

Legal Orientation

Esperanza Immigrant Rights Project

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Who are we?

- We are a non-profit organization called:
Esperanza Immigrant Rights Project of Catholic Charities of Los Angeles.
- We do not work for the government, the court or immigration.
- Everything you tell us will be confidential.
- We cannot represent you in court but we can answer general questions you have about your case.



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Why are you here?

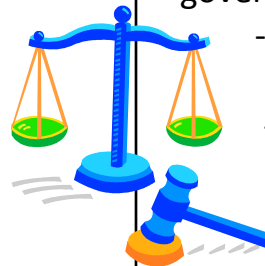
- You may have violated immigration laws because:
 - * You entered the country without inspection or are present without permission.
 - * You are a Legal Permanent Resident but committed a crime.
 - * You were deported before.
- You are currently in removal proceedings.
- Some of you may defend yourself against deportation.
- Others, unfortunately, will have to leave the country by Voluntary Departure or with an Order of Removal (Deportation).



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Who gets to see an immigration judge?

- You will see an immigration judge in 2-3 weeks if:
- You do not already have a prior removal (deportation) order.
 - You have not already signed a stipulated removal.
- You must pass an interview with an asylum officer before seeing the immigration judge if:
- You were caught crossing the border ("credible fear")
 - You were deported before ("reasonable fear")
- You do not have the right to see the immigration judge (but you may be able to file a motion to reopen proceedings) if:
- You were ordered removed *in absentia* (i.e. you did not show up to court) but were never actually removed from the country.



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Your Rights in Court

- You have the right to have an attorney represent you in court; however, a free attorney will not be given to you. You can either hire an attorney or represent yourself.
- You have the right to present evidence and witnesses.
- You have the right to examine evidence presented by the government.
- You have the right to question the government's witnesses.
- You have the right to appeal. If you think the judge made a legal error in your case, there are two higher courts that can review the judge's decision.

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Who will be at the court hearing?

-An Immigration Judge, who will make the decision about your case. The judge is neutral and does not work for ICE.

-An ICE attorney, who represents the government.

-You, if you are representing yourself. Or you and your immigration attorney if you hire one.

-An interpreter, who will interpret into your best language.

-Your family and friends, who can come support you during the hearing.



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There are three types of hearings

1. Bond Hearing. The Bond Hearing can be done with the preliminary hearing.

2. Preliminary Hearing better known as "Master Calendar Hearing."

3. Individual Hearing, also known as "Merits Hearing."



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What happens in a "Master Hearing"?

You will have many options in a "Master Hearing":

--Ask for a continuance, or more time. (For example: you need more time to hire an attorney).

--If you don't get bond, but you have a good case that is worth fighting, you will tell the judge how you want to defend yourself from a deportation.

--Ask for voluntary departure.

--Accept an order of deportation.

The judge will review with you a document called "Notice to Appear" (NTA)

*This document has the charges that the government has against you. These are the basis of your deportation.

*The NTA has your name, country of origin, date and manner of entry into the U.S. (with visa, passport or illegally). ***If any of the information on the NTA is incorrect tell the judge and do not accept the charges!***

•If the NTA includes criminal charges against you that are the basis for deportation and you are going to fight your case, then you should DENY the charges until you have the opportunity to review your criminal record.

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What happens in a "Merits Hearing"?

-You have the opportunity to present your evidence, documents and witnesses to defend against your removal (deportation).

-You should be prepared to tell the judge why you deserve to stay in the United States.

- The judge will decide if you can stay in the country.



