

EOIR POLICY MANUAL PART II – IMMIGRATION COURT PRACTICE MANUAL¹

Revisions Comparison Table

Chart Legend
<ul style="list-style-type: none"> • Red denotes new language • Strikethrough denotes deleted language

<p>Prior Version: Immigration Court Practice Manual First published in 2008; Last updated on 11/16/2020</p>	<p>Current Version: Immigration Court Practice Manual² Part II – Immigration Court Practice Manual Released 12/31/2020; Last updated on 12/16/2021</p>	<p><u>General Recommendations:</u> *Change “alien” to “noncitizen” *Include the current ICPM as one PDF on the EOIR landing page³ *Include citations to current BIA precedent *Cite consistently to relevant PMs, DMs, and OPPMs</p>
<p>CHAPTER 1.1 - THE IMMIGRATION COURT</p>		
<p>Prior Title: Scope of the Practice Manual</p>	<p>New Title: Scope of the EOIR Policy Manual</p>	<p>Notable Difference(s)</p>
<p>(a) Authority</p> <p style="color: red;">The mission of the Executive Office for Immigration Review (EOIR) is charged with to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation’s immigration laws. EOIR accomplishes this</p>		<p>The title of this sub-chapter changed from “Scope of the Practice Manual” to “Scope of the EOIR Policy Manual.” EOIR</p>

¹ This resource is intended to assist lawyers and accredited representatives. It does not constitute legal advice nor is it a substitute for independent analysis of the Immigration Court Practice Manual (ICPM) and practitioners should always check the date on which EOIR updated a particular chapter before relying on this chart. Michelle N. Méndez created this resource and thanks Ann Garcia and Vickie Neilson for their review of and feedback on this resource.

² When EOIR updated the ICPM on November 20, 2020 and released the new version on December 31, 2020, EOIR renamed the ICPM to “OCIJ Practice Manual.” However, EOIR change the name to “Immigration Court Practice Manual” or about December 16, 2021.

³ The PDF of the ICPM linked here was released on December 21, 2020. It is not the current version. Practitioners should always check the revised date on the PDF of the ICPM as outdated versions of the ICPM remain available online. Practitioners may also refer to Appendix P of the EOIR Policy Manual which tracks all changes to the EOIR Policy Manual, including changes to Part II of the EOIR Policy Manual.

mission by conducting immigration court proceedings under the Office of the Chief Immigration Judge (OCIJ), appellate reviews by the Board of Immigration Courts nationwide. The Attorney General has directed the Appeals (BIA or the Board), and administrative hearings under the Office of the Chief Administrative Hearing Officer (OCAHO).

The EOIR Director of EOIR, in consultation with the Immigration Judges and the heads of EOIR's three adjudicatory components possess authority, inter alia, to issue operating instructions and policy guidance. See, e.g., 8 C.F.R. §§ 1003.0, 1003.1(a)(2)(i), 1003.9(b); 28 C.F.R. § 68.2. EOIR has issued public Operating Policies and Procedures Memoranda (OPPM) — under the heading of Policy Memoranda (PM) — since its creation in 1983. It first issued a BIA Practice Manual (BIAPM) in 1999 and first issued an Immigration Court Practice Manual (ICPM) in 2008.

The Policy Manual is designed to consolidate EOIR's existing policy and practice guidance available in multiple places on its website into one document.

Accordingly, any operational policies related to case adjudications previously issued by OCIJ, the BIA (other than case holds issued pursuant to regulations), or OCAHO that are not contained within the Policy Manual are no longer in effect.

(b) Purpose

EOIR provides this manual is provided for the information and convenience of the general public and for parties that appear before the immigration courts, the BIA, and OCAHO. The manual describes procedures, requirements, and recommendations for practice before the Immigration Courts. The requirements set forth in this manual are binding on the parties who appear before the Immigration Courts, unless the Immigration Judge directs otherwise in a particular case. those three adjudicatory bodies.

(c) Disclaimer

This manual is not intended, nor should it be construed in any way, as legal advice. The manual does not extend or limit the jurisdiction of the Immigration Courts as established by law and regulation. Nothing in this manual shall limit the discretion of Immigration Judges or authority of EOIR's adjudicators to act in accordance with law the law, including applicable statutes, regulations, and precedents. This manual does not constitute legal advice, and regulation no parties or members of the public should construe any provision as legal advice.

Nothing in this manual is intended to supersede, alter, or amend any official policy of the Department of Justice (DOJ), including policies contained in the Justice Manual. To the extent that any policy in this manual conflicts with an official DOJ policy, the DOJ policy shall control. All EOIR employees remain subject to all official DOJ policies, including applicable policies contained in the Justice Manual.

(d) Revisions

EOIR's Office of the Chief Immigration Judge Policy reserves the right to amend, suspend, or revoke the text, or portions of the text, of this manual at any time at its discretion. For information on how to obtain the.

Largely re-wrote this sub-chapter. For example, EOIR's authority was narrowly defined as "charged with administering the Immigration Courts nationwide." Now, the mission is "to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws."

The most current version of the Policy Manual is available at the [EOIR website](#). Questions regarding online access to the Policy Manual should be addressed to the Law Library and Immigration Research Center. See [Appendix A](#) this manual, see Chapter 13.3 (Updates to the Practice Manual) ([EOIR Directory](#)).

The Policy Manual is updated periodically. The date of the most recent update is indicated at the bottom of each page. Parties should make sure to consult the most recent version of the Policy Manual, which is posted online at the Executive Office for Immigration Review website at www.justice.gov/eoir.

For information on how to provide comments regarding this manual, see [Part II, Chapter 13](#) (Public Input) and [Part III, Chapter 14](#) (Public Input).

(e) Reproductions

The Policy Manual is a public document and may be reproduced without advance authorization from the Executive Office of the Chief for Immigration Judge-Review.

CHAPTER 1.2 - THE IMMIGRATION COURT

Prior Title: Function of the Office of the Chief Immigration Judge

New Title: EOIR Components

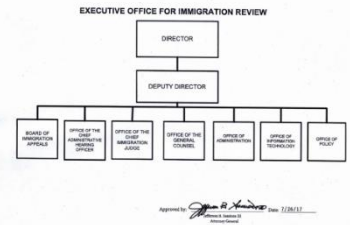
Notable Difference(s)

The title of this sub-chapter changed from “Function of the Office of the Chief Immigration Judge” to “EOIR Components.”

This sub-chapter does not reflect substantive changes.⁴ While this sub-chapter has remained largely unchanged, this sub-chapter cites to the new [Organizational Chart at Appendix B](#), which reveals a flat hierarchy at EOIR with seven independent lower offices reporting directly to the Deputy

⁴ In this comparison table, this means that the revisions did not affect the content, and involved either formatting, assigning or re-assigning letters and/or number bullet points, or changing title of the sub chapter, etc.

Director, who reports to Director.



CHAPTER 1.3 - THE IMMIGRATION COURT

Prior Title: Composition of the Office of the Chief Immigration Judge

New Title: Composition of the Components

Notable Difference(s)

(a) General

The Office of the Chief Immigration Judge (OCIJ) supervises and directs the activities of the immigration courts. OCIJ operates under the supervision of the Director of the Executive Office for Immigration Review (EOIR). OCIJ develops operating policies for the immigration courts, oversees policy implementation, evaluates the performance of the immigration courts, and provides overall supervision of the Immigration Judges.

(1) Chief Immigration Judge - The Chief Immigration Judge (CIJ) oversees the administration of the immigration courts nationwide.

(2) Principal Deputy Chief Immigration Judges.—**Judge** - The **Principal Deputy Chief Immigration Judge (PDCIJ)** assists the chief immigration judge in overseeing the administration of the immigration courts throughout the country and supervises the deputy chief immigration judges.

(3) Regional Deputy Chief Immigration Judges - The Regional Deputy Chief Immigration Judges (RDCIJ) assist the Chief Immigration Judge PDCIJ in carrying out his or her the responsibilities of that office and are responsible for daily supervision of the Assistant Chief Immigration Judges (ACIJ) within the RDCIJs’ assigned geographical region.

(4) Assistant Chief Immigration Judges - The Assistant Chief Immigration Judges ACIJ oversee the operations of specific immigration courts. A listing of the immigration courts overseen by each Assistant Chief Immigration Judge ACIJ and assigned areas of responsibility is available on the [EOIR website](#) Executive Office for Immigration Review website at.

The title of this sub-chapter changed from “Composition of the Office of the Chief Immigration Judge” to “Composition of the Components.”

This sub-chapter discusses the Principal Deputy Chief Immigration Judge, which replaced the Deputy Chief Immigration Judge position, and the new positions of Regional Deputy Chief Immigration Judges. This sub-chapter also discusses Legal Staff and court administrators while clarifying the reporting hierarchy. Note the new email address for reporting concerning IJ conduct.

(5) Legal Staff.—OCIJ's ~~Chief Counsel and Attorney Advisors/Judicial Law Clerks~~—OCIJ has a sizable legal staff supports the Chief Immigration Judge, Deputy Chief Immigration Judges, and Assistant Chief Immigration Judges, as well as, which includes a chief counsel, attorney advisors at the OCIJ headquarters, and permanent and term attorney advisors and judicial law clerks (JLC) at the immigration Judges and Immigration Court law clerks courts nationwide. The legal staff supports the CIJ, PDCIJ, RDCIJ, ACIJ, and IJs.

