

What Will Happen at Your Individual Immigration Court Hearing in Asylum Case

Preparing for your individual asylum hearing is easier if you know exactly what to expect.

By [Kristina Gasson](#), Attorney Temple University Beasley School of Law
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This article describes the process for applying for asylum before an Immigration Judge (IJ) under either of two circumstances:

If your asylum case has been referred to the Immigration Court by U.S. Citizenship and Immigration Services (USCIS) after you applied on your own initiative ([affirmatively](#)), in which case the court will already have a copy of your asylum application and supporting materials on file.

If, you are requesting asylum for the first time in removal proceedings, in which case you will have to file your asylum application in court.

(Also see the Department of Justice's [Immigration Court Practice Manual](#).)

We'll assume you've already attended [Your Master Calendar Hearing](#) (MCH). Its purpose is simply to figure out the next steps in your asylum case, and to set dates for submission of any documents and for the individual merits hearing.

Did Your Case Come to the Immigration Court as a Referral From the Asylum Office?

When the Asylum Office refers an applicant to an Immigration Judge, it will transfer the entire file there. You will not have to redo your Form I-589 or other paperwork, though you can (and probably should) add to it. The Asylum Office will also give you a Referral Notice, explaining why you are being referred. The referral notice might state, for example, that:

You did not file your asylum claim within one year of your most recent entry into the United States.

Your testimony was not credible (believable).

You did not either experience persecution in the past or currently have a well-founded fear of future persecution.

You are barred from receiving asylum (read about [Bars to Receiving Asylum or Refugee Status](#)).

The Referral Notice is brief and usually not detailed. Some officers provide more detail than others. After reading your Referral Notice, think back on the asylum interview. If, for example, the reason given for the referral is that you were not credible, was there a particular topic about which you gave the wrong dates or were confused? Did the officer ask lots of follow-up questions on a particular topic, and perhaps even frown at your answers? If so, that is an

important matter to get straight and clarify when you present your case again before the IJ.

If an attorney accompanied you to the asylum interview, they should have taken notes detailing the questions the officer asked and how you answered them. Your attorney should be able to use these notes along with the referral notice to better explain why you were referred to the judge, and help you prepare for the court date accordingly.

If you don't have an attorney helping you, [hiring one now](#), particularly if you're concerned about the strength of your case, might be a good idea.

Submitting Your Asylum Application for the First Time in Removal Proceedings?

If you haven't already submitted an affirmative asylum application, you will need to submit all your materials by the date the IJ set during your MCH. In the past, that could be as few as 15 days before the Individual Merits Hearing, but new Trump-era regulations changed this to a minimum 30 days.

Also, if this is the first time you're filing Form I-589, you must do so within one year of your arrival in the United States (with [limited exceptions](#)).

Your filings must include:

to the IJ: one copy of your [completed Form I-589](#), Application for Asylum and Withholding of Removal, including any amendments or supplements, and all [supporting documents](#), with a certificate of service (COS; a short form stating that you provided the DHS trial attorney with a copy of your filing), and

to the DHS trial attorney: one copy of your Form I-589 and all documents.

You have several options for how to file. You may either submit your application at the court's window in-person, by mail, by courier, or in open court.

If you have previously filed an asylum application, you can, if you wish to improve it, file an amended I-589 form, as well as any additional supporting documents or witness declarations you would like the IJ to consider. Make sure the information provided in Form I-589 is consistent with your previous submission. If there are inconsistencies, be sure to explain the reason, so that the IJ does not doubt your credibility.

Although you will not be filing your Form I-589 with USCIS at this time, see [How to Prepare Affirmative Asylum Application](#) for helpful tips on preparing it, along with your declaration and corroborating documents.

A good attorney might improve your chances of obtaining asylum in various ways, including by filing a legal "brief," which discusses the applicable law and your facts so as to persuade the Immigration Judge to grant you asylum. The legal brief (also called a "memorandum of law") typically highlights the legally

strongest parts of the claim, overcomes any negative information (such as potential asylum bars), and presents the documents in an effective manner.

Another factor to consider when thinking about hiring an attorney is that an experienced one might have worked in the past with the DHS attorney assigned to your case. He or she might be able to consult effectively with the DHS attorney to narrow down the issues.

At a deadline specified by the IJ, you will also need to submit a Witness List, naming all the people you plan to call to give testimony at your hearing, how long each person plans to testify, and in what language the person will speak. The witness list can include both experts knowledgeable about your country and fact witnesses who are familiar with your personal history.

Learning About the Judge Who Handling Your Hearing

You cannot choose or request a particular judge. A wide disparity has, unfortunately, been reported in the percentage of asylum cases that different IJs grant.

To find out more, check out Syracuse University's [database of immigration judges](#). It lets you input your city and the name of your judge and see a report on the judge's background and the percentage of asylum cases that he or she

has granted in given years, and how this compares to other judges across the United States.

What Will Happen at Your Individual Merits Hearing

If, at your MCH, you accepted an expedited removal hearing schedule, your individual Merits Hearing will be scheduled as soon as possible and you will be given the next available hearing date, at least 14 days in the future. (How far in the future depends on your court's backlog of cases.)

If you waived expedited removal, you might have to wait several years for your Merits Hearing. (See [Timing of the Affirmative Asylum Application Process](#).)

Your individual Merits Hearing can last several hours, and might even be scheduled for several separate hearings, depending on the amount of information you and the DHS trial attorney need to present and quickly the IJ pushes things forward.

If you have an attorney, he or she will first give an opening statement, summarizing why the IJ should grant you asylum. Then, you will be "sworn in" (promise to tell the truth) and your attorney will ask you questions about your story, through a court-appointed interpreter if you are not comfortable in English. Make sure to be honest, detailed, and consistent with your answers. Also, if you do not understand something, tell your attorney or the IJ that. (Do not hold separate, side conversations with the interpreter.)

The IJ will likely jump in and ask you questions, too.

When you are done telling your story, the DHS trial attorney will ask you questions about your asylum claim, and will try to test your "credibility" (honesty and consistency). He or she might aggressively try to confuse you. Do not be intimidated. That is the DHS trial attorney's job. Again, if you are confused by a question, do not attempt to answer it. Instead, ask for it to be stated more clearly.

You will then have the opportunity to call witnesses. You (or your attorney) will ask them questions, the IJ will interrupt, and the DHS attorney will cross-examine the witnesses.

The DHS attorney typically does not call witnesses, but instead focuses on challenging your credibility (testing how believable and honest you are) throughout the hearing.

If you have an attorney, he or she will make a short closing statement at the conclusion of your final hearing. The attorney will summarize for the judge why you should receive asylum and address any doubts the judge appears to have about the facts of your story or your eligibility for asylum.

Ordinarily, the IJ will grant or deny your asylum application orally, at the conclusion of your final Merits Hearing. Sometimes, however, the judge will take several weeks to issue a written decision on an asylum case.

Either you or the DHS can [appeal the decision](#) of the judge to the Board of Immigration Appeals, within 30 days of the decision.

Getting Legal Help

The stakes are high. If your hearing before the IJ doesn't go well, you could be deported. Now would be an excellent time to hire an [immigration attorney](#).