

GUIDE FOR DETAINED IMMIGRANTS



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The Northwest Immigrant Rights Project (NWIRP) is a non-profit organization. NWIRP is not part of the government. ICE/ERO did not prepare and is not responsible for the contents of this material. This pamphlet only provides general information and should not be considered specific legal advice for your case.

YOU CAN CALL US FROM THE NWDC FOR FREE!

1. Dial (1) for English or (2) for Spanish.
2. Enter your PIN number and then the # sign.
3. Dial (6) when prompted.
4. Enter the NWIRP Tacoma code: 2279 and then the # sign.
5. Wait for 30-60 seconds.
6. After listening to our message, leave your name, A number and a brief message. PLEASE SPEAK CLEARLY.

GENERAL INFORMATION

NOTICE TO APPEAR

The “Notice to Appear” is the document that tells you why the government thinks you should be deported from the United States. If you have not received your Notice to Appear yet, you should get a copy at your first hearing.

YOUR FIRST HEARING

Your first hearing will be a **Master Calendar** hearing. The Judge will explain the charges brought against you and will inform you of your rights. The Judge will then ask whether you agree or disagree with each charge in the Notice to Appear. You have the right to a lawyer, but the Government will not provide a lawyer. **You may ask the Judge for more time to find a lawyer.**

BOND

If you have a bond, it will remain valid until you have a final order from the judge. Bond is money paid to the government in return for your release from detention as a guarantee that you will return for all of your Court hearings and comply with the Judge’s final order.

If you did not get a bond amount, you may ask the Judge to set one or to consider reducing the bond by asking for a **Bond Hearing**. You can ask for a bond hearing even if you don’t have an immigration hearing yet. If you have certain criminal convictions, you may be subject to “mandatory detention,” which means the judge cannot give you a bond.

RELIEF FROM DEPORTATION

If you are deportable from the United States, but you can apply for one of the forms of relief, you will have to submit an application to the Judge. The Judge will then set an **Individual Hearing** to decide your case. Unlike the Master Calendar or Bond hearings, you will be the only detainee at your Individual Hearing.

APPEAL

If the Judge does not grant your application for relief and orders you removed, you can reserve your right to appeal the Judge's decision. If you reserve your right to appeal, the Board of Immigration Appeals must receive a "Notice of Appeal" filed by you within 30 days.

COURT NUMBER

You can call the Court's free number to find out when your next hearing is, the Immigration Judge's decision, and appeal deadlines: **1-800-898-7180 or 0111#**. *You must have your A# ready.*

DEFENSES AGAINST REMOVAL

(This is not a complete list.)

CITIZENSHIP

You may be a citizen if you answer “yes” to one of the following questions:

- Were you born in the United States?
- Do you have a parent or grandparent who was born in the US or who became a U.S. citizen before you turned 18?

ASYLUM, WITHHOLDING OF REMOVAL & TORTURE CONVENTION (FORM I-589)

You may be able to ask for **Asylum** if you fear you will be harmed if you return to your own country. The threat or harm must come from the government or someone the government cannot or will not control. You must show that the threat or harm is because of your **race, religion, nationality, political beliefs, or your membership in a particular group**. You are required to apply for asylum within one year of entry in the U.S. You cannot apply for asylum if you have been convicted of an aggravated felony.

To qualify for **Withholding of Removal**, you have to show that more likely than not your life or freedom would be threatened upon return to your homeland. If you have been convicted of a particularly serious crime, you will not be able to apply.

To qualify for protection under the **Convention Against Torture**, you must show that a government official or another person/group with the government’s consent would torture or kill you.

Unlike asylum, withholding of removal and protection under the Convention Against Torture do not allow you to get a green card or become a citizen in the future.

CANCELLATION OF REMOVAL: LPR (FORM EOIR 42-A)

If you are a legal permanent resident who violated certain immigration laws or committed certain crimes, you could lose your residency status. You may apply for a waiver if you meet **three** requirements: **(1)** you have been a legal permanent resident for at least **five** years; **(2)**, you have lived in the U.S. continuously for at least **seven** years after being legally admitted; and **(3)** you have not been convicted of an aggravated felony.

CANCELLATION OF REMOVAL: "10 YEAR" (FORM EOIR 42-B)

If you are **not** a legal permanent resident, you may be able to apply for your legal permanent residency if you meet the following **four** requirements: **(1)** you have lived in the U.S. continuously for at least the last 10 years; **(2)** you have a spouse, parent or child who is a U.S. citizen or legal permanent resident; **(3)** you can show that they would suffer exceptional and extremely unusual hardship if you were removed; and **(4)** you have not had certain criminal problems.

CANCELLATION OF REMOVAL: VAWA (FORM EOIR 42-B)

Special rules apply if you, or your child, have been physically or psychologically abused by a spouse or parent. The abuser must be a U.S. citizen or legal permanent resident. You must also meet the following requirements: **(1)** you have lived in the U.S. continuously for the last **three** years, **(2)** you have to show hardship to your child or yourself if you are removed, and **(3)** you have not had certain criminal problems.

SELF-PETITION (FORM I-360)

If you, or your child, have been physically or mentally abused by a spouse or parent who is a US citizen or lawful permanent resident, you may be eligible to receive an immigrant visa without the assistance or sponsorship of your abusive spouse or parent. You may also be eligible if you have recently been widowed by a U.S. citizen. If you have been abused by your parent, you must file a self-petition before you turn 21.

