



# A Better Way on Immigration

## Policy Brief: America Needs Independent, Fair, and Efficient Immigration Courts

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Every year, the U.S. immigration court system makes decisions in [hundreds of thousands](#) of cases that deeply impact people's lives and fundamental rights. Comprised of more than [600](#) trial judges, these courts decide whether people will be deported, freed from detention, granted protection from persecution, or approved for a green card. Vested with broad powers, the immigration courts bear the important responsibility of interpreting and upholding U.S. laws and ensuring due process in every case.

Since taking office, however, the Trump Administration has implemented policies that undermine the immigration courts' integrity and ability to efficiently manage a massive caseload of nearly 4 million cases. The headlines are filled with stories of judges being [fired en masse](#) and [U.S. Immigration and Customs Enforcement \(ICE\) arresting people](#) inside courthouses. Quotas and ideologically driven policy directives now force judges to prioritize rapid deportations over careful, lawful deliberation. These changes have stripped the courts of their independence, transforming them into enforcement mechanisms at the expense of justice.

The crisis in the courts is an alarm signal for Congress to pass legislation that establishes an [independent immigration court system](#) insulated from improper political interference. No other American court is controlled so completely by the executive branch as the immigration courts. In addition to this structural change, Congress should restore the authority stripped of judges, ban enforcement actions at courthouses, and fully fund the courts, their staff, and legal representation for people who are indigent. These reforms will make the immigration courts fairer and more efficient, and will restore the public's confidence in them as institutions grounded in law and justice.

### Judges Are Being Fired in High Numbers

Unlike federal judges appointed under Article III of the Constitution, immigration judges do not have life tenure but serve as employees of the U.S. Department of Justice (DOJ). In 2025, the Administration exploited this vulnerability by [firing almost 100 out of approximately 700 immigration trial judges nationwide](#) and forcing out dozens more. This included 12 judges dismissed from the San Francisco Immigration Court. The removal of those judges and the subsequent [closure](#) of that entire court

destabilized one of the busiest jurisdictions in the country. Similar firings and chaotic changes are happening in [Chicago](#) and [New York](#).

In addition to firing trial judges, the Administration also dismissed 13 appellate judges from the Board of Immigration Appeals (BIA), reducing it from 28 members to 15. This happened even as the BIA's case backlog was growing quickly. By the end of 2025, the BIA's backlog reached an all-time high of nearly [220,000 cases](#). These steep cuts to the judge ranks will cause more delays and reduce the operational capacity of the courts.

AILA recommends Congress strengthen existing safeguards that prevent their unlawful and unfair dismissal in order to protect judges from arbitrary dismissal and provide stability to the courts. Additional measures are needed to restore and bolster the civil service protections that are designed to stop politically motivated attacks on bench officers but that the current administration has largely ignored.

### **Ideologically Driven Policies Pressure Judges to Deport**

The firing of scores of judges sends a powerful signal to those who remain: they must comply with the administration's agenda to deport large numbers of people or risk being removed from their posts. The DOJ leadership is openly touting its agenda that the judge's role is to order deportation—rather than to apply the law—by explicitly advertising bench officer positions as “[deportation judges](#).”

Immigration judge training has also changed to encourage dismissals and deportations. For example, last year, the DOJ began training new immigration judges to [deny asylum without providing a full review](#) of a case and to grant asylum only in “rare circumstances.” [Data](#) from August 2025 showed that immigration judges were granting asylum at half the rate compared to the year before. In a 2025 [regulation](#), the Executive Office for Immigration Review (EOIR), which administers the immigration courts, announced that ensuring temporary judges have immigration law experience no longer “serves EOIR's interest.” Prior to the rule, temporary judges were required to have [10 years](#) of immigration law experience.

### **New Policies Are Forcing Faster Decisions or Bypassing Courts Altogether**

Across all types of cases, the Administration is denying people their fair day in court by shifting cases away from the courts and instead using faster procedures that compromise due process. For example, in September 2025, EOIR issued a [directive](#) that imposed rigid case completion goals on judges, including one calling for completion of 95% of non-detained cases in one year. Mathematically meeting this quota is impossible. The memo itself acknowledges the enormous backlog has an average case [pending time of 636 days](#) as of December 2025.

To meet accelerated timelines, the Administration is virtually eliminating the BIA's role in hearing appeals. In February 2026, the Administration issued a [new regulation](#) that requires the BIA to automatically dismiss cases that are appealed without conducting a full review or providing its reasoning. The BIA will only hear cases that a majority of its permanent members agree to accept within 10 days, effectively blocking nearly all appeals. With the option of BIA appeal all but gone, people who are denied relief as a result of trial judge errors will be deprived of due process. Justified as an efficiency measure, the regulation also imposes strict timelines, including cutting the deadline for an appeal from 30 days to 10 days, which will be extremely difficult for attorneys, let alone someone without a lawyer, to meet.

