U.S. Department of Justice
Executive Office for Immigration Review
Office of the Chief Immigration Judge

Uniform Docketing System Manual

Revised February 2021

UNIFORM DOCKETING SYSTEM MANUAL
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INTRODUCTION

A. OFFICE OF THE CHIEF IMMIGRATION JUDGE

The Office of the Chief Immigration Judge (OCIJ) supervises and directs the activities of the immigration courts which conduct in excess of 300,000 immigration hearings annually. The Chief Immigration Judge, Deputy Chief Immigration Judges, and Assistant Chief Immigration Judges (ACIJs), under the guidance of the Director of the Executive Office for Immigration Review (EOIR), develop operating policies for the Courts nationwide. In addition, they oversee policy implementation and evaluate the performance of the immigration courts. OCIJ is responsible for the overall direction and supervision of the immigration judges in the performance of their duties and for providing administrative support for the immigration court. In addition to the judges mentioned above, OCIJ contains a headquarters staff of management, legal and support personnel, which includes a Chief Counsel to the Chief Immigration Judge, a Special Assistant, an Executive Officer, the Clerk's Office, and a Language Services Unit.

B. IMMIGRATION COURT

Each immigration court is staffed with immigration judges who conduct immigration hearings. They function in an independent decision-making capacity determining the facts in each case, applying the law, and rendering a decision. Their decisions are final unless appealed to the Board of Immigration Appeals (BIA). The judges may be assisted by a law clerk, who researches case law and provides other legal support as required.

Under the supervision of an ACIJ, the Court Administrator (CA) manages the daily activities of the court and supervises the support staff which usually includes interpreters and legal assistants. The Court Administrator is the liaison with the local Department of Homeland Security (DHS), the private bar, and volunteer organizations which represent aliens.

Not all court hearings are conducted in the nationwide court locations. In addition, the judges hold hearings in designated detail cities where the caseload is not sufficient to warrant the establishment of a permanent court. Hearings also are conducted in DHS detention centers around the country, as well as municipal, state and federal penal institutions, in conjunction with the Institutional Hearing Program (IHP).

C. TYPES OF IMMIGRATION HEARINGS

There are twelve principal types of immigration proceedings conducted by the immigration court: removal, deportation, bond redetermination, asylum-only, credible fear review, exclusion, withholding-only, reasonable fear review, claimed status review, NACARA-only, rescission, and continued detention review. All the proceedings involve an alien

referred to as either a respondent or an applicant, whom the DHS has charged with violating the immigration laws of the United States.

1. Removal Hearing

A removal case usually arises when DHS alleges that a respondent either is inadmissible to the United States or where a respondent has entered the country illegally by crossing the border without being inspected by an immigration officer. Removal cases also occur when DHS alleges that a respondent has entered the country legally, but then has violated one or more conditions of his admission. For example, a visitor who is admitted to the United States for a specified time period but who overstays his period of authorized stay, violates a condition of his admission and may be subject to removal proceedings.

When the DHS becomes aware of a respondent whom they believe to be removable, they issue a charging document called a Notice to Appear (NTA). An NTA is the appropriate charging document that DHS must file with the court for an alien that it seeks to remove on or after April 1, 1997. A removal proceeding actually begins when the NTA is filed with an immigration court. In such proceedings, the government is represented by a DHS Assistant Chief Counsel.

2. Deportation Hearing

After April 1, 1997, removal hearings replaced deportation and exclusion proceedings. However, deportation or exclusion cases may still be pending with the immigration courts, particularly if a motion to reopen has been granted. Prior to April 1, 1997, a deportation case usually arose when DHS alleged that a respondent entered the country illegally by crossing the border without being inspected by an immigration officer. Deportation cases also occurred when DHS alleged that a respondent entered the country legally with a visa but then violated one or more conditions of the visa.

When the DHS became aware of a respondent whom they believed to be deportable, they issued a charging document called an Order to Show Cause (OSC). An OSC is the charging document that was used prior to April 1, 1997. A deportation proceeding actually began when the OSC was filed with an immigration court. In such proceedings, the government, represented by DHS, had to prove that a respondent was deportable for the reasons stated in the OSC.

3. Bond Redetermination Hearing

The DHS may detain a respondent who is in removal or deportation proceedings and condition his/her release from custody upon the posting of a bond to ensure the

respondent's appearance at the hearing (except in the case of an arriving alien or an alien charged with being inadmissible to the United States). When this occurs, the respondent has the right to ask an immigration court to redetermine the bond. In a bond redetermination hearing, the judge can raise, lower, or maintain the amount of the bond, eliminate it altogether, or change any of the conditions over which the immigration court has authority. The bond redetermination hearing is completely separate from the removal or deportation hearing.

NOTE: Institutional Hearing Program Cases: Immigration bonds are not set for incarcerated aliens since they are not held in DHS custody. Therefore, until an incarcerated criminal alien is released from prison to DHS, a bond redetermination hearing is not appropriate.

4. Asylum-Only Hearings

Certain aliens are not entitled to proceedings under section 240 of the Immigration and Nationality Act (INA or the Act), yet these aliens are entitled to asylum-only hearings before an immigration judge. If such an alien requests asylum, the DHS will file a Form I-863, Notice of Referral to Immigration Judge, with the immigration court. Aliens eligible for asylum-only hearings include crewmen, stowaways, Visa Waiver Pilot beneficiaries, and those ordered removed from the United States on security grounds.

5. Credible Fear Review

If an alien in expedited removal expresses a fear of persecution, or an intention to apply for asylum, that alien will be referred to a DHS officer for a credible fear determination. If the DHS officer determines that the alien has not established a credible fear of persecution (and a DHS supervisor concurs), the alien may request review of that determination by an immigration judge on the DHS Record of Negative Credible Fear Finding and Request for Review by Immigration Judge (DHS Form I-869). That review must be "concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no event later than seven days after the date of the determination [by the supervisory asylum officer]." INA § 235(b)(1)(B)(iii)(III).

6. Exclusion Hearing

Prior to April 1, 1997, an exclusion case involved a person who tried to enter the United States but was stopped at the point of entry because the DHS found the person to be inadmissible. This situation occurred, for example, when a DHS officer believed the applicant's entry papers were fraudulent.

To place an applicant for admission to the United States in exclusion proceedings,

the DHS issued a charging document referred to as an "I-122" and filed it with an immigration court. Unlike a respondent in deportation proceedings, the DHS had sole jurisdiction over the custody status of an applicant in exclusion proceedings. The DHS District Director could either detain the applicant or "parole" the applicant into the country; i.e., release him/her from detention and allow him/her to remain free until the hearing was completed. In either case, the applicant technically had not entered the country. In the course of the exclusion proceedings, the burden of proof was on the applicant to prove admissibility to the United States. All exclusion proceedings were closed to the public unless requested otherwise by the applicant.

7. Withholding-Only Hearing

Certain aliens are not entitled to proceedings under section 240 of the Act, yet these aliens are entitled to withholding-only hearings before an immigration judge. If such an alien requests asylum, the DHS will file a Form I-863, Notice of Referral to Immigration Judge, with the immigration court. Aliens eligible for withholding-only hearings have previously been ordered removed (administratively) by the DHS or the DHS has reinstated a prior exclusion, deportation or removal order.

8. Reasonable Fear Hearing

If an alien has been previously ordered removed (administratively) by the DHS, or the DHS has reinstated a prior exclusion, deportation, or removal order, and the alien expresses a fear of persecution or torture, that alien will be referred to a DHS officer. If the DHS officer determines that the alien has not established a reasonable fear of persecution or torture (and a DHS supervisor concurs), the alien may request a review of that determination by an immigration judge on the DHS Record of Negative Reasonable Fear Finding and Request for Review by Immigration Judge (DHS Form I-898). The review must be concluded no later than ten days of the filing of the DHS Form I-863 with the immigration court.

9. Claimed Status Review

If an alien in expedited removal claims under oath to be a United States citizen, to have been lawfully admitted for permanent residence, to have been admitted as a refugee, or to have been granted asylum, he/she can obtain a review of that claim by an immigration judge where DHS determines that the alien has no such claim (claimed status review). Although not required by statute or regulation, claimed status review cases (except cases involving claims to United States citizenship) will be heard, to the maximum extent practical, within the same time frame as credible fear review cases (within 24 hours to the extent practical, but not more than seven days from the filing of the charging document).

10. NACARA-Only Hearing

Certain aliens are eligible to apply for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act (NACARA), if the application was filed before April 1, 2000. In certain instances where an alien has filed an application for adjustment of status under NACARA with DHS, the case may be referred to the immigration court by Form I-290C (Notice of Certification) for a NACARA-only hearing. The scope of these hearings is limited to whether the alien is eligible for adjustment of status under NACARA.

11. Rescission Hearing

A less common type of proceeding that comes before the immigration court is a rescission case. If, within five years of granting adjustment of status, the DHS discovers that the respondent/applicant was not entitled to lawful permanent residence (LPR) status when it was granted, the DHS issues a Notice of Intent to Rescind. If the respondent/applicant requests a hearing before an immigration court, DHS will file the Notice with the immigration court and the proceeding to rescind the individual's LPR status commences. As with deportation cases, the government has the burden of proof to show that rescission is warranted. If an individual loses LPR status, he/she then is usually subject to deportation proceedings.

Although rescission proceedings still exist after April 1, 1997, the DHS may place an LPR into removal proceedings. An order of removal is sufficient to rescind the alien's status.

12. Continued Detention Review

A continued detention review hearing occurs when the Commissioner for the DHS certifies in writing that an alien's release would pose a special danger to the public because he or she has committed one or more crimes of violence, is likely to engage in acts of violence due to the alien's mental condition or personality disorder and behavior associated with that condition or disorder, and no conditions of release can reasonably be expected to ensure public safety.

8 C.F.R. § 241.14(f)(1).

A continued detention review hearing involves two phases: 1) a reasonable cause hearing; and 2) a special circumstances hearing.

Continued Detention Review is a case type: CDR. There are two types of hearings within the CDR case type, 1) a Reasonable Cause Hearing (RC Hearing)

which is equivalent to a Master (MM) and 2) a Special Circumstances Hearing (SC Hearing) which is equivalent to an Individual (II).

Jurisdiction over an RC Hearing 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.

Jurisdiction over an SC Hearing vests after either the immigration court or the BIA, pursuant to a final decision in an RC Hearing, has determined that DHS has met its burden to demonstrate that reasonable cause exists to proceed with such a hearing.

D. THE UNIFORM DOCKETING SYSTEM

The case processing system that governs the management of all cases in the immigration court is detailed in the Uniform Docketing System Manual issued by OCIJ. Operational procedures are amended or created through Operating Policies and Procedures Memoranda (OPPM) issued to the immigration courts by the Chief Immigration Judge.

When the immigration court receives a charging document, the support staff enters the case information into the EOIR computer database—the Case Access System for EOIR (CASE). CASE automatically schedules the case for a Master Calendar Hearing before a judge and generates a hearing notice informing the parties of the date, time and place for the hearing. The support staff also creates a case file called the Record of Proceeding (ROP).

Generally, the support staff schedules 25 cases for each half-day Master Calendar session. Staff assist the judge during the Master Calendar Hearing. These staff members update case information in CASE and perform other clerical functions throughout the session.

E. THE MASTER CALENDAR

At the Master Calendar, all respondents/applicants not represented by counsel will have their rights explained to them by the judge, who will provide them the opportunity to seek counsel/representative at their own expense. For those who are represented, the judge establishes representation for the record by ensuring that the attorney or representative has filed the appropriate notice of appearance form (EOIR-28) with the immigration court, and further assures that the respondent/applicant has been fully advised by counsel of his/her rights.

The judge usually is able to complete simple issue cases at the Master Calendar Hearing. For more complex cases, the judge uses the Master Calendar Hearing to establish whether or not deportability or admissibility of the respondent/applicant is a contested issue. Often deportability is established by the respondent's admission of the charges contained in the

charging document. Where the issue is contested, the party having the burden of proof must prove deportability or admissibility. Once this has been established, the judge explores with the unrepresented respondent/applicant the types of discretionary relief which may be available or has the respondent's/applicant's attorney/representative indicate the relief sought.

The immigration laws provide a variety of forms of potential relief from deportation ranging from simple grants of voluntary departure to complex waivers of deportation or removal. All such forms of relief are granted or denied by the immigration judge.

1. Voluntary Departure

Voluntary departure enables a respondent to leave the country at his/her own expense within a time limit specified by the judge. This form of relief allows the respondent to reenter the country at any time after leaving so long as the proper visa for reentry is obtained. This form of relief, while quite common, is also very significant since an order of removal, exclusion or deportation removing an applicant/respondent from the country at the government's expense, bars the respondent from legally reentering for ten years from the date of removal pursuant to an order of removal, five years from the date of deportation pursuant to a deportation order, or one year from the date of deportation pursuant to an exclusion order, even with an otherwise valid visa, unless granted a waiver by the U.S. Government.

2. Asylum

A major form of relief is a request for asylum. To be granted this form of relief, the respondent/applicant must prove he/she has a well-founded fear of persecution because of race, religion, nationality, political opinion, or membership in a particular social group if returned to his/her country of origin and he/she is not statutorily barred from such relief.

3. Withholding of Removal

Withholding of removal is granted to qualified applicants who have established that it is more likely than not that their life or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion in the proposed country of removal.

An order granting withholding of removal prohibits an alien's removal to the country where his or her life or freedom would be threatened, but allows possible removal to a third country where the alien's life or freedom would not be threatened. Withholding of removal pertains solely to the applicant and, therefore, eligible

family members must file their own individual applications for asylum and withholding of removal. This form of relief cannot lead to LPR status or citizenship. A grant of withholding of removal does not entitle a respondent to a grant of work authorization.

4. Protection under the Convention Against Torture (CAT)

CAT protections relate to the obligations of the U.S. under Article 3 of the United Nations Convention Against Torture. This is an international treaty provision designed to protect individuals from being returned to countries where it is more likely than not that they would face torture inflicted by, at the instigation of, or with the consent or acquiescence of a person acting in an official capacity, such as a public official. In accordance with CAT, certain respondents may qualify to have their removal withheld or deferred. Protection under CAT is not relief from removal.

5. Cancellation of Removal/Suspension of Deportation

A respondent may request cancellation of removal, a discretionary form of relief which, if granted, ends the removal proceedings and adjusts or returns the respondent to LPR status. There are two forms of cancellation of removal: one for respondents who already have LPR status, and one for those who do not. Cancellation of removal replaced suspension of deportation, which may still arise in deportation cases.

6. Adjustment of Status

Another type of relief is adjustment of status for a respondent who is deportable but is eligible for LPR status based on a number of factors including marriage to a U.S. citizen and waivers of criminal convictions as a basis for deportability.

After determining the type of relief a respondent/applicant seeks, the judge sets a date for the respondent/applicant to file the appropriate application for relief. The judge then schedules the case on the Individual Calendar for a hearing on the merits of the application. The time for the individual hearing is set on the record by the immigration judge after consultation with both the government and the respondent/applicant or his/her attorney.

Frequently, failure to file an application on time results in the immigration judge determining that a respondent has abandoned his/her intention to apply for relief, and the immigration judge will issue an order of deportation or removal.

F. THE INDIVIDUAL CALENDAR

The length of the Individual Calendar hearing ranges from less than an hour to an entire day or more based on the complexity of the issues in the case and the number of witnesses to be called. At the Individual Calendar Hearing, the judge hears testimony from the respondent/applicant and witnesses for either party, as well as cross-examination. The immigration court will provide an interpreter for a non-English speaking respondent/applicant or witness. Generally, the judge renders an oral decision in the case on the record at the conclusion of testimony and cross-examination. The decision includes a finding of facts, the establishment of deportability, excludability, or removability, a statement of the relief sought, the application of existing case law, and the judge's conclusion about the case.

After announcing the decision, the judge gives each party an opportunity to waive or reserve appeal. If both parties waive appeal, the judge's order is final. Whether appeal is waived or reserved, a form order ("minute order") summarizing the judge's decision is given to the parties before they leave the court. The judge may also reserve the case for the issuance of a written decision at a later date.

G. THE APPEAL PROCESS

When a party files an appeal within the specified time limits (30 days), the staff of the immigration court assembles and forwards the ROP to the BIA.

The BIA is composed of a Chairman, Vice Chairman, and up to 21 Board Members who are appointed by the Attorney General. The BIA reviews case decisions of the immigration judges that have been appealed by one or both parties to the case. The BIA decisions are subject to review by the federal courts.

H. THE INSTITUTIONAL HEARING PROGRAM (IHP)

The Immigration Reform and Control Act of 1986 requires the Attorney General to expeditiously commence immigration proceedings for alien inmates convicted of crimes in the United States. To meet this requirement, the Department of Justice established the Institutional Hearing Program (IHP), which allows aliens serving criminal sentences to have an immigration hearing prior to their release from prison.

Almost every immigration court has administrative control over at least one IHP site, and many courts handle multiple IHP locations. A chart depicting immigration courts and their specific IHP assignments for which they have administrative control can be located on the Administrative Control List found on EOIR's website.

Due to various resource restrictions, immigration hearings are not held in every prison where an alien inmate is housed. Coordination of centralized or regionalized hearing

locations within the specific correctional system is important to an efficient and effective IHP hearing program.

Since immigration courts use hearing rooms within prison environments to conduct these hearings, the hearing room availability to immigration courts and the transportation of alien inmates to and from a centralized facility for immigration hearing purposes must be coordinated by the courts around various other needs identified by corrections officials. Various days of the week and/or weeks of the month restrictions exist in virtually every IHP site.

Only those sites approved as hearing facilities by OCIJ will serve as IHP hearing locations. An extensive site visit is made to each potential hearing location prior to approval.

Immigration court IHP site selection focused on penal institutions geographically convenient to either an immigration court base city or a detail city location. By selecting institutions in geographical locations as outlined above, IHP hearings can be conducted according to one of the following IHP methods:

1. Base Trips

Prison is within commuting distance from an immigration court and hearings are held on selected individual days.

2. In Conjunction with Existing Details

Prison is within the vicinity of an existing immigration judge detail city location and the frequency of IHP hearings is tied to the detail. IHP hearings are held on individual days of the existing detail.

3. Permanent Immigration Court

In a few instances caseload growth has necessitated the placement of a full-time immigration judge in a courtroom at the prison.

4. Hearings by Video Teleconferencing (VTC)

Installation of VTC equipment in certain courtrooms and penal institutions has proven to be a savings in IJ time and travel, security issues and emergency access.

IHP cases, in some instances, require additional docketing procedures. If any additional procedures are necessary, they will be outlined in detail under an IHP section of the chapter.

CHAPTER I.
COMMENCEMENT OF IMMIGRATION PROCEEDINGS

PART I.
RECEIVING NEW CASES

SECTION I.

A. CHARGING DOCUMENTS

The immigration hearing process for new cases begins upon receipt of a properly filed charging document as described in this chapter. The term charging document means the written instrument which initiates a proceeding before an immigration court. Charging documents are filed by the Department of Homeland Security (DHS). The charging document for removal cases is the Notice to Appear, Form I-862 (NTA). The charging document for credible fear, reasonable fear, claimed status review, withholding-only, asylum-only, and Continued Detention Review cases is the Notice of Referral to Immigration Judge, Form I-863. The charging document for a NACARA-only case is the Notice of Certification, Form I-290C. The charging document for a rescission case is the Notice of Intent to Rescind and request for hearing by alien.

B. FILING CHARGING DOCUMENTS

Charging documents are usually filed by the DHS at immigration courts by mail, overnight mail, or delivered by messenger. For cases that are considered expedited under the Immigration and Nationality Act (INA), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1997 (IIRIRA), immigration courts have set up special procedures for receiving charging documents. DHS **may not** file a new charging document for an administratively closed case. Instead, a motion to recalendar must be filed. See Chapter III, Section IV for the correct procedures for calendaring previously heard cases.

Credible fear review cases must be completed within 24 hours, but not later than seven days pursuant to IIRIRA. The Office of the Chief Immigration Judge has established the policy that claimed status review cases should be heard within seven days if practicable and reasonable fear review cases should be heard within ten days if practicable. Because of the expedited nature of these cases, immigration courts have been instructed that for credible fear, reasonable fear and claimed status review cases **only**, the DHS may file charging documents by fax.

C. ESTABLISHING ADMINISTRATIVE CONTROL

Administrative Control simply means assigning responsibility for the creation and

maintenance of the ROP to one immigration court. All documents and correspondence pertaining to the ROP will then be filed at the immigration court where administrative control has been established. To establish administrative control, review the charging document. The Notice to Appear and the Notice of Referral to Immigration Judge will list the immigration court where the DHS will file it. If the immigration court listed on the charging document is not yours, it should be rejected as improperly filed. If the administrative control over the charging document is questionable, check the Case Access for EOIR (CASE) database for clarification. All improperly filed documents should be returned to DHS using the standard reject letter.

D. DESIGNATING A LEAD ALIEN REGISTRATION NUMBER (A-NUMBER)

In those instances where more than one family member is appearing before an immigration court, you should designate one family member as the "lead" or control Alien Registration Number (A-Number). This designation will be the file-control A-Number with all other family members attached (rubber-banded or stapled) to the Lead ROP. **You must enter each family member into CASE using the "Add Rider" button**. See CASE Training Manual, Lesson 3, Unit 7. The immigration court may sever cases at its discretion or upon request of one or both parties. See Immigration Court Practice Manual, Chapter 4, Section 4.21(b).

E. INTERACTIVE SCHEDULING SYSTEM (ISS)

Interactive scheduling enables the Department of Homeland Security to access the CASE system data base to enter case data and to schedule the initial master calendar hearing. All DHS Asylum Offices and many DHS district offices have access to the CASE database through interactive scheduling. Charging documents for cases that have been interactively scheduled will contain the date and time of hearing and the CASE data record will have already been created prior to the immigration court's receipt.

SECTION II.

A. NEW REMOVAL CASES

1. Content of the Notice to Appear, Form I-862

The immigration court clerk must review all Notices to Appear (NTAs) upon receipt. The DHS must provide the following administrative information in the Notice to Appear:

a. The alien's name and known aliases;

b. The alien's address;

c. The alien's registration number (A-Number), with any lead alien registration number with which the alien is associated;

d. The alien's alleged nationality and citizenship;

e. The language that the alien understands;

f. The nature of the proceedings against the alien;

h. The legal authority for the proceedings;

i. The acts or conduct alleged to be in violation of the law;

j. The charges against the alien and the statutory provisions alleged to have been violated;

k. The address of the immigration court where the DHS will file the Notice to Appear (**Note**: If this information is not included on the NTA or if your court is not the administrative control office, return the NTA as improperly filed);

l. The date and time of the hearing (**Note**: Only cases that have been interactively scheduled will contain this information; cases that were not interactively scheduled do not and the immigration court must provide notice of the hearing);

m. Notice that the alien may be represented, at no cost to the government, by counsel or other representative and is given ten days to secure counsel unless waived and will be given a list of free legal services;

n. Notice of the consequences for failure to appear for hearing and of the consequences of failing to provide an address and telephone number;

o. The signature, title of the issuing DHS officer, and issuance date.

