(d) provides that "[t]he immigration judge has the discretion to waive a fee for a motion or application for relief upon a showing that the filing party is unable to pay the fee." [31][34] This provision grants immigration judges discretionary authority to waive fees, but only upon presentation of evidence establishing inability to pay. The regulation further specifies that "[t]he request for a fee waiver must be accompanied by a properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C 1746 substantiating the filing party's inability to pay the fee." [31][34]

The procedures for requesting a fee waiver differ slightly between the immigration court and the Board of Immigration Appeals. For immigration court proceedings, the fee waiver request should be submitted to the immigration judge having jurisdiction over the case.[31][34] While not strictly required, applicants may submit the formal Fee Waiver Request (Form EOIR-26A), which is the standard form used for BIA fee waiver requests, or applicants may submit an affidavit or declaration under penalty of perjury explaining their inability to pay.[33][36]

Form EOIR-26A, the Fee Waiver Request form, requires applicants to provide detailed financial information including average monthly income from all sources, monthly household expenses, and an explanation of why

the applicant cannot pay the filing fee.[33][36] The form requests information about employment income, self-employment income, business income, rental income, interest from savings accounts, and all other income sources including social security, unemployment, public assistance, and alimony.[33][36] On the expense side, applicants must list housing costs (rent or mortgage), utilities, debt payments, and living expenses.[33][36] The applicant must sign the affidavit under penalty of perjury, declaring that the information provided is true and correct to the best of their knowledge.[33][36]

An important limitation on fee waivers applies to asylum applications. Under 8 C.F.R. § 1208.4(d)(3) and the EOIR fee schedule, the \$100 initial application fee for Form I-589 (Application for Asylum and Withholding of Removal) cannot be waived under any circumstances.[36][49] Similarly, the \$102 Annual Asylum Fee (AAF), which applies to any asylum application pending for one year or more as of October 1, 2025, cannot be waived.[36][49] This non-waivable requirement represents an exception to the general rule that immigration court fees may be waived upon showing inability to pay.

### **Special Considerations for 245(i) Applicants and Penalty Fees**

Applicants seeking adjustment of status under INA § 245(i), a provision that allows certain applicants with an old approved family or employment petition (filed on or before April 30, 2001) to adjust despite otherwise disqualifying facts such as unlawful status or unauthorized employment, must pay an additional \$1,000 "penalty" fee on top of the standard I-485 filing fee.[46] This penalty fee is non-waivable; there is no fee waiver available for the 245(i) penalty fee, even if the applicant can establish inability to pay the standard filing fee.[46] This creates a scenario in which an applicant might be unable to pay the total cost of adjustment under 245(i) and therefore cannot proceed with the application unless they can obtain the funds to pay both the standard fee and the non-waivable penalty fee.

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## **Recent Policy Changes: December 2024 Form I-485 Revisions and February 1, 2026 Fee Increases**

### **December 2024 Form I-485 Revisions: Mandatory I-693 Concurrent Submission**

On December 10, 2024, USCIS published a revised edition of Form I-485 (version 10/24/2024), which became the only acceptable version on February 10, 2025.[14][17][38][41] This revision introduced three major changes to the I-485 application process: mandatory concurrent submission of Form I-693, elimination of Form I-864W, and clarification of public charge review categories.[14][17][38][41]

The most significant change is the mandatory concurrent submission requirement for Form I-693. Prior to this revision, applicants could submit Form I-485 without Form I-693, and USCIS would issue a Request for Evidence (RFE) asking for the medical examination form, which could be submitted later, potentially months after the initial filing.[14][17] This practice often resulted in applicants needing to repeat medical examinations because the civil surgeon's report expired during the RFE response period. The new policy mandates that applicants include Form I-693 with their initial I-485 filing, reducing the likelihood of RFEs for missing medical documentation and expediting the adjudication process.[14][17][41]

The practical implication for applicants is significant: before filing Form I-485, applicants must schedule and complete their medical examination with a USCIS-designated civil surgeon, obtain the completed Form I-693 in a sealed envelope, and submit it with the I-485 form. Given that civil surgeon appointments in many areas of the United States are not readily available and may require weeks or months to obtain, applicants must plan their timeline accordingly.[17] The form instructions specify that the civil surgeon must sign Form I-693 no

more than 60 days before the I-485 submission.[8][11][14]

