



A denied immigration petition from USCIS is not always the end of the road. In many situations, USCIS allows an **appeal** (asking a different authority to review the decision) or a **motion** (asking the same USCIS office to review its own decision). The correct next step depends on the specific form type, the reason for denial or revocation, and the instructions printed on the decision notice.

This guide walks through the appeal and motion process in a practical, step by step way, including deadlines, who can file, where to file, and what the government expects to see.

Start with the denial or revocation notice

USCIS denial and revocation notices usually include three critical items:

1. **Whether the decision can be appealed** (and to whom).
2. **Which form must be used** (often Form I-290B, but not always).
3. **Where it must be filed** and the deadline.

These notices control. If the notice says there is **no appeal right**, filing an appeal anyway typically results in rejection or dismissal. In that scenario, a **motion to reopen** or **motion to reconsider** may still be available (with some exceptions depending on the benefit type and procedural posture).

Appeal vs motion, the difference matters

Appeal

An **appeal** asks a separate reviewing authority to examine the unfavorable decision and issue a new decision. Depending on the benefit type, appeals go to:

- **AAO** (Administrative Appeals Office), a USCIS appellate body.
- **BIA** (Board of Immigration Appeals), under the U.S. Department of Justice, with jurisdiction over certain family based and other matters.

Even when an AAO appeal is filed, the process starts at the USCIS office that denied the case.

Motion

A **motion** asks the **same USCIS office** that made the decision to take another look. Motions come in two main types:

- **Motion to Reopen:** based on *new facts* supported by affidavits or documentary evidence.
- **Motion to Reconsider:** based on *incorrect application of law or policy*, supported by legal authority and based only on the record that

existed at the time of decision.

Motions are especially important because some cases are not appealable but still allow a motion.

Who is allowed to file the appeal or motion

In most petition based cases, **only the petitioner** may file an appeal or motion. The beneficiary generally cannot.

There are important exceptions where the beneficiary can file because the beneficiary is also legally treated as the petitioner, for example:

- Certain **VAWA self-petitions**
- **Widow(er) of a U.S. citizen** petitions
- Other authorized self-petition categories (including some self-filed employment based filings)

Special rule for certain Form I-140 revocation situations

For employer filed **Form I-140**, the beneficiary may be able to file an appeal or motion **in a revocation proceeding** only if all required

conditions apply, including:

- USCIS approved the Form I-140 and later **revoked** it, and
- The beneficiary filed **Form I-485** based on that I-140 and the I-485 has been **pending 180 days or more**, and
- The beneficiary submitted **Supplement J** (after Jan. 17, 2017) or made a portability request before that date through other written means, and
- USCIS **approved** the portability request.

Also, if a beneficiary with an approved I-140 receives a **Notice of Intent to Revoke (NOIR)** and meets the relevant criteria above, USCIS may allow the beneficiary to provide evidence in response to the NOIR.

Where appeals go: AAO vs BIA

AAO

Many employment based and certain humanitarian or other petition types that are appealable go to the **AAO**. Key point: the appeal is not mailed “to AAO.” It is filed with the office listed on the decision notice.



AAO appeals involve an [initial field review](#). That means the USCIS office that denied the case reviews the appeal first and may:

- Treat the filing as a motion to reopen or reconsider and approve the case, or
- Forward the appeal and full record to AAO for decision.

BIA

Some family based petition appeals, including many **Form I-130** denials, are appealable to the **BIA**, and use a different form and process (more below). Again, the appeal is filed with the office that made the decision, not directly with the BIA.

Which form to use

Most appeals and motions of USCIS denials use:

- [Form I-290B, Notice of Appeal or Motion](#)

But there are major exceptions:



- **Naturalization (Form N-400) denial:** use **Form N-336**, Request for Hearing on a Decision in Naturalization Proceedings under Section 336.
- Certain legalization and special immigrant worker related categories and termination of lawful temporary resident status under INA 210/245A: use **Form I-694**.
- **Appeals to the BIA** from certain DHS officer decisions (including many I-130 denials): use **Form EOIR-29**, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer.

The decision notice should state the correct form. Using the wrong form can lead to rejection or dismissal.

Deadlines are strict (and easy to miscalculate)

The appeal or motion deadline is usually counted from the **date on the decision**, not the date it was received.

Common time limits:

- **30 days** from the decision date for many denials.
- **15 days** for some revocations.

