

¿Está en Desacuerdo con la Decisión del Juez de Inmigración?

La información que se facilita no se ofrece con la intención de brindar asesoría legal, ni debe ser interpretada de ningún modo, como tal. La información provista no extiende ni limita la jurisdicción de los Tribunales de Inmigración de acuerdo a lo establecido por regulación y ley. Nada de lo contenido en este paquete informativo o en estos volantes y folletos deberá limitar el poder discrecional de los Jueces de Inmigración para actuar en concordancia con las regulaciones y la ley.

VISIÓN GENERAL DEL PROCESO DE APELACIÓN:

De estar usted en desacuerdo con la decisión del Juez de Inmigración, puede pedirle a **La Junta de Apelación de Inmigración (BIA)** (“**Board**”) que revise la decisión dada en su caso. Este proceso se conoce como la apelación. (“**appeal**”). A continuación aparece un resumen de este proceso:

- 1) Debe usted informarle al Juez que quiere apelar. Cuando el Juez de Inmigración emita la decisión en su caso, el Juez le preguntará si desea “reservarse” (mantener) el derecho de apelar el caso. Entonces deberá informarle al Juez que desea reservarse el derecho de apelar la decisión. Si usted “renuncia” (abandona) su derecho de apelar; la decisión del Juez será final.
- 2) Complete la Notificación de Apelación (Formulario EOIR-26, **Notice to Appeal**), la cual está incluida en este paquete. En la sección del formulario donde le preguntan sobre las razones de su apelación; debe explicar y dar detalles específicos del porqué quiere apelar la decisión del Juez. Debe anexar a la Notificación de Apelación, un cheque o giro postal por la cantidad exacta de \$110. Si usted no puede pagar el honorario, complete el formulario de Pedimento de Exoneración de Honorarios (Formulario EOIR-26A, **The Fee Waiver Request**). El formulario está incluido en el paquete. Entonces envíe este formulario con la Notificación de Apelación.
- 3) Envíe el formulario original, firmado, a La Junta de Apelación de Inmigración (**Board of of Immigration Appeals, BIA**), a la dirección que aparece en el formulario. Recuerde enviar copias de cada documento que le envíe a La Junta de Apelación de Inmigración (BIA), al Departamento de la Seguridad de la Nación (DHS).

Department of Homeland Security
333 S. Miami Avenue, Suite 200
Miami, Florida 33130

- 4) La Junta de Apelación de Inmigración (**Board of Immigration Appeals, BIA**) debe recibir su Notificación de Apelación, (formulario EOIR-26, **Notice of Appeal**) dentro de **30 días** de la decisión del Juez de Inmigración o esta decisión se convertirá en FINAL.

Si usted quiere presentar un resumen o declaración, por separado, debe indicarlo en la Notificación de Apelación (**Formulario EOIR-26, Notice of Appeal**). Un resumen es un documento que describe los hechos y aspectos legales de su caso. La Junta de Apelación de Inmigración (BIA) le enviará una copia de la transcripción (copia escrita de lo dicho por cada individuo que asistió a la audiencia), recibirá además, copia de la decisión del Juez de Inmigración, y las fechas límites para que presente el resumen y declaraciones. **DEBE** usted enviar el resumen a La Junta de Apelación de Inmigración (Board of Immigration Appeals, BIA) para la fechas límites. **PUEDE** usted responder al resumen del Departamento de la Seguridad Nacional (Homeland Security, DHS), si estima pertinente hacerlo.

La Junta de Apelación de Inmigración (Board of Immigration Appeals, BIA) le enviará por correo postal su decisión.

**Notice of Appeal from a Decision of an
Immigration Judge**

GENERAL INSTRUCTIONS

(Please read carefully before completing and filing Form EOIR-26)

A. When to Appeal:

- Use this form (Form EOIR-26) only to appeal a decision by an **Immigration Judge**. If you wish to appeal a decision of the U.S. Citizenship and Immigration Services (USCIS), you must use a different form (Form EOIR-29).
- You must send the Notice of Appeal so that it is **received** by the Board within thirty (30) calendar days after the Immigration Judge's oral decision, or within thirty (30) calendar days after the date the Immigration Judge's written decision was mailed (if no oral decision was rendered).
- Simply mailing your Notice of Appeal in thirty (30) days or less is not enough. Your Notice of Appeal must **arrive** at the Board in thirty (30) days or less. If your Notice of Appeal arrives late, your appeal will be dismissed.

