

## **VOLUNTARY DEPARTURE**

**This section applies to you if you would like permission to leave the United States by “voluntarily” departing. Leaving under voluntary departure makes it easier to return to the United States than if you were ordered “removed.”**

### **What is voluntary departure?**

- Voluntary departure is permission to leave the country in a way that has fewer negative penalties than being “removed” by DHS.
- Asking for voluntary departure allows you to leave the United States voluntarily by using your own money to pay for the trip to your country.

### **Who qualifies for voluntary departure?**

- You are not eligible for voluntary departure if you have been convicted of an aggravated felony or are deportable under the national security and related provision of §234(a)(4).

### **When can you request voluntary departure?**

**Stage 1:** Before you see an Immigration Judge.

- DHS can grant voluntary departure
- Everyone qualifies unless you have an aggravated felony or you are deportable due to terrorist activities.
- You will have to leave right away or within 120 days (you may qualify for bond until your departure date).
- You may be required to post bond, show travel documents, and pay for trip back home.
- You need to request this type of voluntary departure from an immigration officer before going to court.

**Stage 2:** During Initial Proceedings (after proceedings have begun but before final hearing).

- DHS or Immigration Judge can grant voluntary departure
- Everyone qualifies unless: (1) You have an aggravated felony; (2) You are deportable due to terrorist activities; (3) You are a security risk to the United States’ government.
- You will have to leave right away or in up to 120 days (you may qualify for bond until your departure date).

- You may be required to not ask for requests for other relief (for example, asylum, withholding), agree you are removable, agree to waive right to appeal, and show your passport / travel documents.
- You can request by asking the Judge in Court.

**Stage 3:** At the end of court proceedings (after you lose your case).

- The Immigration Judge can grant voluntary departure.
- Requirements: (1) You were physically present in the United States for one year or more; (2) you must show “[good moral character](#)” for 5 years prior to request; (3) you must not have been convicted of an aggravated felony; (4) you must not be deportable for terrorist activities; (5) you must have money to pay for your airplane ticket to depart and you must have the intention to depart.
- You will have to leave right away or in up to 60 days (you may qualify for bond until you departure date).
- You may be required to show passport / travel documents and pay a bond of possibly \$500 or more.
- You can request this type of voluntary departure by asking the Immigration Judge.

### **CONSEQUENCES OF LEAVING UNDER *VOLUNTARY DEPARTURE*:**

#### **What happens if you leave *voluntarily* after living *without status* in the United States for more than 180 days, but less than a year?**

- You cannot return to the United States for **3 years**.
- You must have been in the United States continuously for more than 180 days (about 6 months), but less than a year.
- Departure has to happen **before** you receive a Notice to Appear, which is the legal document that starts immigration court proceedings called “removal proceedings.”
- **Exception:** If you can show that an immediate relative who is a U.S. citizen or lawful permanent resident would suffer “**extreme hardship**” if you are kept from returning for 3 years you may be able to return early.

#### **What happens if you leave *voluntarily* after living *without status* in the United States for one year or more?**

- You cannot return to the United States for **10 years**.
- This departure can happen prior to being placed or during removal proceedings.
- You must have been living continuously in the United States for one year or more.
- However, you could qualify for the “extreme hardship” waiver explained above.

## **What are the consequences of illegal reentry after removal/voluntary departure?**

- Illegal reentry after removal could lead to 1-20 years in prison (depending on your criminal record) and not being able to return to the United States at all for 10 years (unless you acquire approval from DHS).
- Illegal reentry after voluntary departure leads to a 2-year penalty and \$1,000 fine.

## **What are the consequences if you do not depart by the deadline?**

- The grant of voluntary departure will turn into order of removal.
- You may have to pay fine of \$1,000-\$5,000.
- You cannot get “green card” (lawful permanent residency) from family member for 10 years.

## **What happens if I am granted voluntary departure?**

- If you are granted voluntary departure, you must keep proof showing you left on time. You can do this by:
  - Getting your passport stamped
  - Asking for stamped copies of paperwork from a border officer
  - Getting a sworn affidavit from U.S. consulate in the country to which you departed

## **CONSEQUENCES OF BEING ORDERED *REMOVED*:**

### **What happens if you were detained by immigration officials when arriving in the United States and ordered *removed*?**

- If you have an aggravated felony and are removed at the border by an immigration official (not a judge), you will be barred from returning to the United States for **20 years**. To lawfully reenter the United States, you must receive a special waiver of inadmissibility from DHS (which is very difficult to obtain), in addition to meeting all other grounds of admissibility.
- **What happens if you were arrested *after* entering the United States and ordered *removed*?**
  - If this is your first removal, you cannot return for 10 years.
  - If you have been removed in the past, you cannot return for 20 years.
  - If you have an aggravated felony, you can never return.
  - You may be able to return early with consent from the DHS. It can be difficult to get DHS’ consent.