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**IN THE SUPREME COURT
STATE OF ARIZONA**

PETITION TO AMEND RULE 31
D.24, RULES OF THE ARIZONA
SUPREME COURT: LEGAL
DOCUMENT PREPARER.

Petition No. R-13-0001

REPLY

In accordance with Arizona Supreme Court Rule 28, Petitioners respectfully submit this reply in support of their Petition to amend Rule 31 D. 24 relating to the exemption from unauthorized practice of law by Court Certified Legal Document Preparers.

I . Federal Law Provides an Avenue for Non-Attorneys to Become Accredited Document Preparers

Federal law and regulation limits the universe of individuals authorized to prepare and file immigration documents to those listed at 8 C.F.R. § 292.1(a) pertaining to administrative immigration matters and 8 C.F.R. § 1292.1(a), pertaining to immigration court proceedings. If certified document preparers in Arizona wish to prepare and file immigration documents, they need only comply with the process of accreditation and certification outlined in these regulations. This is a process provided by the Federal government, which cannot be pre-empted by state law. As will be shown in Part III of this reply, even if one adopted the dubious assumption that federal exemption did not apply, the state statute of unauthorized practice of immigration refers exclusively to federal accreditation by the immigration board, absent which there is unauthorized practice of immigration law in Arizona that is punishable both criminally and civilly¹.

This is not a case of “turf protection” but a case of “consumer protection.” Nothing in Federal immigration and nationality law prevents Arizona non-attorneys from becoming accredited representatives eligible to prepare and file immigration documents. If non-attorneys would like to become accredited to prepare and file immigration documents, federal law provides an avenue for them

¹ A.R.S. § 12-2703 provides for a private cause of action and class 6 felony treatment for unauthorized practice of immigration and nationality law and A.R.S. § 12-2704 grants investigatory powers to the Attorney General under Title 44.

to do just that. The comments in opposition to the Petition make the argument that if the Arizona Supreme Court were to amend the Rule to remove immigration and nationality law from the exemption against unauthorized practice of law, there would be no way for consumers with limited resources to access non-lawyer document preparers. This argument is patently incorrect. It evinces a lack of understanding of the Federal immigration scheme. It underscores a need to leave the regulation of the practice of federal immigration law to the Federal government, consistently with Arizona's statutory prohibition of the unauthorized practice of immigration law.

II. Immigration Law is Federal Law

The "elephant in the room" is that immigration law is Federal law. All the appropriate forms are federal. When completed, they must be submitted to the federal government, which decides them. The single example of a past objection to the Arizona document preparer program, real estate transactions, is an issue of state law. There is no valid comparison between real estate and immigration law. Unlike immigration, federal law does not regulate real property disputes. They are reserved exclusively to the states. A more apt comparison would be if the Arizona Supreme Court were to consider allowing non-attorney document preparers to begin preparing and filing documents before the United States Patent and Trademark Office ("USPTO"). This is not something that the Arizona Supreme

Court may authorize non-attorney document preparers to do, because such matters are relegated to the federal government exclusively under the Supremacy Clause, and the USPTO has adopted specific rules and regulations relating to who may practice before the agency. See U.S. CONST. Art. I, § 8, cl. 8 (copyright and patents); The Constitution's Supremacy Clause further provides that “This Constitution, and the Laws of the United States ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby.” Art. VI, cl. 2; see *Bonito Boats, Inc v. Thunder Craft Boats, Inc*, 489 U.S. 141, 109 S.Ct. 971, 103 L.Ed.2d 118, 9 USPQ2d 1847 (USSCt. 1989)(state statute prohibiting the use of a direct molding process to duplicate unpatented boat hulls violated federal supremacy over patent matters); 37 CFR § 11.7 (2012)(PTO rules govern appearances before the agency).

Furthermore, the Comment of the DPA Document Preparers Association that “the federal government has neither rejected nor raised any objection to immigration papers completed with the assistance of Arizona’s licensed document preparers” again evinces a lack of understanding of federal immigration. First, U.S. Citizenship and Immigration Services (“USCIS”), the federal agency charged with the administration of immigration and nationality benefits and where most certified legal document prepared forms are directed, has launched a nation-wide “Unauthorized Practice of Immigration Law Initiative” which makes clear that a

only attorneys or federally accredited non-attorney representatives may legally represent an individual in administrative matters before USCIS. See <http://www.uscis.gov/avoidscams>;
<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=6964b09cd2096210VgnVCM100000082ca60aRCRD&vgnnextchannel=6abe6d26d17df110VgnVCM1000004718190aRCRD>. The suggestion that federal officials “are not complaining” is at best completely misinformed and at worst, disingenuous.

Second, attorneys and non-attorney Board of Immigration Appeals (“BIA”)-accredited individuals must file a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative with any application they assist an individual in preparing. 8 C.F.R. §§ 1001.1(i), (k) (2012). Under this rule, non-attorney accredited representatives must belong to an organization that has been approved by the BIA, not the state Board of Legal Document Preparers. Any such non-attorney accredited representative must file a federal Form G-28 in any administrative matter (or the sister Form EOIR-28 before the immigration courts) just like attorneys. USCIS, which oversees and decides administrative filings for immigration and nationality matters, routinely refuses to accept a Form G-28 where it is not completed by an individual authorized to represent someone before

the agency; e.g., an attorney or federally accredited non-attorney preparer. See <http://www.uscis.gov/files/form/g-28instr.pdf>.

Furthermore, “practice” and “preparation” include the preparation and filing of immigration documents, including immigration forms. 8 C.F.R. §§ 1001.1(i), (k) (2012). An individual “preparing” *or* “filing” any document, application, paper, petition, etc. on behalf of another person with the Department of Homeland Security (“DHS”), immigration judge or Board of Immigration Appeals (“BIA”) must submit a Form G-28 with the USCIS, or the equivalent immigration court Form EOIR-28 form in immigration court. The commenters suggest that a licensed legal document preparer is “merely help[ing] applicants fill out required forms”, but such an act is clearly governed by the federal regulation. If merely filling out forms did not constitute the unauthorized practice of law, there would have been no reason for the Arizona Supreme Court to establish a rule exempting legal document preparers from the prohibition on the unauthorized practice of law.

