

New Draft

**Notice of Appeal from a Decision of an Adjudicating
Official in a Practitioner Disciplinary Case**

General Instructions—Please read carefully before completing and filing Form EOIR-45.

1. When and Where to Appeal:

- You must send the Notice of Appeal, Form EOIR-45, so that it is **received** by the Board of Immigration Appeals (Board) within thirty (30) calendar days after the Adjudicating Official's oral decision or, if no oral decision was rendered, within thirty (30) calendar days after the date the Adjudicating Official's written decision was mailed.
- Simply mailing the Notice of Appeal within the time limit may not ensure 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 as untimely. Send or deliver your Notice of Appeal to:

<i>To send by courier or overnight delivery service, or to deliver in person, use this address:</i>	Board of Immigration Appeals Clerk's Office Disciplinary Appeal 5107 Leesburg Pike, Suite 2000 Falls Church, VA 22041	<i>To send by regular first-class mail use this address:</i>	Board of Immigration Appeals Clerk's Office Disciplinary Appeal P.O. Box 8530 Falls Church, VA 22041
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2. How to Pay for the Appeal:

- Attach to the Notice of Appeal, Form EOIR-45, 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 Practitioner's name and the disciplinary case number on the check or money order.
- If you cannot pay for the appeal, you must complete and submit a Fee Waiver Request (Form EOIR-26A). The Board will review your request and decide whether to allow the appeal to be filed without payment of the required fee.

3. Representation by an Attorney or Representative:

- You may be represented by an attorney or a representative who is authorized to appear before the Board. See 8 C.F.R. §1001.1(f) ^{^ and (j)}. The government will not pay for your attorney or representative.
- If you are represented by an attorney or representative, he or she must file a notice of Entry of Appearance Before the Board of Immigration Appeals (Form EOIR-27) at the same time that this Notice of Appeal, Form EOIR-45, is filed.

4. Submission of Brief:

- You must state detailed reasons for your appeal on the Notice of Appeal, Form EOIR-45, even if you indicate that you intend to file a brief. Please indicate in Item #6 on the Notice of Appeal, Form EOIR-45, if you will file a separate written brief or statement with the Board. The Board will send you a briefing schedule and, in some cases, a hearing transcript (if a hearing was conducted in this case).
- Send a copy of your brief or statement to the Office of the General Counsel of the Executive Office for Immigration Review or the Department of Homeland Security (DHS), whichever office prosecuted your case. You must also provide the Board with a ~~certificate~~^{proof} of service stating that you have mailed or delivered the brief or statement to EOIR or DHS, as appropriate.

Office of the General Counsel, EOIR
ATTN: Bar Counsel
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Office of the Chief Counsel-Attorney Discipline
20 Massachusetts Ave., NW, Room 4025
Washington, DC 20529

5. Summary Dismissal of Appeal:

- The Board may summarily dismiss any appeal for any of the following reasons: 1) the practitioner fails to specify the reasons for the appeal; 2) the only reason specified by the practitioner for his or her appeal involves a finding of fact or conclusion of law which was conceded by the practitioner in the disciplinary proceeding below; 3) 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; 4) the practitioner indicates that he or she will file a separate written brief or statement in support of the appeal and then fails to file such a brief or statement within the time period scheduled and does not reasonably explain such failure; and/or 5) the appeal fails to meet essential statutory or regulatory requirements.

6. Request for Oral Argument:

- If you indicate in Item #5 on Form EOIR-45 that you request oral argument before the Board, the Board will inform you if your request is granted. Even if you ask for oral argument, you still must give detailed reasons for your appeal on the Notice of Appeal in item #4 and attachments. The Board ordinarily will not grant a request for oral argument unless you also file a separate written brief or statement.

7. Notification of Change of Address:

- You or your attorney or representative must notify the Board within five (5) days of any change of address or telephone number by submitting the Form EOIR-27 (Check the box in the address section to indicate a new address). A change of address notification is effective only for the case in which it is submitted.

8. Further Information:

- ~~For further information, please see the Board of Immigration Appeals, Practice Manual, and~~
Answers, which are available on the EOIR website at www.isis.dhs.gov/eoir.

Notice of Appeal from a Decision of an Adjudicating
Official in a Practitioner Disciplinary Case

1. Case Number: _____

Name of Practitioner: _____

Address: _____

(Number and Street) (Suite No.)

(City) (State) (Zip Code)

2. Date of Adjudicating Official's decision: _____

3. I am the Respondent DHS EOIR

For Official Use Only

4. **Basis for Appeal** — Please explain in detail the basis for your appeal. Use additional sheets of paper if necessary and attach to this form. **Failure to specify the factual or legal basis for your appeal may lead to summary dismissal without further notice, unless you provide specific details in a timely, written brief or statement filed with the Board.** *Write the case number on every additional sheet.*

(Attach more sheets if necessary.)

Staple check or money order here.
Include practitioner's name and case number on the check.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is one (1) hour, including the time for reviewing and completing the form, and gathering and attaching supporting documentation. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

5. I do do not request oral argument before the Board of Immigration Appeals.
6. I will will not file a separate written brief or statement in addition to the "Basis for Appeal" written above or accompanying this form.

Warning: Your appeal may be summarily dismissed by the Board of Immigration Appeals if you indicate in Item #6 that you will file a separate written brief or statement and you fail to file such a brief or statement within the time period scheduled and you do not reasonably explain such failure.

7. Name of Practitioner's Attorney/Representative: OR EOIR/DHS Counsel

Address: _____
(Number and Street) (Suite No.)

(City) (State) (Zip Code)

Warning: An attorney or representative will not be recognized as the attorney of record on appeal and will not receive documents or correspondence in connection with the appeal unless he or she submits a completed Form EOIR-27.



X _____ Date _____
 Signature of Practitioner/Practitioner's Attorney/Representative
OR EOIR/DHS Counsel

PROOF OF SERVICE
 (Must Be Completed)

I _____ mailed or delivered a copy of this Notice of Appeal
(Name)
 on _____ to _____
(Date) (DHS or EOIR, whichever is the prosecutor in this case)
 at Practitioner or Practitioner's Attorney/DHS Counsel
(Address of Prosecutor)



X _____
 Signature of Practitioner (or Practitioner's Attorney/Representative)
OR EOIR/DHS Counsel

Be sure you have:

- Read all of the General Instructions
- Provided all of the requested information
- Completed and signed the Proof Certificate of Service
- Attached the required fee or fee waiver request
- Signed the form
- Served a copy of this form and all attachments on the Office of the General Counsel, ATTN: Bar Counsel, Executive Office for Immigration Review or, where the Department of Homeland Security is the prosecutor, the Office of the Chief Counsel, USCIS, DHS OR