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Prosecutorial Discretion and the ICE Office of the Principal Legal Advisor

Are the U.S. Department of Homeland Security's (DHS) Civil Immigration Enforcement Priorities Still in Effect?

No. On June 10, 2022, the U.S. District Court for the Southern District of Texas vacated nationwide DHS Secretary Alejandro N. Mayorkas' September 30, 2021 memorandum, *Guidelines for the Enforcement of Civil Immigration Law* (Mayorkas Memorandum) that set-forth DHS' civil immigration enforcement priorities. See

Texas v. United States, No. 6:21-00016 (S.D. Tex. June 10, 2022). The District Court's order became effective Saturday, June 25, 2022, at 12:00 a.m. CDT.

How does the Vacatur of DHS' Civil Immigration Enforcement Priorities Impact the U.S. Immigration and Customs Enforcement (ICE), Office of the Principal Legal Advisor's (OPLA) Prosecutorial Discretion Determinations?

OPLA attorneys are no longer applying the Mayorkas Memorandum or sections of Principal Legal Advisor Kerry E. Doyle's memorandum, *Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion* (April 3, 2022), that rely on the priority enforcement framework established by the Mayorkas Memorandum when making prosecutorial discretion determinations or for any other purpose.

OPLA attorneys, however, may—consistent with longstanding practice—exercise their inherent prosecutorial discretion on a case-by-case basis during the course of their review and handling of cases.

What is Prosecutorial Discretion (PD)?

PD is the longstanding authority of a law enforcement agency, and an indispensable feature of any functioning legal system, that can be used to preserve limited government resources necessary to achieve just and fair outcomes in individual cases. As the exclusive representative of DHS in immigration removal proceedings before the U.S. Department of Justice's Executive Office for Immigration Review (EOIR), OPLA attorneys have the inherent authority to exercise PD on a case-by-case basis in the handling and litigation of removal cases.

In practice, PD allows OPLA attorneys to decide on which cases to focus their finite resources and how to proceed in individual cases in light of the facts and applicable law, including, for example, agreeing to dismissal or administrative closure or entering into stipulations on legal or factual issues as well as relief, bond, and continuances. PD is an inherent authority of a law enforcement agency and does not create a right or entitlement for any noncitizen.

This page addresses many of the common questions that noncitizens in removal proceedings and their legal representatives may have regarding PD.

How does PD work?

OPLA attorneys are entrusted to use their professional judgment to ensure justice in each individual case while adhering to the enduring principles that apply to all of their activities: upholding the rule of law; discharging duties ethically in accordance with the law and professional standards of conduct; following the guidelines and strategic directives of senior leadership; and exercising considered judgment in individual cases, particularly mindful of OPLA's limited resources.

OPLA attorneys will independently evaluate cases to determine whether to exercise PD, which may include unilaterally moving to dismiss or administratively close cases; agreeing to stipulations on issues such as relief, bond, or continuances; waiving appeal; or joining in motions to reopen proceedings. You (or your legal representative) may also submit requests for PD to OPLA.

Can I Still Submit a Request for PD?

OPLA attorneys will review cases during the normal course of business to determine whether and how to exercise PD. Consequently, you are not required to submit a PD request for OPLA to exercise PD in your case.

If you would like to submit a request for PD, however, you (or your legal representative) should follow the guidance below. Any requests for OPLA to exercise PD in your case should be submitted as early in the removal process as possible.

⊕ Format for PD Requests

OPLA does not require your PD request to follow any strict format. However, any PD request should include the type of PD being sought, along with the circumstances that you want the OPLA attorneys to consider in their assessment.

OPLA welcomes assistance from the private immigration bar and pro bono groups to aid unrepresented noncitizens in the submission of PD requests.

⊕ Fees or Filing Charges

OPLA does not charge a filing or application fee to receive, process, or consider PD requests.

Therefore, you are not required to pay a fee when submitting a request for the exercise of PD.

An attorney or legal representative may charge you a fee for helping to prepare your request for PD, but no part of that fee is paid to the U.S. Government. The U.S. Department of Justice's Executive Office for Immigration Review's [website](#) includes additional information about how to report an attorney or legal representative who you suspect may be engaged in criminal, unethical, or unprofessional conduct. You may also report fraud by non-attorneys to the [U.S. Federal Trade Commission](#) or to your [state Consumer Protection Office](#).