B. Where to Appeal:

*Mail or deliver in person
to this address:*

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

C. How to Appeal:

- Read all of these instructions. **Note:** If you are the person in proceedings, you are the "Respondent" or "Applicant." You are also the "Appellant" if you are filing an appeal of a decision by an Immigration Judge.
- Fill out all three pages of the Notice of Appeal completely, answering items # 1 - 12 **in English only**.
- List in item # 1 the name(s) and Alien Number(s) ("A" numbers) of **all** Respondents/Applicants who are appealing the decision of the Immigration Judge.
- Sign item # 9.
- List the mailing address of the Respondent(s)/Applicant(s) in item # 10.
- Translate all documents that you attach to the Notice of Appeal into English. All translations must include the translator's statement stating that the translator is competent and that the translation is true and accurate.
- Write your name(s) and "A" Number(s) on all documents attached to the Notice of Appeal.
- Mail or give a copy of the completed Notice of Appeal and any attached documents to the opposing party. Complete and sign the "Proof of Service" to show you did this (item # 12). **Note:** If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of the U.S. Immigration and Customs Enforcement (ICE) of the Department of Homeland Security (DHS).
- Your appeal may be rejected or dismissed if you fail to properly complete the "Proof of Service" (item # 12).

D. Paying for the Appeal:

Attach a check or money order to the Notice of Appeal for exactly one hundred and ten dollars (U.S. \$110) made payable to "United States Department of Justice." All checks must be drawn on a bank located in the United States. If there are not sufficient funds in your account, your appeal may be dismissed.

- Write the name(s) and “A” Number(s) of all Respondent(s)/Applicant(s) on the check or money order.
- If you cannot pay for the appeal, complete a Fee Waiver Request (Form EOIR-26A) and attach it to the Notice of Appeal. The Board will review your request and decide whether to allow the appeal without payment of the fee.
- Your appeal may be rejected or dismissed if you fail to submit a fee or a properly completed Fee Waiver Request (Form EOIR-26A).

E. Lawyer or Representative Allowed:

- You may be represented by an attorney or representative who is authorized to appear before the EOIR. If you are represented by an attorney or authorized representative, he or she **must** file, **with** the Notice of Appeal, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

F. Specify Reasons for the Appeal:

- Give specific details why you disagree with the Immigration Judge’s decision.
- Most appeals are reviewed by a single Board Member. If you assert that your appeal warrants review by a three-Board Member panel, you may identify the specific factual or legal basis for your contention.

Cases will be reviewed by a three-member panel only if the case presents one of these circumstances:

- The need to settle inconsistencies among the rulings of different Immigration Judges;
 - The need to establish a precedent construing the meaning of laws, regulations, or procedures;
 - The need to review a decision by an Immigration Judge that is not in conformity with the law or with applicable precedents;
 - The need to resolve a case or controversy of major national import;
 - The need to review a clearly erroneous factual determination by an Immigration Judge; or
 - The need to reverse the decision of an Immigration Judge other than a reversal under 8 C.F.R. § 1003.1(e)(5) (i.e., permitting a single Board Member to reverse a decision that has been affected by changes in statutes, regulations or case law.)
- Specify the finding(s) of fact, the conclusion(s) of law, or both, that you are challenging. If a question of law is presented, cite supporting legal authority. If the dispute is over the findings of fact, identify the specific facts you are challenging.
 - Where the appeal concerns discretionary relief, state whether the alleged error relates to statutory grounds of eligibility or to the exercise of discretion. Identify the specific factual and legal findings you are challenging.
 - If you do not give specific reasons, with details, in item # 6, or in attachments to your Notice of Appeal, the Board may dismiss your appeal on that basis alone.

G. Briefs:

- Indicate in item # 8 whether you intend to file an additional written brief or statement at a later date. The Board will send you a briefing schedule and, when appropriate, a transcript of the testimony.
- Even if you intend to file an additional brief or statement at a later date, you still must give detailed reasons for your appeal on the Notice of Appeal in item # 6 and attachments.

H. Oral Argument:

- If you ask for oral argument in item # 7, the Board will notify you if your request is granted.
- Even if you ask for oral argument, you still must give detailed reasons for your appeal on the Notice of Appeal in item # 6 and attachments.

- . The Board ordinarily will not grant a request for oral argument unless you also file a brief.
- If you request oral argument, you should also state in item # 6 why you believe your case warrants review by a three-member panel.

