



# *Pro Se Guide* to Appealing an Immigration Judge Decision

Last Updated May 2026



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FOR NEW AMERICANS

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UNIVERSITY OF MINNESOTA





## IMPORTANT WORDS TO KNOW

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**Board of Immigration Appeals (BIA):** The BIA reviews immigration cases in the United States. The BIA is part of the Executive Office of Immigration Review, under the Department of Justice. The BIA is not ICE.

**Form EOIR-26:** An EOIR-26 is the form number associated with the “Notice of Appeal from a Decision of an Immigration Judge”, which is the form you must fill out and send by U.S. Mail to tell the BIA that you are appealing the immigration court’s decision in your case.

**Filing Fee:** You must pay \$1,030 by check or money order to file an appeal unless you qualify for a fee waiver (see below).

**Form EOIR-26A (Fee Waiver Request):** A [Fee Waiver Request, or EOIR-26A form](#) is available for noncitizens who cannot afford to pay the \$1,030 fee to file an appeal. The fee waiver request form allows you to ask that the BIA waive the \$1,030 filing fee. If the BIA waives the fee, you will not have to pay it. The BIA will not waive the fee if you do not fill out and mail in the fee waiver form with your Form EOIR-26 Notice of Appeal. There are detailed instructions for filling out this form at the end of this document on page 18.

**ICE/DHS:** Immigration and Customs Enforcement (ICE) is the agency that has put you in deportation proceedings and detained you. ICE is part of the U.S. Department of Homeland Security (DHS).

**Immigration Judge (IJ):** The person who will decide your case. Judges hold hearings in the courtroom and wear black robes. They should look at the facts of your case and apply the law fairly. Judges do not work for ICE.

**Office of Principal Legal Advisor (OPLA):** The office within ICE that represents the government in removal proceedings. Whenever you submit a copy of your appeal, additional briefing, or an address change to the immigration court or the BIA, you also need to mail a copy any of those submissions to OPLA.

**Respondent:** In immigration court, the respondent is the person whom the government claims is removable from the country.



# FAQ

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## What is an appeal?

When you disagree with an immigration judge's decision, an appeal allows the BIA to review the judge's decision and decide if an error was made in your case. Once the BIA reviews the case, it will issue its decision and send it to you by mail. The BIA may:

- a. "Dismiss" your appeal, meaning that the BIA agrees with the Immigration Judge's decision in your case;
- b. "Reverse" the Immigration Judge's finding/decision, meaning that it disagrees with some or all of the Immigration Judge's decision. The BIA will specify what part of the judge's decision it is reversing and clarify if it is granting some form of immigration relief.
- c. "Remand" the case back to the Immigration Judge. This typically happens when the BIA decides that the Immigration Judge needs to do additional factfinding. The BIA will specify what part of the case requires additional testimony or review. The BIA will instruct the judge to issue a new decision and sometimes require that the judge schedule additional hearings on the case.

## What is the deadline for starting an appeal?

The appeal process must be started quickly. Your notice of appeal must be **received** by the BIA **within 30 days of the immigration judge's decision**. If you want the BIA to consider your case, it is very important to mail a "Notice of Appeal," Form EOIR-26, before the deadline. Because the mail may have unexpected delays, even with overnight or expedited mail, you should mail the notice as soon as possible after the IJ decision to ensure that the BIA **receives** the notice **within 30 days of the IJ's decision**. The Notice of Appeal is a short form that generally identifies the reasons you believe the immigration judge erred. This guide provides additional information for filling out this form.

To calculate the deadline for your appeal, identify the date the IJ issued the decision in your case. The 30-day deadline for appeal is based on calendar days, including weekends. For example, if the immigration judge's decision was issued on June 5th, 2024, you must file your appeal by July 5th, 2024. Or, if your decision was issued on February 5th, 2025, 30 days later is March 7, 2025. If your appeal is not **received** within 30 days, you **will not be able to directly challenge the immigration judge's decision in your case**.

If your deadline (the last day of the 30 days) is on a weekend or federal holiday, your appeal is due the first business day following the weekend or holiday.



## Do I need an attorney in order to appeal?

**No, you are not required to have an attorney to submit an appeal.** If you would like to appeal your case with the help of an attorney, but cannot find someone to assist you with your case before your appeal deadline, it is critical that you submit a completed “Notice of Appeal” form on your own. On the “Notice of Appeal” form, you can tell the BIA that you’d like to submit additional arguments later—if you find an attorney, they will still have an opportunity to submit arguments on your behalf as long as you’ve appealed in time. [The Immigration Advocates Network](#) has more information about organizations that help with BIA appeals.