+ Criminal Background Checks

OPLA will generally not agree to the administrative closure or dismissal of removal proceedings in the absence of a current criminal history check. If DHS does not have a record of your biometrics or fingerprints, OPLA may notify you or your legal representative, and direct that you submit a [Federal Bureau of Investigations \(FBI\) fingerprint-based background check](#) before a final PD decision can be made in your case. If DHS has a record of your biometrics or fingerprints, OPLA will probably not insist that you submit an FBI fingerprint-based background check. However, the submission of an FBI fingerprint-based background check with a PD request may facilitate a quicker final decision, even for those individuals who have previously had their biometrics collected by DHS.

+ OPLA Field Location (OFL) Map

[View a map of the 25 OFLs](#)

+ OFL Email Addresses for PD Requests

Below are the email addresses for each OFL that you (or your legal representative) should use when requesting PD in your case. Some OFLs may prefer to receive PD requests via ICE eService. You (if you are unrepresented or “pro se”) or your legal representative may register for ICE eService [here](#). If you have questions about how to submit a PD request, please contact your [local OFL](#).

Main Field Location	Sub-Office	Email Address for PD Requests
Atlanta		ICE-OPLA-ATL-PD@ice.dhs.gov
	Charlotte	ICE-OPLA-ATL-CLT-PD@ice.dhs.gov
	Stewart	ICE-OPLA-ATL-SDC-PD@ice.dhs.gov
	Summit	ICE-OPLA-ATL-SFB-PD@ice.dhs.gov
Baltimore		ICE-OPLA-BAL-PD@ice.dhs.gov
	Hyattsville	ICE-OPLA-BAL-HYA-PD@ice.dhs.gov
Boston		ICE-OPLA-BOS-PD@ice.dhs.gov
	Hartford	ICE-OPLA-BOS-HAR-PD@ice.dhs.gov
Buffalo		ICE-OPLA-BUF-PD@ice.dhs.gov
	Batavia	ICE-OPLA-BUF-BTV-PD@ice.dhs.gov
Chicago		ICE-OPLA-CHI-PD@ice.dhs.gov
	Kansas City	ICE-OPLA-CHI-KAN-PD@ice.dhs.gov
Dallas		ICE-OPLA-DAL-PD@ice.dhs.gov
Denver		ICE-OPLA-DEN-PD@ice.dhs.gov
	Salt Lake City	ICE-OPLA-DEN-SLC-PD@ice.dhs.gov

Main Field Location	Sub-Office	Email Address for PD Requests
Detroit		ICE-OPLA-DET-PD@ice.dhs.gov
	Cleveland	ICE-OPLA-DET-CLE-PD@ice.dhs.gov
El Paso		ICE-OPLA-ELP-PD@ice.dhs.gov
Honolulu		ICE-OPLA-HHW-PD@ice.dhs.gov
Houston		ICE-OPLA-HOU-PD@ice.dhs.gov
	Conroe	ICE-OPLA-HOU-CON-PD@ice.dhs.gov
Los Angeles		ICE-OPLA-LOS-PD@ice.dhs.gov
	Adelanto	ICE-OPLA-LOS-ADE-PD@ice.dhs.gov
	Las Vegas	ICE-OPLA-LOS-LVG-PD@ice.dhs.gov
	North Los Angeles	ICE-OPLA-LOS-NLA-PD@ice.dhs.gov
	Santa Ana	ICE-OPLA-LOS-SAA-PD@ice.dhs.gov
	Van Nuys	ICE-OPLA-LOS-VNS-PD@ice.dhs.gov
Miami		ICE-OPLA-MIA-PD@ice.dhs.gov
	Broward Transitional Center	ICE-OPLA-MIA-BTC-PD@ice.dhs.gov
	Krome	ICE-OPLA-MIA-KSPC-PD@ice.dhs.gov
	Puerto Rico & the U.S. Virgin Islands	ICE-OPLA-MIA-PR-VI-PD@ice.dhs.gov

Main Field Location	Sub-Office	Email Address for PD Requests
Minneapolis-St. Paul		ICE-OPLA-SPM-PD@ice.dhs.gov
New Orleans		ICE-OPLA-NOL-PD@ice.dhs.gov
	Jena	ICE-OPLA-NOL-JNA-PD@ice.dhs.gov
	Memphis	ICE-OPLA-NOL-MEM-PD@ice.dhs.gov
	Oakdale	ICE-OPLA-NOL-OAK-PD@ice.dhs.gov
New York City		ICE-OPLA-NYC-PD@ice.dhs.gov
	Hudson Valley	ICE-OPLA-NYC-IHV-PD@ice.dhs.gov
	Varick	ICE-OPLA-NYC-VRK-PD@ice.dhs.gov
Newark		ICE-OPLA-NEW-PD@ice.dhs.gov
	Elizabeth	ICE-OPLA-NEW-ELZ-PD@ice.dhs.gov
Orlando		ICE-OPLA-ORL-PD@ice.dhs.gov
Philadelphia		ICE-OPLA-PHI-PD@ice.dhs.gov
	York	ICE-OPLA-PHI-YRK-PD@ice.dhs.gov
Phoenix		ICE-OPLA-PHO-PD@ice.dhs.gov
	Eloy	ICE-OPLA-PHO-EDC-PD@ice.dhs.gov
	Florence	ICE-OPLA-PHO-FLO-PD@ice.dhs.gov

