



U.S. Citizenship
and Immigration
Services

Agenda

USCIS Asylum Division Quarterly Stakeholder Meeting

Tuesday, May 1, 2018

Tomich Center

111 Massachusetts Avenue, NW

Washington, D.C. 20001

2 - 4pm EST

I. Welcome and Introductions

II. Asylum Division Updates

- a. Regularly Provided Statistics (posted on uscis.gov)
 - Affirmative Asylum Statistics (January 2018 – March 2018)
 - NACARA Statistics (June 1999 – March 2018)
 - Credible and Reasonable Fear Statistics and Nationality Reports (January 2018)
 - Unaccompanied Alien Children Statistics (January 2018 – March 2018)

We publish the regularly provided statistics on the uscis.gov website before the quarterly engagement so you can review them prior to the meeting and print a copy if you choose.

III. Statistics

- a. With the new priorities for processing asylum cases (giving priority to new cases), what has been the outcome? In general, have cases been approved or denied?
- b. Has there been a decline in applications or is the trend still the same?
- c. What are the most common nationalities in recent asylum applications?
- d. What is the current backlog?

Response: Please see the statistics posted on uscis.gov.

- e. Every quarterly report shows the number of "applications filed." Does this count applications independently of the number of riders or derivatives included in the Form I-589, or is every single derivative (for whom a copy of the I-589 is submitted) counted for the total of applications?

Response: For statistical reporting purposes, the Asylum Division counts only principal applicants, not derivative applicants.

- f. How many applications have been received in January, February, and March of 2018 and how many interviews were scheduled during this time? Could you provide an office-specific breakdown?

Response: Please see the statistics posted on uscis.gov.

- g. Do you track on which protected ground asylum claims are granted? If so, where can we find this data?

Response: We track this information, but it is not made available to the public.

IV. Scheduling of Asylum Interviews/Processing Times

- a. Can you give an update on how the new Last In, First Out policy is going?

Response: We have received fewer new asylum applications since the change to the Last In, First Out policy. Meanwhile, six of the ten asylum interview locations have completed enough cases to keep up with new filings (Chicago, Los Angeles, Newark, New York, San Francisco, and New Orleans). As a result, the rate of backlog growth has slowed.

- b. Will the Asylum Division post regular updates with regard to where each asylum office is at in terms of adjudicating backlogged cases?

If there are no plans to do regular nation-wide updates, will headquarters instruct the local offices to disseminate this information to attorneys and applicants upon request?

Could the Asylum Division restore the original interview bulletin which will provide more clarity to existing applicants in the legacy queue?

- c. Can USCIS provide a scheduling bulletin in order to alert applicants and practitioners of when backlog cases may be heard?

What is your plan for creating some transparency regarding interview scheduling in various asylum offices and the extent to which offices ever get to the third priority cases?

Response: We are not planning to post a scheduling bulletin at this time. Our current priority is to schedule interviews for new filings under the Last In, First Out policy. Once we begin scheduling older cases on a broad scale we will consider whether, and how, to provide such information.

- d. We had some clients who have been interviewed by the Boston Asylum Office almost a year ago and we still do not have the interview results. We have written to the asylum office a number of times and each time we have been advised to wait without any further details provided. We would like to know:
- i. Is this normal?

- ii. Is there anything we can do to expedite the process?

Response: The Boston Asylum Sub-Office is currently working through a post-interview backlog. The office made process changes and is increasing staff to address the backlog.

- e. We have many cases which have been pending a decision for upwards of 6 months. Guidance on best method to follow up on adjudication would be helpful.

Response: Please contact the director of the asylum office with jurisdiction over the case in writing via email, fax, or mail as described on the office locator on uscis.gov.

- f. Currently, policies require asylum offices to issue charging documents and refer applicants to the immigration court if they are found not eligible for asylum and there is a gap in their legal status even if they have filed a timely extension pending with USCIS decisions.

With revised interview schedules, could the Asylum Division consider prioritizing the interview for applicants with legal status to prevent unnecessary charges filed against individuals who are following the law?

Response: We are unable to prioritize applicants who are in status.

