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EOIR's Improvement Measures — Progress Overview

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). As can be seen below, nearly all of these measures have now been implemented or are near completion.

(1) Performance Evaluations for Immigration Judges and Members of the Board of Immigration Appeals (BIA).

- Implemented annual performance evaluations for BIA members on July 1, 2008.
- Began ongoing union negotiations concerning the implementation of annual performance evaluations for immigration judges.

(2) Assessments for Newly-Appointed Immigration Judges and BIA Members.

- Created and implemented a tracking system to report at regular intervals on the performance of new immigration judges and BIA members.

(3) Examination on Immigration Law for Newly-Appointed Immigration Judges and BIA Members.

- Began testing new immigration judges in April 2008.
- Began testing new Board members in August 2008.

(4) Training Plan for Immigration Judges and BIA Members.

- Expanded training for new immigration judges from 2 weeks to 5 weeks to include:
 - Intensive classroom training on law and procedures, including training on asylum and other forms of humanitarian protection; and

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- On-the-job training where new judges observe and are observed by mentor judges who work with them in the new judges' home court and in a training court.
- Established a mentor directory and a pilot "peer observation program" for all immigration judges.
- Began conducting periodic training on legal and procedural issues for immigration judges and BIA members. For example:
 - Training on emerging asylum and refugee issues was conducted for BIA members and staff in June 2007. Subsequently, there have been nine training sessions for BIA members and staff with four more planned through November 2008.
 - A joint week-long training conference on immigration law for immigration judges and BIA members was held in August 2007.
 - A two-day training program on asylum adjudications and the disparity in those determinations was held in August 2008.
 - Training on international religious freedom for immigration judges is planned for 2008. Immigration judges will also participate in training on ethical conduct and EOIR's fraud program this year.
 - Immigration judges receive ongoing training on asylum law through specialized online resources and publications.
- Expanded training and reference materials for immigration judges and BIA members and their staff. For example:
 - Developed new training materials for immigration judges, such as decision templates, model decisions, and circuit-specific legal outlines.
 - Launched a new *Immigration Judge Benchbook* that contains a growing library of reference materials on immigration law topics.
 - Developed a comprehensive online [Immigration Court Practice Manual](#) for internal and public use. It incorporates "best practices" nationwide in establishing uniform procedures, requirements, and recommendations for practice before the immigration courts.
 - Began distributing a new monthly newsletter (*Immigration Law Advisor*) on regulatory, judicial, and legislative developments in immigration law.
 - Began distributing reference materials from external sources, such as circuit court summaries from the Office of Immigration Litigation, on an ongoing basis.
 - Expanded EOIR's online [Virtual Law Library](#), which includes up-to-date case decisions, immigration law resources, and guidance.

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(5) Training Plan for BIA and Immigration Court Staff.

- Began conducting on-site training throughout the year on legal and procedural issues for BIA and immigration court staff.
 - Appointed a new training committee for the BIA, which is headed by a senior manager and reports to the BIA Chairman.
 - Initiated monthly training for BIA attorneys in 2008.
- Conducted training conferences.
 - The fifth annual conference for the BIA's legal staff was held in August 2007.
 - A training conference was conducted in August 2007 for Court Interpreters and in September 2007 for Court Administrators.
- Expanded reference materials for staff attorneys, as indicated in measure 4.

(6) Improved On-Bench Reference Materials and Decision Templates.

- Launched a new *Immigration Judge Benchbook* that contains a growing library of reference materials on immigration law topics. It was developed with input from the Federal Judicial Center, is electronic, and contains up-to-date decision templates with links to relevant reference materials.
- Expanded reference materials, available to the courts, as indicated in measure 4.

(7) Mechanisms to Detect Poor Conduct and Quality.

- Created referral procedures for the Board of Immigration Appeals and the Office of Immigration Litigation to alert the Chief Immigration Judge about cases involving questionable immigration judge conduct, in response to which the Office of the Chief Immigration Judge investigates and takes appropriate remedial or disciplinary action (covering the full array of management options, ranging from mentoring and training to suspension, demotion, and removal).
- Established a new assistant chief immigration judge position for conduct and professionalism to review and monitor all complaints and allegations of misconduct involving immigration judges.
- Included information in the [Immigration Court Practice Manual](#) [Chapter 1.3 (c)] on how the public may raise concerns about immigration judge conduct.
- Created a website link for the [public to file complaints](#) about immigration judges and a system to track such cases.

(8) Analysis on Disparities in Asylum Grant Rates.

- Provided an analysis on disparities of asylum grant rates to DOJ in September 2006.

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- Began continually monitoring asylum grant rates and closely supervising immigration judges who have unusually high or low asylum grant rates.
- Began providing training, mentoring, peer observation and/or counseling, as appropriate.
- Began emphasizing asylum topics when conducting training, as indicated in measure 4.
- Drafted a fact sheet, "[Asylum Variations in Immigration Court](#)," which is posted on EOIR's website.

(9) Pilot Program to Deploy Supervisors to the Field.

