

KNOW YOUR RIGHTS

Cancino Castellar v. Mayorkas Settlement Agreement IMPORTANT RIGHTS FOR PEOPLE IN IMMIGRATION CUSTODY

What is *Cancino v. Mayorkas* about?

Cancino Castellar v. Mayorkas, filed in March 2017, challenged systemic delays in processing people arrested by Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), including Border Patrol. On March 14, 2024, a federal judge approved a settlement in the lawsuit that confirmed people in immigration custody in San Diego or Imperial counties have the constitutional right to due process (fair treatment under the law).

Who Has Rights Under the Agreement?

You have rights under the agreement if you fulfill all the following requirements:

- You are held in civil immigration custody for more than 48 hours in the Southern District of California (San Diego or Imperial counties);
- You have not had a hearing before an immigration judge; and
- You are not:
 - Under expedited removal proceedings under § 1225(b)(1);
 - An unaccompanied minor; or
 - Subject to a final removal order.

Enforcement & Oversight

- The government must report compliance data every six months for three years (until March 2027).
- A judge will oversee disputes to ensure compliance with the agreement.

Questions? Want to Talk to a Lawyer?

Class counsel contact information is posted in detention centers or you can call the free legal aid number posted by the phones.

To report violations, contact class counsel:

- Center for Human Rights: bardis@centerforhumanrights.org
- ACLU Foundation of San Diego & Imperial Counties: legal@aclu-sdic.org or call 619-232-2121, and press “4”

Find a full copy of the settlement agreement outlining this policy here:

<https://bit.ly/CancinoSettlement>



YOUR RIGHTS UNDER THE AGREEMENT

1. Right to a Prompt Court Appearance Before an Immigration Judge

- ICE must file your Notice to Appear (NTA) within 72 hours of taking you into custody.
 - Delays beyond 72 hours may violate the settlement unless there's an extraordinary reason (e.g. court closures, medical emergencies).
- Once ICE files your NTA, the immigration court must schedule your first hearing:
 - Within eight calendar days if you waive the 10-day prep period; or
 - Within 15 days if you do not waive that period.
- Please note: Your first immigration court hearing is usually just an initial step in the process, not where the final decision on your case will be made.

2. Right to a Prompt Release or Transfer from CBP Custody for People Detained by CBP

- If CBP detains you at a port of entry, they must release or transfer you to ICE within 72 hours if you:
 - Are 65 years or older; or
 - Have urgent medical needs.
- If you are detained at a Border Patrol station, Border Patrol must release or transfer you if you are a “domiciled individual” (someone who remained in the U.S. more than 14 days) into ICE custody within 72 hours.

3. Right to Written Notice of Rights

- The agency that detained you must provide you with a written notice stating that:
 - You have the right to a prompt first court hearing;
 - You can request to waive your 10-day waiting period and have a first hearing more promptly; and
 - At your first hearing, you can ask for:
 - More time to find a lawyer; and
 - A bond hearing to seek release.
- The notice is available in English, Spanish, Arabic, Russian and Mandarin.
- You may request that the notice be read to you orally in the language you understand.

4. Right to Help Accessing Legal Support

- Free calls to legal aid organizations will be available at ICE detention facilities (Otay Mesa and Imperial Regional).
- Covered ICE facilities must post signs in five languages (English, Spanish, Arabic, Russian and Mandarin) with contact information for and explaining how to contact pro bono legal services.

5. Right to Request a Bond Hearing

- If you request a bond hearing, the immigration court must schedule it as soon as possible.
- At that hearing, you may request additional time to gather evidence or to secure representation.

