

ASYLEE ELIGIBILITY FOR RESETTLEMENT ASSISTANCE

A Short Guide

The National Asylee
Information & Referral Line



A JOINT PROJECT* OF:



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What is an asylee?

An asylee is legally defined as a person who flees his or her country and is unable or unwilling to return due to persecution or a well-founded fear of persecution. The persecution may be on the basis of race, religion, nationality, political opinion, or membership in a social group. An asylee enters the United States and then requests permission to stay by applying for asylum.

A majority of asylum grants, about 55%, are handled by the immigration courts, which are located in cities throughout the U.S. About 45% of asylum grants are handled by the U.S. Citizenship and Immigration Services or “CIS” (formerly called INS), which has eight regional asylum offices throughout the U.S.

How is asylum status documented?

Asylees will usually have either an *Asylum Approval Letter from a CIS Asylum Office OR an Order of an Immigration Judge Granting Asylum under § 208 of the INA*. An order from a judge is NOT final unless:

1. the immigration bureau has waived the right to appeal the decision granting asylum; OR
2. if the immigration bureau has reserved the right to appeal the decision, 30 days have passed and the immigration bureau has not filed an appeal.

Proof of asylum status can also be found on other documents, such as the I-94 or the Employment Authorization Document (EAD). Additional information is provided in the Office of Refugee Resettlement (ORR) State Letter #00-17 on Status and Documentation Requirements for the Refugee Resettlement Program. This letter may be found on the ORR website at www.acf.hhs.gov/programs/orr/policy/sl00-17.htm.

Note: CIS has announced that official forms and documents issued by the former INS are still valid and do NOT need to be replaced.

Note: Asylum applicants (with the exception of Cuban/Haitian entrants) and individuals who have been granted conditional asylum are not considered asylees for the purpose of federal refugee benefits.

Are asylees work authorized?

Yes. People who have been granted asylum are authorized to work in the U.S.

How can asylees show work authorization?

Asylees must meet the same employment eligibility requirements as other U.S. workers. These are found on CIS Form I-9 (Employment Eligibility Verification). The I-9 requires workers to submit either:

- one document that shows *both* identity and work authorization; OR
- one document that shows identity *and* one document that shows work authorization.

Asylees, like all other workers, can choose which documents to submit as proof of employment eligibility. By law, an employer can NOT demand that a worker submit a particular document or refuse to hire a worker because the worker does not have a green card. Asylees who believe they may be victims of unlawful discrimination may call the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) at 1-800-255-7688 or visit the OSC website at <http://www.usdoj.gov/crt/osc/>.

The following documents are most commonly used by asylees to show employment eligibility. Other, additional documents may be found on the I-9.

- Employment Authorization Document (EAD): An unexpired EAD shows *both* identity and work authorization. Therefore, an unexpired EAD is sufficient by itself and does not require any additional documentation. Once an EAD expires, an asylee may offer other documents as proof of employment eligibility and is not required to keep renewing the EAD. However, it is advisable to maintain a valid EAD until the green card is received, as this will help to avoid any status documentation problems, especially with the Department of Motor Vehicles (DMV).
- Social Security Card: Asylees are authorized to receive unrestricted social security cards. An unrestricted social security card establishes work authorization and, together with a state driver's license or state ID card which establishes identity, can be used to document employment eligibility. Asylees who obtained their social security cards prior to April 2001 may have restricted cards which say, "Valid for Work Only with INS Authorization." They are authorized to return to the Social Security Administration to receive a new, unrestricted card. For more information on this policy, see ORR State Letter #01-09 on the ORR website at www.acf.hhs.gov/programs/orr/policy/sl01-09.htm.
- State Driver's License or ID Card: A state driver's license or ID card establishes identity and can be used together with an unrestricted social security card, which establishes work authorization, to document employment eligibility.

What kind of resettlement assistance could be provided to asylees?