For applicants filing in immigration courts, the applicability of this mandatory concurrent filing requirement is somewhat ambiguous, as the Pre-Order Filing Instructions do not explicitly address Form I-693 submission timelines. However, the updated Form I-485 instructions, which now constitute the controlling procedural requirements for the form itself, specify that Form I-693 must be submitted concurrently.[14][17][41] Applicants filing in immigration court should assume that the concurrent submission requirement applies and should obtain and submit Form I-693 with their I-485 filing to the immigration court, unless the immigration judge issues contrary instructions.

### **Elimination of Form I-864W and Integration into Form I-485**

The December 2024 revisions also eliminated the separate Form I-864W (Request for Exemption for Intending Immigrant's Affidavit of Support), which was previously used to request an exemption from the requirement to submit Form I-864 (Affidavit of Support).[14][38][41] Employment-based immigrants, certain immediate relatives, and others who qualify for exemption from the affidavit of support requirement previously had to file a separate I-864W form to claim the exemption. The revised Form I-485 now integrates the exemption option directly into the main form, allowing applicants to claim exemption within the I-485 itself without submitting a separate form.[14][38][41]

This change simplifies the filing process for applicants who qualify for exemption but creates a risk of confusion for those who are uncertain whether they qualify. Applicants must carefully read the exemption section of the revised Form I-485 instructions to determine whether they meet the exemption criteria, and if unsure, should consult an immigration attorney. Form I-864W is no longer available from the USCIS website and should not be submitted with new applications.[38][41]

### **Clarification of Public Charge Admissibility Review and Exemption Categories**

The revised Form I-485 clarifies which immigration categories are subject to public charge admissibility review under INA § 212(a)(4) and which are exempt.[14][38][41] The public charge ground of inadmissibility bars admission or adjustment of status for individuals who are deemed likely to become a "public charge" (defined as someone who is dependent on government assistance for subsistence). However, Congress has exempted numerous categories of applicants from the public charge determination, including immediate relatives of U.S. citizens, refugees, asylees, VAWA self-petitioners, and various special immigrant categories.[14][38][41]

Employment-based immigrants, for example, are generally exempt from public charge review and do not need to submit Form I-864 (Affidavit of Support) or any other documentation demonstrating ability to support themselves without government assistance.[14][38] Family-based immigrants in preference categories (not immediate relatives) are subject to public charge review and must submit Form I-864 unless they qualify for a specific exemption.[14][38]

The revised Form I-485 requires applicants to clearly and accurately indicate their immigration category (such as family-based or employment-based immigration), which helps USCIS more quickly and accurately determine whether the applicant meets conditions for public charge exemption.[14][38][41] This change aims to reduce delays and denials based on misclassification of the applicant's immigration category.

### **Applicability of December 2024 Changes to Immigration Court Filings**

The December 2024 Form I-485 revisions were issued by USCIS and are reflected in the official Form I-485 instructions published by USCIS.[17][38][41] Since immigration courts use the USCIS Form I-485 (rather

than a separate EOIR form), the requirements established by USCIS, including the mandatory I-693 concurrent submission requirement, apply to all Form I-485 filings, whether submitted to USCIS service centers or to immigration courts.[1][7][17] This interpretation is supported by the Pre-Order Filing Instructions, which require applicants filing I-485 in immigration court to submit the form to USCIS with the filing fee, and which would include the supporting documentation requirements of the current Form I-485 instructions.[21][57]

However, immigration judges have issued some local orders and procedural guidance that may modify the application of these requirements in specific immigration court locations. Applicants should check with the specific immigration court where their proceedings are pending to determine whether any local rules or orders provide for different procedures regarding I-693 submission or other application requirements.[21][57]

