

Notice of Appeal to the Board of Immigration Appeals of Decision of Immigration Judge

General Instructions

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

I. When to Appeal:

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 the Notice of Appeal within the time limit may not insure that the Notice of Appeal is timely received by the Board. If your Notice of Appeal is received outside of the time limit it will be dismissed.

II. Where to Appeal:

Send the notice of Appeal and all attached documents to:

**Board of Immigration Appeals
Appeal Processing Unit
5107 Leesburg Pike, Suite 1711
Falls Church, VA 22041**

III. How to Appeal:

Read all of these instructions.

Fill out the Notice of Appeal completely, answering Items #1-10 **in English only**.

List (in Item #1) the name(s) and "A" Number(s) of all Applicant(s)/Respondent(s) who are appealing the decision of the Immigration Judge.

Sign item #7.

List the mailing address of all Applicant(s)/Respondent(s) in Item #8.

Translate all documents that you attach to the Notice of Appeal **into English**. All translations must include the translator's statement 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.

Provide the opposing party with a copy of the completed Notice of Appeal and

any attached documents.

Complete and sign Item #10, "Certificate of Service."

IV. Paying for Appeal:

Attach to the Notice of Appeal a check or money order for exactly one hundred and ten dollars (U.S. \$110) payable to the "United States Department of Justice". All checks must be drawn on a bank located in the United States.

Write the name(s) and "A" Number(s) of all Applicant(s)/Respondent(s) on the check or money order.

V. If You Cannot Pay for the Appeal:

Complete and submit a Fee Waiver Request (Form EOIR-26A). The Board will review the request and decide whether to allow the appeal without payment of the fee.

An appeal is not properly filed unless the Notice of Appeal and all required documents are received 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.

VI. Lawyer or Representative Allowed :

You may be represented by an attorney or a representative who is authorized to appear before the Board. The Government will not pay for your attorney or representative.

If you are represented by an attorney or authorized, he or she must file a Notice of Entry of Appearance Before the Board of Immigration Appeals (Form EOIR-27) with the Notice of Appeal.

VII. Specify Reasons for the Appeal:

Give specific details of why you disagree with the Immigration Judge's decision.

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 authority. If the dispute is over the findings of fact, identify the specific facts.

Where the appeal concerns discretionary relief, state whether the alleged error relates to statutory grounds of eligibility or to the exercise of discretion and identify the specific factual and legal findings you challenge.

If you do not give specific details in Item #4, the Board may dismiss your appeal

for that reason alone, unless you give specific details in a separate written brief or statement filed with the Board.

VIII. Briefs.

Indicate in Item #6 if you will file a separate written brief or statement. The Board will send you a filing schedule and a transcript of the testimony.

Even if you will file a brief or statement, you still should give detailed reasons for your appeal on the Notice of Appeal.

Send a copy of your brief or statement to the opposing party and provide the Board with a written statement certifying that you have mailed or delivered the brief or statement to the opposing party.

Summary Dismissal of Appeal:

The Board may summarily dismiss any appeal or portion of any appeal in which: (A) The appellant fails to specify the reasons for the appeal (see Part VII); (B) The only reason specified by the appellant for his/her at the hearing; (C) The appeal is from an order that grants the appellant the relief which he/she requested; (D) The Board is satisfied, from a review of the record, that the appeal is filed for an improper purpose, such as to cause unnecessary delay, or that the appeal lacks an arguable basis in fact or law; (E) The appellant indicates that he/she will file a separate written brief or statement in support of the appeal and, within the time set for filing, the appellant fails to file the brief or statement and does not reasonably explain such failure (see Part VIII); or (F) The appeal fails to meet essential statutory or regulatory requirements or is excluded by statute or regulation.

IX. Oral Argument:

If you ask for argument in Item #5, the Board will inform you if your request is granted.

Even if you ask for oral argument, you still should give detailed reasons for your appeal on the Notice of Appeal.

The Board ordinarily will not grant a request for oral argument unless you also file a brief.

X. Change of Address:

If you move after you send your Notice of Appeal to the Board, you must give your new address to the Board within five (5) days after you move. Use Form EOIR-33, "Change of Address."

Attorneys or representatives must also let the Board know within five (5) days if they change address or phone numbers. Use Form EOIR-27. An attorney's or representative's change of address notification is only effective for the case in

which it is submitted.

Departure From the United States:

If you leave the United States after an Immigration Judge's decision in deportation proceedings, but before you appeal the decision to the board, you have waived your right to appeal. If you leave the United States after filing an appeal with the board from deportation proceedings, but before the Board decides your appeal, your appeal is withdrawn and the Immigration Judge's decision will take effect as if you had never filed an appeal.