



U.S. Citizenship  
and Immigration  
Services

# Questions and Answers

## USCIS Asylum Division Quarterly Stakeholder Meeting

April 12, 2011

20 Massachusetts Avenue, NW

Washington, D.C. 20529

2:00pm to 4:00pm ET

### 1. Announcements.

**Staffing Updates:** Three new Asylum Officers recently joined us at HQ: Marianne Hong (from ZLA and now working for MGMT), Amina Shafi (from ZLA and now working for TRAQ), and Sara Leary (from ZSF and now working for Operations). We also have two departures: Heide Bryan, a former AO in Management, is now in the RAIO Directorate as Quality Management Chief. Leneen Speed-Walker, a former Management & Program Analyst in Management, is now at the Defense Information Systems Agency.

**Recently Issued Memoranda:** Two recently issued memoranda are attached: "Further Revised Reasonable Fear Quality Assurance Review Categories," January 28, 2011, and "Procedures for Reviewing and Processing Asylum Office Customer Disability Accommodation Requests," February 14, 2011.

2. **Statistics.** Please provide statistics from January to March 2011 on Affirmative Asylum workload; NACARA workload; Credible and Reasonable Fear workload; Iraq, Afghanistan and Libyan receipts; and Unaccompanied Alien Children (UAC).

**Response:** The requested statistics are attached. The UAC report will now be automatically generated on a quarterly basis and we will distribute it at future stakeholder engagement meetings. The report captures MPAs (minor principal applicants) and PRLs (minor applicants who come to us under TVPRA jurisdiction). Please contact Mary Margaret Stone to provide feedback on the report and if you have any questions about how it is generated.

3. **Employment Authorization Document (EAD) Attachment to Asylum Grant Letters.** We suggest that all Asylum Offices provide an information sheet to newly granted asylees to let them know: (1) they will automatically receive the EAD by mail; (2) when they can expect to receive the EAD; and (3) provide a POC if there is a problem with the delivery of the EAD.

**Response:** The addendum is attached. When the Asylum Division automated EAD generation in 2006 we issued procedures to the field offices instructing them to include the attached addendum to the approval letter. The addendum contains the information you recommended in your question. It informs asylees that they will automatically receive an EAD by mail; what to do if they do not receive it in the mail; provides a contact if there is a problem; and includes information on what to do if the EAD is lost or stolen.

We reminded the field offices to include the addendum with the asylum approval letter. Most of the offices replied that they are including it. However, they print the addendum separately from the approval letter. We will be adding the addendum to our automated forms generation module so that it will automatically print with the approval letter.

4. **Patrick Tzeuton Clients.** We continue to see former clients of Patrick Tzeuton, who was criminally convicted. How are you treating them? Joining in Motions to Re-open? Service motions?

**Response:** Our normal practice in cases of convicted preparers is to review the cases that were associated with the preparer for evidence of fraud. We apply termination procedures to cases where we find prima facie evidence of fraud and will take administrative action depending on the benefit that is received and who has jurisdiction.

5. **Follow-up Questions on Termination Proceedings.** We have noticed that a long time may pass between when a preparer is criminally convicted to when the case is reviewed. This especially impacts our clients who have filed for adjustment of status. What are the reasons for the delay? Do the investigations take place at a local or HQ level? Who do we contact for updates on the case status?

**Response:** The cases are slow for several reasons: the fraud investigation itself takes time; it may take a long time for the actual conviction; we need time to assess evidence and to apply it to individual cases; we then determine whether or not to initiate termination proceedings. Numerous factors go into determining whether we will initiate termination proceedings. Please contact the office where the application is pending for updates on case status.

6. **Contact with Asylum Offices and HQ.** Please provide updates on the national customer service policy that you are developing.

**Response:** At our January meeting, stakeholders recommended that Asylum HQ consider instructing all Asylum Offices to provide names, telephone numbers, and email addresses for all staff and contact personnel, and also to designate a contact in Asylum HQ for cases transferred to headquarters.