Finally, the selection of proper immigration forms absolutely requires the training and skills of an immigration lawyer or accredited representative, despite the suggestion by commenters that it does not. At first glance, Form I-765, Application for Employment Authorization may seem like an easy fit for any individual to fill out and file in order to receive authorization to work in the United States. However, an individual must have a *legal* basis upon which to file this

application [See](#) the form i-765, and instructions annexed hereto as Attachment “1”. Line 16 of the form I-765 requires the applicant to specify the statutory exemption that provides a legal basis for the work authorization, and the instructions list approximately 28 separate statutory categories to select from. Making the proper selection requires knowledge of each of the legal bases for employment authorization, which in turn relies upon an analysis of immigration law. An applicant filing this form without citing a proper legal basis will have the form rejected or denied. A more troubling situation – one which both USCIS and many of our practicing members have seen – is where a non-attorney or non-accredited representative completes a Form I-485, Application to Register Permanent Residence or Adjust Status and the applicant does not have a *legal* basis upon which to file this application. This is much more than simply completing a form, as individuals who do not legally qualify to file for lawful permanent residence can be placed into removal (commonly called deportation) proceedings under USCIS guidelines for referral of cases for removal (deportation proceedings). See <http://www.uscis.gov/NTA> (last viewed 6/19/2013). These are among countless other examples where the “simple” filing of an immigration form can have profound legal consequences for an individual because it requires knowledge of laws, regulations and their application that are not prompted by or necessarily evident from the forms themselves.

III. Arizona Statutes Follow Federal Law

While Petitioner's initial brief correctly concluded that state law over legal immigration document preparation is pre-empted altogether by federal law, one comment in opposition also observed that there are similarities between the federal regulations governing non-lawyer representation and the Arizona statutes prohibiting the unauthorized practice of immigration and nationality law. There is an obvious conclusion to draw from these similarities. Arizona statutes explicitly and exclusively adopt federal accreditation of non-lawyers by the Board of Immigration Appeals as a condition to the lawful practice of immigration and nationality law in Arizona. A.R.S. § 12-2702(A)(4). The Arizona statute does not also recognize accreditation by the Board of Legal Document Preparers as being an option for the lawful practice of immigration and nationality law, and as Petitioner's initial filing demonstrated, there are significant differences between federal accreditation of non-attorney representatives and accreditation of legal document preparers by the Arizona Board of Legal Document Preparers. Assuming without conceding that the state has power to regulate immigration-related legal document preparation, state law follows federal law in regard to immigration and nationality law, and a state accreditation program through the Board of Legal Document Preparers that varies from the requirements of federal accreditation is by implication unauthorized under both federal and state law. The Arizona statute

replicates the federal provisions relating to accreditation of non-attorneys to practice immigration and nationality law, using often identical phrases set forth in the corresponding federal regulations, as demonstrated in Attachment 2, annexed hereto. Significantly the applicable federal regulations require accreditation from the Board of Immigration Appeals and neither the federal regulations nor state law provides for a non-attorney legal document certification from the Arizona Board of Legal Document Preparers to take the place of BIA accreditation. Compare A.R.S. 12-2702(d)(4) “A person who is representing an organization accredited by the board of immigration appeals and who has been accredited by the immigration board” with 8 CFR § 292.1 “(4) Accredited representatives. A person representing an organization described in § 292.2 of this chapter who has been accredited by the Board.” By statute, Arizona relies exclusively upon accreditation by the BIA to exempt non-attorneys from the prohibition on the unauthorized practice of immigration law and to define the crime of unauthorized practice of immigration and nationality law. Accreditation by the Board of Legal Document Preparers is simply insufficient to satisfy federal law, which pre-empts state law, and state law itself, to the extent one can assume the existence of state power to regulate immigration related legal document preparation at all.

IV. Conclusion

No attorney monopoly over immigration and nationality law practice and document preparation exists, as has been dramatically fictionalized by opponents of the proposed rule change. The Board of Immigration Appeals is officially tasked with administering the federal accreditation program for non-attorney representatives, as directed by Federal law. Non-attorneys must be accredited by the BIA in order to lawfully prepare immigration and nationality documents by the federal law. To the extent Arizona may have the constitutional power to regulate immigration-related document preparation, an assumption that Petitioners strongly controvert, Arizona law mirrors the federal program of accreditation for the practice of immigration and nationality law. State accreditation of legal document preparation by the Arizona Board of Legal Document Preparers must give way to federal law in the realm of immigration and nationality matters.²

Wherefore the rule change should be adopted.

DATED this 17th day of June, 2013.

LAW OFFICE OF REGINA JEFFERIES, P.L.C.

/s/Regina Jefferies, Esq.
Regina Jefferies

² See *Arizona v. United States*, 132 S. Ct. 2492, 183 L. Ed. 2d 351, 115 FEP Cases 353 (2012) [2012 BL 157302]; cf. *Arizona et al. v. Inter Tribal Council of Arizona, Inc., et al.*, 570 U.S. ____ (2013), http://www.supremecourt.gov/opinions/12pdf/12-71_7148.pdf (last viewed 6/18/2013)(pertaining to the supremacy of federal election law).

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/s/ John H. Messing, Esq.

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Certificate of Service

On the above date, counsel electronically filed the original of this document in
Word and pdf formats with the Clerk of the Court, Arizona Supreme Court

Attachment "1"

Department of Homeland Security
U.S. Citizenship and Immigration Services

**I-765, Application For
Employment Authorization**

Do not write in this block.

Remarks	Action Block	Fee Stamp
A#		
Applicant is filing under §274a.12 _____		
<input type="checkbox"/> Application Approved. Employment Authorized / Extended (<i>Circle One</i>) until _____ (Date). Subject to the following conditions: _____ (Date). Application Denied. <input type="checkbox"/> Failed to establish eligibility under 8 CFR 274a.12 (a) or (c). <input type="checkbox"/> Failed to establish economic necessity as required in 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)		

I am applying for: Permission to accept employment.
 Replacement (*of lost employment authorization document*).
 Renewal of my permission to accept employment (*attach previous employment authorization document*).

1. Name (Family Name in CAPS) (First)	(Middle)	Which USCIS Office?	Date(s)
2. Other Names Used (include Maiden Name)		Results (Granted or Denied - attach all documentation)	
3. Address in the United States (Number and Street)	(Apt. Number)	12. Date of Last Entry into the U.S. (mm/dd/yyyy)	
(Town or City)	(State/Country)	(ZIP Code)	13. Place of Last Entry into the U.S.
4. Country of Citizenship/Nationality		14. Manner of Last Entry (Visitor, Student, etc.)	
5. Place of Birth (Town or City)	(State/Province)	(Country)	15. Current Immigration Status (Visitor, Student, etc.)
6. Date of Birth (mm/dd/yyyy)	7. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female		
8. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Widowed	<input type="checkbox"/> Single <input type="checkbox"/> Divorced		
9. Social Security Number (include all numbers you have ever used) (if any)			
10. Alien Registration Number (A-Number) or I-94 Number (if any)			
11. Have you ever before applied for employment authorization from USCIS? <input type="checkbox"/> Yes (If "Yes," complete below) <input type="checkbox"/> No			
16. Go to Part 2 of the Instructions, Eligibility Categories. In the space below, place the letter and number of the category you selected from the instructions (For example, (a)(8), (c)(17)(iii), etc.). Eligibility under 8 CFR 274a.12 () () ()			
17. If you entered the Eligibility Category, (c)(3)(C), in item 16 above, list your degree, your employer's name as listed in E-Verify, and your employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number in the space below. Degree: _____ Employer's Name as listed in E-Verify: _____ Employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number: _____			

Certification

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking. I have read the Instructions in **Part 2** and have identified the appropriate eligibility category in **Block 16**.

