



U.S. Citizenship
and Immigration
Services

HQRAIO 120/12a

Memorandum

JUN 04 2013

TO: Donald Neufeld
Associate Director, Service Center Operations

FROM: Ted Kim
Acting Chief, Asylum Division

SUBJECT: Updated Service Center Operations Procedures for Accepting Forms I-589 Filed by
Unaccompanied Alien Children

I. Purpose

This memorandum provides updated notification and guidance to the USCIS Service Centers on the handling of I-589 applications for asylum filed by unaccompanied alien children (UACs) under the "initial jurisdiction" provision of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA). These procedures modify the current procedures found in Section III of the April 9, 2009, memorandum, Statutory Change Affecting Service Center Operations' Procedures for Accepting Forms I-589 Filed by Unaccompanied Alien Children. These procedures are effective on June 10, 2013, and apply to any I-589s received by USCIS on or after that date.

II. Background

USCIS typically does not have jurisdiction to accept a Form I-589, *Application for Asylum and for Withholding of Removal*, filed by an applicant in removal proceedings. Section 235(d)(7)(B) of the TVPPRA, however, placed initial jurisdiction of asylum applications filed by UACs with USCIS, even for those UACs in removal proceedings. Effective June 10, 2013, Asylum Offices will adopt a previous determination made by either CBP or ICE that an applicant is a UAC where that determination is in place on the date the applicant files for asylum, without making another factual inquiry into the applicant's age or unaccompanied status, and will take jurisdiction over the asylum case.¹ Asylum Offices will adopt the previous DHS determination that the applicant was a UAC unless there was an affirmative act by HHS, ICE, or CBP to terminate the UAC finding before the applicant filed the initial application for asylum. In cases in which a determination of UAC status has not already been made, Asylum Offices will continue to make determinations of UAC status per current guidance.

¹ See Ted Kim, Acting Chief, Asylum Division. Memorandum *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*. May 28, 2013 (Attached).

III. Field Guidance

This guidance focuses on the Nebraska Service Center's (NSC) handling of I-589s filed by UACs in removal proceedings. Effective June 10, 2013, the NSC should accept the asylum application of an individual in removal proceedings if any of the following three conditions are met:

- (1) The date of birth listed on the Form I-589 indicates that the applicant is under 18 at the time of filing with USCIS; (or)
- (2) The applicant submits a copy of the UAC Instruction Sheet with the I-589; (or)
- (3) The applicant submits with the I-589 a copy of documentation provided by HHS/Office of Refugee Resettlement (ORR) showing the applicant was in HHS/ORR custody as a UAC, such as the UAC Initial Placement Referral Form or the ORR Verification of Release Form.

In addition, the Asylum Division updated the UAC Instruction Sheet (attached), which the ICE Trial Attorneys disseminate to applicants who appear to be UACs during immigration court proceedings. As a result, the NSC will start receiving the updated UAC Instruction Sheet shortly and should accept both the March 2009 version and the updated version.

The NSC should otherwise follow normal procedures and guidance from the April 9, 2009, memorandum, *Statutory Change Affecting Service Center Operations' Procedures for Accepting Forms I-589 Filed by Unaccompanied Alien Children*, to verify that the filing is complete and to process the case filing. However, the NSC should reject I-589 applications for lack of jurisdiction where the applicant is in removal proceedings, is 18 or older at the time of filing, and has not submitted any of the documents listed in (2) and (3) above.

If you have any questions concerning the guidance in this memorandum, please contact your supervisor, who can forward your inquiry to Headquarters Service Center Operations.

Attachments (5):

1. Ted Kim, Acting Chief, Asylum Division. Memorandum *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*. May 28, 2013.
2. DHS UAC Instruction Sheet (March 2009 version)
3. DHS UAC Instruction Sheet (June 2013 version)
4. HHS UAC Initial Placement Referral Form (internal use only)
5. HHS ORR Verification of Release Form (internal use only)