

FIVE THINGS ASYLUM APPLICANTS SHOULD KNOW ABOUT THE 180-DAY ASYLUM EAD CLOCK.

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#1: 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 1-765, *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 1-765. 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 applicants request or cause while their applications are pending with an asylum office or immigration court.

#2: 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 1-589, *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” at the immigration court window, 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 at a hearing before an immigration judge.

Applicants who lodge an application at an immigration court window must still file the application with an immigration judge at a later hearing.

#3: 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 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 makes 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 cannot reopen the asylum application or reschedule the applicant for an interview unless 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 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.

Common reasons why an asylum applicant may stop accumulating time toward the 180-day Asylum EAD Clock include:

- An applicant asks for the case to be continued so he or she can get an attorney;
- An applicant, or his or her attorney, asks for additional time to prepare the case; and
- An applicant, or his or her attorney, declines an expedited asylum hearing date.

Additionally, if an asylum applicant files a motion between hearings that delays the case, such as a motion to continue or a motion to change venue, and that motion is granted, the applicant may stop accumulating time toward the 180-day Asylum EAD Clock. 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.

#4: HOW TO OBTAIN 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 at a hearing before an immigration judge, 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 at an immigration court window prior to filing the application at a hearing before an immigration judge; 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 at an immigration court window or if the asylum application was not remanded from the Board for further adjudication of an asylum claim.

Applicants who lodged an application at an immigration court window should add the number of days between the date of lodging of the application and when the application was filed at a hearing before an immigration judge (or the current date if the applicant has not yet had a hearing at which the application could be filed).

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.

#5: WHAT IF THE ASYLUM APPLICANT THINKS THAT THERE IS AN ERROR IN THE CALCULATION OF TIME ON HIS/HER 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 to the court administrator, in writing, after the hearing. 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 General Counsel in writing.