ADJUSTMENT OF STATUS: FAMILY VISA (FORM I-485)

Some family members can petition the CIS to give you legal permanent residence. One group is for **immediate relatives**, if you have:

- A U.S. citizen spouse.
- A U.S. citizen parent (if you are unmarried, and under 21).
- A U.S. citizen child 21 years or older.

If you are an **immediate relative** of one of these individuals, s/he can file a **Form I-130** with the CIS. You may be eligible to finish the adjustment process with the Judge if you originally came to the U.S. legally with a visa or parole. If you came illegally, your family member must have filed a petition on your behalf before **April 30, 2001**. Otherwise, you will have to finish the process through the US Consulate in your country.

ADJUSTMENT OF STATUS: REGISTRY (FORM I-485)

You may be eligible to apply for registry if you have resided in the United States continuously since January 1, 1972 and you can show that you are a person of good moral character.

CANCELLATION OF REMOVAL: NACARA (FORM I-881)

You can apply for NACARA if you are from El Salvador or Guatemala, and you can show that you entered the U.S. on or before 12/31/90 and applied for asylum on or before 12/31/91, or registered for the ABC class or TPS status before certain dates in 1991. You must also show: **(1)** You have lived in the U.S. for at least **seven** years, **(2)** you have not had certain criminal problems and **(3)** If you are the spouse or unmarried child of a person who is NACARA eligible, you will have to show that you would suffer extreme hardship if removed.

TEMPORARY PROTECTED STATUS (TPS) (FORM I-821)

Certain nationals are eligible to live and work in the U.S. temporarily. The list of countries includes: Honduras, El Salvador, Nicaragua, Somalia, Burundi, Liberia, and Sudan. If you are eligible for TPS, you can temporarily close your removal proceedings. For most countries, you must **already** have TPS to be eligible to renew unless you qualify under the exceptions for late registration. Certain convictions make you ineligible.

T & U VISAS

If you have been the victim of a crime while in the U.S. or if you were a victim of severe trafficking into the U.S., you may be eligible for temporary permission to live and work in the U.S. You will need to show that you are willing to cooperate, are already cooperating or have in the past cooperated with law enforcement to investigate or prosecute the person who committed the crime against you.

212(C) WAIVER FOR LAWFUL PERMANENT RESIDENTS (FORM I-191)

If you are a lawful permanent resident facing removal due to a criminal conviction from before 4/1/97, you may be eligible to apply for 212(c). 212(c) is an application that if approved would forgive you for your conviction and allow you to stay in the United States.

VOLUNTARY DEPARTURE & DEPORTATION

VOLUNTARY DEPARTURE

If you are not eligible for any of the defenses to removal but you want to try to return to the US **legally** in the future, you should consider asking for voluntary departure. You will not be eligible for voluntary departure if you have been convicted of certain crimes, if you have been granted voluntary departure in the past, or if you have previous deportations. If you are granted voluntary departure, you must leave the US and you must pay for your own ticket.

“BARS” TO RETURNING LEGALLY TO THE UNITED STATES

If you have lived in the U.S. for one year or longer since 4/1/97 without permission, you cannot return for ten years. If you have a way to return legally before the ten years, you may be able to apply for a waiver.

RE-ENTRY CHARGES

It is a crime to re-enter the U.S. without permission after you have been removed from the country. If you are found guilty in federal court, you can be sentenced to prison for up to twenty years.

AGGRAVATED FELONIES

You are not eligible for many forms of relief if you have been convicted of an aggravated felony under immigration law (which is **not** necessarily the same as an aggravated felony under criminal law). Both misdemeanors and felonies can be “aggravated felonies.” The following is a list of **SOME** possible aggravated felonies, but if you think you might have an aggravated felony, **consult a lawyer to be sure.**

Trafficking in Drugs (transport, distribute, import, sale, possession for sale)

Trafficking in Firearms

Trafficking in Explosives

Murder

Rape

Sexual Abuse of a Minor

Felony Alien Smuggling

Firearms Offenses

Gambling Offenses

Fraud or Tax Evasion (over \$10K)

Money Laundering (over \$10K)

Failures to Appear

Some crimes with a year or more sentence, whether you served the full sentence or not:

- **Theft**
- **Burglary**
- **Crime of Violence (e.g. assault)**
- **Document Fraud**
- **Obstructing Justice, Perjury**
- **Bribery, Counterfeiting, Forgery**

Note: “Attempt” crimes are treated the same as the crime itself.

BONDED OUT OR RELEASED?

If you are no longer at the Northwest Detention Center but need legal help, you can contact our other Washington offices.

If you live in Western Washington or Seattle, please call:

WESTERN WASHINGTON OFFICE

Hours: Monday to Friday 9:30AM - 12:00PM and 1:00PM - 4:30PM

Phone: 206.587.4009

Toll Free: 800.445.5771

If you live in Eastern or Central Washington please call:

GRANGER OFFICE

Hours: Monday to Friday 8:30AM - 12:00PM and 1:00PM - 4:30PM

Phone: 509.854.2100

Toll Free: 888.756.3641

WENATCHEE OFFICE

Hours: Monday to Friday 9:00AM - 5:00PM

Phone: 509.570.0054

Toll Free: 866.271.2084

LEAVING WASHINGTON STATE?

You can find other free legal services providers on the EOIR website:

<http://www.justice.gov/eoir/probono/states.htm>