(6) Language Services Unit - The Language Services Unit (LSU) oversees staff interpreters and contract interpreters at the immigration courts. The ~~Language Services Unit~~LSU conducts quality assurance programs for all interpreters.

~~(vi) Court Evaluation Team.~~—The Court Evaluation Team coordinates periodic comprehensive evaluations of the operations of each Immigration Court and makes recommendations for improvements. ~~(vii) Court Analysis Unit.~~—The Court Analysis Unit monitors Immigration Court operations and assists the courts by analyzing caseloads and developing systems to collect caseload data.

(b) Immigration Courts. — There are more than 400 - EOIR employs Immigration Judges and professional staff in more than 6 the immigration courts nationwide. As a general matter, Immigration Judges determine removability and adjudicate applications for relief or protection from removal. For the specific duties of Immigration Judges, see Chapter 1.5 Part I, Chapter 1.4 (Jurisdiction and Authority). The decisions of, and Priorities). Immigration Judges Judge decisions are final unless timely appealed or certified to the Board of Immigration Appeals. BIA. See Chapter 6 Part II, Chapter 6 (Appeals of Immigration Judge Decisions).

Each immigration court has a court administrator. Under the supervision of an ACIJ, the court administrator manages the daily activities of the immigration court and supervises staff interpreters, legal assistants, and clerical and technical employees. A complete listing of the immigration courts, including the Immigration Judges assigned to each court, is available on the [EOIR website](#).

(1) Court Administrators - Court Administrators are assigned to the local office of each immigration court. Under the supervision of an Assistant Chief Immigration Judge, the Court Administrator manages the daily activities of the immigration court and supervises staff interpreters, legal assistants, and clerical and technical employees.

In each immigration court, the Court Administrator serves as the liaison with the local office of the Department of Homeland Security, the private bar, and nonprofit organizations that represent aliens. In some immigration courts, a Liaison Judge also participates as a liaison with these groups.

A listing of the immigration courts is available on the Executive Office for Immigration Review website at www.justice.gov/eoir.

(c) Immigration Judge Conduct and Professionalism

Immigration Judges strive to act honorably, fairly, and in accordance with the highest ethical standards, thereby ensuring public confidence in the integrity and impartiality of immigration court proceedings. Alleged misconduct by Immigration Judges is taken seriously by the Department of Justice and the Executive Office for Immigration Review (EOIR), especially if it impugns the integrity of the hearing process.

Usually, when a disagreement arises with an Immigration Judge's ruling, the disagreement is properly raised in a motion to the Immigration Judge or an appeal to the Board of Immigration Appeals. When a party has an immediate concern regarding an Immigration Judge's conduct that is not appropriate for a motion or appeal, the concern may be raised with the Assistant Chief Immigration Judge (ACIJ) responsible for the court or the ACIJ for Conduct and Professionalism. Contact information for ACIJs is available on the EOIR website at www.justice.gov/eoir.

In the alternative, parties may raise concerns regarding an Immigration Judge's conduct directly with the Office of the Chief Immigration (OCIJ) Director by following the procedures outlined on the EOIR website at www.justice.gov/eoir or by sending an email to OCIJ at: EOIR-IJConduct: judicial.conduct@usdoj.gov. Where appropriate, concerns may also be raised with the Department of Justice, Office of Professional Responsibility. All concerns, and any actions taken, may be considered confidential and not subject to disclosure.

1.4 Other EOIR Components

~~(a) Office of the General Counsel.—The Office of the General Counsel (OGC) provides legal advice to the Executive Office for Immigration Review. OGC also functions as a resource and point of contact for the public in certain instances. In particular, OGC responds to Freedom of Information Act requests related to immigration proceedings. See Chapter 12 (Freedom of Information Act). OGC receives complaints of misconduct involving immigration practitioners, and initiates disciplinary proceedings where appropriate. See Chapter 10 (Discipline of Practitioners).~~

~~(b) EOIR Fraud and Abuse Prevention Program.—The Executive Office for Immigration Review (EOIR) Fraud and Abuse Prevention Program was created to protect the integrity of immigration proceedings by reducing immigration fraud and abuse. The EOIR Fraud and Abuse Prevention Program assists Immigration Judges and EOIR staff in identifying fraud. In addition, the program shares information with law enforcement and investigative authorities. The program is an initiative of the EOIR Office of the General Counsel, as directed by the Attorney General.~~

~~Immigration fraud and abuse can take many forms. Fraud is sometimes committed during Immigration Court proceedings by individuals in proceedings and by their attorneys. In addition, aliens are often victimized by fraud committed by individuals not authorized to practice law, who are frequently referred to as “immigration specialists,” “visa consultants,” “travel agents,” and “notarios.”~~

~~Where a person suspects that immigration fraud has been committed, he or she may report this to the EOIR Fraud and Abuse Prevention Program. Where appropriate, the EOIR Fraud and Abuse Prevention Program refers cases to other authorities for further investigation. Individuals wishing to report immigration fraud or abuse, or other irregular activity, should contact the EOIR Fraud and Abuse Prevention Program. For contact information, see Appendix B (EOIR Directory).~~

(c) Office of Legal Access Programs (OLAP).— The Office of Legal Access Programs (OLAP) in the Office of Policy is responsible for improving access to legal information and to representation for persons appearing before the Immigration Courts and the Board. The Assistant Director for Policy administers the Recognition and Accreditation Program, including the recognition of organizations and the accreditation of their representatives wishing to practice before the Immigration Courts, the Board, and DHS, through OLAP. For contact information, see Appendix B (EOIR Directory).

(i) Legal Orientation Program.— The Legal Orientation Program (LOP) was created to provide detained aliens with essential and easy-to-understand information regarding the Immigration Court process, including their rights, responsibilities, and options for relief from removal. The LOP is a program of the Office of Legal Access Programs within the Office of Policy.

The LOP is carried out locally through subcontracts with nonprofit legal agencies in cooperation with a number of local Immigration Courts and detention facilities. The LOP providers conduct “group orientations,” which are general rights presentations given to detained aliens prior to their first Immigration Court hearing. “Individual orientations” and “self help workshops” are then provided to unrepresented detainees to assist them with understanding their cases and identifying potential claims for relief from removal. While the LOP does not pay for legal representation, all detained aliens at LOP sites are provided access to program services, which may also include assistance with either locating pro bono counsel or representing themselves before the court.

More information about the LOP is available on the EOIR website at www.justice.gov/eoir.

(d) Communications and Legislative Affairs Division.— The Communications and Legislative Affairs Division (CLAD) in the Office of Policy is responsible for the public relations of the Executive Office for Immigration Review (EOIR), including the Office of the Chief Immigration Judge. Because the Department of Justice policy prohibits interviews with Immigration Judges, CLAD serves as EOIR’s liaison with the press.

(e) Law Library and Immigration Research Center.— The Law Library and Immigration Research Center (LLIRC) is maintained by the Executive Office for Immigration Review (EOIR) for use by EOIR staff and the general public. The LLIRC maintains a “Virtual Law Library” accessible on the EOIR website at www.justice.gov/eoir. See Chapter 1.6(b) (Library and online resources).

CHAPTER 1.4 - THE IMMIGRATION COURT

Prior Title: Jurisdiction and Authority

New Title: Jurisdiction, Authority, and Priorities

Notable Difference(s)

The title of this sub-chapter changed from “Jurisdiction and

	<p>Authority” to “Jurisdiction, Authority, and Priorities.”</p> <p>This sub-chapter does not reflect substantive changes.</p>
<p>CHAPTER 1.5 - THE IMMIGRATION COURT</p>	
<p>1.5 Public Access</p>	
<p>[...]</p> <p>(2) Hearing locations - There are more than 400500 Immigration Judges in more than 60 immigration courts in the United States. A list of immigration courts is available in Appendix A Appendix A (Immigration Court Addresses (EOIR Directory)), as well as on the Executive Office for Immigration Review website at http://www.justice.gov/eoir.</p> <p>(b) Library and Online Resources</p> <p>(1) Law Library and Immigration Research Center - The Office of Policy, CLAD, maintains a Law Library and Immigration Research Center (LLIRC) at 5107 Leesburg Pike, Suite 1824, Falls Church, Virginia. The LLIRC maintains select sources of immigration law, including Board decisions, federal statutes and regulations, federal case reporters, immigration law treatises, and various secondary sources. The LLIRC serves the Executive Office for Immigration Review (EOIR), including the Office of the Chief Immigration Judge and the immigration courts, as well as the general public. For hours of operation, directions, and collection information, contact the LLIRC at (703) 605-1103 or visit the EOIR website at www.justice.gov/eoir.</p> <p>[...]</p>	<p>Notable Difference(s)</p> <p>This chapter recognizes the increased number of IJs and the role of the controversial⁵ Office of Policy in the Law Library and Immigration Research Center.</p>
<p>CHAPTER 1.6 - THE IMMIGRATION COURT</p>	
<p>1.6 Inquiries</p>	
	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p>

⁵ CLINIC Submits Comment Opposing EOIR’s Reorganization Interim Rule, Calls for Withdrawal, <https://cliniclegal.org/resources/federal-administrative-advocacy/clinic-submits-comment-opposing-eoirs-reorganization>.