### **February 1, 2026 Fee Increases: OBBBA Inflation Adjustment**

On January 21, 2026, the Department of Justice announced "inflationary adjustments" to immigration-related fees for filings with EOIR under the One Big Beautiful Bill Act (OBBBA) for Fiscal Year 2026.[20][23] These adjustments, effective February 1, 2026, affected multiple fee categories. Most significantly for I-485 applicants, the EOIR component of the Form I-485 filing fee increased from \$1,500 to \$1,540, raising the total I-485 filing fee from \$2,950 to \$2,980 (when combined with the \$30 biometric services fee).[20][23]

The Federal Register notice and Department of Justice announcement specified that any filing with an immigration court or the Board of Immigration Appeals postmarked on or after February 1, 2026 without the proper filing fee or an applicable fee waiver request will be rejected.[20][23][52] This creates an important practical consideration: applications filed before February 1, 2026 are subject to the prior fee of \$2,950, while applications filed on or after February 1, 2026 must include the new \$2,980 fee.

A significant question that was not explicitly addressed in the official announcements is whether applications filed before February 1, 2026 but not yet adjudicated as of that date receive "grandfather" protection to use the old fee amount, or whether respondents must pay the new fee upon any subsequent action in their case. Standard administrative law principles suggest that the old fee applies to applications that were properly filed with the old fee before the effective date of the increase, but applications that are rejected for any reason and must be re-filed, or applications for which additional fees are due (such as motions to reopen or appeal), would be subject to the new fee schedule. Respondents with pending I-485 applications filed before February 1, 2026 should clarify this issue with their immigration court before taking any action that might trigger additional fees.

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## **Relief Category-Specific Procedures: Cancellation of Removal, Withholding of Removal, and Other Forms of Relief**

### **Cancellation of Removal for Nonpermanent Residents (Form EOIR-42B)**

Cancellation of removal for nonpermanent residents under INA § 240A(b) is a discretionary form of relief available exclusively in removal proceedings before an immigration judge.[9][19][48] Unlike adjustment of status under INA § 245(a), which is available through USCIS service centers, cancellation of removal must be filed directly with the immigration court on Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.[9][45][48]

To be eligible for cancellation of removal under INA § 240A(b), an applicant must demonstrate four core

requirements: continuous physical presence in the United States for at least ten years before receiving the Notice to Appear; good moral character during that period; no disqualifying criminal convictions or immigration violations (specifically, the applicant cannot be inadmissible under certain grounds and cannot have been convicted of an aggravated felony); and that removal would result in exceptional and extremely unusual hardship to the applicant's spouse, parent, or child who is a U.S. citizen or lawful permanent resident.[9][19][48]

The filing fee for Form EOIR-42B is \$1,640.00 plus \$30 per person for biometrics (totaling \$1,670.00 for a principal applicant as of the February 1, 2026 fee adjustment).[7][36] This fee is subject to waiver upon showing inability to pay under 8 C.F.R. § 1003.24(d).[31][34] The form and instructions are obtained from USCIS, the immigration court, or EOIR's website.[7][45]

Form EOIR-42B requires detailed biographical information, explanation of eligibility factors, and submission of extensive supporting documentation including evidence of continuous physical presence (such as utility bills, lease agreements, employment records, tax returns, and school records), evidence of good moral character (such as letters of recommendation, employment verification, and absence of criminal records), and evidence of exceptional and extremely unusual hardship (such as medical documentation, school records, and detailed affidavits from the qualifying relatives).[45][48]

Procedurally, the applicant must file the original Form EOIR-42B with all supporting documents and additional sheets with the appropriate immigration court, and must simultaneously serve a copy of the application, supporting documents, and additional sheets on the Assistant Chief Counsel for DHS (specifically, the ICE Office of the Principal Legal Advisor at the field office with jurisdiction over the respondent).[45] The applicant must complete and sign a certificate of service documenting how and when the documents were served on the opposing party.[45] Additionally, the applicant must submit the USCIS ASC notice of fee receipt and biometrics appointment instructions, a copy of the Biographical Information Form (though this requirement has been superseded by the December 2024 I-485 revisions for Form I-485 filings, its status for EOIR-42B filings is less clear), and a photograph meeting specified requirements.[45]