2. Alien Address and Telephone Number

For removal cases filed without the alien address, the INA as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1997 (IIRIRA) requires that the alien provide the immigration court with an address and telephone number within five days. The alien must notify the immigration court by filing an EOIR-33/IC Change of Address form. Unless the alien is detained, no other means of notification are acceptable. Aliens must also file a new EOIR-33/IC or written notice every time that they change addresses. Alien addresses and telephone

numbers must be entered into CASE and this information will be preserved in the Central Address File (E-33/IC Tracking System in the Utilities module). **Cases without alien addresses will go forward regardless of noticing if an address is not provided.**

3. Request for Prompt Hearing

The INA as amended by IIRIRA requires that the alien be given ten days prior to the initial hearing to secure counsel. By signing the waiver on the Notice to Appear, the alien waives this ten day period and may be given a hearing prior to this waiting period.

4. Certificate of Service

A DHS Immigration Officer must execute the certificate of service contained on the Notice to Appear which indicates the manner (in person, by certified mail, or by regular mail) and date that the alien was given the NTA.

5. Asylum Applications

Removal charging documents that are originating from DHS Asylum Offices will be accompanied by a copy of the I-589 Asylum Application and supporting documentation that the alien filed. These documents should be filed in the ROP along with the charging document (see Chapter II, Creating and Maintaining the ROP).

B. NEW CREDIBLE FEAR, REASONABLE FEAR, WITHHOLDING-ONLY, ASYLUM-ONLY, CLAIMED STATUS, AND CONTINUED DETENTION REVIEW CASES

1. Content of the Notice of Referral to Immigration Judge, Form I-863

The immigration court clerk must review all Notices of Referral to Immigration Judge upon receipt. The Notice of Referral will contain the following administrative information that immigration courts will need to process the case:

a. The alien's name;

b. The alien registration number (A-Number);

c. The specific provisions for which the referral is occurring; the Notice of Referral has check-blocks that indicate whether the case is being referred for credible fear review, reasonable fear review, withholding-only, asylum-

only or claimed status review;

d. The address of the immigration court where DHS will file the Notice of Referral;

e. The date and time of hearing (for cases that have been interactively scheduled);

f. The issue date;

g. The authorizing signature;

h. A certificate of service that indicates the date upon which the alien was given the Notice of Referral.

2. Documents Attached to the Notice of Referral, Form I-863

The Notice of Referral may have several attachments that the immigration judge will need to hear the case:

a. **For credible fear review cases**, the following documents may be attached by the DHS to the Notice of Referral (Form I-863): the Record of Sworn Statement in Proceedings under Section 235 (b)(1) of the Act (Form I-867AB); the Notice of Expedited Removal (Form I-860); the Record of Negative Credible Fear Finding and Request for Review by Immigration Judge (Form I-869); and the Record of Determination/Credible Fear Worksheet (DHS APSO Form E);

b. **For reasonable fear review cases**, the Record of Negative Credible Fear Finding and Request for Review by Immigration Judge (Form I-869) will be attached to the Notice of Referral (Form I-863);

c. **For withholding-only cases**, if the proceeding is initiated by the Notice of Referral (Form I-863), there is no other documentation required to be attached to the Form I-863; however, this proceeding can also be initiated by an immigration judge's finding that the alien's reasonable fear of persecution or torture exists;

d. **For asylum-only cases**, there is no other documentation required to be attached to the Notice of Referral (Form I-863);

e. **For claimed status review cases**, the Notice of Expedited Removal (Form I-860) will be attached to the Notice of Referral (Form I-863);

f. **For continued detention review cases,** to constitute a proper filing for this type of case, Box 7 of the Form I-863 must be marked, the document must be signed by an immigration officer and contain the required documentation (including medical or mental health examination reports). The court administrator, or his or her designee, must reject the Form I-863 charging document as improperly filed if the Service: 1) fails to indicate the type of proceeding, by marking the designated Continued Detention Review Proceedings box (Box 7); 2) fails to sign the Form I-863; or 3) fails to submit the required documentation to the Form I-863 (including mental health report). In all other cases the I-863 should be accepted for filing, even if the alien is not under a final order or the removal time has not expired. The court shall provide the parties with prompt written notice of the time and place of the hearing.

g. **Other documents** that may be attached to the Notice of Referral (Form I-863) include: a passport, visa, Form I-94, forensic document analysis, fingerprints and photographs, or an EOIR-33/IC Change of Address Form.

C. NEW INSTITUTIONAL HEARING PROGRAM CASES

By agreement between EOIR and DHS, all IHP charging documents will be reviewed by a DHS Assistant Chief Counsel and will also include the following information necessary for processing IHP cases:

1. The type of facility where the alien is incarcerated: Federal (F), State (S) or Municipal (M);

2. The alien's inmate number as assigned by the correctional institution where the alien is incarcerated;

3. The earliest possible release date (EPRD) which according to agreement between EOIR, must be in the future at the time it is filed at the immigration court. If the NTA is filed within 120 days of the EPRD, be sure to enter a case monitoring code of 4M when entering the NTA in CASE. IHP filings are accompanied by a transmittal memorandum from the DHS attorney who evaluated the submission prior to filing. The additional IHP information listed above can be found either in the body of the charging document or on the transmittal memorandum. If any of the IHP information is missing, return the submission.

D. RESCISSION CASES

A rescission is initiated when the DHS files a copy of the Notice of Intent to Rescind Permanent Residency and a request (in letter format) for hearing. The following

information must be provided in the Notice of Intent to Rescind Permanent Residency:

1. The alien registration number (A-Number);

2. The alien's name;

3. The alien's complete address including zip code;

4. The specific charge(s);

5. The authorizing signature.

E. CONTINUED DETENTION REVIEW CASES

When DHS files an I-863 with the immigration court, the following processing steps must be taken for the initial reasonable cause hearing:

1. Check I-863 in Central Site

2. Enter into ANSIR (CASE) (case code: CDR)

3. Create the ROP using a red file with the I-863 on the right side and the IJ worksheet on the left)

4. Calendar the case to an RC Hearing (detained master calendar) using ANSIR (CASE) Code RC so that the hearing commences within ten days of the filing of Form I-863.

5. Serve notice as in any other detained case using ANSIR (CASE) Code 11.

6. The immigration judge must issue a decision within five business days of the close of record.

a. If the immigration judge is unable to issue a decision within the five business day regulatory requirement, he or she must request Certification of Exceptional Circumstances from the Chief Immigration Judge through their Assistant Chief Immigration Judge.

b. Requests of Exceptional Circumstances must be made no later than the third business day from close of the Reasonable Cause Hearing Record.

c. If the Chief Immigration Judge approves the request, the appropriate code will be entered by OCIJ Headquarters.

d. The immigration judge can either adjourn the RC Hearing, dismiss the RC Hearing, or schedule a continued detention review merits (SC) Hearing within 30 days of the close of the RC Hearing.

7. Only DHS can appeal the immigration judge's decision in the Reasonable Cause Hearing and it must be done within two business days of the issuance of the immigration judge's decision. If DHS appeals or reserves appeal, the ROP must be sent immediately to the BIA Priority Processing Unit via overnight delivery and prepared in accordance with the processing procedures for other case appeals.

8. Transcripts of the hearing(s) will be expedited and returned to the immigration judge for review and signature. The immigration judge must return the transcript to the BIA within two business days.

9. The BIA will either affirm the immigration judge's decision or remand the case back to the court for a continued detention review merits (SC) Hearing to commence within 30 days of the BIA's order.

If a CDR Hearing is appropriate, the following protocol shall be followed:

1. The hearing shall be scheduled within 30 days of either the BIA's remand or an immigration judge's finding that reasonable cause exists.

2. The same ROP shall be used as that which was used in the RC Hearing.

3. Notice should be served as it would in any other detained case, using ANSIR (CASE) Code 12.

4. The immigration judge must issue a decision within 10 business days of the close of record. If the immigration judge is unable to issue a decision within the 10 business days, he or she must request approval from his or her Assistant Chief Immigration Judge (or back-up).

5. The immigration judge can either: adjourn the SC Hearing, dismiss the SC Hearing, or order that the alien remain in detention.

6. Either party may appeal. The Service must file its appeal within five business days of issuance of the immigration judge's decision and the alien must appeal within the standard 30 days of issuance of the immigration judge's decision. The ROP must be sent immediately to the BIA Priority Processing Unit via overnight delivery and prepared in accordance with the processing procedures for other case appeals.

7. Transcripts of the hearing(s) will be expedited and returned to the immigration judge for review and signature. The immigration judge must return the transcript to the BIA within two business days.

8. The BIA will either affirm the immigration judge's decision or remand the case back to the court for calendaring only to a continued detention review Merits (SC) Hearing to commence within 30 days of the BIA's order.

If special circumstances exist which justify an alien's continued detention, the alien can request,

no earlier than 6 months from the date of the last decision on the matter, DHS to review his or her custody status based upon a material change in circumstances. If DHS denies the motion, the alien may then file a Motion to Set Aside Decision (MSA) with EOIR. If the motion is granted, a new continued detention review merits (SC) hearing should be scheduled to commence within 30 days of the grant of the motion to set aside decision. If the motion is denied, then appealed and remanded, a new continued detention review merits (SC) Hearing should be scheduled to commence within 30 days of the BIA's order.

SECTION III. PROCESSING NEW CHARGING DOCUMENTS

A. CASES THAT HAVE NOT BEEN SCHEDULED BY THE INTERACTIVE SCHEDULING SYSTEM

If any of the above appropriate requirements cannot be verified, return the submission without date-stamping it received. Use the standard reject letter for your court. If all of the information listed above has been provided, the following steps should be taken:

1. Date-stamp the charging document to designate your court with administrative control over the case.

2. Create a case record in the CASE system and calendar the case on the next available Master Calendar using the CASE system. Information from the charging document must be carefully input to ensure that the CASE data base accurately reflects case information. Instructions for initial case processing (Lesson 3, Unit 4), and instructions for scheduling a hearing (Lesson 4, Unit 5) may be found in the CASE Training Manual.

3. Notify the parties of place, date, and time of hearing. See Chapter IV for correct notice procedures.

4. Create the ROP. See Chapter II for the correct procedures for creating ROPs.

5. File the ROP in the correct current case calendar file.

B. CASES THAT HAVE BEEN SCHEDULED USING THE INTERACTIVE SCHEDULING SYSTEM

Charging documents that have been interactively scheduled by the DHS will bear the date and time of the initial hearing and will have already been input into the CASE system. It is still necessary for immigration court clerks to review the charging documents very carefully and to compare them to the data that has been entered into CASE. Another requirement for Interactive Scheduling System cases is that the DHS file the charging document seven (7) days prior to the scheduled hearing for the case for removal cases.

Note: Immigration courts have been instructed by OCIJ to be flexible in dealing with ISS cases, especially for expedited cases. The court should make every attempt at correcting minor errors without returning the charging document to DHS and potentially delaying the case. The following steps should be taken:

1. Interactive Scheduled Cases Step One:

a. Review the charging document, and verify that:

(1) Your court is the court listed on the charging document;

(2) The A-Number and alien name on the charging document match the data that has been entered into the CASE system;

(3) The correct hearing date has been entered into the system.

b. Review the filing date to verify that it is more than seven days prior to the hearing.

2. Interactive Scheduled Cases Step Two:

a. After verifying the requirements of step one, date stamp the Notice to Appear and enter a **received** date into the CASE system.

b. Compare the information on the charging document with the information that is in the system. Verify the alien's name, initial address, nationality code, entry date, and charges. For asylum cases, verify that the DHS Asylum Office has entered asylum data.

c. If any of the information is incorrect, correct the data and inform your supervisor if any repetitive problems appear.

d. Create the ROP. See Chapter II for the correct procedures for creating ROPs.

e. File the ROP in the correct current case calendar file.

3. Interactive Scheduled Cases Step Three: Untimely Filing or Incorrect Data:

If your court is not the court listed on the charging document, the name and A-Number do not match in the CASE system, the NTA date is different from the date entered into CASE, or the charging document was filed less than seven days prior to the scheduled hearing the following steps should be taken*:

a. DO NOT date stamp the charging document.

b. DO NOT enter a received date into the CASE system.

c. Immediately send the charging document back to DHS with standard court reject letter noting the deficiency along with a "Request to Reschedule" form that DHS may file on the day of the hearing.

***Note: Court Administrators have discretion in setting court policy for remedying deficiencies without returning the charging document, and especially should attempt to do so for expedited cases. Charging documents should not be returned for minor errors that may be corrected by court personnel.**

4. Interactive Scheduled Cases Step Four: The Day of the Scheduled Hearing:

a. **If the CASE data entry was correct and the charging document was received timely**, the case will proceed on the day of the hearing.

b. **If the alien appears and the charging document was not timely filed and the Assistant Chief Counsel has the Notice to Appear available with a Request to Reschedule form**, the Assistant Chief Counsel may file the charging document with the immigration court clerk and the hearing may proceed. Or the staff may complete the case as a Failure to Prosecute code (F) and then complete a motion to recalendar and schedule a new proceeding for a future calendar date. Both parties must be served personal notice of this new date.

c. **If the alien appears and the charging document was not timely filed, and the Notice to Appear is not available,** the Immigration court clerk should verify the alien's address and inform the alien that the case will not proceed on that day.

d. **If the alien fails to appear and the charging document was not timely filed, but the Assistant Chief Counsel has the correct Notice to Appear**, the hearing may proceed as scheduled. Or the clerk may complete the case as a failure to prosecute (F) and the DHS may file a "Request to Reschedule" along with the correct Notice to Appear. Upon receipt of the "Request to Reschedule," the immigration court clerk must serve a new notice using the correct notice procedures (See Chapter IV for notice procedures).

e. If the alien appears with a charging document that has the date and time and it appears that the hearing was set by DHS, but it was not

scheduled in CASE, copy the charging document, verify the alien information, and give it to your supervisor. No further action will be taken until the DHS files the charging document with the immigration court.

PART II.
RECEIVING PREVIOUSLY HEARD CASES

SECTION I.

RECEIVING PREVIOUSLY HEARD CASES

The following submissions are cases that have been previously decided by an immigration court but are reentering the hearing process:

A. MOTIONS TO RECALENDAR

This motion initiates receipt procedures and calendaring to the next available Master Calendar.

B. GRANTED MOTIONS TO CHANGE VENUE

This motion initiates receipt procedures and calendaring to the next available Master Calendar.

C. GRANTED MOTIONS TO REOPEN/RECONSIDER

This motion initiates receipt procedures and calendaring to **the original case-assigned immigration judge.**

D. REMANDED CASES

A remand order from the BIA initiates receipt procedures and calendaring to the original case-assigned immigration judge.

SECTION II.

PROCESSING PREVIOUSLY HEARD CASES

A. Determine the administrative control office by checking the CASE data base.

B. Date-stamp the filing to establish administrative control.

C. Reopen the case record in the CASE system.

D. Schedule the case for Master Calendar hearing using the CASE system. If the original immigration judge is no longer at your court, a motion to reopen should be randomly assigned to one of your present immigration judges.

E. Notify the parties of the place, date, and time of hearing. See Chapter IV for correct notice procedures.

F. File the ROP in the correct current case file.

PART III.
RECEIVING CUSTODY REDETERMINATION HEARING (BOND) REQUESTS

SECTION I.

RECEIVING CUSTODY REDETERMINATION HEARING (BOND) REQUESTS

Bond redetermination requests from aliens who are being detained by the DHS are separate from the removal hearing process that begins with the filing of the Notice to Appear at the immigration court. An alien may request a bond redetermination hearing before the DHS files the Notice to Appear, informally known as a "zero bond" case. Bond proceedings begin at the request of the alien; no charging document is necessary.

SECTION II.

PROCESSING BOND REDETERMINATION REQUESTS

Bond hearing requests may be written or oral and each immigration court has established procedures for receiving and scheduling bond hearing requests. A bond hearing request whether written or oral must provide the information necessary for scheduling the case. The following represent the basic procedures that must be followed in addition to those at your court:

A. Review the written request to ensure that it contains the A-Number, alien name, bond amount, and attorney's name and telephone number (if the alien is represented). Obtain this information if the request is oral;

B. Schedule the case for the next available hearing using the CASE system. Instructions for inputting and scheduling bond cases may be found in the CASE Training Manual, Lesson 4, Unit 5. If no Notice to Appear has been filed, you should follow the instructions found in the CASE Training Manual, Lesson 3, Unit 15 and create the CASE record using the charging document date of 00/00/00 as described in the manual;

C. Notify the parties of the hearing using the correct notice procedures outlined in Chapter

IV. If the case has been scheduled for a hearing outside of a regularly scheduled detained docket session, notify the immigration judge for whom the case has been set;

D. Create a separate ROP for the bond case using the procedures outlined in Chapter II;

E. File the ROP in the correct current case file.

F. When the immigration judge has made a decision on the bond redetermination request, one of the following decision codes must be entered in CASE:

BOND DENIED - NO CHANGE (NO BOND SET BY DHS)
Use when the immigration judge has jurisdiction and affirms the DHS decision denying bond.

BOND DENIED - NO CHANGE (DHS BOND AMOUNT UNCHANGED)
Use when the immigration judge has jurisdiction and affirms the DHS bond amount.

BOND DENIED - NO JURISDICTION
Use when the immigration judge does not have jurisdiction to set bond.

BOND DENIED - MOOT
Use when the bond request is moot, such as when the alien has been released from detention after requesting a bond redetermination or has been removed from the United States. This selection replaces the previous "No Action" option.

BOND REQUEST WITHDRAWN
Use when the alien withdraws their bond redetermination request.

BOND GRANTED - AMOUNT DECREASED
Use when the immigration judge grants bond and lowers the DHS bond amount.

BOND GRANTED - OWN RECOGNIZANCE
Use when the immigration judge grants bond and orders the release of the alien on his/her own recognizance.

BOND AMOUNT INCREASED
Use when the immigration judge grants bond but increases the DHS bond amount.

AMELIORATION GRANTED
Use when the immigration judge grants amelioration of the terms of release.

AMELIORATION DENIED - NO JURISDICTION
Use when the immigration judge denies amelioration of the terms of release due to a lack of

jurisdiction (e.g. filed more than 7 days after release).

AMELIORATION DENIED
Use when the immigration judge denies amelioration of the terms of release on the merits.

FLORES - RELEASE
Use when the immigration judge grants release pursuant to the Flores Settlement Agreement.

FLORES - NO RELEASE
Use when the immigration judge denies release pursuant to the Flores Settlement Agreement.

NOTE: Institutional Hearing Program Cases: Immigration bonds are not set for incarcerated aliens because they are not held in DHS custody. Therefore, until an incarcerated criminal alien is released from prison to DHS, a bond redetermination hearing is not appropriate.

NOTE: Automatic Stay Cases: DHS may invoke a temporary automatic stay of an immigration judge's decision ordering an alien's release where DHS ordered the alien to be held without bond or set a bond of $ 10,000 or more. Cases involving a temporary automatic stay should be noted in the "Remarks" section of ANSIR (the "Comments" section of CASE) that DHS has filed a Notice of ICE Intent to Appeal Custody Redetermination (EOIR-43) and the date that it was filed. The court administrator or designee should also notify the immigration judge as soon as an EOIR-43 is filed.

NOTE: Continued Detention Review Hearing: Red case folders will be used for the Record of Proceeding (ROP). As with credible fear and claimed status reviews, the Court Administrator, or his or her designee, should ensure that an ROP is created (to the maximum extent possible) within 2 hours of receipt of the Form I-863. The Court Administrator should immediately contact his or her Assistant Chief Immigration Judge if the ROP cannot be constructed during this time period. The ROP should be assembled following the standard procedures detailed in this Uniform Docketing System Manual. The ROP that was used for the reasonable cause hearing shall also be used for the continued detention review Merits Hearing. There is no requirement that the documents for the reasonable cause hearing be kept separate from those for the CDR merits hearing.

CHAPTER II.
CREATING AND MAINTAINING THE RECORD OF PROCEEDINGS (ROP)

SECTION I.

NEW CASES

As the official record of the immigration hearing, the Record of Proceedings (ROP) must contain all case-related information. Since the ROP is part of the official evidentiary record for the immigration judge/reviewing official, it is extremely important to maintain a current file.

Once the initiating document has been properly filed, date stamped received and entered into CASE, the ROP must be created. The court clerk shall print an ROP label, containing the A-Number and the alien's name, and affix it to the ROP tab (see CASE Training Manual, Lesson 2, Unit 2 for instructions on how to print an ROP label).

A. ASSEMBLING THE ROP

The ROP is assembled into the Administrative side on the left and the Proceeding side on the right, **formatted in chronological order by date received (the newest receipt is placed on top).**

1. Proceedings (Right) Side

Since the charging document starts the immigration hearing process, it will be the first document on the bottom of the Proceedings side of the ROP. **In those instances where a bond redetermination hearing has been held, a separate bond ROP must be created.**

2. Administrative (Left) Side

The left side of the ROP will contain administrative forms for the immigration judge's use throughout the hearing process until a decision is rendered. Beginning with the top item on that side:

(a)	TOP:	Tape Transmittal Record (Form EOIR-10) (if applicable).
(b)	SECOND FROM TOP:	Immigration judge worksheet(s)

The above ROP assembling instructions are for ALL case types and initiating documents and includes the following:

1. BOND REDETERMINATION CASES
2. REMOVAL CASES
3. DEPORTATION CASES
4. ASYLUM-ONLY
5. WITHHOLDING-ONLY
6. NACARA-ONLY
7. EXCLUSION CASES
8. CREDIBLE FEAR REVIEW
9. CLAIMED STATUS REVIEW
10. REASONABLE FEAR REVIEW
11. CONTINUED DETENTION REVIEW
12. CHANGES OF VENUE
13. MOTIONS TO RECALENDAR
14. GRANTED MOTIONS TO REOPEN/RECONSIDER
15. RESCISSION CASES
16. REMANDED CASES (REMAND ORDER)
17. CONTINUED DETENTION REVIEW (INCLUDES REASONABLE CAUSE HEARING AND SPECIAL CIRCUMSTANCES HEARING)

B. AUDIO RECORDINGS OF HEARINGS

The Digital Audio Recording (DAR) system has replaced cassette tapes for the audio recording of court proceedings. For more information on DAR, please review the DAR User Manual, located on EOIR's intranet. The following information on cassette tapes is for historical purposes only.

1. Master Cassette Tapes

The Office of the Chief Immigration Judge has delegated the decision to use individual or master cassette tapes for Master Calendar hearings to the ACIJ who supervises each court. If a court elects to use master cassette tapes during a Master Calendar hearing for a group of respondents or for a group of family members, the following procedures must be followed:

a. Designate a "control" ROP in which to file the cassette(s);

b. Note the portion of the cassette tape that contains the individual person's hearing by recording the start and stop numbers from the counter on the recording equipment. This information must be included on the Tape Transmittal Record (EOIR-10) filed in the appropriate individual's ROP and the A number should also be entered in the Disposition tab of CASE (CASE Training Manual, Lesson 7, Unit 2) only if the case is completed at the Master Calendar hearing. Otherwise, this information should be entered on the Comments tab (CASE Training Manual, Lesson 3, Unit 1) for each affected case record until the case has been completed.

c. If an individual who was previously included on a master cassette tape is granted a change of venue, goes forward to an Individual Calendar hearing, or files an appeal, that portion of the hearing pertaining to the individual must be duplicated onto a new cassette before transferring the ROP or requesting a transcript. This also applies to a rider who is severed from the lead file.