CHAPTER 2.1 – APPEARANCES BEFORE THE IMMIGRATION COURT

2.1 Representation Generally

[...]

~~(c) Electronic Entry of Appearance - After registering with the EOIR eRegistry, attorneys and accredited representatives may file either an electronic or paper Form EOIR-28 in the following situations:~~

- ~~—the first appearance of the representative, either at a hearing or by filing a pleading, motion, application, or other document~~
- ~~—whenever a case is remanded to the Immigration Court~~
- ~~—any change of business address or telephone number for the attorney or representative~~
- ~~—upon reinstatement following an attorney’s suspension or expulsion from practice~~

In order to file an electronic Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28), an attorney or accredited representative should refer to the instructions for the EOIR eRegistry, which can be found on the EOIR website.

Attorneys and accredited representatives who electronically file a Form EOIR-28 close to a hearing may be required to complete a paper Form EOIR-28 at the hearing.

~~(ii) Paper entry of appearance. — A paper, not~~ **After registering with the EOIR eRegistry, attorneys and accredited representatives may file either an electronic, or paper** Form EOIR-28 ~~must be filed~~ in the following situations:

- ~~—A bond redetermination request made before the filing of a Notice to Appear with an Immigration Court~~
- ~~—A motion to reopen~~
- ~~—A motion to reconsider~~
- ~~—A motion to recalendar proceedings that are administratively closed~~
- ~~—A motion to substitute counsel~~

Notable Difference(s)

This sub-chapter reorganized the content in the sections regarding electronic and paper entry of appearances.

~~—A case in which there is more than one open proceeding~~

~~—Disciplinary proceedings~~

(1) The first appearance of the representative, either at a hearing or by filing a pleading, motion, application, or other document

(2) Whenever a case is remanded to the immigration court

(3) Any change of business address or telephone number for the attorney or representative

(4) Upon reinstatement following an attorney's suspension or expulsion from practice

(d) Paper Entry of Appearance

When filing a paper Form EOIR-28, representatives should be sure to use the most current version of the form, which can be found on the EOIR website. See also Chapter 11 (Forms), Appendix D ~~Appendix E~~ (Forms). **A paper, not an electronic, Form EOIR-28 must be filed in the following situations:**

(1) A bond redetermination request made before the filing of a Notice to opposing party. — Appear with an immigration court

(2) A motion to reopen

(3) A motion to reconsider

(4) A motion to recalendar proceedings that are administratively closed

(5) A motion to substitute counsel

(6) A case in which there is more than one open proceeding

(7) Disciplinary proceedings

[...]

CHAPTER 2 - APPEARANCES BEFORE THE IMMIGRATION COURT

- 2.2 - Unrepresented Aliens (“Pro Se” Appearances)
- 2.3 - Attorneys
- 2.4 - Accredited Representatives and Recognized Organizations
- 2.5 - Law Students and Law Graduates
- 2.6 - Paralegals
- 2.7 - Immigration Specialists
- 2.8 - Family Members
- 2.9 - Others

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

CHAPTER 3.1 - FILING WITH THE IMMIGRATION COURT

3.1 Delivery and Receipt

(a) Filing

[...]

(1) Administrative Control Courts – “Administrative Control Courts” **create and** maintain the Records of Proceeding for **the immigration courts within an assigned geographical area. 8 C.F.R. § 1003.11** ~~hearings that take place at certain remote.~~ **A list of the administrative control courts along with their areas of assigned responsibility and other** hearing locations. ~~A list of these locations, and of the Administrative Control Courts responsible for these locations,~~ is available to **the**

(b) Timing of Submissions

[...]

Deadlines for filings submitted while proceedings are pending before the Immigration Court depend on whether the next hearing is a master calendar or an individual calendar hearing. **In all cases, the Immigration Judge retains the authority to modify filing deadlines.**

[...]

Notable Difference(s)

This sub-chapter distinguishes between unrepresented non-detained noncitizens and represented non-detained noncitizens and the process for each in both Master Calendar Hearings and Individual Calendar Hearings. As such, the sections for represented non-detained noncitizens in Master Calendar Hearings and Individual Hearings are new. For represented non-detained noncitizens, the process incorporates the scheduling orders as part of the process for represented non-detained respondents pursuant to PM 21-18, “Revised Case Flow

<p>(1) Master calendar hearings</p> <p>(A) Unrepresented, non-detained aliens - For master calendar hearings involving unrepresented, non-detained aliens, filings must be submitted at least fifteen (15) days in advance of the hearing if requesting a ruling at or prior to the hearing. Otherwise, filings may be made either in advance of the hearing or in open court during the hearing. When a filing is submitted at least fifteen days prior to a master calendar hearing, the response must be submitted within ten (10) days after the original filing with the Immigration Court. If a filing is submitted less than fifteen (15) days prior to a master calendar hearing, the response may be presented at the master calendar hearing, either orally or in writing.</p> <p>(B) Represented, non-detained aliens - In proceedings in which the Form EOIR-28 is filed at least fifteen (15) days prior to a master calendar hearing, the hearing will be vacated. The Immigration Judge will issue a scheduling order that establishes the deadline by which the parties must submit written pleadings and any evidence related to the charge(s) of removability.</p> <p>In proceedings in which the Form EOIR-28 is filed less than fifteen (15) days prior to the master calendar hearing, or at the master calendar hearing itself, the representative and the respondent must appear at the scheduled hearing. If needed, the Immigration Judge will issue a scheduling order at the master calendar hearing.</p> <p>The parties generally will be given thirty (30) days from the date of the vacated hearing to submit written pleadings and any evidence related to the charge(s) of removability. Responses to the filings specified above should be filed within twenty (20) days after the original filing with the Immigration Court.</p> <p>If the Immigration Judge finds that removability has been established, the court will issue a scheduling order establishing the deadline for the submission of any applications for relief or protection from removal and documents. The deadline will generally be sixty (60) days from the date of the order finding removability, unless otherwise ordered by the Immigration Judge. Failure to abide by the deadlines set by the Immigration Judge for the filing of applications may result in a finding that all applications for relief have been abandoned. A request for a master calendar hearing or an extension of the deadlines for filing should be made by written motion. See Chapter 3.1(c)(iv) (Motion for Extension), 3.1(c)(v) (Motion for Master Calendar Hearing).</p> <p>(C) Detained aliens - For master calendar hearings involving detained aliens, filing deadlines are as specified by the Immigration Court.</p> <p>(2) Individual calendar hearings</p> <p>(A) Unrepresented, non-detained aliens - For individual calendar hearings involving unrepresented, non-detained aliens, filings must be submitted at least fifteen (15) thirty (30) fifteen (15) days in advance of the hearing. This provision does not apply to exhibits or witnesses offered solely to rebut and/or impeach. Responses to filings that were submitted in</p>	<p>Processing Before the Immigration Courts.”</p> <p>Since early 2021, this manual had implemented a change creating a default evidentiary filing deadline for non-detained cases of 30 days before the individual hearing, rather than the previously longstanding 15-day deadline. On December 16, 2021, EOIR Director Neal issued Director’s Memo 22-04, which changes the default filing deadline back to 15 days before the individual hearing for non-detained cases. Individual IJs retain the authority to set their own call-up dates.</p> <p>Consistent with PM 21-18, “Revised Case Flow Processing Before the Immigration Courts,” which seeks to eliminate Master Calendar Hearings, this sub-chapter adds a section on the submission of a motion for a master calendar hearing.</p>
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advance of an individual calendar hearing must be filed within ten (10) days after the original filing with the Immigration Court. Objections to evidence may be made at any time, including at the hearing.

(B) Represented, non-detained aliens - For individual calendar hearings involving represented, non-detained aliens, amendments to applications for relief, additional supporting documents, updates to witness lists, and other such documents must be submitted at least ~~fifteen (15)~~ ~~thirty (30)~~ **fifteen (15)** in advance of the individual calendar hearing. This provision does not apply to exhibits of witnesses offered solely to rebut and/or impeach. Responses to filings must be filed within ten (10) days after the original filing with the Immigration Court. Objections to evidence may be made at any time, including at the hearing.

(c) Must be “timely”

[...]

(C) Deadlines following hearings - A filing may be due within a specific period of time *following* a hearing. For example, if a filing is due 15 days after a master calendar hearing, the day of the hearing counts as “day 0” and the day following the hearing counts as “day 1.” ~~In such cases, the day of the hearing counts as “day 0” and the day following the hearing counts as “day 1.”~~ Because deadlines are calculated using calendar days, Saturdays, Sundays, and legal holidays are counted. If, however, such a deadline falls on a Saturday, Sunday, or legal holiday, the deadline is construed to fall on the next business day.

[...]

