



U.S. Department of Justice
Executive Office for Immigration Review
Office of Policy
5107 Leesburg Pike
Falls Church, Virginia 22041

FACT SHEET

Contact: Communications and Legislative Affairs Division
Phone: 703-305-0289 Fax: 703-605-0365
PAO.eoir@usdoj.gov @DOJ_eoir
www.justice.gov/eoir

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BIA Emergency Stay Requests

Contact Information:

Emergency Stay Unit (ESU)
703-306-0093
Monday through Friday, except federal holidays
9 a.m. – 5:30 p.m. Eastern time

What is a Stay?

A “stay” decision issued by the Board of Immigration Appeals (BIA) temporarily prevents the Department of Homeland Security (DHS) from executing an order of removal, deportation, or exclusion. A stay may also be issued by the BIA to temporarily prevent release of a respondent on bond.

Some stays are automatic, while others are discretionary. Automatic stays do not have to be requested. For example, when a respondent appeals an immigration judge’s removal decision, the removal order is automatically stayed while the appeal is pending. Discretionary stays have to be requested. For example, if a respondent is seeking to reopen an immigration judge’s removal order, the stay is not automatic, and the respondent has to ask for one.

What is an Emergency Stay?

An “emergency stay” is a stay that is based on an action that is clearly about to happen. The BIA generally will consider a stay request an emergency in one of two situations: (1) the respondent’s removal from the United States is imminent, DHS has confirmed a specific removal date and time, the respondent is in the physical custody of DHS, and the respondent requests an

emergency stay in writing; and (2) the respondent's release from custody is imminent, and DHS requests an emergency stay of release from detention in writing.

How is an Emergency Stay Request Made?

The BIA will consider a request for an emergency stay if (1) the request is in writing, and (2) one of the following is true:

- A motion is pending before the BIA
- An appeal of an immigration judge motion to reopen is pending before the BIA
- An appeal of an immigration judge bond decision is pending before the BIA
- A case is pending before the BIA that has been remanded from a U.S. Circuit Court
- The BIA decides, in its own discretion, to grant a stay

To file an emergency stay request, contact the BIA's Emergency Stay Unit at the phone number above for specific instructions. *Do not contact the Clerk's Office of the BIA or any other BIA office.* Only the Emergency Stay Unit can process an emergency stay request.

Will the Filing of an Emergency Stay Request Stop Removal or Release?

The filing of an emergency stay request does not, by itself, stop a respondent from being removed or released. The stay must be *granted* by the Board for that to happen. Additionally, either party may file a motion to reconsider the Board's stay order. For further instructions on filing the motion, contact the Emergency Stay Unit at the telephone number above.

If an Emergency Stay is Granted, how Long is it Effective?

The stay is in effect while an appeal or motion is pending before the Board. Once that appeal or motion is decided, the stay is lifted. If the respondent has been ordered removed, DHS may then execute the removal order.

— EOIR —

The Executive Office for Immigration Review (EOIR) is an agency within the Department of Justice. EOIR's mission is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings. EOIR is committed to ensuring fairness in all the cases it adjudicates.