

Do You Disagree with the Judge's Decision?

This information is not intended, nor should it be construed in any way, as legal advice. The information does not extend or limit the jurisdiction of the Immigration Courts as established by law and regulation. Nothing in this packet shall limit the discretion of Immigration Judges to act in accordance with law and regulation.

OVERVIEW OF THE APPEAL PROCESS

If you disagree with the Immigration Judge's decision, you can ask the Board of Immigration Appeals ("Board") to review the decision. This is called an "appeal." Below is a summary of the process:

- 1) You must tell the Judge that you want to appeal. When the Immigration Judge issues the decision, the Judge will ask if you want to "reserve" (keep) your right to appeal. You must tell the Judge that you reserve appeal. If you "waive" (give up) your right to appeal, the Judge's decision becomes final.
- 2) Fill out the Notice of Appeal/Form EOIR-26 (included in this packet) in English. Where the form asks for the reasons for your appeal, give specific details and explain why you want to appeal the Judge's decision. Attach a check or money order to the Notice of Appeal for exactly \$110. If you cannot pay this fee, complete the Fee Waiver Request instead of paying (Form EOIR-26A, also included in this packet) and attach it to the Notice of Appeal.
- 3) Send the original signed forms to the Board at the address listed on the forms. Send a copy of everything you send to the Board to the Department of Homeland Security at 333 S. Miami Avenue, Suite 200, Miami, Florida 33130.
- 4) The Board must receive your Notice of Appeal/Form EOIR-26 within **30 days** of the Immigration Judge's decision or the Judge's decision becomes FINAL.

If you want to file a separate written brief or statement, you must say so on the Notice of Appeal. A brief is a document that states the facts and legal points of your case. The Board will send you a copy of the transcript (written copy of what everyone said at your hearing), the Immigration Judge's decision, and the deadline for you and the Department of Homeland Security to file briefs and statements. You **MUST** send your brief to the Board by the deadline. You **MAY** respond to the Department of Homeland Security's brief if you want to.

The Board will mail you a decision when it decides your case.

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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:

<i>Mail or deliver in person to this address:</i>	Board of Immigration Appeals Clerk's Office 5107 Leesburg Pike, Suite 2000 Falls Church, VA 22041
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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.