SUPPORTING STATEMENT

Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge

OMB No. 1125-0002

Part A. **Justification**

1. Necessity of Information Collection –

Background. The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. EOIR conducts immigration court (IC) proceedings, appellate reviews, and administrative hearings. EOIR's Board of Immigration Appeals (Board or BIA) is the highest administrative body for interpreting and applying immigration laws. The Board has been given nationwide jurisdiction to hear appeals from certain decisions rendered by Immigration Judges ("IJs") and by district directors of the Department of Homeland Security (DHS) in a wide variety of proceedings in which the Government of the United States is one party and the other party is an alien, a citizen, or a business firm. The Board also has appellate review authority of disciplinary decisions against recognized organizations and representatives appearing before the ICs, DHS, and the Board. Certain decisions of the Board are subject to judicial review in federal courts, depending on the nature of the appeal.

Information Collection. A party affected by a decision of an IJ may appeal that decision to the Board, provided the Board has jurisdiction pursuant to 8 C.F.R. § 1003.1(b). An appeal from an IJ's decision is taken by completing the Form EOIR-26 and submitting it to the Board. The form requests information necessary for the Board to process an appeal of an IJ

decision, such as the respondent's/applicant's name and alien registration number (A-number), the mailing addresses for the appellant and attorney or representative of record, the basis for the appeal, and proof of service of the notice of appeal on the opposing party.

Revisions. EOIR is publishing a final rule to reform the process of appealing to the Board of Immigration Appeals (Board or BIA) and Board adjudications. *See Appellate Procedures for the Board of Immigration Appeals*, 91 Fed. Reg. 73876 (Nov. 17, 2026). The Appellate Procedures rule amends EOIR regulations to streamline administrative appellate review by the Board of Immigration Judge decisions discretionary regarding certain aspects of the review, by setting appropriate times for briefing in cases that are reviewed, and by streamlining other aspects of the appellate process to ensure timely adjudications and avoid adding to the already sizeable backlog at the Board. Among these changes includes shortening the time to appeal from 30 days to 10 days for some appeal types, clarifying that the Board will not issue briefing schedules for all appeal types, and implementing a summary dismissal standard for several appeal types.

EOIR is making revisions to the form and instructions to conform with the amendments implemented by the Appellate Procedures rule. EOIR updated the instructions on page 1 for appeal filing deadlines, clarified Board standards on pages 4-5 for issuing briefing schedules and when the Board will provide a transcript of proceedings, and updated the summary dismissal description on page 6. EOIR implemented similar changes to various instructive statements on pages 3 and 4 of the form itself. No changes were made to the form fields. Rather, changes were made to these sections of the instructions and instructive statements throughout the form to be consistent with the new procedures implemented by the Appellate

Procedures rule.

Additionally, to ensure respondents properly complete the form in the first instance, EOIR added a note on page 7 of the form to clarify that electronic filers must still sign the Proof of Service section of the form. Finally, EOIR made several minor revisions throughout the instructions and form to improve clarity and readability.

2. Needs and Uses - The form is used to file an appeal with the Board from a decision of an IJ. In order to make such an appeal, the appellant must complete and file the form with the Board. Information contained in the form is considered to the extent necessary to process the appeal. The form is retained in the official record of proceedings for the respondent/applicant and certain information on the form is entered into EOIR's internal case management system. The form is reviewed by the Board to determine the sufficiency and merit of a party's appeal.

2. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-26 is available as a fillable PDF on EOIR's website. An individual may complete the form electronically by typing information or by printing the form and legibly handwriting the requested information. An individual may submit the form by mail or hand delivery. Alternatively, individuals have the ability to access the form in a fillable, fileable, and signable PDF format and may electronically file the form with the Board through the EOIR Courts & Appeals System (ECAS), available at https://www.justice.gov/eoir/ECAS.

4. Efforts to Identify Duplication - The only method for appealing an IJ's decision to the Board is to file a Form EOIR-26, and there is no duplication of effort. EOIR does have a separate form for appealing to the Board the decision of a DHS Officer, Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer (OMB No. 1125-0010). However, the Form EOIR-29 serves a unique use and purpose from the Form EOIR-26. The information needed for the Board to process an appeal of a DHS Officer decision differs drastically from the information needed for the Board to process an appeal of an IJ decision. For example, a carrier or fine number is required to appeal a DHS Officer decision, which is not necessary or relevant to appeal an IJ decision. Because the forms serve different uses and purposes, there is no duplication of effort.

5. Impact on Small Businesses - This collection does not have an impact on small businesses or other small entities.

6. Consequences of Less Frequent Collection - Failure to collect the information on the Form EOIR-26 would deprive the party of a mechanism through which to preserve and exercise the ability to appeal an IJ decision to the Board.

7. Special Circumstances Influencing Collection – Starting December 17, 2026, for some appeal types, a party affected by an IJ's decision who wishes to appeal the decision must file the Form EOIR-26 within 10 calendar days of the IJ's oral decision or the mailing date of the IJ's written decision. *See* 91 Fed. Reg. 73876. None of the other special circumstances

identified in OMB instruction number 7 apply to this collection.

8. Federal Register Publication and Consultation- Three notices were published in the Federal Register notifying the public of the rulemaking, the changes to the Board's Appellate Procedures, that EOIR would be seeking OMB clearance for conforming revisions to the Form EOIR-26, and requesting public comment. *See* Interim Final Rule and Request for Comments, 91 Fed. Reg. 5267 (Feb. 6, 2026); Extension of Comment Period, 91 Fed. Reg. 9705 (Feb. 27, 2026); Final Rule, 91 Fed. Reg. 73876 (Nov. 11, 2026).

