



USCIS Updates Intake Policies and Halts Application of the Rejection Policy in Response to *Vangala v. USCIS*

Frequently Asked Questions¹ January 14, 2021

In November 2020, immigration advocates filed a national class action lawsuit against U.S. Citizenship and Immigration Services (USCIS) challenging the agency policy of rejecting benefits applications for having blank response fields. The suit is *Vangala v. USCIS*, No. 4:20-cv-08143-HSG (N.D. Cal.). Following suit, USCIS agreed to pause implementation of the rejection policy starting December 23, 2020 while the parties engage in settlement negotiations.

In January 2021, USCIS shared updated guidance directing adjudicators to cease rejecting asylum applications (Form I-589) and U visa applications (Form I-918). Specifically, the updated guidance rescinded prior guidance implementing the “rejection policy” instructing adjudicators to reject applications with blank response fields.

Counsel for the putative class has prepared this short FAQ with further information about the case and the updated guidance, which follows this FAQ.

1. What is the “rejection policy” challenged in *Vangala v. USCIS*?

The “rejection policy” that is being challenged in *Vangala* refers to any and all policies of USCIS implemented in or after 2019 to reject (or not issue a filing receipt for) an application because at least one response field to a question on the application was left blank (other than the signature of the applicant) or otherwise deemed to provide an inappropriate or incomplete response. It is commonly referred to as the “blank spaces” policy.

Common examples of reasons for rejections include, among others, not listing a middle name or “other” names, even though no such names exist; not listing family members where there are

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none or filling in some but not all available spaces for additional family members; or not listing nonexistent address information, such as an apartment number. Similarly, the failure to write a name on the back of a passport photo falls within the rejection policy. Such rejections under the blank spaces policy broke from the prior policy that had been in place for decades.

2. To what applications has USCIS applied the rejection policy?

USCIS has acknowledged that it has applied the policy to asylum applications (Form I-589) and U visa applications (Form I-918).

However, USCIS's website purports to apply the policy to other types of applications, e.g., T visa applications (Form I-914), petitions to remove conditions of residence (Form I-751), and self-petitions (Form I-360). Moreover, counsel in *Vangala* have passed onto USCIS reports of the policy being applied to other types of applications, such as adjustment of status (Form I-485). USCIS is investigating whether the policy has been applied beyond asylum and U visa applications.

If USCIS has rejected an application other than for asylum or a U visa in the last year, please send counsel for plaintiffs a copy of the rejection notice at bspolicy@nwirp.org.

3. Is *Vangala* a class action?

Vangala was filed as a national class action seeking to certify a class of “All individuals who have filed or will file an application with USCIS that USCIS has rejected or will reject (or has not issued or will not issue a filing receipt for) pursuant to the rejection policy.”

However, briefing on the motion to certify the case as a class action has been delayed to give time for the parties to negotiate an agreement ending the rejection policy and redressing past rejections. *At this time, no class is certified.*

4. When did USCIS stop applying the rejection policy to asylum applications and U visa applications?

In response to the *Vangala* lawsuit, USCIS agreed to stop applying the rejection policy to asylum and U visa applications filed on December 23, 2020, while the parties engage in settlement negotiations. If USCIS has rejected an asylum application or U visa application **on or after December 23, 2020**, please contact counsel for plaintiffs at bspolicy@nwirp.org.

5. What guidance has USCIS provided about the receipt and initial intake of U visa applications filed on or after December 23, 2020?

USCIS stated in updated guidance to adjudicators that the agency would “revert to the policies and procedures in use prior to 12/30/2019” for intake of Forms I-918 and I-918A. This retraction of the rejection policy applies to any U visa petitions received at the Service Centers and stamped as received on December 23, 2020 or later. USCIS’s updated guidance is attached to this FAQ.

6. What guidance has USCIS provided about the receipt and initial intake of I-589 applications filed on or after December 23, 2020?

