

UNDERSTANDING YOUR RIGHT TO AN ATTORNEY IN IMMIGRATION COURT

The immigration judge will tell you that “You have a right to an attorney at no expense to the government.” This means the government will not provide an attorney to represent you in your deportation hearings in immigration court. The government will not pay for an attorney, or help you find one. If you want an attorney, you must find your own.

Do I Need an Attorney?

You are not required to have an attorney, you can choose to speak for yourself in immigration court. But there are many reasons you may want an attorney.

1. Immigration law is very complicated. Here are ways an attorney can help:
 - a. Explain what happens in immigration court.
 - b. Learn about your situation and help determine if you might have a legal way to stay in the United States.
 - c. Help you prepare an “application for relief” from deportation.
 - d. Help gather the right kind of evidence to support your immigration case. Attorneys understand what kind of testimony and evidence will be most effective.
 - e. Prepare you for your individual “merits” hearing with the judge.
2. **People have a much better chance of winning their case in immigration court if they have an attorney, as much as 5-8 times more likely.**

The judge will ask if you want time to find an attorney. It may be helpful to talk to an attorney before deciding whether or not you want one to help you in court. If the judge gives you more time to find an attorney, start right away. Do not wait until your next hearing date is getting close. Most people have to make many, many phone calls in order to find an attorney to represent them in immigration court.

Important note to asylum seekers

If you are in the United States seeking protection from harm in your home country and plan to apply for asylum there is an important deadline for you to know. You must submit your asylum application (an I-589 application) to the court within one year of entering the United States. Even if you want an attorney to help you on your case, remember this one-year filing deadline. If you don't file your asylum application before the deadline you might not be eligible for asylum.

The judge may even give you an earlier deadline to submit your application. You must follow all deadlines set by the judge.. You may need to file your asylum application yourself while you search for an attorney.

How do I find an attorney?

1. The immigration judge will provide you with a list of pro-bono legal service providers (free attorneys) that represent people in immigration court.
 - a. There are not many legal service providers on this list and they are all very busy. You should try calling many times. Try different days of the week and at different times of the day. Always be sure to leave a message if no one answers the phone. When you leave a message:
 - Speak slowly; leave your name, phone number, and A# in your phone message.
 - If you can give a second phone number of someone you are staying with, also leave that phone number in your message.
 - If you have an email address you can leave that in your message.
 - If you text or use WhatsApp, say that in your message.
 - State the date and time of your next hearing.
 - If you are detained, make sure you state your detention location.
 - Repeat your name and number before hanging up the phone.
 - Do not worry if you don't speak English, you can leave a message in whatever language you speak. Be sure to say the name of the language you speak.
 - b. Just because you speak to someone, doesn't mean they will be able to represent you in immigration court. The free attorneys may not be able to take your case.
 - The organizations receive many requests and are not able to take every case.
 - You may earn too much money to qualify for free help.
 - They may not take cases for people in your particular situation or in the area where you live.
 - If they cannot take your case, they may be able to provide referrals to private attorneys. The free legal service providers will only refer you to qualified private attorneys.
2. You are not limited to the pro-bono legal service providers on the list from court. You may hire any attorney you wish. There are many private immigration attorneys. These are some things to know about hiring a private attorney:
 - a. Make sure you only hire a licensed attorney who practices immigration law, or a legal professional certified by the Board of Immigration Appeals. You may ask to see their law license or certification.
 - b. Friends, family, trusted neighbors, social service agencies, and clergy may be able to recommend an attorney.
 - c. You can search for an attorney on the internet, but always make sure they are licensed, practice immigration law, and provide removal defense in immigration court.
 - d. It is okay to ask an attorney about their experience, including how successful they have been in immigration court with your type of case.

- e. You do not have to hire the first attorney that says yes, you can talk to more than one and decide who you want to represent you. Don't sign any contract that states you cannot fire your attorney, or that charges you extra if you do.
- f. Depending on your immigration situation, an attorney may need to spend a lot of time to help you. This might cost many thousands of dollars. Only you can decide if this is something you want to or are able to do.
- g. Some private attorneys may also take cases for free or offer reduced fees, so don't be afraid to ask about a reduced fee or a payment plan.
- h. If you don't have enough money to hire an attorney for court, you may be able to pay for a consultation to discuss your case, learn about your chances of success, and get some advice. No attorney should guarantee an outcome, but should be able to discuss your chances.
- i. You can check to see if a Minnesota attorney has been disciplined by the state bar, the agency that licenses attorneys:
<https://lprb.mncourts.gov/LawyerSearch/Pages/default.aspx>
- j. You don't have to hire an attorney in your state. Immigration courts are federal, so any immigration attorney who is licensed in the US can represent you.
- k. Beware of Notarios, Notary Publics, or non-attorney advocates who charge money. They cannot represent you in immigration court or provide legal advice.

If you find an attorney

1. Decide what services you want from the attorney. You might decide to:
 - Hire them just to meet with you to discuss your situation, and explain your chances of success in immigration court. This will help you decide whether you want to hire them, or any attorney, to represent you in your immigration case.
 - Hire them to provide "limited representation" by helping you submit an application for deportation relief, but not represent you in court. This new option may cost less and be easier to find.
 - Hire them to help you file applications and represent you in court.
2. If an attorney agrees to represent you in immigration court, the attorney must file paperwork with the court before they appear in court. This form is called an E28.
3. Always make sure your attorney knows the date and time of your next hearing.

What if I don't find an attorney before my next hearing?

1. Your immigration case will continue whether or not you find an attorney, so **it is important to come to court for all of your scheduled hearings even if you do not have an attorney.** If you miss a hearing you can be ordered removed "in

absentia” – while you are not present. This means **you can be ordered deported if you do not show up for your hearing**. You must follow all the judge’s instructions or deadlines. If you don’t, the judge might consider your case “abandoned” and order you deported.

2. If you speak to an attorney who might be able to take your case but you have not made a final agreement before your next hearing in immigration court, make sure you bring the attorney’s name with you to court and explain the situation to the judge.
3. If you are having trouble finding an attorney you may be able to ask the judge for more time at your next hearing. They will not give you unlimited time, so it is important to start looking for an attorney right away and to make a good effort. If you don’t have an attorney the next time you go to court, the judge might ask what you have done to find an attorney, who you have called, and how many times. The judge will not keep rescheduling your hearing to give you more time. If you return to court without an attorney the judge may decide you must move forward with your case and speak for yourself, whether you are prepared or not.

How can I prepare my case if I never get an attorney?

There are many nongovernmental organizations that have helpful information on their websites for people who are representing themselves in court. If you have access to the internet you can try these.

The Advocates for Human Rights: <https://www.theadvocatesforhumanrights.org/Self-Help>
(English & Español)

Florence Immigrant and Refugee Rights Project: <https://firrp.org/resources/prose/>
(English & Español)

Freedom for Immigrants: <https://www.freedomforimmigrants.org/for-immigrants>



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