(C) Contents - A motion for an extension should be filed with a cover page labeled “MOTION FOR EXTENSION” and comply with the requirements for filing. See [Chapter 3](#) (Filing with the Immigration Court), [Appendix E](#) ~~Appendix F~~ (Sample Cover Pages). A motion for an extension should clearly state:

- when the filing is due.
- the reason(s) for requesting an extension.
- that the party has exercised due diligence to meet the current filing deadline.
- that the party will meet a revised deadline.
- if the parties have communicated, whether the other party consents to the extension.
- **a proposed revised deadline.**

(5) Motions for master calendar hearing

If a party believes that a master calendar hearing is necessary where a hearing has been vacated or none has been scheduled, the party must make a written motion for master calendar hearing. The motion should be filed with a cover page labeled

“MOTION FOR MASTER CALENDAR HEARING” and comply with the requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should also clearly state:

- the date of the last master calendar hearing (if any).
- the reason(s) for requesting a master calendar hearing.
- the best language for the respondent.
- proposed dates and times (morning or afternoon) for the new hearing.

Examples of circumstances that may warrant a master calendar hearing include cases in which the respondent is an unaccompanied alien child or exhibits indicia of mental incompetency.

[...]

CHAPTER 3.2 - FILING WITH THE IMMIGRATION COURT

3.2 Service on the Opposing Party

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated Reference:

Appendix G is replaced with Appendix F

CHAPTER 3.3 - FILING WITH THE IMMIGRATION COURT

3.3 Documents

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated References:

3.3 (a) **Language and Certified Translations:** updated cross

	<p>reference: See Appendix G (Sample Certificate of Translation)</p> <p>3.3 (c)(1)(F)(3) Other filings: updated cross reference to Appendix N (Ex. Table of Contents) from Appendix P</p>
<p>CHAPTER 3.4 - FILING WITH THE IMMIGRATION COURT</p>	
<p>3.4 Filing Fees</p>	
<p>[...]</p> <p>(d) When Waived</p> <p>When a fee to file an application or motion is required, the Immigration Judge has the discretion to waive the fee upon a showing that the filing party is unable to pay the fee. However, the Immigration Judge will not grant a fee waiver where the application for relief is a Department of Homeland Security (DHS) form and DHS regulations prohibit the waiving of such fee. See 8 C.F.R. §§ 103.7, 1103.7.</p> <p>Fee waivers are not automatic. The request for a fee waiver must be accompanied by a properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C. § 1746, substantiating the filing party’s inability to pay the fee. If a filing is submitted without a required fee and the request for a fee waiver is denied, the filing will be deemed defectively filed and may be rejected or excluded from evidence. See Chapter 3.1(d) (Defective Filings).</p> <p>Fees are not reimbursed merely because the application or motion is granted.</p> <p>In all cases, the immigration judge will issue a decision on a fee waiver request in writing or on the record.</p> <p>(e) Amount of Payment</p> <p>(1) Motions to reopen or reconsider - When a filing fee is required, the fee for motions to reopen or reconsider is \$110\$145. 8 C.F.R. § 1103.7(b)(2). The fee is paid to the Department of Homeland Security in advance. The fee receipt and motion are then filed with the Immigration Court.</p>	<p>Notable Difference(s)</p> <p>This sub-chapter clarifies that the IJ must issue a decision in writing or orally during a hearing on a fee waiver request.</p> <p>Importantly, this sub-chapter incorporates the motions to reopen or reconsider fee increases from the <i>Department of Justice and Executive Office for Immigration Review; Fee Review</i>, 85 Fed. Reg. 82,750-01 (Dec. 18, 2020),⁶ which withstood judicial scrutiny in <i>Catholic Legal Immigration Network, Inc. v. Executive Office of Immigration Review</i>, No. 20-CV-03812, -- F. Supp. 3d --, 2021 WL 184359 (D.D.C. Jan. 18, 2021) (Mehta, J.). As such, the motions to reopen and reconsider fee increased from \$110 to \$145 for motions to reopen or reconsider.</p>

⁶ Department of Justice and Executive Office for Immigration Review; Fee Review, 85 Fed. Reg. 82,750-01 (Dec. 18, 2020), <https://www.federalregister.gov/documents/2020/12/18/2020-27506/executive-office-for-immigration-review-fee-review>.

<p>[...]</p>	<p>This sub-chapter reminds attorneys and accredited representatives that this fee is paid to DHS. This fee may now be paid through self-service kiosks in USCIS field offices without an appointment. Attorneys and accredited representatives may email payatkiosk@uscis.dhs.gov, which will prompt an automated email response authorizing them to access the kiosk area within seven business days. Practitioners should take care to select the correct fee amount on the kiosk; there are two possible fee amounts, \$110 (which applies to BIA appeals) and \$145.</p> <p><u>Updated Reference:</u> 3.4 (e)(2) <u>Application for relief:</u> updated cross reference to Appendix D (Forms) from Appendix E</p>
<p>CHAPTER 4.1 - HEARING BEFORE THE IMMIGRATION JUDGE</p>	
<p>4.1 Types of Proceedings</p>	
	<p>Notable Difference(s) This sub-chapter does not reflect substantive changes.</p>
<p>CHAPTER 4.2 - HEARING BEFORE THE IMMIGRATION JUDGE</p>	
<p>4.2 Commencement of Removal Proceedings</p>	

<p>(a) Notice to Appear</p> <p>Removal proceedings begin when the Department of Homeland Security files a Notice to Appear (Form I-862) with the immigration court after it is served on the alien. See 8 C.F.R. §§ 1003.13, 1003.14. Individual DHS offices, including USCIS and ICE OPLA field offices, are not required to file a Notice to Appear with any particular immigration court, but EOIR maintains an administrative control court list as a guide for about where DHS may file charging documents and which immigration courts generally have jurisdiction over particular DHS offices or detention locations. See Chapter 3.1(a)(1) (Administrative Control Courts). The Notice to Appear, or “NTA,” is a written notice to the alien which includes the following information:</p> <p>[....]</p>	<p>Notable Difference(s)</p> <p>This sub-chapter recognizes DHS’s discretion in choosing where to file the NTA to commence removal proceedings against an alleged non-citizen, which may be relevant for some motions to change venue and motions to reopen in absentia removal proceedings. Although this subchapter cites to the administrative control list, that list does not explain how DHS should choose at which immigration court to file the NTA in non-detained cases.</p>
<p>CHAPTER 4.3, 4.4 - HEARING BEFORE THE IMMIGRATION JUDGE</p> <p>4.3 References to Parties and the Immigration Judge 4.4 Representation</p>	
	<p>Notable Difference(s)</p> <p>These sub-chapters do not reflect substantive changes.</p>
<p>CHAPTER 4.5 - HEARING BEFORE THE IMMIGRATION JUDGE</p> <p>4.5 Hearing and Filing Location</p>	
<p>There are more than 400500 Immigration Judges in overmore than 60 immigration courts nationwide. The hearing location is identified on the Notice to Appear (Form I-862) or hearing notice. See Chapter 4.15(c) (Notification). Parties should note that documents are not necessarily filed at the location where the hearing is held. For information on hearing and filing locations, see Chapter 3.1(a) (Filing). If in doubt as to where to file documents, parties should contact the immigration court.</p>	<p>Notable Difference(s)</p> <p>This sub-chapter takes note of the continuously increasing number of IJs by changing the number from 400 to 500.</p>
<p>CHAPTER 4.6, 4.7, 4.8 - HEARING BEFORE THE IMMIGRATION JUDGE</p> <p>4.6 Form of the Proceedings</p>	

4.7 Hearings by Video or Telephone Conference 4.8 Attendance	
	Notable Difference(s) This sub-chapter does not reflect substantive changes.
CHAPTER 4.9 - HEARING BEFORE THE IMMIGRATION JUDGE	
4.9 Public Access	
	Notable Difference(s) <u>Updated References:</u> 4.9 (a)(3) Motions to close hearing : updated cross-reference: See Appendix E (Sample Cover Pages) 4.9 (b) News Media : updated cross-reference: See Appendix A (EOIR Directory)
CHAPTER 4.10 - HEARING BEFORE THE IMMIGRATION JUDGE	
4.10 Record	
	Notable Difference(s) <u>Updated Reference:</u> 4.10 (b) Transcriptions : for information on transcriptions, the party should consult Part III of this manual.
CHAPTERS 4.11, 4.12 - HEARING BEFORE THE IMMIGRATION JUDGE	
4.11 Interpreters 4.12 Courtroom Decorum	

	Notable Difference(s)
	<p><u>Updated Reference:</u> 4.10 (b) Transcriptions: for information on transcriptions, the party should consult Part III of this manual.</p>
CHAPTER 4.13- HEARING BEFORE THE IMMIGRATION JUDGE	
4.13 Electronic Devices	
[...]	Notable Difference(s)
<p>(b) Possession of Electronic Devices during Hearings</p> <p>Subject to subsection (c), below, all persons, including parties and members of the press, may keep in their possession laptop computers, cellular telephones, electronic calendars, and other electronic devices commonly used to conduct business activities, including electronic devices which have collateral recording capability. All electronic devices must be turned off in courtrooms and during hearings, unless otherwise authorized under subsection (c) below. Outside of courtrooms and hearings, electronic devices may be used in non-recording mode, but they must be made silent, and usage must be limited and non-disruptive. No device may be used by any person other than the Immigration Judge to record any part of a hearing. See subsection (a), above. For further discussion on the use of electronic devices, see EOIR PM 19-10, EOIR Security Directive: Policy for Public Use of Electronic Devices in EOIR Space (Mar. 20, 2019).</p> <p>[...]</p>	<p>This sub-chapter adds a reference to EOIR PM 19-10, <i>EOIR Security Directive: Policy for Public Use of Electronic Devices in EOIR Space</i>, which allows DHS attorneys and representatives to use electronic devices in EOIR courtrooms, but does not allow counsel for the respondents the same access.</p>
CHAPTER 4.14- HEARING BEFORE THE IMMIGRATION JUDGE	
4.14 Access to Court	
	Notable Difference(s)
	<p>This sub-chapter does not reflect substantive changes.</p>
CHAPTER 4.15 - HEARING BEFORE THE IMMIGRATION JUDGE	

4.15 Master Calendar Hearing

(a) Generally

~~A respondent's first appearance before an Immigration Judge in removal proceedings is at a master calendar hearing.~~ Master calendar hearings are held for pleadings, scheduling, and other similar matters. See subsection (e), below.