In updated guidance, USCIS instructs adjudicators to stop rejecting I-589 applications under the rejection policy effective December 23, 2020. The updated guidance instructs that I-589 applications may still be rejected if they are “missing data needed to populate . . . fields that are required for Global record creation,” specifically:

Last name, first name, residential address, city, state, zip code, date of birth, country of birth, citizenship, and signature.

This guidance applies to all I-589 applications received at the Service Centers and stamped as received on December 23, 2020 or later, as well as rejection notices that had not yet been mail out as of December 23, 2020. USCIS’s updated guidance is attached to this FAQ.

7. What about asylum and U visa applications that were filed *before* December 23, 2020 and subject to USCIS’ rejection policy?

In settlement negotiations, counsel in *Vangala* are seeking to secure a process whereby previously rejected asylum or U visa applications would be deemed to have been filed on the date of their original filing. We will provide updated information as it becomes available.

From: Parascando, Bridgette H
To: Parascando, Bridgette H
Subject: FW: Updated U intake policy for 12/23/20 implementation
Date: Tuesday, December 22, 2020 4:12:09 PM
Importance: High

Hi Bridgette,

Please find below the guidance sent to the Centers this afternoon regarding the I-918 intake policy.

- USCIS will revert to the pre-12/30/2019 intake policy for the U nonimmigrant program, specifically Forms I-918 and I-918A. The implementation of the pre-12/30/2019 intake policy will begin 12/23/2020.
- Therefore, I-918/918A intake procedures will revert to the policies and procedures in use prior to 12/30/2019.
- This update to the pre-12/30/2019 policy applies to any petitions filed beginning tomorrow, 12/23/2020. U nonimmigrant petitions received at the Service Centers and stamped as received 12/23/2020 or later will be receipted under the pre-12/30/2019 policy.
- Any rejection notices being sent on or after 12/23/2020 must be in adherence with the pre-12/30/2019 policy.

Thank you,

Service Center Operations (SCOPS) HQ
U.S. Citizenship and Immigration Services

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From: Schmidt, Bruce H
Sent: Wednesday, December 23, 2020 6:48 AM
To:
Subject: Updated Form I-589 Intake Policy for 12/23/20 Implementation
Importance: High

Good Morning Centers –

Effective Wednesday, December 23, 2020, do not use I-589 Rejection Notice item “A”, to include all subparts (a., b., and c. 1-9), to reject an application unless the I-589 application packet is missing data needed to populate any of the following fields that are required for Global record creation:

- Last Name
- First Name
- Residential Address
- City
- State
- ZIP code
- Date of Birth
- Country of Birth
- Citizenship(s)

Questions:

- The change will be effective Dec 23, 2020, does that mean postmarked or filed by Dec 23, 2020? **The change applies to any applications filed on or after Wed, 12/23/20, i.e., received at the Service Center and stamped as received.**
- Should potential rejection notices that have not been mailed be reconsidered under this updated intake policy? **Yes - If you are sending rejection notices out on or after 12/23/20, this updated guidance applies.**
- If the applicant failed to sign his or her application, should it be rejected? **Yes – the failure to sign an application is a valid reason for rejection, and may be reflected in Rejection Notice item “N.”**

Your prompt attention and support in this matter is greatly appreciated.

Bruce

Bruce H. Schmidt
DHS | USCIS | SCOPS | CORD
One Town Center (OTC)
5900 Capital Gateway Drive
Camp Springs, MD 20746

Form I-589 Rejection Notice

This Notice of Action references your Form I-589, Application for Asylum and for Withholding of Removal, which U.S. Citizenship and Immigration Services (USCIS) received on _____ . USCIS cannot accept your Form I-589 and/or add a dependent for the reason(s) indicated below. This rejection does not preclude you from filing again. Please ensure that you correct all copies of the Form I-589 if you plan to resubmit your Form I-589 to USCIS.