Signature	Telephone Number	Date
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Signature of Person Preparing Form, If Other Than Above: I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Print Name	Address	Signature	Date
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Remarks	Initial Receipt	Resubmitted	Relocated		Completed		
			Rec'd	Sent	Approved	Denied	Returned



Instructions for I-765, Application for Employment Authorization

Instructions

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet of paper. Write your name and Alien Registration Number (A-Number), if any, at the top of each sheet of paper and indicate the part and number of the question to which the answer refers.

The filing addresses provided on this form reflect the most current information as of the date this form was last printed. If you are filing Form I-765 more than 30 days after the latest edition date shown in the lower right-hand corner, visit our Web site at www.uscis.gov before you file, and check the "FORMS" page to confirm the correct filing address and version currently in use. Check the edition date located in the lower right-hand corner of the form. If the edition date on your Form I-765 matches the edition date listed for Form I-765 on the online Forms page, your version is current and will be accepted by USCIS. If the edition date on the online version is later, download a copy and use the online version. If you do not have Internet access, call the National Customer Service Center at 1-800-375-5283 to verify the current filing address and edition date. **Improperly filed forms will be rejected and the fee returned, with instructions to resubmit the entire filing using the current form instructions.**

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Interim EAD: An EAD issued to an eligible applicant when USCIS has failed to adjudicate an application within 90 days of a properly filed EAD application, or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995. The interim EAD will be granted for a period not to exceed 240 days and is subject to the conditions noted on the document. *The Interim EAD provisions apply to individuals filing Form I-765 based on Consideration of Deferred Action for Childhood Arrivals only after a determination on deferred action is reached.*

What Is the Purpose of This Form?

Certain aliens who are temporarily in the United States may file Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions must also use this form to apply to USCIS for a document that shows such authorization. Review **Eligibility Categories** to determine whether you should use this form.

If you are a lawful permanent resident, a conditional resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), do **not** use this form.

Definitions

Employment Authorization Document (EAD): Form I-688, Form I-688A, Form I-688B, Form I-766, or any successor document issued by USCIS as evidence that the holder is authorized to work in the United States.

Renewal EAD: An EAD issued to an eligible applicant upon the expiration of a previous EAD issued under the same category.

Replacement EAD: An EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen, mutilated, or contains erroneous information, such as a misspelled name.

Who May File Form I-765?

USCIS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation, and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in **Question 16** on Form I-765. Enter only **one** of the following category numbers on the application form. For example, if you are a refugee applying for an EAD, write **"(a)(3)"** at **Question 16**.

For easier reference, the categories are subdivided as follows:

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1. Asylee/Refugee Categories (and their Spouse and Children)

- A. Refugee--(a)(3).** File Form I-765 with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter, or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.
- B. Paroled as a Refugee--(a)(4).** File Form I-765 with a copy of your Form I-94, Arrival-Departure Record.
- C. Asylee (Granted Asylum)--(a)(5).** File Form I-765 with a copy of the USCIS letter, or judge's decision, granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.
- D. Asylum Applicant (With a Pending Asylum Application) Who Filed for Asylum on or After January 4, 1995--(c)(8).** For specific instructions for applicants with pending asylum claims, see Page 6.

2. Nationality Categories

- A. Citizen of Micronesia, the Marshall Islands, or Palau--(a)(8).** File Form I-765 if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM), the Marshall Islands (CFA/MIS), or Palau under agreements between the United States and the former trust territories.
- B. Deferred Enforced Departure (DED) / Extended Voluntary Departure--(a)(11).** File Form I-765 with evidence of your identity and nationality.
- C. Temporary Protected Status (TPS)--(a)(12) and (c)(19).** A category (a)(12) EAD is issued to an individual granted TPS under 8CFR 244. A category (c)(19) EAD is a temporary treatment benefit under TPS pursuant to 8CFR 244.5.

To request an EAD based on TPS, file Form I-765 with Form I-821, or with evidence that your initial Form I-821 was accepted or approved. Include evidence of nationality and identity as required by the Form I-821 instructions. If you are requesting extension of TPS status, also include a copy (front and back) of your last available TPS document: EAD, Form I-94, or approval notice.

To register for TPS, you must file a Form I-765 with Form I-821, Application for Temporary Protected Status, for each applicant, regardless of age, even if you are not requesting employment authorization. No fee is required for Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

If you have been granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and are requesting your first EAD, you must submit evidence of your IJ or BIA grant of TPS with your application

for an EAD along with a copy of your I-821 application that the IJ or BIA approved. You must also follow the instructions for filing your application as described in the most recent TPS *Federal Register* notice regarding a TPS designation or extension for your country. As further instructed in those notices, once you receive your I-797 application receipt notice, you must also send an e-mail to tpsijgrant.vsc@dhs.gov with the following information: Your name; your A number; your date of birth; the receipt number for your application; and the date you were granted TPS.

- D. NACARA Section 203 Applicants Who Are Eligible to Apply for NACARA Relief With USCIS--(c)(10).** See the instructions to Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, to determine if you are eligible to apply to USCIS for NACARA 203 relief.

If you are eligible, you may file a Form I-765 with the Form I-881. See Instructions to Form I-881 for filing location. If you file the Form I-765 separately from the Form I-881 see "Where to File?" instructions. Your response to Question 16 on the Form I-765 must be "(c)(10)."

You may be eligible for a fee waiver under 8 CFR 103.7(c) if you are filing for an EAD related to your application or grant of TPS.

- E. Dependent of TECRO E-1 Nonimmigrant--(c)(2).** File Form I-765 with the required certification from the American Institute in Taiwan if you are the spouse or unmarried dependent son or daughter of an E-1 employee of the Taipei Economic and Cultural Representative Office.

3. Foreign Students

- A. F-1 Student Seeking Optional Practical Training in an Occupation Directly Related to Studies: (c)(3)(A) - Pre-completion Optional Practical Training; (c)(3)(B) - Post-completion Optional Practical Training; (c)(3)(C) - 17-month extension for STEM Students (Students With a degree in Science, Technology, Engineering, or Mathematics).** File Form I-765 with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/ I-20 ID) endorsed by a Designated School Official within the past 30 days. If you are a STEM student requesting a 17-month extension under the eligibility code (c)(3)(C), you must also submit a copy of your degree and the employer name as listed in E-Verify, along with the E-Verify Company Identification Number, or a valid E-Verify Client Company Identification Number for the employer with whom you are seeking the 17-month OPT extension. This information must be provided in question 17 of the form.