- g. What is the current time process after an individual completed his/her asylum interview?

Response: In most cases, the applicant will be instructed to return to the asylum office 2 weeks after the interview to pick up the decision in person. For cases that have pending security checks or that require headquarters quality assurance review, the processing time may be longer. Cases interviewed at a circuit ride location may receive a decision by mail more than 2 weeks after the interview.

- h. Are any expedited requests being granted, and if so, what is the criteria?

What is USCIS policy for scheduling interviews for cases in which an expedite request was granted?

Please return to the short list and advising attorneys where their client is on the list.

Response: Requests for expedited processing are addressed in section III.B.7 of the Affirmative Asylum Procedures Manual posted on uscis.gov. An asylum office director has discretion to consider a request for urgent interview scheduling on a case-by-case basis. Factors specific to each office will impact the office's ability to grant such requests.

If a request to expedite is denied, the case will be placed on the short list if the office maintains one. Local offices determine whether to use a short list and any associated procedures. Local offices maintain short lists to fill interview slots when a cancellation

may occur. Applicants who are willing to come to an asylum interview with less than 2 weeks' notice can agree to be placed on the short list.

- i. At the February stakeholder engagement, you indicated that each local asylum office would have broad latitude on how they address their backlogged cases. However, it appears that confusion may exist among local offices on whether headquarters will be issuing further guidance on dealing with backlogged cases. Do you anticipate issuing any further guidance to local offices about backlogged applications?

Response: We do not anticipate issuing further guidance to local offices regarding backlogged cases at this time. The local offices are aware that the first priority is rescheduled cases, which still includes some cases from our backlog that were previously scheduled for an interview. The second priority is cases in which 21 days or less have passed since the date we received the Form I-589. Among the most recent applications, we are focused on ensuring that people who are filing 10 or more years after first entering the U.S. do not add to our backlog. By expeditiously adjudicating these cases, those who fail to meet an exception to the 1-year filing deadline will be expeditiously referred to proceedings before the immigration judge.

This effort will deter abuse of our asylum system by shortening the time frame that new applications are pending at an asylum office and the number of days these applicants accrue toward EAD eligibility. We are currently unable to schedule all newly filed cases for interviews, and our priority is to interview those cases prior to addressing the backlogged cases on a broad basis.

- j. How does USCIS expect to address the pending backlog of cases filed in or before 2017?

With the new LIFO interview system, please advise the process being used to fold in old cases with the new LIFO filings.

Have any cases that were in the asylum backlog prior to the LIFO change in policy been scheduled for an interview? If yes, are the most recently filed cases being scheduled first?

- k. When do you expect to begin scheduling for interview second priority asylum applications?

Response: The system is currently set up to schedule as first priority those cases that require interview rescheduling. After scheduling those cases, the system is set up to batch schedule cases that are 21 days or less from the receipt date, starting with cases that are 21 days old. The system would not schedule backlog cases unless all new applications have been scheduled on a given day. When scheduling backlog cases, the system will start with cases that are 22 days old and go backwards from there. There is a chance that older cases have been scheduled because of requests to expedite or reschedule the interview or because a case was scheduled from a short list. There may

be others that have been manually scheduled for local reasons. The general approach is to schedule the newest filings.

- I. Are asylum offices triaging cases so that the readily approvable cases are interviewed first (e.g., an Iranian Baha'i, a Syrian Christian)?

Response: No. As mentioned earlier, our focus is on ensuring that when people who are clearly not eligible for asylum file a new asylum application, we interview and adjudicate their application promptly so that they do not join our backlog and obtain work authorization based on a pending asylum application with USCIS. We are maintaining this focus so that we can successfully use LIFO to deter frivolous or fraudulent filings. In addition, the only way we could triage cases based on the substance of the asylum claim would be by manual file review, which is not feasible.

- m. If the current receipts outnumber the number of interviews that USCIS is able to schedule, how will LIFO scheduling work? Will all newly filed cases gradually be pushed back (e.g., if current scheduling is 4 weeks out, by a year from now, it might be 8 weeks out)?

Response: If a case does not get scheduled within 21 days of receipt, it goes into the backlog.