A. Pursuant to Federal Regulations, all applications filed with USCIS must be properly completed, submitted, and executed in accordance with the applicable form instructions. *See 8 CFR § 103.2(a)(1), (b)(1).* Properly completed forms help ensure that USCIS can verify your identity and eligibility, and will help reduce processing times and burdens on all applicants. As such, you must complete every block and question as directed in the Form I-589 Instructions located at <https://www.uscis.gov/i-589>.

- a. If a question does not apply to you or you do not know the information requested, you should place “N/A” (meaning “not applicable/available”), “NONE,” or “UNKNOWN” in the block.
- b. If a question in Part “B” or “C” does not apply to you, you must answer NO and leave the remainder of that question blank. If you answer YES, you must provide an explanation in order for your Form I-589 to be complete.
- c. You must complete the following section(s), part(s), area(s), or question number(s):

| | | | |
|----------|-----------------------------------------|----------|---------------------------------------------------------------------|
| 1 | Complete Part A. I. Question(s) _____ | 6 | Complete Part D. Sign and date your original Form I-589 and copies. |
| 2 | Complete Part A. II. Question(s) _____ | 7 | Answer Part D. Question(s) _____ |
| 3 | Complete Part A. III. Question(s) _____ | 8 | Missing Page(s): _____ |
| 4 | Complete Part B. Question(s) _____ | 9 | Complete Part E. Fields for the Preparer: _____ |
| 5 | Complete Part C. Question(s) _____ | | |

B. Government records indicate:

- a. You were placed in immigration proceedings before an Executive Office for Immigration Review (EOIR) Immigration Judge; and/or
- b. You were previously in immigration proceedings before EOIR which resulted in an order from an Immigration Judge other than the termination of those immigration proceedings.

Therefore, USCIS does not have jurisdiction to process your Form I-589 and you must file your Form I-589 with the immigration court that has jurisdiction over your case.

Immigration court contact and case status information is available by calling the EOIR Automated Case Information Hotline at (800) 898-7180 (nationwide toll-free) or (304) 625-2050 (local toll call) or by checking the EOIR Automated Case Information online system at <https://portal.eoir.justice.gov/InfoSystem>.

If you intended to file your Form I-589 as an unaccompanied alien child (as defined in 6 U.S.C. § 279(g)(2)) in removal proceedings, please resubmit your Form I-589 to:

USCIS Nebraska Service Center
UAC I-589
P.O. Box 87589
Lincoln, NE 68501-7589

If you were previously in immigration proceedings before EOIR, and you have reason(s) to believe that USCIS has jurisdiction over your Form I-589, please resubmit the Form I-589 to:

USCIS Asylum Vetting Center
P.O. Box 57100
Atlanta, GA 30308-0506

C. This office cannot add the following dependent(s) to your Form I-589.

Children and/or spouse: [Insert Name(s)]

Government records indicate:

- a. Your child(ren) and/or spouse was/were placed in immigration proceedings before an Executive Office for Immigration Review (EOIR) Immigration Judge; and/or
- b. Your child(ren) and/or spouse was/were previously in immigration proceedings before EOIR which resulted in an order from an Immigration Judge other than the termination of those immigration proceedings.

Therefore, USCIS does not have jurisdiction and your child(ren) and/or spouse must file Form I-589 with the immigration court that has jurisdiction over their case.

Immigration court contact and case status information is available by calling the EOIR Automated Case Information Hotline at (800) 898-7180 (nationwide toll-free) or (304) 625-2050 (local toll call) or by checking the EOIR Automated Case Information online system at <https://portal.eoir.justice.gov/InfoSystem>.

If your child(ren) and/or spouse intended to file Form I-589 as unaccompanied alien child(ren) (as defined in 6 U.S.C. § 279(g)(2)) in removal proceedings, she/he/they must resubmit the Form I-589 to:

USCIS Nebraska Service Center
UAC I-589
P.O. Box 87589
Lincoln, NE 68501-7589

If your child(ren) and/or spouse are/were previously in immigration proceedings before EOIR, and you have reason(s) to believe that USCIS has jurisdiction over your child(ren) and/or spouse, please contact the asylum office that would have jurisdiction over your Form I-589 for more

information. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.