These policies will not create a more efficient court system. Instead, they are pressuring judges to deport people faster in violation of their duty to apply the law and render fair rulings. Moreover, cutting out appeals to the BIA will compel those with claims to appeal to the federal circuit courts, resulting in backlogs in those courts and higher costs imposed on the government and the people seeking relief.

### **Enforcement Actions at Immigration Courts Erode Trust in Courts**

Historically, EOIR has [restricted ICE](#) from conducting enforcement at court locations based on concerns that the immigration agents' presence will frighten people from attending hearings and ultimately undermine the court's reputation as a safe and neutral institution. In 2025, EOIR withdrew the standing [policy](#) preventing arrests at court, and shortly thereafter, ICE began staging large-scale [arrests](#) at the courts, causing disruptions and intimidating people appearing for hearings. To facilitate the arrests, ICE filed motions to close people's cases in order to quickly arrest and deport them as soon as the case was dismissed. Judges went along with this enforcement plan and dismissed [nearly 80%](#) of cases during a two-month period in 2025.

The Administration has not articulated a sound rationale for allowing ICE enforcement at court. Rather than bolster the rule of law, these policies have undermined trust in the immigration courts as well as compliance with the law by frightening people and discouraging attendance at court. In 2025, there was a nearly [40%](#) increase in the number of people ordered removed for failing to appear compared to the previous year. To restore confidence in the courts, Congress should codify past policies that prohibited immigration enforcement at or near court premises.

### **Courts Need the Authority to Manage Caseloads Without Political Interference**

The current Administration has inserted its political agenda aggressively into the immigration courts' operations by stripping them of control over their dockets and caseloads. Specifically, EOIR has restricted immigration judges' power to postpone cases that are not ready to proceed to a later date. Under a new policy, immigration judges face pressure to deny requests for continuances if the delay will jeopardize EOIR's case completion deadlines. The Administration has also restricted the courts' authority to use [administrative closure](#), a docket management tool that enables a judge to temporarily remove a case from the active docket when it is not suitable for a decision, such as when U.S. Citizenship and Immigration Services (USCIS) is also reviewing the case at the same time. Judges should not be compelled to decide cases simply for the sake of efficiency and have historically exercised the authority to balance efficiency with the circumstances in the case, including ensuring due process.

The courts need effective docket management tools that enable judges to postpone cases until it is appropriate to proceed. By restricting those powers, the Administration may seriously compromise fairness, for example, by compelling judges to proceed in cases before someone has found legal counsel or secured a witness. Moreover, forcing cases forward without regard to whether they are ready frequently causes delays and wastes court resources.

To improve court efficiency and maintain fairness, Congress should restore the courts' authority to manage large caseloads as well as insulate them from improper, top-down interference by the executive branch. Increased funding that is commensurate with the courts' growing caseloads will also help reduce the high backlogs. From [2003 to 2024](#), the court's budget failed to keep pace with increases in funding for

ICE and Border Patrol that rapidly drove more cases into the court system. During that time, ICE and Border Patrol received 24 times the total amount of funding compared to the courts.

### **The Administration Has Mandated Detention Without Immigration Court Review**

Long-enshrined in the American legal system is the principle that no one should be deprived of their liberty without due process. Until recently, that principle also generally applied in immigration cases to prevent the unjust detention of children, families, and other people who have strong ties in their communities and pose no public safety risk. In 2025, [ICE](#) began a new policy mandating detention for a huge category of people who entered the country without being formally admitted. Shortly thereafter, the [BIA](#) issued a decision that barred the immigration courts from reviewing those detention decisions. Statistically, entry without inspection is charged in about [62%](#) of all immigration court cases, giving this rule the far reaching potential to require detention for more than a million people.

The Administration claims its detention policy enhances public safety, yet November 2025 data showed that [73%](#) of people detained by ICE had no convictions of any kind. Locking up people who pose no risk to public safety wastes taxpayer resources while inflicting lasting harm on the people who are detained and their families. For more on detention, see [Policy Brief: Americans Want Safe Communities, Not a Dangerous and Costly Deportation Agenda](#).

### **The Federal Courts Are Overwhelmed as People in Detention Ask to Be Freed**

With this new rule mandating the detention of thousands of people, the only recourse available to the detained is to apply to a federal court for a writ of habeas corpus, a legal procedure that gives someone the right to have the court review their unlawful detention. In skyrocketing numbers, [18,000 habeas requests](#) were filed in the first 13 months of the current Administration—more than all such cases combined from the previous 15 years.

