

## § 1208.6

## 8 CFR Ch. V (1–1–23 Edition)

or the immigration judge having jurisdiction over the motion.

[62 FR 10337, Mar. 6, 1997, as amended at 64 FR 8488, Feb. 19, 1999; 65 FR 76132, Dec. 6, 2000; 73 FR 55741, Oct. 28, 2009; 85 FR 23904, Apr. 30, 2020; 85 FR 80395, Dec. 11, 2020; 87 FR 18221, Mar. 29, 2022]

### § 1208.6 Disclosure to third parties.

(a) Information contained in or pertaining to any application for refugee admission, asylum, withholding of removal under section 241(b)(3) of the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, records pertaining to any credible fear determination conducted pursuant to § 208.30, and records pertaining to any reasonable fear determination conducted pursuant to § 208.31, shall not be disclosed without the written consent of the applicant, except as permitted by this section or at the discretion of the Attorney General.

(b) The confidentiality of other records kept by DHS and the Executive Office for Immigration Review that indicate that a specific alien has applied for refugee admission, asylum, withholding of removal under section 241(b)(3) of the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, or has received a credible fear or reasonable fear interview, or received a credible fear or reasonable fear review shall also be protected from disclosure, except as permitted in this section. DHS will coordinate with the Department of State to ensure that the confidentiality of those records is maintained if they are transmitted to Department of State offices in other countries.

(c) This section shall not apply to any disclosure to:

(1) Any United States Government official or contractor having a need to examine information in connection with:

(i) The adjudication of asylum applications;

(ii) The consideration of a request for a credible fear or reasonable fear interview, or a credible fear or reasonable fear review;

(iii) The defense of any legal action arising from the adjudication of, or

failure to adjudicate, the asylum application, or from a credible fear determination or reasonable fear determination under § 1208.30 or § 1208.31;

(iv) The defense of any legal action of which the asylum application, credible fear determination, or reasonable fear determination is a part; or

(v) Any United States Government investigation concerning any criminal or civil matter; or

(2) Any Federal, State, or local court in the United States considering any legal action:

(i) Arising from the adjudication of, or failure to adjudicate, the asylum application, or from a credible fear or reasonable fear determination under § 1208.30 or § 1208.31; or

(ii) Arising from the proceedings of which the asylum application, credible fear determination, or reasonable fear determination is a part.

(d)(1) Any information contained in an application for refugee admission, asylum, withholding of removal under section 241(b)(3) of the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, any relevant and applicable information supporting that application, any information regarding an alien who has filed such an application, and any relevant and applicable information regarding an alien who has been the subject of a reasonable fear or credible fear determination may be disclosed:

(i) As part of an investigation or adjudication of the merits of that application or of any other application under the immigration laws;

(ii) As part of any State or Federal criminal investigation, proceeding, or prosecution;

(iii) Pursuant to any State or Federal mandatory reporting requirement;

(iv) To deter, prevent, or ameliorate the effects of child abuse;

(v) As part of any proceeding arising under the immigration laws, including proceedings arising under the Act; and

(vi) As part of the Government's defense of any legal action relating to the alien's immigration or custody status, including petitions for review filed in accordance with 8 U.S.C. 1252.

(2) If information may be disclosed under paragraph (d)(1) of this section,

the disclosure provisions in paragraphs (a), (b), and (c) of this section shall not apply.

(e) Nothing in this section shall be construed as prohibiting the disclosure of information contained in an application for refugee admission, asylum, withholding of removal under section 241(b)(3)(B) of the Act, or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation, any relevant and applicable information supporting that application, information regarding an alien who has filed such an application, or information regarding an alien who has been the subject of a reasonable fear or credible fear determination:

(1) Among employees of the Department of Justice, the Department of Homeland Security, the Department of State, the Department of Health and Human Services, the Department of Labor, or a U.S. national security agency having a need to examine the information for an official purpose; or

(2) Where a United States government employee or contractor has a good faith and reasonable belief that disclosure is necessary to prevent the commission of a crime, the furtherance of an ongoing crime, or to ameliorate the effects of a crime.

[65 FR 76133, Dec. 6, 2000, as amended at 85 FR 80395, Dec. 11, 2020]

#### § 1208.7 [Reserved]

#### § 1208.8 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]

#### § 1208.9 [Reserved]

#### § 1208.10 Failure to appear at a scheduled hearing before an immigration judge; failure to follow requirements for biometrics and other biographical information processing.

Failure to appear for a scheduled immigration hearing without prior authorization may result in dismissal of the application and the entry of an order of deportation or removal *in absentia*. Failure to comply with processing requirements for biometrics and other biographical information within the time allowed will result in dismissal of the application, unless the applicant demonstrates that such failure was the result of good cause. DHS is responsible for obtaining biometrics and other biographical information with respect to any alien in custody.

[70 FR 4754, Jan. 31, 2005]

#### § 1208.11 Comments from the Department of State.

(a) The immigration judge may request, in his or her discretion, specific comments from the Department of State regarding individual cases or types of claims under consideration, or other information the immigration judge deems appropriate.

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

(1) Detailed country conditions information relevant to eligibility for asylum, withholding of removal under section 241(b)(3) of the Act, and withholding of removal under the Convention Against Torture;

(2) An assessment of the accuracy of the applicant's assertions about conditions in the applicant's country of nationality or habitual residence and the applicant's 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 or habitual residence and the frequency of such persecution or torture; or

(4) Such other information as it deems relevant.

(c) Any comments received pursuant to paragraph (b) of this section shall be made part of the record. Unless the