



Applicant-Caused Delays in Adjudication of the “Form I-589, Application for Asylum and for Withholding of Removal” and Impact on Employment Authorization

THIS NOTICE REPLACES THE “180 DAY ASYLUM EAD CLOCK” NOTICE

How do I apply for employment authorization after I have applied for asylum?

For instructions on how to apply for employment authorization, visit the USCIS website at www.uscis.gov/i-765 and see the Instructions to Form I-765, *Application for Employment Authorization*.

How will delaying the adjudication of my asylum application affect my eligibility for employment authorization?

Effective August 25, 2020, USCIS implemented new procedures for determining whether an applicant for asylum is eligible for employment authorization. As part of these new procedures, asylum applicants must wait 365 calendar days after filing a Form I-589, *Application for Asylum and for Withholding of Removal*, before applying for initial employment authorization. Any delay in the I-589 adjudication that is requested or caused by the applicant (“an applicant-caused delay”) that has not been remedied by the time the initial Form I-765 is filed will result in the denial of employment authorization.

What is the 365 calendar day waiting period for initial Asylum EAD eligibility?

For asylum applications first filed with an asylum office, USCIS calculates the 365 calendar day waiting period starting on the date that a complete asylum application is received by USCIS, in the manner described by the Instructions to the Form I-589, *Application for Asylum and for Withholding of Removal*. If an asylum application is referred from the asylum office to the Executive Office for Immigration Review (EOIR), the applicant may continue to accrue time toward employment authorization eligibility while the asylum application is pending before an immigration judge.

For asylum applications first filed with EOIR, USCIS calculates the 365 calendar day waiting period starting on the date that a complete asylum application is filed with EOIR, whether at a hearing, the court window, or by mail.

Applicants who lodge an application at an immigration court window must still file the application at the immigration court at a later date, whether at a hearing, at the court window, or by mail.

What constitutes an applicant-caused delay?

An applicant-caused delay includes any delay requested or caused by an applicant while his or her asylum application is pending with USCIS and/or EOIR.

For cases pending with an asylum office:

Examples of applicant-caused delays include, but are not limited to:

- A request to amend or supplement an asylum application that causes a delay in its adjudication or in proceedings
- Failure to appear to receive and acknowledge receipt of the decision
- Requesting to provide additional evidence for an interview, or requesting an extension to submit additional evidence less than 14-days before the interview date that causes a delay in the asylum application’s adjudication
- Failure to appear for an asylum interview, unless excused by USCIS
- Failure to appear for scheduled biometrics collection on the asylum application, unless excused by USCIS
- Requesting to reschedule an interview for a later date
- Requesting to transfer a case to a new asylum office or interview location, including when the transfer is based on a new address
- Failure to use a USCIS contract interpreter or provide a competent interpreter at an interview
- Failure to comply with any other request needed to determine asylum eligibility

For more information about applicant-caused delays for cases pending with an asylum office, go to the Asylum Division's website at www.uscis.gov/Asylum.

For cases pending with EOIR:

Asylum cases pending with EOIR are adjudicated at hearings before an immigration judge. At the conclusion (or "adjournment") of each hearing, the immigration judge will determine the reason for the adjournment. If the adjournment is requested or caused by the applicant, it will be attributed to the applicant as an applicant-caused delay. The applicant-caused delay will not be considered resolved until the next hearing. If the adjournment is attributed to the immigration court or the Department of Homeland Security, no applicant-caused delay will be attributed to the applicant. For applicants whose release from detention automatically transfers their case to another hearing location, no applicant-caused delay will be attributed to the applicant.

For example, an asylum applicant may cause an applicant-caused delay if, at a hearing:

- The applicant asks for the case to be continued so he or she can get an attorney;
- The applicant or his or her attorney asks for additional time to prepare the case;
- The applicant or his or her attorney declines an expedited asylum hearing date; or
- The applicant requests or the parties jointly request administrative closure of the applicant's case.

In addition, an asylum applicant may cause an applicant-caused delay between hearings if he or she files a motion that delays proceedings and the immigration judge grants the motion. For example, an applicant-caused delay may result when the immigration judge grants:

- A motion to change venue filed by the applicant; or
- A motion for a continuance filed by the applicant.

In such cases, there will be an unresolved applicant-caused delay when the immigration judge grants the motion. The delay may or may not be resolved at or after the next hearing, depending on the reason for adjournment of the next hearing.

The last page of this notice contains a chart listing reasons for case adjournments and whether these reasons are applicant-caused delays. Additional information regarding codes used by the immigration courts that result in applicant-caused delays can be found at the Operating Policy and Procedures Memorandum (OPPM) 13-02, *The Asylum Clock*, available at www.justice.gov/eoir.

How do I determine if all applicant-caused delays in the adjudication of my Form I-589 have been resolved?

For questions regarding applicant-caused delays in cases pending with an asylum office, please contact the employment authorization point of contact at the asylum office with jurisdiction over the case. The points of contact can be found on the Asylum Division Web page at www.uscis.gov/Asylum under "Asylum Employment Authorization Contacts."