Main Field Location	Sub-Office	Email Address for PD Requests
	Tucson	ICE-OPLA-PHO-TUC-PD@ice.dhs.gov
San Antonio		ICE-OPLA-SNA-PD@ice.dhs.gov
	Harlingen	ICE-OPLA-SNA-HLG-PD@ice.dhs.gov
	Pearsall	ICE-OPLA-SNA-STIPC-PD@ice.dhs.gov
	Port Isabel	ICE-OPLA-SNA-PIDC-PD@ice.dhs.gov
San Diego		ICE-OPLA-SND-PD@ice.dhs.gov
	El Centro	ICE-OPLA-SND-ELC-PD@ice.dhs.gov
	Otay Mesa	ICE-OPLA-SND-OTM-PD@ice.dhs.gov
San Francisco		ICE-OPLA-SFR-PD@ice.dhs.gov
	Sacramento	ICE-OPLA-SFR-SAC-PD@ice.dhs.gov
Seattle		ICE-OPLA-SEA-PD@ice.dhs.gov
	Portland	ICE-OPLA-SEA-POO-PD@ice.dhs.gov
	Tacoma	ICE-OPLA-SEA-TAC-PD@ice.dhs.gov
Washington, D.C.		ICE-OPLA-WAS-PD@ice.dhs.gov

⊕ PD Email Limited Data Security Waiver

Those engaging in email exchange with OPLA's PD email addresses acknowledge and agree to a limited waiver of data security that shall only attach to the electronic service and transmittal of documents that may contain sensitive personally identifiable information (SPII). Senders to the email addresses should be aware, however, that ICE cannot ensure that information transmitted outside of the DHS network will remain secure during transmission. This waiver applies to both your receipt of information transmitted by ICE and the transmission of information from you to ICE. Please also be advised that (1) from the time information leaves the DHS network until receipt by your email system and (2) during the time that information is being transmitted by your email system to the DHS network, the information contained within the email, including but not limited to SPII, is not necessarily secure against interception. You are strongly encouraged to encrypt any documents containing SPII prior to sending it to OPLA via email and to send passwords under separate email. By participating in use of the PD email addresses, you expressly agree to assume the risk that SPII may be intercepted during transmission to or from the DHS network and, as a result, be obtained by or disclosed to third-parties.

Prosecutorial Discretion (PD) Requests for Certain Temporary Protected Status (TPS) Recipients with Orders of Removal or Deportation

Template: Joint Motion to Reopen and Unopposed Motion to Dismiss without Prejudice

Consistent with its PD practices, the ICE Office of the Principal Legal Advisor (OPLA) may consider filing a Joint Motion to Reopen and unopposed Motion to Dismiss without Prejudice for certain TPS recipients who have been ordered removed or deported from the United States and are seeking to apply (or have applied) for lawful permanent residence with U.S. Citizenship and Immigration Services. More information on which cases of TPS recipients may be eligible for this type of PD can be found [here](#).

If you believe you may be eligible for this type of PD, then you may submit a PD request to your local OPLA Field Location using the applicable local procedures available on OPLA's *How to Submit a PD Request* page. OPLA's Field Locations are aware that they may be receiving this type of PD request and are prepared to process these cases accordingly.

As indicated above, there is no fee to ask that OPLA consider your case for this potential exercise of PD, and you are not required to have a lawyer if you want to make a PD request directly with OPLA. However, you may consult with a legal representative of your choosing. And, while the government does not provide legal representation, a list of free or low-cost service providers is available [here](#).

Español

မြန်မာ

Kreyòl Ayisyen

Français

नेपाली


العربية


Additional Information and Resources

- [ICE ERO Case Review Site for Individuals in Custody and/or with Final Orders of Removal](#)
- [EOIR's List of Pro Bono Legal Service Providers](#)
- [EOIR's Automated Case Information](#)

Updated: 07/21/2022

ADDRESS

 500 12th St SW
Washington, DC 20536

 Report Crimes: Call [1-866-DHS-2-ICE](tel:1-866-DHS-2-ICE)

RELATED INFORMATION

[Claims Under the Federal Tort Claims Act](#)

[Tool Kit for Prosecutors](#)

 [Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion](#)

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