<div data-bbox="19 14 77 57" data-label="Text">9</div> <div data-bbox="154 14 801 57" data-label="Section-Header"> <h2>What if I have criminal charges?</h2> </div> <div data-bbox="19 107 898 678" data-label="Text"> <p>-Some crimes will disqualify you from fighting your immigration case or will make it harder to stay in the U.S. Three categories of crimes affect your immigration case: <i>Aggravated Felonies</i>, <i>Crimes Involving Moral Turpitude</i>, and <i>Drugs</i>.</p> <p>-It is important to know that misdemeanors and felonies have different consequences in immigration law.</p> <p>-The judge will take your criminal case as is, without questioning whether or not you are actually guilty.</p> <p>-Your conviction still exists in immigration court even if it was expunged in criminal court. If you want to get rid of your criminal case, or get “post-conviction relief,” talk to a criminal attorney.</p> </div> <div data-bbox="724 114 956 378" data-label="Image"> </div>	<div data-bbox="1004 14 1062 57" data-label="Text">10</div> <div data-bbox="1188 14 1825 57" data-label="Section-Header"> <h2>What are Aggravated Felonies?</h2> </div> <div data-bbox="975 85 1748 257" data-label="Text"> <p>This is the name given to crimes that have serious immigration consequences. Some of these crimes include but are not limited to:</p> </div> <div data-bbox="975 264 1593 485" data-label="List-Group"> <ul style="list-style-type: none"> -Murder, rape, sexual abuse of a minor. -Selling drugs. (Not personal use) -Crimes of Violence or Theft Crimes with a sentence of 365 days or more. -Some firearm crimes. </div> <div data-bbox="1593 157 1903 506" data-label="Image"> </div> <div data-bbox="975 528 1864 621" data-label="Text"> <p>Consequences: If you have an aggravated felony, you will be disqualified from Bond and Voluntary Departure.</p> </div>
<div data-bbox="38 728 96 771" data-label="Text">11</div> <div data-bbox="222 728 879 828" data-label="Section-Header"> <h2>What is a Crime Involving Moral Turpitude (CIMT)?</h2> </div> <div data-bbox="19 856 937 978" data-label="Text"> <p>-There is no set definition for a CIMT, but generally includes crimes of robbery, fraud, violence against children or partners. Almost all sex crimes are included.</p> </div> <div data-bbox="19 1028 579 1156" data-label="Text"> <p>-It is always better to speak to an immigration attorney or to one of us to see if the crime may be a CIMT.</p> </div> <div data-bbox="589 1028 956 1378" data-label="Image"> </div>	<div data-bbox="1004 728 1062 771" data-label="Text">12</div> <div data-bbox="1188 728 1825 821" data-label="Section-Header"> <h2>How do drug convictions affect my immigration case?</h2> </div> <div data-bbox="975 856 1893 1078" data-label="Text"> <p>-Trafficking, Possession for Sale, Distribution, and Cultivation of drugs are all Aggravated Felonies. They disqualify you from Bond, Voluntary Departure, and almost all forms of relief to stay in the U.S.</p> <p>-Possession for Personal Use and Being under the Influence are not Aggravated Felonies, but still affect your Bond and immigration cases. There are a few exceptions:</p> </div> <div data-bbox="975 1085 1874 1313" data-label="List-Group"> <ol style="list-style-type: none"> 1. You had 30 grams or less of marijuana. 2. You were convicted for simple possession and completed a rehab program (DEJ, Prop 36, PC 1203.4), without any violations, <u>before</u> July 14, 2011, and had no drug convictions since then (<i>Lujan</i>). 3. Your criminal court records simply said “controlled substance” and did not specify the type of drug (<i>Descamps</i>). </div> <div data-bbox="1709 1206 1922 1420" data-label="Image"> </div>

What are possible defenses against removal (deportation)?

1. CITIZENSHIP: You may be a citizen without knowing! If your parents or grandparents were U.S. Citizens, please talk to an attorney.

2. CANCELLATION OF REMOVAL FOR LAWFUL PERMANENT RESIDENTS: (APPLICATION EOIR 42 A)

You qualify if you satisfy all of these requirements: ☐ You have lawfully resided in the U.S. for 7 years or more (you must have been here for 7 years before committing certain criminal offenses or being placed in removal (deportation) proceedings). ☐ You have been a lawful permanent resident for at least 5 years. ☐ You do not have aggravated felonies. ☐ There are more favorable factors than negative factors in your case.

3. CANCELLATION OF REMOVAL FOR NON -LAWFUL PERMANENT RESIDENTS: (APPLICATION EOIR 42 B)

You qualify if you satisfy all of these requirements: ☐ You have lived in the U.S. continuously for 10 years or more (you must have been here for 10 years before committing certain criminal offenses or being placed in removal (deportation) proceedings). ☐ You have had good moral character, no aggravated felonies, no drug crimes, and no CIMTs. ☐ You have a Spouse, Parent or Child who is a U.S. citizen or lawful permanent resident and who will suffer exceptional and extremely unusual hardship if you are removed from the U.S.

4. CANCELLATION OF REMOVAL FOR VICTIMS OF DOMESTIC VIOLENCE: (APPLICATION EOIR 42 B)

You qualify if you satisfy all of these requirements: ☐ You have a Spouse, Parent or Child who is a U.S. citizen or lawful permanent resident. ☐ This person abused you or your child. ☐ You have lived in the U.S. for the past 3 years or more. ☐ You have had good moral character, no aggravated felonies, no drug crimes, and no CIMTs.

5. 212 (C) WAIVER: (APPLICATION I-191)

You may qualify if you satisfy all of the following: ☐ You have been a lawful permanent resident for at least 7 years. ☐ You pled guilty for your crime before April 1, 1997. ☐ You served less than 5 years in jail.

6. ASYLUM, WITHHOLDING OF REMOVAL, CONVENTION AGAINST TORTURE: (APPLICATION I-589)

You can ask for these defenses if you are afraid to go back to your country because you will be persecuted, tortured, or killed. Asylum and Withholding must be based on you being a part of a particular: Religion, Race, Nationality, Political Opinion, or Social Group.

7. U VISA (APPLICATION I-918 & I-918 Supplement B)

You have been a victim of certain violent crimes in the U.S., you cooperated with the authorities to investigate, and authorities certify your cooperation. You submit this application to an immigration office in Vermont. You may have to remain detained while the application is pending

8. T VISA (APPLICATION I-914)

You have been a victim of human trafficking (for example, forced labor). You submit this application to an immigration office in Vermont.

