

period of judicial review, but may be requested if a Federal court remands the case to the Board of Immigration Appeals. For employment authorization to be renewed under this section, the alien must request employment authorization on the form and in the manner prescribed by USCIS and according to the form instructions. USCIS will require that an alien establish that he or she has continued to pursue an asylum application before USCIS, an immigration judge, or the Board of Immigration Appeals and that he or she continues to meet the eligibility criteria for employment authorization set forth in 8 CFR 208.7(a). For purposes of renewal of employment authorization, pursuit of an asylum application before an immigration judge or the Board of Immigration Appeals is established by submitting a copy of the referral notice or Notice to Appear placing the alien in proceedings, any hearing notices issued by the immigration court, evidence of a timely filed appeal if the alien appealed the denial of the asylum application to the Board of Immigration Appeals, or remand order to the immigration judge or Board of Immigration Appeals.

(i) *Referrals to an immigration judge.* Employment authorization granted after the required 365-day waiting period will continue for the remaining period authorized (unless otherwise terminated or revoked) if the asylum officer refers the alien's asylum application to an immigration judge. In accordance with 8 CFR 208.7(b)(1), the alien may be granted renewals of employment authorization while under such review by the immigration judge.

(ii) *Appeals to the Board of Immigration Appeals.* If the immigration judge denies the alien's asylum application, any remaining period of employment authorization will continue for the period authorized (unless otherwise terminated or revoked) during the period for filing an appeal with the Board of Immigration Appeals under 8 CFR 1003.38(b) or, if an appeal is timely filed within such period, during the pendency of the appeal with the Board of Immigration Appeals. In accordance with 8 CFR 208.7(b)(1), the alien may be granted renewals of employment authorization during these periods while

the appeal is under review by the Board of Immigration Appeals and any remand to the immigration judge.

(2) *Terminations.* The alien's employment authorization granted pursuant to 8 CFR 274a.12(c)(8) will automatically terminate effective on the date the asylum officer denies the asylum application, thirty days after an immigration judge denies the asylum application unless timely appealed to the Board of Immigration Appeals, or the Board of Immigration Appeals affirms or upholds a denial, regardless of whether any automatic extension period pursuant to 8 CFR 274a.13(d)(3) is in place.

(c) *Severability.* The provisions in this section are intended to be independent severable parts. In the event that any provision in this section is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

[85 FR 38626, June 26, 2020]

§ 208.8 Limitations on travel outside the United States.

(a) An applicant who leaves the United States without first obtaining advance parole under § 212.5(f) of this chapter shall be presumed to have abandoned his or her application under this section.

(b) An applicant who leaves the United States pursuant to advance parole under § 212.5(f) of this chapter and returns to the country of claimed persecution shall be presumed to have abandoned his or her application, unless the applicant is able to establish compelling reasons for such return.

[62 FR 10337, Mar. 6, 1997, as amended at 65 FR 82255, Dec. 28, 2000]

§ 208.9 Procedure for interview before an asylum officer.

(a) The Service shall adjudicate the claim of each asylum applicant whose application is complete within the meaning of § 208.3(c)(3) and is within the jurisdiction of the Service.

(b) The asylum officer shall conduct the interview in a nonadversarial manner and, except at the request of the applicant, separate and apart from the general public. The purpose of the interview shall be to elicit all relevant

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and useful information bearing on the applicant's eligibility for asylum. At the time of the interview, the applicant must provide complete information regarding his or her identity, including name, date and place of birth, and nationality, and may be required to register this identity. The applicant may have counsel or a representative present, may present witnesses, and may submit affidavits of witnesses and other evidence.

(c) 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.

(d) *Completion of the interview.* Upon completion of the interview:

(1) The applicant or the applicant's representative will have an opportunity to make a statement or comment on the evidence presented. The asylum officer may, in his or her discretion, limit the length of such statement or comment and may require its submission in writing.

(2) USCIS will inform the applicant that he or she must appear in person to receive and to acknowledge receipt of the decision of the asylum officer and any other accompanying material at a time and place designated by the asylum officer, except as otherwise provided by the asylum officer. An applicant's failure to appear to receive and acknowledge receipt of the decision will be treated as delay caused by the applicant for purposes of 8 CFR 208.7.

(e) *Extensions.* The asylum officer will consider evidence submitted by the applicant together with his or her asylum application. The applicant must submit any documentary evidence at least 14 calendar days in advance of the interview date. As a matter of discretion, the asylum officer may consider evidence submitted within the 14-day period prior to the interview date or may grant the applicant a brief extension of time during which the applicant may submit additional evidence. Any such extension will be treated as a delay caused by the applicant for purposes of § 208.7.

(f) The asylum application, all supporting information provided by the

applicant, any comments submitted by the Department of State or by the Service, and any other information specific to the applicant's case and considered by the asylum officer shall comprise the record.

(g) 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 the applicant's native language or any other language in which the applicant is fluent. The interpreter must be at least 18 years of age. Neither the applicant's attorney or representative of record, a witness testifying on the applicant's behalf, nor a representative or employee of the applicant's country of nationality, or if stateless, country of last habitual residence, may serve as the applicant's interpreter. Failure without good cause to comply with this paragraph may be considered a failure to appear for the interview for purposes of § 208.10.