### **Cancellation of Removal for Permanent Residents (Form EOIR-42A)**

Cancellation of removal is also available to permanent residents who are deportable, under INA § 240A(a).[9][19][45] The eligibility requirements for permanent residents are generally less stringent than for nonpermanent residents: the permanent resident must have been an LPR for at least five years, must have resided in the United States continuously for seven years after admission, and must not have been convicted of an aggravated felony.[9][19] Notably, the permanent resident need not demonstrate exceptional and extremely unusual hardship; the hardship requirement applies only to nonpermanent residents. Additionally, permanent residents are evaluated under a different standard regarding criminal convictions and inadmissibility grounds, as the statute specifically references the grounds of deportability applicable to permanent residents.[9][19]

Form EOIR-42A is filed with the immigration court on the same basis as EOIR-42B: the applicant files with the court and serves the opposing party (ICE OPLA).[45] The filing fee for Form EOIR-42A is \$710.00 plus \$30 per person for biometrics (totaling \$740.00 as of February 1, 2026).[7][36] This fee is also subject to waiver upon showing inability to pay.[31][34]

### **Withholding of Removal Under INA § 241(b)(3)**

Withholding of removal is a form of relief available only in immigration court proceedings, not through USCIS affirmative applications.[29][55][58] To be granted withholding of removal, an applicant must demonstrate that it is more likely than not (a higher standard than the "well-founded fear" required for asylum)

that they will be subject to persecution in their country of origin on account of a protected ground (race, religion, nationality, political opinion, or membership in a particular social group).[29][58] Some applicants file both Form I-589 (requesting asylum) and raise withholding of removal as an alternative form of relief in the same proceeding; others raise only withholding of removal if they do not meet asylum requirements (for example, if they have missed the one-year filing deadline, which applies to asylum but not to withholding).[29][58]

Withholding of removal is mandatory relief, not discretionary: if an applicant meets the legal standard, the immigration judge must grant withholding even if there are policy reasons to deny it.[29][58] However, certain bars to eligibility apply, including being a persecutor or having been convicted of a particularly serious crime (a standard higher than the aggravated felony definition, involving consideration of the nature of the crime, circumstances, sentence, and dangerousness).[29][58]

Unlike asylum, which is filed on Form I-589 with no filing fee when submitted to immigration court,[36][49] withholding of removal does not have a separate form or filing fee when raised in immigration court proceedings. It is typically raised as part of the respondent's defense in removal proceedings, without a separate filing fee. However, withholding of removal is governed by 8 C.F.R. Part 208, Subpart A, and must be raised before the immigration judge in accordance with those regulations.[32][35]

### **VAWA Cancellation of Removal and Related Relief**

Survivors of battery or extreme cruelty perpetrated by a U.S. citizen or lawful permanent resident spouse, parent (in the case of an abused child), or child (in the case of an abused parent) may qualify for cancellation of removal under the Violence Against Women Act (VAWA).[26][56] VAWA cancellation is available only in removal proceedings and requires filing an application with the immigration court. VAWA cancellation has less stringent requirements than standard cancellation of removal for nonpermanent residents, as survivors need not demonstrate continuous physical presence for ten years (only three years is required, with some exceptions for those who have been continuously present since being served with the NTA), and the hardship demonstration is based on showing that removal would result in extreme hardship to the survivor or to a qualifying relative (not the exceptional and extremely unusual hardship required for standard cancellation).[26]

Additionally, survivors of battery or extreme cruelty may file Form I-360 (VAWA Self-Petition) with USCIS even while in removal proceedings.[56] If the I-360 is approved, the survivor may then file Form I-485 with the immigration court.[56] Conversely, survivors may file VAWA cancellation directly with the immigration court without filing an I-360. The choice between these options involves complex strategic considerations regarding the standard of proof, evidentiary requirements, and likelihood of success in each venue.[26][56]

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## **Pre-Order Filing Instructions: The Mechanics of Concurrent I-485 Submission**

### **Structure and Purpose of Pre-Order Filing Instructions**

Pre-Order Filing Instructions are formal procedural directives issued by the DHS office (typically the ICE Office of the Principal Legal Advisor) having jurisdiction over a respondent's removal proceedings. These instructions specify the exact procedures that a respondent must follow when submitting applications or motions to the immigration court and to USCIS.[21][57] The instructions are provided to the respondent either by mail, in person at a hearing, or through the respondent's attorney during case consultations.