- B. F-1 Student Offered Off-Campus Employment Under the Sponsorship of a Qualifying International Organization--(c)(3)(ii).** File Form I-765 with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship, and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students (Form I-20 A-B/ -20 ID) endorsed by the Designated School Official within the past 30 days.
- C. F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship--(c)(3)(iii).** File Form I-765 with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students, and any evidence you wish to submit, such as affidavits, that detail the unforeseen economic circumstances that cause your request, and evidence that you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.
- D. J-2 Spouse or Minor Child of an Exchange Visitor--(c)(5).** File Form I-765 with a copy of your J-1 (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement with any supporting evidence showing that your employment is not necessary to support the J-1 but is for other purposes.
- E. M-1 Student Seeking Practical Training After Completing Studies--(c)(6).** File Form I-765 with a completed Form I-539, Application to Change/Extend Nonimmigrant Status, according to the filing instructions for Form I-539. You must also include Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status -- For Vocational Students endorsed by the Designated School Official within the past 30 days, with your application.
- 4. Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO**
- A. Dependent of A-1 or A-2 Foreign Government Officials--(c)(1).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your diplomatic mission to the Department of State (DOS). The DOS will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.
- B. Dependent of G-1, G-3 or G-4 Nonimmigrant--(c)(4).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your international organization to the Department of State (DOS). (In New York City, the United Nations (UN) and UN missions should submit such applications to the United States Mission to the UN (USUN).) The DOS or USUN will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.
- C. Dependent of NATO-1 Through NATO-6--(c)(7).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, to NATO SACLANT, 7857 Blandy Road, C-027, Suite 100, Norfolk, VA 23551-2490. NATO/SACLANT will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.
- 5. Employment-Based Nonimmigrant Categories**
- A. B-1 Nonimmigrant Who Is the Personal or Domestic Servant of a Nonimmigrant Employer--(c)(17)(i).** File Form I-765 with:
1. Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P, R, or TN nonimmigrant and you were employed for at least one year by the employer before the employer entered the United States, or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and
 2. Evidence that you have either worked for this employer as a personal or domestic servant for at least one year, or evidence that you have at least one year's experience as a personal or domestic servant; and
 3. Evidence establishing that you have a residence abroad that you have no intention of abandoning.
- B. B-1 Nonimmigrant Domestic Servant of a U.S. Citizen--(c)(17)(ii).** File Form I-765 with:
1. Evidence from your employer that he or she is a U.S. citizen; and
 2. Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than four years; and
 3. Evidence that he or she has employed you as a domestic servant abroad for at least six months prior to your admission to the United States.

C. B-1 Nonimmigrant Employed by a Foreign Airline--(c)(17)(iii). File Form I-765 with a letter from the airline fully describing your duties and stating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or because there is no treaty of commerce and navigation in effect between the United States and that country.

D. Spouse of an E-1/E-2 Treaty Trader or Investor--(a)(17) or Spouse of an E-3 Certain Specialty of Occupation Professional from Australia. File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-1/E-2, such as your Form I-94, and a copy of the principal's visa, and your marriage certificate. (Other relatives or dependents of E-1/E-2 aliens who are in E status are not eligible for employment authorization and may not file under this category.)

E. Spouse of an L-1 Intracompany Transferee--(a)(18). File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal L-1, such as your Form I-94, and a copy of the principal's visa and your marriage certificate. (Other relatives or dependents of L-1 aliens who are in L status are not eligible for employment authorization and may not file under this category.)

F. Spouse of an E-2 CNMI Investor--(c)(12). File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-2 CNMI Investor, and a copy of the principal E-2 CNMI Investors long-term business certificate or Foreign Investment Certificate. (Please note that spouse of a principal E-2 CNMI Investor who obtained status on the basis of a Foreign Retiree Investment Certification is not eligible for employment authorization and may not file under this category.)

6. Family-Based Nonimmigrant Categories

A. K-1 Nonimmigrant Fiance(e) of U.S. Citizen or K-2 Dependent--(a)(6). File Form I-765 if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

B. K-3 Nonimmigrant Spouse of U.S. Citizen or K-4 Dependent--(a)(9). File Form I-765 along with evidence of your admission such as copies of your Form I-94, passport, and K visa.

C. Family Unity Program--(a)(13). If you are filing for initial or extension Family Unity benefits, complete and submit Form I-817, Application for Voluntary Departure Under the Family Unity Program according to the filing instructions on Form I-817. An EAD will be issued if your Form I-817 is approved; you do not need to submit Form I-765.

If your non-expired Family Unity EAD is lost or stolen, file Form I-765 with proper fee(s), along with a copy of your approval notice for Family Unity benefits, to request a replacement.

D. LIFE Family Unity--(a)(14). If you are applying for initial employment authorization under Family Unity provisions of section 1504 of the LIFE Act Amendments, or an extension of such authorization, you should not use this form. Obtain and complete Form I-817, Application for Family Unity Benefits. If you are applying for a replacement EAD that was issued under LIFE Act Amendments Family Unity provisions, file Form I-765 with the required evidence listed in the "Required Document" section of these instructions.

E. V-1, V-2, or V-3 Nonimmigrant--(a)(15). If you have been inspected and admitted to the United States with a valid V visa, file this application along with evidence of your admission, such as copies of your Form I-94, passport, and K visa. If you have been granted V status while in the United States, file this application along with evidence of your V status, such as an approval notice. If you are in the United States but you have not yet filed an application for V status, you may file this application at the same time as you file your application for V status. USCIS will adjudicate this application after adjudicating your application for V status.

7. EAD Applicants Who Have Filed for Adjustment of Status

A. Adjustment Applicant--(c)(9). File Form I-765 with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence or Adjust Status, is pending. You may file Form I-765 together with your Form I-485.

B. Adjustment Applicant Based on Continuous Residence Since January 1, 1972--(c)(16). File Form I-765 with your Form I-485, Application for Permanent Residence; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

C. Renewal EAD for National Interest Waiver Physicians: If you are filing for a renewal EAD based on your pending adjustment status and an approved National Interest Waiver Physician petition, you must also include evidence of your meaningful progress toward completing the national interest waiver obligation. Such evidence includes documentation of employment in any period during the previous 12 months (e.g., copies of W-2 forms). If you did not work as a national interest waiver physician during any period of the previous 12 months, you must explain and provide a statement of future intent to work in the national interest waiver employment.