2. Individual Cassette Tapes

Individual Calendar hearing(s) must be recorded on a separate cassette tape for each individual (family members with a designated lead file can be recorded on a master cassette tape). The next hearing for the same individual or family should be recorded on the unused portion of the same cassette tape.

SECTION II.

PRIORITY AND PRIVACY CASE IDENTIFIERS

A. DETAINED CASES

ROPs for detained cases are identified by a "RUSH" label stapled to the outside front of the ROP.

B. INSTITUTIONAL HEARING PROGRAM CASES

In addition to the "RUSH" label stapled to the front of the ROP, Institutional Hearing Program cases are identified by stamping "IHP" in red ink on the upper front corner of the file. This identifier remains on the ROP forever. Do not cross out or deface the IHP stamp on the ROP or create another ROP regardless of alien movement from an IHP hearing location to a non-IHP hearing location or custody status change.

C. RECORD OF PROCEEDINGS FOR CREDIBLE FEAR, REASONABLE FEAR AND CLAIMED STATUS REVIEW

Because of the expedited nature of Credible Fear, Reasonable Fear and Claimed Status Review cases (ROPs for these types of cases should be created within 2 hours of the court's receipt of the Notice of Referral to Immigration Judge), the ROPs for these type of cases are **RED** in color to distinguish them from other ROPs.

D. RECORD OF PROCEEDINGS FOR BATTERED SPOUSE/BATTERED CHILD

Records of Proceeding must be immediately marked **at least twice** with the warning stamp that says:

Warning: Do not disclose the contents of this file
Please see your Court Administrator

as soon as any immigration judge, court administrator, or court staff becomes aware that the case involves a battered spouse and/or battered child. Court staff must also immediately update the CASE record to reflect that the case involves a battered spouse and/or child (see CASE Training Manual, Lesson 4, Unit 8 for instructions on inputting battered spouse/child information). Court staff must never answer questions over the telephone or at the reception window pertaining to cases involving a battered spouse/child, but refer the question to their Court Administrator.

E. RECORD OF PROCEEDINGS FOR ASYLUM CASES

Applications for asylum are confidential. ROPs containing an asylum application may not be disclosed to third parties without the written consent of the applicant and must be marked with the stamp that says:

Warning: Do not disclose the contents of this file
Please see your Court Administrator

as soon as the court staff enters an asylum application in CASE. Court staff must never answer questions over the telephone or at the reception window pertaining to cases where an asylum application has been filed, but refer the question to their Court Administrator.

NOTE: Safe Third Country Agreement Cases: If an immigration judge identifies a case as being considered under the U.S. - Canada "Safe Third Country" Agreement, the case should be identified with a case identifier code "TC" (Third Country) to allow the court to run automated reports and compile statistical information on these cases. For "Safe Third Country" cases arise in proceedings under section 240 of the Act, immigration judges should fill out a related Information Sheet, to be included in the ROP.

SECTION III.

ROP MAINTENANCE

All submissions to the ROP (applications, exhibits, motions, correspondence, transmittal memoranda) are filed chronologically by date-received order on the right side of the ROP with the most recent filing on top. The Form EOIR-28, Notice of Entry of Appearance by Attorney or Representative Before an Immigration Judge, should be filed on the right side of the ROP. Changes in IHP information should be noted in the ROP using the standard form created specifically for this purpose.

If requested, the immigration court will provide the filing party with a conformed copy of the

filing. Court staff will date-stamp and return a requested conformed copy if an accurate copy has been provided along with a pre-addressed, stamped envelope for requests by mail (if filed by mail). See the Immigration Court Practice Manual, Chapter 3, Section 3.1(f).

A. LEAD ROP

The lead ROP will be the "control-file" in which all hearing submissions are maintained. It is important to remember that if an individual family member receives a change of venue or files an appeal, the complete ROP and the hearing cassette must be reconstructed/copied from the lead file.

B. CHANGE OF ADDRESS/TELEPHONE NUMBER (FORM EOIR-33/IC)

Aliens are required to notify the immigration court having administrative control over the ROP of any change in address and/or telephone number within five days of their receipt of a charging document without an address or when they move. This information must be filed on a Change of Address Form (EOIR-33/IC).

1. The Change of Address Form should include the following information:

a. The alien's name and A-Number;
b. The old address and new address;
c. The old and new telephone number;
d. The effective date of the change;
e. The alien's signature.

2. When the Change of Address form is received, the immigration court clerk should:

a. Date-stamp the form received;
b. Update the CASE system with the new address and telephone number information;
c. File the EOIR-33/IC in the ROP.

Note: If the Change of Address Form (EOIR-33/IC) is missing any of the required information, date-stamp the form, and place a notation in the ROP that the alien must provide the missing information at the next hearing date.

C. CHANGE OF ADDRESS/TELEPHONE NUMBER FROM OFFICIAL FILINGS

If a change of address is received in the form of an official filing (application, correspondence, etc.), date-stamp the correspondence but **do not** update the address in the CASE record. Rather, issue the notice entitled Notice and Warning: Form EOIR-33/IC Required for Any Change of Address. Attach an EOIR-33/IC to the notice and send it to

the respondent's official address listed in CASE. Also send a copy of the notice and an EOIR-33/IC to the respondent's new, unofficial, address. A copy of the notice should be stapled to the correspondence and filed in the ROP.

SECTION IV.

REJECTING FILINGS

Effective July 1, 2008, filings by an attorney or representative (including Department of Homeland Security attorneys) must comply with the provisions of the Immigration Court Practice Manual. The guidance for rejecting filings covers four separate filing parties: (1) filings by an attorney or representative, including Department of Homeland Security attorneys; (2) filings by a non-detained *pro se* respondent; (3) filings by a detained *pro se* respondent; and (4) filings submitted directly by a third party or a represented respondent.

A. FILINGS BY AN ATTORNEY, REPRESENTATIVE, OR DHS

This section provides guidance on how to process filings that do not comply with the provisions of the Immigration Court Practice Manual if the filing was submitted by an attorney or representative (including Department of Homeland Security attorneys).

1. Reject upon receipt

In the following situations, court staff should reject filings upon receipt and return the filings to the party. To return a filing to an attorney, representative, or DHS, please use the new uniform rejection notice entitled Rejected Filing: Notice to Attorney or Representative. A copy of the rejection notice should be placed in the ROP.

a. **No proof of service** – the filing does not contain a proof of service.
b. **Improper proof of service** – the proof of service does not comply with the Immigration Court Practice Manual's provisions. (See Chapter 3.2.)
c. **No fee receipt, other proof of payment, or fee waiver request** – the filing requires payment of a fee, but the filing does not include a fee receipt, fee waiver request, or interim evidence of fee payment. Interim evidence of fee payment includes:

(1) a respondent's notice from the Department of Homeland Security (DHS) to appear for a biometrics appointment;
(2) a printout from the website of DHS, U.S. Citizenship and Immigration Services, showing that the respondent's application has been received;
(3) a photocopy of the check;

(4) a photocopy of the money order receipt;
(5) an affidavit from the person who submitted the payment.

Note: If interim evidence of fee payment is submitted, the judge may still require the fee receipt prior to adjudication at the hearing. Accordingly, court staff may advise the filing party to submit the fee receipt as soon as possible.

d. **Fee incorrectly paid to court** – the respondent submitted a check or money order to the court, rather than the DHS.
e. **No name** – the filing is missing the respondent's name.
f. **No A-number** – the filing is missing the respondent's A-number.
g. **No Notice of Entry of Appearance** – the attorney or representative has not yet entered an appearance by filing an EOIR-28, and the documents being submitted do not include an EOIR-28.
h. **Attorney has been disciplined** – the filing is submitted by an attorney or representative who has been disciplined. See Practice Manual, Chapter 2, Section 2.3(k).
i. **Other counsel entered** – if an attorney or representative files an EOIR-28, but another attorney or representative has already submitted an EOIR-28, please carefully review Section E for instructions on how to handle.
j. **Incorrect filing location (case at court)** – the respondent is in proceedings, but the filing was made at the wrong court.
k. **Incorrect filing location (case at BIA)** – jurisdiction is with the BIA.
l. **Case not pending** – a Notice to Appear has not been filed.

Exceptions:

(1) EOIR-33/ICs are accepted even if no Notice to Appear has been filed.
(2) Bond re-determination requests are accepted even if no Notice to Appear has been filed.

m. **Missing or improper signature** – the filing is not signed or the signature is improper, under the guidelines below.
n. **All signatures must be original signatures**. Rubber-stamp signatures are not acceptable.

Exceptions: Notices to Appear should not be rejected for signature defects. Determinations regarding signatures on Notices to Appear are made by the judge. Note the following:

(1) Signatures need not be legible, as long as the signature is accompanied by a printed name.

(2) Signatures need not be dated.
(3) Faxed signatures are only acceptable if the fax was authorized.
(4) Photocopied signatures *are* acceptable on supporting documents only.
(5) EOIR-28s without an original signature are rejected.

o. **No translation or improper translation** – foreign language documents are rejected as outlined below. This applies whether the document was submitted by itself or as part of a larger package. If the document was submitted as part of a larger package, the entire package is rejected. This includes the following:

(1) The document is un-translated.
(2) The document is translated, but submitted without a certificate of translation.
(3) The document is translated, but submitted with an improper certificate of translation.

p. **No cover page** – the filing does not include a cover page.
q. **Not two-hole punched** – the filing is not two hole-punched.
r. **No pagination** – the filing does not contain page numbers. The filing is rejected only if it contains no page numbers. Do not reject merely because page numbers are not consecutive.
s. **No proposed order** – for motions, no proposed order is included.
t. **Other** – the filing is rejected for other unusual reasons not listed above. Please check with your supervisor before rejecting documents for any reasons not listed above. This space may also be used for any additional comments.

2. Give untimely filings to the judge

Untimely filings should be stamped and processed as usual and given to the judge, whether or not the filing was submitted with a motion to accept an untimely filing.

B. FILINGS BY A NON-DETAINED UNREPRESENTED RESPONDENT

This section provides guidance on how to process filings that do not comply with the provisions of the Immigration Court Practice Manual if the filing was submitted by a non-detained pro se respondent. Note that, for non-detained pro se respondents, there are fewer defects for which filings will be rejected than for represented respondents.

1. Reject upon receipt

In the following situations, court staff should reject filings upon receipt and return the filings to the non-detained pro se respondent. To return a filing to a non-detained pro se respondent, please use the new uniform rejection notice entitled Rejected Filing: Notice to Non-Detained Unrepresented Respondent. A copy of the rejection notice should be placed in the ROP.

a. **No proof of service or improper proof of service** – the filing does not contain a proof of service.
Exceptions: court staff should use their judgment to decide whether to accept a filing from a non-detained pro se respondent if:

(1) There is a proof of service, but it does not fully comply with the Immigration Court Practice Manual's provisions;
(2) There is no proof of service, but circumstances warrant accepting the filing (for example, the filing is simple, such as a letter to the court, or the hearing date is near). However, if accepting a filing, even though it does not have a proof of service, take the following steps:

i. Stamp the filing using a stamp reading "Served on the Department of Homeland Security";
ii. Copy the filing;
iii. Serve the filing on the DHS;
iv. Place the filing in the ROP.

b. **No name** – the filing does not contain the respondent's name.
c. **No A-number** – the filing does not contain the respondent's A-number.
d. **No fee receipt, fee waiver request, or interim evidence of payment** – the filing requires payment of a fee, but the filing does not include a fee receipt, fee waiver request, or interim evidence of fee payment.

(1) a respondent's notice from the DHS to appear for a biometrics appointment;
(2) a printout from the website of DHS, U.S. Citizenship and Immigration Services, showing that the respondent's application has been received;
(3) a photocopy of the check;
(4) a photocopy of the money order receipt;

(5) an affidavit from the person who submitted the payment.

Note: If interim evidence of fee payment is submitted, the judge may still require the fee receipt prior to adjudication at the hearing. Accordingly, court staff may advise the filing party to submit the fee receipt as soon as possible.

e. **Fee incorrectly paid to court** – the respondent submitted a check or money order to the court, rather than the DHS.
f. **Incorrect filing location (case at court)** – the respondent is in proceedings, but the filing was made at the wrong court.
g. **Incorrect jurisdiction (case at BIA)** – jurisdiction is with the BIA.
h. **Case not pending** – a Notice to Appear has not been filed.

Exceptions:

(1) EOIR-33/ICs are accepted even if no Notice to Appear has been filed.
(2) Bond re-determination requests are accepted even if no Notice to Appear has been filed.

i. **No translation** – foreign language documents are rejected if untranslated. This applies whether the document was submitted by itself or as part of a larger package. If the document was submitted as part of a larger package, the entire package is rejected.

Note: unlike filings by attorneys or representatives, foreign language documents from non-detained pro se respondents are accepted if:

(1) translated but submitted without a certificate of translation;
(2) translated but submitted with an improper certificate of translation.

k. **Other** – the filing is rejected for other unusual reasons not listed above. Please check with your supervisor before rejecting documents for any reasons not listed above.

2. Give untimely filings to the judge

Untimely filings should be stamped and processed as usual and given to the judge, whether or not the filing was submitted with a motion to accept an untimely filing.

C. FILINGS BY A DETAINED UNREPRESENTED RESPONDENT

This section provides guidance on how to process filings that do not comply with the

provisions of the Immigration Court Practice Manual if the filing was submitted by a detained pro se respondent. Note that, for detained pro se respondents, the court only rejects filings in very limited circumstances.

1. Reject upon receipt

In the following situations, court staff should reject filings upon receipt and return the filings to the detained pro se respondent. To return a filing to a detained pro se respondent, please use the new uniform rejection notice entitled Rejected Filing: Notice to Detained Unrepresented Respondent. A copy of the rejection notice should be placed in the ROP.

a. **No name** – the filing does not contain the respondent's name.
b. **No A-number** – the filing does not contain the respondent's A-number.
c. **Incorrect filing location (case at court)** – the respondent is in proceedings, but the filing was made at the wrong court.
d. **Incorrect filing location (case at BIA)** – jurisdiction is with the BIA.
e. **Case not pending** – a Notice to Appear has not been filed.

Exceptions:

(1) EOIR-33/ICs are accepted even if no Notice to Appear has been filed.
(2) Bond re-determination requests are accepted even if no Notice to Appear has been filed.

f. **Other** – the filing is rejected for other unusual reasons not listed above. Please check with your supervisor before rejecting documents for any reasons not listed above. This space may also be used for any additional comments.

2. No proof of service

If a filing from a detained pro se alien does not include a proof of service, do not reject the filing. Rather, the filing should be served on DHS by following the steps below:

a. Stamp the filing using a stamp reading "Served on the Department of Homeland Security";
b. Copy the filing;
c. Serve the filing on the DHS;
d. Place the filing in the ROP.

3. Give untimely filings to the judge

Untimely filings should be stamped and processed as usual and given to the judge, whether or not the filing was submitted with a motion to accept an untimely filing.

D. FILINGS SUBMITTED DIRECTLY BY A THIRD PARTY OR A REPRESENTED RESPONDENT

This section provides guidance on how to process a filing in two situations: the filing is submitted directly to the court by a third party (someone who is not the respondent, the attorney, or DHS); or the filing is submitted directly to the court by a respondent who is represented, rather than by the attorney or representative (filings by represented respondents are supposed to be filed by the attorney).

1. Filing is submitted by a third party

If a filing is submitted by a third party, court staff should reject the filing upon receipt and return the filing to the individual who submitted it. To return a filing to a third party, please use the new uniform rejection notice entitled Rejected Filing: Filing Submitted Directly by Represented Respondent or by Third Party. A copy of the rejection notice should be sent to the respondent (if unrepresented) or the respondent's attorney (if represented), and to the Department of Homeland Security. A copy of the rejection notice should be placed in the ROP.

2. Filing is submitted by a represented respondent

If a filing is submitted to the court directly by a represented respondent, rather than by the attorney or representative, court staff should use their judgment to decide whether to reject the filing or whether to process it and give it to the judge. For example, if a respondent writes a letter to the court reporting that his or her attorney has acted improperly, it may well be appropriate to accept the letter and bring it to the attention of the judge.

If court staff elects to reject a filing because it was submitted directly to the court by a represented respondent, please use the new uniform rejection notice entitled Rejected Filing: Filing Submitted Directly by Represented Respondent or by Third Party. A copy of the rejection notice should be sent to the respondent's attorney and the Department of Homeland Security. A copy of the rejection notice should be placed in the ROP.

E. PROCESSING AN EOIR-28 WHERE ANOTHER ATTORNEY HAS ENTERED AN APPEARANCE

This section provides detailed guidance on how to process an EOIR-28 where another attorney or representative has already entered an appearance in the case. To determine how to process the EOIR-28, please follow the steps below.

1. EOIR-28 is filed without a motion to substitute

Where a respondent is already represented, and a new attorney or representative files an EOIR-28 without a motion to substitute:

a. **Check the type of appearance –** determine whether the new attorney or representative is making an appearance "on behalf of" the previous attorney or is joining as a non-primary attorney/representative. See Immigration Court Practice Manual Chapters 2.3(e) and 2.3(j).
b. **If "on behalf of"** – if the box is checked to reflect an "on-behalf-of" appearance, place the EOIR-28 in the ROP, and enter the appearance in CASE as a non-prime attorney or representative.
c. **If "co-counsel"** – if the box is checked to reflect that the attorney or representative is joining as a non-primary attorney/representative, place the EOIR-28 in the ROP, and enter the appearance in CASE as a non-prime attorney or representative.
d. **If no box checked –** if no box is checked indicating the type of appearance, the EOIR-28 is rejected, using the new uniform rejection notice entitled Rejected Filing: Notice to Attorney or Representative.

2. EOIR-28 is filed with a motion to substitute

Where a respondent is already represented, and a new attorney files an EOIR-28 with a motion to substitute:

a. **Enter motion in CASE** – enter the motion to substitute in CASE (do not enter the EOIR-28 in CASE), and forward the submission to the judge.
b. **If granted** – if the judge grants the motion to substitute, enter the attorney or representative in CASE.
c. **If denied** – if the judge issues an order denying the motion to substitute, do not enter the attorney or representative in CASE. Stamp the EOIR-28 using a stamp reading "Motion to Substitute Denied" and place the EOIR-28 in the ROP.

SECTION V.

FILING RECORDS OF PROCEEDING

A. FILING SEQUENCE

Records of Proceeding are filed in A-Number order in numerical sequence using the last three digits, first three digits, then middle three digits if necessary. The following example shows four A-Numbers in correct filing sequence:

A019 061 511
A026 989 511
A026 991 511
A010 001 998

B. FILING STATUS

Records of Proceeding will be in one of four status points during the course of the immigration hearing process: "Open," "Current Case Calendar," "Expedited Case Calendar," or "Closed."

1. Open Files

Consist of any ROP from the date of its creation until the immigration judge's action moves the case into a closed status. Open files must be filed in numerical sequence by A-Number beginning with the last three digits, first three digits, and middle three digits.

2. Current Case Calendar Files

Consists of cases calendared no more than one month in advance of the hearing date for the case. ROPs in this category should be maintained in chronological and immigration judge-assigned order.

3. Expedited Case Calendar Files

Consist of Records of Proceeding for Credible Fear, Reasonable Fear and Claimed Status Review cases (which are red in color). ROPs in this category should be maintained in chronological and immigration judge-assigned order.

Note: Records of Proceeding for Credible Fear Review cases are NOT merged with any later proceeding involving the same alien. ROPs for Credible Fear should be retired using the procedures outlined in Chapter IX. Records of Proceeding for Reasonable Fear and Claimed Status Review cases will be merged with the ROP created for any later removal proceeding for the same alien.

4. Closed Files

Consist of any immigration case that has been terminated or completed by the immigration judge. Closed Records of Proceeding must be filed in numerical sequence by A-Number, starting with the last three digits, first three digits, and middle three digits. Closed files also include Tape Transmittal Envelopes for ROPs at the BIA and original ROPs for cases on appeal at federal court.

Note: Tape Transmittal Envelopes (EOIR-10) may be maintained in a separate filing system while the ROP for the case is at the BIA. They must be maintained in numerical sequence by A-Number.

CHAPTER III.
CALENDARING OF CASES

All new cases, motions to recalendar, granted motions to reopen/reconsider and remanded cases are set for Master Calendar hearings. The Master Calendar is the initial hearing in which the immigration judge rules on the charges that DHS has filed against the alien on the charging document and establishes what relief the person wishes to seek against deportation, exclusion, rescission or removal. Cases in which the alien seeks relief are set on the immigration judge's Individual Calendar. The Individual Calendar is the hearing in which aliens present their applications for relief. The Immigration Reform and Immigrant Responsibility Act of 1996 was the impetus for the creation of the following case types currently used in the immigration courts: Credible Fear Review, Reasonable Fear Review, Claimed Status Review, Asylum-Only and Withholding-Only. All immigration judge agendas must be approved by the Office of the Chief immigration judge. The approved agenda will be input into the CASE system by the Court Administrator; it will set session types, number of cases to be scheduled for each session, and detail and IHP sessions for scheduling cases at each immigration court.

All cases must be set for hearing using the CASE automated calendaring process. Instructions for setting cases automatically or interactively may be found in the CASE Training Manual, Lesson 3, Unit 5 and Unit 14, respectively.

All cases which are not concluded by an immigration judge after a hearing must have a future hearing date. Cases will not be allowed to go "off calendar" until the immigration judge completes the case by issuing an order. If a hearing is concluded without a future hearing date or the decision is not reserved, refer the ROP to your Court Administrator for resolution.

SECTION I.

SETTING THE MASTER CALENDAR

A. NEW CASES

In multiple immigration judge courts, cases are assigned to each immigration judge's Master Calendar on a random rotational basis, using the CASE automatic calendaring process. Removal cases can only be set 10 days after the service of the Notice to Appear unless the alien requests an earlier hearing date in writing by signing the waiver on the Notice to Appear or submitting a written request. Written requests should be date-stamped received and filed in the ROP as part of the case record.

B. RESET CASES

If a case must be reset to another Master Calendar hearing, immigration court personnel

will respond immediately to the immigration judge's request for a future hearing date and schedule the case for the future session selected by the immigration judge. A standardized Adjournment Code must be entered into CASE if a case is reset. An Adjournment Code Reference Chart should be available in every court, and is also available in OPPM 18-02. The parties must also be provided notice of any future hearing; see Chapter IV for correct notice procedures.

SECTION II.

