

GOING TO THE FIRST IMMIGRATION COURT HEARING

What will happen the first time I go to Immigration Court?

Your first hearing is the **Master Calendar Hearing**. An Immigration Judge will be there and so will a government lawyer who is trying to deport you. If you do not speak English well, the Immigration Court must have an interpreter for you. If there is no interpreter, ask for another hearing with an interpreter. If you have a lawyer, your lawyer should go too. To find out when your next hearing is, call the Immigration Court (EOIR) hotline at 1-800-898-7180. The government is required to have a special phone in your unit with a code to call this hotline free.

Can I ask for more time to find a lawyer?

Yes. You can ask the Immigration Judge for more time to find a lawyer. Usually the Judge will give you at least one or two weeks to look for a lawyer.

For what reasons can I be deported from the U.S.?

A person can be deported for several reasons. For example, the government may try to deport you if you entered the U.S. illegally, or you stayed after your visa expired, or you have a criminal conviction. 8 U.S.C. §1227(a). Even if these things are true, you may still have a defense and be able to stay here. See pages 15 to 21.

How will the government prove that I can be deported?

The government starts a case by giving you a **Notice to Appear**, which lists the charges against you. If the government is trying to deport you for a crime, that crime will be listed on the Notice to Appear along with the section of the immigration law. The government can add other charges later.

If you do not have a Notice to Appear, tell the Immigration Judge. Everyone with an immigration court case should receive a Notice to Appear. If you do not have one, it may be that you were ordered deported in the past, but never left.

If you have a Notice to Appear, the Immigration Judge will ask you if it contains correct information. If you tell the Judge the information is correct, the Judge will order you deported unless you have a defense to deportation. See pages 15 to 21. Check your Notice to Appear carefully. If information on the Notice to Appear is incorrect, tell the Judge.

Do I have to agree that the government can deport me from the U.S.?

No. You have the right to remain silent and not answer any questions about your immigration situation. The government will have to prove that you are not a U.S. citizen. If the government proves that, you have to show that you are lawfully present in the U.S. See 8 U.S.C. §1229a(c)(2). If you show that, then the government has to prove that you are deportable. 8

U.S.C. §1229a(c)(3). For example, the government lawyer will have to have a certified copy of your criminal conviction or other official record of it. If the government has this evidence at the first hearing, the Judge may order you deported. Other times, the government may ask for more time to get the evidence.

Can I ask the Immigration Judge for permission to stay in the U.S.?

Yes. If the Judge finds you can be deported from the U.S., you may have a defense to deportation and may be able to remain. See pages 15 to 21. If you do not have a defense, the Judge may order you deported at that first hearing.

The Judge should tell you about the defenses to deportation and give you a date to file application forms and other papers with the court. The Judge will also give you a date for a hearing where you can bring witnesses and prove the reasons you should be allowed to stay in the U.S. See page 27. You must file your application by the date that the Judge gives you. If you do not, the Judge will say you have abandoned your case and will order you deported.

Can I name the country that I want to be deported to?

Yes. The Judge will ask what country you want to be deported to. If you are afraid to be deported to your own country, do not name that country. Tell the Judge you are afraid and want to apply for asylum. You can name another country, but that country must agree to accept you. If you have the right to live in more than one country, name the country where you want to live.

Can I be deported to a country where I am not a citizen?

Yes. You need to have permission from that other country to enter. Usually, you need to apply to the Embassy or Consulate of that country for permission to enter. It is difficult to be accepted by another country.

Can I appeal the Immigration Judge's decision to deport me?

Yes. If the Immigration Judge orders you deported, he or she will ask if you want to appeal. If you appeal, the Board of Immigration Appeals must receive your Notice of Appeal within 30 days of the Judge's decision. See page 31. Do this right away. If you miss the deadline, you lose your appeal.

Do I have to fill out forms before my first Immigration Court hearing?

No. If the Immigration Judge finds that you might have a defense to deportation, he or she will give you forms at one of the first hearings and give you a week or two to fill out the forms. You have to fill out forms in English.

Can I just ask to be deported immediately?

Yes. You can tell the Immigration Judge that you want to return to your country

immediately. If you do this, you will be giving up your legal rights. If you have your green card and get deported for an aggravated felony, you are giving up your right to live here legally and will never be able to return to the U.S. to live here permanently. You probably could not return even for a visit. So think carefully about the life you are leaving behind before deciding to be deported.

