



Garcia Perez Settlement FAQ

General

What is the Garcia Perez settlement?



The *Garcia Perez* settlement was approved in September 2024 after class members challenged Executive Office for Immigration Review (EOIR) and U.S. Citizenship and Immigration Services (USCIS) policies and procedures regarding the Asylum Employment Authorization Document (EAD) Clock. The Asylum EAD Clock is the 180-day waiting period before an asylum applicant becomes eligible to receive employment authorization based on a pending Form I-589, *Application for Asylum and for Withholding of Removal*, before EOIR or USCIS. Among other things, the *Garcia Perez* settlement provides asylum applicants with an ability to obtain information about their Asylum EAD Clock and challenge the reason for any stops to the Clock.

Who are the class members?



The settlement agreement defines the nationwide class to include all aliens in the United States who have filed or will file with the U.S. Citizenship and Immigration Services (USCIS) or the Executive Office for Immigration Review (EOIR) a complete asylum application and who would be otherwise eligible for employment authorization if their Asylum Employment Authorization Document (EAD) Clock had not been stopped or had started prior to 180 days after the date the applicant filed a complete asylum application. There are also three subclasses:

The **remand subclass** includes class members whose Asylum EAD Clocks were or will be stopped following a decision by an Immigration Judge and whose

Asylum EAD Clocks are not or will not be started or restarted following an appeal in which either the Board of Immigration Appeals or a U.S. Court of Appeals remands their case for further adjudication of their asylum and/or withholding of removal claims.

The **unaccompanied children subclass** includes class members in removal proceedings who are defined as unaccompanied alien children pursuant to 6 U.S.C. § 279(g), and whose Asylum EAD Clocks are not started or will be stopped while waiting for USCIS to adjudicate the filed asylum application.

The **change of venue subclass** includes class members in removal proceedings whose removal proceedings have been or will be transferred to a different Immigration Court through a granted change of venue motion, and for whom EOIR has stopped or will stop the Asylum EAD Clock based solely on the change of venue.

What can Garcia Perez class members do under the settlement agreement?



The settlement agreement allows class members to obtain information about their Asylum EAD Clock, or to request a correction, before the U.S. Citizenship and Immigration Services (USCIS) or the Executive Office for Immigration Review (EOIR), of the Asylum EAD Clock in their case.

How long will the terms of the settlement be in effect?



The settlement agreement will be in effect until whichever occurs first: (1) four years after U.S. Citizenship and Immigration Services (USCIS) and the Executive Office for Immigration Review (EOIR) fully implement all the requirements under the settlement agreement; or (2) six years after September 26, 2024, the effective date of the settlement agreement.

What should I do if my case is with the U.S. Citizenship and Immigration Services (USCIS)?



You can refer to the USCIS website for guidance.

Obtaining Information About Asylum Employment Authorization Document (EAD) Clock Status

Will the Immigration Judge tell me the status of my Asylum Employment Authorization Document (EAD) Clock?



An “Adjournment Code” is the letter and/or number code reflecting the reason a hearing concluded or was continued to another date and time. The Executive Office for Immigration Review (EOIR) primarily uses Adjournment Codes for tracking case information. Adjournment Codes impact the Asylum Employment Authorization Document (EAD) Clock by either stopping or starting the clock. Some Adjournment Codes do not impact the Asylum EAD Clock, they are neutral. If the earlier Adjournment Code stopped the Asylum EAD Clock, the clock remains stopped after the entry of the neutral code. If the Asylum EAD Clock was running under the earlier Adjournment Code, the clock continues to run after the entry of a neutral code. Please note, only hearing-related events affect the Asylum EAD Clock. Events that occur outside of an immigration hearing do not affect the Clock.

How can I see what the different Adjournment Codes mean?



The list of current Adjournment Codes is provided in [Appendix O](#) of the Executive Office for Immigration Review (EOIR) Policy Manual.

How can I see my Adjournment Code history relating to my Asylum Employment Authorization Document (EAD) Clock if I am not represented by an attorney or accredited representative?



