

Judicial Complaint Process
Executive Office for Immigration Review
U.S. Department of Justice

last updated February 2023

The Executive Office for Immigration Review (EOIR) is committed to ensuring that any allegations of judicial misconduct are investigated and resolved promptly and fairly. This document describes EOIR's process for handling judicial complaints.

Definitions and Summary

This judicial complaint process is applicable to all supervisory and non-supervisory judges in each of EOIR's three adjudicating components: the Office of the Chief Immigration Judge (OCIJ), the Board of Immigration Appeals (BIA), and the Office of the Chief Administrative Hearing Officer (OCAHO).

Judicial misconduct is conduct by a judge that may adversely affect the fair, effective, or expeditious administration of the work of EOIR's adjudicating components. A complaint is information that comes to the attention of EOIR suggesting that a judge may have engaged in judicial misconduct.

Any individual or group may file a judicial complaint by sending an email or letter to EOIR's Judicial Conduct and Professionalism Unit (JCPU):

Executive Office for Immigration Review
attn.: Judicial Conduct and Professionalism Unit
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041
Judicial.Conduct@usdoj.gov

Please provide your contact information when submitting your complaint. You may provide as much detail as you like regarding what happened. Please note that the more detail you provide, the easier it will be for us to investigate your complaint. For example, you may wish to provide the name of the judge, the time and place of the incident, any associated A-numbers, and the names of any witnesses to the conduct. You may request confidentiality; however, there may be circumstances in which EOIR may be required by law or legal order to disclose the complaint or information about the complaint, including the identity of the complainant. The JCPU will notify the complainant upon receiving the complaint and when the complaint has been closed.

Filing a complaint is not the same as appealing a decision, and it will not change the outcome in your case. While you may believe that the EOIR judge erred in a decision, the presence of an error in the judge's decision, by itself, does not mean misconduct occurred.

A complaint is not required for the JCPU to launch its own investigation if information suggesting a judge may have engaged in judicial misconduct comes to the attention of the JCPU.

Such information may come to the JCPU's attention from a variety of sources, such as news reports, federal court decisions, and routine reviews of agency proceedings and decisions.

Docketing

Upon receipt or identification of a complaint, the JCPU will docket the complaint by assigning it a unique identifier and creating an entry for it in EOIR's judicial complaint tracking system. However, if the complaint suggests general misconduct that is unrelated to the judge's judicial role, does not allege judicial misconduct, or concerns issues that do not amount to judicial misconduct but that may be appropriate for management action, it will be handled appropriately outside of the judicial complaint process.

Agency Investigation

Once a complaint is docketed, the JCPU will review the complaint and any attachments, together with relevant agency records such as electronic records of proceeding, digital audio recordings, electronic docket entries, and electronic decisions. The JCPU will then forward the complaint, any attachments, and a summary of the JCPU's preliminary fact-gathering to the judge's supervisor for investigation and resolution.¹ The Employee Labor Relations Unit (ELR) in EOIR's Office of the General Counsel will receive a copy of this communication.

Unless notification would compromise an ongoing investigation by another office or is contrary to law or agency-wide policy, the supervisor will promptly notify the judge of the existence and substance of the complaint and give the judge an opportunity to respond. However, if a complaint can be dismissed or concluded without the judge's input and does not result in corrective or disciplinary action, the judge may be informed of the existence of the docketed complaint at the same time they are notified that it has been resolved.

If the allegations appear to fall under the jurisdiction of the [Office of Professional Responsibility \(OPR\)](#), the [Office of the Inspector General \(OIG\)](#), or the [Office of the Special Counsel \(OSC\)](#),² EOIR will refer the complaint to those components for further investigation.

The supervisor's investigation of the complaint may involve reviewing agency records and soliciting statements from the complainant and any witnesses. If the supervisor finds that the allegations of misconduct are substantiated, the supervisor—in consultation with component senior leadership and ELR, as appropriate—will determine whether and what type of corrective or disciplinary action is warranted.³

¹ Complaints are typically handled by the judge's direct supervisor. For example, complaints against Immigration Judges in OCIJ are handled by the appropriate Assistant Chief Immigration Judge, complaints against Appellate Immigration Judges at the BIA are handled by the appropriate Deputy Chief Appellate Immigration Judge, and complaints against Administrative Law Judges in OCAHO are handled by the Chief Administrative Law Judge. Complaints against component heads who are adjudicators are handled by EOIR's Deputy Director.

² OPR has jurisdiction over Department attorneys concerning allegations of professional misconduct, which includes judicial misconduct. OIG has jurisdiction over allegations of criminal activity, waste, fraud, abuse, and serious administrative misconduct. OSC has jurisdiction over complaints of prohibited personnel practices in the federal government or Hatch Act violations relating to partisan political activity.

³ Any adverse action taken against an administrative law judge will be done in compliance with 5 C.F.R. § 930.211.

Actions and Resolution

Each docketed complaint will be resolved via one of the following types of actions.

Dismissal

If the supervisor determines that the allegations in a complaint do not constitute judicial misconduct, the complaint will be dismissed. A complaint may be dismissed as frivolous, not substantiated, merits-related, disproven, or because it fails to state a claim of misconduct.

Conclusion

If the supervisor determines that intervening events, such as the adjudicator's retirement or resignation, render the complaint moot, or if corrective action has already been taken on the matter, the docketed complaint will be concluded on that ground.

Corrective Action

If the supervisor determines that non-disciplinary corrective action is appropriate, the supervisor may consult with ELR to determine the appropriate action. Such action may include counseling the adjudicator orally or in writing, consulting with OCIJ senior leadership to arrange for individualized training, and/or initiating a performance-based action.

Disciplinary Action

If the supervisor determines that disciplinary action is required, the supervisor shall consult with ELR regarding the appropriate action. Such discipline may include a written reprimand, suspension without pay, or removal from federal service.

Dismissal and Conclusion

Once a complaint is resolved via a final action, the JCPU will record the final action and close the matter in EOIR's judicial complaint tracking system. The supervisor will notify the judge once the matter is closed. As noted above, the JCPU will notify the complainant in writing once the matter is closed. Such notification to the complainant will not violate the privacy rights of the judge.

To promote transparency and accountability, EOIR will periodically publish statistics on its website concerning the number of complaints and the final actions taken. Such publication will be consistent with the Privacy Act, 5 U.S.C. § 552a.