I. Change of Address:

- If you move after sending your Notice of Appeal to the Board, you must give your new address **to the Board** within five (5) working days after you move. Use an alien's Change of Address Form (Form EOIR-33/BIA).
- Attorneys or representatives must also let the Board know if they change addresses or phone numbers, using Form EOIR-27. An attorney's or representative's change of address notification is only effective for the case in which it is submitted.

J. Further Information:

- For further guidance please see the Board of Immigration Appeals *Practice Manual*, which is available on the EOIR website at www.justice.gov/eoir.

K. Paperwork Reduction Act:

- Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is thirty (30) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

L. Privacy Act Notice:

- The information on this form is authorized by 8 C.F.R. §§ 1003.3, 1003.38 in order to appeal a decision of an Immigration Judge to the Board of Immigration Appeals. The information you provide is required to appeal the decision and failure to provide the requested information may result in denial of your request. EOIR may share this information with others in accordance with approved routine uses described in EOIR systems of records notices.

Departure From the United States:

If you leave the United States after an Immigration Judge's decision in removal or deportation proceedings, but before you appeal the decision to the Board, you may have waived your right to appeal. If you leave the United States after filing an appeal with the Board, but before the Board decides your appeal, your appeal may be withdrawn and the Immigration Judge's decision put into effect as if you had never filed an appeal.

Summary Dismissal of Appeal:

The Board may summarily dismiss any appeal or portion of any appeal in which: (1) The appellant fails to specify the reasons for the appeal (see Part F); (2) The only reason specified by the appellant for his/her appeal involves a finding of fact or conclusion of law that was conceded by him/her at a prior proceeding; (3) The appeal is from an order that granted the appellant the relief that had been requested; (4) The appeal is filed for an improper purpose, such as unnecessary delay, or lacks an arguable basis in fact or law, unless the Board determines that it is supported by a good faith argument for extension, modification, or reversal of existing law; (5) The appellant indicates on Form EOIR-26 that he/she will file a separate brief or statement in support of the appeal and, thereafter, does not file such brief or statement, or reasonably explain his/her failure to do so, within the time set for filing (see Part G); (6) The appeal does not fall within the Board's jurisdiction or jurisdiction lies with the Immigration Judge rather than the Board; (7) The appeal is untimely or barred by an affirmative waiver of the right to appeal that is clear on the record; or (8) The appeal fails to meet essential statutory or regulatory requirements or is expressly excluded by statute or regulation.

WARNING! You must:

- Sign the Notice of Appeal (item # 9).
- Include the fee or Fee Waiver Request (Form EOIR-26A).
- Complete and sign the Proof of Service.
- Make sure your appeal is **received** at the Board on or before the filing due date.

Notice of Appeal from a Decision of an
Immigration Judge

Staple Check or Money Order Here. Include Name(s) and
"A" Number(s) on the face of the check or money order.

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

For Official Use Only



WARNING: Names and "A" Numbers of **everyone** appealing the Immigration Judge's decision must be written in item #1. The names and "A" numbers listed will be the only ones considered to be the subjects of the appeal.

2. I am ☐ the Respondent/Applicant ☐ DHS-ICE (Mark only one box.)

3. I am ☐ DETAINED ☐ NOT DETAINED (Mark only one box.)

4. My last hearing was at _____ (Location, City, State)

5. What decision are you appealing?

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☐ I am filing an appeal from the Immigration Judge's decision in **merits proceedings** (example: removal, deportation, exclusion, asylum, etc.) dated _____.

☐ I am filing an appeal from the Immigration Judge's decision in **bond proceedings** dated _____. (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☐ Yes. ☐ No.)

☐ I am filing an appeal from the Immigration Judge's decision **denying a motion to reopen or a motion to reconsider** dated _____.

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

(Attach additional sheets if necessary)

! **WARNING:** You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☐ No
8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☐ Yes ☐ No

! **WARNING:** If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule..

9. 

X

Signature of Person Appealing
(or attorney or representative)

Date

Form EOIR-26
Revised Oct. 2016

10.

Mailing Address of Respondent(s)/Applicant(s)
(Name)
(Street Address)
(Apartment or Room Number)
(City, State, Zip Code)
(Telephone Number)

11.

Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)
(Name)
(Street Address)
(Suite or Room Number)
(City, State, Zip Code)
(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12.

