

How to Decide If You Can Apply for Asylum in the United States



This fact sheet talks about asylum and who is eligible for it. There are 3 different ways to apply for asylum depending on who you are and your immigration background. This fact sheet helps you understand which process you need to use when you apply. LawHelpMN has other facts that help you apply for asylum. This fact sheet shows you which other fact sheet you should use. There is a \$100 fee to apply for asylum.

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Eligibility for Asylum

What is asylum?

Asylum is a form of protection that allows someone to stay in the United States. It is a pathway to residency and citizenship. **You can only apply for asylum if you are afraid to return to your country of origin.** You must have been harmed there or believe you will be harmed if you return. If you are eligible for asylum, you must apply for it. You do not automatically have asylum because you are afraid to return home.

What type of harm do I have to prove?

You must prove that you were harmed or may be harmed because of **at least one** of these things:



Your race. You might be targeted because of your physical characteristics or group you belong to. Example: you might be targeted because you are indigenous.



Your religion. You might be targeted because you refuse to practice a particular religion. You could also be targeted for the way you practice your religion.



Your nationality.



Your political opinion. You might be targeted because you support or oppose a political group or government. You might be targeted because you took action to support or oppose a political issue. This could mean you attended a protest or made comments against a government. It could also mean you took a pro-human rights stance, believe in equality, have a feminist opinion, or advocated for indigenous rights.



A social group you belong to that you cannot change or should not be required to change. This includes your ethnicity, gender, sexual orientation, tribal or clan group, or family.



Example: Danny is applying for asylum because of his race and political opinion.

Danny is part of an indigenous tribe in El Salvador. He advocates for indigenous land rights. He was arrested, interrogated, beaten, and threatened by the police. The police told him to stop his work. Danny is applying for asylum because of his race (he is indigenous) and because of his political opinion (advocating for indigenous rights).



Example: Ixchel is applying for asylum because her race.

Ixchel is 13 years-old. Her father hit and abused her and her siblings in Guatemala. He threatened to kill them many times. When she told the police, they did not help and made her go back to her father. The police also treat her different because she is Indigenous. Ixchel is applying for asylum because she fears for her life if she goes back to her father and because of her race (she is indigenous).

Can people still apply for asylum?

Yes. You can still apply for asylum. Every political administration makes changes to immigration policies, but applying for asylum is still a legal right in the U.S. The most trusted source of information is an immigration lawyer. The U.S. government websites might be hard to understand or not have the most up-to-date information.

Are there any risks of applying for asylum?

There can be risks, especially if you are **NOT** in removal proceedings. Talk to an immigration lawyer to make sure it is safe to apply.

Only apply for asylum if you fear harm in your home country. You must answer the questions on the asylum application form completely and honestly. If you lie on the application, you may never be able to apply for legal status in the United States again.

When should I talk to a lawyer?

Talk to an immigration lawyer **before** you apply for asylum if:

- You are unsure about which process to follow to apply for asylum.
- You are **NOT** in removal proceedings / immigration court.
- It has been more than one year since you entered the United States.
- You are a citizen or national of more than one country.
- You have been arrested, charged with, or convicted of any crime while living in the United States.
- You have ever belonged to a para-military or guerrilla organization, or any armed group in any country.

Where can I find a lawyer to help me?

Search for free lawyers and legal clinics on [LawHelpMN.org](https://www.lawhelpmn.org). Free lawyers are in high demand. You are not guaranteed a free lawyer just because you ask for one. You can also talk to a private lawyer if you can afford to pay about \$200 for a meeting. Some private lawyers do a free consultation. Ask when you call if the lawyer will talk to you for a free consultation.

How to Apply for Asylum

When should I apply for asylum?

You must file for asylum within 1 year of your most recent arrival in the United States. This is from the day you entered the United States on a visa or the day you crossed the border. It is **not** the date you were released from detention or the date your visa expired.

There are exceptions. Talk to an immigration lawyer if it has been more than a year since you arrived in the United States.



Example: Oscar wants to apply for asylum.

He crossed the border on July 12, 2024. He must mail his asylum application so that it is **received** by July 11, 2025. Oscar needs to mail his application a couple weeks before July 11 to meet the deadline.

How do I apply for asylum?

The process is not the same for everyone. LawHelpMN has different fact sheets that guide you through the steps for applying for asylum depending on where you need to file your application.

If you are an adult, the process you use depends on whether you are in “Removal Proceedings.”

- If you are an **adult** who is **already in removal proceedings / immigration court**: You need to use the “defensive process” to apply for asylum through immigration court. Scan the QR code to use the [defensive process guide](#). You apply for asylum in **immigration court**.
- If you are an **adult** who is **NOT yet in removal proceedings / immigration court**: You must use the “affirmative process” to apply for asylum with U.S. Citizenship and Immigration Services (USCIS). Scan the QR code to use the [affirmative process guide](#). You apply for asylum with **USCIS**.
- If you are **under 18 years-old** and are living in the United States **without a parent or legal guardian**: You must use the “affirmative process” to apply for asylum with USCIS. The process is different than if you were applying for asylum as an adult. Scan the QR code to use the [affirmative process guide for unaccompanied minors](#). You apply for asylum with **USCIS**.

How do I know if I am in “Removal Proceedings”

The main way to know if you are in “Removal Proceedings” is if immigration sent you a Notice to Appear or NTA.