SETTING THE INDIVIDUAL CALENDAR

The case-assigned immigration judge always sets the Individual Calendar but may request available dates and times from court personnel. Immigration court personnel will schedule the hearing in the CASE system as requested by the immigration judge. The proper adjournment code must be entered in the CASE system. The parties must be provided notice of any future hearing; see chapter IV for correct notice procedures.

SECTION III.

CALENDARING PRIORITY CASES

The following types of cases must receive priority attention when calendaring cases. Check with your supervisor or Court Administrator for court-specific procedures in handling these cases.

A. CALENDARING BOND HEARINGS

Bond hearings have high priority and can be held either in-person or telephonically. A charging document is not required to have been filed. See part III, section I of this chapter. Bond hearings must be held as soon as calendar space is available.

B. CALENDARING CREDIBLE FEAR REVIEW HEARINGS

The Immigration and Nationality Act requires that a Credible Fear Review hearing be heard within 24 hours to 7 days. Immigration courts have set up special procedures for monitoring the receipt of Notices of Referral to Immigration Judge (Form I-863) and special sessions have been created in the CASE system. Immigration court personnel must monitor the receipt of Notices of Referral and calendar these cases immediately. Check with your Court Administrator or supervisor for court-specific procedures.

C. CALENDARING CLAIMED STATUS REVIEW HEARINGS

Claimed Status Review hearings should be conducted within 7 days which is a goal that has been established by the Office of the Chief Immigration Judge. Immigration court

personnel must monitor the receipt of Notices of Referral (Form I-863) for Claimed Status Review cases and calendar these cases immediately. Check with your Court Administrator or supervisor for court-specific procedures.

D. CALENDARING REASONABLE FEAR REVIEW HEARINGS

Reasonable Fear Review hearings should be conducted within 10 days. Immigration courts have set up special procedures for monitoring the receipt of Notices of Referral to Immigration Judge (Form I-863) and special sessions have been created in the CASE system. Immigration court personnel must monitor the receipt of Notices of Referral and calendar these cases immediately. Check with your Court Administrator or supervisor for court- specific procedures.

E. CALENDARING EXPEDITED ASYLUM CASES

Immigration courts must complete expedited asylum cases within 180 days after the application was filed, not including any delays caused by the applicant. The criteria to determine expedited cases and calendaring requirements may be found in OPPM 00-01, Asylum Request Processing, and OPPM 13-02, The Asylum Clock.

F. CALENDARING INSTITUTIONAL HEARING PROGRAM (IHP) CASES

All IHP cases will be scheduled for an initial hearing as expeditiously as possible. IHP cases must be completed prior to the incarcerated alien's Earliest Possible Release Date (EPRD). It is recommended that they be heard and completed as early as possible during the alien's period of incarceration. Court Administrators, under the supervision of their ACIJ, have responsibility for monitoring the IHP caseload and determining the number and duration of immigration judge visits to IHP sites.

Although IHP cases are usually heard at centralized facilities, alien inmates are transported to the centralized location from many different housing locations. Many Departments of Correction have requested that cases from the same housing units be scheduled during the same time periods and on the same day to allow for ease of transportation to the centralized/regionalized hearing location.

There are special calendars for the Institutional Hearing Program which differ from the standard calendar format. IHP (formerly CAP) calendars include special criteria to aid the Departments of Correction in identifying aliens. When printing calendars for IHP details, use only IHP (CAP) calendars. These calendars must be sent to the corrections contact at the appropriate Department of Correction as far in advance of the scheduled hearing date as possible.

SECTION IV.

CALENDARING PREVIOUSLY HEARD CASES

A. MOTIONS TO RECALENDAR

If a case has been administratively closed, either party may submit a motion to recalendar. Motions to recalendar should be calendared on the next available Master Calendar. See Chapter VI for the correct procedures for processing motions to recalendar.

B. MOTIONS TO REOPEN/RECONSIDER

If a motion to reopen or reconsider has been granted, the case should be calendared on the original case-assigned immigration judge's next available Master Calendar. See Chapter VI for the correct procedures for processing motions to reopen/reconsider.

C. REMANDED CASES

If a case is remanded to your court from the BIA or a federal court, it should be calendared on the original case-assigned immigration judge's next available Master Calendar and the parties notified of the hearing according to the procedures outlined in Chapter IV. The ROP should be submitted to the immigration judge for review.

SECTION V.

CLERICAL TRANSFER

A. USE OF CLERICAL TRANSFER

There are instances in which immigration courts may initiate and complete the transfer of cases for clerical purposes. Most notably, this occurs when a respondent is released from a detained setting. Such "clerical transfers" are authorized when allowed under the administrative control list for paired courts.[1]

[1] OCIJ designates administrative control Immigration Courts to create and maintain Records of Proceedings for hearing locations within an assigned geographical area. 8 C.F.R. § 1003.11.

B. PROCESSING CLERICAL TRANSFERS

1. Date stamp the receipt of the I-830;
2. Verify that the new administrative control office is correct (The Administrative Control List is available on EOIR's website);
3. Update the CASE system;
4. Forward the ROP to the new immigration court by overnight mail; detained cases are sent by overnight mail.

C. PAIRED IMMIGRATION COURTS FOR CLERICAL TRANSFERS

Below is a list of immigration courts paired for clerical transfer.[2]

Administrative Control Court	Assigned Responsibility
Adelanto (ADL)	Clerical Transfers Allowed (LOS; VNS; NLA)
Arlington (WAS)	
Atlanta - Peachtree (ATL)	Clerical Transfers Allowed (ATD; SDC)
Atlanta - Ted Turner (ATD)	Clerical Transfers Allowed (ATL; SDC)
Aurora (AUR)	Clerical Transfers Allowed (DEN)
Baltimore (BAL)	Ordnance Road Correctional Center, Glen Burnie, MD
Batavia (BTV)	Clerical Transfers allowed (BUF)
Boston (BOS)	
Buffalo (BUF)	Richwood Correctional Center, 180 Pine Bayou Circle, Monroe, LA 71202 Jackson Parish Correctional Center, 287 Industrial Drive, Jonesboro, LA 71251 Clerical Transfers Allowed (BTV; Varick; Downstate; NYC)

[2] Additionally, EOIR has established five dedicated MPP-only hearing locations at four different administrative control Immigration Courts that are authorized to conduct clerical transfers of MPP cases nationwide. The designated administrative control Immigration Courts are: San Diego Immigration Court; El Paso Immigration Court; Harlingen Immigration Court; and San Antonio Immigration Court. Upon receipt of a Form I-830, each of these administrative control Immigration Courts is authorized to clerically transfer MPP cases under their administrative control to the appropriate administrative control Immigration Court for the respondent's new address.

Charlotte (CHL)	
Chicago (CHI)	Plainfield Correctional Facility
Cleveland (CLE)	Butler County Jail, Hamilton, Ohio (CLE-BTD)
Conroe (CIC)	Immigration Court Conroe Immigration Court 806 Hilbig Road Conroe, TX 77301 Conroe Immigration Court (MPC Conroe) Houston Service Processing Center Joe Corley Detention Center Polk County Detention Center Immigration Court Houston SPC 5520 Greens Road Houston, TX 77032 Clerical Transfers Allowed (HOU; HSG)
Dallas (DAL)	Rolling Plains Detention Center, Haskell TX; Patrick Moore Detention Center, Okmulgee, OK
Denver (DEN)	Clerical Transfers Allowed (AUR)
Detroit (DET)	
El Paso (ELP)	Clerical Transfers Allowed: Adelanto (ADL); Atlanta-Ted Turner (ATD); Atlanta-West Peachtree (ATL); Aurora (AUR); Baltimore (BAL); Fort Snelling (BLM); Boston (BOS); Batavia (BTV); Buffalo (BUF), Chicago (CHI), Charlotte (CHL); Conroe (CIC); Cleveland (CLE); Dallas (DAL); Denver (DEN); Detroit (DET); Eloy (ELO); Elizabeth (ELZ); El Paso-Detained (EPD); Florence FLO; Hartford (HAR); Harlingen (HLG); Honolulu (HON); Houston (HOU); Houston South Gessner (HSG); Imperial (IMP); LaSalle (JNA); Kansas (KAN); Krome (KRO); Los Angeles-South Olive Street (LOS); Louisville (LOU); Las Vegas (LVG); Memphis (MEM); Miami (MIA); Newark (NEW); Los Angeles-N. Los Angeles Street (NLA); New Orleans (NOL); New York-Broadway (NYB); New York-Federal Plaza (NYC); New York-Varick (NYV); Oakdale (OAK); Omaha (OMA); Orlando (ORL); Otay Mesa (OTM);

El Paso (ELP) Cont'd	Otero (OTO); Philadelphia (PHI); Phoenix (PHO); Port Isabel (PIS); Portland (POO); Pearsall (PSD); Saipan (SAI); Guaynabo (SAJ); Lumpkin (SDC); Seattle (SEA); San Francisco (SFR); Fishkill (SIN); Salt Lake City (SLC); Sacramento (SMO); San Antonio (SNA);Tacoma (TAC); Tucson (TUC); Ulster (ULS); Van Nuys (VNS); Arlington (WAS); York (YOR)
El Paso SPC (EPD)	Pair with Otero Immigration Court
Elizabeth (ELZ)	Elizabeth Immigration Court Clerical Transfer Allowed (NEW)
Eloy (ELO)	Clerical Transfers Allowed (FLO; PHO)
Fishkill (SIN)	Clerical Transfers Allowed (BUF; VAR; ULS; NYC)
Florence (FLO)	Florence Prison Complex Central/Kasson – Central Unit South – Central Unit East – Central Unit North – Central Unit Globe – Central Unit Eyman Prison Complex Eyman – SM1 Browning – SM2 Cook – Rynning Meadows – Rynning Rynning Private Contracts Florence West – Central Unit CACF – Rynning Red Rock – Rynning Florence Prison Complex 1305 E. Butte Ave Florence, AZ 5132 Eyman 4374 E. Butte Avenue Florence, AZ 85132 …

Florence (FLO) Cont'd	Central – CTU -- MSF Rynning – RYN -- BAT Eyman – SM1 -- MGO Browning – SM2 -- BAT La Palma Correctional Center 5501 N. La Palma Road Eloy, AZ 85131 Clerical Transfers Allowed (ELO; PHO)
Fort Snelling (BLM)	Bishop Henry Whipple Federal Bldg 1 Federal Drive, Suite 1850 Fort Snelling, MN 55111 (612) 725-3765 All non-detained cases in the states of Minnesota, North Dakota and South Dakota Clerical Transfers Allowed (Jackson County Correctional)
Harlingen (HLG)	Brownsville International Gateway Bridge Clerical Transfers Allowed: Adelanto (ADL); Atlanta-Ted Turner (ATD); Atlanta-West Peachtree (ATL); Aurora (AUR); Baltimore (BAL); Fort Snelling (BLM); Boston (BOS); Batavia (BTV); Buffalo (BUF), Chicago (CHI), Charlotte (CHL); Conroe (CIC); Cleveland (CLE); Dallas (DAL); Denver (DEN); Detroit (DET); Eloy (ELO); El Paso (ELP); Elizabeth (ELZ); El Paso-Detained (EPD); Florence FLO; Hartford (HAR); Honolulu (HON); Houston (HOU); Houston South Gessner (HSG); Imperial (IMP); LaSalle (JNA); Kansas (KAN); Krome (KRO); Los Angeles-South Olive Street (LOS); Louisville (LOU); Las Vegas (LVG); Memphis (MEM); Miami (MIA); Newark (NEW); Los Angeles-N. Los Angeles Street (NLA); New Orleans (NOL); New York-Broadway (NYB); New York-Federal Plaza (NYC); New York-Varick (NYV); Oakdale (OAK); Omaha (OMA); Orlando (ORL); Otay Mesa (OTM); Otero (OTO); Philadelphia (PHI); Phoenix (PHO); Port Isabel (PIS); Portland (POO); Pearsall (PSD); Saipan (SAI); Guaynabo (SAJ); Lumpkin (SDC); Seattle (SEA); San Francisco (SFR); Fishkill (SIN); Salt Lake City (SLC); Sacramento (SMO); San Antonio (SNA);Tacoma (TAC); Tucson (TUC); Ulster (ULS); Van Nuys (VNS); Arlington (WAS); York (YOR)
Hartford (HAR)	

Honolulu (HON)	Halawa Correctional Facility Hawaii Community Correctional Cente Hawaii Youth Corrrectional Facility Kauai Community Correctional Center Kulani Correctional Center Maui Commnity Correctional Center Oahu Community Correctional Center Waiawa Correctional Facility Women's Community Correctional Center
Houston (HOU)	Continental Center II 1801 Smith Street, 9th Floor Houston TX 77002 (713)718-3870 Houston Annex 1919 Smith Street, 6th and 14th Floor Houston, Texas 77002 6th Floor: 713-751-1514 14th. Floor: 713-751-1500 Clerical Transfers Allowed (HSG; CIC, Texas Department of Criminal Justice, Huntsville, TX)
Houston SW (HSG)	Houston South Gessner 8701 S. Gessner Road, 10th Floor Houston TX 77074 713-995-3900 Clerical Transfers Allowed (HOU; CIC)
Imperial (IMP)	Imperial handles all Calexico non MPP cases Clerical Transfers Allowed (Imperial Regional Detention Facility) Calexico, CA
Kansas City (KAN)	The Villages, Inc., Tokeca, Kansas
Krome (KRO)	Clerical Transfers Allowed (MIA; BTC; Glades County Prison; Monroe County Detention)
La Salle (JNA)	FCA Aliceville FPM Pollock FCO Oakdale Clerical Transfers Allowed (NOL; OAK)

Las Vegas (LVG)	NYE County Jail: 1521 Siri Lane, Pahrump, Nevada 89060 Ely State Prison 4569 North State Rt., Ely, Nevada 89301
Los Angeles - Los Angeles St (NLA)	Clerical Transfers Allowed (LOS; VNS)
Los Angeles - Olive Street (LOS)	Clerical Transfers Allowed (NLA; VNS)
Louisville (LOU)	Clerical Transfers Allowed (MEJ; MJD)
Memphis (MEM)	Clerical Transfers Allowed (MEJ; MJD)
Miami (MIA)	Clerical Transfers Allowed (KRO; BTC; Glades County Prison; Monroe County Detention)
New Orleans (NOL)	Clerical Transfers Allowed (OAK; JNA)
New York - Broadway (NYB)	Ted Weiss Federal Building 290 Broadway, Suite 2900 New York, NY 10007 212-240-4920 Clerical Transfers Allowed (Downstate Correctional Facility; Ulster Correctional Facility)
New York - Federal Plaza (NYC)	Clerical Transfers Allowed (ULS; SIN; VAR)
New York - Varick (NYV; NYD)	New York Service Processing Center (Varick Street) Clerical Transfers Allowed (NYC; NYB; Downstate Correctional Facility; Ulster Correctional Facility)
Newark (NEW)	Clerical Transfers Allowed (ELZ)
Oakdale (OAK)	Winn Correctional Center 560 Gum Springs Road Winnfield, LA , 71483 Clerical Transfers Allowed (NOL;JNA)
Omaha (OMA)	
Orlando (ORL)	

Otero (OTO)	Pair with El Paso SPC Clerical Transfers Allowed (EPD; ELP)
Otay Mesa (OTM)	Clerical Transfers Allowed (SND)
Pearsall (PSD)	Clerical Transfers Allowed (SNA)
Philadelphia (PHI)	Clerical Transfers Allowed (YOR)
Phoenix (PHO)	
Port Isabel (PIS)	Clerical Transfers Allowed (HLG)
Portland (POO)	Clerical Transfers Allowed (SEA; TAC)
Sacramento (SMO)	Sacramento Immigration Court John Moss Federal Building 650 Capitol Mall, Suite 4-200 Sacramento, CA 95814
Saipan (SAI)	
Salt Lake City (SLC)	
San Antonio (SNA)	Clerical Transfers Allowed: Adelanto (ADL); Atlanta-Ted Turner (ATD); Atlanta-West Peachtree (ATL); Aurora (AUR); Baltimore (BAL); Fort Snelling (BLM); Boston (BOS); Batavia (BTV); Buffalo (BUF), Chicago (CHI), Charlotte (CHL); Conroe (CIC); Cleveland (CLE); Dallas (DAL); Denver (DEN); Detroit (DET); Eloy (ELO); El Paso (ELP); Elizabeth (ELZ); El Paso-Detained (EPD); Florence FLO; Hartford (HAR); Harlingen (HLG); Honolulu (HON); Houston (HOU); Houston South Gessner (HSG); Imperial (IMP); LaSalle (JNA); Kansas (KAN); Krome (KRO); Los Angeles-South Olive Street (LOS); Louisville (LOU); Las Vegas (LVG); Memphis (MEM); Miami (MIA); Newark (NEW); Los Angeles-N. Los Angeles Street (NLA); New Orleans (NOL); New York-Broadway (NYB); New York-Federal Plaza (NYC); New York-Varick (NYV); Oakdale (OAK); Omaha (OMA); Orlando (ORL); Otay Mesa (OTM); Otero (OTO); Philadelphia (PHI); Phoenix (PHO); Port Isabel (PIS); Portland (POO); Pearsall (PSD); Saipan (SAI); Guaynabo (SAJ); Lumpkin (SDC); Seattle (SEA); San Francisco (SFR); Fishkill (SIN); Salt Lake City (SLC); Sacramento (SMO); Tacoma (TAC); Tucson (TUC); Ulster (ULS); Van Nuys (VNS); Arlington (WAS); York (YOR)

San Diego (SND)	Immigration Court 880 Front Street Suite 4240 San Diego, CA 92101 (619) 510-4500 Clerical Transfers Allowed: Adelanto (ADL); Atlanta-Ted Turner (ATD); Atlanta-West Peachtree (ATL); Aurora (AUR); Baltimore (BAL); Fort Snelling (BLM); Boston (BOS); Batavia (BTV); Buffalo (BUF), Chicago (CHI), Charlotte (CHL); Conroe (CIC); Cleveland (CLE); Dallas (DAL); Denver (DEN); Detroit (DET); Eloy (ELO); El Paso (ELP); Elizabeth (ELZ); El Paso-Detained (EPD); Florence FLO; Hartford (HAR); Harlingen (HLG); Honolulu (HON); Houston (HOU); Houston South Gessner (HSG); Imperial (IMP); LaSalle (JNA); Kansas (KAN); Krome (KRO); Los Angeles-South Olive Street (LOS); Louisville (LOU); Las Vegas (LVG); Memphis (MEM); Miami (MIA); Newark (NEW); Los Angeles-N. Los Angeles Street (NLA); New Orleans (NOL); New York-Broadway (NYB); New York-Federal Plaza (NYC); New York-Varick (NYV); Oakdale (OAK); Omaha (OMA); Orlando (ORL); Otay Mesa (OTM); Otero (OTO); Philadelphia (PHI); Phoenix (PHO); Port Isabel (PIS); Portland (POO); Pearsall (PSD); Saipan (SAI); Guaynabo (SAJ); Lumpkin (SDC); Seattle (SEA); San Francisco (SFR); Fishkill (SIN); Salt Lake City (SLC); Sacramento (SMO); San Antonio (SNA);Tacoma (TAC); Tucson (TUC); Ulster (ULS); Van Nuys (VNS); Arlington (WAS); York (YOR)
San Francisco (SFR)	
San Juan (SAJ)	PRC San Juan, PR (Puerto Rico Department of Corrections) MDC Guaynabo, PR (Puerto Rico, Metropollitan Detention Center) SPC Aguadilla, PR (Puerto Rico, Service Processing Center) St. Thomas, VI, Hearing Location St. Croix, VI, Hearing Location South Louisiana Correctional Center, LA, Hearing Location
Seattle (SEA)	Immigration Court 915 2nd Avenue, Suite 613 Seattle, WA 98174 The Federal Detention Center, Sea Tac Clerical Transfers Allowed (TAC, POO)

Stewart (SPD)	FCA Aliceville FPM Pollock FCO Oakdale Clerical Transfers Allowed (ATL; ATD)
Tacoma (TAC)	Clerical Transfers Allowed (SEA; POO)
Tucson (TUC)	
Ulster (ULS)	Immigration Court 750 Berme Road, Napanoch, NY 12458 Clerical transfers Allowed (BUF; VAR; SIN; NYC)
Van Nuys (VNS)	Clerical transfers Allowed (LOS; NLA)
York (YOR)	Abraxas Academy-DHS Juvenile Detainees Clerical Transfers Allowed (PHI)

CHAPTER IV.
HEARING NOTIFICATION PROCEDURES

SECTION I.

INTRODUCTION

Section 239 of the Immigration and Nationality Act, (INA), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, (IIRIRA), substantially changed the notice requirements for aliens in immigration proceedings. These new notice provisions apply to those individuals placed in proceedings under the new INA. 8 C.F.R. § 1003.13. Because the requirements did not change for individuals in deportation/exclusion proceedings, the immigration court will need to operate under two sets of rules, depending on the type of proceeding that has been instituted against the individual. Where appropriate, the two procedures have been unified.

> **THESE PROCEDURES ONLY APPLY TO THOSE CASES WHERE THE DEPARTMENT OF HOMELAND SECURITY (DHS) (INS) HAS PROPERLY FILED A CHARGING DOCUMENT VESTING JURISDICTION WITH THE IMMIGRATION COURT**.

The following sections include guidance on mailing notices to aliens, if unrepresented, or to the alien's attorney or representative. Please note that in accordance with the Immigration Court Practice Manual, Chapter 2, Section 2.3(k), if an attorney or representative has been disciplined, the immigration court treats the alien as unrepresented.

SECTION II.

NOTIFICATION OF HEARINGS TO ALIENS

A. IN-PERSON

In-person service of the Hearing Notice to the alien MUST be used whenever practicable in lieu of mailing, regardless of the type of proceedings. If in-person service of the Hearing Notice is not practicable, however, the Hearing Notice, accompanied by a Change of Address Form (EOIR Form-33/IC), must be mailed to the alien, if unrepresented, or to the alien's attorney or representative. Procedures for mailing, including any additional notice requirements, are outlined below. **Notwithstanding the different mailing requirements, a copy of all Hearing Notices sent, including any accompanying attachments, must be placed in the ROP.**

B. NON-DETAINED CASES

In non-detained cases, a Hearing Notice will be printed through the CASE system. The

Hearing Notice will contain a certificate of service at the bottom of the page. The court personnel serving the Hearing Notice **MUST SIGN** the certificate of service and check the appropriate box indicating how the service was completed. If in-person service is not practicable, one copy of the **SIGNED** Hearing Notice will be sent to the alien or his/her representative with a Change of Address Form (EOIR Form-33/IC).

1. Mailing Requirements for Non-Detained Aliens in Removal Proceedings

Section 239 of the new INA, as amended by IIRIRA, does not require that the charging document, Notice to Appear or any change/rescheduled Hearing Notice be served by Certified Mail in those instances where in-person service is not practicable. The Court Administrator, therefore, will ensure that all Hearing Notices, including the Hearing Notice containing the time, place and date of the hearing (pursuant to 8 C.F.R. § 1003.18) are served by **regular mail**. The certificate of service at the bottom of the Hearing Notice will be executed in every case by Court personnel as proof of service.