- n. With children's cases no longer being prioritized for interviews, what should an attorney for an unaccompanied minor whose case is in immigration court do if their cases end up in the backlog?

Response: Requesting expedited processing with the asylum office with jurisdiction over the case may be available. Requests for expedited processing are addressed in section III.B.7 of the Affirmative Asylum Procedures Manual posted on uscis.gov. If an immigration judge is requiring a decision from USCIS, this may be a favorable factor when we consider a request to expedite.

V. Unaccompanied Alien Children (UACs)

- a. Are the procedures for determining initial jurisdiction over UAC cases in the May 28, 2013 memorandum and subsequent June 10, 2013 Q&A on Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children still in effect?
- b. Can you confirm that the May 28, 2013 memorandum on initial jurisdiction over asylum applications filed by UAC, and related June 2013 policy documents, remain in effect?

Response: Yes. The May 28, 2013 memorandum on initial jurisdiction over asylum applications filed by UACs and the related June 2013 policy documents remain in effect.

- c. What are the statistics on UAC asylum approval rates for the last quarter? Has there been a decline in UAC asylum approval rates from the previous year? If so, is there a reason for the decline?

Response: The UAC approval rate for fiscal year 2017 was 34.7% and for the first half of fiscal year 2018 was 21.3%. Without looking at individual cases, we cannot know the reason for the decline.

- d. Is there any new guidance (e.g., lesson plans, training materials, etc.) for asylum officers adjudicating UAC asylum claims that can be shared publicly?

Response: No.

- e. During previous quarterly stakeholder calls, USCIS stated that the May 28, 2013 memorandum on initial jurisdiction over asylum applications filed by UAC remains in effect. Where an asylum office declines to exercise its jurisdiction, is there a recommended course of action for an applicant who believes that the decision was not consistent with the policy as outlined in the May 28, 2013 memo?

Response: Please bring these cases to the attention of the local asylum office and to the immigration court if the applicant has another hearing scheduled.

VI. Employment Authorization and the Clock

- a. In the November 4, 2016 stakeholder meeting, the Asylum Division responded to question IV (c) that “The filing guidance on the website is an attempt to reduce the number of applicants who receive a shortened EAD validity period. It is not an absolute cut-off date.”

However, there is conflicting information on the USCIS website, such as through AskEmma, that says “you cannot file for a renewal of your EAD more than 180 days before your original EAD expires.”

Could the Asylum Division work with service centers adjudicating EAD renewals to clarify and confirm whether the original statement is still valid and applicants are allowed to file renewals more than 180 days before their EADs expire?

Response: The response in the November 4, 2016 stakeholder meeting to question IV(c) is no longer valid due to subsequent regulation and policy changes. As noted on the USCIS website at <https://www.uscis.gov/greencard/employment-authorization-document>, USCIS now allows applicants to submit EAD renewal applications up to 180 days before their current EAD expires. This policy, coupled with the automatic extension of certain EADs for up to 180 days, provides sufficient time to process the EAD application and avoid potential gaps in the applicant’s EAD.

- b. Can USCIS confirm that, absent applicant-caused delay, a referral by USCIS to the Immigration Court – whether on the merits or for want of UAC jurisdiction – should not, in and of itself, cause the clock to stop?

Response: Please see the [180-Day Asylum EAD Clock Notice](#). For asylum applications first filed with an asylum office, USCIS calculates the 180-Day Asylum EAD Clock starting on the date that USCIS receives the complete asylum application according to the Form I-589 instructions. If we refer an asylum application from an asylum office to EOIR, the applicant may continue to accumulate time toward employment authorization eligibility while the asylum application is pending before an immigration judge, provided the asylum applicant did not fail to appear for the asylum interview, biometrics appointment or fail to pick up the asylum decision.

- c. When the applicant reschedules an interview, the clock stops. Does it restart from the date the asylum office schedules a new date? If no, what if, after a new interview is set, then it is canceled by USCIS?

Response: A request to reschedule the asylum interview by the applicant is a delay caused by the applicant and stops the 180-Day Asylum EAD Clock. The 180-Day Asylum EAD Clock remains stopped until the applicant appears in person for the rescheduled interview. Scheduling a new interview date does not, in and of itself, start the 180-Day Asylum EAD Clock.