PROOF OF SERVICE (You Must Complete This)

I _____ mailed or delivered a copy of this Notice of Appeal
(Name)

on _____ to _____
(Date) (Opposing Party)

at _____
(Number and Street, City, State, Zip Code)



X _____
Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- | | |
|---|--|
| <input type="checkbox"/> Read all of the General Instructions | <input type="checkbox"/> Served a copy of this form and all attachments on the opposing party |
| <input type="checkbox"/> Provided all of the requested information | <input type="checkbox"/> Completed and signed the Proof of Service |
| <input type="checkbox"/> Completed this form in English | <input type="checkbox"/> Attached the required fee or Fee Waiver Request |
| <input type="checkbox"/> Provided a certified English translation for all non-English attachments | <input type="checkbox"/> If represented by attorney or representative, attach a completed and signed EOIR-27 |
| <input type="checkbox"/> Signed the form | |

**Alien's Change of Address Form/
Board of Immigration Appeals**

Who should use this form: Use this form for a change of address if you have filed an appeal or motion with the Board of Immigration Appeals. *Note:* If you are an attorney representing a person before the Board, do not use this form to indicate your own change of address; use Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative Before the Board).

When to use this form: If you move, the law requires you to file this Change of Address Form with the Clerk's Office of the Board of Immigration Appeals. You must file this form within five (5) working days of a change in your address. Even if you have an attorney or representative, you should file this form with the Board every time you change your address. You should also file this form if you get a new telephone number.

How to use this form:

1. Complete the Change of Address Form below.
2. Send a copy of this form to the Office of the Chief Counsel for the Department of Homeland Security (DHS) (Immigration and Customs Enforcement-ICE), and complete and sign the "Proof of Service" below to show you did this.
3. Send this form to the Board of Immigration Appeals. Follow the mailing instructions on the back of this form.
4. If you prefer to file this form in person, you may bring it to the Board of Immigration Appeals, Clerk's Office, 5107 Leesburg Pike, Suite 2000, Falls Church, Virginia, 22041.

Name: _____ Alien Number: A _____

My OLD address was:

("In care of" other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

My NEW address is:

("In care of" other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

(New Telephone Number)



SIGN HERE



X _____

Signature

Date

PROOF OF SERVICE (You Must Complete This)

I _____ mailed or delivered a copy of this Change of Address Form on _____ to the
(Name) (Date)

Office of the Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement-ICE) at _____
(Number and Street, City, State, Zip Code)



SIGN HERE



X _____

Signature

MAILING INSTRUCTIONS

- 1) *Fold the page at the dotted lines marked "Fold Here" so that the address is visible.*
(IMPORTANT: Make sure the address section is visible after folds are made.)
- 2) *Secure the folded form by stapling along the open end marked "Fasten Here."*
- 3) *Place appropriate postage stamp in the area marked "Place Stamp Here."*
- 4) *Write in your return address in the area marked "PUT YOUR ADDRESS HERE."*
- 5) *Mail the form.*

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is three (3) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Fold Here First

PUT YOUR ADDRESS HERE

Place
Stamp
Here

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Fold Here Second

Fasten Here

Fee Waiver Request

Name: _____

Alien Number ("A" Number): _____

If more than one alien is included in your appeal or motion, only the lead alien need file this form. This form is to be signed by the alien, not the alien's attorney or representative of record.

I, _____, declare under penalty of perjury, pursuant to 28 U.S.C. section 1746, that I am the person above and that I am unable to pay the fee. I believe that my appeal/motion is valid, and I declare that the following information is true and correct to the best of my knowledge:

Assets

Wages, Salary \$ _____ /month

Other Income \$ _____ /month
(business, professional services, self-employed/independent contracting, rental payments, etc.)

Cash \$ _____

Checking and/or Savings \$ _____

Property \$ _____
(real estate, automobile(s), stocks, bonds, etc.)

Other Financial Support \$ _____ /month
(public assistance, alimony, child support, gift, parent, spouse, other family members, etc.)

Expenses (including dependents)

Housing \$ _____ /month
(rent, mortgage, etc.)

Food \$ _____ /month

Medical/Health \$ _____ /month

Utilities \$ _____ /month
(phone, electric, gas, water, etc.)

Transportation \$ _____ /month

Debts, Liabilities \$ _____ /month

Other \$ _____ /month
(specify) _____

Signature of Alien

Date

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is one (1) hour. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Privacy Act Notice

The information on this form is requested to determine if you have established eligibility for the fee waiver you are seeking. The legal right to ask for this information is located at 8 C.F.R. § 1003.8(a)(3). EOIR may provide this information to other Government agencies. Failure to provide this information may result in denial of your request.

Attorney or Representative (if any):

I hereby attest that I have reviewed the details provided herein and I am satisfied that this fee waiver request is made in good faith.

Signature of Attorney or Representative

Date

Print Name