[...]

(j) Written Pleadings

In lieu of oral pleadings, the Immigration Judge may permit represented parties to file written pleadings, if the party concedes proper service of the Notice to Appear (Form I-862). See [Appendix K](#) ~~Appendix L~~ (Sample Written Pleading). The written pleadings must be signed by the respondent and the respondent's representative.

The written pleading should contain the following:

[...]

- a representation that any application(s) for relief (other than asylum) will be filed ~~no later than fifteen (15) days before~~ **in accordance with the individual calendar hearing, unless otherwise deadlines** directed by the Immigration Judge, **or, if the Immigration Judge has not directed a deadline, the deadlines contained in the EOIR Policy Manual**

[...]

(k) Background Checks and Security Investigations

For certain applications for relief from removal, the Department of Homeland Security (DHS) is required to complete background and security investigations. See 8 C.F.R. § [1003.47\(d\)](#); *OPPM 05-03, Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals* (Mar. 28, 2005). **For non-covered relief, such investigations are not required but may warrant a discretionary grant of a continuance for DHS to complete the investigations. See 8 C.F.R § 1003.47(j)-(k).** Questions regarding background checks and security investigations should be addressed to DHS.

[...]

(1) Non-detained cases - If a non-detained respondent seeks relief requiring background and security investigations, the DHS attorney provides the respondent with the DHS biometrics instructions. The respondent is expected to promptly comply with the DHS biometrics instructions by the deadlines set by the Immigration Judge. Failure to timely comply with these instructions will result in the application for relief not being considered unless the applicant demonstrates that such

Notable Difference(s)

Consistent with PM 21-18, *Revised Case Flow Processing Before the Immigration Courts*, EOIR deleted a reference to master calendar hearings.

Section 4.15 (j), "Written Pleadings," inserted Appendix K (Sample Written Pleading). Contents of the written pleading were revised to add the following new provision, "a representation that any application(s) for relief will be filed in accordance with the deadlines directed by the Immigration Judge, or, if the Immigration Judge has not directed a deadline, the deadlines contained in the EOIR Policy Manual."

Section 4.15 (k), Background Checks and Security Investigations," incorporates the guidance provided by 8 C.F.R. § 1003.47 and *OPPM 05-03, Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals*.

Updated References:

4.15 (i)(1) **Respondent**: updated references: A sample oral pleading is included in Appendix L (Sample Oral Pleading).

failure was the result of good cause. 8 C.F.R. § [1003.47\(d\)](#).

The Immigration Judge must, on the record, inform the respondent (1) that DHS has provided her with a biometrics instruction form; (2) of the date she must comply with those instructions; and (3) that failure to comply with those instructions or later provide biometric or other biographical information to DHS, without good cause, will constitute abandonment of the application for relief and an order will be entered dismissing the application. OPM 05-03, *Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals*. 8 C.F.R. § 1003.47(d). (Mar. 28, 2005).

In all cases in which the respondent is represented, the representative should ensure that the respondent understands the DHS biometrics instructions and the consequences of failing to timely comply with the instructions.

[...]

The below sub chapters were updated as to cross-reference: See Appendix E (Sample Cover Pages):

4.15 (m)(1) **Waiver of representative's appearance**

4.15 (m)(2) **Waiver of respondent's appearance**

4.15 (n) **Telephonic Appearances**

4.15 (o)(1) **Interpreters**

4.15 (o)(2) **Video testimony**

4.15 (o)(3) **Telephonic Testimony**

CHAPTER 4.16 - HEARING BEFORE THE IMMIGRATION JUDGE

4.16 Individual Calendar Hearing

[...]

(c) Opening the Individual Calendar Hearing

The Immigration Judge turns on the recording equipment at the beginning of the individual calendar hearing. The hearing is recorded, except for off-the-record discussions. See [Chapter 4.10](#) (Record).

On the record, the Immigration Judge identifies the type of proceeding being conducted (e.g., a removal proceeding); the respondent's name and alien registration number ("A number"); the date, time and place of the proceeding; and the presence of the parties. The Immigration Judge also verifies the respondent's name, address, and telephone number. If the respondent's address or telephone number have changed, the respondent must submit an Alien's Change of Address Form (Form EOIR-33/IC).

If the respondent is requesting relief that requires background investigations and security checks, the Immigration Judge must inquire, on the record, whether DHS completed them. If they are completed, the Immigration Judge must ensure the note the name of the DHS counsel who reported the completeness and the date on the Immigration Judge Worksheet. If the background investigations are [sic] security checks are incomplete due to the respondent's lack of compliance without good cause, the Immigration Judge may deem the application for the covered form of relief abandoned and enter an order dismissing the application.

Notable Difference(s)

This sub-chapter incorporates the requirement that the IJ inquire about and record biometrics compliance, the IJ's authority to deem an application abandoned for failure to comply with the biometrics check, and DHS's opportunity to seek a continuance when it fails to complete biometrics for a respondent.

Updated References:

4.16 (b)(3) **Criminal history**

chart: updated cross-reference:

<p>If the background investigations and security checks were not completed due to DHS, DHS may seek a continuance. Additionally, the Immigration Judge may proceed with the merits hearing; while she can deny relief, she cannot render a decision granting any covered form of relief until the background investigations and security checks are complete. If, after hearing the merits of the case, the Immigration Judge would grant covered relief, she must reschedule the matter for a date when DHS believes the background investigations and security checks will be complete. If, in the meantime, she decides to write a draft opinion, she must not discuss its existence or content with either party. EOIR PM 05–03, <i>Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals</i> (Mar. 28, 2005), available at https://www.justice.gov/sites/default/files/eoir/legacy/2005/04/12/05-03.pdf.</p> <p>If relief is granted that entitles the respondent to a document from DHS, the Immigration Judge’s decision must include an advisal to the respondent that she will need to contact an appropriate office of DHS to obtain a new document. EOIR PM 05–03, <i>Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals</i> (Mar. 28, 2005), available at https://www.justice.gov/sites/default/files/eoir/legacy/2005/04/12/05-03.pdf.</p> <p>[...]</p>	<p>See Appendix M (Sample Criminal History Chart)</p> <p>4.16 (i) Relief Granted: more information about the post-order instructions available on the EOIR website.</p>
<p>CHAPTER 4.17 - HEARING BEFORE THE IMMIGRATION JUDGE</p>	
<p>4.17 <i>In Absentia</i> hearing</p>	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p>
<p>CHAPTER 4.18 - HEARING BEFORE THE IMMIGRATION JUDGE</p>	
<p>4.18 Pre-Hearing Conferences and Statements</p>	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated References:</u></p> <p>4.18 (a) Pre-Hearing Conferences: updated cross-</p>

reference: See Appendix E (Sample Cover Pages).
4.18 (b)(1) **Filing**: updated cross-reference: See Appendix E (Sample Cover Pages).

CHAPTER 4.19 - HEARING BEFORE THE IMMIGRATION JUDGE

4.19 Pre-Hearing Briefs

[...]

(b) Guidelines - Pre-hearing briefs advise the Immigration Judge of a party's positions and arguments on questions of law. A well-written pre-hearing brief is in the party's best interest and is of great importance to the Immigration Judge. Pre-hearing briefs should be clear, concise, and well-organized. They should cite the record, as appropriate. Pre-hearing briefs should cite legal authorities fully, fairly, and accurately.

Pre-hearing briefs should always recite those facts that are appropriate and germane to the adjudication of the issue(s) at the individual calendar hearing. They should cite proper legal authority, where such authority is available. See subsection (f), below. Pre-hearing briefs should not belabor facts or law that are not in dispute. Parties are encouraged to expressly identify in their pre-hearing briefs those facts or law that are not in dispute.

