



Instructions for Notice of Appeal or Motion

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-290B
OMB No. 1615-0095
Expires 11/30/2014

What Is the Purpose of Form I-290B?

Form I-290B, Notice of Appeal or Motion, is used to file an appeal or motion to reopen or reconsider certain decisions under the immigration laws.

When Should I Use Form I-290B?

Visit the U.S. Citizenship and Immigration Services (USCIS) Web site at www.uscis.gov/I-290B to view appeal and motion eligibility by form type.

For most appeals and motions, Form I-290B must be filed within 30 calendar days after personal service of the decision, 33 calendar days if the decision was mailed. An appeal relating to a revocation of an immigrant petition must be filed within 15 calendar days after personal service of the decision, 18 calendar days if the decision was mailed. The date of service is normally the date of the decision.

Late filed appeals that do not meet the requirements for a motion to reopen or reconsider will be rejected. Late filed motions may be dismissed, **however**, a late filed motion to reopen may be excused in the discretion of USCIS where it is demonstrated that the delay was reasonable and beyond the applicant's/petitioner's control.

Form I-290B may be used in the following circumstances:

1. To file an appeal with the Administrative Appeals Office (AAO); or
2. To file a motion to reconsider a decision (i.e., the AAO, a field office or service center); and/or
3. To file a motion to reopen a decision (i.e., the AAO, a field office or service center), including decisions under the Northwest Immigrant Rights Project (NWIRP) Settlement, or the Special Immigrant Juvenile (SIJ) *Perez-Olano* Settlement Agreement (POSA).

Who May Not File Form I-290B?

1. Per DHS regulations, the **beneficiary** of a visa petition that is denied or revoked by USCIS **MAY NOT** file an appeal or a motion of that visa petition. Only a petitioner or applicant may file an appeal or motion. Similarly, an attorney or Board of Immigration Appeals (BIA)-accredited representative **MAY NOT** file an appeal or motion on the behalf of a **beneficiary**.
2. A petitioner whose Petition for Alien Relative (Form I-130) or Petition for Widow(er) filed on Form I-360 was denied or was revoked by USCIS **MAY NOT** use Form I-290B to file an appeal with the BIA. Instead, the petitioner or the petitioner's attorney or BIA-accredited representative must file Form EOIR-29 in accordance with the instructions included in the denial or notice of revocation.

For filing instructions of Form EOIR-29, visit the USCIS Web site at www.uscis.gov/eoir-29 or the Department of Justice Web site at www.justice.gov/eoir/eoirforms/eoir29.pdf.

3. Do not use this form to file an appeal or motion for a Form I-601A (Provisional Unlawful Presence Waiver) or Form I-821D (Consideration of Deferred Action for Childhood Arrivals) denial. There are no appeal or motion rights for Form I-601A or Form I-821D.
4. Do not use this form to appeal a Department of State overseas consular officer's denial of your visa application (i.e., DS-156, DS-156E, DS-156K, DS-117, DS-157, DS-230, or DS-260). For information about visa application denials, please reference the Department of State **Web** site.
5. Do not use this form to file an appeal on a Special Agricultural Worker (SAW) or Legalization Application. Appeals on these case types must be filed on Form I-694, Notice of Appeal of Decision under Sections 245A or 210 of the Immigration and Nationality Act.

General Instructions

Each appeal or motion form must be properly signed, filed and accompanied by the appropriate filing fee. An appeal or motion is not considered properly filed until it is accepted by USCIS.

Evidence

Motion:

- (a) If you file a motion to reopen, the motion must be accompanied by new facts and/or documentary evidence that establish eligibility at the time of filing the initial petition or application.
- (b) If you file a motion to reconsider, you must provide the citations to the statute, regulation, or precedent decisions that serve(s) as the basis for your motion to reconsider. The motion must establish that the decision was based on an incorrect application of law or policy, and that the decision was incorrect based on the evidence of record at the time of the decision.
- (c) No additional time will be permitted to submit supplementary arguments or evidence in support of a motion to reopen or reconsider after the Form I-290B has been filed.

Appeals:

1. Brief

You do not need to submit a brief in support of your appeal. **If you do submit a brief and/or additional evidence, you may submit these materials at the time of initial filing of Form I-290B or within 30 days of filing.**

Any brief and/or additional evidence submitted after the initial filing of Form I-290B must be submitted directly to the AAO at the following address:

**USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS2090
Washington, DC 20529-2090**

Any brief and additional evidence must specifically reference the appeal for which it is being submitted. If an affected party has filed multiple appeals with the AAO, separate copies of the brief **and** evidence must be provided for each individual appeal. Failure to do so may result in the return of the brief or evidence to the individual or entity that submitted it and preclude such material from consideration.