9. ADJUSTMENT OF STATUS (APPLICATIONS I-130, I-485, G-325, I -864; sometimes I-485 A & I-140, etc.)

You may be able to get your lawful permanent residence through a family member or employer if you meet the following:

- ☐ You entered the country with papers or were "waved through."
- ☐ You entered the country without permission, but an employer or family petition was filed for you on or before April 30, 2001 (Section 245(i)).
- ☐ If you have criminal charges, you may try to get a 212(h) waiver (application I-601). But remember: there is no waiver for drug crimes.
- ☐ You may be able to adjust your status immediately (in Immigration Court, without having to leave the country) if you have a U.S. citizen wife; U.S. citizen child over age 21; or if you are under 21 and single and one of your parents is a U.S. citizen.
- ☐ You may also be able to get your immigration papers if: (a) your parents are U.S. citizens and you are over 21 years old; (b) your parents are lawful permanent residents; (c) your wife is a lawful permanent resident; (d) your siblings are U.S. citizens. BUT you cannot do this immediately - you may have to wait many years until there is a visa available.



If you have lived in the U.S. unlawfully, you may be prohibited from returning to the country for 3 or 10 years, depending on how long your "Unlawful Presence" was. If you leave the country after having accumulated unlawful presence, even if you were granted Voluntary Departure, the next time you try to re-enter the country, the government may impose a punishment against you, unless you get a waiver.



If you are deported or leave the U.S. with a Voluntary Departure, then return to the country without permission, the government will impose a bar against you. You will be prohibited from coming to the U.S. again for another 10 years. There is no waiver available.

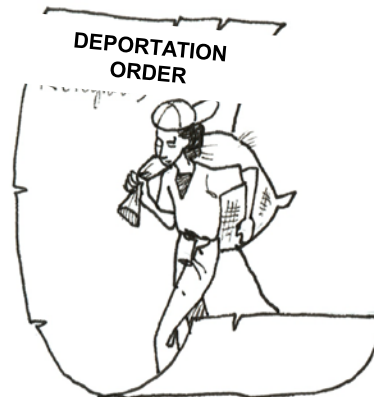


Only an Immigration Judge can grant you Voluntary Departure. Requirements:

- *You have not been previously deported, and have not received voluntary departure from a judge before.
- *You do not have an aggravated felony.
- *You are able to buy a plane ticket back to your country and you can get a passport to travel, unless you are from Mexico.

REMOVAL (DEPORTATION)

- You can get it from ICE or a Judge.
- You do not have to pay for your plane ticket
- You cannot return to the U.S. for 10 years, unless you can get a waiver.
- Remember, you could be sentenced to federal prison if you try to return to the U.S. illegally, because this is a federal crime.



VOLUNTARY DEPARTURE

- You have to wait to see the Immigration Judge.
- You have to pay your plane ticket if you are not from Mexico.
- You may get a 10 year bar for Unlawful Presence, but it is easier to get permission to return to the country legally.

Bond: to be able to fight your case from outside the detention center

After arriving at Adelanto, you may receive a bond from an Immigration Official. If you can pay it, you do not have to see the Judge to obtain a bond.

-If ICE gives you a bond that is too high you may see the Judge and ask to have the bond lowered.

-The minimum bond a Judge can give is \$1,500. There is no maximum amount.

BOND HEARING: You only get one bond hearing. You must be prepared with your testimony and documents.

After you are released on bond, you will get the bond money back (whether or not you win your case) as long as you always show up to court and comply with the Judge's decision.

Requirements:

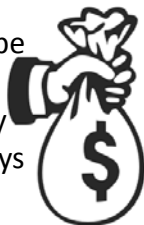
NO aggravated felonies

NO drug charges (unless one of exceptions)

NO CIMT if you entered without documents

NO 2 CIMTs or more if you entered with a visa or are a lawful permanent resident.

-You must also prove to the Judge that you are not a danger to society and that you will show up to all your court hearings. If you do not attend your hearing the Judge will order you deported in absentia.



WARNING: Immigration Fraud

-If you hire someone to defend you in your immigration case, make sure that person is an immigration attorney, not a NOTARY.

-Be careful if the person charges a lot of money for your case.

-Keep a copy of all documents, receipts, and contracts.

- If you are not sure, please ask us.



Other Services We Offer

Besides the class we offered today, we also:

☐ Can give you an individual orientation about your case.

☐ Have more detailed classes about other immigration subjects, like bond or deportation defenses.

How To Reach Us

Fill out a form called "Request for Services" and place it in the box labeled "LOP." We will call you as soon as possible but cannot guarantee a turn-around time. The response may vary depending on the amount of new arrivals to Adelanto and number of requests that are pending. On average we should respond within a week. Please be patient. Do not submit multiple requests.

VERY IMPORTANT

>>>> When you complete the "Request for Services" form, make sure to read it carefully and complete all of it. Otherwise, you may not be called.