## Does an appeal cost money?

Yes. The filing fee is currently \$1,030 to file an appeal. There is a fee waiver form available. More information about the fee waiver can be found in the [“Requesting a Fee Waiver Using Form EOIR-26A” section of this guide](#) beginning on page 18.

## Who can appeal?

If an immigration judge has made a decision in your case that you don’t agree with, you can likely appeal. If your case was heard along with other people in your family, each person is a separate Respondent that can also appeal. If there are other respondents, such as family members, also on your case, make sure to include their information on every form. If each individual respondent is not included, they will lose the chance to appeal their case.

When the Immigration Judge issues their decision, they will typically ask whether you accept the decision. If you disagree with their decision, **you should tell them that you want to “reserve” or keep your right to appeal.** You are not required to file an appeal even if you tell the judge you would like to “reserve appeal”. If you tell the judge you do not want to “reserve” your right to appeal, you have “waived” or given up the right to appeal. If an IJ’s decision was written and mailed to you, you have the right to file and EOIR-26 and appeal the decision.

## When can you be deported after an IJ orders you removed?

You have 30 days to file an appeal with the BIA, and during that time you cannot be ordered removed. **But**, if you did not “reserve” your appeal and “waived” your right to appeal, ICE can remove you immediately.

If you do not file the Form EOIR-26 within the 30-day period or you do not reserve your right to appeal, you will waive your right to appeal and the immigration judge’s decision in your case will become final. If the judge ordered you removed from the United States, ICE will contact you to schedule your deportation. If you reserve your right to appeal, ICE must wait until after that 30-day mark. Once the order becomes final because you do not appeal or did not reserve appeal at your final hearing, your options for having your case reviewed are more limited.



Refer to Chapter 6.4 of the [Immigration Court Practice Manual](#) to understand your rights in the deportation process if you choose not to appeal or waive your right to appeal.

If you file the EOIR-26 Notice of Appeal, your order of removal will be automatically stayed which means the government cannot deport you while the appeal is pending. If you are in immigration detention, you will likely remain detained during your appeal.

If you were granted voluntary departure, filing an appeal “stays” or pauses the IJ’s order, so the time period to depart also pauses. Once the appeal is received by the BIA, you cannot be charged with failing to depart. If the BIA dismisses the appeal, the general policy is to reinstate the voluntary departure period and give the same amount of time to depart.

## How do you appeal?

Appealing involves six main steps:

1. Reserving your right to appeal before the IJ
2. Filling out a Notice of Appeal, form EOIR-26
3. Mailing your form and the \$1,030 filing fee or a completed fee waiver to the BIA
4. Mailing a copy of your Notice of Appeal to OPLA to let the government know you disagree with the IJ’s decision
5. Making sure the BIA receives your Notice of Appeal within 30 days of the IJ’s decision
6. Keeping a copy of all relevant documents for yourself

**The following pages explain how to fill out each part of an EOIR-26 form.**



# HOW TO FILL OUT FORM EOIR-26 – NOTICE OF APPEAL

To appeal an Immigration Judge’s decision, you must file the [EOIR-26 form](#). The EOIR-26 needs to be filled out in English.

Please have any documents you received from the immigration court with you while answering these questions.

## Question 1: List Name(s) and “A” Number(s) of all Respondent(s)/Applicant(s)

U.S. Department of Justice  
Executive Office for Immigration Review  
Board of Immigration Appeals

OMB# 1125-0002  
Notice of Appeal from a Decision of an  
Immigration Judge

I. 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.

- First, write your full, legal name in the box. Then, next to your name, write your A Number. Your A Number should be located on your court documents and will be listed as “A” followed by 7-9 numbers. Here is an example of how it should be written:

**“John Doe, A 123-456-789”**

- \* If there are other Respondents on the case who also are appealing the Immigration Judge’s decision, add their names and A Number to the list as well. Having more than one Respondent is typical especially when your case includes your child, spouse, or parents. Here is an example of how it should be written when multiple Respondents are appealing:

**“John Doe, A 123-456-789  
Jane Doe, A 987-654-321  
James Doe, A 000-111-222”**



- Do not write in the grey box labeled “For Official Use Only”
- The “WARNING” box explains that if you do not list all Respondents appealing, then only the names and A numbers written in the form will be included in the appeal.
- Note that on the side of the page, it says “Staple Check or Money Order Here. Include Name(s) and “A” Number(s) on the face of the check or money order.” If you do not fill out the EOIR-26A Fee Waiver form, then attach your appeal payment here. Specific steps for payment start on page 18 of this resource.

### Question 2: I am...

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

- This question is asking who you are. You must only mark one box. You should check the Respondent/Applicant box. Do not mark the DHS-ICE box.