We agreed to begin drafting a national, standardized customer service policy for all eight Asylum Offices and HQ and to present the draft procedures at this meeting. Since our last meeting, we surveyed the Asylum Offices to see what various mechanisms they employ to respond to customer inquiries. We found that they respond in a variety of ways. We developed a proposal that incorporates categories of their responses and sent it to office directors for comment. The proposal is included below. Please send your comments on the proposal to [Elizabeth.Hahn@dhs.gov](mailto:Elizabeth.Hahn@dhs.gov).

**Proposed Customer Inquiry Response Procedures:**

Each field office will be required to follow these procedures. However, offices will have latitude to deal with the details of implementation. It is important to note that the proposed procedures represent minimum requirements and offices are permitted to exceed them.

1. Offices must establish a dedicated email address and use it to respond to inquiries.
2. Offices must respond to Service Request Management Tool (SRMT) inquiries by the established deadlines. SRMT inquiries are created when applicants call the National Customer Service Center (NCSC) number (1-800-375-5283). Asylum currently uses SRMT

for address change and disability accommodation requests. We will be expanding the use of this tool.

3. Offices must respond to inquiries received on a dedicated telephone line in each office. The lines will be staffed.
4. Offices will continue to respond to letters.
5. Offices must establish walk-in hours for inquiries.
6. To ensure accountability, all inquiry responses will contain a unique identifier so management can identify who responded to the inquiry.

For many of these requirements HQ still needs to resolve how the offices will ensure the applicants' confidentiality is protected. Safeguarding applicant confidentiality is a big issue that we still need to resolve. We will work with the USCIS Office of Chief Counsel to develop means to protect confidentiality.

#### **Additional Questions and Responses:**

1. **Will you require offices to provide contact information for Asylum Officers and Supervisors?**

No, we will not require offices to provide individual contact information for people in the office. This goes beyond our minimum requirements. However, offices may provide that information.

2. **Do Asylum Offices use the NCSC and SRMT to respond to inquiries?**

Our offices currently use SRMT for certain inquiries but their use has not been consistent. However, we monitor their usage and recently held a teleconference with SRMT POCs to ensure they have access to the system and answer their questions. As we expand the use of SRMT we will continue to monitor and track the offices' use of the system.

3. **How may asylum applicants update their addresses with USCIS?**

Asylum applicants with a pending or recently approved application must notify USCIS of a change of address on Form AR-11, *Alien Change of Address*, within 10 days of such change. The applicant should also separately notify the Asylum Office if the applicant changes his or her address at any time during the pendency of an affirmative asylum claim.

4. **Occasionally the Notice of Intent to Terminate is sent to the address on the I-589 and not the updated address on the I-485.**

Thank you for bringing this to our attention. We do not know why termination notices are occasionally sent to the address of the original asylum application and not the current address listed on Form I-485. As indicated in the AAPM, the Asylum Office that handles issues related to the termination of asylum status, including conducting termination proceedings, if any, is the Asylum Office with jurisdiction over the asylee's place of residence.

7. **Asylum Clock.** Please provide updates on the asylum clock and Employment Authorization Document (EAD) regulations.

**Response:** Stakeholders at our January meeting requested we work with EOIR to standardize application of the EAD regulations to asylum applicants. After our discussion at the January meeting we examined our procedures relating to EAD issuance and the transfer of jurisdiction from Asylum to EOIR when an applicant fails to appear for the asylum interview. There are two consequences for failure to appear for the asylum interview unless the applicant can show his/her failure to appear is the result of exceptional circumstances: 1) forfeiture of an interview with an

Asylum Officer and jurisdiction is transferred to the Immigration Court; 2) the applicant is not granted an EAD.