The Pre-Order Filing Instructions establish mandatory requirements that do not appear in any regulation; they constitute binding procedures specific to the DHS field office or immigration court issuing them.[21][57] Failure to comply with these instructions can result in the application being deemed abandoned and dismissed by the immigration judge, as the instructions warn in stark terms.[21][57] As a practical matter, an immigration judge will enforce these instructions as binding procedural requirements, and an applicant who fails to follow them has limited recourse, as the instructions have been formally provided and compliance was expected.

### **Form I-589 (Asylum) Instructions vs. Other Application Instructions**

The Pre-Order Filing Instructions distinguish sharply between Form I-589 (Application for Asylum and for Withholding of Removal) and all other applications filed in immigration court.[21][57] For Form I-589, the applicant files the form and supporting documents with the immigration court and serves a complete copy on the appropriate DHS office.[21][57] Crucially, applicants do NOT submit Form I-589 to USCIS; the asylum process is entirely within the immigration court system.[21][57] The applicant must comply with biometrics requirements through USCIS's existing records (in most cases, biometrics have already been collected by DHS), but no separate application fee or concurrent filing with USCIS is required for asylum applications.[21][57]

This distinction reflects the different legal frameworks governing asylum (which is adjudicated entirely by USCIS asylum officers or immigration judges) versus other relief forms (which require coordination between USCIS for background checks and immigration courts for adjudication).[21][57]

### **Form I-485 and Other Relief Application Instructions**

For Form I-485 and related forms (I-191, I-601, I-602, I-881, EOIR-40, EOIR-42A, and EOIR-42B), the Pre-Order Filing Instructions require a different procedure.[21][57] The applicant must file the application and all supporting documents with the immigration court and simultaneously serve a complete copy on the appropriate DHS office.[21][57] Additionally, the applicant must send four specified items to the USCIS Texas Service Center: a clear copy of the entire application (or applications) filed with the immigration court (without supporting documents); the appropriate application fee or a copy of the immigration judge's order granting a fee waiver; a Biographical Information Form (with the caveat that this requirement is superseded by the December 2024 I-485 revisions); and copies of any USCIS-issued documents.[21][57]

The address for submitting materials to the USCIS Texas Service Center is provided in the Pre-Order Filing Instructions and should be used precisely as specified, as mail sent to incorrect addresses will not be processed.[21][57] The instructions warn that applicants should "do not submit any supporting documents-send only the completed form or forms" to USCIS, and should not send biometric information, employment authorization forms, or other documents unless specifically directed by the instructions.[21][57]

### **Biometric Processing and ASC Appointments**

Following submission of the application to USCIS, the applicant will receive an ASC Appointment Notice with instructions to appear at a USCIS Application Support Center.[21][57] The notice contains the applicant's USCIS application receipt number, which must be presented at the ASC appointment.[21][57] If the applicant does not receive the ASC Appointment Notice within three months of submitting the application to USCIS, or if the applicant has an individual merits hearing date within the next six months, the applicant should call the USCIS Contact Center at 1-800-375-5283.[21][57]

At the ASC appointment, the applicant (and any dependents) must appear and submit biometrics (fingerprints,

photograph, and signature).[21][57] The applicant will receive a biometrics confirmation document from the ASC, which should be kept as proof that USCIS collected the biometrics.[21][57] This confirmation document should be brought to all immigration court hearings.

### **Filing Documents With Immigration Court After Biometric Collection**

After attending the ASC appointment and obtaining the biometrics confirmation, the applicant must file specific documents with the immigration court within the timeframe directed by the immigration judge.[21][57] These documents include the original application form (if not already filed), all supporting documentation, and the USCIS fee receipt notice (which serves as evidence that the applicant filed the application with USCIS and paid the filing fees, unless the immigration judge has granted a fee waiver).[21][57] The applicant must also include the USCIS ASC notice of fee receipt and biometrics appointment instructions.[21][57]

The timeline for this second submission is critical; the instructions explicitly warn that "[f]ailure to complete these actions and follow any additional instructions that the Immigration Judge has given you could result in delay in deciding your application or in your application being deemed abandoned and dismissed by the court." [21][57] Immigration judges interpret these timelines strictly, and applicants who submit documents after the deadline specified in the immigration judge's order do so at the risk of having the application dismissed.

