

Supporting Asylum Seekers in Completing their I-589 Applications

Presented by the UnLocal Team
in collaboration with Masa

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Community Immigration
Legal Services & Education



AGENDA

- ▶ Who am I and what is PSPP?
- ▶ A quick review of key asylum requirements
- ▶ Studying the application and recommendations on how to complete it
- ▶ The administrative process after filing the application
- ▶ Questions!



What is the Pro Se Plus Project?



- Community Education
- Community Supporter Trainings
- Screening and triaging cases of recent arrivals
- Pro se application assistance + representation



CENTRAL AMERICAN LEGAL ASSISTANCE

- ▶ Humanitarian protection for those who have already suffered and/or will suffer persecution in their country of citizenship
- ▶ Legal and permanent status
- ▶ First step to winning residency ("Green Card") and citizenship
- ▶ Everyone who is afraid to return has the right to ask for asylum - it doesn't mean that everyone qualifies
- ▶ The U.S. government has a duty to consider your claim

QUICK REVIEW OF ASYLUM LAW

- ▶ Formally request asylum within one year of arriving in the U.S.
- ▶ **Sufficiently serious harm** - show that you have already suffered and/or will suffer physical or psychological harm serious enough to be considered persecution
- ▶ **Government involvement:** government or private actors that the government cannot/will not control are responsible for persecution
- ▶ Demonstrate that the reason for your persecution is a **protected characteristic**

ESSENTIAL ELIGIBILITY REQUIREMENTS

- ▶ What are the protected characteristics?
 - ▶ Political opinion
 - ▶ Race
 - ▶ Religion
 - ▶ Nationality
 - ▶ Social group (examples: LGBTQI+, family, gender-based violence/domestic violence)
- ▶ Asylum is NOT for those fleeing poverty or general violence
- ▶ You *must connect* what you fear with your individual circumstances

ESSENTIAL ELIGIBILITY REQUIREMENTS

A note on procedure

- ▶ How you submit the application and who reviews it depends on whether you are an AFFIRMATIVE applicant or a DEFENSIVE applicant
- ▶ AFFIRMATIVE = anyone NOT in removal proceedings
- ▶ DEFENSIVE = anyone in removal proceedings whose case has been filed with Immigration Court
- ▶ How do you figure it out?
800-898-7180 or
<https://acis.eoir.justice.gov/en/>

Find the application on
the immigration website:

www.uscis.gov/i-589

The application is
available in many
languages but must be
submitted in English.

Recommendation: Have
the applicant study the
application and fill it out
in their best language,
then help them translate
to English.

I-589 THE APPLICATION

I-589 THE APPLICATION

- ▶ All questions must be answered honestly. Do not include any false information
- ▶ The first 4 pages ask for biographical information and the applicant's history of employment, education, and housing
- ▶ **IMPORTANT!** Mark the box on page number 1 for protection under the Convention Against Torture

I-589 Application, Pages 1-4

- ▶ **Question 7:** Always ask if the applicant has used other names or variations of their names
 - ▶ For **transgender applicants** who have not legally changed their name, you must list their legal name under Complete Name, but can then add their chosen name under # 7 (other names used)
- ▶ **Question 8:** An address where **they can receive mail** (i.e. there's a mailbox/reliable mail). If not, ask them for a trustworthy mailing address.

I-589, continued

- **Question 11:** Marital status: If they are in an “unión libre” or “acompañados,” in most cases those are not legally binding marriages; therefore they are SINGLE.
- **Question 14:** Many people have dual nationality. Make sure to ask - **do not assume**
- **Question 18:** *if they are in the EOIR system, mark box “b.” If they were issued an NTA but the case is not yet in the EOIR system, you would mark box “a.”* In some cases you may have to mark “c” but not often. This can be verified by calling 1-800-898-7180 and following the automated instructions to enter their A-number.

- **Question 19:** Might not remember an exact date; talk through their trip here
- **Questions 20-22:** Passport might be in ICE possession; may have a copy
- **“Is your spouse/child to be included in this application?”**
 - If they are not in the US, leave unanswered
 - If they are in the US and they are in removal proceedings, mark YES
 - If the applicant is in removal proceedings but the derivatives are not, mark NO;
 - If children are married or over 21, mark NO
- **Children**
 - Stepchildren = legal marriage before the child turned 18
 - All children should be listed here
 - Do not list people who have been “treated” or “perceived” as children if not formally adopted or acknowledged as biological children
 - Note: it is worth mentioning that in order to maintain derivative status, children must stay *unmarried*.

Page 4 of the I-589

- Address history, employment history, educational history
 - Ask the person you are assisting to complete as much of it as they can on their own but review it with them!
- Address history - it's OK if the applicant does not know the exact address
- Ensure that the dates/history aligns with the narrative and the details of what happened to them
- Often the employment, address, and educational history provides an excellent opening to discuss the details of their cases ("I notice that you moved three times in your last two years in Haiti. Let's talk about each move and why...")

