



WHAT DOES THE NEW RULE ON “PRETERMISSION” OF ASYLUM CASES AT THE ASYLUM OFFICE MEAN FOR MY CASE?

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WHAT WAS THE PROCESS AT ASYLUM OFFICES BEFORE THIS RULE?

Since the 1990s noncitizens who were not already in removal proceedings in immigration court have been able to file affirmatively for asylum with United States Citizenship and Immigration Services (USCIS) and specially trained asylum officers review their applications and interview them on their asylum claims. The asylum officer can grant the asylum application. If they deny the case, they refer the asylum seeker to removal proceedings in immigration court, where the immigration judge then considers their application.

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WHAT IS THE NEW RULE ON PRETERMISSION AND WHAT DID IT CHANGE?

USCIS issued a regulation on July 28, 2026, which went into effect immediately—meaning it is now the law—that allows asylum officers to “pretermite” affirmative asylum applications. Pretermission means that the asylum officer can decide that you do not qualify for asylum without ever giving you an interview. If the asylum officer makes this decision, and you are in the United States without lawful status, the asylum officer will issue you a Notice to Appear and place you in removal proceedings.

WILL I GET TO EXPLAIN MY CASE TO AN IMMIGRATION JUDGE IF THE ASYLUM OFFICE PRETERMITS MY APPLICATION?

Unfortunately, not necessarily. Since the summer of 2025, immigration judges have been pretermittting some asylum applications and ordering noncitizens removed without ever giving them a hearing on their cases. Immigration judges may pretermitt asylum cases if they think the I-589 asylum application form is not filled out completely, if the judge does not think the asylum seeker could win their case after a hearing, or if the Department of Homeland Security (attorneys representing the government) claims that the asylum seeker should seek asylum in a different country under a so-called “Asylum Cooperative Agreement.”

For more information about pretermittion in immigration court, see [Pretermittion of Asylum Cases in Immigration Court](#).

Department of Homeland Security U.S. Citizenship and Immigration Services U.S. Department of Justice Executive Office for Immigration Review			I-589, Application for Asylum and for Withholding of Removal		
START HERE - Type or print in black ink. See the instructions for information about eligibility and how to complete and file this application. There is no filing fee for this application.					
NOTE: ☐ Check this box if you also want to apply for withholding of removal under the Convention Against Torture.					
Part A.I. Information About You					
1. Alien Registration Number(s) (A-Number) (if any)		2. U.S. Social Security Number (if any)		3. USCIS Online Account Number (if any)	
4. Complete Last Name		5. First Name		6. Middle Name	
7. What other names have you used (include maiden name and aliases)?					
8. Residence in the U.S. (where you physically reside)					
Street Number and Name				Apt. Number	
City		State		Zip Code	Telephone Number ()
(NOTE: You must be residing in the United States to submit this form.)					
9. Mailing Address in the U.S. (if different than the address in Item Number 8)					
In Care Of (if applicable):				Telephone Number ()	
Street Number and Name				Apt. Number	

DOES THE NEW ASYLUM OFFICE PRETERMISSION RULE APPLY TO CASES THAT WERE FILED BEFORE JULY 28, 2026?

Yes, although it seems unfair to change the rules after someone has applied for asylum, the new regulation specifically applies to **all** asylum applications, whether they were filed before or after the rule went into effect. The only exception is for cases that have already been scheduled prior to July 28, 2026. Thus cases where the applicant received the interview notice before July 28 should not be pretermitted.

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WHAT MIGHT ASYLUM OFFICERS DO UNDER THE NEW RULE?

Under the new rule, asylum officers can review the asylum application on file and decide whether to:



schedule an interview,



request more evidence
before scheduling an
interview



or refer the case to
immigration court
without an interview

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WHAT REASONS CAN AN ASYLUM OFFICER USE TO PRETERMIT AN ASYLUM APPLICATION?

The background information for the regulation focuses largely on asylum applications that have been filed after the one year filing deadline, a rule that says that people have to file asylum within one year of arriving in the United States unless there are changed or extraordinary circumstances. Even though there are exceptions to this filing deadline, it is likely that many applications filed after the one year filing deadline may be pretermitted and sent to immigration court without an interview.

The rule states that the asylum office can pretermit for other reasons as well but does not provide details about how it intends to do so. Asylum officers may also pretermit cases if they find a mandatory bar to asylum (such as certain criminal convictions), if they intend to apply an Asylum Cooperative agreement (claiming the asylum seeker should seek asylum in a different country), if they determine the asylum seeker does not deserve asylum as a matter of discretion (meaning the officer thinks they do not “deserve” to get asylum even if they qualify), or, generally if they decide an interview is not necessary to refer the case to immigration court (meaning they do not think the asylum seeker’s claim is strong enough to win). Asylum offices have not generally denied asylum based on discretion in the past, so it is not clear when they would do so now. USCIS has looked at issues like whether someone has worked in the United States without permission or entered unlawfully in other types of applications to find that applicants do not “deserve” an immigration benefit as a matter of discretion.

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DOES THE NEW RULE APPLY TO UNACCOMPANIED CHILDREN?

Unfortunately, yes. While unaccompanied children have a right to file for asylum affirmatively with USCIS, even if they are in removal proceedings, the new rule allows asylum officers to prepermit their applications without interviews. However, applications filed by unaccompanied children are not subject to the one year filing deadline, so the asylum officer cannot prepermit unaccompanied children's applications on this basis.

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I HAVE ALREADY FILED FOR ASYLUM, WHAT SHOULD I DO NOW?

If you have an attorney or representative, you should contact them to see whether there is more evidence you need to provide.

For decades, it has been common practice for asylum seekers to file a minimal application with the asylum office and supplement the application with additional, updated information after receiving the asylum interview notice. With this new rule, you (or you and your attorney) should immediately work on putting together all evidence that you want the asylum officer to review. This evidence may include:



a detailed
declaration
from the asylum
seeker;



letters from
other witnesses
in support of the
application;



medical or
psychological
reports; police
reports;



and country
conditions
materials.

If you filed your asylum application online, you can submit additional evidence via the USCIS online portal. If you filed your asylum application on paper, it is less clear how to submit further evidence because most asylum offices have recently announced that they will no longer accept mailings.