8. Other Categories

- A. N-8 or N-9 Nonimmigrant--(a)(7).** File Form I-765 with the required evidence listed in the "Required Document" section of these instructions.
- B. Granted Withholding of Deportation or Removal (a)(10).** File Form I-765 with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.
- C. Applicant for Suspension of Deportation--(c)(10).** File Form I-765 with evidence that your Form I-881, Application for Suspension of Deportation, or EOIR-40, is pending.
- D. Paroled in the Public Interest--(c)(11).** File Form I-765 if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.
- E. Deferred Action--(c)(14).** File Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current income, annual expenses, and the total value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3, Additional Information**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it.
- F. Consideration of Deferred Action for Childhood Arrivals--(c)(33).**
1. You must also file Form I-765 with Form I-821D if you meet the guidelines described in the Form I-821D Filing Instructions. Enter (c)(33) in **Question 16** as the letter and number of the category for which you are applying.
 - a. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current income, annual expenses, and the total value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3, Additional Information**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it.
 - b. The 90-day period for adjudicating Form I-765 filed together with Form I-821D does not begin until DHS has decided whether to defer action in your case.
 - c. The fee for Form I-765 filed based on the Consideration of Deferred Action for Childhood Arrivals category cannot be waived. Biometric collection and the biometric services fee for Form I-765 based on the Consideration of Deferred Action for Childhood Arrivals category is also required and cannot be waived.
 2. If U.S. Immigration and Customs Enforcement (ICE) deferred action on your case, file a stand-alone Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current income, annual expenses, and the total value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3, Additional Information**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it.

When completing the Form I-765:

 - a. Enter "Unlawful Status: Deferred Action for Childhood Arrivals by ICE" for **Question 15**.
 - b. Enter (c)(33) in **Question 16** as the letter and number of the category for which you are applying.
- G. Final Order of Deportation--(c)(18).** File Form I-765 with a copy of the order of supervision and a request for employment authorization that may be based on but not limited to the following:
1. Existence of a dependent spouse and/or children in the United States who rely on you for support;
 2. Existence of economic necessity to be employed; and
 3. Anticipated length of time before you can be removed from the United States.
- H. LIFE Legalization Applicant--(c)(24).** We encourage you to file Form I-765 together with your Form I-485, Application to Register Permanent Residence or Adjust Status, to facilitate processing. However, you may file Form I-765 at a later date with evidence that you were a CSS, LULAC, or Zambrano class member applicant before October 1, 2000, and with a copy of the receipt notice or other evidence that your Form I-485 is pending.
- I. T-1 Nonimmigrant--(a)(16).** If you are applying for initial employment authorization as a T-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for T nonimmigrant status. If you have been granted T nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your T nonimmigrant status, such as an approval notice.
- J. T-2, T-3, or T-4 Nonimmigrant--(c)(25).** File Form I-765 with a copy of your T-1 (principal alien's) approval notice and proof of your relationship to the T-1 principal.

K. U-1 Nonimmigrant--(a)(19). If you are applying for initial employment authorization as a U-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for U nonimmigrant status. If you have been granted U nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your U nonimmigrant status, such as an approval notice.

L. U-2, U-3, U-4, or U-5--(a)(20). If you obtained U nonimmigrant status while in the United States, you must submit a copy of the approval notice for your U nonimmigrant status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.

M. VAWA Self-Petitioners--(c)(31). If you are the principal beneficiary or qualified child of an approved VAWA self-petition, you are eligible for work authorization. File Form I-765 with evidence of your status, such as a copy of Form I-360 approved notice. Additionally, you may file Form I-765 together with your initial VAWA self-petition.

Required Documentation

All applications must be filed with the documents required below in addition to the particular evidence required for the category listed in "Who May File Form I-765?" with fee, if required.

If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses.

Assemble the documents in the following order:

1. Your application with the filing fee. See "**What Is the Filing Fee?**" for details.
2. If you are mailing your application to USCIS, you must also submit:
 - A. A copy of Form I-94, Arrival-Departure Record (front and back), if available. If you are filing Form I-765 under the (c)(9) category, Form I-94 is not required.
 - B. A copy of your last EAD (front and back). If no prior EAD has been issued, you must submit a copy of a government-issued identity document, such as a passport showing your picture, name, and date of birth; a birth certificate with photo ID; a visa issued by a foreign consulate; or a national ID document with photo and/or fingerprint. The identity document photocopy must clearly show the facial features of the applicant and the biographical information. If you are filing under the (c)(33) category, additional documentation beyond what you submit under **Question 3** on page 3 of the Filing Instructions for Form I-821D, Consideration of Deferred Action for Childhood Arrivals, is not required.

C. You **must** submit two identical color photographs of yourself taken within 30 days of filing your application. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

The passport-style photos must be 2" by 2". The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1" to 1 3/8" from top to bottom of chin, and eye height is between 1 1/8" to 1 3/8" from bottom of photo. Your head must be bare unless you are wearing a headdress as required by a religious order of which you are a member. Using pencil or felt pen, lightly print your name and Alien Receipt Number on the back of the photo.

Special Filing Instructions for Those With Pending Asylum Applications ((c)(8))

Asylum Applicant (with a pending asylum application) who filed for asylum on or after January 4, 1995. You must wait at least 150 days following the filing of your asylum claim before you are eligible to apply for an EAD.

Any delay in processing the asylum application that is caused by you, including unexcused failure to appear for fingerprinting and other biometrics capture, will not be counted as part of that 150 days. If you fail to appear for your asylum interview or for a hearing before an immigration judge, you will be ineligible for an EAD. If you have received a recommended approval for a grant of asylum, you do not need to wait the 150 days and may apply for an EAD immediately upon receipt of your recommended approval. If you file Form I-765 early, it will be denied. File Form I-765 with:

1. A copy of the USCIS acknowledgement mailer which was mailed to you;
2. Other evidence that your Form I-589 was filed with USCIS;
3. Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or
4. Evidence that your asylum application remains under administrative or judicial review.

Asylum applicant (with a pending asylum application) who filed for asylum and for withholding of deportation prior to January 4, 1995, and is NOT in exclusion or deportation proceedings.

You may file Form I-765 at any time; however, it will only be granted if USCIS finds that your asylum application is not frivolous. File Form I-765 with:

1. A complete copy of your previously filed Form I-589;
2. A copy of your USCIS receipt notice;
3. A copy of the USCIS acknowledgement mailer;

4. Evidence that your Form I-589 was filed with EOIR;
5. Evidence that your asylum application remains under administrative or judicial review; or
6. A copy of the USCIS acknowledgement mailer.

Asylum applicant (with a pending asylum application) who filed an initial request for asylum prior to January 4, 1995, and is IN exclusion or deportation proceedings. If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995, and you are IN exclusion or deportation proceedings, file your EAD application with:

1. A date-stamped copy of your previously filed Form I-589;
2. A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge;
3. A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge;
4. A date-stamped copy of a petition for judicial review or for *habeas corpus* issued to the asylum applicant; or
5. Other evidence that you filed an asylum application with EOIR.

Asylum application under the ABC Settlement Agreement--(c)(8). If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, *American Baptist Churches v. Thornburgh*, 760 F. Supp. 976 (N.D. Cal. 1991), follow the instructions contained in this section when filing your Form I-765.