The Substance of the Application

- ▶ Page 5, Part B - questions about the substance of the application
 - ▶ Why are you afraid to return?
 - ▶ What do you think is going to happen to you to make you believe that?
- ▶ **Recommendations**
 - ▶ **Write only A SUMMARY**
 - ▶ Start the answer with, "This is a summary. I will provide a more detailed statement in the future."
 - ▶ Include the most serious incidents summarized briefly

Recommendations

- **AVOID specific details, such as dates, colors, quantities**
 - Example: instead of “On March 3, 2022, 4 people in a green van followed me and...”, “In early March 2022, some people in a vehicle ...”
- Try to include all serious incidents but summarized. You do not have to include every detail - in fact, you should not.
- **Ask: did anything else happen? And/or, besides what we’ve already talked about, have you ever been harmed for any other reason?**
- Almost ALWAYS something will be missed. ALWAYS write “this is a summary of what I experienced and I will provide a more detailed statement in the future.”

EXAMPLES OF SUMMARIES

WARNING - contains strong description of violence

This is a summary. I will provide a more detailed statement in the future. I was a member of the opposition political party XXXX for many years. I regularly attended meetings and supported the party in many ways, including going to marches, participating in conversations about what different sectors needed, helping in elections (not an exhaustive list). In November 2021 we had elections. That day, members of the colectivos (the opposition or government-backed paramilitary group) approached us at the polling place and started shooting at us with automatic weapons. Multiple people were killed immediately and many more of us were kidnapped. They told me that they were going to kill me, that they knew who I was, that I was an opponent to the government. Sometime in the early morning of the next day, I was thrown off a motorcycle in the middle of a road and a car passed by and rescued me. Many other things happened to me that I will detail in a written statement."

EXAMPLES

▶ **Political violence with a shorter answer:** "This is a brief summary. I will provide a more detailed statement in the future. I suffered several acts of physical and psychological violence and death threats by "X group" because of my opposition to the government. I was sure I was going to lose my life and I fled the country."

▶ **Violence motivated by other reasons:** "This is a brief summary. I will provide a more detailed statement in the future. I suffered several violent and sexual attacks because of my LGBTQI+ identity. I was persecuted for my identity all my life. I received many death threats. In 2021, I was kidnapped and tortured. I left the country fleeing for my life."

What questions do the above examples answer?

- Who - who were the perpetrators of harm?
- What - what harm occurred?
- Why - what motivated the persecutors
- When - more or less, place it in time
- How - what methods were used to harm
- Where - minimal detail about this (“polling location”)

Why is it so important to write a summary instead of including all the details?

- ▶ Credibility
- ▶ Memory fails
- ▶ Translation
- ▶ Legal representation in the future
- ▶ The applicant will have the opportunity to provide more details in the future

Administrative Process: Affirmative Applications

- (1) Submit ONLINE with a MyUSCIS Account
 - EXCEPTION - previously in removal proceedings which have been dismissed
- (2) Submit paper application
 - How many copies?
 - Original + 1 copy for the applicant
 - 1 copy for every derivative
 - Passport photo
 - Identity documents with translation, if necessary
- (3) Where?
 - California Service Center
 - P.O. Box 10881
 - Laguna Niguel, CA 92607-0881
 - ** this is for NY residents **

THE ADMINISTRATIVE PROCESS: DEFENSIVE APPLICATIONS

- ▶ The application is filed with **the court with jurisdiction** over the case
 - ▶ How do you know which court has jurisdiction?
- ▶ 1 passport size photo of the applicant
- ▶ Copy of identity document
- ▶ Copies for derivatives?
- ▶ **EOIR-61: Notice of Entry of Limited Appearance for Document Assistance Before the Immigration Court**

THE ADMINISTRATIVE PROCESS: DEFENSIVE APPLICATIONS

- ▶ Send the first 3 pages to
 - ▶ USCIS Nebraska Service Center
Defensive Asylum Application with Immigration Court
P.O. Box 87589
Lincoln, NE 68501-7589
 - ▶ Along with these instructions
<https://www.uscis.gov/sites/default/files/document/legal-docs/Pre%20Order%20Instructions%20EOIR.pdf>

After the application is filed

- A fingerprint appointment
- A trial OR asylum interview
- **2 to 6 years of waiting**
- In both cases, the applicant will have the opportunity to present evidence

The Interview

- Evidence is usually submitted either one week before the interview or on the day of the interview
- “Non” adversarial process: an asylum officer conducts the interview and decides if the applicant qualifies.
- If the officer decides no, it's not the end of the case, they send the case to the immigration judge.

The Trial

- Evidence is usually presented 15 days or 30 days before trial
- The judge decides if the applicant qualifies
- Adversarial process -- there is a prosecutor to cross examine and provide the government’s opinion on the case
- Right to appeal if the judge decides the applicant does not qualify

BRIEF SUMMARY OF NEXT STEPS

The EOIR-61 and your role

- ▶ EOIR 61 must be completed when assisting anyone with document preparation for Immigration Court.
- ▶ Please be clear about who you are, that you are not an attorney, and the limitations of your experience.
- ▶ Avoid giving advice or making judgment calls:
 - ▶ “Should I say...”
 - ▶ “Is it better to include...”
 - ▶ “How strong is my case?”
 - ▶ “How does this effect my case?”
- ▶ The answers to these questions require legal analysis and expertise. Use your listening and writing skills, your knowledge of English and systems to assist in completing the application. Do not pass judgement on cases or questions that require expertise you may not have.

QUESTIONS

