



Executive Office for Immigration Review



U.S. Citizenship and Immigration Services

THE 180-DAY ASYLUM EAD CLOCK NOTICE

What is the 180-day Asylum EAD Clock?

The “180-day Asylum EAD Clock” measures the time period during which an asylum application has been pending with the U.S. Citizenship and Immigration Services (USCIS) asylum office and/or the Executive Office for Immigration Review (EOIR). USCIS service centers adjudicate the Form I-765, *Application for Employment Authorization*, and use the 180-day Asylum EAD Clock to determine eligibility for employment authorization. Asylum applicants who applied for asylum on or after January 4, 1995, must wait 150 days before they can file a Form I-765. USCIS cannot grant employment authorization for an additional 30 days, for a total 180-day waiting period. This 180-day Asylum EAD Clock does not include any delays that applicants request or cause while their applications are pending with an asylum office or immigration court.

What starts the 180-day Asylum EAD Clock?

For asylum applications first filed with an asylum office, USCIS calculates the 180-day Asylum EAD Clock 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 EOIR, the applicant may continue to accumulate 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 180-day Asylum EAD Clock in one of two ways:

- 1) If a complete asylum application is “lodged” with the immigration court, whether at the court window or by mail, the application will be stamped “lodged not filed” and the applicant will start to accumulate time toward eligibility for employment authorization on the date of lodging, or
- 2) If the asylum application is not “lodged,” the applicant generally will start to accumulate time toward eligibility for employment authorization on the date that a complete asylum application is filed with the immigration court, whether at a hearing, at 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 stops the 180-day Asylum EAD Clock?

The 180-day Asylum EAD Clock does not include any delays 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:

Delays requested or caused by an applicant may include:

- A request to transfer a case to a new asylum office or interview location, including when the transfer is based on a new address;
- A request to reschedule an interview for a later date;
- Failure to appear at an interview or fingerprint appointment;
- Failure to provide a competent interpreter at an interview;
- A request to provide additional evidence after an interview; and
- Failure to receive and acknowledge an asylum decision in person (if required).

If an applicant is required to receive and acknowledge his or her asylum decision at an asylum office, but fails to appear, his or her 180-day Asylum EAD Clock will stop. It will not begin again until the first master calendar hearing with an immigration judge after the case is referred to EOIR.

If an applicant fails to appear for an asylum interview, the 180-day Asylum EAD Clock will stop on the date of the missed interview, and the applicant may be ineligible for employment authorization unless he or she sends a written request to the asylum office to reschedule the interview within 45 days and demonstrates “good cause” for missing the interview. A request to reschedule an interview with the asylum office that is made after 45 days from the missed interview must demonstrate “exceptional circumstances,” which is a higher standard than good cause. If the applicant has established exceptional

circumstances for missing the asylum interview, and is currently in removal proceedings before an immigration judge, the asylum office can reopen the asylum application and reschedule the applicant for an interview upon request by the applicant if the immigration judge dismisses the removal proceedings. If the asylum office determines that an applicant's failure to appear for an interview was due to lack of notice of the interview appointment, the asylum office will not attribute a delay to the applicant and the asylum office will reschedule the interview.

For more information about reschedule requests and missed asylum interviews, see "Preparing for Your Asylum Interview" on 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, the applicant will stop accumulating time toward the 180-day Asylum EAD Clock until the next hearing. If the adjournment is attributed to the immigration court or the Department of Homeland Security, the applicant will continue accumulating time. For applicants whose release from detention automatically transfers their case to another hearing location, the clock runs until the date of the next hearing.

For example, an asylum applicant may stop accumulating time toward the 180-day Asylum EAD Clock 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 stop accumulating time between hearings if he or she files a motion that delays proceedings and the immigration judge grants the motion. For example, an applicant stops accumulating time 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, the applicant stops accumulating time when the immigration judge grants the motion. The applicant may or may not begin to accumulate time again 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 affect the 180-day Asylum EAD Clock can be found at the Operating Policy and Procedures Memorandum (OPPM) 13-02, *The Asylum Clock*, available at www.justice.gov/eoir.

Further, the accumulation of time toward the 180-day Asylum EAD Clock stops on the date an immigration judge issues a decision on the asylum application. An applicant whose asylum application is denied before 180 days have elapsed on the 180-day Asylum EAD Clock will not be eligible for employment authorization. However, if the decision is appealed to the Board of Immigration Appeals (Board) and the Board remands it (sends it back) to an immigration judge for adjudication of an asylum claim (including Board remands to an immigration judge following an appeal to a U.S. Court of Appeals), the applicant's 180-day Asylum EAD Clock will be credited with the total number of days between the immigration judge's decision and the date of the Board's remand order.

The applicant will continue to accumulate time on the 180-day Asylum EAD Clock while the asylum claim is pending after the remand order, excluding any delays requested or caused by the applicant.

How do I find more information about the 180-day Asylum EAD Clock?