You must have an asylum application (Form I-589) on file either with USCIS or with an Immigration Judge in order to receive work authorization. Therefore, submit evidence that you have previously filed an asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help USCIS process your request efficiently.

If you are renewing or replacing your EAD, you must pay the filing fee.

Mark your application as follows:

1. Write "ABC" in the top right corner of your EAD application. You must identify yourself as an ABC class member if you are applying for an EAD under the ABC settlement agreement.
2. Write "(c)(8)" in **Section 16** of the application.

You are entitled to an EAD without regard to the merits of your asylum claim. Your application for an EAD will be decided within 60 days if: (1) you pay the filing fee, (2) you have a complete pending asylum application on file, and (3) write "ABC" in the top right corner of your EAD application. If you do not pay the filing fee for an initial EAD request, your request may be denied if USCIS finds that your asylum application is frivolous. However, if you cannot pay the filing fee for an EAD, you may qualify for a fee waiver under 8 CFR 103.7(c).

Special Filing Instructions for Spouses of E-2 CNMI Investors ((c)(12)).

Spouses of certain principal E-2 CNMI Investors (E-2C) are eligible to seek employment in the CNMI. An EAD issued under this category is only valid for employment in the Commonwealth of Northern Mariana Islands (the CNMI).

To determine if you are eligible for an EAD under this section, you must determine what type of investor certificate was issued by the CNMI to your spouse, the principal E-2 CNMI Investor. If your spouse was issued either a Long-Term Business Certificate or Foreign Investment Certificate, you may be eligible for an EAD under this category. If your spouse, the principal E-2 CNMI Investor, was issued a Foreign Retiree Investment Certification, you are not eligible to receive an EAD under this category.

File Form I-765 with:

1. Documentation, such as a marriage certificate establishing a legal marriage between you and the principal E-2C. Additionally, documentation such as divorce or death certificates establishing the termination of any prior marriages of you and your spouse.
2. Documentation establishing that you reside in the Commonwealth of the Northern Mariana Islands.
3. Documentation establishing that you have obtained E-2C status as a dependent.
4. Evidence that your spouse has obtained E-2C status.
5. A copy of your spouse's CNMI issued Long-Term Business Certificate or Foreign Investment Certificate.

What Is the Filing Fee?

The filing fee for Form I-765 is \$380.

Exceptions:

Initial EAD: If this is your initial application and you are applying under one of the following categories, a filing fee is **not** required:

1. (a)(3) Refugee;
2. (a)(4) Paroled as Refugee;

3. (a)(5) Asylee;
4. (a)(7) N-8 or N-9 nonimmigrant;
5. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
6. (a)(10) Granted Withholding of Deportation;
7. (a)(16) Victim of Severe Form of Trafficking (T-1);
8. (a)(19) U-1 Nonimmigrant;
9. (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
10. (c)(8) Applicant for asylum (an applicant filing under the special ABC procedures must pay the fee); or
11. (c)(31) VAWA Self-Petitioner.

Special Instructions for Childhood Arrivals ((c)(33)). All requestors under this category must submit biometrics. The biometric services fee of **\$85** is required for all requestors. *The biometric services fee and the filing fee for this form cannot be waived.*

Renewal EAD: If this is a renewal application and you are applying under one of the following categories, a filing fee is **not** required:

1. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
2. (a)(10) Granted Withholding of Deportation;
3. (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
4. (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007.

Replacement EAD: If this is your replacement application, and you are applying under one of the following categories, a filing fee is **not** required:

1. (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel.

NOTE: If you are requesting a replacement EAD under the (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007 category, then the full filing fee will be required; however, no biometrics fee is required.

Incorrect Card: No fee is required if you are filing only because the card issued to you was incorrect due to a USCIS administrative error. However, if the error was not caused by USCIS, both application and biometrics services fees are required.

You may be eligible for a fee waiver under 8 CFR 103.7(c).

Use the following guidelines when you prepare your check or money order for the Form I-765 fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; and
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

NOTE: If you filed Form I-485, Application to Register Permanent Residence or Adjust Status, as of July 30, 2007, no fee is required to also file a request for employment authorization on Form I-765. You may file the I-765 concurrently with your I-485, or you may submit the I-765 at a later date. If you file Form I-765 separately, you must also submit a copy of your Form I-797C, Notice of Action, receipt as evidence of the filing of Form I-485 as of July 30, 2007.

Notice to Those Making Payment by Check. If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two times.

How to Check If the Fees Are Correct

The fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit our Web site at www.uscis.gov, select "Forms Filing Fees" and check the appropriate fee; or
2. Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information. For TDD (hearing impaired) call: **1-800-767-1833**.

Where to File?

E-Filing Form I-765: Certain Form I-765 filings may be electronically filed (e-filed) with USCIS. View our Web site at www.uscis.gov/I-765 for a list of who is eligible to e-file this form and instructions.

Paper Filing of Form I-765: Please note that the filing locations for the paper version of this form are subject to change. Read the instructions carefully to determine where you must send your paper application.

Replacement EAD with an error that is the fault of USCIS: If you are completing a Form I-765 for replacement of an EAD that contains an error caused by USCIS, you must submit this form, accompanied by the card containing the error to the Service Center or National Benefit Center that approved your last employment authorization request. Please do not submit these applications to a USCIS Lockbox facility.

If your response to Question 16 is (a)(11), Deferred Enforced Departure (DED), mail your application according to the most recent Federal Register notice for your particular country's DED order. Please also check the most recent Federal Register notice regarding DED for your country for additional EAD filing instructions that may apply in your case.

If your response to Question 16 is (c)(33), Consideration of Deferred Action for Childhood Arrivals, and you have not already been informed by ICE that it has deferred action in your case, AND you are filing your Form I-821D with Form I-765, mail your packages to the filing locations identified in the Form I-821D instructions or visit our Web site at www.uscis.gov/I-821D.

File at the USCIS Vermont Service Center if your response to Question 16 is:

- (a)(16), T-1 nonimmigrant victim of trafficking;
- (a)(19) U-1 nonimmigrant;
- (a)(20), U-2, U-3, U-4, or U-5 nonimmigrant immediate family member of a U-1 victim of criminal activity;
- (c)(9), an alien with a pending or approved VAWA self-petition and you have a pending Form I-485 that was filed with the Vermont Service Center based on this petition;
- (c)(9), a T or U nonimmigrant and you have a pending Form I-485 that was filed with the Vermont Service Center based on this status;
- (c)(14), an alien who has been granted deferred action as a surviving spouse or qualified child, or based on an approved Form I-360 filed for a battered or abused spouse or child; or
- (c)(25), T-2, T-3, T-4, or T-5 nonimmigrant, immediate family member of a T-1 victim of severe form of trafficking in persons.