### Question 3: I am...

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

- This question is asking whether you are currently detained or not detained. Being detained means that you are being held in ICE custody. You must only mark one box.

### Question 4: My last hearing was at \_\_\_\_\_ (Location, City, State)

4. My last hearing was at \_\_\_\_\_ *(Location, City, State)*

- This question is asking where your last court hearing was. You must include the location, city, and state in which it took place. Here is an example of how it should be written:

**“Bishop Henry Whipple Federal Building, Fort Snelling, MN”**



### Question 5: What decision are you appealing?

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.)*

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Form EOIR-26  
Rev. Nov. 2022  
Exp. Jan. 2026

- You must only mark one box, not multiple boxes.
- If there are multiple decisions you want to appeal, you must use more than one Notice of Appeal. Each Notice of Appeal must be on a single, different decision to appeal.
- Mark the first box if you are appealing the Immigration Judge's decision in a merits proceedings. Merit proceedings include proceedings regarding asylum, removal, deportation, or exclusion. You must know the date of the hearing in which the IJ made the decision you wish to appeal. The date should be written as Month/Day/Year.
- Mark the second box if you are appealing the Immigration Judge's decision in bond proceedings. Bond proceedings are proceedings where an Immigration Judge decides if a detained Respondent should be released from detention and if so, how much money bond must the Respondent pay. You must know the date of the bond hearing. Date should be written as Month/Day/Year. Do not mark the boxes labeled "Yes" or "No" since those are for DHS's use only.
- Mark the third box if you are appealing the Immigration Judge's decision denying a motion to reopen or a motion to reconsider. For example, if you asked the judge to reopen your case after you missed a hearing and the immigration judge issued a removal order that you learned about later. You must know the date of the judge's decision denying the motion. Date should be written as Month/Day/Year.



## Question 6: The reasons for the appeal

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.

- This question requires you to provide reasons why you are appealing the Immigration Judge's decision. For example, the Immigration Judge may not have used the correct legal rule or misapplied the law or misunderstood the facts of your case.
- \* **Note:** You **cannot** appeal an Immigration Judge's decision using this form if the decision was based on a Reasonable fear 8 C.F.R. § 1208.31(g)(1), Credible fear 8 C.F.R. § 1208.30(g)(2)(iv)(A), or a Claimed status review 8 C.F.R. § 1235.3(b)(5)(iv). If you want to challenge a reasonable or credible fear interview denial, you must immediately request review from an Immigration Judge and you should reach out to an attorney as soon as possible. This guide explains [what may happen after a credible fear determination](#). This [guide from the Florence Immigrant & Refugee Rights Project](#) has additional guidance about requesting review of Credible or Reasonable Fear denials.

### 1. Gather and Review Information from your Case.

- It is important that your reasons for appeal are based on the record of proceedings and the decision the judge made in your case. There are several ways for you to review the record in order to decide if you want to appeal the judge's decision:



- \* *Review the written immigration judge decision:* The decision could be very detailed, including a written summary of the evidence and the specific reasons the judge made decisions on your credibility, the weight of the evidence and the specific relief granted or denied.
- \* *Listen to the hearing recording:* It could also be a written order that does not have detailed information about your case. This usually happens if a judge issues an oral decision that you listened to during your hearing. If this happens, then it is important to listen to the “Record of Proceeding” from the hearing. You can request a digital copy of the hearing recording by emailing EOIR: [EOIR.BIA.ROP.Requests@udoj.gov](mailto:EOIR.BIA.ROP.Requests@udoj.gov)
- \* *Read through evidence in the record:* The immigration judge should have carefully reviewed documents that you and OPLA (the lawyer representing the government) submitted in your case. You should have kept copies of what you gave to the judge and OPLA should have given you copies of anything they submitted to the court. You can request a complete copy of the documents in your court file using [Form EOIR-59](#). You will want to do this right away so that you have the best chance to receive it before your 30-day appeal deadline. FOIAs often take longer than 30 days, and you must still file your appeal on time regardless of whether you have received a response.
- \* *Compare hearing notes to the court record:* If you or anyone else in the courtroom took notes during the hearing, that can help remind you of what was said and any problems you noticed during the hearing. It is important to cross check your notes with any documents you or the government lawyer gave the court before the final hearing when you are preparing your appeal or any additional written arguments you send to the BIA later.
- \* *A note about hearing transcripts:* You will not have the chance to read through the hearing transcripts, which is the written record of the hearing, until after your appeal is filed. Once you get that written record, it will be important and helpful to read through the transcript to see if you identify additional errors. **In order to preserve the opportunity to provide more reasons for appeal after you have a chance to read the transcript, you should include a statement at the end of question 6 that says, “Respondent reserves the right to raise additional arguments upon receipt of transcript.”**

## 2. Identify Errors in the Immigration Judge’s Decision.

- It can be difficult and feel overwhelming to identify and explain errors that are sufficient for an appeal. Remember, you have a right to appeal your case if you think the judge made the wrong decision. You will also have an opportunity to provide more explanation as part of your legal brief after you file the Notice of Appeal. Here are some questions to consider as you review the record:
  - \* If you requested an interpreter, could you understand them?
  - \* Were there any times where the immigration judge cut off your testimony before you were finished?