A Notice to Appear is a document you get from the Department of Homeland Security. It means the government is trying to deport you and **you must go to court**. A Notice to Appear says why the government thinks you should be deported. It should also say the **date** and **place of your first hearing**. LawHelpMN has a fact sheet that talks about what to do if you get a Notice to Appear. It also has a sample Notice to Appear. Scan the QR code or go to: lawhelpmn.org/self-help-library/fact-sheet/what-do-if-you-get-notice-appear-immigration-court



If you got an NTA, you are in Removal Proceedings **UNLESS**:

- The NTA was NEVER filed in Immigration Court.
OR

- Your immigration case was dismissed.

If you **are in Removal Proceedings**, you need to use the **defensive process** to apply for asylum through immigration court. Scan the QR code to use the [defensive process guide](#). You apply for asylum in **immigration court**.

If you are **NOT in Removal Proceedings**, you need to use the **affirmative process** to apply for asylum with U.S. Citizenship and Immigration Services (USCIS). Scan the QR code to use the [affirmative process guide](#). You apply for asylum with **USCIS**.

How can I check if a Notice to Appear was filed in immigration court?

You might have been sent a Notice to Appear and not know about it. Sometimes a Notice to Appear is sent to your old address. **BEFORE** you apply for asylum, check to see if you have a hearing scheduled in immigration court.



By Phone. Call the Executive Office for Immigration Review (EOIR) hotline at **1-800-898-7180**. Enter your A-Number or “Alien Registration Number.” (Go to [us-immigration.com](https://www.us-immigration.com) to find your A-Number.) Use the menu of options to check the date and time of your hearing. The hotline is in English and Spanish. Push 2 for help in Spanish.



Online. Go to acis.eoir.justice.gov. Enter your A-Number. Look at “Next Hearing Information” and “Court Contact Information.”

If you have a hearing scheduled then your Notice to Appear was filed in court. You should follow the defensive process and file for asylum in immigration court.

If it says “no case found,” then you do NOT currently have a Notice to Appear. You should follow the affirmative process and file for asylum with USCIS.

What happens if I send my application to the wrong place?

It is automatically denied. It should be returned to your mailing address. You need to re-file your application in the right place.

Should other people in my family apply for asylum too?

If you are granted asylum, your spouse and any unmarried children under 21 will also be granted asylum if they also live in the United States. When you apply for asylum you must include them in your application if you want them to get asylum too. **They should also file their own separate asylum applications.**



How to Apply for Permission to Work

Can I work while I wait for a decision about my asylum application?

You need permission from the U.S. government to legally work in the United States. This is called work authorization. You must apply for work authorization. You cannot work until you get this approval.

Can I apply for work authorization right away?

No.



- You must wait **150 days** after you file your asylum application before you can **apply** for work authorization.
- It takes 30 days to process your work authorization application. This means it takes 180 days from when you file your asylum application for the government to possibly approve your work permit. This 180-day waiting period is called “**your clock.**” If you are approved, you get a card that confirms you can work in the United States.



Example: Sonia wants to apply for work authorization.

Sonia was not in removal proceedings / immigration court. She applied for asylum using the affirmative process with USCIS.

- June 8, 2024: Sonia **mailed her asylum application** to USCIS.
- August 1, 2024: USCIS **received Sonia’s asylum application** and sent her a receipt.
- December 29, 2024 (150 days have passed): Sonia was **eligible to apply** for work authorization. She submitted her work authorization application to USCIS.
- January 28, 2024 (180 days have passed): USCIS approved her work authorization application. They sent her work permit card in the mail. Sonia is **now eligible to start working**.



Warning!

Sometimes your clock stops and you have to wait longer before you are eligible to work.

What makes my “clock” stop?

USCIS cannot grant your work permit application until 180 days have elapsed on your clock. The clock starts the day your asylum application is received. For the clock to continue, you must avoid doing anything that would stop the clock. Your clock stops when **you** cause a delay in your asylum application process.

- **Affirmative asylum process with USCIS.** Your clock stops if you miss a scheduled fingerprint appointment or an interview with USCIS. It also stops if you ask to reschedule an appointment or interview. Your clock **starts again** when you go to your new appointment. There is a list of all the reasons your clock could stop on the [USCIS website](#).
- **Defensive asylum process with immigration court.** Your clock stops if you have a court hearing and request more time to find a lawyer. This is called a “continuance.” Your clock also stops if you miss a biometrics appointment. You may be able to **start your clock again** at your next court hearing. There is a list of all the reasons your clock might stop on the [U.S. Department of Justice website](#). Contact the court if you think your clock was wrongly stopped.



Example: Lorena wants to apply for work authorization.

Lorena was in removal proceedings / immigration court. She applied for asylum using the defensive process in immigration court.

- July 1 , 2024: Immigration court **received Lorena’s asylum application**.
- August 15, 2024: Lorena asked to delay her immigration court hearing so she had **time to find a lawyer**. The judge agreed. Her clock stopped. She had 44 days on her clock when it stopped.

- September 30, 2024: Lorena found a lawyer and **went to her next immigration hearing** in the Minnesota court. Her clock started again.
- January 14, 2025: Lorena was **eligible to apply** for work authorization. She sent her work authorization application to USCIS.
- February 13, 2025: USCIS approved her work authorization application. They sent her work permit card in the mail. Lorena is **now eligible to start working**.

When my waiting period is over, how do I apply for work authorization?

LawHelpMN has a fact sheet that talks about how to apply for work authorization. Scan the QR code or go to: lawhelpmn.org/self-help-library/fact-sheet/how-get-permission-work-minnesota



Scan me
with your
phone