USCIS Vermont Service Center
Attn: I-765
75 Lower Welden St.
St. Albans, VT 05479-0001

File according to the instructions in the Federal Register Notice for your particular country's TPS designation if your response to Question 16 is:

- (a)(12) or (c)(19) AND you have already filed Form I-821, Application for Temporary Protected Status (TPS), you **must** include a copy of Form I-797C Notice of Action, showing that your initial Form I-821 was accepted or approved. This includes an application for a lost, stolen, or mutilated EAD; or
- (a)(12) or (c)(19) AND you are initially filing or reregistering for TPS.

File at the USCIS Chicago Lockbox facility listed below if your response to Question 16 is:

- (a)(10), an alien granted withholding of deportation or removal;
- (c)(9) AND you filed your Form I-485 with the USCIS Chicago Lockbox facility, and your Receipt Number begins with "MSC." You must include a copy of the I-797C, Notice of Action, which shows your Form I-485 was accepted;
- (c)(10) AND you are **not** eligible to apply for NACARA 203 relief with USCIS, but you are eligible for other deportation or removal relief;
- (c)(11), an alien paroled into the United States temporarily for emergency reasons, or reasons deemed strictly in the public interest;
- (c)(14), an alien who has been granted deferred action, with the exception of those categories filed at the USCIS Vermont Service Center;
- (c)(16), an alien who has filed an application for creation of record of lawful admission for permanent residence;
- (c)(18), an alien against whom a final order of deportation or removal exists and who is released on an order of supervision; or
- (c)(33), an alien whose case was deferred by ICE under consideration of deferred action for childhood arrivals. You must include a copy of the order, notice, or document issued by ICE indicating that ICE deferred action on your case.

USCIS Chicago Lockbox

For U.S. Postal Service:

USCIS
P.O. Box 805887
Chicago, IL 60680-4120

For Express mail and commercial courier deliveries:

USCIS
Attn: FBAS
131 South Dearborn-3rd Floor
Chicago, IL 60603-5517

File at the USCIS Chicago Lockbox facility listed below if your response to Question 16 is:

- (a)(14), an alien granted family unity benefits under Section 1504 of the LIFE Act;
- (a)(15), any alien in V nonimmigrant status;
- (c)(22), if you have a pending I-687 (Legalization application) or if you filed a completed Legalization application pursuant to Section 245A of the Act (and Section 245(a) 8 Code of Federal Regulations); or
- (c)(24), an alien who has filed for adjustment of status under Section 1104 of the LIFE Act.

USCIS Chicago Lockbox

For U.S. Postal Service:

USCIS
P.O. Box 7219
Chicago, IL 60680-7219

For Express mail and commercial courier deliveries:

USCIS
Attn: VKL
131 South Dearborn- 3rd Floor
Chicago, IL 60603-7219

File through your principal's sponsoring organization if your response to Question 16 is:

- (c)(1), alien spouse or unmarried dependent child, son, or daughter of a foreign government official;
- (c)(4), eligible dependent of a G-1, G-3, or G-4 non-immigrant; or
- (c)(7), Dependent of a NATO 1 through NATO 7.

Your application will be reviewed and forwarded by DOS, USUN, or NATO/SACLANT to the Nebraska Service Center following certification of your eligibility for an employment authorization document.

File at the USCIS California Service Center if your response to Question 16 is (c)(12), Spouse of an E-2 CNMI Investor.

For U.S. Postal Service:

USCIS California Service Center
ATTN: E-2C I-765
P.O. Box 10698
Laguna Niguel, CA 92607-1098

For Express mail and commercial courier deliveries:

USCIS California Service Center
ATTN: E-2C I-765
24000 Avila Road
2nd Floor, Room 2312
Laguna Niguel, CA 92677

For all other Form I-765s, file at the USCIS Phoenix or Dallas Lockbox facilities based on where you live.

NOTE: If you are filing Form I-765 together with Form I-485, mail your applications to the address you will use to file the Form I-485.

If you are filing Form I-765 alone because you have already filed Form I-485 and it is **pending**, file your application at the USCIS Phoenix or Dallas Lockbox facilities based on where you live. You **must** include a copy of the I-797C, Notice of Action showing that your application was accepted.

USCIS Phoenix Lockbox

If you live in:		File your application at:
Alaska	Missouri	For U.S. Postal Service: USCIS P.O. Box 21281 Phoenix, AZ 85036
Arizona	Montana	
California	Nebraska	
Colorado	Nevada	
Guam	North Dakota	
Hawaii	Ohio	
Idaho	Oregon	
Illinois	South Dakota	
Indiana	Utah	
Iowa	Washington	
Kansas	Wisconsin	For Express mail and commercial courier service: USCIS Attn: AOS 1820 E. Skyharbor Circle S Suite 100 Phoenix, AZ 85034
Michigan	Wyoming	
Minnesota	Commonwealth of the Northern Mariana Islands	

USCIS Dallas Lockbox

If you live in:		File your application at:
Alabama	New Mexico	For U.S. Postal Service: USCIS P.O. Box 660867 Dallas, TX 75266
Arkansas	New York	
Connecticut	North Carolina	
Delaware	Oklahoma	
District of Columbia	Pennsylvania	
Florida	Puerto Rico	
Georgia	Rhode Island	
Kentucky	South Carolina	
Louisiana	Tennessee	
Maine	Texas	
Maryland	Vermont	For Express mail and commercial courier service: USCIS Attn: AOS 2501 S. State Hwy. 121 Business Suite 400 Lewisville, TX 75067
Massachusetts	Virginia	
Missachusetts	US Virgin Islands	
Mississippi	Islands	
New Hampshire	West Virginia	
New Jersey		

NOTE: If your response to **Question 16** is **(c)(8)** under the special ABC filing instructions, **AND** you are filing your Form I-589, Application for Asylum, with Form I-765, mail your applications to the filing location identified in the Form I-589 instructions.

Otherwise, all other **(c)(8)** related applications will be filed at the USCIS Phoenix or Dallas Lockbox facilities based on where you live. (See filing charts.)

E-Notification

If you are filing your Form I-765 at one of the USCIS Lockbox facilities, you may elect to receive an email and/or text message notifying you that your application has been accepted. You must complete Form G-1145, E-Notification of Application/Petition Acceptance, and clip it to the first page of your application. To download a copy of Form G-1145, including the instructions, click on the link www.uscis.gov "FORMS."

Questions Regarding Form I-765

For additional information about Form I-765, including how to file your application or filing locations not mentioned, call the USCIS National Customer Service Center at 1-800-375-5283 or visit our Web site at www.uscis.gov. For TDD (hearing impaired) call: **1-800-767-1833**.

Processing Information

Any Form I-765 that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-765 is deficient. You may correct the deficiency and resubmit Form I-765. An application or petition is not considered properly filed until accepted by USCIS.

Initial processing. Once Form I-765 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-765.

