



Fact Sheet: Expedited Removal

What is expedited removal?

Created in 1996 by the Illegal Immigration Reform and Immigration Responsibility Act (IRAIRA), [expedited removal](#) is a procedure that allows U.S. Customs and Border Protection (CBP) officials to rapidly deport noncitizens who are undocumented or who have committed misrepresentation or fraud.

Under [expedited removal](#) processes, **noncitizens are deported in a single day** without an immigration court hearing or other appearance before a judge. CBP officers exclusively conduct the process, which is usually completed within a couple of hours, affording little to no opportunity for the noncitizen to collect evidence or consult with an attorney. In most circumstances, the noncitizen does not have a right to appeal. Those who have been subjected to expedited removal are detained until they are formally removed. This provides the immigration officer with broad authority in the removal of a noncitizen, which critics argue allows the officer to operate as both prosecutor and judge.

How many expedited removals does the federal government conduct?

[The Office of Immigration Statistics](#) reports that DHS apprehended 460,000 noncitizens in 2017. Of these, 103,704 noncitizens (22.5% of all those apprehended) were removed through expedited removal.

How is expedited removal limited?

When Congress established expedited removal, an [exception to the process](#) was made for any individual with the legal right to be in the United States, encompassing those who claim to be U.S. citizens, Lawful Permanent Residents (LPRs), admitted refugees, or asylum seekers. Additionally, unaccompanied minors are generally [not subject to expedited removal proceedings](#).

[Regulations promulgated in 2004](#) further limited the use of expedited removal, requiring that the process only apply to noncitizens that have been picked up within 14 days of arrival in the U.S and within 100 miles of a U.S land border. However, [draft DHS regulations](#) under consideration by the Trump administration would erase these limitations.

How has the Trump administration proposed to expand the expedited removal process?

President Trump issued an executive order in 2017 announcing that DHS would issue new regulations to expand the use of expedited removal, allowing his administration to utilize it more often to speed up deportations. In April 2019, there were reports that [DHS draft regulations](#) to expand expedited removal were under consideration, consistent with the scope of the 1996 statute that created the process of expedited removal.

Under the draft regulations, immigrants who are not able to prove that they have been continuously living in the United States for two years or more – as opposed to two weeks or more – would be eligible for expedited removal. The proposed change would also remove the 100 mile border limitation, and allow officials to deport undocumented immigrants from anywhere in the United States on an expedited basis.

What occurs when a person subject to expedited removal has fled their country of origin due to fear of persecution?

A noncitizen seeking asylum to [flee persecution](#) in their country of origin are not subject to expedited removal. If a noncitizen states to a CBP officer that they fear returning to their country or origin, or that they intend to apply for asylum, the officer must refer the noncitizen to an asylum officer, who will then conduct an interview of the noncitizen to determine whether he or she has a “credible fear” of persecution or torture if returned to his or her country of origin. If the noncitizen satisfies the credible fear standard, the applicant will be taken out of the expedited removal process and will then be placed in removal proceedings before an immigration judge, who ultimately will determine whether the migrant has a valid asylum claim. In the event that the immigration judge determines that the noncitizen does have a [credible fear of persecution](#), the detainee will be allowed to apply for asylum.

However, if the asylum officer finds that the [noncitizen does not have a credible fear of persecution](#), the asylum officer must provide a written record of the determination and that person will be ordered removed. The noncitizen can challenge this determination by requesting a review of this decision in a hearing before an immigration judge. The judge’s review is limited only to whether the noncitizen’s fear of persecution is credible.

Are people ever mistakenly removed under expedited removal?

The process of expedited removal can lead to individuals [being wrongfully removed from the U.S.](#) Noncitizens with viable claims for relief from removal are deprived of the opportunity to make their cases in front of an immigration judge.

These existing [due process concerns](#) regarding the expedited removal process are further heightened by the expansion under consideration by the Trump administration, as discussed above. This creates the possibility that expedited removal can be used on both U.S citizens and noncitizens, [leading to thousands of additional deportations without due process.](#)

Review of expedited removals by federal courts is limited, as federal courts lack jurisdiction to review these removals in most situations.