



**Effective: August 12, 2006**

United States Code Annotated Currentness

Title 8. Aliens and Nationality (Refs & Annos)

Chapter 12. Immigration and Nationality (Refs & Annos)

▣ Subchapter II. Immigration

▣ Part IV. Inspection, Apprehension, Examination, Exclusion, and Removal (Refs & Annos)

→ § 1229. Initiation of removal proceedings

(a) Notice to appear

(1) In general

In removal proceedings under section 1229a of this title, written notice (in this section referred to as a “notice to appear”) shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

(A) The nature of the proceedings against the alien.

(B) The legal authority under which the proceedings are conducted.

(C) The acts or conduct alleged to be in violation of law.

(D) The charges against the alien and the statutory provisions alleged to have been violated.

(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) of this section and (ii) a current list of counsel prepared under subsection (b)(2) of this section.

(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 1229a of this title.

(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

(iii) The consequences under section 1229a(b)(5) of this title of failure to provide address and telephone in-

ated their availability to represent pro bono aliens in proceedings under section 1229a of this title. Such lists shall be provided under subsection (a)(1)(E) of this section and otherwise made generally available.

**(3) Rule of construction**

Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 1229a of this title if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.

**(c) Service by mail**

Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F) of this section.

**(d) Prompt initiation of removal**

**(1)** In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

**(2)** Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

**(e) Certification of compliance with restrictions on disclosure**

**(1) In general**

In cases where an enforcement action leading to a removal proceeding was taken against an alien at any of the locations specified in paragraph (2), the Notice to Appear shall include a statement that the provisions of section 1367 of this title have been complied with.

**(2) Locations**

The locations specified in this paragraph are as follows:

**(A)** At a domestic violence shelter, a rape crisis center, supervised visitation center, family justice center, a victim services, or victim services provider, or a community-based organization.

**(B)** At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 1101(a)(15) of this title.

**C****Effective:[See Text Amendments]**

## Code of Federal Regulations Currentness

## Title 8. Aliens and Nationality

## Chapter V. Executive Office for Immigration Review, Department of Justice (Refs &amp; Annos)

## Subchapter A. General Provisions (Refs &amp; Annos)

## Part 1003. Executive Office for Immigration Review (Refs &amp; Annos)

## Subpart C. Immigration Court--Rules of Procedure (Refs &amp; Annos)

→ **§ 1003.15 Contents of the order to show cause and notice to appear and notification of change of address.**

(a) In the Order to Show Cause, the Service shall provide the following administrative information to the Executive Office for Immigration Review. Omission of any of these items shall not provide the alien with any substantive or procedural rights:

- (1) The alien's names and any known aliases;
- (2) The alien's address;
- (3) The alien's registration number, with any lead alien registration number with which the alien is associated;
- (4) The alien's alleged nationality and citizenship;
- (5) The language that the alien understands;

(b) The Order to Show Cause and Notice to Appear must also include the following information:

(1) The nature of the proceedings against the alien;

(2) The legal authority under which the proceedings are conducted;

(3) The acts or conduct alleged to be in violation of law;

(4) The charges against the alien and the statutory provisions alleged to have been violated;

(5) Notice that the alien may be represented, at no cost to the government, by counsel or other representative authorized to appear pursuant to 8 CFR 1292.1;

(6) The address of the Immigration Court where the Service will file the Order to Show Cause and Notice to Appear; and

(7) A statement that the alien must advise the Immigration Court having administrative control over the Record of Proceeding of his or her current address and telephone number and a statement that failure to provide such information may result in an in absentia hearing in accordance with § 1003.26.

(c) Contents of the Notice to Appear for removal proceedings. In the Notice to Appear for removal proceedings, the Service shall provide the following administrative information to the Immigration Court. Failure to provide any of these items shall not be construed as affording the alien any substantive or procedural rights.

(1) The alien's names and any known aliases;

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**Effective:[See Text Amendments]**

Code of Federal Regulations Currentness  
 Title 8. Aliens and Nationality  
 Chapter V. Executive Office for Immigration  
 Review, Department of Justice (Refs & Annos)  
 Subchapter A. General Provisions (Refs &  
 Annos)  
 ☐ Part 1003. Executive Office for Immig-  
 ration Review (Refs & Annos)  
 ☐ Subpart C. Immigration Court--Rules  
 of Procedure (Refs & Annos)  
 → § 1003.38 Appeals.

(a) Decisions of Immigration Judges may be ap-  
 pealed to the Board of Immigration Appeals as au-  
 thorized by 8 CFR 3.1(b). [FN1]

<sup>1</sup> So in original; probably should read  
 1003.1(b). See 68 FR 9824.

(b) The Notice of Appeal to the Board of Immigra-  
 tion Appeals of Decision of Immigration Judge  
 (Form EOIR-26) shall be filed directly with the  
 Board of Immigration Appeals within 30 calendar  
 days after the stating of an Immigration Judge's oral  
 decision or the mailing of an Immigration Judge's  
 written decision. If the final date for filing falls on  
 a Saturday, Sunday, or legal holiday, this appeal  
 time shall be extended to the next business day. A  
 Notice of Appeal (Form EOIR-26) may not be filed  
 by any party who has waived appeal.

(c) The date of filing of the Notice of Appeal (Form  
 EOIR-26) shall be the date the Notice is received  
 by the Board.

(d) A Notice of Appeal (Form EOIR-26) must be  
 accompanied by the appropriate fee or by an Ap-  
 peal Fee Waiver Request (Form EOIR-26A). If the

fee is not paid or the Appeal Fee Waiver Request  
 (Form EOIR-26A) is not filed within the specified  
 time period indicated in paragraph (b) of this sec-  
 tion, the appeal will not be deemed properly filed  
 and the decision of the Immigration Judge shall be  
 final to the same extent as though no appeal had  
 been taken.

(e) Within five working days of any change of ad-  
 dress, an alien must provide written notice of the  
 change of address on Form EOIR-33 to the Board.  
 Where a party is represented, the representative  
 should also provide to the Board written notice of  
 any change in the representative's business mailing  
 address.

(f) Briefs may be filed by both parties pursuant to 8  
 CFR 3.3(c). [FN2]

<sup>2</sup> So in original; probably should read  
 1003.3(c). See 68 FR 9824.

(g) In any proceeding before the Board wherein the  
 respondent/applicant is represented, the attorney or  
 representative shall file a notice of appearance on  
 the appropriate form. Withdrawal or substitution of  
 an attorney or representative may be permitted by  
 the Board during proceedings only upon written  
 motion submitted without fee.

[57 FR 11571, April 6, 1992; 59 FR 1899, Jan, 13,  
 1994; 60 FR 34089, June 30, 1995; 61 FR 18908,  
 April 29, 1996]

SOURCE: 52 FR 2936, 2941, Jan. 29, 1987; 52 FR  
 2936, Jan. 29, 1987; 57 FR 11570, April 6, 1992;  
 60 FR 29468, June 5, 1995; 61 FR 59305, Nov. 22,  
 1996; 63 FR 27448, May 19, 1998; 63 FR 31894,  
 June 11, 1998; 64 FR 56141, Oct. 18, 1999; 66 FR  
 37123, July 17, 2001; 66 FR 54911, Oct. 31, 2001;  
 66 FR 56976, Nov. 14, 2001; 68 FR 9824, Feb. 28,