



**U.S. Department of Justice**

Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, DC 20530*

The Honorable Jim Jordan  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Jordan:

This is a further response to the House Committee on the Judiciary's (Committee) letter to the Department of Justice (Department), dated January 4, 2024. In addition to this letter, the Committee sent numerous additional immigration-related requests to the Department on January 17, September 1, and November 2, 2023, and on March 18, April 3, and April 8, 2024. The Department provided substantive responses on November 2, December 4, and December 12, 2023, and on January 18, February 15, March 18, and April 12, 2024. The Department also coordinated a two-hour briefing from four senior officials from the Executive Office of Immigration Review (EOIR) on December 13, 2023, and we have scheduled testimony from supervisory policymaking officials in response to the Committee's requests for that testimony. Today, we are providing additional information from EOIR to accommodate the Committee's requests regarding the employment and non-conversion of Immigration Judges (IJs). As we have repeatedly emphasized, we will continue to engage with your staff and provide materials to meet your informational needs on these immigration-related requests.

IJs play a critical role in our legal and immigration systems. In recent years, the current and previous Administrations have sought authorization and appropriations to expand IJ hiring, which has been—and continues to be—at historic levels. For example, from 2019 to 2023, EOIR hired 493 new IJs, which was more than double than the previous five-year period from 2014 to 2018.<sup>1</sup> As of the first quarter of 2024, there are 725 IJs serving in EOIR.<sup>2</sup> EOIR's recently released FY 2025 President's Budget Request includes a funding request for 25 additional IJ positions and corresponding support staff.

IJs are non-political members of the career civil service that, like most newly hired career Department attorneys, are subject to a two-year probationary period. IJs are selected based in part on their ability to demonstrate the appropriate temperament to serve as a judge, knowledge of immigration laws and procedures, litigation or adjudication experience, experience handling

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<sup>1</sup>See Executive Office of Immigration Review, Adjudication Statistics: Immigration Judge (IJ) Hiring, *online at* <https://www.justice.gov/eoir/media/1344911/dl?inline>.

<sup>2</sup> *Id.*

complex legal issues, and experience conducting administrative hearings or adjudicating administrative cases.<sup>3</sup> Additionally, an IJ candidate must undergo a preliminary background check in conjunction with a suitability review by the Department's Office of Attorney Recruitment and Management prior to their appointment. When a new IJ enters on duty, that person is appointed for a temporary 24-month term, which is identified as a "Not to Exceed" (NTE) appointment. NTE appointments are temporary appointments during which a thorough background investigation is conducted and significant time and resources are invested to train, observe, and mentor new IJs. At the end of the 24-month NTE period, a decision is made whether to convert an IJ to a permanent position.

The IJ position is extremely challenging, and not every individual who has been appointed to an NTE position will ultimately be found to meet the requirements for a permanent appointment. In all cases, the determination of whether an IJ should be converted to a permanent position at the conclusion of the 24-month NTE period is informed by careful consideration of the results of the background investigation as well as an evaluation of the IJ's performance and conduct throughout the temporary appointment.

According to data collected through routine tracking of personnel matters by EOIR's Office of Administration, the vast majority of IJs reaching the end of their 24-month NTE periods from January 2021 to April 2024 have been converted to permanent positions.

- During this time period, 228 IJs have been converted from temporary to permanent status.
- Only 13 of these 228 IJs have not been offered a permanent position, which is about a 94 percent conversion rate.
- Of the 13 that were not offered a permanent position, six were appointed by Attorney General Garland.
- During this same time period, 86 IJs have either retired or resigned from EOIR. This figure includes five IJs in 2021, eight IJs in 2022, 11 IJs in 2023, and two IJs in 2024 to date who retired or resigned while in their NTE period.

These numbers of non-conversions, retirements, and resignations are relatively few in relation to the historic number of IJs serving in the Department in recent years.

Given the significant need for additional IJs to address the immigration caseload, and the time and energy invested in hiring and training IJs, choosing to not convert an IJ on an NTE appointment to a permanent position is something that EOIR takes seriously and is an action only undertaken after significant review.

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<sup>3</sup> Making a Difference – Apply for an Immigration Judge Position, <https://www.justice.gov/eoir/Adjudicators>.

We hope you find this information helpful. The Department will continue to gather and provide additional responsive information on a rolling basis, and we remain committed to providing you the information you need while respecting Executive Branch confidentiality interests and Department resources. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

CARLOS  
URIARTE

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Carlos Felipe Uriarte  
Assistant Attorney General

cc:

The Honorable Jerrold L. Nadler  
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The Honorable Tom McClintock  
Chairman  
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The Honorable Pramila Jayapal  
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The Honorable Ben Cline  
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The Honorable Jim Jordan  
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The Honorable Eric Swalwell  
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