There may be circumstances, however, when the use of Certified Mail may be appropriate. If Certified Mail is used, it should be Certified Mail-Return Receipt Requested. **In no case should Certified Mail be used as a regular practice**.

2. Mailing Requirements for Non-Detained Aliens in Deportation Proceedings

Section 242B of the old INA required that the Hearing Notices be served by Certified Mail if in-person service was not practicable. *See* § 242B(a)(2)(A) of the old INA. The Certified Mail requirement also applied to any Hearing Notices notifying the alien of a change or a rescheduling. In deportation proceedings, immigration courts will continue the practice of sending Hearing Notices, accompanied by a **Spanish** translation, by Certified Mail-Return Receipt Requested.

3. Mailing Requirements for Non-detained Aliens in Exclusion Proceedings

Since the statute and regulations are silent regarding notice requirements in exclusion proceedings, non-detained aliens in exclusion proceedings will be served their Hearing Notices by **regular mail.** There may be circumstances, however, where the use of Certified Mail may become necessary. If the Hearing Notice is sent by Certified Mail, it must be sent Certified Mail-Return Receipt Requested. **In no case should Certified Mail be used as a regular practice**.

4. Mailing Requirements for Non-detained Aliens in Rescission Proceedings

The same mailing requirements as for non-detained aliens in exclusion

proceedings will apply to non-detained aliens in rescission proceedings under § 246 of the INA.

C. DETAINED CASES (INCLUDING IHP)

1. In-Person

Both the new and the old INA direct that all Hearing Notices for proceedings shall be in writing and provided to the alien in-person, if practicable, or to the alien and his or her representative by mail. No exception is made for cases in which the alien is detained by the DHS or incarcerated by state or federal authorities on criminal grounds. In order to ensure that an alien is afforded proper notice of his or her hearing, the following procedures will be used for mailing the Hearing Notices in all detained settings, including but not limited to, Service Processing Centers (SPC); state, county, and municipal jails; and IHP sites where in-person service is not practicable.

In detained cases, a Hearing Notice will be printed through the CASE system. The Hearing Notice will contain a certificate of service at the bottom of the page. The Court personnel serving the Hearing Notices **MUST SIGN** the certificate of service and check the appropriate box indicating how the service was completed. The Hearing Notice for detained or incarcerated aliens shall state the alien's name, followed by a line addressing the Hearing Notice in care of the person in charge of the facility or institution where the alien is being detained or incarcerated.

The Court Administrator or his/her designee must **personally** deliver the individual Hearing Notices with the signed certificate of service (except that aliens in deportation also get a Spanish translation), to the alien in care of the person in charge of the facility/institution where the alien is being detained. When in-person delivery is not practicable, delivery should be made by the procedures set forth in part II, section C(2), (3) & (4) of this Chapter with an executed certificate of service. The Court Administrator must ensure that the Hearing Notices are delivered to the custodial authority with sufficient time to permit the custodial authority to serve the aliens.

In addition to delivery of the individual Hearing Notices, Court Administrators shall also provide the custodial authority or the person in charge of the facility where the alien is being detained with the full hearing calendar. The Court Administrator will also provide the DHS a copy of the Court Calendar.

2. Mailing Hearing Notices for Detained Aliens in Removal Proceedings

An initial hearing date for aliens in Removal Proceedings cannot be set earlier than 10 days after service of the Notice To Appear, unless the 10 days to secure counsel has been waived by the alien. Once the Hearing Notices have been printed and signed (in duplicate), they will be sent to the alien, in care of his or her Custodial Authority, and his or her attorney, if any, via **an appropriate overnight courier**. One copy of the Hearing Notice will be for the alien and the second copy will be retained by the Custodial Authority for his/her own records. Service upon the custodial authority will be deemed service upon the alien.

Service of the copy of the Hearing Notice will also be sent to the DHS official via **regular mail**.

3. Mailing Hearing Notices for Detained Aliens in Deportation Proceedings

For aliens in **deportation proceedings**, an initial hearing date cannot be set earlier than 14 days after the service of the charging document, unless the alien has waived the 14 days to secure counsel § 242B(b)(1) of the old INA. Once the Hearing Notices have been printed and signed (in duplicate), they will be sent, accompanied by a **Spanish** translation, to the alien in care of his or her Custodial Authority, and his or her attorney, if any, via **Certified Mail-Return Receipt Requested.** One copy of the Hearing Notice will be for the alien and the second copy will be retained by the Custodial Authority for his/her own records. Service upon the Custodial Authority will be deemed service upon the alien. See 8 C.F.R. § 103.5a(c)(2)(I).

Service of the copy of the Hearing Notice to the DHS official shall be sent by **regular mail**.

4. Mailing Hearing Notices for Detained Aliens in Exclusion Proceedings

An initial hearing for aliens in exclusion proceedings may be scheduled at any time after the filing of the charging document (Form I-122) with the Court. Once the Hearing Notices have been printed and signed (in duplicate), they will be sent to the alien in care of his or her Custodial Authority, and his or her attorney, if any, via **an appropriate overnight courier**. One copy of the Hearing Notice can be for the alien and the second copy will be retained by the Custodial Authority for his/her own records. Service to the Custodial Authority will be deemed service upon the alien.

Service of the copy of the Hearing Notice to the DHS official shall be sent via **regular mail**.

D. HEARING NOTICES FOR ALIENS IN CREDIBLE FEAR, REASONABLE FEAR AND CLAIMED STATUS REVIEW

Due to the expedited nature of these proceedings, an attempt should be made to serve the

Hearing Notice within 24 hours of receiving the Form I-863, Notice of Referral to immigration judge. The Hearing Notice MUST be served in-person, if practicable. If in-person service is not practicable, then the Hearing Notice must be sent to the alien, in care of his or her Custodial Authority, via **an appropriate overnight courier.** However, because time is of the essence with regard to these expedited cases, the Court Administrator may elect to allow the DHS to file the Form I-863 and accompanying documents via fax. If distance from the court renders it impractical for DHS to file the Form I-863 and accompanying documents in person, the Court Administrator shall establish a procedure to allow for filing of the charging document by fax. Filing by fax shall be limited only to referring a request for a credible fear, reasonable fear, claimed status review cases, asylum-only and withholding-only (See section E below for Hearing Notices for asylum-only and withholding-only proceedings). The immigration court may serve the hearing notices by fax in appropriate circumstances**.**

E. HEARING NOTICES FOR ALIENS IN WITHHOLDING-ONLY AND ASYLUM-ONLY PROCEEDINGS

Withholding-only and asylum-only cases will generally follow the procedure rules for removal cases, except that an initial hearing date for aliens in withholding-only and asylum-only proceedings can be set earlier that 10 days from the service of the Notice of Referral to Immigration Judge (Form I-863) on the Court. The 10-day requirement in removal proceedings is only applicable to a Notice to Appear under section 239 and not a Form I-863. Court Administrators can therefore schedule these cases accordingly, and Hearing Notices for aliens in withholding-only and asylum-only proceedings will be served according to the procedures outlined for aliens in removal proceedings.

F. RESCHEDULED OR CONTINUED HEARINGS

If the alien is not before the Court, the Hearing Notices will be mailed according to the procedures outlined in part II, sections A, B & C of this Chapter. In situations when the case must be continued or rescheduled for a hearing, and the alien is present before the Court, the following procedures apply. When providing the alien with notice of a future scheduled hearing the immigration judge must ensure:

(a) That the scheduled hearing date and time have been entered on the Hearing Notice and that a Change of Address Form, EOIR-33, is provided to the alien;

(b) The oral warning of the consequences for failing to appear has been given on the record and the appropriate box has been checked on the "Limitation on Discretionary Relief" form. The oral warning, if given, must be provided by the immigration judge, not by immigration court personnel nor by a contract interpreter, and;

(c) If applicable, that the "Limitation on Discretionary Relief" form has been signed and dated by the immigration judge or immigration court personnel.

1. Non-Detained Rescheduled or Continued Cases in Removal Proceedings

For all rescheduled or continued hearings, a Hearing Notice with a date, time and place of hearing will be printed through the CASE system. In addition, a notice entitled "Limitation on Discretionary Relief" will be printed and placed in the ROP prior to each hearing for all aliens, as well as a Change of Address Form (EOIR Form-33/IC).

The "Limitation on Discretionary Relief" form is to be used ONLY after the alien has been given the appropriate oral warning by the immigration judge in the alien's own language or a language the alien understands. The "Limitation on Discretionary Relief" form must be completed and signed by the immigration judge or immigration court personnel who are present in the courtroom and who witnessed the giving of oral notice. The oral notice must be given only by the immigration judge. A contract interpreter is only authorized to translate the oral warnings. The immigration judge, however, may obtain a waiver of the reading of the oral warnings from the alien's attorney or accredited representative. To effect the waiver, the immigration judge must obtain a statement on the record from the alien's counsel or representative that he or she has advised the alien and explained the consequences of failing to appear, in lieu of the immigration judge's explanation.

After the alien has been given the warnings orally (or the warnings have been waived by the alien's attorney or representative), one copy of the "Limitation on Discretionary Relief" form shall be given to the alien in-person in **English**, in addition to the written Hearing Notice and Change of Address Form (EOIR Form-33/IC) which were previously printed by the Court personnel.

2. Non-Detained Rescheduled or Continued Hearings in Deportation Proceedings

For all rescheduled or continued hearings, a Hearing Notice with a date, time and place of hearing will be printed through the CASE system. In addition, a notice entitled "Limitation on Discretionary Relief" will be printed and placed in the ROP prior to each hearing for all aliens, as well as a Change of Address form (EOIR Form-33/IC).

The "Limitation on Discretionary Relief" form is to be used ONLY after the alien has been given the appropriate oral warning by the immigration judge in the alien's

own language or a language the alien understands. The "Limitation on Discretionary Relief" form must be completed and signed by the immigration judge or immigration court personnel who are present in the courtroom and who witnessed the giving of oral notice. The oral notice must be given only by the immigration judge. A contract interpreter is only authorized to translate the oral warnings. The immigration judge, however, may obtain a waiver of the reading of the oral warnings from the alien's attorney or accredited representative. To effect the waiver, the immigration judge must obtain a statement on the record from the alien's counsel or representative that he or she has advised the alien and explained the consequences of failing to appear, in lieu of the immigration judge's explanation.

After the alien has been given the warnings orally (or the warnings have been waived by the alien's attorney or representative), one copy of the "Limitation on Discretionary Relief" form shall be given to the alien in-person in **English and Spanish**, in addition to the written Hearing Notice, with a **Spanish** translation, and Change of Address Form (EOIR Form-33/IC) which were previously printed by the Court personnel.

3. Non-Detained Rescheduled or Continued Hearings in Exclusion, Rescission and Asylum-Only Proceedings

For all rescheduled or continued hearings, a Hearing Notice with a date, time and place of hearing will be printed through the CASE system. Aliens in **exclusion, rescission, and asylum-only proceedings** will be given notice orally by the immigration judge as well as written notice via the CASE generated Hearing Notice and a Change of Address Form (Form EOIR-33/IC)

4. Detained Cases (Including IHP)

In all cases, during the first master calendar appearance, and at every hearing thereafter, the alien shall be provided with written notice of the date and time of the reset hearing. This is in addition to **orally** advising the alien on the record of the next scheduled hearing date. Each ROP should contain a pre-printed Hearing Notice so that the immigration judge or immigration court personnel need only hand-write the date and time on the form. **For aliens in deportation proceedings, a Spanish translation of the Hearing Notice needs to be provided in addition to the Hearing Notice.** A copy should be kept in the ROP and served on the DHS, and the original should be served upon the alien. The procedures outlined above for oral warnings of limitations on discretionary relief should be followed.

If personal service is not feasible, then service should be provided by sending the Hearing Notice by the procedures previously outlined in part II, sections A, B & C

of the Chapter. Strict adherence to the in-person written notice procedures will obviate the need for mailing in all but the most unusual cases.

SECTION III.

NOTIFICATION OF HEARINGS TO DHS

Regardless of what type of proceeding is initiated against the alien, the Courts will notify the DHS in the following manner:

A. INITIAL MASTER CALENDAR HEARINGS

The immigration court will send the DHS an immigration judge's Master Calendar Summary with a transmittal letter signed by the Court Administrator to the DHS District Counsel no later than ten calendar days before the hearing date.

The immigration court will send a revised Master Calendar summary, including any additions to the original calendar and/or rescheduled Master Calendar hearings for which notice was not provided during a prior hearing, with a transmittal letter signed by the Court Administrator to the DHS District Counsel as far in advance of the hearing date as possible.

The immigration court will post a copy of the Master Calendar summary in the public waiting area by 2:00 PM on the Friday before the week of scheduled hearings.

In some jurisdictions, DHS has the ability to print the Courts' calendars. Therefore, DHS is notified ONLY of last minute calendar changes in those jurisdictions.

B. INDIVIDUAL HEARINGS

Immigration courts will send the DHS an immigration judge's Master and/or Individual Calendar summary with a transmittal letter signed by the Court Administrator to the DHS District Counsel by 2:00 PM on the Friday prior to the scheduled hearings. The Individual Calendar Summary will include all hearings scheduled for the following week in the base city and will list each case by the Alien Number.

The immigration court will send by First Class mail an immigration judge Individual Calendar Summary, with a transmittal letter signed by the Court Administrator, to the District Counsel in each detail city, ten calendar days prior to the beginning of the detail.

The immigration court will post a copy of the Individual Calendar Summary in the public waiting area by 2:00 PM on the Friday before the week of scheduled hearings.

One copy of the Hearing Notice should be given to the DHS during the hearing.

SECTION IV.

TELEPHONIC HEARINGS

The procedures outlined above apply to all telephonic hearings. When oral notice of the next date and time of hearing has been given, and/or the oral warnings concerning failure to appear, the written notices of both and a "Change of Address Form" will be sent to the alien or the alien's representative after the telephonic hearing is completed. The written notice shall be served in accordance with the procedures for notice in the underlying proceedings (e.g., removal, deportation or exclusion proceedings.)

SECTION V.

CERTIFIED MAIL PROCEDURES/RECEIPT

Although the new INA eliminates the Certified Mail requirement for cases filed with the Court on or after 04/01/97, Certified Mail will still be used for deportation cases and other circumstances where it is deemed necessary.

In those instances when Certified Mail is used, the following procedures apply:

A. Court personnel will generate the Certified Mail form from the CASE system. It is a four-part form with each part sequentially numbered. Parts 1 and 2 contain the alien's address. Separate Part 1 and place it in a window envelope so that the alien's address appears. Dispose of Part 2. Part 3 is the receipt for Certified Mail. Tear off the self-adhesive sticker from the right hand position on the receipt and affix it to the front top center of the envelope. Staple the receipt to the file copy of the hearing notice and place it in the ROP. Part 4 is the return receipt card that has the immigration court's pre-printed address on it. This card should be attached to the back of envelope.

B. The U.S. Postal Service will make an initial attempt to deliver the Certified Mail notice to the addressee. If successful, the receipt (green) will be returned to the immigration court, date-stamped and included in the ROP.

C. If the delivery of the Certified Mail notice is unsuccessful and the Certified Mail is returned to the immigration court, the returned Certified Mail notice will be date-stamped and included in the ROP. If returned, the Postal Service will stamp on the mail the reason for non-delivery. If the Certified Mail notice is returned indicating that no such address exists, or the address is insufficient, the Central Address File (E-33 Tracking System in the Utilities module of the CASE system) should be checked to verify the accuracy of the address. If, according to the Central Address File (E-33 Tracking System), the original Hearing Notice was improperly addressed, the Hearing Notice should be sent again to the

proper address.

SECTION VI.

CHANGE OF ADDRESS FORM

The alien is required to notify the immigration court having administrative control over the case of any change in address and/or telephone number within five (5) days of such change. These changes, must be recorded on the "Change of Address Form," EOIR-33/IC. Whenever practicable, Court personnel should have the alien complete and sign the form himself or herself. Otherwise, Court personnel may transfer new address information received from an alien to the EOIR-33/IC. To provide the alien with the proper form to use, distribution of this form should occur at each hearing unless the immigration judge determines that the alien already possesses the form.

SECTION VII.

CENTRAL ADDRESS FILE

An alien's address shall be kept current in the Central Address File (E-33 Tracking System in the Utilities module of the CASE system). Even if an attorney or representative files an EOIR-28, the alien's address must be maintained and updated whenever a "Change of Address Form" is filed.

SECTION VIII.

BOND HOLDER/OBLIGOR

The immigration court will not provide a Hearing Notice to a bond holder/obligor.

CHAPTER V.
CONTRACT INTERPRETER SCHEDULING PROCEDURES

A. CONTRACT INTERPRETER SERVICES

The Language Services Unit (LSU) of the Office of the Chief Immigration Judge (OCIJ) is responsible for coordinating and managing all requests for contract interpreter services. The LSU serves as the official "conduit" for communications between the immigration court (IC) and contract interpreter service providers, including, but not limited to, SOS International (SOSi), Lionbridge Global Solutions (LGS)/UTI and Language Services Associates (LSA)/InterpreTalk. As such, any and all questions or concerns regarding interpreter quality, language resources, interpreter operations, or order processing should be directed to LSU staff. While LGS representatives may be available on-site in many ICs for consultation, all communications with them must be simultaneously relayed to the LSU to keep us abreast of the situation.

Contract interpreter services are available to all ICs, specifically for hearings for which an IC staff interpreter is not available to interpret in the required language or dialect, and in some instances to assist in meeting interpreter requirements for which IC staff interpreters are not able or not available to fully meet the interpreter needs (it should be stressed, however, that the staff interpreters' number one priority must be to interpret as much as possible). Currently there are three types of contract interpreter services available to the IC.

1. On-Site Contract Interpreter

This is the most commonly used contract interpreter service. As language requirements for hearings are identified that cannot be handled by IC staff interpreters, requests for in person, on-site contract interpreters are made by IC staff utilizing the web-based Electronic Contract Interpreter Ordering System (ECIOS). This service is primarily used for Individual Calendar hearings (or Master Calendar hearings where at least five respondents require the same language and a waiver is approved by the LSU), once an immigration judge (IJ) has determined that an interpreter will be required in order to proceed with the hearing. All requests for on-site contract interpreters must be made via ECIOS.

2. Scheduled Telephonic Contract Interpreter

Scheduled telephonic interpretation services are provided when requested or approved by the IC. The term "scheduled" refers not to the hearing, but to the contract interpreter order. The decision to accept a telephonic interpreter is left up to the presiding IJ.

The criteria for ordering a scheduled telephonic interpreter are the same as for

ordering an in-person interpreter (i.e. individual calendar hearing, or master calendar hearing with at least five respondents requiring the same language and an approved waiver from the LSU). Occasionally the IC will agree to use a telephonic contract interpreter if an on-site contract interpreter for which they are placing an order is not available. Telephonic interpreters must be prepared to begin at the scheduled order start time. If after one hour from the scheduled order start time the IC has not contacted the telephonic interpreter, the interpreter is released and the contractor is paid one hour. As with on-site contract interpreter orders, all requests for scheduled telephonic contract interpreters must be made via ECIOS.

Once an interpreter is assigned to a scheduled telephonic order, SOSi will email the LSU a Certification of Telephonic Interpretation (COTI) form with the name of the interpreter and all of the hearing information needed for the call. It will then be emailed to the IC and applicable IJ.

In the event that the LSU receives a Suspension of Search (SOS) notice from SOSi regarding an in-person order and does not offer scheduled telephonic interpretation as an option, the LSU will include in the SOS email notice to the IC and IJ, the option to reach out to LGS and LSA to try to secure a scheduled telephonic interpreter. If the IC/IJ accepts the option, email requests will be sent to both contractors with all of the hearing information. The first vendor who is able to confirm an interpreter will be assigned the order. The LSU will then forward the confirmation information to the Court. For SOS notifications regarding scheduled telephonic orders, the LSU will automatically reach out to LGS/LSA.

3. Unscheduled Telephonic Contract Interpreter

Unscheduled telephonic contract interpreter services provide relatively quick access to an interpreter network via the telephone. This service is meant to be utilized for all Master Calendar hearings or emergency situations for which a last minute on-site or scheduled telephonic contract interpreter cannot be provided. The use of the term "unscheduled" refers not to the hearing, but to the contract interpreter order, though, as mentioned before, it is sometimes used as a backup for previously ordered on-site contract interpreters. Unscheduled telephonic contract interpreter services are handled directly by the IC by calling either LGS' Unscheduled Telephonic Interpretation (UTI) service or LSA's InterpreTalk line.

B. REQUESTING AND USING ON-SITE AND SCHEDULED TELEPHONIC CONTRACT INTERPRETER SERVICES

1. The IC must order all on-site and scheduled telephonic contract interpreter services through ECIOS. Under no circumstances should the IC order an on-site or scheduled telephonic contract interpreter by calling SOSi, a subcontracting agency, or by

informing the contract interpreter personally that interpreter services will be required. In order to facilitate the filling of orders, they should be submitted as far in advance of the hearing as possible. At a minimum, orders should be submitted 30 days in advance, as discussed in section B.2.a. Orders should also contain any special requests regarding the use or non-use of a specific contract interpreter. While SOSi is not obligated to fill name-specific requests, they are sometimes able to honor these requests. (Please note: interpreters whom the Court does not wish to appear must also be formally disqualified via completion and submission to the LSU of a Contract Interpreter Performance (CIP) form - see Section E.)

Placing Orders

All orders are placed via ECIOS. The ECIOS system, a web-based, paperless process allows the IC to order contract interpreters, query previously placed orders, and perform other administrative tasks associated with contract interpreter orders. With the implementation of the ECIOS system the IC is able to submit the contract interpreter orders simultaneously to the LSU and SOSi. The system also gives confirmation to the IC of the receipt of each contract interpreter order by SOSi (via the inclusion of a COI number).

2. ECIOS Contract Interpreter Order Reports

a. Generate Contract Interpreter Order Report - This is the only acceptable means of ensuring that on-site and scheduled telephonic contract interpreter orders are sent to the LSU/SOSi. E-mail, fax, and telephone orders are not accepted unless the ECIOS system is down and the LSU has asked for the orders to be placed in that manner. This report must be generated and submitted on the first of the month for the following month (e.g. Feb. 1 for March orders), with the knowledge that weekly audits and updates will be required.

b. Generate Special Contract Interpreter Order - This feature is not to be used to place regular single orders. This feature is only to be used to place special orders, to address situations such as:

i. The witness or a rider respondent requires the assistance of an interpreter in a language different from that of the respondent. Please note that if for one case two interpreters need to be ordered this is not considered a double booking, but a waiver stating the need for the two interpreters must be forwarded to the LSU;

ii. A conference call scheduled for a date prior to the scheduled hearing on the merits;

iii. A detainee session where the charging document has not yet been entered in CASE, but the IC knows that a specific interpreter will be needed for 5 or more respondents requiring the same language.

c. **Orders Receipt Confirmation/Review Pending Orders** - This feature is used to check the receipt confirmation of orders by SOSi, or to review pending orders. The COI confirmation indicates whether SOSi has received the order. This report also allows the IC to verify if and when an order has been placed.

d. **Cancel/Change Previously Ordered Interpreter** - This feature allows the IC to cancel or modify existing contract interpreter orders. For example, if an order has been placed for a specific date and time and subsequently the hearing time is changed from an AM to a PM session (or other situation, with proper notification to the LSU), the user can modify the order to reflect the new time without having to cancel and place a new order, which would incur a 10% premium if not done within at least two business days between the (new) order date and hearing date.

e. **View Orders Without an ANSIR (CASE) Match** - This feature serves to track any orders that indicate there is no ANSIR (CASE) match. If an ANSIR (CASE) hearing is rescheduled after a contract interpreter order has been placed, ECIOS will still reflect the contract interpreter order but will indicate that there is no ANSIR (CASE) match.

f. **View Sign In/Sign Out Report** - This feature enables users to automatically generate and print the contract interpreter sign in/sign out log for all orders for a particular day at a particular hearing location. (See Section B.5 for additional information regarding the log.)