### **Service Requirements and Certificate of Service**

Throughout the process, proper service on the opposing party is required. The applicant must serve the DHS office having jurisdiction with copies of all applications and motions.[21][57] The Pre-Order Filing Instructions specify the address of the appropriate ICE OPLA Field Location, and service must be accomplished by mail (first class, postage prepaid), hand delivery, or electronic filing if the DHS office participates in EOIR's electronic case management system (ECAS).[21][57]

The applicant must complete and sign a certificate of service indicating the date, manner, and place of service (the address to which the documents were mailed or hand-delivered).[21][57] This certificate must be attached to the documents filed with the immigration court as proof that service was properly accomplished.[21][57]

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## **San Francisco Immigration Court Context and Northern California Considerations**

### **San Francisco Immigration Court Jurisdiction and Locations**

The Executive Office for Immigration Review maintains immigration courts at multiple locations in Northern California that serve the San Francisco immigration court jurisdiction.[1][7][25] The primary locations are the San Francisco Immigration Court at 100 Montgomery Street, Suite 800, San Francisco, California 94104; the San Francisco Immigration Court at 630 Sansome Street, 4th Floor, Room 475, San Francisco, California 94111; and the Concord Hearing Location at 1855 Gateway Boulevard, Suite 850, Concord, California 94520.[1][7] Respondents whose proceedings are pending before the San Francisco Immigration Court must file I-485 applications with the specific immigration court location that has their case assigned, as specified in their Notice to Appear or as directed by their immigration judge.[1][7]

The San Francisco Immigration Court handles a significant caseload of respondents from Central America (Guatemala, El Salvador, Honduras, Nicaragua), Mexico, and other countries, with heavy emphasis on asylum cases, cancellation of removal applications, and various forms of discretionary relief.[1][7] The court's

procedural tendencies and judge-specific practices may affect how applications are processed and adjudicated, though respondents must follow the Pre-Order Filing Instructions and the regulations regardless of individual judge preferences.

### **San Francisco Asylum Office Context**

While the San Francisco Asylum Office is not directly involved in immigration court I-485 proceedings, it is relevant for respondents who initially applied for asylum affirmatively with USCIS and were subsequently placed in removal proceedings. The San Francisco Asylum Office conducts asylum interviews and issues initial determinations on affirmative asylum applications for the Northern California region. If a respondent filed an I-589 affirmatively before receiving a Notice to Appear, and the asylum interview has not yet been scheduled, the applicant may be transferred to immigration court jurisdiction once the Notice to Appear is served. In such cases, the asylum application becomes a defensive claim raised in the immigration court proceedings, and the procedures outlined in the Pre-Order Filing Instructions (which specify that asylum is not submitted to USCIS but is adjudicated entirely in immigration court) apply.[1][7][21][57]

### **Northern California ICE Enforcement Context**

ICE's Enforcement and Removal Operations (ERO) Field Office 1, which covers Northern California, exercises jurisdiction over removal proceedings initiated in the San Francisco Immigration Court.[1] The ICE OPLA Field Location serving Northern California must be served with all applications and motions filed in immigration court, as specified in the Pre-Order Filing Instructions.[21][57] Respondents should verify the correct ICE OPLA address for their specific region by checking the Pre-Order Filing Instructions provided by ICE or by contacting the San Francisco Immigration Court.

### **California State Law Intersections: Post-Conviction Relief and Immigration Consequences**

Northern California practitioners must be aware of California state law mechanisms for addressing immigration consequences of criminal convictions. Penal Code § 1473.7 provides a right to vacate (set aside) criminal convictions based on denial of effective counsel regarding immigration consequences or based on error on the record regarding whether the respondent validly waived the right to deportation defense (a requirement that applies to vacatur petitions).[1] This statute applies only to convictions where the defendant either did not receive adequate counsel regarding immigration consequences or did not knowingly waive the right to deportation defense.[1]

Additionally, Penal Code § 1203.43 permits modification of sentences to reduce the immigration consequences of a criminal conviction, and Penal Code § 18.5 allows reduction of certain offenses under Proposition 47 (which reduced many drug and theft offenses from felonies to misdemeanors).[1] These state law mechanisms can sometimes eliminate criminal grounds of inadmissibility or deportability that would otherwise bar adjustment of status or cancellation of removal.