Asylum applicants in removal proceedings before EOIR may call the EOIR hotline at 1-800-898-7180 to obtain certain information about their 180-day Asylum EAD Clock. The EOIR hotline generally reports a calculation of the number of days between the date an asylum application was filed with an asylum office or an immigration court, and the date the immigration judge first issued a decision on the application, not including delays requested or caused by the applicant.

However, in some cases, an applicant may have accumulated more time on the 180-day Asylum EAD Clock than the number of days reported on the EOIR hotline. The number of days reported on the hotline does not include:

- The time an applicant accumulates toward the 180-day Asylum EAD Clock when the applicant has lodged an asylum application with an immigration court prior to filing the application with the immigration court; or
- The time that USCIS may credit to an applicant's 180-day Asylum EAD Clock if the asylum application was remanded to an immigration judge by the Board for further adjudication of an asylum claim.

To determine the number of days on an applicant's 180-Day Asylum EAD Clock, an applicant may rely on the number of days reported by the EOIR hotline if the applicant has not lodged his or her application with an immigration court, or if the asylum application was not remanded from the Board for further adjudication of an asylum claim.

Applicants who lodged an application with an immigration court should add the number of days between the date of lodging of the application and when the application was filed with the court (or the current date if the applicant has not yet filed the application).

Applicants whose cases were remanded from the Board for further adjudication of the asylum claim should add the number of days from the immigration judge's initial decision on the asylum application to the date of the Board's order remanding the case. These applicants continue to accumulate time toward the 180-day Asylum EAD Clock after the case is remanded, excluding delays requested or caused by the applicant. For more information on whether a delay is requested or caused by the applicant, please see the previous section.

What if I think there is an error in the calculation of time on my 180-Day Asylum EAD Clock?

For questions regarding time accumulated on the 180-day Asylum EAD Clock when an applicant's asylum application is pending with an asylum office, please contact the 180-day Asylum EAD Clock 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 and Clock Contacts."

For 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 the 180-day Asylum EAD Clock. If an applicant believes the issue has not been correctly addressed at the immigration court level, 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 OPM 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?

USCIS service centers adjudicate the Form I-765. Applicants may contact a USCIS service center through the National Customer Service Center hotline at 1-800-375-5283. Inquiries that cannot be resolved by a customer service 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. If more than 30 days pass without a response, applicants may email the appropriate USCIS service center at one of the following addresses:

California Service Center:
csc-ncscfollowup@uscis.dhs.gov

Nebraska Service Center:
ncscfollowup.ncsc@uscis.dhs.gov

Potomac Service Center:
psc.ncscfollowup@uscis.dhs.gov

Texas Service Center:
tsc.ncscfollowup@uscis.dhs.gov

Vermont Service Center:
vsc.ncscfollowup@uscis.dhs.gov

If applicants do not receive an email response from the service center address above within 21 days, applicants may email the USCIS Headquarters Office of Service Center Operations at SCOPSSCATA@uscis.dhs.gov.

What is the ABT Settlement Agreement?

On November 4, 2013, the U.S. District Court for the Western District of Washington approved a revised settlement agreement in the class action litigation *B.H., et al. v. USCIS, et al.*, also referred to as the ABT Settlement Agreement. Under the terms of the ABT Settlement Agreement, USCIS and EOIR agreed to change certain practices related to asylum cases and the calculation of time for employment authorization eligibility.

The ABT Settlement Agreement has a separate review process for asylum applicants who believe they have not received relief described in the ABT Settlement Agreement. Applicants who believe they have been denied relief under the Agreement should consult the ABT Settlement Agreement and associated documents, and follow the Individual ABT Claim Review process described in the Agreement to resolve their claims. For more information about the ABT Settlement Agreement, visit www.uscis.gov or www.justice.gov/eoir.

How do I apply for work authorization?

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*.

Adjournment Codes

June 8, 2018

ALIEN - RELATED ADJOURNMENTS

<u>Description</u>	<u>Code</u>	<u>Clock</u>
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 Rep/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 Claim 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

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	N
Late-Filed Evidence (DHS)	5C	R
DHS Application Process – DHS Initiated	7B	R

OPERATIONAL ADJOURNMENTS

<u>Description</u>	<u>Code</u>	<u>Clock</u>
Notice Sent/Served Incorrectly	10	R
MC to IC – 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
IJ Completion Prior to Hearing	8A	S
IJ Completion at Hearing	8B	S
Data Entry Error	99	N

Court Administrators and Advanced Users Only:

Docket Management (Postpone Hearing)	9A	R
Docket Management (Advance Hearing)	9B	N

IJ - RELATED ADJOURNMENTS

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

COLOR KEY

RED = Alien-Related Reason
GREEN = DHS-Related Reason
BLUE = EOIR-Related Reason (IJ)
ORANGE = EOIR-Related Reason (Operational)

CLOCK CODES

S = Stops
R = Runs
X = Eliminates
N = Neutral