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EOIR's Improvement Measures — Update

In August 2006, the Department of Justice (DOJ) and the Executive Office for Immigration Review (EOIR) developed 22 measures to bolster the quality and efficiency of the immigration courts and the Board of Immigration Appeals (BIA). EOIR has substantially completed most of the 22 measures. While EOIR is working to finish the few pending measures, agency efforts continue on an ongoing basis to improve and enhance completed initiatives.

A status summary, which updates EOIR's Sept. 8, 2008, [Progress Overview](#), follows below.

- (1) Performance Evaluations for Immigration Judges and BIA Members.**
Pending. EOIR plans to implement performance evaluations for immigration judges on July 1, 2009. EOIR implemented performance evaluations for BIA members on July 1, 2008.
- (2) Assessments for Newly-Appointed Immigration Judges and BIA Members.**
Completed. EOIR established an assessment program that focuses on training and development efforts; including mentoring by experienced adjudicators; individualized training plans, as necessary; and progress reviews.
- (3) Examination on Immigration Law for Newly-Appointed Immigration Judges and BIA Members.**
Completed. EOIR began testing new immigration judges in April 2008, and new BIA members in August 2008.
- (4) Training Plan for Immigration Judges and BIA Members.**
Completed. EOIR established a training plan that incorporates expanded training for new immigration judges, a mentoring program, periodic training on legal and procedural issues, management training, new and expanded reference materials, and training conferences. A joint legal conference for immigration judges and BIA members is scheduled for August 2009.

(more)

- (5) Training Plan for BIA and Immigration Court Staff.**
Completed. EOIR established a training plan that incorporates year-round training on substantive legal and procedural topics, expanded reference materials, and training conferences. In addition to the joint legal conference for immigration judges and BIA members scheduled for August 2009, EOIR has planned training conferences for court administrators, staff interpreters, and judicial law clerks for summer-fall 2009.
- (6) Improved On-Bench Reference Materials and Decision Templates.**
Completed. EOIR launched a new *Immigration Judge Benchbook* that contains a growing library of reference materials on immigration law topics and up-to-date decision templates with links to relevant reference materials. New and improved reference materials are developed on an ongoing basis. The *Immigration Judge Benchbook* is publicly available via the Internet at <http://www.usdoj.gov/eoir/vll/benchbook/index.html>.
- (7) Mechanisms to Detect Poor Conduct and Quality.**
Completed. EOIR implemented procedures for alerting the chief immigration judge about questionable immigration judge conduct. In addition, EOIR: Developed procedures for investigating referrals and implementing appropriate follow-up actions, established a new assistant chief immigration judge position for conduct and professionalism to review and monitor all complaints, and created a website link for the [public to file complaints](#) about immigration judges and a system to track such cases. Moreover, the chief immigration judge and BIA chairman have developed several tracking mechanisms for reporting to the Director complaints and other indicators of potential performance or temperament issues. EOIR continues to refine these mechanisms on an ongoing basis.
- (8) Analysis on Disparities in Asylum Grant Rates.**
Completed. EOIR continues to monitor asylum grant rates regularly. Immigration judges who have unusually high or low asylum grant rates are closely supervised and provided targeted training, mentoring, peer observation, and counseling, as appropriate.
- (9) Pilot Program to Deploy Supervisors to the Field.**
Completed. EOIR deployed supervisory assistant chief immigration judges in the New York, Los Angeles, Miami, San Francisco, San Diego, and San Antonio immigration courts to enhance the supervision of immigration judges nationwide. The deployment is also focused on enhancing access to EOIR management by attorneys/practitioners nationwide and Department of Homeland Security field offices. This effort has been well received by immigration judges, EOIR staff, the private bar, and the government bar.

(more)

(10) Code of Conduct

Pending. EOIR is currently reviewing union proposals regarding the revised *EOIR Ethics Manual*, which includes the draft code of conduct that EOIR drafted for immigration judges and BIA members.

(11) Procedures to Assess Complaints Against EOIR Adjudicators.

Completed. EOIR created the position of assistant chief immigration judge for conduct and professionalism to coordinate closely with DOJ's Office of Professional Responsibility and Office of the Inspector General regarding instances of inappropriate behavior. EOIR also launched a website link for the [public to file complaints](#) about immigration judges and a system to track such cases. Moreover, EOIR trains immigration judge supervisors on conduct issues.

The process continues to be enhanced. EOIR has designated one additional staff assistant to help administer the complaint process, and has detailed one attorney to help handle complex complaint and disciplinary matters and to further develop the website so that EOIR can ensure more timely responses.

(12) Improvements to the (BIA) Streamlining Reforms.