- \* Did all of your witnesses have an opportunity to testify? If not, did the judge provide a good reason for not allowing them to testify?
- \* If the judge allowed witnesses to provide a written statement, but not oral testimony, is there more information the witness could have provided that wasn't fully explained in the written statement? Did the judge exclude the written statement or not mention it at all in their decision?
- \* Was there important evidence in your case that the judge did not mention in their decision?
- \* Was the ICE/OPLA attorney overly aggressive with their questions? Did it ever feel like they were harassing you and the judge did not stop them? Were there things that were important to your case but you were too scared to say because of how the judge or ICE was treating you?
- \* Did you have a mental or medical health issue that kept you from fully understanding what was going on in the hearing?
- \* Did you ask to take a break during the hearing and the judge did not allow it?
- \* Did the judge mischaracterize testimony you provided? If the judge's decision talked about an inconsistency in your testimony (either how you explained things during the hearing or between what you said and documents in the record), did the judge give you an opportunity to explain? Do you think the record was clear and the judge was confused about the evidence and made the wrong decision because they misremembered or misunderstood the evidence?

### 3. Determine which type of errors.

- First, write whether you are appealing because the Immigration Judge did not use the correct legal rule or did not understand how the legal rule they used works or because the Immigration Judge did not understand the facts of your case. If you believe that the Immigration Judge did not correctly use the legal rule **and** did not understand the facts of your case, write both.

### 4. Write out your arguments.

- You can write out arguments on the form in the box for Question 6 or on a separate sheet of paper. If you want to attach a longer response to Question 6, those documents must be in English and have your name(s) and "A" Number(s). If any of the documents you are submitting were translated into English, you must include the translator's statement stating that the translator is competent and that the translation is true and accurate. Your arguments should include three essential parts:
  - A. The type of error the judge made;
  - B. The specific error in decision or violation in process;
  - C. The remedy you are seeking.



**Sample Structure:** “The IJ made a [legal/factual error, abused their discretion, or violated due process]...when [explain the error and the impact on the finding in the IJ’s decision].

The BIA should [reverse the IJ’s finding/remand to apply the correct legal standard/remand to correct the process violation].”

### Question 7: Oral Argument

|   |                          |     |                          |    |
|---|--------------------------|-----|--------------------------|----|
| 7. Do you desire oral argument before the Board of Immigration Appeals? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
|---|--------------------------|-----|--------------------------|----|

- This question asks if you would like to request oral argument. Oral argument allows you to present your arguments in front of three judges with the BIA. The BIA generally does not grant oral argument in most cases, and instead decides the majority of appeals based on its review of written arguments.
- Typically, oral arguments are made by attorneys. If you plan to work with an attorney in the future, you may want to mark “Yes.” This does not guarantee that you will be granted oral argument. However, if you say “No,” you will not be able to request oral argument later on, even if you work with an attorney and decide you would like to request an argument.

### Question 8: Separate Written Statement

|  |                          |     |                          |    |
|--|--------------------------|-----|--------------------------|----|
| 8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
|--|--------------------------|-----|--------------------------|----|

- This question asks if you would like to write a brief, which is a written statement to support your case.
  - \* In a brief, you explain why the immigration judge got your decision wrong in more detail. Marking “yes” to this question gives you more time to identify your arguments in detail, especially if you are still waiting for a record of your proceedings.
  - \* If you plan to seek an attorney to help you with your appeal, marking “yes” to this question will give an attorney you hire more opportunity to present specific arguments supporting your appeal.
- Mark **only one** of the boxes, not multiple.
- If you say yes, you will receive a briefing schedule from the BIA. A [briefing schedule](#) tells you when your brief is due.
- **IMPORTANT:** If you say **yes** to this question, you **must** submit a brief or other written statement. *If you say yes and you do not write a brief, the BIA may dismiss your case.*
- [The American Bar Association Commission on Immigration guide](#) provides more tips on writing your brief.



- If you said **yes** to question 7 (oral argument), you also need to say **yes** to this question.