9. Payment or Gift to Claimants - EOIR does not provide any payment or gifts to parties to cases or immigration proceedings, attorneys, accredited representatives, qualified organizations, or other third parties.

10. Assurance of Confidentiality – The Board and the ICs retain the original completed form in the official record of proceedings (ROP), along with all other documents filed in the proceeding. EOIR staff members and adjudicators who process, review, and adjudicate the case may access the Form EOIR-26 in the ROP, which is maintained in a Privacy Act system of records. *See* JUSTICE/EOIR-001, *Adjudication and Appeal Records of the Office of the Chief Immigration Judge and Board of Immigration Appeals*, 90 Fed. Reg. 42265 (Aug. 29, 2025). EOIR protects the confidentiality of the contents of the Form EOIR-26 to the extent permitted by law. EOIR releases information in accordance with the Freedom of Information Act, the Privacy Act (including applicable System of Records Notices (SORNs)), and other

laws that may impose confidentiality restrictions on immigration-related information. *See, e.g.,* 8 U.S.C. § 1367; 8 C.F.R. § 1208.6.

11. Justification for Sensitive Questions - There are no questions of a sensitive nature in the Form EOIR-26.

12. Estimate of Hour Burden – Estimates used to calculate burden are based on the average annual number of responses received across Fiscal Years 2023, 2024, and 2025.

a. Number of Respondents	45,473
b. Number of Responses per Respondent	1
c. Total Annual responses	45,473
d. Hours per response	0.5
e. Total annual hourly reporting burden	22,736

The total annual reporting burden is derived by multiplying the number of respondents (45,473) by the frequency of response (1) by the number of hours per response (0.5): 45,473 respondents x 1 response per respondent x 0.5 hour per respondent = 22,736 burden hours. The number of estimated respondents includes the average 42,816 members of the public filing the form annually as well as the average 2,657 DHS attorneys annually filing appeals of Immigration Judge decisions. It is estimated that the total time to read and complete the form and gather all materials is no more than 30 minutes.

13. Estimate of Cost Burden – Estimates used to calculate costs are based on the average annual

number of responses received across Fiscal Years 2023, 2024, and 2025, median hourly wage data from 2025, and the FY2027 form filing fee. The total estimated annual public cost is $13,371,079.60. There are no capital or start-up costs associated with this information collection. For respondents/applicants who are subjects of immigration proceedings, there is a fee of $1,060 to file a Form EOIR-26 with the Board, though respondents/applicants may seek to have the filing fee waived by submitting Form EOIR-26A, Fee Waiver Request (OMB No. 1125-0003). The filing fee requirement does not apply to forms filed by DHS ICE. 8 C.F.R. § 1003.8(a)(2)(vi). The printing cost is estimated at $0.10 per page, or $0.70 per form ($0.10 per page x 7 pages). For forms filed by mail, there is an estimated postage cost of $10.10 per form. However, printing and postage costs may be avoided by completing and filing the form electronically. Of the total number of responses received annually, 32,339 (71%) are filed electronically and 13,134 (29%) are filed by mail or hand delivery. Of the 13,134 forms received by mail or hand delivery, 12,487 are submitted by respondents/applicants who are subject to the filing fee requirement and 647 are submitted by DHS representatives who are exempt from the filing fee requirement. Assuming an individual prints and files the form by mail and does not obtain a waiver of the filing fee, the upper bound of the estimated public cost is determined by totaling the filing fee, printing cost, and postage of all paper forms submitted by members of the public and DHS representatives:

Cost	**Individual**	**DHS**
Printing	$0.70 per response	$0.70 per response
Postage	$10.10 per response	$10.10 per response
Filing Fee	$1,060 per response	$0 per response
Total Per Response	$1,070.80	$10.80

Total for All Paper Responses Filed	***$1070.80 x 12,487 = $13,371,079.60***	***$10.80 x 647 = $6,987.60***

For informational purposes, there may be additional labor costs to appellants (not DHS), who may incur a cost if they hire a private practitioner to assist them with completing the Form EOIR-26. The Bureau of Labor Statistics reported that the median hourly wage for lawyers was $84.84.

14. Estimated Cost to Federal Government – Estimates used to calculate costs are based on the average annual number of responses received across Fiscal Years 2023, 2024, and 2025, and median hourly wage data from 2025. EOIR estimates that its annual government cost for printing, distributing, stocking, processing, and maintaining the Form EOIR-26 is $186,550.80. This amount includes printing costs of $9,193.80, which was derived by multiplying the 7 pages of the form by an estimated $0.10 per page by the estimated 13,134 responses with paper ROPs. This amount also includes stocking, processing, and maintenance costs of $177,357, which was derived by calculating the personnel and overhead costs to EOIR for processing both paper and electronic forms.

15. Reason for Change in Burden – There is an increase in the maximum estimated costs to individuals due to an adjustment for inflation in the filing fee amount. In Fiscal Years 2026 and 2027, EOIR adjusted the filing fee amount for inflation, increasing the filing fee from $1,010 in Fiscal Year 2025 to $1,060 for Fiscal Year 2027. There are no program changes or adjustments reported on the burden worksheet as a result of the proposed revisions to the form.

16. Plans for Publication - The information collected by the Form EOIR-26 will not be published. The information from this collection will be used internally by EOIR to receive and process appeals of IJ decisions.

17. Expiration Date – EOIR will display the expiration date for OMB approval of the information collection.

18. Exceptions to Certification Statement - EOIR does not request an exception to the certification of this information collection.

Section B. **Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.

PAPERWORK CERTIFICATION

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with, including paperwork regulations, any applicable statistical standards or directives, and any other information policy directives promulgated under 5 C.F.R. § 1320.

JUSTINE FUGA

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Justine Fuga
Associate General Counsel
Executive Office for Immigration Review
U.S. Department of Justice