For respondents in San Francisco Immigration Court proceedings who have criminal convictions that may be affecting their immigration eligibility, consulting with an attorney experienced in both criminal law and immigration consequences under California law may reveal opportunities to modify or vacate the conviction and improve the respondent's immigration options.

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### **Conclusion: Synthesizing Jurisdiction, Procedure, and Strategy in EOIR I-485 Filings**

Form I-485 filings with immigration courts under EOIR jurisdiction represent a distinct procedural pathway

from USCIS service center filings, available exclusively to respondents in active removal proceedings. The exclusive jurisdiction of immigration judges over I-485 applications in removal proceedings derives from statutory and regulatory framework establishing that once a charging document (Notice to Appear) is served and filed with an immigration court, the court's jurisdiction vests, and sole authority to adjudicate adjustment applications transfers to the immigration judge.[1][4][25][28] This jurisdictional distinction necessitates a fundamentally different filing procedure: concurrent submission to both immigration court and USCIS, simultaneous service on the DHS office with jurisdiction, biometric appointments at USCIS Application Support Centers, and compliance with Pre-Order Filing Instructions that bind the respondent to specific procedural steps.[21][57]

The recent policy amendments of December 2024 and February 1, 2026 have introduced significant changes to the procedural landscape. The mandatory concurrent submission of Form I-693 (medical examination) effective February 10, 2025 requires respondents to obtain civil surgeon medical examinations and complete Form I-693 before filing Form I-485, fundamentally altering application preparation timelines.[8][11][14][17] The elimination of separate Form I-864W and integration of Affidavit of Support exemption determinations into the revised Form I-485 streamlines the filing process but requires careful attention to exemption eligibility criteria.[14][38][41] The February 1, 2026 EOIR fee increase, raising the I-485 filing fee from \$2,950 to \$2,980, affects all applications filed on or after that date and necessitates careful attention to the applicable fee in each respondent's specific circumstance.[20][23][52]

Fee waivers remain available as a critical tool for respondents unable to afford the \$2,980 filing fee, with immigration judges retaining discretion to waive fees upon showing of inability to pay.[31][34] However, certain fees (such as asylum application fees and the 245(i) penalty fee) are explicitly non-waivable, creating scenarios in which some respondents may lack access to particular forms of relief due to inability to pay.[36][46][49]

Different relief categories available in immigration court—cancellation of removal under INA § 240A (both for permanent residents and nonpermanent residents), withholding of removal under INA § 241(b)(3), VAWA-based relief, and asylum with alternative withholding claims—carry distinct eligibility requirements, evidentiary burdens, and procedural complexities. Respondents must understand which relief form is most appropriate for their circumstances and must comply with relief-specific procedural requirements in addition to the general I-485 filing procedures.

For respondents in the San Francisco Immigration Court jurisdiction and throughout Northern California, compliance with Pre-Order Filing Instructions issued by the specific ICE OPLA office with jurisdiction over the case is mandatory. These instructions, while they may vary in minor respects between field offices, establish a consistent framework: file with immigration court and serve DHS, simultaneously submit the application form (without supporting documents) to USCIS with the appropriate fee, attend biometric appointments at USCIS Application Support Centers, and file confirmation documents with the immigration court within the specified timeframe. Failure to comply precisely with these instructions risks dismissal of the application as abandoned, a consequence that cannot be easily remedied.

Respondents facing removal proceedings should consult with experienced immigration counsel before undertaking I-485 filings to ensure proper procedure, timely filing, and strategic consideration of which relief form presents the best opportunity for approval given their specific factual and legal circumstances. The intersection of federal immigration law, EOIR regulations, USCIS policy, Pre-Order Filing Instructions, and any applicable state law protections creates a complex procedural environment where precision and expertise are essential to successful outcomes.

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