3. **Scheduled Telephonic Contract Interpreter Services**

Scheduled telephonic contract interpreters may be used when on-site interpreters are not available, at the IJ's discretion. The LSU will forward to the IC a COTI form (in email format) containing all of the information necessary to contact the interpreter, usually the day prior to the hearing. The contract interpreter will be on stand-by at the scheduled time awaiting the call from the IC. **If for any reason it appears that the hearing will be delayed, the IC must contact the LSU so we may, in turn, advise SOSi of the delay and ensure the interpreter's continued availability.**

If a scheduled telephonic contract interpreter is to be used for an Institutional Hearing Program (IHP) hearing location, the IC must be certain that the location

has a suitable speaker phone and a long distance phone line available for the IC's exclusive use during the hearing. Billing responsibility and procedures for these calls (including placement through a switchboard, if necessary) should be addressed with the corrections facility prior to the day of the hearing. The COTI form previously faxed to the IC should be fully completed, scanned, and subsequently forwarded to the following email addresses:

- COI.Forms@EOIR.USDOJ.GOV
- EOIR.COI@SOSI.com

Judges are strongly encouraged to order scheduled telephonic interpreters in place of in-person interpreters for individual hearings in all situations where doing so will result in cost savings to the Government. For example, if an individual hearing is expected to take one hour or less, and a contract interpreter is needed, it would be more cost effective to order the interpreter as a scheduled telephonic rather than ordering an in-person interpreter. This is because, if in this example, the hearing is concluded in 45 minutes, the scheduled telephonic interpreter would be paid for one hour of interpreting. If, on the other hand, an in-person interpreter was ordered for this 45 minute hearing, SOSi would be paid for the minimum three hours for in-person orders.

There will be situations where you may have ordered a scheduled telephonic interpreter for a hearing only to discover on the day of the hearing that, for whatever reason, the interpreter will not be needed. If this should occur, we ask that the IC neither cancel the order nor call the interpreter at the scheduled time. This is because if after one hour from the scheduled start time the IC has not contacted the telephonic interpreter, the interpreter is released and SOSi is paid for one hour. The cancellation policy will be discussed in detail in a later section. Often, when SOSi cannot locate an in-person interpreter for an in-person order they will notify the IC of this fact through the LSU, and advise the LSU of the availability of a scheduled telephonic interpreter. Acceptance of the telephonic interpreter, when identified, is at the discretion of the IJ. If one should accept the telephonic option please be aware that the LSU will email the information regarding the telephonic interpreter once received from SOSi. If the telephonic option is not accepted, then the in-person order will become a no-show. A Suspension of Search notice is formal notification that SOSi has ceased efforts to identify an interpreter. At this point the appropriate damages are assessed to SOSi by the LSU. Without canceling the interpreter order, the IC is free to reschedule the case and utilize the time for other matters.

4. Institutional Hearing Program Clearance

Judges who travel to IHP locations to conduct hearings are aware that many of these locations require personal information (e.g. Social Security Number, date of birth,

etc.) 10 working days in advance of the hearing in order to ensure that the interpreter will be given access to the facility. This information is provided to the hearing location by the IC. SOSi must provide this information to the LSU within two working days after receipt of the order. If the order is placed within two working days of the hearing, SOSi must provide this information by close of business the next working day or two hours prior to the hearing, whichever is earlier. Failure to provide the information within two working days will result in the assessment of payment deductions. A failure on the part of SOSi to subsequently gain access to the facility will result in no-show liquidated damages.

If a judge is traveling to one of the IHP sites unaccompanied by IC personnel, it will be the judge's responsibility to contact the Base City IC to report a no-show on the part of the interpreter. The Base City IC will in turn contact the LSU, who will assess the proper liquidated damages.

5. Contract Interpreter Log

The IC must maintain a Contract Interpreter Log to be used by each on-site contract interpreter to sign-in upon arrival and sign out upon departure. This log should be kept behind the window where it can be closely monitored. The Court Administrator will designate a contact person in the reception area to monitor this procedure. In addition to having the contract interpreter sign in and out, it is very important that the contract interpreter's Certification of Interpretation form be **date stamped** by IC personnel immediately upon his or her arrival. The date stamp is used for billing purposes. The Contract Interpreter Log should be maintained for a period of six months.

6. Reassignment of On-Site Contract Interpreters

While contract interpreters are generally ordered based on a specific hearing and under a specific case number, the IC is authorized to reassign contract interpreters to other IJs and other hearings. In addition, after a contract interpreter's services are no longer required for one hearing they may be asked to interpret in another. The Certification of Interpretation (COI) form should reflect the additional cases by inclusion of the case "A" numbers in the "Assignment" section, with each IJ noting the "Start time" and "End Time" corresponding to their usage. The form may be signed by any authorized IC staff member. Since hearings vary in length, EOIR cannot predict at the time a work order is placed how long the interpreter will be required. If an hourly work order is issued, interpreters shall provide, at a minimum, three (3) hours of service, unless released early by EOIR. Therefore, if an hourly work order is issued, interpreters shall return to the check-in window after completing each assignment to verify whether their services are required elsewhere within the court to fulfill their 3-hour minimum. For morning hourly work orders

that start at 9:00 a.m. or earlier or morning half-day work orders, interpreters will not be required to stay beyond 12 noon (they may voluntarily stay if their services are requested). For afternoon hourly work orders that start between 12 noon and 2:00 p.m. or afternoon half-day work orders, interpreters will not be required to stay beyond 5:00 p.m. (they may voluntarily stay if their services are requested). It should be noted that a contract interpreter is not released from duty until their services are no longer needed, as determined by the IJ, Court Administrator, or other IC-designee. It is extremely important that the official release time (usually indicated as the "End Time") be clearly indicated on the COI form.

7. Completing the Certification of Interpretation Form

Every contract interpreter should present a three-part COI form to the presiding IJ. If an interpreter is shared amongst various IJs, each IJ must indicate the start and end time to annotate their use of the same interpreter.

When completing the bottom portion of the COI, it is very important for the IJ to use the actual interpretation start time. Although the actual start time reflected by the IJ will not necessarily coincide with the order scheduled start time, it is very useful to LSU staff when reviewing COI forms to track the actual contract interpreter usage, especially in cases of multiple interpreter bookings. It is also very important to enter the "End" time the interpreter finishes interpreting. This time is considered the end time of the order for payment purposes. Additionally, any time taken for lunch or breaks should also be annotated on the bottom portion of the COI.

When an interpreter arrives late, they are paid from the time they arrive up to the time their services are no longer required, regardless of whether the IJ commenced the hearing at the scheduled time or waited for the interpreter to arrive. Whenever an interpreter arrives late for a hearing, it must be noted on the COI by the IJ so that the proper adjustments can be made to the invoice. If a hearing is canceled due to late arrival of the contract interpreter, the IC must immediately notify the LSU and the IJ must make the appropriate entry on the COI. Whenever the box marked "Interpreter Appeared, But Not Used" is checked on a COI, the "Comments" section must indicate the reason why the interpreter was not used.

Ensuring that all this information is accurately reflected on the COI is essential because the COI is the primary documentation used to invoice the contractor for services rendered. Inaccurate or omitted information on the COI can drastically affect the final invoice.

If an interpreter appears for a hearing but the hearing has been cancelled, the IC should determine if the interpreter's services could be utilized elsewhere. For

Spanish, the interpreter should be used to relieve/replace the Court's staff interpreter for a minimum of three hours. If a contract interpreter arrives and cannot be used for any other hearing, the Court Administrator or IC designee must annotate this on the COI and place comments as to why the interpreter was not utilized. The IC must retain the top copy of the COI and return the other copy to the contract interpreter.

The IC must scan and then email (on a daily/weekly basis) the completed COI/COTI to the following email addresses:

- COI.Forms@EOIR.USDOJ.GOV
- EOIR.COI@SOSI.com

8. Contract Interpreter No-Shows

The IC must notify the LSU immediately when a contract interpreter fails to appear for an on-site hearing or is unavailable for a scheduled telephonic hearing. **A determination must be made at this point as to whether or not the IJ is willing to wait for the originally assigned contract interpreter, or for a substitute contract interpreter.** This is particularly important because there are different monetary damages assessed against SOSi based on whether the contract interpreter arrived late or was a no show. Once the IJ agrees to wait for the interpreter, the LSU cannot assess a no show charge - only a "late fee" - against SOSi if the IJ subsequently decides to continue the case and does not wait for the contract interpreter. If the IJ is not willing to wait and proceeds without the interpreter or reschedules the hearing, the IC must advise the LSU that the contract interpreter was a no-show.

Should a contract interpreter appear at the IC after a no-show is documented, the contract interpreter should be dismissed without the IC date stamping or accepting the COI. If there is a need for the contract interpreter's services in another hearing for which there was a previous contract interpreter order placed, the IC should contact the LSU to determine whether or not the contract interpreter is scheduled to be used for the subsequent hearing.

9. Canceling Orders

The IC must immediately submit a cancellation via ECIOS when the services of a previously ordered contract interpreter are no longer needed. All cancellations must be cancelled 48 hours (local hearing location time) or more in advance of the scheduled work order start time. Failure to submit the cancellation in a timely manner will result in the government paying a three-hour minimum fee for in-person and a 1-hour minimum fee for scheduled telephonic work orders.

Should a contract interpreter appear at the IC after it has been determined by either the IJ or court staff that the hearing will not be held, and the proper cancellation notification has **not** been made, the interpreter should be reassigned or dismissed immediately. In those instances where the proper cancellation notification **was** made, and there is no need for the contract interpreter's services, it should be noted on the COI that the contract interpreter appeared despite having been previously cancelled in a timely manner.

In those instances where an attorney decides to proceed in English and the services of the contract interpreter will no longer be required, the IJ should place the contract interpreter on the record and inquire of the respondent or witness as to the attorney's request to proceed in English (the box on the COI marked "Interpreter Appeared, But Not Used" should **not** be checked in these instances; instead a "Start" and "End" time should be entered).

C. UNSCHEDULED TELEPHONIC CONTRACT INTERPRETER SERVICES

1. General Information

Every IC has direct access to a network of contract interpreters via the telephone. These services are accessed by the IC by calling the Contractors directly.

Unscheduled telephonic contract interpreter services are charged on a per minute basis and must be used for all Master Calendars or emergency situations where an on-site or regular telephonic contract interpreter is not available.

Currently there are two unscheduled telephonic contract interpreter services available to the IC: LGS' Unscheduled Telephonic Interpretation (UTI) service, and LSA's InterpreTalk line. It is up to the discretion of the IC/IJ as to which service to use. Detailed information on how to access either the LGS or LSA unscheduled telephonic contract interpreter service is available in the LSU section of the OCIJ Intranet page.

2. Completion of the Certification of Telephonic Interpretation Form

An unscheduled COTI form must be completed and forwarded to the LSU for any call where the court is unable to secure an unscheduled telephonic interpreter, or where the court has concerns regarding the quality of either the interpreter or the system itself. The current version includes several checkboxes to denote specific concerns. Blank COTI forms may be printed from the LSU section of the OCIJ intranet page. The interpretation date, immigration court, hearing location code, and name of the immigration judge, as well as the alien number and language should all be filled in. Of particular importance are the name of the provider (company), the

interpreter name or ID code, the connect, start and end times. The connect time refers to when the IC places the call while the start and end times refer to the period that the interpreter is actually present on the line. Any feedback regarding either the interpreter's performance or the quality of the service in general may be included under "comments," although any interpreter concerns must also be recorded and submitted electronically to the LSU. This is accomplished via the Contract Interpreter Performance (CIP) form using the following link found on the LSU intranet page in the Quality Assurance Section.

The CIP link can be found here:
https://eoirnet/sites/eoir/OCIJ/LanguageServicesUnit/CIP%20Complaint%20Form.pdf

All completed unscheduled telephonic COTI forms containing a concern should be mailed directly to the LSU.

D. INTERPRETER COMPLAINTS/DISQUALIFICATIONS/CIP FORM

By virtue of the Government's contract with SOSi, LGS, and LSA, when interpreters are deemed inadequate, they may be disqualified from appearing again for a particular dialect, language, Judge, Court, or all Courts based on input received by the LSU from the IC. Counseling or additional training may be requested in some situations in lieu of a disqualification. The LSU may upgrade or downgrade any disqualification that is submitted.

The disqualification may stem from:

- Lack of familiarity with protocol
- Substandard foreign language or English proficiency
- Lack of knowledge of IC terminology
- Inability to interpret accurately or completely
- Unprofessional behavior
- Inappropriate attire or hygiene
- Conflict of interest

Complaints are generally received by the LSU through the submission of the Contract Interpreter Performance (CIP) form. The form can be found on the LSU intranet page under the following link/shortcut –

https://eoirnet/sites/eoir/OCIJ/LanguageServicesUnit/CIP%20Complaint%20Form.pdf

Once the link is clicked on, a fillable form appears that has been developed to capture all of the relevant hearing information related to the complaint.

The CIP form should be completely filled out to include all case information and detailed comments regarding what specific problems occurred. Additionally, the form has fields in which the court can select the "Type Action Requested" and the "Disqualification Extent" and the "Disqualification Reason". Each one of these fields has dropdown options that will be applicable to most situations. For situations where there is not a clear choice, the submitter of the form can put in comments in the "Comments" field to further address the issue. The form also contains a field that is used for requesting a hearing evaluation for the hearing in question. The user would simply select a "Yes" or "No" option to indicate that the IC would like to have the contractor conduct a hearing evaluation.

Once the form is completed, the submitter clicks the "Email Form to LSU" block at the bottom to electronically (email) the CIP to the LSU. This will format an email that is addressed to the Interpreter, Orders mailbox and the analyst responsible for processing the complaint.

Once the LSU is notified by an IC about a problematic interpreter, the appropriate contractor is notified of the specifics and extent of the disqualification. For SOSi, deductions for inadequate interpretation are also made to SOSi's payment for the order at this point. It should be noted that the LSU may subsequently determine that the extent of a particular disqualification should be expanded, depending upon the reasons and circumstances.

Upon official disqualification, an interpreter's name is entered into the LSU's contract interpreter database. On the other end, the applicable contractors adjust their records to indicate that the interpreter is disqualified or "excluded" for a particular Judge, Court, language, or all languages/sites.

Despite the above, there are very rare occasions where SOSi may verbally give an assignment to a previously disqualified interpreter. This usually happens only in the case of a last minute order.

If a previously disqualified interpreter should appear for a hearing, despite the disqualification having been properly and timely communicated to SOSi and the safeguards put into place, it is imperative that the IC immediately notify the LSU. Doing so will allow the Government to properly assess SOSi with liquidated damages for a no- show. Further, if the IC is willing and able to wait, another eligible contract interpreter may be identified at this point to interpret for the hearing in question.

If an interpreter shows up to the IC improperly dressed, such as wearing jeans and a t-shirt, and the IJ decides not to utilize him or her as a result, the IC should document this on the COI and indicate the interpreter order was a "no-show" (due to interpreter inadequacy). Every time the IC has a "no-show" they should so advise the LSU to ensure proper assessment of damages to SOSi.

Finally, upon successful evaluation of the disqualification-related hearing recording, additional formalized training, or counseling, SOSi may request the reinstatement of a disqualified interpreter. This is accomplished by SOSi submitting a formal written memo to the LSU accompanied by supporting documentation. The LSU, in turn, forwards this information to the IC to solicit their position regarding the reinstatement. SOSi is then notified by the LSU of the IC's decision.

E. WAIVERS FROM INTERPRETER USAGE POLICIES OUTLINED IN OPPM 04-08

Due to the tight budgetary situation experienced in recent years, and in an effort to promote greater fiscal efficiency, the Chief immigration judge issued OPPM 04-03 regarding contract interpreter services. This OPPM was subsequently updated and revised in the form of OPPM 04-05 and, most recently, OPPM 04-08. The policies outlined in OPPM 04-08 include:

- Usage of unscheduled telephonic interpreters for all master calendars unless special circumstances are involved (e.g. sign language interpreter required, case involves a minor, difficulty experienced in the past securing an unscheduled telephonic interpreter for the language in question, etc.).
- Submission of non-detained in-person contract interpreter orders with more than two business days between the order date and hearing date.
- Prohibition from placing more than one contract interpreter order per time slot (unless second language is required for witness, etc.).
- Prohibition of Courts having a 1:1 (or higher) ratio of Spanish staff interpreters to Judges from placing Spanish contract interpreter orders without prior approval from LSU.

Requests for waivers from any of the above policies should be e-mailed directly to the interpreter waiver request mailbox ("Interpreter, Waiver Request") utilizing the electronic waiver request form: Waiver Request Form located on the LSU intranet page. The requests must include all case information (e.g. site, IJ, date/time, language, A #, etc.) for the hearings in question. Most importantly, they must incorporate a detailed justification as to why the waiver request should be granted. IC staff should be mindful to submit waiver requests as far in advance as possible. ICs with a 1:1 ratio of IJ's to Spanish staff interpreters needing to order contract Spanish interpreters as a result of anticipated annual leave must do so far enough in advance to avoid the premium rate added to orders placed with two or fewer business days' notice. It should be noted that submission of a waiver request does not guarantee its approval.

Examples of waiver requests normally resulting in approval include the following circumstances:

- Requests to order an in-person or scheduled telephonic interpreter for a Master Calendar having five or more respondents requiring the same language.
- Requests to order an interpreter with two or fewer business days' notice for aged cases that must be completed by a certain date designated by OCIJ.
- Requests to order an interpreter with two or fewer business days' notice to keep an expedited asylum case under 180 days.
- Requests to order a Spanish interpreter from ICs with a one to one ratio of Spanish staff interpreters to IJs when a staff interpreter must take leave.
- Double booking of contract interpreters for individual calendar time when a second language is needed for a witness.
- Request to order an in-person or scheduled telephonic interpreter for a master calendar having fewer than five respondents requiring the same language if the IC has repeatedly experienced difficulty in the past securing an unscheduled telephonic interpreter.

Examples of waiver requests usually resulting in denial include the following circumstances:

- Requests to order a Spanish interpreter in ICs with a one to one ratio of Spanish staff interpreters to IJs in order to allow a staff interpreter to engage in an administrative activity.
- Any request that, if granted, would result in an additional violation of OCIJ policy regarding contract interpreter services. Example: Requesting to order an interpreter with two or fewer business days' notice for an individual calendar hearing that, if granted, would result in double booking of interpreters.

The following examples of waiver requests are disfavored and should occur infrequently:

- Requests to order an interpreter with two or fewer business days' notice when a case has been overlooked and a timely order has not been previously placed.
- Requests to order an interpreter with two or fewer business days' notice when a previously placed (timely) order has been cancelled by mistake.

ICs previously granted a blanket waiver for situations other than for master calendars having at least five respondents requiring the same language (mainly certain ICs having a 1:1 ratio of IJ's to Spanish staff interpreters) are reminded that they must still email a completed form to the "Interpreter, Waiver Request" mailbox each and every time they are placing an ECIOS order covered by the blanket waiver. To assist the ICs in complying with the above mentioned policies, the LSU will continue to give the ICs advance notice of instances of non-compliance regarding multiple bookings. The LSU will monitor orders

placed for the following week, at the end of every week. ICs will then be given advance notice of the instances of non-compliance with policy, which should allow time to resolve these issues. Notices will be sent every Friday for the following week's orders.

CHAPTER VI.
PROCESSING APPLICATIONS AND MOTIONS

SECTION I.

FEES

A. FILINGS REQUIRING PAYMENT OF A FEE

The following list of applications/motions requires a fee payment. This covers the more common applications/motions filed at the immigration court:

1. Motions to Reopen and Reconsider;

2. Application for Adjustment of Status as a Permanent Resident (Form I-485);

3. Application for Advance Permission to Unrelinquished Permanent Domicile (Form I-191);

4. Application for Waiver of Foreign Residence Requirement;

5. Application for Waiver (Form I-601);

6. Application for Cancellation of Removal and Adjustment of Status for Certain Permanent Residents (EOIR 42-A) and Application of Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Resident (EOIR 42-B).

Note: There is no fee for an asylum application nor for a motion to reopen or reconsider for a decision on an application for which no fee is chargeable. See 8 C.F.R § 103.7 for current fee schedule.

B. PROCESSING FEES

All documents and applications requiring a fee must be accompanied either by a receipt from the DHS, which collects all fees relating to immigration court proceedings, interim evidence of fee payment, or an application for a fee waiver pursuant to 8 C.F.R. § 1003.24.

Interim evidence of fee payment includes: (1) a respondent's notice from the Department of Homeland Security to appear for a biometrics appointment; (2) a printout from the website of DHS, U.S. Citizenship and Immigration Services, showing that the respondent's application has been received; (3) a photocopy of the check; (4) a photocopy of the money order receipt; or (5) an affidavit from the person who submitted the payment.

Note: If interim evidence of fee payment is submitted, the judge may still require the fee receipt prior to adjudication at the hearing. Accordingly, court staff may advise the filing party to submit the fee receipt as soon as possible

C. PROCESSING FEE WAIVERS

If an application or motion is filed with a fee waiver request, submit the ROP with the filing to the case-assigned immigration judge. If the waiver is denied, return the submission with the immigration judge decision to the filing party. If the waiver is granted, proceed with processing as if a fee receipt was attached.

SECTION II.

A. FILING APPLICATIONS

All documents and applications to be considered in proceedings before an immigration judge must be filed with the immigration court having administrative control over the ROP. This section provides processing instructions for the following applications:

Application for Cancellation of Removal (EOIR 42-A and EOIR 42-B);

Application for Status as Permanent Resident (Form I-485);

Application for Advance Permission to Unrelinquished Domicile (Form I-191);

Application for Waiver of Foreign Residence Requirement;

Application for Waiver (Form I-601).

1. Filing Schedule

If the respondent elects to apply for relief from removal, the immigration judge

will:

a. Assign a filing deadline for receipt of the application and any supporting documents; and
b. Assign a date for a full hearing on the merits of the case.

2. Call-Up

Filing dates should be monitored on a weekly basis using the CASE Call-Up Report. If an application is not filed on time, immigration court staff should notify the case- assigned immigration judge.