If you need more than 30 calendar days to submit a brief, you must make a written request to the AAO within 30 calendar days of filing the appeal. The AAO may grant more time to submit a brief for good cause.

2. Oral Argument

You may request an oral argument before the AAO in Washington, D.C. in **a letter** attached to Form I-290B. The letter must explain specifically why an oral argument is necessary (i.e., why your argument cannot be adequately addressed in writing). If your request is granted, the AAO will contact you about setting the date and time. The U.S. Government does not furnish interpreters for oral arguments.

Copies. Unless specifically required that an original document be filed with an appeal or motion, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record, and will not be automatically returned to you.

Translation. Any document submitted to USCIS with information in a foreign language must be accompanied by a full English language translation. The translator must certify that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English.

How to Fill Out Form I-290B

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the name and Alien Registration Number (A-Number) of the petitioner/applicant, USCIS Electronic Immigration System Account Identifier Number (USCIS ELIS Number), if electronically filed, the Receipt Number of the underlying petition or application, the Item Number to which your answer refers, and date and sign each sheet.
3. Answer all questions fully and accurately. If an item is not applicable, leave it blank.
4. Do not make any changes or amendments to the form. Failure to properly fill out and sign the form will result in a rejection.

Specific Instructions

Form I-290B is divided into **Parts 1** through **5**. The following information should help you fill out the form.

Part 1. Information About Petitioner/Applicant

Provide information about the individual upon whose behalf the appeal or motion is being filed.

Item Numbers 1.a. - 1.c. Full Name

Provide the full legal name of the petitioner/applicant. If the petitioner/applicant has two last names, include both and use a hyphen (-) between the names, if appropriate.

Item Number 2. Complete Name of Business/Organization, if applicable

Provide the complete name of the business or organization, without abbreviations, if applicable.

Item Number 3. Alien Registration Number (A-Number)

This is the USCIS (or Immigration and Naturalization Service (INS)) file number. It begins with an "A" and can be found on a Permanent Resident Card or on correspondence that has been received from the Department of Homeland Security (DHS) or USCIS. If the person does not have an A-Number, leave this blank.

Item Number 4. Receipt Number

Provide the form receipt number for the petition or application that was denied by USCIS (e.g., EAC, SRC, NSC, NBC (MSC), WAC XXXXXXXXXXXX).

Item Number 5. USCIS ELIS Account Number (if any)

If you have previously filed a benefit request using the USCIS ELIS, provide the USCIS ELIS Account Number you were issued by the system in the space provided. The USCIS ELIS Account Number is not the same as an Alien Registration Number (A-Number). If you do not have an ELIS account, leave this blank.

Item Numbers 6.a. - 6.i. Mailing Address

Provide the petitioner's/applicant's complete mailing address (including military APO/FPO address if applicable).

Item Number 7. Daytime Telephone Number (Country or Area Code)

Provide a telephone number with area code and extension (if any) where you can be reached during the day. If you reside within the United States, provide an area code. If you reside outside the United States, provide a country code.

Item Number 8. Mobile Telephone Number, if any

Provide a mobile telephone number with area code.

Item Number 9. E-mail Address, if any

Provide the petitioner's/applicant's E-mail address.

Item Number 10. Fax Number, if any

Provide a fax number with area code.

Part 2. Information About Person/Organization Filing Appeal or Motion on Behalf of Petitioner/Applicant

If you are the petitioner or applicant filing an appeal or motion without an attorney or representative accredited by the BIA, skip this part, and proceed to **Part 3**.

NOTE: The Form G-28 must be properly completed with new dates and be properly signed by the petitioner or applicant and attorney or BIA-accredited representative. If the petitioner or applicant wishes, he or she may be represented at no expense to the U.S. Government by an attorney or BIA-accredited representative. If the appeal or motion is filed by an attorney or a BIA-accredited representative without a properly executed Form G-28, it may be rejected or dismissed.

Provide information about the individual or the organization filing the appeal or motion on behalf of the petitioner or applicant.

Item Number 1. Attorney or BIA-Accredited Representative

If you are an attorney or a BIA-accredited representative, you must check the box and attach a **new** Form G-28 even if you submitted a Form G-28 with the underlying petition/application.

Item Numbers 2.a. - 2.c. Full Name

Provide your full legal name. If you have two last names, include both and use a hyphen (-) between the names, if appropriate.

