

IV. Filing Your Appeal

You must file your petition for review or notice of appeal within the time allowed by the statute that authorizes the appeal. Your petition or notice is not considered filed at the time it is postmarked; it must be physically received in the court or agency for filing within the time allowed by statute. You **may not** file a petition for review or notice of appeal by fax or email.

If you must file your notice with another court or agency, there will be a delay between the time of filing and the date of docketing at the Federal Circuit. You will receive notification and further instructions when your case has been docketed with the Federal Circuit. If you have questions about how to file your appeal, contact the court or agency from which you are attempting to appeal.

A. Appealing from a Federal Court

1. Time to Appeal

Court	Statute	Time
U.S. District Court	28 U.S.C. § 2107	30 days (60 days if U.S. is a party)
	15 U.S.C. § 3416(c)	30 days
U.S. Court of International Trade	28 U.S.C. § 2645(c)	30 days (60 days if U.S. is a party)
U.S. Court of Federal Claims	28 U.S.C. § 2522 (appeals)	60 days
	42 U.S.C. § 300aa-12(f) (vaccine compensation petitions)	60 days
U.S. Court of Appeals for Veterans Claims	38 U.S.C. § 7292	60 days

2. Filing Fee

U.S. Court of Federal Claims Vaccine compensation cases: \$500 (paid to the Federal Circuit)

U.S. Court of Appeals for Veterans Claims cases: \$500 (paid to the U.S. Court of Appeals for Veterans Claims)

All other cases: \$505 (paid to the originating court)

3. Where to File the Appeal

- Vaccine compensation cases: U.S. Court of Appeals for the Federal Circuit
- All other cases: Court entering judgment to be appealed

B. Appealing from the Patent and Trademark Office

1. Time to Appeal

Agency	Statute	Time
Patent Trial and Appeal Board; Trademark Trial and Appeal Board; Director of Patent and Trademarks	35 U.S.C. § 142 15 U.S.C. § 1071 37 C.F.R. § 1.304, 2.145	63 days or 2 months

2. Filing Fee

\$500 (paid to the Federal Circuit)

3. Where to File the Appeal

A notice of appeal from a Patent Trial and Appeal Board or Trademark Trial and Appeal Board decision must be filed with the Patent and Trademark Office on or before the statutory deadline.

By Mail	In Person
Office of the Solicitor U.S. Patent and Trademark Office Mail Stop 8 Post Office Box 1450 Alexandria, Virginia 22313-1450	Office of the General Counsel U.S. Patent and Trademark Office Madison East 10B20 600 Dulany Street Alexandria, Virginia 22314 Weekdays, 8:30 a.m. to 5:00 p.m.

A copy of the notice of appeal must also be sent to the Federal Circuit. You are encouraged to attach a copy of the decision to the notice of appeal.

C. Petitioning from the Merit Systems Protection Board

1. Time to Petition for Review

Agency	Statute	Time
Merit Systems Protection Board	5 U.S.C. § 7703	60 days

2. Filing Fee

\$500 (paid to the Federal Circuit)

3. Where to File the Petition for Review

U.S. Court of Appeals for the Federal Circuit

4. Other Information

You may seek review of an MSPB decision in one of two ways: (1) after the administrative judge issues an initial decision or (2) after the Board issues a decision on a petition for review of the administrative judge's initial decision. If you choose to petition this court for review at the time of the initial decision, you may not petition the Board for review of the administrative judge's decision and you may not file a petition for review in both this court and before the Board at the same time. If you file in both places simultaneously, your petition here may be dismissed as premature.

In MSPB cases involving allegations of discrimination, you may seek review of the final Board decision by the Equal Employment Opportunity Commission or you may file a civil action in an appropriate U.S. District Court within 30 days of your receipt of the decision. Cases involving allegations of discrimination may not be appealed directly to the Federal Circuit from the MSPB, absent waiver of review of those issues.

Your employing agency, the Office of Personnel Management, or the Board itself will be the respondent in your petition for review. In your petition for review, you should name the agency captioned in the Board's order as the respondent on your petition. If the Board should be the respondent rather than the agency, you will be notified by the Clerk's Office.

D. Appealing from Other Agencies

1. Time to Appeal or Petition for Review

Agency	Statute	Time
Arbitrator	5 U.S.C. § 7121, 7703	60 days
Board of Contract Appeals	41 U.S.C. § 7107	120 days
Bureau of Justice Assistance	42 U.S.C. § 3796c-2	90 days
Government Accountability Office Personnel Appeals Board	31 U.S.C. § 755	30 days
International Trade Commission	19 U.S.C. § 1337	60 days
Office of Compliance	2 U.S.C. § 1407(c)(3)	90 days
Secretary of Agriculture	7 U.S.C. § 2461	60 days
Secretary of Labor; Federal Labor Relations Authority; Occupational Safety and Health Review Commission; certain Merit Systems Protection Board cases and Equal Employment Opportunity Commission cases*	28 U.S.C. § 1296	30 days
Secretary of Veterans Affairs – Rulemaking Review	38 U.S.C. § 502 Fed. Cir. R. 47.12(a)	60 days

* EEOC orders reviewable in this court pertain only to certain presidential appointees.

2. Filing Fee

\$500 (paid to the Federal Circuit)

3. Where to File the Notice of Appeal or Petition for Review

U.S. Court of Appeals for the Federal Circuit

E. What to File

A notice of appeal or a petition for review must first be submitted in order to begin the appeal process in this court.

1. Appeals Filed Elsewhere

If you are filing your notice of appeal or petition for review in a different court or agency, please refer to that court or agency for forms and instructions for filing.

Notice of appeal forms are available at <http://www.caafc.uscourts.gov/rules-of-practice/forms>.