You may request a printout of your case-specific Adjournment Code history relating to the 180-day Asylum EAD Clock orally or in writing. Absent exceptional circumstances, EOIR court personnel will provide you the requested printout at the time the in-person oral request was made, or they will respond within 25 business days of a written request. Please note, EOIR will provide a digital copy of the printout unless specifically requested to provide a physical copy. If you are

unrepresented and your oral request is not made in person, EOIR personnel will email a digital copy of the printout to your email address of record on file with EOIR within 25 business days of receipt of the request, absent exceptional circumstances. If you do not have an email of record on file, EOIR personnel will mail a printed copy of the printout to your address of record on file.

Additionally, if you are not represented by an attorney or accredited representative you may see your case-specific Adjournment Code history by accessing [EOIR's ECAS Respondents' Portal](#).

If I am represented by an attorney or have an accredited representative, how can I see the Adjournment Code history for my Asylum Employment Authorization Document (EAD) Clock?



Your attorney or accredited representative can search for your case-specific Adjournment Code history relating to the Asylum EAD Clock on the EOIR Courts & Appeals System (ECAS) CASE Portal, which is required for attorneys and accredited representatives who have entered appearances for aliens in immigration proceedings.

Contesting or Challenging Adjournment Code and Asylum Employment Authorization Document (EAD) Clock Status

I am a class member, and I think my Asylum Employment Authorization Document (EAD) Clock status is wrong at the Executive Office for Immigration Review (EOIR). What should I do?



You can make an “Asylum EAD Clock Correction Request” in writing or orally at an Immigration Court proceeding. If you make an oral request at a proceeding, the Immigration Judge should address the request on the record. The Immigration Judge will only address the Adjournment Code for that particular hearing.

Written Asylum EAD Clock Correction Requests must be addressed to the Court Administrator of the relevant Immigration Court and must be submitted via email to the designated Asylum EAD Clock email box for the Court. Requests may also

be mailed to the Court. For cases on appeal, you must submit (by email or mail) a written Asylum EAD Clock Correction Request to EOIR's Office of the General Counsel (OGC).

EOIR maintains on its website the email addresses and physical addresses for each Immigration Court and the contact information for OGC. The Asylum EAD Clock Correction Request email box can be located by visiting the following website, selecting the relevant Immigration Court, and finding the "Contact the Court" section: [Executive Office for Immigration Review | Find an Immigration Court and Access Internet-Based Hearings](#). Contact information for OGC is available at [Executive Office for Immigration Review | Asylum EAD Clock Requests](#).

The Asylum EAD Clock Correction Request email boxes are ONLY for Asylum EAD Clock requests. The Immigration Courts and the OGC will not respond to any other communications sent to the Asylum EAD Clock Correction Request email boxes.

Do I have to submit a motion to request an Asylum EAD Clock Correction Request?



Applicants and their representatives of record should not submit motions pertaining to the clock. Rather, requests to adjust the clock should be made as described above in Question 11.

What information must be included in a written Asylum Employment Authorization Document (EAD) Clock Correction Request?



In a written Asylum EAD Clock Correction Request, please include your name; A number; mailing address (if mailing your request) and/or email address (if emailing your request); the Immigration Court that has jurisdiction over your case or indicate that your case is on appeal; as much information as possible about your case history; the current status of your clock; why you believe the clock should be adjusted; and how much time you believe should be on the clock.

The Immigration Court or the Executive Office for Immigration Review's (EOIR) Office of the General Counsel will send the response to your attorney of record, or if you do not have an attorney, to your address of record.

If your address (mailing or email) has changed from the one on file with the Immigration Court, you must also include an updated [Form EOIR-33, Change of Address/Contact Information](#), with the request. Please note, responses will only be sent to the addresses (email or physical) that are on file with the Immigration Court.

Can I make an Asylum Employment Authorization Document (EAD) Clock Correction Request if I do not have an attorney or accredited representative?



Yes. You may submit your written request to the Immigration Court that has jurisdiction over your immigration proceedings or to the Office of the General Counsel if your case is on appeal. Please see the answers to Questions 11 and 12, above.

How long will my Asylum Employment Authorization Document (EAD) Clock Correction Request take?



For written Asylum EAD Clock Correction Requests, Immigration Courts and the Office of the General Counsel (for cases on appeal) must respond in writing within 25 business days of receipt of the request, absent exceptional circumstances.

If you make an oral Asylum EAD Clock Correction Request at your hearing, the Immigration Judge should address the request on the record.