Item Number 3. Complete Name of Business/Organization, if applicable

Provide the complete name of your business or organization, without abbreviations, if applicable.

Item Number 4. Daytime Telephone Number

Provide a telephone number with area code and extension (if any) where you can be reached during the day.

Item Number 5. Mobile Telephone Number, if any

Provide your mobile telephone number with area code.

Item Number 6. E-mail Address, if any

Provide your E-mail address.

Item Number 7. Fax Number, if any

Provide a fax number with area code.

Part 3. Information About the Appeal or Motion

Provide the following information:

Item Numbers 1 and 2. Appeal or Motion Request (*Select only one box*)

Check a single box from items "a. - f." Do not check more than one box or make any changes to the form.

You must clearly indicate if you are filing an appeal or a motion. The adverse decision will indicate whether you may file an appeal or a motion. Although the adverse decision may indicate that you can file an appeal and a motion, you can only file one or the other using a single Form I-290B. The requirements for motions to reopen and motions to reconsider are located at 8 CFR 103.5. If you file an appeal, the reviewing office will either take favorable action or forward the appeal to the AAO. **See 8 CFR 103.3. The reviewing office is the USCIS office that denied the petition or application.**

NOTE: An adverse decision from the AAO may not be further **appealed** to the AAO. However, you may file a motion to reopen and/or reconsider an AAO decision to the AAO.

Item Number 3. Form for Which You Are Filing an Appeal, or Motion to Reopen/Reconsider

Provide the form number for the denied petition or application (e.g., Form I-140, Form I-360, Form I-129, Form I-485, Form I-601, etc.). If you use the dropdown menu and the form number is not listed, select "other" in the dropdown menu.

Item Number 4. Specific Classification Requested

Provide the specific classification requested (e.g., H-1B, R-1, O-1, EB-1, EB-2, EB-3, etc., if applicable.) If you use the dropdown menu and the status is not listed, select "other" in the dropdown menu.

Item Number 5. Date of Adverse Decision

Provide the date of the decision that is the basis for your appeal or motion.

Item Number 6. USCIS Office Where Last Decision Was Issued

Provide the name of the office that denied or revoked the petition or application. If you are filing a motion on an adverse AAO decision, the correct office is "Administrative Appeals Office (AAO)". If you are using the dropdown menu and the office name is not listed, select "other" in the drop down menu.

Part 4. Basis for the Appeal or Motion

Write the basis for the appeal or motion on a separate sheet of paper. You must provide your name and A-Number or USCIS ELIS Account Number on the top of each sheet.

Appeal: Provide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed.

Motion to Reopen: The motion must state new facts and must be supported by affidavits and/or documentary evidence demonstrating eligibility at the time the underlying petition or application was filed.

Motion to Reconsider: The motion must be supported by citations to appropriate statutes, regulations, or precedent decisions when filed and must establish that the decision was based on an incorrect application of law or policy, and that the decision was incorrect based on the evidence of record at the time of decision.

Part 5. Signature of Person Filing the Appeal/Motion or His or Her Authorized Representative

You or your legal representative must sign and date Form I-290B. Form G-28, Notice of Entry of Appearance as Attorney or Representative, must be attached if Form I-290B is signed by an attorney or accredited representative.

What Is the Filing Fee?

The filing fee for Form I-290B is **\$630**. The fee will not be refunded, regardless of the action taken in your case.

Use the following guidelines when you prepare your check or money order for the Form I-290B fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the check or money order payable to U.S. Department of Homeland Security.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, contact the nearest U.S. consulate or embassy for instructions on the method of payment.

Notice to Those Making Payment by Check

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two times.

How to Check If the Fees Are Correct

The Form I-290B filing fee is current as of the edition date appearing in the lower left corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit the USCIS Web site at www.uscis.gov, select “FORMS” and check the appropriate fee; or
2. Call the USCIS National Customer Service Center at **1-800-375-5283** and ask for fee information. For TDD (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: The fee will be the same when either an appeal or motion is filed from the denial of a petition or application with one or multiple beneficiaries, provided that they are all covered by the same petition, and therefore, the same decision.

For additional information on fees, fee waivers, and refunds, visit the USCIS Web site at www.uscis.gov.

Fee Waiver

The fee for Form I-290B may be waived under 8 CFR 103.7(c) if the applicant can show an inability to pay and:

1. The appeal or motion is from a denial of an immigration benefit request where the applicant or petitioner was not required to pay a fee; or
2. The fee for the underlying application or petition could have been waived.