## Question 9: Representation

|  |
|--|
| <p>9. If you are unrepresented, do you give consent to the BIA Pro Bono Project to have your case screened by the Project for potential placement with a free attorney or accredited representative, which may include sharing a summary of your case with potential attorneys and accredited representatives? <i>(There is no guarantee that your case will be accepted for placement or that an attorney or accredited representative will accept your case for representation)</i></p> <p style="text-align: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |
|--|

- This question asks if you have an attorney.
- If you do **not** have an attorney, you may check **yes** to be considered for an attorney through the BIA Pro Bono Project. The BIA Pro Bono Project assigns free attorneys to respondents without attorneys but does not guarantee representation.
  - \* However as of June 2025, it is not clear that this project is still operating. Therefore, we recommend seeking representation elsewhere.
- If you mark **yes**, you are allowing the BIA to provide some information about your case to attorneys who may work with you as part of the BIA Pro Bono Project.
  - \* This is not all of your case information; it is only a summary of your case.
- Mark only one of the boxes, not multiple.

## Warning After Question 9

|   |
|---|
| <p><b>!</b> <b>WARNING:</b> 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.</p> <p>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.</p> |
|---|

- This warning is about question 7 (oral argument) and question 8 (writing a brief).
- It reminds you that, if you say **yes** to question 7, you need to explain in your answer to question 6 why your case should be reviewed by a three-member panel.
  - \* This is explained in the notes about question 6 and about question 7.
- This warning also reminds you that, if you say **yes** to question 8 (writing a brief), you **must** submit a brief by the deadline provided in the briefing schedule, or the BIA may dismiss your appeal.
  - \* This is explained in the notes about question 8.
- You **do not** need to check any boxes or write anything in this warning box.




### Question 10: Print Name

|     |             |                      |
|-----|-------------|----------------------|
| 10. | Print Name: | <input type="text"/> |
|-----|-------------|----------------------|

- Write your full, legal name on the line here.
- Do not sign in cursive or other style.
- Write your name using the Latin alphabet (A, B, C, etc.). Do not use characters from other scripts such as Arabic.

**Example: John Doe**

### Question 11: Sign Here

|  |  |         |  |
|--|--|---------|--|
| 11.  | Sign Here:  | X _____ | <input type="text"/>                             |
| <i>Signature of Person Appealing<br/>(or attorney or representative)</i> |  |         | Date   |
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- Sign your name on the line here, to the right of the X.
- Sign using the Latin alphabet (A, B, C, etc.), rather than using characters from other scripts such as Arabic. Write the date that you sign. The date should be written as MONTH/DAY/YEAR.

**For example, June 12, 2024 is written as 06/12/2024.**



## Question 12: Mailing Address

|     |  |   |
|-----|--|---|
| 12. | <b>Mailing Address of Respondent(s)/Applicant(s)</b>   | <b>Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)</b> |
|     | (Name)   | (Name)  |
|     | (Street Address)   | (Street Address)  |
|     | (Apartment or Room Number)   | (Suite or Room Number)  |
|     | (City, State, Zip Code)  | (City, State, Zip Code)   |
|     | (Telephone Number)   | (Telephone Number)  |
|     | <p><b>NOTE:</b> 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).</p> <p><b>NOTE:</b> If an attorney or representative signs this appeal for you, he or she must file <i>with this appeal</i>, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).</p> |   |

- This question asks you to write down the address where you currently receive mail. If you are currently detained, list the mailing address of the location where you are detained.

- \* The first line asks for your name.

- » Write your full, legal name on the line here.

- » Do not sign in cursive or other style.

- » Write your name using the Latin alphabet (A, B, C, etc.). Do not use characters from other scripts such as Arabic.

- \* The second line asks for the street address where you receive mail. For many people, this is the same as the address where they live.

**Example: 123 Montreal Avenue**

- \* The third line asks if you have an apartment or room number.

- » If you do not have an apartment or room number, leave this blank.

**Example: Apartment 100 or just 100**

- \* The fourth line asks for your city, state, and zip code.

**Example: Minneapolis, Minnesota 55455**

- \* The final line asks for your phone number.

- » Your phone number should be written like this: XXX-XXX-XXXX

**Example: 123-456-7890**



- You only need to fill out the left address form. The right side asks for an attorney’s address. If you do not have an attorney, leave this blank.
- If your address or telephone number changes, you **must notify the BIA within five business days** (Monday through Friday are business days.)
  - \* To notify the BIA, fill out a [Change of Address Form \(Form EOIR-33/BIA\)](#)
- The second “**NOTE**” at the bottom is for attorneys. You do not need to do anything about this note.