For questions regarding applicant-caused delays in cases before EOIR, asylum applicants should address questions to the immigration judge during the hearing, or in writing to the court administrator. Applicants **should not** file motions related to applicant-caused delays. If an applicant believes the issue has not been correctly addressed by the immigration court, the applicant may then contact the Assistant Chief Immigration Judge for the appropriate immigration court in writing. For cases on appeal, applicants may contact EOIR's Office of the General Counsel in writing. Please refer to OPPM 13-02 for more details.

What if I think there is an error in the adjudication of my Form I-765, Application for Employment Authorization?

Applicants may contact the USCIS Contact Center by telephone at 1-800-375-5283 or online at www.uscis.gov/contactcenter. Inquiries that cannot be resolved by a contact center representative will be routed to the service center where the Form I-765 was filed. Applicants should receive a response from the service center within 30 days.

ALIEN-RELATED ADJOURNMENTS		
DESCRIPTION	CODE	DELAY CODE
Alien to Seek Representation	01	S
Preparation – Alien/Attorney/Representative	02	S
Alien to File for Asylum	05	S
Alien to File Other Application	06	S
Other No-Show by Alien/Alien’s Attorney or Rep.	11	S
Other Alien/Alien’s Attorney/Representative Request	12	S
Supplement Asylum Application	21	S
Alien or Rep. Rejected Earliest Possible Asylum Hearing	22	S
Asylum Application Withdrawn/Reset for Other Issue	23	X
Alien Request for An In-Person Hearing	26	S
Consolidation with Family Members	30	S
Alien Delayed Records/Fingerprint Check	36	S
Illness of Alien/Atty Representative/Witness	38	S
Alien Requested Forensic Analysis	42	S
Joint Request of Both Parties	45	S
Interpreter Appeared but Wrong Language or Dialect	4D	S
Contested Charges	51	S
Jurisdiction Rests with the BIA	52	S
Alien Claims to U.S. Citizenship	54	S
Hearing Advanced by Motion	5A	N
Late-Filed Evidence (Alien)	5B	S
DHS Application Process-Alien Initiated	7A	S

DHS-RELATED ADJOURNMENTS		
DESCRIPTION	CODE	DELAY CODE
Preparation-DHS	03	R
DHS Or DHS Administrative File Unavailable for Hearing	04	R
Alien in DHS/Corrections Custody Not Presented for Hearing	09	R
DHS Delayed Records/Fingerprint Check	24	R
DHS Request for An In-Person Hearing	27	R
DHS Investigation	37	R
DHS Forensic Analysis	43	R
Cooperating Witness/Law Enforcement	44	R
New Charge Filed by DHS	47	R
Juvenile Home Study	49	R
Quarantine - Detained Cases	50	R
Hearing Advanced by Motion	5A	R
Late-Filed Evidence (DHS)	5C	R
DHS Application Process – DHS Initiated	7B	R

OPERATIONAL ADJOURNMENTS		
DESCRIPTION	CODE	DELAY CODE
Notice Sent/Served Incorrectly	10	R
Mc to JC– Merits Hearing	17	R
Case Transferred from Non-Detained to Detained Docket	1A	R
Case Transferred from Detained to Non-Detained Docket	1B	R
To Allow for Scheduling of Priority Case	25	R
Concurrent Application	29	R
RC To SC Merits Hearing	31	R
Interpreter Not Ordered	32	R
Interpreter Ordered but FTA	33	R
IJ Detail (Non-Volunteer)	3b	R
Video Malfunction	46	R
Interpreter Appeared but Disqualified	48	R
Technical Malfunction (Not Video)	4A	R
Interpreter Must Leave	4B	R
ROP Missing	4E	R
Court Closure	59	R
EOIR Forensic Competency Evaluation	60	R
Appointment of Qualified Representative	61	R
Judicial Competency Inquiry	62	R
Non-Franco Competency Inquiry	63	R
Telephonic Interpreter Unavailable	4F	R
IJ Completion Prior To Hearing	8A	S
IJ Completion at Hearing	8B	S
Data Entry Error	99	N
Docket Management (Postpone Hearing) (Court Admin/Advanced Users Only)	9A	R
Docket Management (Advance Hearing) (Court Admin/Advanced Users Only)	9B	R

IJ-RELATED ADJOURNMENTS		
DESCRIPTION	COD E	DELAY CODE
Insufficient Time to Complete Hearing	13	R
IJ Determined an In-Person Hearing Is Necessary	28	R
IJ Leave	34	R
IJ Detail (Volunteer)	3A	R
Interpreter Appeared but Wrong Language or Dialect	4C	R
IJ Reassignment	64	R
Reserved Decision	RR	R
Reserved Decision Suspension/Cancellation	RD	R

KEY	Delay Codes and Impact on I-765 Adjudication
S or X	I-765 will be denied
N	No impact on I-765 Adjudication
R	No impact on I-765 Adjudication

Immigration Court adjournment codes current as of 8/25/2020