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
Refugee Cash and Medical Assistance (RCA & RMA)	A federally funded program available to needy asylees who are not eligible for other cash or medical assistance programs such as TANF, SSI, or Medicaid.	8 months
Refugee Social Services	Designed to smooth adjustment and facilitate early self-sufficiency. These include job preparation and placement and English language classes. The range of services varies by state, but may also include child care, youth services, adult education, and legal services.	5 years (however, some refugee social services provided pursuant to discretionary grants are not time-limited)
Match Grant	An early employment program administered by private resettlement agencies as an alternative to public cash assistance. Provides job counseling and placement, case management, cash, and living assistance. Selective: only those who are good candidates for early employment are chosen, and it is based on availability of slots.	120-180 days (but must be enrolled within 31 days of asylum grant date*)
Health Screening	A preventive health screening and assessment provided by the State Dept. of Public Health to asylees for early diagnosis and treatment of any illness. Usually includes screening for TB, parasites, and hepatitis, as well as school vaccinations for asylee children.	8 months

Type of Assistance	Description	Eligibility Period for Asylees (from date of asylum grant)
Torture Treatment Centers	Funded by ORR for victims of torture to provide rehabilitation, including the treatment of the physical and psychological effects of torture, social and legal services, research, and training for health care providers.	No time limit
Federal Means – Tested Public Benefits		
1. Supplemental Security Income (SSI)	1. A monthly cash payment to elderly people age 65 and older and to people with certain disabilities that prevent them from working and are certified by the Social Security Administration.	1. 7 years (with exceptions)
2. Food Stamps	2. Coupons or debit card that can be redeemed at grocery stores. Allow low-income people to buy food necessary for good health.	2. No time limit
3. Temporary Assistance to Needy Families (TANF)	3. A monthly cash payment to low-income parents with children under 18.	3. Time-limited by state
4. Medicaid	4. Reimburses doctor and hospital costs for certain low-income people, primarily pregnant women, families with children, the elderly, and the disabled.	4. 7 years**

* An asylee may be enrolled within 31 days of *notification* of grant of asylum if an exception letter to the program guidelines is obtained from the ORR MG Team.

** States have the option to provide Medicaid to asylees for more than 7 years, and all but Alabama, Mississippi, North Dakota, Ohio, Texas, Virginia, and Wyoming currently do so.

Are Cuban and Haitian asylum applicants eligible for resettlement assistance?

Yes. People from Cuba and Haiti who have applied for asylum are eligible for resettlement assistance if they have not received a final, non-appealable, legally enforceable order of removal, deportation, or exclusion. Whether a person has an order of removal, deportation, or exclusion can be difficult to determine, so ORR recommends that eligibility workers request that each applicant sign a written declaration, under penalty of perjury, that the applicant is eligible and also contact the immigration bureau to verify immigration status.

The eligibility period for resettlement assistance begins on the date of the asylum application and does not get renewed after asylum is granted. The following documents may be used by Cuban and Haitian asylum applicants to show eligibility for resettlement assistance:

- CIS receipt for filing Form I-589 (Application for Asylum)
- I-94 arrival/departure card stamped with “Form I-589 filed”
- Document stamped by an immigration judge showing an asylum application has been filed
- Employment Authorization Document with the code C08
- Employment Authorization Document (older version I-688B) with the provision of law 274a.12(c)(8)

For more information, refer to ORR State Letter #00-17 on Status and Documentation Requirements for the Refugee Resettlement Program at www.acf.hhs.gov/programs/orr/policy/sl00-17.htm.

How can asylees obtain an Employment Authorization Document (EAD)?

Under the Enhanced Border Security and Visa Reform Act of 2002, which took effect on 11/14/02, asylees are to receive an Employment Authorization Document (EAD) immediately upon being granted asylum. The initial EAD is valid for one year and can be renewed for a fee. The procedures for obtaining the initial EAD depend on how the asylee obtained asylum status.

Asylees granted asylum by an immigration judge, the Board of Immigration Appeals, or a federal court should schedule an appointment at their local CIS office to obtain both an EAD and an I-94. They need to bring their copy of the order granting asylum and some form of identification.

Asylees granted asylum by the CIS asylum office receive the EAD together with their asylum approval letter and I-94 when they go to the asylum office to pick up their decision. Asylees who are interviewed at asylum office circuit ride locations are issued EADs by either the asylum office or the district office where the circuit ride interview was conducted. Asylees who go to the district offices for their EAD must bring their final approval letter and I-94 issued by the asylum office, as well as some form of identification.