- d. After an interview is conducted, shouldn't the clock be restarted? If not, what is the procedure?

Response: The clock restarts when the applicant attends the rescheduled interview, unless the clock is stopped for an additional reason. For a list of reasons the 180-Day Asylum EAD Clock may be stopped, please refer to the 180-Day Asylum EAD Clock Notice. If you believe the 180-Day Asylum EAD Clock is stopped in error, please contact the EAD clock point of contact at the asylum office with jurisdiction over your case.

VII. Biometrics

- a. Some clients have not received biometrics notices after submitting the application to Nebraska and there are other clients who we had to send reschedule notices because as new arrivals, they had no identification and were waiting for the passport.

We have called USCIS and we were referred to Virginia. Virginia does not have the file. We emailed the Nebraska and Arlington office and we still have not received a biometrics appointment.

Response: The Asylum Division plays a supporting role in the process to schedule biometrics appointments for defensive asylum cases. Since August 2017, the Asylum Division has been using new software for initiating biometrics appointments. This new

system gave Application Support Centers (ASCs) the ability to track the generation of appointment notices for both affirmative and defensive asylum applicants and to resolve known issues affecting the generation of notices under the former system.

In order to ensure that you receive a notice, we recommend that you carefully follow the instructions given to you in removal proceedings and published on the USCIS website under “Immigration Benefits in EOIR Removal Proceedings.” Representatives will only receive receipt notices and appointment notices if they properly submitted a Form G-28 with the initial submission to the Nebraska Service Center (NSC).

If you have not received an appointment notice more than 30 days after filing the first three pages of the Form I-589 with the NSC, please contact the NSC or the nearest asylum office to request assistance in scheduling an initial biometrics appointment for the defensive Form I-589 filing. Do not contact an asylum office for rescheduling requests or any other matter pertaining to biometrics notices for defensive cases. To reschedule a biometrics appointment, please follow the instructions on the notice. Although it is recommended that asylum applicants present government-issued identification when appearing at the ASC, asylum applicants are not required to present identification documents in order to have their biometrics collected.

In addition, the week of April 30th, we are completing the 2nd phase of our transition to our new case management system, Global, which means that representatives and respondents in removal proceedings will begin receiving 8.5x11 receipt notices when completing the “pre-order instructions” and Global will initiate biometrics scheduling with the National Appointment Scheduling System.

- b. Our office has been experiencing issues in having ASC appointments rescheduled. We have several cases which have been pending a new appointment for over 3 months. Any guidance on actions to take would be appreciated.

Response: After receiving a properly filed Form I-589 and creating a new record in the Asylum Division's case management system, our system automatically generates a biometrics appointment notice. Notices are mailed to applicants several times per week, and all biometrics collection appointments are scheduled within 30 days of filing. If an applicant does not receive an appointment notice within 30 days of receiving the Form I-589 receipt notice, we recommend the applicant contact the asylum office with jurisdiction over the case to ensure that the current address is on file.

Applicants who need to reschedule their appointment should check the appropriate box on their appointment notice and mail the notice to the Biometrics Processing Unit (BPU), Alexandria ASC, Suite 100, 8850 Richmond Hwy, Alexandria, VA 22309-1586. On the day the Rescheduling Unit at the BPU receives the request, a staff member puts the applicant into a scheduling queue. Notice generation is initiated every Friday evening, and notices are mailed on the following Monday or Tuesday. Applicants will receive a new appointment for a day during the following 2 weeks. If an applicant does not receive a new appointment notice within 30 days after mailing a reschedule request,

we recommend that the applicant contact USCIS customer service or the asylum office with jurisdiction over the case.

- c. If an asylum applicant receives an interview notice but no biometrics appointment notice, what procedure should the applicant follow to avoid delaying the decision?