If you believe you are eligible for a fee waiver, complete Form I-912, Request for Fee Waiver, (or a written request that complies with 8 CFR 103.7(c)), and submit it and the required evidence of your inability to pay the form fee with this form. You can review the fee waiver guidance at www.uscis.gov.

No fee is required when Form I-290B is filed to appeal a denial of a petition for a special immigrant visa by a Special Immigrant Iraqi or Afghan national who worked for or on behalf of the U.S. Government in Iraq or Afghanistan.

Where to File?

File the appeal or motion as indicated on the USCIS Web page Direct Filing Addresses for Form I-290B, Notice of Appeal or Motion at www.uscis.gov/i-290b-addresses.

Form I-290B is not considered received by USCIS unless filed at the proper location.

If you are filing a motion to reopen/reconsider an AAO decision, file the motion with the address as indicated on the chart located at www.uscis.gov/i-290b-addresses.

DO NOT FILE FORM I-290B DIRECTLY WITH THE AAO. Your form will be rejected if you improperly file it.

See the USCIS Web site at www.uscis.gov/I-290B or call the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request. For TDD (deaf or hard of hearing) call **1-800-767-1833**.

Address Changes

You must inform USCIS of any change of address on Form AR-11 within 10 days of such a move. For information on filing a change of address on Form AR-11 visit the USCIS Web site at www.uscis.gov/AR-11 or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call **1-800-767-1833**.

NOTE: Do not submit a change of address request to the **USCIS Lockbox** facilities because the **USCIS Lockbox** facilities do not process change of address requests.

If you change your address while your **appeal** is pending, you should also send a written notice of your change of address to the AAO to ensure that you receive the decision. Include the type of case that was denied and any available tracking number (receipt number and/or A-Number).

Mail the notice to:

**USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW, MS2090
Washington, DC 20529-2090**

If you change your address after you file a **motion**, the address where you should send your notice depends on where your motion is pending. If your motion has been forwarded to the AAO, send a written notice of your change of address to the address above. If your motion has remained with the office where you submitted it, send the notice to that office. Include the type of case that was denied and any available tracking number (receipt number and/or A-Number).

To find out where your case is currently located, call the USCIS National Customer Service Center number at **1-800-375-5283**. For TDD (deaf or hard of hearing) call **1-800-767-1833**.

To find out the status of your case, visit the USCIS Web site at <https://egov.uscis.gov/cris/Dashboard/CaseStatus.do>.

Processing Information

An appeal or motion that is not signed or is not accompanied by the proper fee **will be dismissed or rejected** with a notice that the appeal or motion is deficient. If time permits, you may correct the deficiency and resubmit the appeal or motion.

Once the appeal or motion is accepted, it will be reviewed. If you do not have any standing to file the appeal or motion, or if the decision is not appealable, the appeal or motion will be dismissed or rejected without further review. Further, late filed appeals that do not meet the requirements of a motion to reopen or reconsider will be rejected. Late filed motions may be dismissed.

Decision. You will be notified in writing of any action taken on your appeal or motion.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS Web site at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling our USCIS National customer Service Center at **1-800-375-5283**. For TDD (deaf or hard of hearing) call **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass** (infopass.uscis.gov). To access the system, visit the USCIS Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-290B, we will deny your Form I-290B, and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: 8 CFR Sections 103.3 and 103.5 authorize USCIS to collect the information and the associated evidence on this benefit application.

PURPOSE: USCIS will use the information you provide on this form to adjudicate appeals or motions on decisions under immigration laws, except for appeals of Form I-130, Petition for Alien Relative and Form I-360, Petition for Amerasian, Widow(er), or special Immigrant, (widow(er) only) denials in which the Board of Immigration Appeals (BIA) has appellate jurisdiction. The information you provide will be used to make a determination on an appeal or a request for a motion.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your appeal or motion.

ROUTINE USES: The information you provide on this benefit application may be shared with other Federal, State, local, and foreign government agencies and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices **DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records, DHS-USCIS-007 - Benefits Information System and DHS/USCIS-015 - Electronic Immigration System-2 Account and Case Management System of Records** which can be found at www.dhs.gov/privacy. The information may also be made available, as appropriate for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 90 minutes per response, including the time for reviewing instructions and completing and submitting the form and **80 minutes for the electronic submission of this request**. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave., NW, Washington, DC 20529-2140; OMB No. 1615-0095. **Do not mail your completed Form I-290B to this address.**

08/20/2013