



New DHS Policy on Detaining Refugees Who Have Not Adjusted Status: What Refugees and Practitioners Should Know

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UPDATE: On March 23, 2026, a federal judge issued a stay temporarily blocking the Refugee Detention Policy while litigation proceeds. The case is *Jean A. et al v. Noem* and is before the U.S. District Court for the District of Massachusetts.

On February 18, 2026, the Department of Homeland Security (“DHS”) issued a memo to US Citizenship and Immigration Services (“USCIS”) and US Immigration and Customs Enforcement (“ICE”), titled “Detention of Refugees Who Have Failed to Adjust to Lawful Permanent Resident Status” (“Refugee Detention Policy”). The memo rescinds prior guidance and states that it is now DHS policy to arrest, detain, and inspect refugees who have been physically present in the United States for at least one year and have failed to adjust their status to lawful permanent resident (“LPR,” commonly known as applying for a green card).

The memo specifically provides the following:

At one year after admission:

- The refugee must return to Department of Homeland Security (DHS) custody for inspection and examination for admission as an LPR.
- Applying for lawful permanent residence and appearing for any scheduled interviews *may* qualify as “returning to DHS for inspection and examination” as an LPR.
- If the refugee does not voluntarily return, DHS will return the individual to custody (i.e., arrest and detain) for this purpose.

- DHS may maintain custody for the duration of the inspection and examination process.

Who is Affected by the New Policy?

This policy only applies to refugees:

- Who have been in the United States for at least one year,
- Whose refugee status has not been terminated, and
- Who have not yet applied with USCIS to adjust their status to lawful permanent resident status.

Does this Policy Apply to Asylees?

No, this policy only applies to noncitizens admitted to the United States as refugees, not asylees. If you were granted asylum by USCIS or an Immigration Judge, this policy does not apply to you.

How is this a Change from Prior Policy?

This new policy diverges from over [a decade of prior policy and practice](#) where DHS would not treat failure to adjust status to lawful permanent residence as a basis for removal and would not detain refugees for failure to adjust status. Additionally, under prior policy, if a refugee who had not obtained LPR status was arrested, DHS could only detain the refugee for 48 hours to determine whether to release the individual or initiate removal proceedings.

Considerations For Refugees:

- If you have not yet been in the United States for at least a year since being admitted as a refugee, reach out to your refugee resettlement organization and/or an immigration attorney to learn more about applying to adjust your

status to lawful permanent residence as close to the one-year mark as possible.

- If you have been in the United States more than one year since being admitted as a refugee and have not yet applied to adjust status, contact an immigration attorney to discuss your eligibility for adjustment of status now.
 - You may also want to discuss preparing a petition for Habeas Corpus, a lawsuit that can be brought to challenge an unlawful detention and seek release, in case you are arrested and detained under this new policy.
- If you have already applied to adjust status but it is still pending, take photos or make copies of your adjustment of status application and your receipt notice. Carry a copy of these documents or keep photos on your phone in case you encounter ICE. We recommend keeping original documents at home in a secure location.
- If you are detained, your detention cannot be indefinite and may last “for a reasonable length of time” to determine whether you are eligible to adjust your status to lawful permanent residence status. However, the policy does not define a “reasonable length of time,” and detention is not limited to 48 hours.

Can A Refugee with a Pending Application for Adjustment of Status be Detained under the New Policy?

The new memo does not provide a clear answer to this question. The memo states that DHS “may arrest and detain a refugee who has lived in the United States for at least one year and has not yet acquired LPR status.” But in the same paragraph, the memo states that refugees “may be considered to have voluntarily returned to custody by submitting application to adjust status.” GYH will continue to monitor developments in this area, though it appears that some refugees with pending adjustment of status applications are being arrested and detained in the context of [Operation PARRIS](#) in Minnesota.

Can A Refugee Who Has Not Applied for Adjustment of Status After One Year Be Detained Under this New Policy?

It is unclear how this new policy will be applied, though it does seem that DHS is arresting and detaining refugees who have not adjusted status after one year in the context of Operation PARRIS in Minnesota. GYH encourages refugees to speak to an attorney, and we will continue to monitor updates in this area.

We encourage you to review our [Know Your Rights](#) brochure should you encounter ICE. Despite concerns raised by this new policy, it is important to note that there are [no confirmed reports](#) of DHS terminating an individual's refugee status as a result of Operation PARRIS.

Considerations For Practitioners:

Cited Legal Authority

DHS asserts it has authority to arrest and detain refugees who fail to adjust their status to lawful permanent residence at the one-year mark after admission as a refugee under INA § 209(a)(1) ([8 U.S.C. § 1159\(a\)\(1\)](#)). DHS also asserts detention is expected and required because Section 209(a)(1) cross-references INA § 235 ([8 U.S.C. § 1225](#)), which discusses the inspection and detention of “applicants for admission.”

Practice Tips:

- Monitor ongoing litigation about this policy in [U.H.A. v. Bondi](#), no. 0:26-cv-00417 (D. Minn. Jan. 18, 2026).
 - Judge John Tunheim granted a [TRO](#) currently in effect for “all individuals with refugee status who are residing in the state of Minnesota, who have not yet adjusted to lawful permanent resident status, and have not been charged with any ground for removal under the Immigration and Nationality Act.”

- In granting the TRO, Judge Tunheim found that Plaintiffs were likely to succeed on the merits because “federal statutes governing refugees and immigrant detention do not permit prolonged detention of unadjusted refugees who have not been charged with any ground of removability.” Dkt. 41 at 16.
- Consider preparing habeas petition templates highlighting the illegality of the policy
 - DHS cites INA § 235 to support its assertion that detention is “expected and required.” But mandatory detention under Section 235 only applies to “arriving aliens” and “applicants for admission.” Under *Matter of D-K-*, 25 I&N 761, 769 (BIA 2012), refugees who have not yet adjusted status to lawful permanent resident are still considered “admitted” and are not considered “arriving aliens” or “applicants for admission” simply because their initial admission is conditional.

Conclusion

GYH will continue to monitor developments related to this new policy. We encourage refugees to take proactive steps to determine their eligibility for adjustment of status as soon as possible.

Contact Us

If you have questions or concerns, please reach out to your attorney or our office for personalized guidance.

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