Response: As described above, biometrics appointment notices are automatically generated once we receive a properly filed Form I-589. All biometrics collection appointments are scheduled within 30 days of receipt of the Form I-589. If an applicant does not receive a biometrics collection appointment notice within 30 days of receiving the Form I-589 receipt notice, we recommend that the applicant contact the asylum office with jurisdiction over the case to ensure the current address is on file. Under the Asylum Division's current scheduling priorities, the asylum interview may follow shortly after the biometrics collection appointment. In order to ensure timely case processing, we recommend that applicants appear at the originally scheduled biometrics collection appointment unless rescheduling is necessary. If an applicant receives an interview notice but does not have a biometrics collection appointment notice, we recommend that the applicant contact the asylum office with jurisdiction over the case so that the office can provide another copy of the biometrics collection appointment notice or reschedule the biometrics collection appointment if necessary.

VIII. One-Year Filing Deadline

- a. Does the asylum office always refer cases to court if the I-589 was not filed within one year?

Response: No. Certain individuals (UACs) are exempt from the one-year filing deadline. Additionally, the asylum office will evaluate individual cases to determine whether an exception based on changed or extraordinary circumstances applies.

- b. For a Chinese applicant, would conversion to Christianity more than a year after entry qualify as an exception to the one year filing requirement if the I-589 was filed within 3 months of conversion or baptism?

Response: Each individual case is decided on its merits. Without all the facts, we cannot respond to the hypothetical case described. The asylum officer will evaluate whether a changed or extraordinary circumstances exception applies to the one-year filing deadline. If this concerns a particular case, please contact the local asylum office.

IX. Training

- a. Many new officers seem to have no understanding of certain cultural issues. For example, the history of indigenous populations in Guatemala. As a result, some of the questions are very insensitive.

Response: RAIO Training conducts a session on Cross-Cultural Awareness & Communication for new officers at the RAIO Combined Training Program. This session includes practical exercises and reinforces concepts that were learned through Distance Training's required reading: "Cross-Cultural Communications" RAIO Lesson Plan.

The Asylum Division Officer Training Program (ADOTP) includes a guided mock interview in which students are given feedback and guidance on interview techniques. Evaluation of performance for all 3 ADOTP mock interviews includes whether students demonstrate awareness and respect for cultural norms, including gender roles.

- b. Are there any new or anticipated updates to RAIO/AOBTC training materials and lesson plans?
 - i. If yes, on what topics?
 - ii. If yes, will they be available to the public?

Response: As needed, periodic review and updates are carried out on all RAIO/Asylum basic training materials and lesson plans.

The Asylum Division commenced an Asylum Division-specific Lesson Plan Periodic Review in mid-April. In accordance with reviewing standards established by the Training Team, reviewers in each branch will (1) evaluate and edit the content of the plans including case law, citations, policies, procedures, memos and (2) determine whether the lesson plans reflect the present day asylum corps and its adjudications. The tentative completion date for the updated Asylum Division lesson plans is the beginning of the next calendar year.

Materials for public release will be made available in the FOIA Electronic Reading Room.

- c. Has asylum office staff received recent training or guidance regarding the referral of cases in which an applicant describes being persecuted by a gang on account of a family relationship?
- d. Has asylum office staff received recent training or guidance regarding eligibility for asylum on the basis of severe domestic abuse by a persecutor the government is unable or unwilling to control?

Response: Headquarters has not issued new training or guidance on either of these topics.

X. Terminations

- a. USCIS has stated that "... An asylee or a lawful permanent resident who obtained such status based on a grant of asylum status may be questioned about why he or she was able to return to the country of claimed persecution and, in some circumstances, may be subject to proceedings to terminate asylum status."

My question is regarding LPRs who obtained such status based on a grant of asylum. On what legal basis and under what circumstances does USCIS have the authority to terminate an asylee's LPR status for reasons other than fraud or error? Please provide clarity on revoking LPR status based on a termination of underlying asylum.

Response: Once an asylee has adjusted to lawful permanent resident (LPR) status, USCIS will not terminate asylum. However, a former asylee who is now an LPR may have his or her LPR status rescinded or be placed in removal proceedings based on fraud or other applicable grounds of inadmissibility or removability.

XI. Travel

- a. Do dependents on asylum applications who are still in legal immigration status have to apply for advance parole if they want to travel outside the U.S.?