**Relevant Regulations:**

1. 8 CFR § 208.7(a)(4)
2. 8 CFR § 208.10

**Current Procedures (outlined in Affirmative Asylum Procedures Manual):**

1. Prior to interview, applicant's first request to reschedule: the office will reschedule an interview if it is the applicant's first request for rescheduling, and if the request is received prior to the interview date. We stop the clock because the delay is caused by the applicant. The applicant is rescheduled for the next available interview slot unless the applicant specifies a date in the request.
2. Prior to interview, applicant's second request: if the applicant makes a second request to reschedule the applicant must establish that the request for rescheduling is due to good cause.
3. Day of interview applicant request: if the applicant requests to reschedule on the interview date we will honor the request if the applicant shows good cause. We stop the clock because the delay is caused by the applicant.
4. After a missed interview, prior to receiving a charging document applicant request: Asylum Offices will not issue a decision for 15 days after the interview date in order to give the applicant time to submit a reschedule request. We will honor the request if the applicant shows good cause and will not transfer jurisdiction to the Immigration Court. The clock is stopped effective the scheduled interview date and is restarted when the applicant appears for the rescheduled asylum interview.
5. After the referral notice and charging document are issued applicant request: once the Asylum Office serves a charging document on the applicant and with the Immigration Court, the Asylum Office loses jurisdiction over the asylum application. Failure to appear must be excused if the interview notice was not mailed to the applicant's current address and that address has been provided to USCIS prior to the date the notice was mailed, or if the applicant demonstrates that the failure to appear was due to exceptional circumstances. In that case, Asylum will regain jurisdiction over the case and will restart the clock when the applicant appears for the interview. The Asylum Office Director will coordinate with USCIS and ICE to terminate the proceedings.

**Proposed Procedures:**

1. The Asylum Division proposes to extend the period of time that applicants may request rescheduling after the missed interview to when the Asylum Office issues a decision. Under the proposal, Asylum Offices will generally wait **30 days** before issuing a referral notice and charging document. In other words, we will extend the period of time that applicants may request rescheduling after the interview date to 30 days. The Asylum Office will consider rescheduling the missed appointment if the applicant establishes good cause for failure to appear. The clock will remain stopped from the date of original scheduled interview until the applicant appears for the interview.
2. After 30 days, Asylum Offices will issue a revised referral notice informing applicants that:
  - i. The EAD clock is stopped for failure to appear;
  - ii. Their case is being referred to the Immigration Court;
  - iii. If they have exceptional circumstances, or they did not receive proper notice, they must notify the Asylum Office and appear in person;
  - iv. During the pendency of the Asylum Office's consideration of exceptional circumstances, jurisdiction remains with EOIR and the case will continue moving forward;

- v. The Asylum Office will notify them in writing whether they established exceptional circumstances and the next steps in the process;
- vi. If Asylum finds exceptional circumstances, a copy of the decision will be forwarded to the applicant's A-file and the applicant may present the decision to the ICE attorney to request a joint motion to terminate proceedings and return the case to USCIS. The EAD clock will restart when the applicant appears for the rescheduled interview with USCIS.

Please note that Asylum has been in contact with OPLA counsel and any new procedures for this process will be developed jointly.

**Comments and Questions on the Proposed Procedures:**

1. Question from Asylum to Stakeholders: Will increasing the time from 15 to 30 days make an appreciable difference? Would increasing the time from 15 to 45 days make an appreciable difference?

**Response:** 45 days may be better because it can take weeks for NGOs to respond to formerly pro se asylum applicants due to the volume of calls they receive. Also, organizations that work with pro bono attorneys would prefer 45 days.

2. When is the clock stopped when a rescheduling request is made prior to interview?

**Response:** The clock is stopped effective the scheduled interview date and restarted when the applicant appears for the rescheduled interview.

3. Is it possible to include language on the application receipt or fingerprint notice to advise applicants that they should expect to hear from USCIS within a certain period of time? Unrepresented applicants occasionally receive only one notice, not both, and do not know they should be expecting the other one.

**Response:** No, because not all interviews occur within a standard time period (circuit rides, for example). The I-589 application instructions explain that the applicant and eligible spouse and children over 14 years of age must provide biometrics and that they will be notified in writing of the time and location of the Application Support Center where they must go to be fingerprinted and photographed. The I-589 instructions also state that the applicant will be notified by the USCIS Asylum Office of the time, date, and place (address) of the scheduled interview.

Please email [Elizabeth.Hahn@dhs.gov](mailto:Elizabeth.Hahn@dhs.gov) with your comments on our proposed procedures. We will be meeting with EOIR to discuss the changes and will keep you informed on our progress of adopting the proposed procedures.

8. **Call-in Option.** Will there be a call-in option for future Asylum Quarterly Stakeholder meetings?

**Response:** We are hesitant to offer a call-in option because it may change the tenor of the meeting.

**The next meeting is tentatively scheduled for Tuesday, July 19.**