



STATEMENT ON NEW ASYLUM RULES

On June 1, 2022, the first day of Immigrant Heritage Month, a new asylum rule took effect that has the potential to block thousands of asylum seekers from being able to effectively pursue their case. Under this new asylum rule, asylum seekers who establish a credible fear of return will no longer file an asylum application and go through the process in front of an immigration judge. Instead, asylum seekers will be scheduled for an “Asylum Merits Interview” with an asylum officer and the interview will count as the asylum application. The asylum officer, based on the testimony provided, will determine whether to grant or deny asylum.

The Asylum Merits Interview must be scheduled 21-45 days after a positive credible fear determination and a decision on asylum should be issued within 60 days of the positive credible fear determination.

If the asylum officer grants asylum, then the person’s case is over.

However, if the asylum officer denies asylum, the person will be referred to an immigration court for an “expedited” process. This expedited process requires cases to be resolved within two to four months maximum.

The Biden Administration states that this new asylum rule is designed to help alleviate the backlog of cases in immigration court. But, this rule has significant negative impacts on asylum seekers, including:

- a. Issues for migrants to obtain counsel. The timeframe for this process is 180 days and with interviews being scheduled 21-45 days after a positive CFI it'll be difficult for attorneys to review and prepare cases in an adequate manner, as preparing asylum claims take hours.
- b. Insufficient time to prepare. The new rule limits the ability for asylum seekers to continue their case to either seek an attorney, have additional prep time, or provide additional evidence. The rule establishes limitations on the length of continuances request and request for filing extensions. This in turn increases the difficulty in an asylum seekers ability to find competent representation and to fully prepare their case.
- c. Right to be heard. The new rule provides that “any additional evidence to amend, correct, or supplement the credible fear record must be submitted to the asylum officer “no later than 7 days prior to the scheduled asylum interview,” or 10 days prior if submitted by mail.” This does not provide asylum seekers with the opportunity to heard. There may be available evidence to amend, correct, or



supplement the record, but evidence gathering takes time, especially if the evidence is not in the possession of the asylum seeker. This time frame to provide additional evidence will in turn hinder a person's ability to gather the documents to create a full or correct the record.

There are other impacts that this rule will have on asylum seekers, especially on black migrants who are already facing large disparities in the immigration system. These existing disparities for black immigrants are not addressed in this new rule and an expedited process that does not address issues such as access to interpretation and mental health issues for communities that are already struggling to gain access is unlikely to provide the “efficient and fair process” the Biden Administration hopes.

This rule is set to start with a small number of individuals and will expand over time. Each month, the Department of Homeland Security will refer asylum seekers with a positive credible fear determination to USCIS for an Asylum Merits Interview. We do not know who will be referred and for what reasons their cases are chosen to be reviewed under this new rule.

At African Communities Together, we are keeping a close eye on the implementation of the rule and any new information that is released regarding its implementation will be shared. Stay tuned on our social media for updates!