Response: Dependents of asylum seekers (on Forms I-589 or I-730) can apply for advance parole. As long as the individual establishes either significant public benefit or urgent humanitarian reasons for the authorization of advance parole, as well as that the individual merits a favorable exercise of discretion, then a dependent of an asylum seeker may be authorized advance parole. If an individual already holds a lawful immigration status, the ability to depart and return to the U.S. varies depending on the current lawful immigration status the individual holds.

XII. Adjustment of Status

- a. Currently there is significant delay in processing asylees' adjustment of status applications at the Texas Service Center (14-21 months vs 9-11.5 months for employment based I-485). The Nebraska Service Center only took 4-8 months to adjudicate an asylee's application. Is there any specific reason for such delay and does USCIS have any future plans to expedite processing of such applications at the Texas Service Center?

Response: The Texas Service Center's (TSC's) asylee-based Form I-485 processing time is about 11 months for cases that are adjudication ready. TSC has a number of asylee-based Forms I-485 that need additional vetting and are not adjudication ready. These pending Forms I-485 are causing the asylee-based processing time to appear longer than usual.

- b. Over the last several years, I have a large volume of requests for clarification from both newly granted asylees and service providers alike with regards to the medical requirements for applying to adjust status to lawful permanent resident.

A simple narrative explaining the process or infographic geared toward English Language Learners would go a long way to resolving current confusion among the new asylee population. The infographic should indicate:

There are two components/forms that must be submitted together as one complete package to successfully apply to adjust status: I-693 Medical Exam form which can only be completed by a USCIS-registered civil surgeon plus the I-485 lawful permanent resident application.

List the vaccine information PLUS the other medical requirements such as to have a syphilis and gonorrhea and TB gold test done in a clear manner. The majority of asylees would benefit greatly from a simple table of required vaccines and list of tests that they can print and bring to their primary care provider.

It would be helpful for USCIS to put a cap on the amount that a civil surgeon can charge to do the medical exam. There are providers who are currently certified who are unfamiliar with the medical needs of this population and charge exorbitant fees.

Response: Thank you for your suggestions. We sent them to the USCIS Office of Policy and Strategy. They may respond in writing via the USCIS Customer Service and Public Engagement Division.

XIII. Quality Assurance Review

- a. Which cases are being sent to headquarters for review?
- b. What is the timeline for review of those cases?

Response: Cases may be submitted to headquarters if they are novel, high profile, likely to be publicized, or involve national security issues. Also, as mentioned at previous engagements, we have asked offices to submit the following to headquarters for review:

- If the adjudicator proposes to grant asylum but detects indicators of past or current gang affiliation, regardless of whether the applicant is a juvenile or adult; or
- If the adjudicator proposes to grant asylum to an applicant who was previously or is currently being held in a staff-secure or secure Office of Refugee Resettlement (ORR) facility.

We do not have data on how long these cases take to review.

XIV. SAVE

- a. Arkansas requires verification through the Systematic Alien Verification for Entitlements (SAVE) for an end of stay date for non-U.S. citizens. Will all asylees' end of stay dates be entered into SAVE?
- b. If not, how are states to know the end of stay dates for the purpose of issuing identification cards and driver's licenses? Most states' laws require the license or ID card to be issued for a term that is not longer than the applicant's legal stay in the U.S.

Response: Asylees do not have an end of stay date since their status is indefinite. USCIS enters expiration dates in SAVE during verification when applicable but does not enter a status expiration date for asylees. Since SAVE does not have an expiration date for asylees, it is up to Arkansas DMV policy to determine how long to provide drivers licenses to applicants whose immigration statuses do not have an expiration date.

XV. Miscellaneous Questions

- a. Is it not possible to save dozens of hours consumed in answering the standard questions when the applicant is fluent in English and the country conditions and the application indicate that there is a well-founded fear of persecution? Can we do something to shorten interviews to conserve resources of USCIS, the client, and the attorneys?

Response: We have no presumption of well-founded fear based solely on the submitted documents. Our decision will be based on an assessment of the documents provided and testimony elicited at the interview.