B. QUICK-CHECK FILING REQUIREMENTS FOR ALL APPLICATIONS

1. Verify administrative control for your immigration court by checking the CASE system.

2. Verify that any required filing fee has been paid, interim evidence of fee payment submitted or that a fee waiver request is attached (asylum applications do not require a filing fee).

3. Verify that the filing party has included a certificate of service on the opposing party (supporting documentation must have a separate proof of service). See Immigration Court Practice Manual Chapter 3, Section 3.2(ii).

4. Verify the language, signature and format requirements that may be found in the Immigration Court Practice Manual and in Chapter II, Section IV.

If any of the above requirements cannot be verified or the immigration judge has denied the fee waiver request, return the submission to the filing party without date-stamping it received. Guidance for rejecting filings may be found in Chapter II, Section IV. Use the standard filing rejection letter for the appropriate filing party (attorney or representative, pro se non-detained respondents, pro se detained respondents and third party or represented alien).

C. PROCESSING ALL APPLICATIONS EXCEPT ASYLUM

If all of the filing requirements listed in Section II of the chapter can be verified, continue the application processing procedures listed below:

1. Date-stamp the application as received in your immigration court.

Note: Applications that are submitted during the course of a hearing must be date-stamped or hand-dated received.

2. Update the CASE record with the date that the application was received in your immigration court. (See CASE Training Manual, Lesson 3, Unit 12.)

3. File the application in the appropriate ROP.

D. IMMIGRATION COURT PRACTICE MANUAL

In addition to complying with the requirements of this chapter, applications, motions, and documents must also comply with the Immigration Court Practice Manual.

SECTION III.

ASYLUM APPLICATIONS

A. AFFIRMATIVE/DEFENSIVE APPLICATIONS

Asylum case processing is distinguished by two types of applications under the asylum reform initiative that applies to applications filed on or after January 4, 1995:

1. Affirmative Applications

Those asylum applications that were filed originally with a DHS Asylum Office for adjudication and are being referred to the immigration court with a Charging Document.

2. Defensive Applications

Those asylum applications which are being filed originally with the immigration

court during the course of proceedings.

B. RECEIVING ASYLUM APPLICATIONS

1. Receiving Affirmative Asylum Applications

a. Referred Applications

A DHS referred asylum application will be transmitted with the charging document for the case and will consist of the following:

(1) A copy of the asylum application.
(2) Any supporting documentation.
(3) The DHS referral sheet generated by the CASE system.

The application must be complete and free of any DHS asylum officer notes or documentation. If any of the above documents are missing or incomplete or if it contains DHS Asylum office documents or notations, bring the filing to the attention of the Court Administrator who will notify the DHS Asylum Office which referred the case.

b. Processing Affirmative Asylum Cases

DHS Asylum Offices have access to the CASE system through the Interactive Scheduling System for initially inputting the case, inputting the received date for the asylum application, scheduling the case, and providing the initial notice of hearing for the first Master Calendar date. In most instances, the Court will only be required to create the ROP for Affirmative asylum cases after reviewing the charging document and the referred asylum application.

c. Department of State Advisory Opinions

In most instances affirmative asylum applications will not be sent to the Department of State for advisory opinions because DHS Asylum Offices are required to have already requested an opinion. Immigration judges may allow applicants to update their I-589 and there may also be special

circumstances where a Department of State opinion is needed. In these cases, an opinion should be requested from the Department of State following the procedures outlined in this section.

C. DEFENSIVE APPLICATIONS

1. Receiving Defensive Asylum Applications

a. Filing the Application

A defensive asylum application may be filed at the window or by mail. *See* OPPM 16-01, Filing Applications for Asylum.

b. Required Forms

A defensive asylum application will consist of:

(1) Form I-589: an original and one copy; one additional copy for each dependent listed on the principal's application;
(2) Any supporting documentation;
(3) Certificate of Service;
(4) Applicant's signature in part D of the application.

c. Processing Asylum Applications

When receiving an application in court, at the window, or by mail, court staff should date stamp the application. Applications should be rejected only based upon the specific criteria for rejecting filings set forth above in *Chapter II, Section IV, Rejecting Filings*.

A copy of the notice entitled, ***the 180-Day Asylum EAD Clock Notice***, must be given to the applicant upon the filing of an asylum application and copies of this notice must be made available in all immigration court hearing locations.

d. CASE System

Once the defensive asylum application is properly filed, court staff

must enter the asylum application into the CASE system in the application section. The application date to be entered into the CASE system is the date that the application has been filed and not the date of the upcoming hearing. This is the date established by the immigration court date stamp.

2. Requesting Department of State Opinions

Effective April 29, 2013, Immigrations Courts will no longer be required to request an advisory opinion from the Department of State for defensive asylum applications pursuant to the regulations. Immigration Judges may, however, request specific comments from the Department of State regarding individual cases, claims under consideration or other types of specific information.

D. IMMIGRATION JUDGE SPECIAL REQUESTS FOR DOS COMMENTS

Immigration judges may submit requests for specific information to the Department of State. The immigration judge letter which requests case specific information should include the Individual Calendar Hearing date for the case and be forwarded to the Office of the Chief Immigration Judge, attention Chief Clerk. Immigration courts should not forward requests to the Department of State directly. Requests for specific information must include the complete I-589 and all attachments referenced in the I-589.

E. I M M IG R A TIO N J UD G E S P EC I A L R EQ U ES T TRA CK ING

Comments in response to specific requests are issued at the State Department's option and immigration judges are not required to wait to proceed with an Individual Calendar hearing for a State Department response. If an immigration judge has requested case specific information and the Court has not received it within 14 days of the scheduled Merits hearing date for the case, the Court should notify the Chief Clerk. The Chief Clerk will work with the State Department to ensure whenever possible that these specific requests are obtained in time for a scheduled hearing. When making the request, the following items are needed:

1. "A" Number;
2. Control Name of Applicant;
3. Country;
4. Date of request for specific information;

5 . Date of Individual Calendar Hearing.

F. RECEIVING AND PROCESSING DOS ASYLUM OPINIONS AND RESPONSES TO SPECIAL REQUESTS

1. DOS Responses

At its option, the Department of State will respond to requests for comments with an Opinion Letter, specifically addressing the submitted request for comments.

2. Processing DOS Comments

The Department of State will transmit advisory opinions to the Office of the Chief Judge. The Office of the Chief Immigration Judge will send advisory opinions to the immigration courts electronically to the Court Administrator for the immigration court making the request or their designee, or by overnight mail. When the Court receives the opinion it will:

a. Date stamp the opinion;
b. Make two copies to serve on the parties;
c. File the original in the ROP.

G. SERVING THE DOS COMMENTS FOR SPECIAL REQUESTS

Department of State comments may be served on either party by the following:

1. First Class Mail using the standard transmittal letter;

2. Personal service before the hearing, or during the scheduled hearing if there is not sufficient time to mail the opinions.

SECTION IV

MOTIONS

A. MOTIONS TO RECALENDAR

A Motion to recalendar a previously administratively closed case does not require a filing fee, an opposing response or an immigration judge decision on the motion. When this type of motion is filed, the immigration court clerk must:

1. Verify the administrative control office by checking the CASE data base and that the motion contains a certificate of service on the opposing party and a current address for the alien.

2. Retrieve the ROP from either the Closed files or the Federal Record Center and schedule the case on the next available immigration judge's Master Calendar.

3. Notify the parties of the scheduled hearing date. See Chapter IV for the correct notice procedures.

B. MOTION FOR PRIMA FACIE DETERMINATION OF "QUALIFIED" ALIEN FOR PURPOSES OF RECEIVING PUBLIC BENEFITS

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 prima facie determination of eligibility for such relief so that he or she may demonstrate to a benefits-granting agency 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 (PRWORA), which qualifies certain aliens who have been subjected to battery or extreme cruelty to receive public benefits.

1. Required Documentation: The alien may attach to the written motion any additional statements or evidence concerning prima facie eligibility. In order for the alien to satisfy the good moral character criteria and the requirement that he or she not be deportable on criminal grounds, the alien must attach a signed statement, under penalty of perjury, stating whether he or she has been convicted of a crime and, if so, any details about the offense(s). The alien must also attach a certificate of service to DHS.

2. Ruling on the Motion: The immigration judge will review the completed application for suspension of deportation or cancellation of removal, the motion, and the statement submitted by the alien. Because the goal of section 431 of the PRWORA is to allow battered spouses and children to leave the batterer's

residence as soon as possible, a prompt decision on the motion is necessary. Upon filing of the motion, the immigration judge shall require DHS to respond within five business days. The immigration judge must rule on the motion within ten business days of receipt. The immigration judge will either grant or deny the motion in writing.

a. Granting the Motion: A finding by the immigration judge that the alien has a prima facie case for suspension of deportation or cancellation of removal as a battered spouse or child will be valid until 30 days after the date of the merits hearing. The immigration judge must specify that date on the line following the clause "This determination shall be valid to". An immigration judge must not reset the merits hearing to a later date on his or her own initiative, if a prima facie determination has been made, unless he or she has consulted with his or her ACIJ. In the rare event the immigration judge subsequently resets the merits hearing to a later date, he or she must, sua sponte, issue another order finding prima facie eligibility and 30 days after the reset date will be the date the prima facie determination expires. Following a merits hearing, if an immigration judge reserves decision, he or she must reevaluate whether the alien is prima facie eligible for suspension of deportation or cancellation of removal. If the immigration judge is satisfied that the alien has a prima facie case for suspension of deportation or cancellation of removal, he or she must issue another order finding prima facie eligibility, which will be valid for not more than 180 days. In the event either party appeals the immigration judge's decision, jurisdiction over a motion for prima facie determination will then rest with the BIA. Once an application for suspension of deportation or cancellation of removal has been granted and is administratively final, the alien may present the immigration judge's or the BIA's order directly to the benefit-providing agency. It will no longer be necessary for the alien to request a prima facie determination.

b. Denying the Motion: If the immigration judge denies the motion for prima facie determination and he or she reserves a decision on the application for suspension of deportation or cancellation of removal, the immigration judge may reconsider his or her decision on or after the date of the merits hearing.

C. QUICK-CHECK FILING REQUIREMENTS FOR ALL OTHER MOTIONS

1. Verify that your immigration court has administrative control over the case by checking CASE system.

2. Verify that any required filing fee has been paid, interim evidence of fee payment submitted, or that a fee waiver request is attached.

3. Verify that the filing party has included a certificate of service on the opposing party.

4. Verify whether or not the representative is required to file an EOIR-28 with the motion. See Immigration Court Practice Manual Chapter 5 Section 5.1(b).

5. For Motions to Change Venue: Verify that the filing party has included an EOIR-33/IC with the motion. If an EOIR-33/IC is not included, see Chapter II, Section III for further guidance.

6. For Institutional Hearing Program Cases: the following additional information is necessary:

   a. Program Type: Federal (F), State (S) or Municipal (M);
   b. Earliest Possible Release Date from Incarceration Date (EPRD);
   c. Inmate Number.

   Should the IHP information submitted with the motion differ from that previously provided, update this information at the time of motion processing. If the IHP criteria is submitted orally, complete an IHP Information Change Request Form and file it with the motion.

7. For Suspension of Deportation/Cancellation of Removal Cases: additional information may necessary where a motion is filed for a prima facie determination of eligibility for such relief so that an alien demonstrate to a benefits-granting agency 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 (PRWORA), which qualifies certain aliens who have been subjected to battery or extreme cruelty to receive public benefits. Where such a motion is filed, the following additional information is necessary:
   a. An attached, signed statement, under penalty of perjury, stating whether he or she has been convicted of a crime and, if so, any details about the offenses;

b. Any other additional statements or evidence concerning the alien's prima facie eligibility for suspension or cancellation.

D. REJECTING MOTIONS

If any of the appropriate requirements cannot be verified or the immigration judge has denied the fee waiver request, return the submission to the filing party without date-stamping it received. **Guidance for rejecting filings may be found in Chapter II, Section IV. Use the standard filing rejection letter for the appropriate filing party (attorney or representative, pro se non-detained respondents, pro se detained respondents and third party or represented alien).**

E. PROCESSING MOTIONS

If all of the filing requirements can be verified, continue the motion processing procedures listed below:

1. Date-stamp the motion received in your immigration court.

2. Update the CASE record and enter the appropriate call-up date for the response brief from the opposing party (see CASE Training Manual, Lesson 4, Unit 12).

3. Retrieve the ROP and file the motion on the Proceedings (right) side. If the case has been closed, and the ROP is currently at the Federal Record Center (FRC), create a temporary ROP while awaiting the original from the FRC.

4. Opposing party should be given ten (10) days to respond to the motion, if submitted during proceedings.

5. File the ROP in the Pending-Case Status file and await response.

6. Submit the ROP and any opposing brief to the immigration judge for review and decision. Follow additional instructions of the immigration judge, if any.

7. File original orders in the ROP and update the immigration judge's decision in the CASE system.

8. Serve copies of the immigration judge's decision on the parties

using first class mail.

F. PROCESSING GRANTED MOTIONS TO CHANGE VENUE

If a Motion to Change Venue is granted, the immigration court clerk must then:

1. Verify that the new administrative control office is correct (The Administrative Control List can be found on EOIR's website);

2. Verify that the respondent/applicant has provided an address at the new immigration court where they seek a change of venue;

3. Update the CASE system (see CASE Training Manual, Lesson 7, Unit 3);

4. Forward the ROP to the new immigration court by overnight mail; detained cases are sent by overnight mail.

Note: It is important to remember that if a motion to change venue is granted for an individual family member of a lead ROP, the complete ROP must be reconstructed and, if applicable, hearing cassette copied from the lead file.

Note: Any ROP received that lacks a valid forwarding address should be returned to the sending immigration court as an improperly issued Change of Venue.

SECTION V

PROCESSING MOTIONS TO REOPEN AND MOTIONS TO RECONSIDER

A. DETERMINING ADMINISTRATIVE CONTROL

If the immigration judge decision was never appealed, jurisdiction rests with your case-assigned judge. If an appeal has been filed or completed, the BIA has jurisdiction unless the appeal was dismissed as untimely filed, or the case was remanded back to your immigration court without specifically maintaining jurisdiction at the BIA. All properly filed Motions to Reopen and Motions to Reconsider must be given to the case-assigned immigration judge to determine jurisdiction. If the case-assigned immigration judge is not available, bring the motion to your supervisor or Court Administrator for further guidance.

B. MOTIONS TO REOPEN AND MOTIONS TO RECONSIDER WHERE THE IMMIGRATION COURT HAS JURISDICTION

If the immigration judge determines that he/she has jurisdiction to rule on the motion, the immigration court clerk must:

1. Follow the procedures outlined in this chapter for processing motions.

2. If the immigration judge grants the motion:

   a. Update the CASE system (see CASE Training Manual, Lesson 7, Unit 3);

   b. Recalendar the case on the case-assigned immigration judge's next available Master Calendar;

   c. Notify the parties of the hearing; see Chapter IV for correct notice procedures.

3. If the immigration judge denies the motion:

   a. Update the CASE system (see CASE Training Manual, Lesson 7, Unit 3);

   b. Notify the parties of the decision and their appeal rights.

Note: If the motion is filed with a Stay of Deportation/Removal, give the motion and the ROP for the case to the immigration judge immediately for a ruling on the "Stay."

C. MOTIONS TO REOPEN AND MOTIONS TO RECONSIDER WHERE THE BOARD OF IMMIGRATION APPEALS HAS JURISDICTION

Procedures for processing Motions to Reopen and Motions to Reconsider where the BIA has jurisdiction may be found in Chapter VIII.

CHAPTER VII
POST HEARING PROCEDURES

A. RESCHEDULED CASES

When the immigration judge has continued a case after a Master, Master Reset, or Individual Calendar hearing, immigration court personnel will:

1. Update the CASE system to reflect the information that the immigration judge has entered on the immigration judge worksheet (See CASE Training Manual, Lesson 6, Units 1-6). The following information will be updated in the CASE system as indicated on the worksheet:

a. **Alien information (name, address, telephone number)** will be updated to reflect any new information received during the hearing from the EOIR-33/IC Change of Address form.

b. **Alien Lead Number designations** will be updated on the lead and any riding files.

c. **Alien nationality and language** will be updated to reflect any change.

d. **Charges and findings** will be updated to reflect whether the charges were sustained, not sustained, withdrawn or other.

e. **Attorney or representative information** will be updated as filed on the Notice of Appearance as Attorney or Representative before Immigration Judge (EOIR-28)

f. **Battered Spouse/Child Information** will be updated. Entering this information is critical because once updated with a Y, the CASE system will reflect a warning when case information for a battered spouse/child is accessed. This warning will alert immigration court personnel to the need for confidentiality for the case.

g. **Applications for Relief** (such as asylum, withholding of removal, protection under the Convention Against Torture, voluntary departure, 212c relief, adjustment of status, and cancellation of removal) will be updated as indicated on the worksheet.

h. **Adjournment Codes** will be updated as indicated on the worksheet. Entering and updating the proper code for asylum cases is critical for the tolling of the clock.

i. **Call-Up Codes** will be updated as indicated on the worksheet indicating the date and reason for a call-up to be set.

2. Process any application or motion following the procedures outlined in Chapter VI.

3. Calendar any future hearing as indicated on the immigration judge worksheet using the procedures outlined in Chapter III.

4. Provide the parties with notice of any future hearing using the procedures outlined in Chapter IV.

B. CLOSED CASES

When the immigration judge has rendered a decision, immigration court personnel will:

1. Record the appropriate data in the CASE system. See CASE Training Manual, Lesson 7, Units 1-10;

2. Close any riding family member cases in the CASE system;

3. Submit the CASE-generated, pre-printed, or written order for the immigration judge's signature;

4. Place the original signed order in the ROP;

5. Serve one copy of the order on the DHS Assistant Chief Counsel;

6. Hand serve or send by First Class Mail, one copy of the order to the respondent/applicant or their attorney. For deportation and removal cases (in person or by video teleconferencing), a copy of the Limitations on Discretionary Relief for Failure to Appear should be served with the notice. Three copies of the Notice of Appeal to the BIA of the Decision of Immigration Judge (Form EOIR-26) must be sent with the order. The order must also indicate the appeal due date;

7. File the ROP in the "Closed" Files;

8. Complete Form EOIR-10 (Tape Transmittal Record) (if applicable);

9. If an appeal is filed, follow the procedures outlined in Chapter VIII.

C. CLOSED CREDIBLE FEAR, REASONABLE FEAR AND CLAIMED STATUS REVIEW CASES

Records of Proceedings for Credible Fear Review cases are NOT merged with any later proceeding involving the same alien. ROPs for Credible Fear should be retired using the procedures outlined in Chapter IX. ROPs for Reasonable Fear Review and Claimed Status Review cases will be merged with the ROP created for any later removal proceeding for the same alien.

D. PROCEDURES FOR APPROVED APPLICATIONS FOR SUSPENSION OF DEPORTATION UNDER SECTION 244(a)(3) OF THE ACT OR CANCELLATION OF REMOVAL UNDER SECTION 240A(b)(2) OF THE ACT, INVOLVING BATTERED WOMEN OR CHILDREN

1. After 1997

In the case of any grants of applications for suspension of deportation under section 244(a)(3) of the Act or cancellation of removal under section 240A(b)(2) of the Act issued on or after 1997, the immigration judge's order must note that the application was granted under section 244(a)(3) or section 240A(b)(2) of the INA.

2. Prior to 1997

An alien, who has been granted suspension of deportation under section 244(a)(3) of the Act prior to 1997 and is seeking public benefits, may require verification from the immigration court that his or her application was granted under section 244(a)(3) of the Act.

Under the verification process, a benefits-providing agency will either fax or mail a standardized verification request to the immigration court. The verification request must include a statement, signed by the alien, which waives the limitations on disclosure of information and any supporting documents for certain battered aliens. Upon receipt of the verification request from the benefit-providing agency, the court administrator must ascertain, through ANSIR (CASE), whether the alien was granted suspension of deportation or cancellation of removal, determine whether the grant is administratively final and follow the procedures below:

If the court administrator determines that the alien has an administratively final grant of suspension of deportation, he or she must immediately obtain the ROP and forward it to the appropriate immigration judge (i.e. the immigration judge who

entered the decision; if that judge is unavailable, the appropriate judge is the liaison judge; if the liaison judge is unavailable, the ACIJ must be contacted). The immigration judge must then review the ROP and determine whether the alien's application for suspension of deportation was approved under section 244(a)(3). The immigration judge will then sign an order which verifies whether the alien was granted suspension of deportation under section 244(a)(3). This order may be faxed or mailed to the benefit providing agency which initiated the request.

If the BIA issued the final order on an application for suspension of deportation, the court administrator must forward the verification request either by mail or fax to the Clerk of the Board of Immigration Appeals. The court administrator must notify the benefit-providing agency which initiated the request that he or she forwarded the verification request to the BIA.

If the system indicates that an appeal of the immigration judge's decision on the application for suspension of deportation is pending before the BIA, the court administrator must forward the verification request either by mail or fax to the Clerk of the BIA. The court administrator must notify the benefit-providing agency which initiated the request that the verification request was forwarded to the BIA.

E. FILE RETIREMENT IDENTIFICATION SYSTEMS

Each court should establish a file retirement identification system to expedite file review for ROP retirement to a Federal Record Center. Systems currently in use include marking the front of the ROP with the closed date or color coding by month and year.

CHAPTER VIII
TRANSMITTING ROPs TO THE BOARD OF IMMIGRATION APPEALS

On July 1, 1996, The Executive Office for Immigration Review's (EOIR) new motion and appeals regulation went into effect. This regulation streamlined the motions and appeals practice by requiring that appeals from immigration judge decisions and motions before the BIA be filed directly with the BIA with the appropriate fee or fee waiver form.

When an appeal or motion is filed at the BIA, the document is reviewed, date stamped and entered into the Case Access System for EOIR (CASE). This entry sends an electronic request for the ROP to CASE. A daily "ROP Requested by BIA" Report is generated at the immigration court listing ROPs requested by the BIA. The immigration court retrieves the ROP, reviews the file and organizes the documents in chronological order. Non-Priority Cases are mailed to the BIA within 5 working days by FedEx Express Saver.

The designated Point of Contact (POC) for the BIA Clerk's Office and the POC for the immigration court must ensure that case information regarding ROPs are addressed in a timely and efficient manner. POCs for the BIA Clerk's Office can be found by searching on the EOIR intranet for the BIA Clerk's Office Telephone List. It is the responsibility of the immigration court to comply with the transmittal requirements, restructure the ROP to ensure that all documents are in chronological order and maintain communication with the BIA point of contact to ensure that ROPs are processed properly.

SECTION I

PROCEDURES FOR ORGANIZING ROPS

A. ROP REQUEST REPORT

There are currently three ROP Request Reports that should be run and reviewed daily:

1. The ROP Requested by BIA Report
2. The ROP Requested by BIA and Not Received Report
3. The OCIJ Retrieval (Daily Report) Process Report - Specifically for cases involving Dual Jurisdiction (See Section IV, Part C)

Pull each ROP listed on the daily reports ensuring that each ROP is accounted for. Any discrepancy in the report or failure to retrieve the ROP and forward to the BIA must be addressed to your Court Administrator.

