



The Immigration Court Process

When facing removal proceedings, it is important to know your options; the basics of how the court proceedings will go; and which defenses you might qualify for.

Importance of Attending Hearings

- It's an opportunity to present your case
- If you don't attend, the court can file an Order of Removal in your absence
- Check your hearing date at 1-800-898-7180

Quick Court Facts

Why are you in "Removal Proceedings"?

- You entered the U.S. without permission or visa
- Your visa expired
- You are a Legal Permanent Resident (LPR) who committed certain crimes

What are your rights in court?

- Contract a lawyer using your own resources
- Defend yourself in court
- Have a proper process (for example, notification of charges and a fair trial)
- Have an interpreter in court who speaks your best language
- Present evidence and witnesses
- Counter evidence that the government presents against you
- Appeal the decision if you feel the judge made a legal mistake

What is Notice to Appear (NTA)?

- A document that includes your basic information and the charges brought against you by the government.
- Common charges for Recent Arrivals: 1. Not being a U.S citizen; 2. Born in, and a citizen of, another country; 3. The date and place you entered the U.S.; 4. Entered without being inspected or permitted.
- Common Charges for LPRs: 1. Not being a U.S. citizen; 2. Born in, and a citizen of, another country; 3. The date you became a LPR of the U.S.; 4. Type of crime committed and when it was committed
- Warning! It is a good idea to review this document because it can contain errors.

Who is in Court?

- The Judge
- A government lawyer who represents ICE (Immigration and Customs Enforcement)
- An Interpreter

What are the different types of hearings?

- Master Calendar Hearings (MCH)
- Individual/Merits Hearings

What happens during Master Calendar Hearings?

- Judge will ask if you need time to hire a lawyer
- Judge will ask if you still live at the same address
- Judge will look over your file and ask if you would like to deny or admit the charges brought against you in the NTA
- Judge will ask you questions to determine if you qualify for a defense against deportation
- Judge might give you an application that corresponds to the defense you qualify for
- If you do not file the applications, the judge can determine that you have abandoned the applications and order you deported
- Judge will give you a date for a final individual hearing so you can present your case

What happens during Individual/Merit Hearings?

- You will testify and present evidence or witnesses.
- This is your last hearing before the judge makes a decision in your case.

How do I appeal the decision?

- Let the judge know you would like to appeal.
- You must notify the Board of Immigration Appeals.
- You must explain why you think the judge made a legal error.

What happens if I'm ordered deported?

- You are returned to your home country at the cost of the government.
- You will be given a 10 year bar from coming back to the U.S. legally, with one exception.
- If you return during those 10 years without permission, it's possible that you will receive a 20 year bar. You will not get to see a judge; will be given a fine; and you can be charged with a federal crime.

Common Forms of Relief

Voluntary Departure (VD): You can return to your country and avoid a deportation order, which comes with a 10 year bar, if you can establish good moral character, have the necessary travel documents, and weren't marked as an arriving alien on your NTA.

Citizenship: If you have a parent or grandparent who was born in the United States or who became a U.S. citizen before you turned 18, you might have a claim to citizenship.

Adjustment of Status through Family: You might qualify to become a Legal Permanent Resident if either you entered lawfully and have a U.S. citizen immediate relative or have a family petition pending since April 2001 and the visa is now available. If you have committed certain crimes, you might be able to waive them.

Cancellation of Removal 42(A): If you are a legal permanent resident, you may retain your status if (1) you've had your green card for at least 5 years; (2) you've had continuous residence for at least 7 years in the U.S. from the moment you were lawfully admitted into the U.S. until you committed certain offenses or being placed into removal proceedings; and (3) you haven't committed an aggravated felony.

212(c): Helps retain your LPR status by waiving certain aggravated felonies committed before April 1997. You must have not spent more than 5 years in prison and you must have 7 years of LPR status. If you were convicted of an aggravated felony before November 29, 1990, you might be able to waive that conviction even if you spent more than 5 years in prison.

Cancellation of Removal 42(B): May qualify if you have lived in the United States for at least 10 years; have 10 years of good moral character; and have a U.S. citizen or LPR spouse, parent or unmarried child under the age of 21 who will suffer exceptional and extremely unusual hardship without you.

Deferred Action for Childhood Arrivals (DACA): If you came to the United States when you were under age 16, do not have certain crimes, and you either went to school here or are enrolled in a GED program or are serving in or have served in the military.

VAWA: To qualify you must have been abused by a spouse or parent who is a U.S. citizen or LPR; or your child was abused by their U.S. citizen or LPR parent. Additionally, you must have lived in the U.S. for the past 3 years and can establish good moral character.

U-Visa: Visa for direct or indirect victims of a crime that violates U.S. law; who have suffered physical or emotional harm as a result of being the victim of that crime; and who are being helpful to the police in investigating the crime.

T-Visa: To qualify you must show that you were trafficked (for example, you were threatened into forced labor or sexual exploitation); you helped law enforcement in investigating those who trafficked you; and you would suffer extreme harm if deported.

Asylum: You must show that you fear that you will be harmed in your home country due to your race, religion, ethnicity, nationality, sexual orientation, political opinions, or your membership in a particular social group, such as "immediate family members of x." You must also show that you will be harmed by the government, or people the government cannot or will not control. The persecution you have suffered or will suffer can include torture, physical threats, mental/emotional harm.

WOR: You have to prove it is more likely than not (51%+ chance) you will be persecuted based on a protected ground: race, religion, ethnicity, political opinion, or member of a particular social group. The persecution must be by the government or someone the government cannot or will not control.

CAT: You must prove that it is more likely than not (51%+ chance) you will be tortured if you return to your home country. "Torture" means that you will be put through immense suffering, physically and/or psychologically. This torture must be by the government or someone the government cannot or will not control.

Changing your Address?

- File a Change of Address form with the court not just your deportation officer
- If you're moving outside of your court's jurisdiction you will also need to file a Motion to Change Venue with the court