(h) Asylum Applicant Interpreters for asylum interviews conducted between September 23, 2020, through March 22, 2021.

(1) Asylum applicants unable to proceed with the interview in English must use USCIS's telephonic interpreter services, so long as the applicant is fluent in one of the following languages: Akan, Albanian, Amharic, Arabic, Armenian, Azerbaijani, Bengali, Burmese, Cantonese, Creole/Haitian Creole, Farsi-Afghani/Dari, Farsi-Iranian, Foo Chow/Fuzhou, French, Georgian, Gujarati, Hindi, Hmong, Hungarian, Indonesia/Bahasa, Konjobal, Korean, Kurdish, Lingala, Mam, Mandarin, Nepali, Pashto/Pushtu, Portuguese, Punjabi, Quiche/K'iche, Romanian, Russian, Serbian, Sinhalese, Somali, Spanish, Swahili, Tagalog, Tamil, Tigrinya, Turkish, Twi, Ukrainian, Urdu, Uzbek, or Vietnamese.

(i) If a USCIS interpreter is unavailable at the time of the interview, USCIS will reschedule the interview and attribute the interview delay to USCIS for the purposes of employment authorization pursuant to 8 CFR 208.7.

(ii) Except as provided in paragraph (h)(1)(iii) of this section, if an applicant is fluent in a language listed in this paragraph (h)(1) but refuses to proceed with the USCIS interpreter in order to

use his or her own interpreter, USCIS will consider this a failure without good cause to comply with this paragraph (h)(1). The applicant will be considered to have failed to appear for the interview for the purposes of 8 CFR 208.10.

(iii) If the applicant elects to proceed in a language that is not listed in this paragraph (h)(1), the applicant must provide a competent interpreter fluent in both English and the applicant's native language or any other language in which the applicant is fluent. If an applicant is unable to provide an interpreter fluent in English and the elected language not listed in this paragraph (h)(1), the applicant may provide an interpreter fluent in the elected language and one found in this paragraph (h)(1). USCIS will provide a relay interpreter to interpret between the language listed in this paragraph (h)(1) and English. The interpreter must be at least 18 years of age. Neither the applicant's attorney or representative of record, a witness testifying on the applicant's behalf, nor a representative or employee of the applicant's country of nationality, or if stateless, country of last habitual residence, may serve as the applicant's interpreter. Failure without good cause to comply with this paragraph may be considered a failure to appear for the interview for purposes of 8 CFR 208.10.

(2) [Reserved]

[62 FR 10337, Mar. 6, 1997, as amended at 65 FR 76133, Dec. 6, 2000; 76 FR 53784, Aug. 29, 2011; 85 FR 38627, June 26, 2020; 85 FR 59660, Sept. 23, 2020]

EFFECTIVE DATE NOTE: At 85 FR 59660, Sept. 23, 2020, §208.9 was amended by adding paragraph (h), effective Sept. 23, 2020, through Mar. 22, 2021.

§ 208.10 Failure to appear for an interview before an asylum officer or for a biometric services appointment for the asylum application.

(a) *Failure to appear for asylum interview or for a biometric services appointment.* (1) The failure to appear for an interview or biometric services appointment may result in:

(i) Waiver of the right to an interview or adjudication by an asylum officer;

(ii) Dismissal of the application for asylum;

(iii) Referral of the applicant to the immigration court; or,

(iv) Denial of employment authorization.

(2) There is no requirement for USCIS to send a notice to an applicant that he or she failed to appear for his or her asylum interview or biometrics services appointment prior to issuing a decision on the application. Any rescheduling request for the asylum interview that has not yet been fulfilled on the date the application for employment authorization is filed under 8 CFR 274a.12(c)(8) will be treated as an applicant-caused delay for purposes of 8 CFR 208.7.

(b) *Rescheduling missed appointments.* USCIS, in its sole discretion, may excuse the failure to appear for an interview or biometrics services appointment and reschedule the missed appointment as follows:

(1) *Asylum Interview.* If the applicant demonstrates that he or she was unable to make the appointment due to exceptional circumstances.

(2) *Biometrics services appointment.* USCIS may reschedule the biometrics services appointment as provided in 8 CFR part 103.

[85 FR 38627, June 26, 2020]

§ 208.11 Comments from the Department of State.

(a) U.S. Citizenship and Immigration Services (USCIS) may request, at its discretion, specific comments from the Department of State regarding individual cases or types of claims under consideration, or such other information as USCIS deems appropriate.

(b) With respect to any asylum application, the Department of State may provide, at its discretion, to USCIS:

(1) Detailed country conditions information relevant to eligibility for asylum or withholding of removal;

(2) An assessment of the accuracy of the applicant's assertions about conditions in his or her country of nationality or habitual residence and his or her particular situation;

(3) Information about whether persons who are similarly situated to the applicant are persecuted or tortured in the applicant's country of nationality