### Question 13: Proof of Service

13. **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)

No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

**SIGN HERE** → 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 payment receipt, fee, or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

- You **must** send a copy of this form to opposing counsel in addition to sending a copy of this form to the BIA.
- When you fill out this Proof of Service section, you are certifying that you have sent a copy to opposing counsel.
- Opposing counsel is the Assistant Chief Counsel of DHS-ICE.
  - \* DHS’s address is listed on the first page of the immigration judge’s decision, in the top left corner, as well as the DHS/ICE attorneys on your case.



- \* You can also [search for your local DHS office](#) . Scroll down to the line that says “Filter By.” First, choose your state. Next, where it says “Office Type,” select “Office of the Principal Legal Advisor.” This search will bring up the DHS office in your state.
- Print your name and the date that you deliver or mail a copy to opposing counsel.
  - \* The day should be MONTH/DATE/YEAR.
- If you are **mailing** this document, fill out this question on the day you mail it. The date should be the day you mail it.

### Form checklist: Have you?

| 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, if applicable.                                  |
| <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 payment receipt, fee, or  |
| <input type="checkbox"/> Provided a certified English translation for all non-English attachments. | <input type="checkbox"/> Fee Waiver Request.   |
| <input type="checkbox"/> Signed the form.  | <input type="checkbox"/> If represented by attorney or representative, attach a completed and signed EOIR-27 for each respondent or applicant. |

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- You must read the [General Instructions on Form EOIR-26](#)
- You must make sure you fill out the whole form and include any additional documentation.
- You must fill out this form in English.
- By the time you file Form EOIR-26, you should have checked all these boxes.



## Mailing the Notice of Appeal to the BIA

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1. Make a copy of your completed Notice of Appeal for your records.
  2. Make another copy of your completed Notice of Appeal to send to the government.
- If your removal proceedings took place at the Fort Snelling Immigration Court, you can serve OPLA by mailing them at this address:

**DHS/ICE Office of Chief Counsel  
1 Federal Drive, #1800  
Fort Snelling, MN 55111**

- Make sure this address matches the information in the “Proof of Service” box on your appeal form. Make sure to [confirm the ICE field office address](#).
3. Prepare the payment or the waiver request for the \$1,030 filing fee
  4. Mail your notice of appeal and fee or fee waiver to the BIA at the following address:  
**Board of Immigration Appeals  
Clerk’s Office  
5107 Leesburg Pike, Suite 2000  
Falls Church, VA 22041**
- [Confirm the BIA’s mailing address](#) has not changed.

***\*\*Remember, your signed and completed EOIR-26 and filing fee or fee waiver must be received by the BIA within 30 days of the IJ’s decision\*\****



## REQUESTING A FEE WAIVER WITH FORM EOIR-26A

After completing the EOIR-26 form, fill out the [EOIR 26\(A\) fee waiver request form](#) if you are financially unable to pay the \$1,030 filing fee. Typically, individuals qualify for a fee waiver if their household income is at or below 150% of the [Federal Poverty Guidelines](#) at the time of filing.

Be aware that if your fee waiver is denied because you do not qualify financially, you will receive a rejection notice and you **must** refile with the \$1,030 filing fee or a corrected fee waiver within 15 days or your appeal will not be reviewed. [Confirm the filing fee](#) on the BIA website prior to filing. If you are close to the income threshold to qualify for this waiver, you may want to try to pay the \$1,030 rather than risk denial.

### Name and Alien (“A”) Number

|  |   |
|--|---|
| U.S. Department of Justice<br>Executive Office for Immigration Review  | OMB# 1125-0003<br><b>Fee Waiver Request</b> |
| <b>NAME AND ALIEN (“A”) NUMBER</b>   |   |
| Answer all items in English. (Type or Print)   |   |
| <i>If more than one respondent is included in your application, motion, or appeal, only the lead respondent need file this form.</i> |   |
| <input type="text"/>   | <input type="text"/>                        |
| Name (Last, First, Middle)   | Alien (“A”) Number                          |

- Write your last name, then your first name, and then your middle name in the first box.

**Example: If your name is John Michael Doe, you should write it as Doe, John, Michael.**

- \* Write your name using the Latin alphabet (A, B, C., etc.). Do not use characters from other scripts such as Arabic.
- On the right side, write your A number. Your A number should be located on your court documents and will be listed as “A” followed by 7-9 numbers. You used your A number above when you filled out the EOIR-26 form.



