

**§ 240.68**

**8 CFR Ch. I (1–1–10 Edition)**

(2) The applicant may have counsel or a representative present, may present witnesses, and may submit affidavits of witnesses and other evidence.

(3) An applicant unable to proceed with the interview in English must provide, at no expense to the Service, a competent interpreter fluent in both English and a language in which the applicant is fluent. The interpreter must be at least 18 years of age. The following individuals may not serve as the applicant's interpreter: the applicant's attorney or representative of record; a witness testifying on the applicant's behalf; or, if the applicant also has an asylum application pending with the Service, a representative or employee of the applicant's country of nationality, or, if stateless, country of last habitual residence. Failure without good cause to comply with this paragraph may be considered a failure to appear for the interview for purposes of § 240.68.

(4) The asylum officer shall have authority to administer oaths, verify the identity of the applicant (including through the use of electronic means), verify the identity of any interpreter, present and receive evidence, and question the applicant and any witnesses.

(5) Upon completion of the interview, the applicant or the applicant's representative shall have an opportunity to make a statement or comment on the evidence presented. The asylum officer may, in the officer's discretion, limit the length of such statement or comment and may require its submission in writing. Upon completion of the interview, and except as otherwise provided by the asylum officer, the applicant shall be informed of the requirement to appear in person to receive and to acknowledge receipt of the decision and any other accompanying material at a time and place designated by the asylum officer.

(6) The asylum officer shall consider evidence submitted by the applicant with the application, as well as any evidence submitted by the applicant before or at the interview. As a matter of discretion, the asylum officer may grant the applicant a brief extension of time following an interview, during which the applicant may submit additional evidence.

**§ 240.68 Failure to appear at an interview before an asylum officer or failure to follow requirements for fingerprinting.**

(a) Failure to appear for a scheduled interview without prior authorization may result in dismissal of the application or waiver of the right to an adjudication by an asylum officer. A written request to reschedule will be granted if it is an initial request and is received by the Asylum Office at least 2 days before the scheduled interview date. All other requests to reschedule the interview, including those submitted after the interview date, will be granted only if the applicant has a reasonable excuse for not appearing, and the excuse was received by the Asylum Office in writing within a reasonable time after the scheduled interview date.

(b) Failure to comply with fingerprint processing requirements without reasonable excuse may result in dismissal of the application or waiver of the right to an adjudication by an asylum officer.

(c) Failure to appear shall be excused if the notice of the interview or fingerprint appointment was not mailed to the applicant's current address and such address had been provided to the Office of International Affairs by the applicant prior to the date of mailing in accordance with section 265 of the Act and Service regulations, unless the asylum officer determines that the applicant received reasonable notice of the interview or fingerprinting appointment.

**§ 240.69 Reliance on information compiled by other sources.**

In determining whether an applicant is eligible for suspension of deportation or special rule cancellation of removal, the asylum officer may rely on material described in § 208.12 of this chapter. Nothing in this subpart shall be construed to entitle the applicant to conduct discovery directed toward records, officers, agents, or employees of the Service, the Department of Justice, or the Department of State.

**§ 240.70 Decision by the Service.**

(a) *Service of decision.* Unless the asylum officer has granted the application