Pending. A proposed regulation, which was published in the *Federal Register* on June 18, 2008, is not final yet. This proposed regulation relates to making "affirmances without opinion" (AWOs) discretionary rather than mandatory, mandating more three-member-panel reviews, and increasing the number of precedent decisions published by the BIA.

EOIR decreased the issuance from 30 percent of AWOs in FY 2004, to less than 10 percent in FY 2008. EOIR decreased the issuance of AWOs to approximately 4 percent by the beginning of calendar year 2009. In addition, EOIR published more precedent decisions (33 in FY 2008 and 45 in FY 2007) in the past two years than in any similar period since the late 1990s.

(13) Practice Manual for the Immigration Courts.

Completed. EOIR developed a comprehensive online [Immigration Court Practice Manual](#) that incorporates "best practices" nationwide regarding uniform procedures, requirements, and recommendations for practice before the immigration courts. While the manual was launched on July 1, 2008, EOIR continues to update the manual regularly in response to changes in law/policy and comments provided by the parties who use it.

(more)

(14) and (15) Sanction Authority for Immigration Judges and the BIA and Enhancing Sanctions for Frivolous Filings.

Pending. EOIR's draft civil money penalties rule that relates to these two measures is currently under review.

EOIR increased the grounds (attorney diligence, competence, negligence, and client communication) for disciplining attorneys and representatives who appear before immigration courts or the BIA, via a final rule that was effective on January 20, 2009. The rule also allows EOIR to sanction the parties and counsel for strictly defined categories of gross misconduct that have been occurring before the BIA. EOIR has trained a corps of EOIR judges to adjudicate attorney discipline cases under the new regulation.

(16) Budget Increases.

Completed. In FY 2009, EOIR received \$5 million to increase the number of judges and staff.

As of April 12, 2009, EOIR had 234 immigration judges on board. The hiring process is ongoing for the remaining 19 new immigration judges who will be placed where the need is greatest; at sites that have a high volume of detained cases.

For FY 2010, EOIR requested 28 additional immigration judge positions, 28 additional law clerk positions, and additional support staff.

(17) Increasing the Size of the BIA.

Pending. EOIR awaits the selection of the 15th BIA member. EOIR expanded the BIA from 11 to 15 permanent members. Immigration judges and senior BIA attorneys continue to serve as temporary BIA members at various times. The vacancy announcement for the one remaining permanent BIA member position closed on April 9, 2009, and will be filled through a competitive selection process.

(18) Digital Audio Recording (DAR).

Pending. EOIR anticipates full agency-wide implementation of DAR by the end of 2010. DAR is a new state-of-the-art recording system designed to achieve better quality recordings of immigration court hearings. EOIR has progressively deployed DAR at 32 immigration courts (110 courtrooms), as of May 1, 2009.

(more)

(19) Improving Transcription Services.

Completed. EOIR has eliminated the backlog of immigration court hearing tapes awaiting transcription and thus reduced the overall processing time for BIA appeals, and maintains a 5-day transcription turnaround for detained cases.

(20) Interpreter Plan.

Completed. EOIR developed an orientation, mentor, and continuing education program for interpreters. The performance review process was redesigned to centralize, standardize, and enhance staff interpreter evaluations. EOIR also established an online “Interpreter Resources” page containing glossaries, reference materials and links to other interpreter resources. Moreover, EOIR created a website link for the [public to report complaints regarding interpreter services](#).

(21) Referral of Fraud and Abuse.

Completed. EOIR established a Fraud Program and trains immigration court and BIA staff about EOIR’s Fraud Program so that cases of immigration fraud and abuse can be properly referred to the appropriate investigative agencies for action.

(22) Enhancing EOIR’s Pro Bono Program.

Completed. EOIR established a pro bono committee that regularly consults with federal and non-governmental agencies, as well as the private bar, to recommend and develop initiatives that expand and improve [EOIR’s pro bono programs](#). Last year, EOIR expanded the [Legal Orientation Program](#) from 12 to 25 sites. The BIA’s Pro Bono Project continues to expand to serve more aliens. EOIR also designated pro bono liaison immigration judges at each immigration court to facilitate local pro bono efforts.

— EOIR —

EOIR, an agency within DOJ, interprets and adjudicates immigration cases according to U.S. immigration laws under delegated authority from the Attorney General. Immigration judges, within EOIR’s Office of the Chief Immigration Judge, conduct administrative court proceedings. They determine whether foreign-born individuals — who are charged by the Department of Homeland Security with violating immigration law — should be removed from the United States or may be granted relief from removal to remain in the country. EOIR’s Board of Immigration Appeals primarily reviews appeals of immigration judge decisions. EOIR’s Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is committed to ensuring fairness in all cases.