Briefs and other submissions should always be paginated. ~~There are no limits to the length of pre-hearing briefs. Parties are encouraged, however, to limit the body of their briefs to 25 pages, provided that the issues in question can be adequately addressed.~~ **Parties must limit the body of their briefs to 25 pages. If a party believes it cannot adequately address the issues in the case within the page limit, the party may make a motion to increase the page limit.** Pre-hearing briefs should always be paginated.

[...]

Notable Difference(s)

This sub-chapter creates a mandatory 25-page limit for pre-hearing briefs and the opportunity to file a motion to increase the page limit, as needed. Note that the BIA Practice Manual also includes a 25-page limit.

Updated References:

4.19 (c)(1) **Filing**: updated cross-references: See Appendix E (Sample Cover Pages)

4.19 (c)(6) **Chronologies**: updated cross-references: See Appendix M (Sample Criminal History Chart)

4.19 (e) **Responses to Pre-Hearing Briefs**: updated cross-references:

See Appendix E (Sample Cover Pages)

4.19 (f) **Citation**: updated cross-references: See Appendix I (Citation Guidelines)

CHAPTER 4.20 - HEARING BEFORE THE IMMIGRATION JUDGE

4.20 Subpoenas

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated Reference:

4.20 (a) **Applying for a Subpoena**: updated cross-references See Appendix E (Sample Cover Pages).

CHAPTER 4.21 - HEARING BEFORE THE IMMIGRATION JUDGE

4.21 Combining and Separating cases

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated References:

4.12 (a) **Consolidated Cases**: updated reference: See Appendix E (Sample Cover Pages)
4.12 (b) **Severance of Cases**: See Appendix E (Sample Cover Pages)

CHAPTER 4.22 - HEARING BEFORE THE IMMIGRATION JUDGE

4.22 Juveniles

Notable Difference(s)

	This sub-chapter does not reflect substantive changes.
CHAPTER 5.1 - MOTIONS BEFORE THE IMMIGRATION COURT	
5.1 Who May File	
	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated Reference:</u> 5.1 (a) Parties: updated reference: See Appendix E (Sample Cover Pages)</p>
CHAPTER 5.2 - MOTIONS BEFORE THE IMMIGRATION COURT	
5.2 Filing a Motion	
	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated References:</u> 5.2 (a) Where to file: updated reference: See Appendix J (Where to File a Motion) 5.2 (a)(3)(B) Appeal filed: updated cross-reference: “Where an appeal has been filed with the Board of Immigration Appeals, the parties should consult Part III of this manual. See also Appendix J (Where to File a Motion).”</p>

	5.2 (b) Form : updated cross-reference: See Appendix E (Sample Cover Pages)
CHAPTER 5.3 - MOTIONS BEFORE THE IMMIGRATION COURT	
5.3 Motion Limits	
	Notable Difference(s) This sub-chapter does not reflect substantive changes.
CHAPTER 5.4 - MOTIONS BEFORE THE IMMIGRATION COURT	
5.4 Multiple Motions	
	Notable Difference(s) This sub-chapter does not reflect substantive changes. <u>Updated Reference:</u> See Appendix E (Sample Cover Pages)
CHAPTERS 5.5. - MOTIONS BEFORE THE IMMIGRATION COURT	
5.6 Motion Briefs	
	Notable Difference(s) This sub-chapters does not reflect substantive changes.
CHAPTER 5.6 - MOTIONS BEFORE THE IMMIGRATION COURT	
5.6 Transcript Requests	

	<p>Notable Difference(s)</p> <p>This sub-chapters does not reflect substantive changes.</p>
<p>CHAPTER 5.7 - MOTIONS BEFORE THE IMMIGRATION COURT</p>	
<p>5.6 Motions to Reopen</p>	
	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated Reference:</u> 5.7 (b)(1) Filing: updated reference: See Appendix E (Sample Cover Pages)</p>
<p>CHAPTER 5.8 - MOTIONS BEFORE THE IMMIGRATION COURT</p>	
<p>5.8 Motions to Reconsider</p>	
	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated References:</u> 5.8 (b) Requirements: updated cross-reference See Appendix E (Sample Cover Pages) 5.8 (f) Identification of Error: updated cross-reference: See Appendix I (Citation Guidelines)</p>
<p>CHAPTER 5.9 - MOTIONS BEFORE THE IMMIGRATION COURT</p>	
<p>5.9 Motions to reopen in absentia orders</p>	

	<p>Notable Difference(s)</p> <p>This sub-chapter does not reflect substantive changes.</p> <p><u>Updated Reference:</u> 5.9 (b) Filing: updated cross-reference: See Appendix E (Sample Cover Pages)</p>
<p>CHAPTER 5.10 - MOTIONS BEFORE THE IMMIGRATION COURT</p>	
<p>5.10 Other Motions</p>	
<p>[...]</p> <p>(g) Motion for master calendar hearing</p> <p>See Chapter 3.1(c)(v) (Motions for master calendar hearing).</p> <p>[...]</p> <p>(w) Motion for prima facie determination of eligibility</p> <p>Aliens with a pending application for suspension of deportation under section 244(a)(3) of the Act, or cancellation of removal under section 240A(b)(2) of the Act, may file a motion with the Immigration Court for a determination that he or she is a “qualified” alien for purposes of receiving public benefits under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as an alien who has demonstrated prima facie eligibility for such relief from removal.</p> <p>In order to file a motion for prima facie determination, the alien must have filed or is filing concurrently a completed application for suspension of deportation under section 244(a)(3) or cancellation of removal under section 240A(b)(2) of the INA. The motion must be accompanied by a signed statement by the alien, under penalty of perjury, stating whether he or she has been convicted of any crime and, if so, any details about the offense(s). Any additional statements or evidence that the alien wishes the Court to consider must also be attached to the motion.</p>	<p>Notable Difference(s)</p> <p>This sub-chapters mentions two new motions: Motion for master calendar hearing and a Motion for prima facie determination of eligibility.</p> <p><u>Updated References:</u> 5.10 (a) Motion to Continue; 5.10 (b) Motion to Advance; 5.10 (c) Motion to Change Venue; 5.10 (u) Motion to Recalendar; 5.10 (v) Motion to Amend; 5.10 (x) Other Types of Motions – all of the above, updated cross-reference: See Appendix E (Sample Cover Pages)</p>

Responses to motions for prima facie determination are due within five (5) business days after the motion was received by the Immigration Court, unless otherwise specified by the Immigration Judge.

Once an appeal is filed with the Board of Immigration Appeals, the Immigration Judge no longer has jurisdiction over the case. See Chapter 5.2(a) (Where to file). Thus, motions for prima facie determination should not be filed with the Immigration Court after an appeal is taken to the Board.

[...]

CHAPTERS 5.11 and 5.12 - MOTIONS BEFORE THE IMMIGRATION COURT

5.11 Decisions

5.12 Response to Motion

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

CHAPTER 6.1 - APPEALS OF IMMIGRATION JUDGE DECISIONS

6.1 Appeals Generally

6.2 Process

6.3 Jurisdiction

6.4 Waiver of Appeal

6.5 Certification

6.6 Additional Information

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

Updated Reference:

6.6 Additional Information:

“For detailed guidance on appeals, parties should consult Part III of this manual.” Part III refers to the BIA Practice Manual.

CHAPTERS 7.1, 7.2, 7.3, and 7.4 - OTHER PROCEEDINGS BEFORE IMMIGRATION JUDGES

- 7.1 Overview**
- 7.2 Deportation Proceedings and Exclusion Proceedings**
- 7.3 Rescission Proceedings**
- 7.4 Limited Proceedings**

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

CHAPTER 7.5 - OTHER PROCEEDINGS BEFORE IMMIGRATION JUDGES (UPD 1/12/21)

7.5 ABC settlement

Notable Difference(s)

7.5 (a) ABC Class Members: “Members of the class covered by the ABC Settlement Agreement, who timely registered to receive benefits under the agreement (either by applying directly or by applying for TPS, if Salvadoran) may be entitled to certain rights and benefits pursuant to the agreement. *See American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991). ABC class members include Salvadorans who entered the United States on or before September 19, 1990, and Guatemalans who entered the United States on or before October 1, 1990.^[1]”

7.5 (b) Certain El Salvador and Guatemala Nationals: “Section 203 of the Nicaraguan Adjustment and Central American Relief Act (“NACARA”) provides that certain nationals of El Salvador and Guatemala are eligible to apply for suspension of deportation, or NACARA cancellation, under standards similar to those in effect prior to the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”). Pub. L. No. 105-100, 111 Stat. 2160 (1997). To qualify for NACARA relief as a Salvadoran or Guatemalan national, the applicant must have either:

(1) filed an application for asylum on or before April 1, 1990; or

(2) registered for benefits under *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991) and not been apprehended at the time of entry if such entry occurred after December 19, 1990. 8 C.F.R. § 1240.61(a)(1)-(2).

A Salvadoran national is considered to have registered for ABC benefits if he or she entered the United States on or before September 19, 1990, and either applied for temporary protected status on or before October 31, 1991, or submitted an ABC registration form on or before October 31, 1991. *Id.* § 1240.60(1). A Guatemalan national is considered to have registered for ABC benefits if he or she entered the United States on or before October 1, 1990, and submitted an ABC registration form on or before December 31, 1991. 8 C.F.R. § 1240.60(2)”

This is a new sub-chapter.