## Affidavit in Support of Fee Waiver Request

**AFFIDAVIT IN SUPPORT OF FEE WAIVER REQUEST.**  
(This affidavit is to be signed by the respondent, not the respondent's attorney or representative of record.)  
I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I am the person above and that I am unable to pay the filing fee. I believe that my application/motion/appeal is valid and not frivolous, and I declare that the following information is true and correct to the best of my knowledge.

\_\_\_\_\_

(Print name of respondent filing the form)

\_\_\_\_\_

(Signature of respondent filing the form)

\_\_\_\_\_

(Date signed)

The Immigration Judge may grant your fee waiver request for an EOIR application or motion filed with the Immigration Court if you show that you are unable to pay the filing fee. The Board of Immigration Appeals (BIA) may grant your fee waiver request for an appeal or motion filed with the BIA if you show that you are unable to pay the filing fee. If this fee waiver request does not establish your inability to pay the required fee, your application, motion, application, or appeal will not be deemed properly filed. 8 C.F.R. §§ 1003.8 and 1003.24(d). You must answer all questions on the form even if the answer is "\$0.00".

- This is an affidavit, which is a signed acknowledgment that the information you have provided is correct.
- If you sign this affidavit, you are confirming that the information you have provided is true, that you are the person listed on the form and that you are unable to pay the filing fee. You are also declaring that the information is correct and true as far as you are aware.
- You must print your name in the first box.
  - \* Write your full, legal name on the line here.

**Example: If your name is John Michael Doe, then you may write your name as John Michael Doe.**

- » Do not put your last name first, like you did for the question above.
- \* Do not sign in cursive or other style.
- \* Write your name using the Latin alphabet (A, B, C, etc.). Do not use characters from other scripts, such as Arabic.
- Sign your name in the box below the first box.
  - \* Sign using the Latin alphabet (A, B, C, etc.), rather than using characters from other scripts, such as Arabic.
- Write the date that you sign in the box to the right of the two boxes.
  - \* The date should be written as MONTH/DAY/YEAR.

**For example, June 12, 2024 is written as 06/12/2024.**



## Question 1. Estimate your average monthly amount of money received

**1. Estimate your average monthly amount of money received from each of the following sources. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the average monthly rate. Use gross amounts, that is, amounts before any deductions for taxes and other state/federal payroll withholdings.**

| Income Sources   | Monthly Average |
|--|-----------------|
| Employment, including self-employment  | \$ 0.00         |
| Income from real property (such as rental income)  | \$ 0.00         |
| Interest from checking and/or saving account(s)  | \$ 0.00         |
| All other income, including but not limited to these and other sources: alimony, child support, interest, dividends, social security, annuities, unemployment, public assistance, etc. | \$ 0.00         |
| <b>1.A.: TOTAL AVERAGE MONTHLY INCOME</b>  | \$ 0.00         |

Form EOIR-26A  
Rev. Aug. 2022

- This question asks about your income. You must fill out each box.
- You must provide your **average** monthly income and costs for each item.
  - \* This means that if you are paid more than once a month or annually, you will need to do a calculation to see how much you make every month.
  - \* If you make \$12,000 in a year, you will divide \$12,000 by 12 because there are 12 months in the year, then write \$1,000 as your monthly income. This will tell you how much you make per month.
  - \* If you make \$500 per week, you will multiply \$500 by 4 because there are usually 4 weeks in a month, then write \$2,000 as your monthly income.
- Use gross amounts. Gross amounts are how much you make before any taxes or state/federal payroll withholdings have been taken out.
- The first line (“Employment”) asks about your employment income.
  - \* This is money you make from a job.
  - \* You must include money you make from self-employment. Self-employment means you work for yourself, rather than another employer.
- The second line (“Income from real property”) asks how much money you make from property that you own.
  - \* If you are a landlord, for example, this counts as income from real property because your renters pay you to live on your property.



- The third line (“Interest from checking/or savings”) asks how much you make on your bank accounts.
  - \* If you have a bank account, you need to see if these accounts make any money through interest.
- The fourth line (“All other income”) asks about any other sources of income that you have.
  - \* If you are making money that is not through your employment, property, or interest on bank accounts, you **must** include that here.
  - \* This includes child support payments, money from the government through social security if you are retired, unemployment if you do not have a job, etc.
- Add up lines 1-4, and write the **total amount** of lines 1-4 in the bottom right corner.