B. REMOVING SPECIFIC DOCUMENTS

Remove all documents from the administrative left side of the ROP. Also review the right side documents to ensure that no Judge notes are included; if you find any, move them to the left side of the ROP. These documents should not be included in the ROP when it is forwarded to the BIA and should be maintained in a separate folder until the ROP is returned to the court.

C. CHRONOLOGICAL ORDER

Documents must be arranged in chronological order on the proceedings (right) side of the ROP by placing the newest document on the top and the oldest document on the bottom. In most cases, all ROPs should contain these documents in the following order, from top to bottom:

1. The Office of the Chief Immigration Judge Transmittal Memorandum to the BIA

2. All other case filings (in chronological order by date received)

3. The charging document:

D. DEPTH OF ROP

The depth of the ROP should not exceed 1" - 1 ½" inches. If the ROP measures more than 1 ½" inches, multiple ROPS **MUST** be created. Label each ROP by volume number [i.e., (1 of 2), (2 of 2)].

SECTION II

TRANSMITTAL REQUIREMENTS

A. CASE IDENTIFIERS AND INFORMATION

The 'A' number must be uniform throughout the ROP. The CASE record address must be current and consistent with the address in the ROP.

B. TRANSMITTAL MEMORANDA

The purpose of the Transmittal Memoranda is to record anything unusual that needs to be brought to the attention of the BIA. The transmittal memorandum from the immigration court to the BIA MUST NOTE ANY SPECIAL MOTIONS, PLEADINGS AND CORRESPONDENCE. If there are documents missing from the ROP, list and explain each document. Questions regarding missing documents should be directed to the Court

Administrator.
If either party *"reserves appeal"* or *"waives appeal"* at the immigration court hearing, it must be indicated on the transmittal memoranda. This information is important and **MUST** be brought to the BIA's attention.

C. SUBMITTED DOCUMENTS

All submitted documents and exhibits must be free of all bindings (including but not limited to ribbon, staples, plastic covers or spiral binding) at the top, bottom or along either side of the document. All attachments or exhibits referred to during the course of the hearing must be included in the ROP. If a case contains hearing cassette tapes, ensure that they are in properly filled-out tape envelopes (EOIR-10).

D. PRIORITY CASES

Verify the custody status in the CASE system and in the ROP. The custody status in the system and in the ROP must agree. ROPs for detained cases must be identified with a RUSH label stapled to the front of the ROP. ROPs for the Institutional Hearing Program (IHP) cases must be identified with an IHP stamp on the front of the ROP. Questions regarding custody status should be directed to the Court Administrator.

SECTION III

TRANSCRIPTS

A. IMMIGRATION JUDGE REVIEWS TRANSCRIPT AND ORAL DECISION

The BIA handles the creation of oral decision transcripts through the eTranscription application. Immigration judges are responsible for reviewing the oral decision transcript and verifying that the transcript is an accurate record of the decision. eTranscription allows a judge to review, edit, and sign an oral decision (either approved or disapproved) electronically. When an oral decision transcript is ready for review, the immigration judge will receive an e-mail with a link to the transcript within eTranscription.

The immigration judge has 14 days to review and approve the oral decision. If the immigration judge does not review the oral decision before the 14 day time line, the BIA Clerk's Office will set the briefing schedule in non-detained cases with the certified transcription package provided by its transcription contractor. In detained cases, the BIA Clerk's Office proceeds immediately to briefing upon receipt of the certified transcription package provided by the transcription contractor. Upon receipt of the approved oral decision in a detained case, the BIA Clerk's Office will print the signed oral decision and provide copies to both parties.

SECTION IV

PROCEDURES FOR SPECIAL TYPES OF APPEALS

A. INTERLOCUTORY APPEALS

An interlocutory appeal is an issue decided during the course of a legal action and is merely temporary or provisional in nature. It does not interrupt the hearing process.

A separate ROP is created for Interlocutory Appeals. The original ROP remains at the immigration court and the newly created file is sent to the BIA with a transmittal memorandum attached explaining that the appeal is interlocutory in nature. Record "Interlocutory Appeal" on the front of the ROP file. The separate ROP must have the following documents in chronological order:

1. The Immigration Court Transmittal Memorandum to the BIA

2. Briefs or other submissions subsequent to the filing of the appeal *(in chronological order by date received)*

3. Copy of immigration judge's decision *(if applicable)*

4. The charging document

B. BOND APPEALS

When a Notice of Appeal [EOIR-26] has been filed in a Custody Redetermination Hearing and:

1. The Custody Redetermination was heard by an Immigration Judge who is not permanently assigned to the court in which the hearing was held *[the judge may have heard the case while on detail to that court, or the judge may have held the hearing through video-telephonic connections]*; or

2. The judge held the custody redetermination hearing prior to the DHS filing the Notice to Appear; or

3. Subsequent to both the filing of the Notice to Appear and the Custody Redetermination Hearing, venue was change to another court.

In each of these circumstances, the judge who held the Custody Redetermination Hearing issues a bond order, as well as orally advises both the alien and the DHS,

of the reasons for their decision. Due to the fact that jurisdiction of the case was not in the court to which the judge was assigned, or has been subsequently changed by the date of the filing of the Notice of Appeal, the immigration judge will not be notified that an appeal had been filed, and thus, the judge will not be able to timely prepare a written memorandum of their bond decision. This omission can cause unjustified delays in BIA adjudication of appeals in custody cases, unnecessary detention, and unwarranted expenses as a result.

When the immigration court receives the daily "ROP Requested by the BIA" Report from the BIA, it is the responsibility of the support staff in that court to ensure that for all cases in which the Appeal Type is BOND APPEAL that a written Memorandum of Decision relating to the Custody Determination Hearing, is served on all parties and the original is included in the ROP.

Once the daily "ROP Requested by BIA" Report is received, the responsible support staff should notify the judge who heard the Custody Redetermination both orally and in writing, that a request has been made for the Bond ROP, and therefore there is a need to prepare a written decision; and the support staff must enter verification of that request in the CASE Comments tab. This request, and verification of Screen 5, must be the same for judges in that court as well as judges covered in the circumstances described in paragraph one.

IT IS THE COURT'S RESPONSIBILITY TO SERVE THE WRITTEN BOND MEMORANDUM TO THE OPPOSING PARTIES AND, IN TURN, TO ENSURE THAT THE ORIGINAL BOND MEMORANDUM IS INCLUDED IN THE ROP BEFORE IT IS SENT TO THE BIA.

A separate ROP file must be created and constructed in accordance with Section 1.0. and Section 2.0. The separated ROP will contain all **ORIGINAL** bond-related documents. The documents must be arranged in chronological order by date received. Update the CASE system to reflect that the separate ROP *(containing the original bond-related documents)* was sent to the BIA. The immigration hearing will continue while the BIA determines the outcome of the bond appeal.

If the BIA receives the ROP without the written Bond Memorandum, the BIA cannot proceed with the case. If the BIA Clerk's Office does not receive the bond ROP with written Bond Memorandum within 21 business days after the initial request, then the BIA will issue a short order remand for inclusion of the written Memorandum of Decision relating to the Custody Determination Hearing and return the ROP to the immigration court.

NOTE: Automatic Stay Cases: In cases where DHS has invoked an automatic stay, where DHS files a Notice of Appeal with the BIA within 10 days of the immigration judge's decision ordering an alien's release from custody, the Clerk's Office of the

BIA will notify the immigration court via an e-mail to the court administrator. The e-mail will indicate in the subject line that Notice of Appeal has been filed in an automatic stay case. The immigration judge must submit to the BIA a written bond memorandum within five business days after notification by the BIA, or notification by other means, that a Notice of Appeal has been filed. Any requests to the BIA to extend the five-day deadline must be submitted via e-mail to the individuals on the distribution list. The BIA need only respond to the extension request if it is denied, and will do so within one business day. If the request is not responded to within one day, it shall be automatically granted for a period of five additional days from the original deadline.

The court administrator or designee will forward the written bond memorandum and the ROP to the Board pursuant to the procedures set forth at Chapter VIII, Section IV B.

C. HOW A CASE APPEAL CAN AFFECT A MOTION TO REOPEN/RECONSIDER FILED WITH THE IMMIGRATION COURT

1. Motion Received After Appeal Was Filed at the BIA

When a motion is received after an appeal is filed at the BIA, once the motion is entered into the CASE system, CASE will automatically complete the motion with a decision code of "J," which indicates that jurisdiction has transferred to the BIA.

The immigration judge order informing both parties that the motion has been forwarded to the BIA (code J7) should be prepared. After receiving the signed IJ order, it should be placed in the ROP with the motion and forwarded along with the Transmittal Memorandum to the BIA.

2. Motion Received BEFORE Appeal Was Filed at the BIA

a. Motion Received but NOT Decided Before the Appeal Was Filed at the BIA

When an appeal is filed at the BIA, the CASE system will automatically determine if a motion to reopen was filed at the immigration court. If the motion has not been granted or denied, the CASE system will automatically complete the motion with a decision code of "J," which indicates that jurisdiction has transferred to the BIA.

When these instances occur, these cases will appear on the OCIJ Retrieval (Daily Report) Process Report. If a hearing has been scheduled, it must be adjourned with adjournment code "52" indicating that jurisdiction now rests with the BIA.

The immigration judge order informing both parties that the motion has been forwarded to the BIA (code J8) should be prepared. After receiving the signed IJ order, it should be placed in the ROP with the motion and forwarded along with the Transmittal Memorandum to the BIA.

b. Motion is GRANTED Before the Appeal Was Filed at the BIA

When a motion is received and granted by the immigration court before an appeal is filed at the BIA, jurisdiction remains with the immigration court.

c. Motion Is DENIED Before the Appeal Is Filed at the BIA

When a motion is received and denied by the immigration court before an appeal is filed at the BIA, the request for the ROP will appear on the daily "ROP Requested by BIA" Report.

D. HOW A BIA MOTION TO RECONSIDER CAN AFFECT A REMANDED CASE

When a remanded case has been scheduled before a motion to reconsider is filed at the BIA, jurisdiction shifts to the BIA. When this occurs, the CASE system will automatically complete the immigration court proceeding with a decision code of "J," which indicates that jurisdiction has transferred to the BIA.

These cases will appear on the OCIJ Retrieval (Daily Report) Process Report. If a hearing has been scheduled, it must be adjourned with adjournment code "52" indicating that jurisdiction now rests with the BIA.

The immigration judge order informing both parties that the motion to reconsider filed with the BIA has shifted jurisdiction from the immigration court to the BIA (code J9) should be prepared. After receiving the signed IJ order, it should be placed in the ROP and forwarded along with the Transmittal Memorandum to the BIA.

E. CERTIFICATION OF ROP

The BIA routinely receives request from the Department of Justice's Civil Division of the Office of Immigration Litigation (OIL) to certify a case. The BIA Point of Contact will send an electronic request for the ROP to the immigration court via E-mail. Pull the ROP, make an entry in the CASE Comments tab and forward to the BIA. The BIA Clerk's Office will photocopy the ROP, certify that it is a true copy, and forward the copy to OIL. The original ROP will be returned to the immigration court.

F. CIRCUIT COURT REMANDS

If the Federal Court issues a decision remanding the case back to the BIA, the BIA Point

of Contact will send an electronic request for the ROP to the immigration court via E-mail. Pull the ROP and forward to the BIA by overnight mail. After the BIA renders a decision, the ROP will be returned to the immigration court.

SECTION V

SENDING THE ROP

A. DISTRIBUTION REQUIREMENTS

The immigration court has five days in which to put the ROP in proper order and forward to the BIA. This will be shown as the "Due Date" on the "ROP Requested by BIA" Report. Update the CASE system to reflect that the ROP has been sent to the BIA according to the CASE Training Manual, Lesson 8, Unit 1. If the immigration court cannot comply with the five day limit, send an E-mail to the BIA Point of Contact stating the reason for the delay, and the day the ROP will be forwarded to the BIA. Forward the ROP to the BIA in the following manner:

1. Priority Cases

Detained and CAP cases must be sent to the BIA by FedEx Express Saver.

2. Non-Priority Cases

Non-detained cases must be sent to the BIA by FedEx Express Saver.

BOARD OF IMMIGRATION APPEALS ADDRESS

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

SECTION VI

PROCESSING DECISIONS BY THE BIA

A. RETURNED DECISIONS

The BIA will return copies of its decision along with the ROP to the immigration court. When a BIA decision and ROP is returned to the immigration court, the decision should be reviewed by the immigration judge who was assigned to the case in order to determine if further action is required.

CHAPTER IX
RETIRING THE ROP

The Barcode FRC process of retiring ROPs to the Federal Records Center (FRC) allows the user to scan ROPs to an FRC box which then automatically populates the FRC box location, transfer number, and box number in CASE for each retired record. This process is available until December 31, 2022, after which no paper files can be sent to the FRCs.

To view a step-by-step interactive training module for the Barcode FRC retirement process, click here:
https://eoirnet/sites/eoir/OIT/Barcode/Barcode%20FRC%20Demo/Barcode%20FRC%20Overview.htm.

A. IDENTIFYING RECORD FILES FOR TRANSFER TO THE FRC

ROPs for completed cases must be maintained in a separate closed-status file. This status must be reflected in the CASE system. Charging document bond files are maintained in a separate case folder and bound to the closed ROP file when ready to transfer. The ROP retirement schedule requires each office to:

1. Review, identify, and pull all ROPs on cases that have been in closed-status for at least 91 days but not longer than six months after final order. Cases on appeal (at the BIA or federal court) must be maintained until six months after a final order from the higher court is issued.

2. Use the FRC Tab within CASE to create a "Box Contents List" after the ROP barcode labels have been scanned. All volumes of each ROP (and any associated charging document bond file) must have barcodes which are separately scanned. Any errors generated in the Box Contents List must be resolved prior to submission of the list to the Archives and Records Centers Information System (ARCIS). Create an electronic transfer request in ARCIS, attaching the box contents list to the request.

The "Closed ROPs with Missing Data Report" provides a list of ROPs which are completed but do not meet all the FRC data validations. The missing data must be updated before the ROPs can be shipped. To run this report, use the following steps:

1. Log in to CASE

2. Select the "Utilities" module

3. Select the "Barcode FRC" tab

4. Select the "Closed ROPs with Missing Data Report" link.

5. On the report parameters page, select the following:

   a. Base City and click Next
   b. Configuration Name (Closed files/area)
   c. Cabinet Number

6. Click "Finish." The report lists ROPs with missing data. A report stating Record Not Found indicates all ROPs are complete.

B. OBTAIN TRANSFER NUMBER

A transfer number is needed to identify FRC boxes to be shipped to storage. The Archives and Records Centers Information System (ARCIS) provides this number to the Immigration Court upon request. The following training materials detail how to obtain a transfer number from ARCIS:

https://eoirnet/sites/eoir/OCIJ/OCIJStaffResc/StaffResource/ARCIS%20FRC%20Process.pdf

C. CREATE BARCODE LABEL FOR EACH FRC BOX

Once the transfer number is received from ARCIS, create an FRC barcode label for each box. When estimating the number of boxes the best practice is to estimate low. Labels for additional boxes can be printed later by entering the new total number of boxes and then printing only the new additional labels.

1. Log in to CASE.

2. Select the Other Programs module.

3. Select the FRC Box Label Printing link.

4. On the FRC Box Label Printing module, enter the following:

   a. Transfer Number

   b. Number of Boxes

   c. Base City (If more than one is available)

5. Click Print. The labels print.

6. On the FRC Box Label Printing module a "barcode label(s) have been sent to the printer" message appears.

7. Click Exit to close the FRC Box Label Printing module.

8. Affix the FRC box labels to the FRC boxes (on the front bottom-right corner).

D. SCAN ROPS TO AN FRC BOX

After an FRC box barcode label has been printed and affixed to a box, the ROPs are then scanned to the box. All volumes of each ROP must be scanned. This process can be performed with either a corded scanner or a mini-batch scanner.

Best Practice: If possible, arrange the ROPs so all volumes of an ROP fit into the same box. However for retired ROPs the barcode system tracks the location of each volume, so ROP volumes can span multiple boxes if necessary.

E. VERIFY DATA COMPLETE FOR SCANNED ROPS

Ensure that the "Closed ROPs with Missing Data Report" referenced in Section A. above has been run and that all ROPs scanned to the box meet all FRC data validation requirements. Best practice is to run the report before the box is sealed shut. The missing data must be updated before the ROPs can be shipped.

F. SHIP BOXES TO FRC

To ship boxes to the FRC, follow these steps:

1. Run the FRC Box Contents Report
2. Perform manual validation of box contents
3. Place a copy of the FRC Box Contents Report into box one
4. Seal boxes
5. Schedule pickup with the shipping company
6. Upload the FRC Box Contents Report to ARCIS

G. RETRIEVING ROPS FROM THE FRC

Only immigration court personnel may request ROPs from the FRC. Record files can be retrieved by filing an electronic request through the FRC's ARCIS system. Estimated

retrieval time will be three to five working days for non-urgent requests.

H. RETURNING FILES TO FRC

If a record is retrieved on a temporary basis, then it needs to be returned to the FRC. The FRCs will place it in the original box.

If a record is retired on permanent basis, then the record should be treated as a "new case" for ROP retention/retirement purposes and should be processed as such. Update the original Records Retirement List to reflect the ROP retrieval, create a new one reflecting the action taken (follow the appropriate CASE procedures found in the CASE Training Manual, Lesson 8, Unit 5), and maintain the ROP in the appropriate file category until closed and retired six months after final order.

CHAPTER X
MISCELLANEOUS PROCEEDINGS

SECTION I

ATTORNEY DISCIPLINE PROCEEDING

A. ASSIGNMENT OF AN IMMIGRATION JUDGE

The charging document in an attorney discipline case will consist of the Notice of Intent to Discipline (NID) and the practitioner's answer to the NID. Upon the filing of the answer to the NID, the BIA Clerk's Office will create an ROP which is lavender in color. The ROP, which contains the NID and the answer, will be forwarded to the Chief Clerk of the Immigration Court in the Office of the Chief Immigration Judge.

Upon the appointment of an immigration judge to be an adjudicating official, the Chief Clerk of the Immigration Court will forward the ROP to the immigration judge assigned to conduct the hearing.

If a practitioner files an answer to the NID which is accepted by the BIA, but fails to request a hearing, the immigration judge assigned to the case shall issue a decision based on the NID and the practitioner's answer.

B. HEARING LOCATION

Upon receiving the ROP, the immigration judge must first decide where the proceedings will be held. The hearing location must be at an immigration court or at a location in which immigration judges are regularly detailed.

C. CONDUCT OF HEARING

Because the regulations do not allow an immigration judge to be adjudicating official if the practitioner regularly appears before him or her, a significant number of attorney discipline cases will be heard by immigration judges who sit in a different immigration court from the hearing site of the attorney discipline proceeding. The traditional notion that the record of proceeding should be located at the immigration court where the proceeding takes place will not, therefore, apply. The ROP will remain with the immigration judge assigned to the case, regardless of the hearing location. In addition, the legal technician, assigned to the immigration judge, may enter information into the CASE system concerning the attorney discipline case and send out hearing notices.

The proceedings must be taped. The practitioner may be represented by counsel who must file Form EOIR-28. The revised version of Form EOIR-28 has a box to specify that a

representative is appearing in attorney discipline proceedings.

NOTE: Telephone/Televideo Where Possible: If the immigration judge would be required to travel to the hearing site to conduct the hearing, the immigration judge is encouraged to conduct the initial hearing or any subsequent status hearings by telephone or televideo.

NOTE: In Absentia Orders: The practitioner may file a motion to set aside the in absentia order within 15 days of the date of the final order. The standard for granting a motion to set aside is based on exceptional circumstances beyond the practitioner's control.

D. IMMIGRATION JUDGE'S DECISION

The immigration judge may issue either an oral or written decision. Regardless of the format of the decision, the immigration judge must fill out and sign a form minute order. Upon issuing the decision, the parties must be advised that in order to perfect an appeal, the BIA must receive Form EOIR-45 within 30 days after the immigration judge's decision or 30 days after the immigration judge's written decision was mailed. The immigration judge's decision will be final if both parties waive appeal or the party who waived appeal fails to file an appeal with the BIA.

E. DISPOSITION OF THE ROP

During the pendency of the case, the ROP will be housed in the court from which the judge was assigned. If an appeal is filed with the BIA, the BIA Clerk's Office will request the file. If no appeal is filed, the immigration court should forward the ROP to the Chief Clerk of the Immigration Court. The closed files will be housed by EOIR OGC

GLOSSARY OF ACRONYMS AND TERMS USED BY THE IMMIGRATION COURTS

ACIJ	Assistant Chief Immigration Judge. Exercise supervisory authority over immigration courts as delegated by the Chief Immigration Judge.
AILA	American Immigration Lawyers Association.
A-NUMBER	Alien Number. The identifying case number for respondents/applicants as provided by the DHS.
BIA	Board of Immigration Appeals.
CA	Court Administrator.
CASE	Case Access System for EOIR. The database used by the immigration court for case record data.
CAP/IHP	Criminal Alien Program / Institutional Hearing Program.
COV	Change of Venue.
DHS	Department of Homeland Security.
DOE	Date of Entry.
EOIR	Executive Office for Immigration Review.
EPRD	Earliest Possible Release Date. The earliest possible parole date for a respondent/applicant for the Criminal Alien/Institutional Hearing Program.
EWI	Entry without Inspection.
FRC	Federal Record Center.
FTA	Failure to Appear. The completion for cases in which the alien fails to appear for the scheduled hearing.
FTP	Failure to Prosecute. The completion for cases that have been scheduled by the DHS on the Interactive Scheduling System in which no charging document has been filed at the time of the initial Master Calendar hearing.
IA	Individual Asylum. The designation for Court agendas that are designated

	for post reform initiative asylum merits hearings.
I.C.	Individual Calendar. The hearing on the merits of a case in an immigration court.
IJ	Immigration judge.
INA	Immigration and Nationality Act.
ISS	Interactive Scheduling System. The automated system that gives DHS access to the CASE system and allows DHS personnel to schedule hearings on immigration court dockets.
I-122	Notice to Applicant for Admission Detained for Hearing Before Immigration Judge. The charging document that initiates an exclusion hearing before an immigration court.
I-589	Application for Asylum and for Withholding of Deportation.
MA	Master Asylum. The designation for Court agendas for initial hearings for post reform asylum cases.
M.C.	Master Calendar. The initial hearing in an immigration court.
MTR	Motion to Reopen.
OCIJ	Office of the Chief Immigration Judge.
OPPM	Operating Policies and Procedures Memorandum. Issued by the Chief Immigration Judge to provide guidance to the immigration courts on administrative and case management issues.
OSC	Order to Show Cause. The charging document that initiates a deportation case before and immigration court.
ROP	Record of Proceeding. The official case record in an immigration court.
UDSM	Uniform Docketing System Manual. The case docketing system for immigration courts.