Derivative asylees (the spouse and children of an asylee) entering the U.S. through a Refugee and Asylee Relative Petition (Form I-730) may receive an EAD at the port of entry together with the I-94, but only at certain ports of entry that are designated to produce EADs. If the port of entry is not one that is able to produce EADs, then the derivative asylees should go to the nearest CIS local office to obtain the EAD, bringing their I-94 and some form of identification.

What if asylees have an error on their I-94 card or lose their I-94 card?

Asylees sometimes find that their I-94 contains an error, such as a misspelled name, incorrect date of birth, incorrect date of entry, or expiration date. Rather than applying to the Nebraska Service Center for a corrected I-94 (a process that can take over a year), current CIS policy allows asylees to obtain a corrected I-94 on a walk-in basis at the CIS district office, but *only if the initial I-94 was issued by a CIS office*, such as the asylum office or district office. If the I-94 was issued by U.S. Customs and Border Protection (CBP) at a port of entry and contains an error, the process is to return to the nearest port of entry or CBP deferred inspection office to obtain a corrected I-94. For a list of CBP ports of entry, refer to <http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/>. There is no fee for a corrected I-94 when the error was made by CIS or CBP. Asylees who lose their I-94 are required to apply for a replacement card at the Nebraska Service Center, a process that can take over a year.

Can asylees travel outside the United States?

Asylees are required to obtain prior permission from the CIS before leaving the U.S. Otherwise, they may not be able to re-enter. Permission is obtained by filing Form I-131 to receive a Refugee Travel Document.

Are asylees eligible for a green card?

Yes. Asylees are eligible to apply for adjustment of status (a green card) after one year of physical presence in the U.S. (from the date of the asylum grant) using Form I-485. Professional assistance through an accredited non-profit immigration agency is recommended to ensure the application is completed correctly and includes all the required attachments.

How long does it take for asylees to receive a green card?

The Real ID Act of May 11, 2005 removed the annual cap of 10,000 asylee green cards. The cap has caused a massive backlog with a 10-15 year wait. Under a settlement agreement for a class action lawsuit called *Ngwanyia v. Gonzalez*, CIS is now working to eliminate the backlog and issue green cards to those who have been waiting. CIS expects to eliminate the backlog by the end of 2006. Green card processing times by date of application will be posted quarterly on the CIS website at <http://uscis.gov>. Asylees with a pending green card application can now renew their EAD by applying for a multi-year EAD that is valid up to five years. For more information, visit the CIS website.

Can asylees bring their immediate family members to the United States?

Asylees can request derivative asylum status for their spouse or children (unmarried and under age 21) by filing Form I-730 (Refugee and Asylee Relative Petition). This allows family members to join the asylee in the U.S. The I-730 *must* be filed within two years of receiving asylum status. Family members, as derivative asylees, are eligible for resettlement assistance from the date of their entry into the U.S., which is found on the I-94 card.

Can asylees get student loans?

Asylees are eligible for federal student financial aid, including grants, loans, and work study programs, from the U.S. Department of Education. For more information, contact the Federal Student Aid Information Center at 1-800-433-3243 or see *The Student Guide* (available in English and Spanish) at http://studentaid.ed.gov/students/publications/student_guide/index.html.

The National Asylee Information & Referral Line

1-800-354-0365 (for asylees only)

The National Asylee Information & Referral Line is funded by the Office of Refugee Resettlement (ORR) and administered by Catholic Legal Immigration Network, Inc. (CLINIC) in partnership with Catholic Charities of the Archdiocese of New York. The goal of the referral line is to link asylees with local refugee service providers and benefits for which they are statutorily eligible, including job placement, English classes, cash assistance, and medical assistance. The line provides information in 19 languages and is for asylees only. Service providers or others with questions about resettlement benefits and services for asylees should contact their State Refugee Coordinator (on the ORR website at <http://www.acf.hhs.gov/programs/orr/partners/coodina.htm>) or CLINIC.



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