If the decision was mailed, USCIS often adds **three days**. This commonly becomes:

- **33 days** for a 30-day denial deadline
- **18 days** for a 15-day revocation deadline

No extensions are available. If filing by mail, build in delivery time. A late filing usually ends the administrative review path.

Filing location and delivery issues

The denial or revocation notice lists the filing address. USCIS also publishes direct filing addresses for Form I-290B, but the decision notice should be treated as the primary instruction set.

Important practical point: **do not send forms or fees directly to AAO**. Even AAO appeals are routed through the USCIS office that issued the decision.

Fees, fee waivers, and exemptions

Form I-290B has a filing fee listed on the USCIS Fee Schedule. But:

- Some categories are **fee exempt**, including certain humanitarian benefits (often including Special Immigrant Juveniles, trafficking or crime victim related benefits, and some VAWA related filings). If fee exempt, there is no need to submit a fee waiver request.
- A **fee waiver** may be possible only if the underlying application or petition either has no fee or the fee is legally waivable. A fee waiver request is made on **Form I-912** with evidence of inability to pay.

Fee strategy should match the case type. Submitting a fee waiver where it is not allowed can result in rejection.

For detailed information about these processes and policies, you can refer to [USCIS Policy Manual](#).

What to include in the filing

The core packet

A strong appeal or motion packet is usually organized around:

- The denial or revocation notice
- The form (I-290B, EOIR-29, N-336, or I-694 as applicable)
- A legal brief or detailed statement



- Supporting exhibits (where permitted and relevant)
- Proof of timely filing and correct fee or fee waiver material (if allowed)

Briefs on appeal

A brief is not always required, but it is often the difference between a dismissed appeal and a viable one.

A brief should directly identify:

- The **erroneous conclusions of law** and/or
- The **erroneous findings of fact**

Generic disagreement is not enough. If the appeal does not explain what USCIS got wrong, the appeal can be dismissed.

For AAO appeals, the brief and supporting evidence can often be submitted:

- With the appeal, or
- Directly to AAO within **30 days after filing** the appeal (as allowed by AAO procedures for the case type)

The safest approach is often to file a complete packet upfront, unless there is a deliberate and well managed reason to brief later.

Motions, what USCIS expects

Motion to Reopen

A motion to reopen must be based on **new facts** and include supporting evidence. “New facts” generally means facts not previously submitted in the proceeding. Repackaging the same record rarely works.

The new facts also need to be **material** to the reason for denial and show that eligibility existed at the time of filing the underlying application or petition.

Special scenario: denial for abandonment (like failure to respond to an RFE or NOID). A motion to reopen can be viable if, for example:

- The requested evidence was not material, or
- Required initial evidence was already submitted, or
- The request was complied with in time, or
- The notice was not sent to the address of record



Motion to Reconsider

A motion to reconsider argues that the decision was legally incorrect based on the record at the time USCIS decided the case.

Key requirements: No new facts or evidence are permitted. The motion must cite statutes, regulations, or precedent decisions, and must show the decision was incorrect due to misapplication of law or policy based on the existing record (see [8 CFR 103.5\(a\)\(3\)](#)).

Practically, this means a motion to reconsider needs legal precision. It should read like a targeted legal correction, not a re-argument of the case.

What an appeal does not do

Filing an appeal does **not** delay the effective date of the decision, extend a lawful status period, extend a departure date, or create authorization to remain in the United States if a separate status problem exists.

That is a major planning issue in many cases. The appeal is about reviewing the petition decision, not automatically protecting status.

Expected timelines

For AAO cases, AAO has stated it aims to complete appellate review within about **180 days** after receiving the complete case file following initial field review. Some cases take longer due to case complexity, file transfer delays, or requests for additional documentation.

BIA timelines vary by category and workload.

A practical decision framework after a denial

A clean way to choose the next step:

1. **Check the notice:** appealable or not, which form, which deadline, where to file.
2. **Choose the right vehicle:** an appeal for AAO or BIA legal or factual error; a motion to reopen if new evidence fixes eligibility gaps; or a motion to reconsider if there was a clear legal misapplication on the existing record.
3. Confirm **standing:** petitioner vs. beneficiary eligibility to file.
4. Confirm **deadline math** and mailing strategy.
5. Build a packet that matches the [standard of review](#) and addresses the actual denial grounds.

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