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EOIR's Programs to Fight Fraud, Abuse, and Ineffective Representation in Immigration Proceedings

The Executive Office for Immigration Review (EOIR) has found that the presence of counsel for the respondent during immigration hearings facilitates efficiency and effectiveness. Bad actors, including *notarios* and ineffective counsel, however, can have a truly negative impact on immigration hearings and respondents' lives. To address that fact, EOIR has several mechanisms in place that help to protect those in proceedings.

Fraud

The goal of EOIR's [Fraud and Abuse Prevention Program](#) is to protect the integrity of immigration proceedings. The Program promotes efforts to deter fraud and provides a systemic response to identifying and referring instances of suspected fraud and abuse by serving as a point of contact to receive information relating to instances of suspected immigration fraud or abuse, including fraud involving the unauthorized practice of immigration law. Referral sources include parties to the proceedings and their representatives, and immigration court and Board of Immigration Appeals (BIA) staff.

***Notario* Fraud**

EOIR is part of a multiagency national initiative to combat *notario* fraud, and the agency is dedicated to bolstering its efforts toward growing the number of legitimate legal services providers and ridding the system of bad actors. *Notario* fraud is a serious and widespread problem that weakens the entire immigration system. As part of our efforts, EOIR is increasing the visibility of the [Recognition and Accreditation Program](#) by enhancing communication with the public, and providing guidance on and improving the application process for competent and legitimate providers. EOIR has also established a mandatory electronic registry – eRegistry – for attorneys and fully accredited representatives that is another step towards ensuring that only legitimate legal service providers interact with the immigration court system.

Attorney Discipline

EOIR also administers the [Attorney Discipline Program](#). While immigration judges do

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not have the authority to sanction immigration attorneys, the Attorney Discipline Program receives complaints primarily from the immigration courts, the BIA, aliens and other immigration practitioners. The Attorney Discipline Program resolves the majority of complaints through confidential discipline in the form of warning letters and informal admonitions, resulting from allegations of violations of the EOIR Rules of Professional Conduct, 8 C.F.R. § 1003.102. Cases that cannot be resolved through confidential discipline are handled through the formal disciplinary process, whereby the disciplinary counsel initiates proceedings seeking suspension or disbarment before the immigration courts or the BIA. Some are original jurisdiction cases but most formal disciplinary cases are reciprocal – the attorney has already been suspended or disbarred by a state or federal court or the attorney has been convicted of or pled guilty to a serious crime. See EOIR's [Attorney Discipline Program Fact Sheet](#). More than 1,500 immigration practitioners have been disciplined since EOIR assumed responsibility for the attorney discipline program in 2000.

Ineffective Assistance of Counsel

The BIA has issued precedent decisions addressing the requirements to support ineffective assistance of counsel claims. See *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988). The requirements are:

- The respondent must submit an affidavit that provides all relevant facts, including a copy of the representation agreement between the respondent and the attorney.
- The respondent must give the counsel a chance to respond to allegations before the respondent submits the motion.
- The motion must include information about whether the respondent has filed their complaint with disciplinary bodies. If such a complaint has not been filed, the respondent must state why they have not done so.
- The respondent must demonstrate exactly how the attorney's actions prejudiced the case. An exception is made to this requirement if an immigration judge ordered the respondent removed in absentia due to the attorney's ineffectiveness.

Regulation

To respond to the former attorney general's direction in his decision in *Matter of Compean, Bangaly & J-E-C-*, 25 I&N Dec. 10 (A.G. 2009), EOIR is currently working on a regulation to address issues surrounding ineffective assistance of counsel. EOIR expects that the regulation will establish standards for adjudication motions to reopen based on ineffective assistance of counsel in EOIR's immigration proceedings. Through the rule, EOIR will be

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seeking to promote consistency in the reopening of EOIR proceedings based on ineffective assistance of counsel, thereby helping to ensure the integrity and fairness of those proceedings.

To report suspected fraud or the unauthorized practice of law, please contact the Fraud and Abuse Prevention Program, Attention Brea Burgie, at EOIR.Fraud.Program@usdoj.gov.

— EOIR —

The Executive Office for Immigration Review (EOIR) is an agency within the Department of Justice. Under delegated authority from the Attorney General, immigration judges and the Board of Immigration Appeals interpret and adjudicate immigration cases according to United States immigration laws. EOIR's immigration judges conduct administrative court proceedings in immigration courts located throughout the nation. They determine whether foreign-born individuals – whom the Department of Homeland Security charges with violating immigration law – should be ordered removed from the United States or should be granted relief from removal and be permitted to remain in this country. The Board of Immigration Appeals primarily reviews appeals of decisions by immigration judges. EOIR's Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is committed to ensuring fairness in all of the cases it adjudicates.