- b. I would like to know more about officer training and supervision. It seems that officers have only 30 minutes or so (in San Francisco) to review an entire file before the interview.

Response: Local asylum offices manage procedures for case assignment. The amount of time available for file review differs depending on the office.

- c. I would like to learn more about the time permitted for officers to make decisions. I have heard that they must make a decision in between their two interviews during the week and/or on Fridays. This seems absurd considering the amount of time attorneys and applicants put into their file and preparing for their interview.

Response: Decisions are generally served on applicants 2 weeks after the interview, and officers must make decisions within that time. This has been the expectation for asylum officer performance for over 20 years. In addition, the process of referring unapproved cases of applicants who are not in lawful status to immigration court allows these applicants to present their case again to an immigration judge.

- d. The question "how do you know your interpreter" is very confusing for applicants and I would strongly consider changing the wording of that question. Most applicants just met their interpreter that morning and they don't understand the question.

Response: Thank you for your suggestion. We are taking a look at this and will consider whether different wording of this question would be appropriate.

- e. Are nonimmigrant visa holders allowed to apply for asylum and, if so, when can they file their Form I-589?

Response: Nonimmigrant visa holders are allowed to apply for asylum if they are in the United States. They can apply at any time, keeping in mind the one year filing deadline.

- f. According to the Affirmative Asylum Procedures Manual (AAPM), “[t]here is no statutory or regulatory bar to an individual being both a principal applicant and a dependent. An individual may pursue an asylum application as a principal applicant and as a dependent on a parent or spouse’s asylum claim.” See p. 49 at <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AAPM-2016.pdf>.

However, on several occasions where an applicant who is already a derivative on their spouse’s application has attempted to file their own I-589 as a principal applicant (with the spouse as derivative), they’ve received a notice from the Vermont Service Center claiming that a receipt cannot be issued because this is “a subsequent filing.” Upon further inquiry, the Newark Asylum Office has sent responses stating that “our system does not allow for a principal and a dependent with the same A-Number to be entered twice and in reverse (dependent now principal and principal now dependent). During the time of the interview the officer along with the interviewing attorney can decide who should be the principal and who will be the dependent.”

This seems directly in conflict with the above-cited AAPM and a person’s right to file their own asylum application and receive a receipt confirming that. Can you fix your system to allow an individual to be both a principal applicant and a dependent, please?

Response: We are in the process of building a new case management system and expect to be using the new system by the end of the fiscal year. We have already transitioned to the new system for credible and reasonable fear cases. We will consider your suggestion.

- g. Is it a requirement that individuals who have undergone gender transitioning and have a gender affirming letter demonstrating proof of gender change must appear in person to change their gender? If it isn’t a requirement, how do attorneys rectify an official’s error in repeatedly requiring an in-person visit? If it is a requirement, this seems contrary to the AAPM.

Response: Individuals who have undergone gender transitioning and have a gender affirming letter demonstrating proof of gender change are not required to appear in person to change their gender. If an officer requires someone to appear in person at an asylum office in this context, please bring the matter to the attention of the local asylum office. If you are unsuccessful in bringing the matter to the attention of the local asylum office, please bring the matter to the attention of Asylum Division Headquarters.

- h. During the last meeting, the Asylum office mentioned that during the week of January 29th, the Asylum Office started a voluntary pilot program for applicants who filed more than 10 years after entry and the application fails to make any argument regarding the one-year filing deadline.
- i. Please provide an update on this program.

- ii. Which local asylum offices are participating in this program?
- iii. Are pro se applicants receiving the pilot project letters or only represented clients?

Response: We sent the relevant notices to approximately 1500 applicants. Approximately 300 applicants responded by waiving their interviews, and those individuals were subsequently issued a 1-year rejection referral to EOIR based solely on the written record. All offices participated. Pro se applicants were among those receiving the notices. We are still looking at the results of the pilot and deciding what to do next.

- i. Please provide an update on the hiring and opening of the new asylum vetting center in Atlanta, Georgia.

Response: The vetting center is open. We have a director and we're in the process of hiring more staff, but there is no processing happening there yet.