- D. This office is unable to accept your Form I-589 because government records indicate that USCIS has already taken a final action in your case. If (1) you were previously a derivative asylee and are now submitting a request for a *nunc pro tunc* grant of asylum, (2) USCIS previously issued you a notice of denial or dismissal of your Form I-589 and you were not placed in immigration proceedings before the Executive Office for Immigration Review, or (3) you previously withdrew your Form I-589 with USCIS and were not placed in immigration proceedings before the Executive Office for Immigration Review, please resubmit the Form I-589 to:

USCIS Asylum Vetting Center
P.O. Box 57100
Atlanta, GA 30308-0506

For any other reason, please contact the asylum office that has jurisdiction over your Form I-589 for more information. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.

- E. This office cannot add your spouse as a dependent spouse on your Form I-589 because there is already another person listed as a dependent spouse on your Form I-589. You must submit a divorce decree, decree of annulment, or death certificate (showing that the prior marriage has ended) before another person can be added as a dependent spouse. Additionally, you must include the marriage certificate between you and your current spouse as proof of your relationship. Please contact the asylum office that has jurisdiction over your Form I-589 for more information. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.
- F. This office cannot add the following child(ren) as dependent(s) to your Form I-589.

Children: [Insert Name(s)]

Your child(ren) was/were married and/or 21 years of age or older on the date that you filed your Form I-589. Therefore, your child(ren) does/do not qualify as dependent child(ren) and must file their own Form(s) I-589. For further information, please see Part A.II Spouse and Children section of the Form I-589 Instructions located at <https://www.uscis.gov/i-589>.

- G. This office cannot add the following dependent(s) to your Form I-589.

Children and/or spouse: [Insert Name(s)]

Because you are already scheduled for an interview, you must update your Form I-589 with the asylum office that has jurisdiction over your Form I-589. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.

- H. This office cannot add the following dependent(s) to your Form I-589.

Children and/or spouse: [Insert Name(s)]

To make this request, please contact the asylum office that has jurisdiction over your Form I-589. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.

- I. This office cannot add the following dependent(s) to your Form I-589 as they are not physically present in the United States.

Children and/or spouse: [Insert Name(s)]

- J. This office cannot process your Form I-589 because you are currently listed as a dependent on another Form I-589. To complete this request, please resubmit the Form I-589 to:

USCIS Asylum Vetting Center
P.O. Box 57100
Atlanta, GA 30308-0506

- K. This office is unable to accept your Form I-589 because you are not filing from within the United States.
- L. You cannot receive asylum in the United States because you indicated that you are a U.S. citizen.
- M. This office cannot add the following dependent(s) to your Form I-589 as they have U.S. citizenship.

Children and/or spouse: [Insert Name(s)]

- N. Your Form I-589 is incomplete. You must submit the following:
 - Your original completed and signed Form I-589;
 - One copy of your original completed and signed Form I-589;
 - Your original supplementary sheets and supplementary statements, if submitting additional supporting material; and
 - One copy of your original supplementary sheets and supplementary statements, if submitting additional supporting material.
- O. Your Form I-589 is incomplete. You must submit one passport-style photograph of yourself and each family member that you are including as a dependent on your Form I-589. The photographs must have been taken no more than 30 days before you file your Form I-589. Using a pencil, print the person's complete name and A-Number (if any) on the back of each photograph.
- P. Your Form I-589 is incomplete. At least one of the photographs submitted does not have the person's complete name or A-number (if any) printed on the back of the photograph. You must submit one passport-style photograph of yourself and each family member that you are including

as a dependent on your Form I-589. The photographs must have been taken no more than 30 days before you file your Form I-589. Using a pencil, print the person's complete name and A-Number (if any) on the back of each photograph.

- Q. This office cannot add the following dependent(s) to your Form I-589.