### Question 2. Estimate total average monthly expenses

**2. Estimate your average monthly expenses. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.**

| Expense Sources   | Monthly Average |
|---|-----------------|
| Rent or home-mortgage payment(s) (include lot rented for mobile home)   | \$ 0.00         |
| Utilities (electricity, heating fuel, water, sewer, telephone, internet, etc.)  | \$ 0.00         |
| Installment payments or outstanding debits (credit card(s), store credit card(s), vehicle payment, personal loan(s), etc., but not including rent or home-mortgage payments)  | \$ 0.00         |
| Living expenses (food, clothing, transportation, child care, tuition, etc.)   | \$ 0.00         |
| All other expenses, including but not limited to these and other sources: alimony, child support, insurance, medical, health, any state or federal taxes, attorney fees, etc. | \$ 0.00         |
| <b>2.B: TOTAL AVERAGE MONTHLY EXPENSES</b>  | \$ 0.00         |

- This question asks how much you **spend** every month.
- Like the question about your income, this question asks for your monthly average.
- The first line (“Rent or home-mortgage”) asks how much you pay for rent or your home mortgage each month.
  - \* If you rent a lot for a mobile home, you must include this here.
- The second line (“Utilities”) asks how much you pay for electricity, water, heating, sewer, telephone, internet, and more each month.
- The third line (“Installment payments”) asks how much you pay on debts each month.
  - \* Do not include rental or mortgage payments here.



- \* This can include things like a car loan payment or credit card debt payment.
- The fourth line (“Living expenses”) asks how much you pay for day-to-day living expenses.
  - \* This includes food, clothing, transportation (public transit, taxis, gas), child care or school tuition, and more.
- The fifth line (“All other expenses”) asks how much you pay for anything not mentioned in the prior lines.
  - \* This includes taxes, attorney fees, medical expenses, insurance expenses, and more.
- Add up lines 1-5, and write the **total amount** in the bottom right corner.

### Calculate ability to pay

| 3. Calculate ability to pay filing fee (total income minus total expenses): |                |
|---|----------------|
| TOTAL AVERAGE MONTHLY INCOME (1.A):   | \$ 0.00        |
| TOTAL AVERAGE MONTHLY EXPENSES (2.B):                                       | - \$ 0.00      |
| <b>TOTAL:</b>   | <b>\$ 0.00</b> |

- This question calculates your monthly net income.
- In the first line, write the total amount from question 1.
- In the second line, write the total amount from question 2.
- In the third line, subtract the total expenses (question 2) from the total income (question 1), and write that number in the bottom right corner. This is your monthly net income.

### Provide any other information

4. Provide any other information that will help explain why you cannot pay the filing fees for your appeal, motion, or application. Include your name and “A” number on all pages of any additional document(s) or additional pages.

- This question asks if there is any other information that explains why you cannot pay the filing fee.
- If you believe there is other information that could help explain why you cannot pay the \$1,030 filing fee, please add that information here.

**For example: If you were recently in a car accident, lost your home to a fire, or have a new medical condition, you can describe how those circumstances are impacting your ability to afford the filing fee.**



- You may attach additional pages, but you must include your A number and name on every page of additional information.

### **Attorney or representative**

- This question asks your attorney or representative to sign the form.
- If you **do not** have an attorney or representative, then leave this section blank.

## **Mailing the Fee Waiver Request to the BIA**

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1. Make a copy of your completed Fee Waiver Request for your records.
2. Attach the Fee Waiver Request to your completed EOIR-26 Notice of Appeal.
3. Follow the mailing instructions on pg. 15-16.



## WHAT HAPPENS AFTER I FILE MY NOTICE OF APPEAL?

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- If you marked “yes” to Question 8, you will receive a briefing schedule. It may take a few months or much longer before you receive this from the BIA. Once you receive this notice, it will explain the next steps and deadlines for submitting additional arguments in support of your appeal.
- **You should try to find an attorney as quickly as possible** if you would like an attorney to help make legal arguments and file the legal brief.
  - \* Finding an attorney as quickly as possible will help ensure that your attorney has enough time to review the record and write a brief before the BIA’s deadline.
- Briefs will be filed by you and the government. You must comply with the briefing schedule, even if you do not hire an attorney. If you do not submit additional support for your appeal before your briefing deadline, the BIA will deny your appeal.
- Once you and the government submit your briefs, the BIA reviews your case. It may be several months or possibly years before the BIA issues a decision.



## APPENDIX OF ADDITIONAL RESOURCES

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[Form EOIR-26 Notice of Appeal](#)

[Form EOIR-26 Instructions](#)

[Form EOIR-26A Fee Waiver Request](#)

[Annotated Sample Notice of Appeal](#)

[Sample Supplement to Notice of Appeal](#)

[Sample BIA Briefs](#)

[Requesting Record of Proceedings](#)

[Legal Brief Guide](#)

[Change of Address](#)

[Find your Local ICE Office](#)

[BIA Current Address](#)

[BIA Appeal Guide](#)

[National Immigration Legal Services Directory](#)