

last habitual residence (if not a national of any country) because of persecution or a fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, or if the alien expresses a fear of torture upon return to that country, the alien shall be promptly removed from the conveyance. If the alien makes such fear known to an official while off such conveyance, the alien shall not be returned to the conveyance but shall be retained in or transferred to the custody of the Service.

(i) An alien stowaway will be referred to an asylum officer for a credible fear determination under § 208.30.

(ii) An alien crewmember shall be provided the appropriate application forms and information required by section 208(d)(4) of the Act and may then have 10 days within which to submit an asylum application in accordance with the instructions on the form. DHS may extend the 10-day filing period for good cause. Once the application has been filed, DHS shall serve Form I-863 on the alien and immediately forward any such application to the appropriate Immigration Court with a copy of the Form I-863 being filed with that court.

(iii) An alien crewmember physically present in or arriving in the Commonwealth of the Northern Mariana Islands can request withholding of removal pursuant to section 241(b)(3) of the Act and withholding of removal under the Convention Against Torture. However, such an alien crewmember is not eligible to request asylum pursuant to section 208 of the Act prior to January 1, 2030.

(2) Pending adjudication of the application, and, in the case of a stowaway the credible fear determination and any review thereof, the alien may be detained by the Service or otherwise paroled in accordance with § 212.5 of this chapter. However, pending the credible fear determination, parole of an alien stowaway may be permitted only when the Secretary determines, in the exercise of discretion, that parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective.

(c) *Exception to prohibition on removal.* A motion to reopen or an order to re-

mand accompanied by an asylum application pursuant to § 208.4(b)(3)(iii) shall not stay execution of a final exclusion, deportation, or removal order unless such stay is specifically granted by the Board of Immigration Appeals 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; 74 FR 26937, June 5, 2009; 74 FR 55737, Oct. 28, 2009; 76 FR 53784, Aug. 29, 2011; 85 FR 29310, May 14, 2020; 85 FR 80386, Dec. 11, 2020]

§ 208.6 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 Secretary.

(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;

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(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 § 208.30 or § 208.31;

(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 § 208.30 or § 208.31; 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 regulations issued pursuant to the Convention Against Torture's implementing legislation, 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 and officers 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 80386, Dec. 11, 2020]

§ 208.7 Employment authorization.

(a) *Application and approval.* (1) Subject to the restrictions contained in sections 208(d) and 236(a) of the Act, an applicant for asylum who is not an aggravated felon shall be eligible pursuant to §§ 274a.12(c)(8) and 274a.13(a) of this chapter to request employment authorization. Except in the case of an alien whose asylum application has been recommended for approval, or in the case of an alien who filed an asylum application prior to January 4, 1995, the application shall be submitted no earlier than 150 days after the date