Overwhelmingly, federal courts are ruling against the Administration’s mass detention policy: in more than [4,400 cases](#), spanning from October 2025 until February 2026, the courts held that ICE was holding people illegally. Even judges appointed by the President are [largely ruling against](#) the mandatory detention policy: 44 Trump appointees ruled against the policy compared to only 20 who signed off on it. Beyond the policy’s clear legal infirmities, it is a gross waste of federal judicial resources for federal courts to handle so many habeas cases. Moreover, in the vast majority of cases where people are winning before the federal court, the case will go back to the immigration court to decide whether the person needs to be detained—a duplicative process that unnecessarily occupies the time of two court systems.

### **A Better Way Forward: Independent, Fair, and Efficient Immigration Courts**

The American Immigration Lawyers Association (AILA) recommends the following reforms to create an independent, fair, and more efficient immigration court system:

1. **Pass the Real Courts, Real Rule of Law Act.** The U.S. immigration court system suffers from a profound structural problem: unlike other courts, it operates under the direction of the DOJ and is therefore highly vulnerable to political interference by the executive branch. The [Real Courts Rule of Law Act](#) will move the immigration court system outside of the authority of the DOJ and establish it as an independent court under Article I of the Constitution. Members of Congress from both sides of the aisle should support the bill as it includes the essential components for an

effective court system and does not include immigration policy reforms that could be perceived as partisan. For more explanation of this proposal see these [AILA resources](#).

2. **Strengthen Civil Service Protections for Immigration Judges.** The Administration's termination of scores of immigration judges demonstrated how vulnerable the immigration judiciary is to executive branch control. Congress should codify civil service protections that prevent retaliation against court personnel and immigration judges, prohibit the termination of judges without cause, and insulate judges' decisions from political pressure. In addition, Congress should establish high standards for the qualifications and training of immigration judges to ensure fair and balanced decisions consistent with the law.
3. **Provide Federally Funded Legal Representation for Individuals in Removal Proceedings.** People with legal counsel appear for their immigration court hearings at a rate of 97%, yet 71% of the people deported during the 12 months starting February 2025 had no legal representation. [Research](#) spanning two decades shows that people with counsel are up to 6 times more likely to receive a grant of relief than those who are unrepresented, depending on whether they are detained or not. Attorneys increase people's compliance with court [appearance rates](#) and improve the courts' capacity to process cases [efficiently](#). Recognizing the critical role legal counsel plays in ensuring fair hearings and improving court efficiency, Congress should fund legal representation for people who are unable to afford counsel. See AILA resources on [legal representation](#)
4. **Codify Enforceable Standards Prohibiting Immigration Enforcement at Courts.** Congress should codify courthouse protections and prohibit civil immigration enforcement actions at or near the courts. These policies should be incorporated into broader reforms that restrict enforcement at other sensitive locations including schools, places of worship, and hospitals. Violations of such standards should result in exclusion of evidence and dismissal of the immigration court case, similar to what happens when police violate the Constitution in criminal justice cases.
5. **Stop Mandatory Detention and Restore the Courts' Authority on Detention Cases.** Congress should codify and affirm the longstanding legal interpretation that immigration judges have the authority to decide whether someone needs to be detained regardless of how they entered the country. Laws and policies mandating detention should be reformed to require an evaluation of whether someone needs to be detained based on principles of flight risk and public safety. Detention without a fair hearing before an impartial decision-maker is inconsistent with due process and has contributed directly to the costly surge in detention of people who have no criminal convictions.
6. **Adequately Fund the Immigration Court System.** In the past two decades, Congress has inadequately funded the immigration courts, making it impossible for judges to keep up with caseloads that sometimes exceed 7,000 cases while delivering fair decisions. By increasing the courts' appropriations, Congress will expand its capacity to decide cases efficiently and in accord with the law.
7. **Restore Docketing Tools and Rescind Policies That Prioritize Speed Over Due Process.** The Administration has eliminated or curtailed essential tools immigration judges rely upon to

manage their dockets fairly, including administrative closure and continuances, while simultaneously imposing performance benchmarks that pressure judges to complete cases at the expense of due process. Congress should restore and codify those policies and the courts' discretion over docket management.

Every day, AILA attorneys who represent people before immigration courts across the country see how these courts are being pushed further away from what Americans expect from a court of law—a balanced institution that applies the law consistently and fairly. Republican and Democratic lawmakers can agree on the fundamental principles that courts should be fair, impartial, and operate with integrity. To achieve that, the building blocks for reform start with an independent court that is insulated from political pressure. By advancing these common-sense reforms, Congress can restore trust in the courts and rebuild a modernized immigration system that ensures fair and effective compliance with our laws and advances the nation's prosperity.