Biometric collection, interview, and requests for more information. We may request more information or evidence, or we may request that you appear at a USCIS office for an interview, which may include collection of biometrics (fingerprints, photograph, and signature). We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

You may be required to provide biometrics at a USCIS Application Support Center (ASC) in order for your EAD application to be adjudicated and your card to be produced. If necessary, USCIS will send you a notice scheduling you for an ASC appointment for the electronic collection of your biometrics. The ASC notice will inform you of the documents that you must bring with you to the appointment. If you fail to attend your ASC appointment, your EAD application may be denied.

Interim EAD. If you have not received a decision within 90 days of receipt by USCIS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may request interim work authorization by calling the USCIS National Customer Service Center at **1-800-375-5283** or by appearing in person at your local USCIS Field Office by making an **InfoPass** appointment. For further processing at a USCIS Field Office, you must bring proof of identity and any notices that you have received from USCIS in connection with your application for employment authorization. *The Interim EAD provisions apply to individuals filing Form I-765 based on Consideration of Deferred Action for Childhood Arrivals only after a determination on deferred action is reached.*

Approval. If approved, your EAD will either be mailed to you or you may be required to visit your local USCIS office to pick it up.

Denial. If your application cannot be granted, you will receive a written notice explaining the basis of your denial.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-765, we will deny your Form I-765 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations, and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our Internet Web site at www.uscis.gov. For TDD (hearing impaired) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated as follows: 3.42 hours for reviewing instructions and completing and submitting Form I-765; 1.17 hours associated with biometrics processing; .50 hours for reviewing instructions and completing Form I-765WS; and .50 hours associated with providing passport-style photographs. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Avenue, NW, Washington, DC 20529-2020. OMB No. 1615-0040. **Do not mail your completed I-765 application to this address.**

Attachment “2”

Attachment “2”

Table comparing Arizona statutory provisions with corresponding federal regulations

Arizona Statutory Provision	Federal Regulation
<p>ARS § 12-2701. <u>Definitions</u></p> <p>3. "Unauthorized practice of immigration and nationality law" means:</p> <p>(a) The act of any person appearing in any case, either in person or through preparation or filing of any brief or other document, paper, application or petition on behalf of another person or client before or with the immigration and naturalization service, or any officer of the immigration and naturalization service, the executive office for immigration review or the board of immigration appeals, without authorization under this chapter.</p> <p>(b) The study of the facts of a case and the applicable laws, coupled with giving advice and auxiliary activities, including the incidental preparation of papers, without authorization under this chapter, but does not include the lawful functions of a notary public, nonprofit organization or service consisting solely of assistance in the completion of blank spaces on printed immigration and naturalization service forms by a person whose remuneration, if any, is nominal</p>	<p>8 CFR § 1.1</p> <p>(i) The term <i>practice</i> means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with DHS.</p> <p>(k) The term <i>preparation</i>, constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed DHS forms, by one whose remuneration, if any, is nominal and who does not hold himself or</p>

<p>and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.</p> <p>ARS § 12-2702. <u>Representation; definition</u></p> <p>A. A person desiring immigration and nationality services may be represented by any of the following:</p> <ol style="list-style-type: none"> 1. Attorneys in the United States. 2. A law student who is enrolled in an accredited law school or a law school graduate who is not yet admitted to the bar, if both of the following apply: <ul style="list-style-type: none"> (a) The student or graduate is appearing on an individual case basis at the request of the person entitled to representation. (b) The student or graduate is permitted to appear by the official before whom the student or graduate wishes to appear including an immigration judge, an immigration district director, an immigration officer-in-charge, a regional immigration commission, the United States commissioner of immigration and naturalization or the immigration board. If in the official's opinion special circumstances warrant it, the official may require that a law student be accompanied by a supervising faculty member or attorney. 	<p>herself out as qualified in legal matters or in immigration and naturalization procedure.</p> <p>8 CFR § 292.1 Representation of others.</p> <p>Representation of others.</p> <p>(a) A person entitled to representation may be represented by any of the following, subject to the limitations in 8 CFR 103.2(a)(3) :</p> <ol style="list-style-type: none"> (1) Attorneys in the United States. Any attorney as defined in § 1.1(f) of this chapter. (2) Law students and law graduates not yet admitted to the bar. A law student who is enrolled in an accredited U.S. law school, or a graduate of an accredited U.S. law school who is not yet admitted to the bar, provided that: <ol style="list-style-type: none"> (i) He or she is appearing at the request of the person entitled to representation; (ii) In the case of a law student, he or she has filed a statement that he or she is participating, under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization, and that he or she is appearing without direct or indirect remuneration from the alien he or she represents;
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<p>3. Any reputable person of good moral character, if all of the following apply:</p> <p>(a) The person is appearing on an individual case basis, at the request of the person entitled to representation.</p> <p>(b) The person is appearing without direct or indirect remuneration and the person files a written declaration to that effect.</p> <p>(c) The person has a preexisting relationship or connection with the person entitled to representation including a relative, neighbor, clergyman, business associate or personal friend, except that this requirement may be waived, as a matter of administrative discretion, in cases in which adequate representation would not otherwise be available.</p> <p>(d) If the person is appearing on behalf of a client, the person's appearance is</p>	<p>(iii) In the case of a law graduate, he or she has filed a statement that he or she is appearing under the supervision of a licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration from the alien he or she represents; and</p> <p>(iv) The law student's or law graduate's appearance is permitted by the DHS official before whom he or she wishes to appear. The DHS official may require that a law student be accompanied by the supervising faculty member, attorney, or accredited representative.</p> <p>(3) Reputable individuals. Any reputable individual of good moral character, provided that:</p> <p>(i) He is appearing on an individual case basis, at the request of the person entitled to representation;</p> <p>(ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;</p> <p>(iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and</p> <p>(iv) His or her appearance is permitted</p>
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<p>permitted by the official before whom the person wishes to appear including an immigration judge, an immigration district director, an immigration officer-in-charge, a regional immigration commissioner, the United States commissioner of immigration and naturalization or the immigration board, except that this permission shall not be granted with respect to any person who regularly engages in immigration and nationality practice or preparation or holds himself out to the public as qualified to do so.</p> <p>4. A person who is representing an organization accredited by the board of immigration appeals and who has been accredited by the immigration board.</p> <p>5. An accredited official in the United States of the government to which an alien owes allegiance, if the official appears solely in an official capacity and with the alien's consent.</p>	<p>by the DHS official before whom he or she seeks to appear, provided that such permission will not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself or herself out to the public as qualified to do so.</p> <p>(4) Accredited representatives. A person representing an organization described in § 292.2 of this chapter who has been accredited by the Board.</p> <p>(5) Accredited officials. An accredited official, in the United States, of the government to which an alien owes allegiance, if the official appears solely in his official capacity and with the alien's consent.</p> <p>See also 8 CFR § 1292.1</p>
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