

CRITICAL NEW CHANGES TO THE IMMIGRATION APPEALS PROCESS

An overview of key changes to the immigration
appeals process and what you must know now

FEBRUARY 2026

The U.S. Department of Justice has issued a new rule that changes how immigration appeals are handled. The new rule shortens the time you have to appeal—which is how you ask for another court to review an unfavorable decision from an immigration judge. The rule makes it harder to appeal because it shortens the timeline to file and prepare the case. This is especially difficult for those in custody. It also instructs the appeal court (the Board of Immigration Appeals or BIA) to dismiss most cases meaning that to fight a case, you will need to appeal again to a higher court, which can be very difficult and often costly.

WHEN WILL THIS CHANGE HAPPEN?

These changes are scheduled to take effect on **March 9, 2026**.

WHO DOES THIS APPLY TO?

This new rule applies to those who have cases in the immigration courts. If the judge denies your case (on or after March 9, 2026), you have less time to appeal. Filing an appeal is necessary to keep your case active and to have a chance at a higher court reviewing your case.

WHICH CASES ARE AFFECTED?

The rule only applies to decisions of the Immigration Judge or DHS issued **on or after March 9, 2026**.

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- Pending appeals at the BIA **will not** be affected by these changes.
- If the immigration judge issues a decision on your case between now and March 8, 2026, this new rule does not apply to your case.
- This rule **does not** apply to and **does not** affect federal court appeals.

WHAT ARE MY OPTIONS?

- People with cases in front of the immigration judge must be prepared to appeal right after the immigration judge's decision. The appeal is filed on Form EOIR-26 (accessible at <https://www.justice.gov/eoir/page/file/1327636/dl?inline>).
- For most cases, there will **only be 10 days** to file appeal papers with the fee or fee waiver. The fee for filing an appeal is \$1,030. The fee may be paid online at <https://epay.eoir.justice.gov/index>. You must submit a copy of the receipt with the EOIR-26 appeal form.
 - ▶ If you cannot afford the filing fee, you may request a fee waiver. If you are requesting a fee waiver, you must file a fee waiver request form at the same time as you file the appeal form. The fee waiver request form is Form EOIR-26A (accessible at <https://www.justice.gov/eoir/page/file/1237856/dl>).

If the BIA denies your fee waiver request, you will receive a rejection notice with 15-days to refile with proof of the \$1,030 fee payment. The best option is to have an attorney or legal representative for your case in front of the immigration judge. Talk to your attorney or legal representative about the plan for appeal before your case goes to a final hearing before the immigration judge.

To search for a legal service provider in the noncitizen's area, visit ilrc.me/findhelp. If you do not have an attorney or legal representative for your case with the immigration judge, be ready to say you want to appeal your case if the

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judge denies your application to stay. You will need to file your appeal within 10 days. You can still get an attorney after your case with the immigration judge. A legal representative can help file your appeal or help even after you file your appeal.

For more in depth information about the process of filing an appeal, visit the National Immigration Project's "Pro Se Guide to Filing a Notice of Appeal After Immigration Case Dismissal" accessible at <https://ninpilg.org/sites/default/files/2025-06/pro-se-bia-notice-appeal.pdf>.

- *Note that this resource was published on June 30, 2025, before this change to the appeals process was announced and before the filing fee was adjusted for inflation. The guide walks you through the process of filing an appeal but keep in mind that the filing fee is now \$1,030 and the deadlines for decisions entered on or after March 9, 2026 are the ones outlined in this document -- \$1,030 is the cost for filing an appeal and for decisions issued by the immigration court or DHS on or after March 9, 2026, you will only have 10 days to file an appeal.*

Here Is a Deeper Look at What Is Changing:

WHAT ARE THE CHANGES?

1. Shorter Appeal Deadline

Noncitizens will now **only have 10 calendar days** to file an appeal with the BIA after an immigration judge or DHS issues a decision. Previously, noncitizens had 30 calendar days to appeal.

- **Limited Exception:** Asylum cases will keep a 30-day appeal deadline, unless the asylum denial was only because of:
 - the one-year filing deadline,
 - a prior asylum denial, or

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- ▶ an asylum safe third country or asylum cooperative agreement.
- ▶ *If you are appealing an asylum application denial and you are unsure which deadline applies, you should assume that you only have 10 days to seek legal help immediately and file an appeal. Note that the 10 days is when the BIA receives the appeal and not the date when you ship it.*

2. Appeals Will No Longer Automatically Receive Full Review

Most appeals will default to quick dismissal unless a majority of permanent BIA members vote to fully review the case. If the BIA doesn't vote to review the case, the case will be treated as dismissed automatically. If the case is dismissed, the immigration judge's decision remains in place as the final decision on the case.

3. Faster Review of Appeals

If the BIA decides to review an appeal, both you and the DHS attorney will have to submit your written arguments (legal brief) at the same time. This means that you will not get an opportunity to review the government's arguments before submitting your own.

The rule also limits the circumstances when you can be granted an extension to submit your legal brief. In other words, the rule makes it harder for you to get extra time to submit your written arguments.

Additionally, the Board will no longer review or correct the transcript of your removal proceedings. This may increase the risk of errors or omissions in the transcript.

Lastly, the rule shortens the amount of time the BIA gets to make a decision on the appeal.

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WHY DOES THIS MATTER?

- Appeals will move much faster.
- Missing a deadline or making procedural mistakes can end an appeal.

WHAT COMMUNITY MEMBERS SHOULD DO?

- For decisions issued on or after March 9, 2026, you should no longer assume you have 30 days to appeal the immigration judge or DHS decision.
- You should seek legal advice as soon as possible, especially in asylum cases. To search for a legal service provider in your area, see ilrc.me/findhelp. Community organizations should prepare shorter timelines and the need for rapid legal referrals.

COULD THIS CHANGE?

Possibly. It is possible that the rule will be challenged in federal court. Follow ILRC for updates.

Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for **FREE** immigration legal services!

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