

WHAT IS THE PROTECTION SCREENING INTERVIEW PROCESS?

If you came to the U.S. without legal status and come into contact with immigration within 14 days and within 100 miles of the border you will most likely be **placed into the Expedited Removal** process. This means you do not have the right to see a judge and will be issued a deportation order. This deportation order will only be put on pause if you express a fear of return to your country. Your case will then be transferred to the USCIS Asylum Office (agency withing DHS) for an interview by an Asylum Officer who has expertise in this area of U.S. law.

The **purpose of the interview** is to see if you have a strong enough case for protection in the U.S. that you should be given the opportunity to gather your evidence and explain your situation to an Immigration Judge. You need to get a positive “credible fear” decision in order to be allowed to the file an application for protection with a judge in what is known as Section 240 proceedings, as well as to have your best chance at release from detention with ICE or a judge (a positive result is usually needed to prove that you have a legal way of staying in the U.S.).

Please note that **if you have previously been deported** and reentered the country without permission crossing the river or desert (EWI), you will not have an asylum “Credible Fear” Interview (CFI) but rather a withholding of removal “Reasonable Fear” Interview (RFI). For all practical purposes, the process is the same. However, your case will be evaluated for withholding of removal and not asylum which means that you need to prove more than a 50% probability of being persecuted instead of only about a 10% possibility.

If you get a negative decision you can ask that an Immigration Judge review the Asylum Officer’s decision. If the judge “vacates” your negative decision and gives you a positive result, you can begin the court process in Section 240 proceedings. If the judge “affirms” your negative decision then the deportation order you received when you entered the U.S. that was put on pause when you asked for protection will enter into force and ICE will contact your embassy/consulate to arrange travel back to your country (keep in mind that neither ICE, nor anyone else from the U.S. government, can tell your embassy/consulate that you asked for protection here).

Your only other option for a positive decision is to ask for reconsideration of the results, which can lead to a second opportunity to be interviewed. You do not have the right to a second interview – only to *ask* for one. Occasionally the Asylum Office will decide to hold a follow-up interview, if there has been a legal or factual error committed in the first interview.

Under the new Interim Final Rule that went into force for those who enter the U.S. for the first time on May 31, 2022 or later, you can only ask for reconsideration **one time** and only **within 7 days of the judge denying your case** (if you have not been deported yet).

HOW DO I ASK FOR RECONSIDERATION OF MY INTERVIEW RESULTS?

If you feel that there was a **legal or factual error in your first interview that would change the result**, you can ask the Asylum Office to reconsider the results, that can include another interview if the Asylum Office thinks that would be useful.



To request a reconsideration of your case (with or without a new interview) you will need to **write a detailed letter** explaining:

1. What the error was in your first interview,
2. Why that error occurred, and
3. Why – if that error is fixed – you should get a positive result under the law.

This letter will need to be written in English or translated and accompanied by a Certificate of Translation (see the attached sample).

An attorney can review your interview results paperwork and help you understand why you were denied and evaluate your case for errors, especially legal errors that you may not be aware of.

Factual errors can result from the following:

1. Something was misunderstood and/or misinterpreted. If there is something written up wrong in your interview results, please explain what that is and why it is an important mistake.
2. You did not fully explain your case. If this was your fault, the Asylum Office is not likely to take time to redo your interview as you were already given an opportunity to explain your case. If you did not explain your case fully, you need a good reason why in order for the Asylum Office to give you a second chance. If it was not your fault the Asylum Office should give you a second interview to explain the additional information. Consider these questions:
 - Were you interrupted? Did you say something to correct this? If not, why not?
 - Did you feel like you couldn't explain something? Why not? Why is whatever you didn't explain important to your case?
 - Did you have a difficult time understanding the questions or other problems related to the interpreter? Did you say something to fix this? If not, why not?
 - After listening to the summary of your case and being asked if this was everything, why did you not add this other information?

The best way to ask for a new interview is to e-mail your request as this is quickest and goes straight to the people in charge of reviewing negative results. You can send your request for reconsideration to the Asylum Office directly or with the help of someone else, such as an attorney, ICE, or family / friends. If you do not have access to e-mail or someone who can help you, try sending your request to:

RFR Unit
16630 Imperial Valley Drive, Suite 200
Houston, TX 77060

HOW DO I KNOW IF I HAVE A VALID CASE IN THE U.S.?

The asylum and withholding of removal process is **for people who are afraid of returning** to their country. Unfortunately **U.S. law doesn't protect everyone** who is afraid of going back to their country. It protects people who are afraid that someone will **seriously hurt** them because of their **political opinion, religion, race, nationality, and/or because they're part of a "particular social group"**, which is the legal way of saying that there's something different about them that society recognizes. This could include being a homosexual, a victim of domestic violence, a witness, a reporter or human rights defender, a member of a certain family, or being different in another way along with other people. You will also need to prove that **you need the protection of the U.S.** – that your government cannot protect you or does not want to protect you and that there is nowhere else you can live safely.



There is also a separate type of **protection for people who are afraid of their government**, which includes the police, a private actor like a gang that is working with the government, or when the government knows what is happening and does nothing to protect you, in other words when the government give its permission implicitly for the harm you face ("consent or acquiescence"). Thus, when the government is responsible in some way for the harm you suffered / will suffer you may qualify for protection under the United Nations Convention Against Torture.

COMMON QUESTIONS

Motive

- Who threatened/harmed you? (even if you don't know their names you can give their aliases or other information about who you think they are and why you think they are that person/group)
- Why did they target you? How do you know?
- Have other family members, friends, acquaintances or similarly situated people been harmed for the same reason? What happened to them?

Level of Harm

- How did they threaten / harm you?



- How many times did they threaten / harm you?
- For what period of time did they threaten / harm you? (first and last incident, and what was the worst incident)
- What happened? How long did it last? Does this still impact you today?
- What, specifically, do you fear will happen if you are forced to return? Why will this happen? How do you know this?

Safety in Your Country

- Can the police or someone else in the government protect you? Why or why not? (If you have evidence of a complaint, you can tell the Asylum Officer. If you did not make a report be prepared to explain why not. If you did make a report you will likely need to explain why that did not result in your protection.)
- Can you live in another part of your country? Why or why not?
- Do you have permanent legal status in another country, or can you easily obtain it?

Requirements for Asylum, Withholding, and Torture Convention Protection

Burden on Applicant: It is your job to prove you need protection

Harm can be either Physical or Emotional / Mental

You can qualify for asylum if you show Past or Future Harm

| | Asylum | Withholding of Removal | Convention Against Torture |
|--|--------------------------------|--------------------------------|-----------------------------------|
| Harm | Persecution | Persecution | Torture |
| Why | 5 reasons | 5 reasons | Many reasons |
| Government or Non-State Actor If: | Unwilling or unable to control | Unwilling or unable to control | Instigation, consent acquiescence |
| Probability | ~10% | Over 50% | Over 50% |
| Discretionary? | Yes | No | No |
| Legal Status | Permanent | Temporary | Temporary |

You are ineligible if:

- **You can move somewhere else in your country and be safe (Internal Relocation)**
- **You have permanent legal status in another country (Firm Resettlement)**
- **The conditions in your country have fundamentally changed for the better**

Humanitarian asylum: if you have suffered past persecution and 1. face other serious harm or 2. the severity of the past persecution was so extreme you should not be required to go back.