EOIR should update this subchapter by editing footnote 1, which cites to *Matter of Castro-Tum*. On July 15, 2021, Attorney General Garland vacated *Matter of Castro-Tum*. *See Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021). Similarly, EOIR should incorporate Director’s Neals’ [DM 22-03](#).

[1] Administrative closure was expressly authorized for certain ABC class members in order to implement the ABC settlement agreement and provide such class members the opportunity to exercise their rights under the agreement. See 8 C.F.R. §§ 1240.62(b) and 1240.70(f)-(h); ABC, 760 F. Supp. At 805; *Matter of Castro-Tum*, 27 I&N Dec. 271, 276–77 (2018). (footnote 7.5 (a) ABC Class Members)

CHAPTER 8.1 and 8.2 - STAYS

8.1 In General
8.2 Automatic Stays

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

CHAPTER 8.3 – STAYS (UPD 1/14/21)

8.3 Discretionary Stays

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated references:

8.3 (c) **Motion Required:** updated cross-reference: See Appendix E (Sample Cover Pages)
8.3 (c)(1)(C) **Form of Request:** updated cross-reference: See Appendix E (Sample Cover Pages)
8.3 (c)(1)(E) **Format:** updated cross-reference: See Appendix F (Sample Certificate of Service)
8.3 (c)(2)(A) **Emergency:** For list of immigration court numbers, see Appendix A (EOIR

		Directory) or visit EOIR's website.
CHAPTER 9.1 and 9.2 - DETENTION AND BOND		
9.1 Detention 9.2 Detained Juveniles		
		Notable Difference(s) These sub-chapters do not reflect substantive changes.
CHAPTER 9.3 - DETENTION AND BOND (UPD 1/14/21)		
9.3 Bond Proceedings		
		Notable Difference(s) This sub-chapter does not reflect substantive changes. <u>Updated References:</u> 9.3 (e)(5) Evidence: updated cross-reference: See Appendix E (Sample Cover Pages) 9.3 (f) Appeals: updated cross-reference: For detailed guidance on when Immigration Judges' decisions in bond proceedings are stayed, parties should consult Part III of this manual.
CHAPTER 9.4 - DETENTION AND BOND		
Prior Title: Continued Detention Review	New Title: Detention Review	Notable Difference(s)
(a) In General Generally, the Department of Homeland Security (DHS) must remove or release detained aliens within 90 days of a final order of removal. However, DHS may continue to detain an alien whose removal from the United States is not “reasonably foreseeable,” if the alien’s release would pose a special danger to the public. See INA § 241(a)(6) , 8 C.F.R. § 1241.14(f) . Such a decision by DHS to continue to detain an alien is reviewed by an Immigration Judge in “continued		Section 9.4(a) of this sub-chapter includes reference to regulatory authority and a PM to explain that investigations and security checks may be a reason why DHS

detention review proceedings.” While background investigations and security checks are not required, as custody decisions require promptness, the regulations do allow for some consideration of these matters: “[i]n scheduling an initial custody redetermination hearing, the Immigration Judge shall, to the extent practicable consistent with the expedited nature of such cases, take account of the brief initial period of time needed for DHS to conduct the automated portions of its identity, law enforcement, or security investigations or examinations with respect to aliens detained in connection with immigration proceedings.” 8 C.F.R. § 1003.47(k); EOIR PM 05–03, *Background and Security Investigations in Proceedings before Immigration Judges and the Board of Immigration Appeals* (Mar. 28, 2005), available at <https://www.justice.gov/sites/default/files/eoir/legacy/2005/04/12/05-03.pdf>. The proceedings begin with a DHS determination that continued detention is required and are divided into two phases: (1) reasonable cause hearings and (2) continued detention review merits hearings. See subsections (c), (d), below.

(b) DHS Determination

If an alien has been ordered removed but remains detained, he or she may request that the Department of Homeland Security (DHS) determine whether there is a significant likelihood of removal in the reasonably foreseeable future. See 8 C.F.R. § [241.13](#). If there is a significant likelihood of removal in the reasonably foreseeable future, DHS may continue to detain the alien.

If there is *not* a significant likelihood of removal in the reasonably foreseeable future, the alien is released unless DHS determines, based on a full medical and physical examination, **including a mental-health evaluation**, that the alien should be subject to continued detention because the alien’s release would pose a special danger to the public. Following such a determination, the matter is referred to an Immigration Judge for a reasonable cause hearing. See 8 C.F.R. § [1241.14\(f\)](#).

(c) Reasonable Cause Hearing

A reasonable cause hearing is a brief hearing to evaluate the evidence supporting the determination by the Department of Homeland Security (DHS) that the alien’s release would pose a special danger to the public. In the hearing, the Immigration Judge decides whether DHS’s evidence is sufficient to establish reasonable cause to go forward with a continued detention review merits hearing, or whether the alien should be released. See generally 8 C.F.R. § [1241.14](#).

(1) Initiation - Jurisdiction vests with the Immigration Court when DHS files a Form I-863 (Notice of Referral to the Immigration Judge) with the court having jurisdiction over the place of the alien’s custody.

(2) Timing - The reasonable cause hearing begins no later than 10 business days after referral to the Immigration Court. **These hearings must take priority over all other hearings with the exception of credible fear review hearings.**

[...]

(5) Conduct of hearing ~~DHS may offer any evidence that is material and relevant to the proceeding. The~~ - **At the outset of the hearing, the immigration judge will explain the alien’s rights to the alien, including** a reasonable opportunity to

subjects a respondent to continued detention.

Section 9.4 (b) of this sub-chapter expressly includes “a mental-health evaluation” as part of the examination that DHS must conduct in custody determinations.

Section 9.4 (c) of this sub-chapter clarifies when an IJ has jurisdiction to hold a reasonable cause hearing.

Section 9.4 (c)(2) of this sub-chapter instruct IJs that reasonable cause hearings are a priority, with the exception of credible fear review hearings

Section 9.4 (c)(5) of this sub-chapter instruct IJs to begin reasonable cause hearings with an explanation of rights to the noncitizen, including their reasonable opportunity to examine evidence and witnesses presented by DHS, and to present evidence on his or her own behalf. EOIR is tasked with providing an interpreter for this hearing.

Section 9.4 (c)(7) of this sub-chapter clarifies that in a Reasonable Cause Hearing IJs will render a decision in oral or written form, provides instructions on how IJs shall

examine evidence ~~against him or her, to present evidence~~ and witnesses presented by DHS, and to present evidence on his or her own behalf, ~~and to cross-examine witnesses presented by DHS.~~ DHS may offer any evidence that is material and relevant to the proceeding. EOIR will provide an interpreter for the hearing.

[...]

(7) Immigration Judge’s decision - If the Immigration Judge finds that DHS has met its burden of showing reasonable cause to go forward with a continued detention review merits hearing, the alien is notified, and the merits hearing is scheduled.

If the Immigration Judge finds that DHS has *not* met its burden, the Immigration Judge dismisses the proceedings, and the alien is released under conditions determined by DHS.

The Immigration Judge will render a decision in oral or written form. An oral decision will be made on the record, in summary form. The oral decision must be identified as “the decision of the Immigration Judge.”

Written (reserved) decisions must be issued within five business days after the close of the record, unless that time period is extended 1) by an agreement of both parties; 2) because of a delay caused by the alien; or 3) by a determination by the Chief Immigration Judge that “exceptional circumstances make it impractical to render the decision on a highly expedited basis.” Approval for an extension based upon certification by the Chief Immigration Judge must be obtained no later than the third business day after the hearing is concluded.

(8) Appeals - If the Immigration Judge finds that DHS has not met its burden of showing reasonable cause to go forward with a continued detention review merits hearing, DHS may appeal to the Board of Immigration Appeals. The appeal must be filed within two business days after the Immigration Judge’s order. The Immigration Judge’s order dismissing the proceedings is stayed pending adjudication of an appeal, unless DHS waives the right to appeal. If the Board of Immigration Appeals determines that DHS has met its burden, the case will be remanded to the immigration judge to conduct a CDR merits hearing, scheduled to commence within 30 days from the Board’s order.

If the Immigration Judge finds that DHS *has* met its burden, the decision is not appealable by the alien.

(d) Continued Detention Review Merits Hearing

In the continued detention review merits hearing, the Department of Homeland Security (DHS) has the burden of proving by clear and convincing evidence that the alien should remain in custody because the alien’s release would pose a special danger to the public. See generally 8 C.F.R. § [1241.14](#).

render oral decisions on the record and written decisions, and sets a deadline of 5 days for written decisions.

Section 9.4 (c)(8) of this subchapter clarifies the timeframe for the IJ to schedule a Continued Detention Review hearing if the BIA determines that DHS has met its burden.

Section 9.4 (d) notes that the ROP from the reasonable cause hearing will be used in the CDR hearing and that the IJ must provide the noncitizen with a list of free legal service providers and An explanation of rights to the noncitizen at the beginning of the hearing.