If the Immigration Judge ordered me deported, when do I leave?

If you tell the Immigration Judge you want to appeal, Immigration cannot deport you for at least 30 days to give you time to file your Notice of Appeal. If you tell the Judge you do not want to appeal, the government can deport you after only 3 days. Before deporting someone, the government has to get travel documents, which could take weeks, a month, or more (this could also depend on the country where you are from). Friends and relatives who have legal status can help you. They can bring your identity papers to Immigration Enforcement and Removal:

**ICE Enforcement and Removal Office (ERO)
10 New England Executive Park
Burlington, MA 01803**

The telephone number is 781-359-7500, and the office is open from 8 a.m. - 4:00 p.m., Monday through Friday. Your friends or relatives should make copies first before giving documents to Immigration. Someone without legal status should not go to Immigration for you. He or she could be arrested.

What if I do not speak English and the Immigration Court did not have a good interpreter?

You can ask for a new hearing with a good interpreter if you do not understand what happened in Immigration Court. You need to tell the Immigration Judge that you do not understand English or that the interpreter was not doing a good job. You should tell the judge this at the hearing. After the hearing you can write the judge explaining this, but it is better to tell the judge at the hearing if you do not understand.

GETTING IMMIGRATION RECORDS THROUGH A FREEDOM OF INFORMATION ACT REQUEST

How do I find out what information the government has about me?

You can file a **Freedom of Information Act (FOIA)** request to get a copy of information Immigration has about you. To find information at the Boston Immigration Court, write a letter to: Boston Immigration Court, Executive Office for Immigration Review, 15 New Sudbury Street, John F. Kennedy Building, Boston, MA 02203 and include your full name, your A# and the records you want. If you have a Notice to Appear in Immigration Court, you can also write: National Records Center Fast Track (FOIA/PA Office), P.O. Box 648010, Lee's Summit, MO 64064-8010, and include a copy of your Notice to Appear, G-639 Freedom of Information Act Request, and written notice of your Master Calendar Hearing Date. If you were ever arrested by the Border Patrol, ask for records from: USCIS, National Record Center

(FOIA/PA Office), P.O. Box 648010, Lee's Summit, MO 64064-5570. (This is the same address but with a different zip code).

GETTING OUT OF DETENTION AND BONDS



How do I get released from detention during my immigration case?

Some people in Immigration detention have a right to be released on bond while others do not.

What is a bond?

A bond is an amount set by Immigration or the Immigration Judge that you must pay before being released from Immigration detention. It helps guarantee that you will show up for your court hearings and leave the U.S. at the end of your case if you do not win. If the bond is paid, you will be released from detention during your case. At the end of your case, the person who paid the bond will get the money back if you win or if you leave the U.S. when you are ordered to do so. If you miss a hearing or if you do not leave the U.S. by the date ordered, the person who paid the bond will lose the money. Bonds can be set as low as \$1,500; although many are \$3,000, or \$5,000 or more.

Does everyone have a right to ask for bond?

No. Many people do not have a right to ask for bond. For example, if you were ordered deported in the past but never left, in most cases you will not have a hearing before an Immigration Judge and cannot ask for a bond. If you have been convicted of certain crimes, you do not have a right to ask for bond. This is called mandatory detention. These crimes include an aggravated felony (see page 12) or most crimes of moral turpitude (see page 13) or nearly any drug conviction. 8 U.S.C 1226(c). However, if you have been convicted of these types of crimes but you finished serving your criminal sentence before October 9, 1998, you can still seek a bond.

Who has a right to ask for bond?

You have a right to ask for bond if you do not have a criminal conviction or a final order of removal. Even if you have been convicted of certain types of crimes, you can still ask for bond. These crimes include certain domestic violence crimes with a sentence under one year; smuggling; false claims to U.S. citizenship; document fraud; and certain other crimes, although these crimes could be crimes of moral turpitude, restricting your right to bond. 8 U.S.C. §1226(c).

If you have a right to ask for bond, you must show the Immigration Judge that: (1) you are not a danger to the community; (2) you are not a threat to national security; and (3) you are