

THE GOVERNMENT MAY PLACE YOU IN DEPORTATION PROCEEDINGS WHILE YOU ARE IN PRISON

WHAT DO YOU NEED TO KNOW?

INSTITUTIONAL HEARING PROGRAM ("IHP")

- What is IHP? Some prisons have a program called IHP where your deportation proceedings are conducted while you are still serving your criminal sentence.
- If you are placed in IHP, the government will try to **start and finish** your removal proceedings while you are still serving your prison sentence. If your case is not finished before your sentence ends you may be transferred to an ICE detention facility in order to complete your immigration case.
- The government places some, but not all, immigrants serving prison time in IHP. You can't opt out of IHP. Even if you are not placed in IHP while you are in prison, ICE may still try to deport you after you finish your prison sentence.



YOU ARE ALLOWED TO HAVE A LAWYER TO HELP YOU FIGHT YOUR DEPORTATION, BUT YOU MUST FIND ONE

- Unlike in your criminal case, for your immigration proceedings you must find and hire your own attorney at your own expense.
- You have the right to ask the judge to delay your hearing at least once to find yourself a lawyer.

Finding a lawyer can take a while, so it is best to start now.
Use this link to find a free or low-cost lawyer near you: <https://bit.ly/3h6txap>



YOU HAVE THE RIGHT TO FIGHT YOUR CASE EVEN IF YOU CAN'T FIND A LAWYER

- There are many defenses to deportation. You can find self-help resources about some potential defenses here: <https://law.stanford.edu/immigrants-rights-clinic/know-your-rights-and-pro-se-materials/>. If you think one of the defenses applies in your case, you can tell the judge why.
- You can present evidence to the judge.
- You have the right to a court interpreter that speaks the language you feel most comfortable speaking.



IT IS IMPORTANT TO TELL THE JUDGE IF....

- You are scared to go back to your country of origin.
- You think you might be a U.S. citizen.
- You have U.S. citizen or permanent resident (green card) family members.
- You were a victim of a crime, including domestic violence or trafficking, in the U.S.



IHP WILL NOT MAKE YOUR PRISON SENTENCE SHORTER

- Even if you accept deportation, you won't be deported until after you finish your sentence.



IF YOU ARE PLACED IN DEPORTATION PROCEEDINGS WHILE IN PRISON

WHAT CAN YOU EXPECT?

HOW DOES IT START?

The government sends you a document that says why the government thinks you don't have a legal right to stay in the U.S. This document is called a "Notice to Appear." If you get a Notice to Appear and your hearing is scheduled while you are still in prison, this means that you have been placed in the Institutional Hearing Program.

"MASTER CALENDAR HEARING"

Your first immigration court hearing (usually held over videoconference) is called a master calendar hearing. At this hearing the judge will ask you if you want time to look for an attorney.

If you are a lawful permanent resident (you have a green card), the government has to prove that your conviction means you should be deported. If you have a green card, you *do not* have to agree that you are deportable when the judge asks you.

DO YOU WANT TO FIGHT YOUR DEPORTATION?

NO

YES

At the master calendar hearing you can tell the judge that you don't want to fight your case. The judge will enter an order of deportation at the hearing, meaning you probably cannot ever legally return to the U.S.

You must complete your prison sentence. The government will only deport you after your sentence ends.

If you are not sure if you want to fight your case, **ask the judge for more time**. Tell the judge you're thinking about how to proceed with your case.

If you know that you want to fight your case and you don't have a lawyer, **tell the judge you would like more time to try to find a lawyer**. If you can't find an attorney, you'll have to represent yourself. You can fight your case even if you don't have a lawyer.

SUBMIT YOUR FORMS

The judge will give you time to prepare the forms that explain why you should be allowed to stay. The judge will also make sure that the forms are provided to you. After you give the forms to the judge, the judge will schedule an individual calendar hearing.

"INDIVIDUAL CALENDAR HEARING"

This is the final hearing. It is typically a longer hearing, also usually over video. Like a trial, this is when the judge will look at your evidence and hear your testimony. During the hearing you can present evidence and you should **tell the judge why you think you should be allowed to stay in the U.S.**

IMMIGRATION JUDGE DECISION

The judge will make a decision about whether to let you stay in the U.S. The judge will give you a written document that tells you the judge's decision. This might happen the same day or the judge might send you a letter to your address in prison with the decision.

If you lose your case and you disagree with the judge's decision, you have the right to ask another court to review the judge's decision. This is called an appeal. Similarly, if you win and the government disagrees, the government can appeal. If you want to appeal, the judge will give you instructions about what to do. You have 30 days to appeal.

IF THERE IS AN APPEAL

You will have to wait. The new court will send you a written decision explaining whether it agrees or disagrees with the immigration judge. If the new court disagrees, it can determine a new winner or send the case back to the judge for a new decision. If your sentence ends while the new court is still reviewing the judge's decision, you will probably be detained by ICE until your case ends.

IF THERE IS NO APPEAL

If you win and the government doesn't appeal, the government can't deport you. Usually, you'll be released to your family when you finish your sentence.

If you lose and you chose not to appeal, the government will try to deport you after your sentence ends.