

**Amicus Invitation No. 23-01-08**  
**AMICUS INVITATION (NOTICE TO APPEAR) DUE August 31, 2023**

**AUGUST 1, 2023**

The Board of Immigration Appeals welcomes interested members of the public to file amicus curiae briefs discussing the below issue(s):

ISSUE(S) PRESENTED:

Pursuant to *Matter of Fernandes*, 28 I&N Dec. 605 (BIA 2022):

1. Should an Immigration Judge allow DHS to remedy a non-compliant Notice to Appear?
2. To remedy a non-compliant Notice to Appear, is either (1) issuing an I-261, or (2) amending the Notice to Appear, permitted by the regulations, and would either comport with the single document requirement emphasized by the United States Supreme Court in *Niz-Chavez v. Garland*, 141 S. Ct. 1474 (2021)? If not, how can a non-compliant Notice to Appear be remedied?

**Request to Appear as Amicus Curiae:** Members of the public who wish to appear as amicus curiae before the Board must submit a written request labeled “REQUEST TO APPEAR AS AMICUS CURIAE” pursuant to Chapter 2.10, Appendix A (Directory), and Appendix E (Cover Pages) of the Board of Immigration Appeals Practice Manual. The Request to Appear as Amicus Curiae must explicitly identify that it is responding to Amicus Invitation No. **23-01-08**. The decision to accept or deny a Request to Appear as Amicus Curiae is within the sole discretion of the Board. Please see Chapter 2.10 of the Board of Immigration Appeals Practice Manual.

**Filing a Brief:** Please file your amicus brief in conjunction with your Request to Appear as Amicus Curiae pursuant to Chapter 2.10 of the Board of Immigration Appeals Practice Manual. The brief accompanying the Request to Appear as Amicus Curiae must explicitly identify that it is responding to Amicus Invitation No. **23-01-08**. An amicus curiae brief is helpful to the Board if it presents relevant legal arguments that the parties have not already addressed. However, an amicus brief must be limited to a legal discussion of the issue(s) presented. The decision to accept or deny an amicus brief is within the sole discretion of the Board. The Board will not consider an amicus brief that exceeds the scope of the amicus invitation.

**Request for Case Information:** Additional information about the case, including the parties’ contact information, may be available. Please contact the Clerk’s Office at the below address for this information prior to filing your Request to Appear as Amicus Curiae and amicus brief.

**Page Limit:** The Board asks that amicus curiae briefs be limited to 25 double-spaced pages.

**Deadline:** Please file a Request to Appear as Amicus Curiae and amicus brief with the Clerk’s Office at the address below by **August 31, 2023**. Your request must be received at the Clerk’s Office within the prescribed time limit. Motions to extend the time for filing a Request to Appear as Amicus Curiae and amicus brief may not be entertained. It is *not* sufficient simply to mail the documents on time. We strongly urge the use of an overnight courier service to ensure the timely filing of your brief.

**Service:** Please mail three copies of your Request to Appear as Amicus Curiae and amicus brief to the Clerk's Office at the address below. If the Clerk's Office accepts your brief, it will then serve a copy on the parties and provide parties time to respond.

**Joint Requests:** The filing of parallel and identical or similarly worded briefs from multiple amici is disfavored. Rather, collaborating amici should submit a joint Request to Appear as Amicus Curiae and amicus brief. *See generally* Chapter 2.10 (Amicus Curiae) and Chapter 4.6(i) (Amicus Curiae Briefs) of the Board of Immigration Appeals Practice Manual.

**Notice:** A Request to Appear as Amicus Curiae may only be filed by an attorney, accredited representative, or an organization represented by an attorney registered to practice before the Board pursuant to 8 C.F.R. § 1292.1(d). A Request to Appear as Amicus Curiae filed by a person specified under 8 U.S.C. § 1367(a)(1) will not be considered.

**Attribution:** Where more than three attorneys or representatives sign an amicus brief or filing, the Board will name only the first three individuals in the published case. If you wish a different set of three names or have a preference on the order of the three names, please specify the three names in your Request to Appear as Amicus Curiae and amicus brief.

**Clerk's Office Contact and Filing Address:**

To send by courier or overnight delivery service, or to deliver in person:

Amicus Clerk  
Board of Immigration Appeals  
Clerk's Office  
5107 Leesburg Pike, Suite 2000  
Falls Church, VA 22041

Business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m.

**Fee:** A fee is not required for the filing of a Request to Appear as Amicus Curiae and amicus brief.