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How Do I Appeal the Denial of My Petition or Application?

Background

When an immigration petition or application is denied or revoked by USCIS, that decision may, in most cases, be appealed to a higher authority for review. In immigration proceedings, the appellate review authority is divided between two separate government agencies: the Administrative Appeals Office (AAO) within USCIS, and the Board of Immigration Appeals (BIA), under the jurisdiction of the Executive Office of Immigration Review, United States Department of Justice.

If a petition or application is denied or revoked, you should carefully review the written decision that is issued by USCIS. The notice will inform you of the reasons for the decision, notify you of the proper appellate jurisdiction, the applicable deadlines, and provide you with the correct USCIS form for filing an appeal.

Who May Appeal?

Only the person who submitted the original application or petition may file the appeal. The beneficiary of a visa petition may not appeal the decision. For instance, if a United States employer petitioned for an immigrant visa for an employee living abroad, only the United States employer may appeal the denial. The employee living abroad may not appeal the denial.

The person appealing the decision may be represented by an attorney or representative. If the petitioner is represented, the appeal must be accompanied by a properly executed USCIS Form G-28 (Notice of Entry or Appearance as Attorney or Representative). The Form G-28 must be signed by both the attorney or representative and the person who filed the original petition or application.

How Do I Appeal?

Review Form I-292 as well as the notice of denial that accompanied the adverse decision to determine whether or not you may appeal

Related Links

[U.S. Field Offices](#)[Form I-290-B](#)[Form G-28](#)[G-28, Notice of Entr...](#)[+ SHARE THIS PAGE](#)

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*Cited in Ahmed v. Holder,
No. 06-71891 archived on June 26, 2009*

the denial of your petition or application. The decision will inform you of the proper appellate jurisdiction and provide you with the correct form.

If you want to appeal the denial of a petition or application, the notice of appeal must be filed within 30 days of the date of the decision. If you receive the decision by mail, you must file the appeal within 33 days of the date of the decision. If you wish to appeal the revocation of an approved immigrant petition, you must file the appeal within 15 days of the date of the decision, or within 18 days of the date of the decision if the decision is received by mail.

If the Administrative Appeals Office has jurisdiction over the decision, the notice of appeal must be filed on Form I-290B (Notice of Appeal to the Administrative Appeal Office). The appeal must be filed with the office that made the original decision. A brief (explanation) may be filed in support of your appeal. A fee is required and must be included. If you require a fee waiver, please see fee waiver request procedures, and the USCIS fee waiver policy memorandum. You can open any of the Forms G-28, I-292, or I-290B by navigating to the Related Links section in the upper right corner of this page. Forms are also available by calling 1-800-870-3676 to request printed copies by mail.

What Are Current Processing Times for the Administrative Appeals Office?

AAO Processing Times as of March 18, 2009		
Case Type		Time
I-129 F	Petition for Fiancée	Current
I-129 H1B	Nonimmigrant Specialty Occupation Worker	13 Months
I-129 H2, H3	Temporary Nonimmigrant Worker	Current
I-129 H3	Temporary Nonimmigrant Worker	Current
I-129 L	Nonimmigrant Intracompany Transferee	Current
I-129 O	Nonimmigrant Extraordinary Ability Worker	Current

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I-129 P1, P2, P3	Athletes, Artists and Entertainers	Current
I-129 Q	Cultural Exchange Visitor	Current
I-131	Application for Travel Document	Current
I-140 EB1(A)	Alien with Extraordinary Ability	9 Months
I-140 EB1(B)	Outstanding Professor or Researcher	8 Months
I-140 EB1(C)	Multinational Manager or Executive	9 Months
I-140 EB2	(D) - Advanced Degree Professional	21 Months
I-140 EB2	(I) - National Interest Waiver	Current
I-140 EB3	(E) - Skilled or Professional Worker	22 Months
I-140 EB3	(G) - Other Worker	20 Months
I-212	Application to Reapply for Admission	Current
I-360 EB4	Petition for Religious Worker	Current
I-360 J	Special Immigrant Juvenile	Current
I - 360 VAWA	Violence Against Women Act Petition	9 Months
I-485	Cuban Adjustment Act Application	Current
I-485	LIFE Act Adjustment Application	Current
I-485	Section 13 Adjustment Application	Current
I-526 EB5	Alien Entrepreneur	8 Months
I-600	Petition for Orphan	Current
I-601	Application for Waiver of Inadmissibility	23 Months
I-612	Application for 212(e) Waiver	Current
I-687	Legalization Application for Temporary Residence	20 Months

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I-698	Legalization Adjustment Application	Current
I-700	Special Agricultural Worker	Current
I-821	Temporary Protected Status	Current
I-905	Application to Issue Cert for Health Care Workers	Current
I-914	Application for T Nonimmigrant Status	Current
N-470	Application to Preserve Residence	Current
N-565	Replacement Naturalization/Citizenship Document	Current
N-600	Certificate of Citizenship	Current
N-543	Certificate of Citizenship for Adopted Child	Current

"Current" means pending at the AAO for less than six months

Where Can I Find the Law?

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools and the appeals of denials of such petitions are now the responsibility of Immigration and Customs Enforcement. There is no appellate review of denials of extension of stay or change of nonimmigrant status. Only one appeal may be filed for each denial or revocation; there is no appellate review of an appellate decision.

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