- [From a U.S. District Court \(Form 1\)](#)
- [From the U.S. Court of Federal Claims \(Form 2\)](#)
- [From the U.S. Court of International Trade \(Form 3\)](#)
- [From the U.S. Court of Appeals for Veterans Claims \(Form 4\)](#)
- [From the U.S. Patent and Trademark Office \(Form 5\)](#)

2. Appeals Filed at the Federal Circuit

If you are filing your appeal in the Federal Circuit, you can use [Form 5 \(Petition for Review or Appeal of an Order or Decision of an Agency, Board, Commission, or Office\)](#). The court does not require the use of a form when filing a petition or notice of appeal, but it is highly recommended for ease of processing.

Mail the following documents to the Clerk of Court:

- [Petition for Review or Appeal of an Order or Decision of an Agency, Board, Commission, or Office \(Form 5\)](#) and
- Filing Fee: \$500 (check or money order payable to the "Clerk of Court, U.S. Court of Appeals for the Federal Circuit") or
- Fee Waiver: Motion and Declaration for Leave to Proceed In Forma Pauperis ([Form 6](#)) or the Uniformed Services Employment and Reemployment Rights Act (USERRA) Notice ([Form 6B](#)).

F. When to File

Your notice of appeal or petition for review must arrive at its destination prior to, or on, the date of the deadline.

The Federal Circuit cannot extend deadlines for filing a notice of appeal or petition for review. A request to extend time to file a notice of appeal from the judgment of a district court, the Court of International Trade, U.S. Court of Federal Claims, or the Patent and Trademark Office must be filed with those tribunals. FRAP 5 and 15, FCR 4 and 15.

If a notice of appeal or petition for review filed with the Clerk's Office shows on its face that it is not timely filed within the time allowed by statute, the Clerk's Office may reject the notice of appeal or petition. FCR 4 and 15(d).

G. Paying Fees

1. Fee Amounts

You are required to pay a docketing fee of \$500 when you petition for review of, or appeal, a decision of the U.S. Court of Appeals for Veterans Claims, vaccine claim from the U.S. Court of Federal Claims, or an agency, board, or commission. All docketing fees must be paid to the clerk of this court, except for appeals from the U.S. Court of Appeals for Veterans Claims which should be paid to the clerk of that court.

If you appeal a judgment of a court, you must pay a docketing fee of \$505 (\$500 appeal fee and a filing fee of \$5), to the clerk of that court when you file a notice of appeal in that court.

2. Failure to Pay the Filing Fee

It is your obligation to ensure payment is sent to the proper court or agency. Failure to pay your fee within 14 days after your case has been docketed will result in dismissal of your appeal unless you have filed a motion to proceed in forma pauperis, or the fee is otherwise waived. FCR 52(d).

3. Fee Refund

Please note that payment of the docketing fee is non-refundable once the case has been filed. FCR 52 Practice Note. However, please contact the Clerk's Office if you were charged the incorrect fee amount or submitted duplicate payment.

4. Fee Waiver

You may have your fees waived by applying to proceed in forma pauperis. If you were granted the right to proceed in forma pauperis in the District Court, Court of International Trade, or U.S. Court of Federal Claims, or if you submitted a Declaration of Financial Hardship at the U.S. Court of Appeals for Veterans Claims, you are generally able to proceed in forma pauperis before this court unless your right has been revoked (for example, because you are currently incarcerated).

Otherwise, if you are unable to pay your filing fee but were not in forma pauperis in one of the above courts, you may request permission to proceed in forma pauperis in the Federal Circuit. If your request is granted, you will not have to pay the filing fee, but you will have to pay all other costs incurred during your appeal (for things like postage and copies). FRAP 24 and FCR 24.

To request permission to proceed in forma pauperis, you must complete and file [Form 6](#) (Motion and Declaration to Proceed in Forma Pauperis) within 14 days of your case being docketed. If the Clerk's Office does not receive a completed motion, the docketing fee, or a completed [Form 6B](#) within 14 days of the date of docketing of the appeal or petition, the Clerk of Court is authorized to dismiss the appeal or petition, except as provided in FRAP 24(a). FRAP 24(a), FCR 24(a) and 52(d).

5. Fee Waiver – USERRA Claims

If you are requesting review of a Merit Systems Protection Board decision that involves a claim under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4323 or § 4324, then you are not required to pay the docketing fee or costs. To advise this court that your case is covered by 38 U.S.C. § 4323 or § 4324, complete [Form 6B](#) (USERRA Notification Form) and return it to the Clerk's Office within 14 days after the date your case is docketed.

6. Appealing From Prison, In Forma Pauperis Status

Under the Prison Litigation Reform Act (PLRA) of 1995, a prisoner granted in forma pauperis status before the district court is not entitled to in forma pauperis status on appeal. See 28 U.S.C. § 1915.

Once you have filed your notice of appeal, the Clerk's Office will send you two forms: [Form 6](#) and [Form 6A](#). [Form 6](#) is a request to proceed in forma pauperis. [Form 6A](#) is a supplemental affidavit form that authorizes the correctional facility to provide a certified copy of your prison account statement to this court. You must complete and file the supplemental form,

and the Clerk's Office will send a copy to the institution in which you are incarcerated.

The form authorizes the institution to (1) furnish to this court a certified copy of your prison account statement and (2) calculate and disburse funds from the prison account, including the initial partial filing fee payment and subsequent monthly payments. Your institution will forward the certified statement, the initial payment, and the subsequent payments to this court. If you file the proper form, the failure of the institution to send the statement or to remit the payments will not adversely affect your appeal.

If you fail to complete and submit both forms (6 and 6A) within 14 days of the date of docketing, your appeal will be dismissed. FCR 24.