Similar to Section 9.4 (c)(7), Section 9.4 (d)(5) clarifies that IJs conducting a Continued Detention Review Merits Hearing may render decisions orally or in writing, and if the decision is in writing, the IJ must issue it within 10 days after the IJ closes the record.

Section 9.4 (e) incorporates a new requirement for IJs to schedule a hearing within 30 days of granting a motion for review.

(1) Initiation - The Immigration Court's jurisdiction vests for a CDR merits hearing after either the Immigration Court or the Board, pursuant to a final decision in a reasonable cause hearing, has determined that DHS's determination and evidence is sufficient to establish reasonable cause to proceed with a CDR merits hearing.

[...]

(4) Conduct of hearing - The Immigration Judge may receive into evidence any oral or written statement that is material and relevant to the proceeding. **The ROP that was used for the reasonable cause hearing will also be used for the continued detention review merits hearing. The alien has the right to be represented at no cost to the government and shall be given a list of free legal service providers.** The alien has a reasonable opportunity to examine evidence against him or her, to present evidence and witnesses on his or her own behalf, and to cross-examine witnesses presented by DHS. In addition, the alien has the right to cross-examine the author of any medical or mental health reports used as a basis for DHS's determination that the alien's release would pose a special danger to the public. **In addition to receiving a written statement of rights, the Immigration Judge will explain these rights to the alien at the beginning of the hearing.**

(5) Immigration Judge's decision - If the Immigration Judge determines that DHS has met its burden of showing that the alien should remain in custody as a special danger to the public, the Immigration Judge orders the continued detention of the alien.

If the Immigration Judge determines that DHS has *not* met its burden, the Immigration Judge dismisses the proceedings, and the alien is released under conditions determined by DHS.

The Immigration Judge may render either an oral or written (reserved) decision. Written decisions must be issued within ten days after the close of the record, subject to extension pursuant to the same procedures as those for reasonable cause hearings.

(6) Appeals - Either party may appeal the Immigration Judge's decision to the Board of Immigration Appeals. Appeals by DHS must be filed within 5 business days of the Immigration Judge's order. Appeals by aliens are subject to the same deadlines as appeals in removal proceedings. For detailed guidance on appeals, parties should consult ~~the Board of Immigration Appeals Practice~~ **Part III of this** manual, which is available on the Executive Office for Immigration Review website at www.justice.gov/eoir.

If the Immigration Judge dismisses the proceedings and orders the alien released, the order is stayed pending adjudication of any DHS appeal, unless DHS waives the right to appeal.

(e) Periodic Review

Following proceedings in which the alien's continued detention has been ordered, the alien may periodically request that the Department of Homeland Security (DHS) review his or her continued detention. The alien must show that, due to a material change in circumstances, the alien's release would no longer pose a special danger to the public. Such requests

<p>may be made no earlier than 6 months after the most recent decision of the Immigration Judge or the Board of Immigration Appeals.</p> <p>If DHS does not release the alien, the alien may file a motion with the Immigration Court to set aside its prior determination in the proceedings. The alien must show that, due to a material change in circumstances, the alien’s release would no longer pose a special danger to the public. If the Immigration Judge grants the motion, a new continued detention review merits hearing is will be scheduled to be held within 30 days of the grant of the motion. If the motion is denied, the alien may appeal to the Board.</p>	
<p>CHAPTER 10 - DISCIPLINE OF PRACTITIONERS</p> <p>10.1 Practitioner Discipline Generally 10.2 Definition of Practitioner and Recognized Organization</p>	
	<p>Notable Difference(s) These sub-chapters do not reflect substantive changes.</p>
<p>CHAPTER 10 - DISCIPLINE OF PRACTITIONERS</p> <p>10.3 Jurisdiction</p>	
	<p>Notable Difference(s) This sub-chapter does not reflect substantive changes.</p> <p><u>Updated References:</u> 10.3 (d) DHS Attorneys: supplemented reference: "A list of Offices of the Chief Counsel is available on the DHS, U.S. Immigration and Customs Enforcement website at www.ice.gov." 10.3 (e) Unauthorized Practice of Law: updated cross-reference: See Part I, Chapter 5 (EOIR</p>

	Fraud and Abuse Prevention Program), Appendix A (EOIR Directory).
10.4 Conduct	CHAPTER 10 - DISCIPLINE OF PRACTITIONERS
	Notable Difference(s) This sub-chapter does not reflect substantive changes.
10.5 Filing a Complaint	CHAPTER 10 - DISCIPLINE OF PRACTITIONERS
	10.5 (b) What to File : updated cross-reference: See Appendix D (Forms). 10.5 (c) Where to File : updated cross-reference: See Appendix A (EOIR Directory)
10.6 Duty to Report	CHAPTER 10 - DISCIPLINE OF PRACTITIONERS
	Notable Difference(s) This sub-chapter does not reflect substantive changes. <u>Updated Reference:</u> Changed “he or she” to “the practitioner.”
10.7 Disciplinary Proceedings	CHAPTER 10 - DISCIPLINE OF PRACTITIONERS
	Notable Difference(s)

	<p>Updated References: 10.7 (d)(2) <u>Motion for Extension of Time to Answer</u>, 10.7 (d)(4) <u>Motion to set aside default judgment</u>, 10.7 (f)(1) <u>Board of Immigration Appeals</u>: three above, updated reference: “For information on the requirements for filing with the Board and the Board's mailing address, parties should consult Part III of this manual.”</p>
CHAPTER 10 - DISCIPLINE OF PRACTITIONERS	
10.8 Notice to Public	
	<p>Notable Difference(s) This sub-chapter does not reflect substantive changes.</p>
CHAPTER 10 - DISCIPLINE OF PRACTITIONERS	
10.9 Effect on Practitioner’s Pending Immigration Cases 10.10 Reinstatement	
	<p>Notable Difference(s) This sub-chapter does not reflect substantive changes.</p>
CHAPTER 11 – FORMS	
11.1 Forms Generally	
	<p>Notable Difference(s) This sub-chapter does not reflect substantive changes.</p>

CHAPTER 11 – FORMS

11.2 Obtaining Blank Forms

Notable Difference(s)

This sub-chapter does not reflect substantive changes.

Updated References:

11.2 (a) **Identifying EOIR**

Forms: updated cross-reference:
See Appendix A (EOIR Directory)

11.2 (b) **Obtaining EOIR**

Forms: updated cross-reference:
See Appendix D (Forms)

11.2 (f) **Form Colors:** revised to delete vagueness. Revised reads: “Forms are no longer required to be filed on paper of a specific color. However, the use of colored paper for the forms listed below is strongly encouraged. Any submission that is not a form must be on white paper.”

CHAPTER 11 - FORMS

11.3 Submitting Completed Forms

11.4 Additional Information

Notable Difference(s)

These sub-chapters do not reflect substantive changes.

CHAPTER 12 - FREEDOM OF INFORMATION ACT (FOIA)

12.1 Generally

12.2 Requests 12.3 Denials			<p>Notable Difference(s)</p> <p>These sub-chapters do not reflect substantive changes.</p> <p><u>Updated References:</u> 12.1 Generally: 12.2 Requests: 12.2 (b)(1) Form: all above updated cross-reference: see Appendix A (EOIR Directory) 12.3 No substantial changes</p>
CHAPTER 13 - PUBLIC INPUT			
Prior Title: Other Information	New Title: Public Input		<p>Notable Difference(s)</p> <p>The title of this subchapter changed from “Other Information” to “Public Input.”</p> <p>EOIR deleted the following sections:</p> <ul style="list-style-type: none"> • 13.1 Reproduction of the Practice Manual • 13.2 Online Access to the Practice Manual • 13.3 Updates to the Practice Manual <p><u>Updated References:</u> 13 (a) Policy Manual: updated reference: “Correspondence regarding Part II of the Policy</p>
<p>13.1 Reproduction of the Practice Manual—The Practice Manual is a public document and may be reproduced without advance authorization from the Executive Office for Immigration Review.</p> <p>13.2 Online Access to the Practice Manual—The most current version of the Practice Manual is available at the Executive Office for Immigration Review website at www.justice.gov/eoir. Questions regarding online access to the Practice Manual should be addressed to the Law Library and Immigration Research Center. See Appendix B (EOIR Directory).</p> <p>13.3 Updates to the Practice Manual—The Practice Manual is PUBLIC INPUT (updated periodically. The date of the most recent update is indicated at the bottom of each page. Parties should make sure to consult the most recent version of the Practice Manual, which is posted online at the Executive Office for Immigration Review website at www.justice.gov/eoir.</p> <p>(a) Practice Policy Manual - ...</p>			

	<p>Manual should be mailed to: (there was no change in address)” 13 (b) <u>Regulations and Published Rules</u>: updated reference: “New regulations are published in the Federal Register, in most law libraries, and in many public libraries. The public is encouraged to submit comments on regulations as instructions provide in each relevant publication.”</p>
<p>CHAPTER 14 - LOCAL OPERATING PROCEDURES</p> <p>14.1 Standing Orders</p>	
<p>For current immigration court standing orders, please see the EOIR Operational Status page.</p>	<p>Notable Difference(s) This sub-chapter is new and recognizes the advent of individual immigration court standing orders.</p>