My case is on appeal at the Board of Immigration Appeals, and I accidentally sent my Asylum Employment Authorization Document (EAD) Clock Correction Request to an Immigration Court. What should I do?



No action is required. The Immigration Court will forward your request internally to the Office of the General Counsel (OGC), which will respond to requests for cases currently on appeal. Once the OGC receives the forwarded request, it will have 25 business days to respond, absent exceptional circumstances.

I accidentally sent my Asylum Employment Authorization Document (EAD) Clock Correction Request to the Office of the General Counsel (OGC) instead of the Immigration Court that has jurisdiction over my case. What should I do?



No action is required. OGC will forward your request internally to the Immigration Court that has jurisdiction over your case. Once the Immigration Court receives the forwarded request, it will have 25 business days to respond, absent exceptional circumstances.

I accidentally sent my Asylum Employment Authorization Document (EAD) Clock Correction Request to the Board of Immigration Appeals (BIA) instead of the Office of the General Counsel (OGC). What should I do?



No action is required. The BIA will forward your request internally to OGC, as OGC is responsible for responding to these requests if your case is on appeal. Once OGC receives the forwarded request, it will have 25 business days to respond, absent exceptional circumstances.

If my request is denied, will I be told why?



In response to a written Asylum Employment Authorization Document (EAD) Clock Correction Request, Immigration Courts and the Office of the General Counsel will provide the reasoning for rejected or denied requests. For oral requests during hearings, the Immigration Judge will address the request on the record. The Immigration Judge will only address the Adjournment Code for that particular hearing. If the request is related to a past Adjournment Code determination by a previous Immigration Judge assigned to the case, and you do not have an attorney or accredited representative, the Immigration Judge will provide you with a handout with instructions about sending your Asylum EAD Clock Correction Request to the appropriate email box or by mail. If you do have an attorney or accredited representative, the Immigration Judge will inform your attorney or accredited representative to submit the request to the appropriate email box or by mail.

Subclass Membership

I am a remand subclass member. Will my Asylum Employment Authorization Document (EAD) Clock be credited with the total number of days on appeal?



Yes. If the decision is appealed to the Board of Immigration Appeals (BIA) or a U.S. Court of Appeals and the BIA or U.S. Court of Appeals remands it (sends it back) to an Immigration Judge or the BIA for continued adjudication of your asylum claim, your Asylum EAD Clock will be credited by the U.S. Citizenship and Immigration Services (USCIS) with the total number of days on appeal (e.g., the time between the Immigration Judge's decision and the date of the BIA's remand order or between the BIA's decision and the date of the U.S. Court of Appeals' remand order). You will continue to accumulate time before USCIS on the Asylum EAD Clock while your asylum claim is pending after the remand order, excluding any additional delays you request or cause.

I am a remand subclass member. How do I request correction of my Asylum Employment Authorization Document (EAD) Clock?



To request correction by the U.S. Citizenship and Immigration Services (USCIS) of your Asylum EAD clock, you should submit to USCIS, along with your Form I-765, *Application for Employment Authorization*, a copy of either (1) the Board of Immigration Appeals' (BIA) order remanding the case back to the Immigration Judge; or (2) the U.S. Court of Appeals' remand order to the BIA. For additional guidance regarding eligibility for work authorization while on appeal or after remand, you may refer to the [USCIS guidance](#) entitled "The 180-Day Asylum EAD Clock Notice."

I am a member of the unaccompanied alien children subclass. How does this apply to me?



U.S. Citizenship and Immigration Services (USCIS) guidelines and policies control the Asylum Employment Authorization Document (EAD) Clock for unaccompanied alien children (UAC). Any Adjournment Code associated with the transfer of jurisdiction of a UAC's pending asylum application from the Executive Office for Immigration Review (EOIR) to USCIS will not stop the Asylum EAD Clock. However, if a UAC's case is referred to EOIR by USCIS, subsequent applicant-caused delays while the asylum application is pending before EOIR will stop the Asylum EAD Clock.

I am a member of the change of venue subclass. How does this apply to me?



A granted change of venue does not stop the Asylum Employment Authorization Document (EAD) Clock in cases pending before the Executive Office for Immigration Review.

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