Children and/or spouse: [Insert Name(s)]

You must submit one additional copy of your completed Form I-589 and one additional copy of all supplementary sheets and supplementary statements, if you submitted additional supporting material with the principal applicant's Form I-589, for each family member that you wish to add as a dependent on your Form I-589.

- R. Your Form I-589 is incomplete. At Part[s] B. [and/or C.] of your Form I-589, you provided non-responsive answers to the questions. Please review your answers and complete as appropriate.
- S. You marked on page 1 of your Form I-589 that you are married, but you marked "I am not married" on page 2. This is not an acceptable combination. Please review your answers and change as appropriate.
- T. On page 9 at Part D. of your Form I-589, you answered "No" to the question "Did someone other than your spouse, parent, or child(ren) prepare this application?", but you included preparer information on page 9 at Part E. This is not an acceptable combination. Please review your answers and change as appropriate.
- U. This office has accepted your Form I-589 for processing, but we are returning your check because no fee is required.
- V. The Form I-589 must be completed in English. Please complete in English and resubmit.
- W. Your Form I-589 is incomplete because it does not contain a certified, full English translation. Any document(s) containing a language other than English submitted to USCIS must be accompanied by a full English language translation that the translator has certified as complete and accurate along with the translator's certification that he or she is competent to translate from the foreign language into English.
- X. The edition of the Form I-589 you submitted is outdated. The current acceptable edition is located at <https://www.uscis.gov/i-589>. Please complete the current edition and resubmit.
- Y. The answer you provided to the "total number of children" is more than the number of children listed in Part A.II of your Form I-589. Please review your answers and change as appropriate.
- Z. You submitted your Form I-589 to the wrong address. Please refer to the instructions located at <https://www.uscis.gov/i-589> and resubmit your Form I-589 to the correct address.
- AA. Pursuant to 48 U.S.C. § 1806(a)(7) and the Northern Mariana Islands U.S. Workforce Act of 2018, Pub. L. No. 115-218, 132 Stat. 1547 (Jul. 24, 2018), individuals physically present or arriving in the Commonwealth of Northern Mariana Islands (CNMI) are not eligible to apply for asylum until January 1, 2030. This includes people brought to the CNMI after being intercepted in international or U.S. waters. You may use Form I-589, Application for Asylum and for

Withholding of Removal, to apply for withholding of removal and for protection from removal under the Convention Against Torture in immigration court proceedings.

BB. This office cannot accept requests to be granted asylum *nunc pro tunc*. Please resubmit the Form I-589 to:

USCIS Asylum Vetting Center
P.O. Box 57100
Atlanta, GA 30308-0506

CC. This office cannot add the following dependent(s) to your Form I-589.

Child(ren) and/or spouse: [Insert Name(s)]

USCIS records indicate that you previously submitted a Form I-589. To add a dependent after the initial filing of your Form I-589, you must submit the following information for each dependent that is being added:

- One (1) copy of your Form I-589 that includes the dependent's information.
 - At a minimum, an applicant is permitted to submit copies of only pages 1, 2, 3 (including Supplement A to Form I-589, if submitted with the principal applicant's Form I-589), and 9 of the principal applicant's Form I-589 in lieu of the entire Form I-589 and supplemental documentation.
- One (1) photograph of the dependent(s) that you want to add, stapled on page 9 of the dependent's copy of the Form I-589.
- One (1) copy of evidence of relationship.
- Brief statement that you wish to add a dependent to your asylum claim.

If you are scheduled for an interview before completing this request or have questions about updating your Form I-589, please contact the asylum office that has jurisdiction over your Form I-589 for more information. You will find asylum office location, contact information, and hours at <https://egov.uscis.gov/office-locator/#/asy>.

DD. This office cannot add the following dependent(s) to your Form I-589.

Child(ren) and/or spouse: [Insert Name(s)]

The text fields and signature line on page 9 at Part D must be completed with the principal applicant's information only. Please review and provide the correct copy of the completed Form I-589 for each family member that you wish to add as a dependent on your Form I-589.