

THE BASICS OF A NOTICE TO APPEAR

A Notice to Appear (NTA), also known as Form I-862, is a document made by the U.S. Department of Homeland Security (DHS) when they think someone can be kicked out of or not allowed into the United States. Once DHS gives this form to an immigration court, the court has power over the case, and the process to decide if the person should leave the country starts. At the end, an immigration judge will say if the person has to go or if they can stay.

This flyer provides an introduction to the form. For more information, please contact your attorney.

Who Issues an NTA?

There are three DHS agencies that can issue NTAs: U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP). Supervisors within these agencies can sign an NTA and serve it on a non-citizen. However, NTAs are not always accurate. It is a good idea to consult with an immigration attorney if you or a loved one has questions about an NTA.

The Elements of an NTA

- **File Number:** The A-number or file number is unique to each individual. If an individual has not yet been assigned an A-number by DHS, they will be given one when they receive an NTA. The A-number is found in the upper right-hand corner of the NTA.
- **Respondent:** The person who has received the NTA is referred to as the Respondent during removal proceedings before the immigration court. The Respondent's name, date of birth, address, and phone number appear at the top of the NTA. You must review this information and confirm that it is correct.
- **Type of Proceeding:** Below the Respondent's name and address, there are three boxes. One of the following boxes should be checked:
 - You are an arriving alien.
 - You are an alien present in the United States who has not been admitted or paroled.
 - You have been admitted to the United States but are removable for the reasons stated below.

Each category (arriving alien, present without inspection, and admitted but removable) has a special legal meaning that an immigration attorney can help you understand.

- **Allegations:** The next section of the NTA lists DHS' allegations against the Respondent. These are the facts that, according to DHS, make the person inadmissible or removable. It is important to verify that these allegations are accurate.
- **Charge of removability:** Under the allegations, the NTA will include language about the immigration violations DHS is charging the individual with. This section of the NTA states: "On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law..." The NTA will then list the sections of the law that apply to the individual's case. The sections start with "Section 212" (when DHS thinks someone is inadmissible to the United States) or "Section 237" (when DHS thinks someone has been lawfully admitted to the United States but did something to make them removable from the United States). The section numbers refer to parts of the United States immigration law, known as the Immigration and Nationality Act.
- **Immigration court hearing information:** The bottom of the first page of the NTA should contain the address of the immigration court where your case will be, the date and time of the first hearing, and the signature of the officer who issued the NTA.

Helpful Information

The elements of an NTA will affect the rights and options available to a Respondent in removal proceedings.

For example, individuals who present themselves at a land border or an airport and are believed to be inadmissible to the U.S. will be considered "arriving aliens" (the first of the three boxes near the top of the NTA). Generally, if DHS decides to detain someone who is an "arriving alien," the individual will not have a right to a bond hearing before an immigration judge. Different rules apply to individuals who are "present without inspection" or who have been admitted but are subject to removal.

In addition, the charge of inadmissibility (Section 212) or removability (Section 237) can affect the Respondent's eligibility as to the kind of application(s) for relief from removal that a Respondent presents in immigration court.

An experienced immigration attorney can help you understand an NTA, as well as explain your best options for relief during removal proceedings.

This flyer is intended for general information purposes only and does not constitute legal advice. You should not act or rely on any information in this flyer without seeking the advice of a competent, licensed immigration attorney.

We encourage you to contact our office at Law Offices of Timothy D. Widman at (408) 366-2801 if you have any questions.