- Placed assistant chief immigration judges in the New York, Los Angeles, Miami, San Francisco, San Diego, and San Antonio immigration courts to enhance both the supervision of immigration judges and access to EOIR management by practitioners and the Department of Homeland Security.

(10) Code of Conduct.

- Drafted a judicial code of conduct for immigration judges and BIA members. The code of conduct was initially published in the *Federal Register* to obtain input from interested parties. Based on feedback received, the code is being revised and incorporated into EOIR's existing *Ethics Manual*. Revisions to the *Ethics Manual* are forthcoming.

(11) Procedures to Assess Complaints Against EOIR Adjudicators.

- Established an assistant chief immigration judge for conduct and professionalism, as indicated in measure 7.
- Launched a website link for the [public to file complaints](#) about immigration judges and a system to track such cases, as indicated in measure 7.
- Began coordinating closely with DOJ's Office of Professional Responsibility and Office of the Inspector General regarding instances of inappropriate behavior.
- Began training immigration judge supervisors on conduct issues.

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

- Decreased the issuance of summary affirmances from 30 percent (4 years ago) to less than 10 percent. Summary affirmances by the BIA, also known as "affirmances without opinion" (AWOs), authorize a single BIA member to affirm an immigration judge's decision without writing an opinion.

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- Increased the number of published precedent BIA decisions from 12 in FY 2005 to 45 in FY 2007.
- Published a proposed regulation in the *Federal Register* on June 18, 2008, that:
 - Makes AWOs discretionary rather than mandatory,
 - Mandates more three-member-panel reviews, and
 - Increases the number of precedent decisions published by the BIA.

(13) Practice Manual for the Immigration Courts.

- Developed a comprehensive online [Immigration Court Practice Manual](#) for internal and public use. It incorporates “best practices” nationwide in establishing uniform procedures, requirements, and recommendations for practice before the immigration courts, as indicated in measure 4.
- Launched the manual on EOIR’s website in February 2008. The manual became effective on July 1, 2008.

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

- Published a proposed regulation in the *Federal Register* on July 30, 2008, which:
 - Increases the grounds for disciplining attorneys and representatives who appear before immigration courts or the BIA, with a focus on attorney diligence, competence, negligence, and client communication, and
 - Gives EOIR the ability to sanction litigants and counsel for strictly defined categories of gross misconduct that have been occurring before the BIA.

(16) Budget Increases.

- Received a 120-position increase, funded through the 2006 War Supplemental and FY 2007 budget appropriations, which included 20 immigration judge and 20 judicial law clerk positions.
- Requested from Congress in FY 2008, but ultimately did not receive, funding to support an additional 120 new positions.
- Hired 22 immigration judges and one new assistant chief immigration judge for conduct and professionalism and continuing to fill immigration judge vacancies as quickly as possible.
- Hired 20 law clerks in the past year.

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(17) Increasing the Size of the BIA.

- Published the final regulation in the *Federal Register* on June 16, 2008, that expands the size of the BIA from 11 to 15 permanent members, and authorizes the appointment of temporary BIA members.
- Began filling all BIA positions.
 - Five new BIA members are on board as of September 2008.
 - A BIA Chairman was appointed in September 2008.
 - The remaining BIA member vacancies have been advertised.
 - Several immigration judges and senior BIA attorneys have served as temporary BIA members at various times during the past two years.

(18) Digital Audio Recording (DAR).

- Developed, piloted, and have begun deploying DAR, a new state-of-the-art recording system designed to achieve better quality recordings of immigration court hearings.
- Implemented DAR at 21 immigration courts (59 courtrooms) and the BIA Oral Argument Room at EOIR Headquarters, as of the end of August 2008.
 - The DAR-equipped immigration courts are: Atlanta, Aurora, Baltimore, Batavia, Bloomington, Buffalo, Cleveland, Dallas, Denver, Detroit, Fishkill, Memphis, Oakdale, Oklahoma City, Orlando, Phoenix, Portland, Seattle, Tacoma, Ulster, and York.
- Developed a schedule to complete DAR implementation nationwide by the end of 2010, pending congressional approval of FY 2009 funding.

(19) Improving Transcription Services.

- Contracted for additional transcription services in September 2006 to improve the timeliness and quality of hearing transcripts. As a result, EOIR:
 - Has eliminated the backlog of immigration court hearing tapes awaiting transcription and thus reduced the overall processing time for BIA appeals.
 - Maintains a 5-day transcription turnaround for detained cases.
 - Promptly addresses quality control issues with contractors for correction.
 - Meets regularly with contractors to discuss quality issues and remedial measures to continue ensuring quality transcriptions.

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(20) Interpreter Plan.

- Developed a plan to improve interpreter services that includes internal interpreter hiring, training, assessment, and process enhancements. For example:
 - Conducted a training conference for interpreters in August 2007.
 - Enhanced the biannual interpreter performance review process for all 105 staff interpreters.
 - Established a quality assurance team to monitor contract interpreter accountability and performance.
 - Provided an online “Interpreter Resources” page for interpreters.
 - Created a website link for the [public to report complaints regarding interpreter services](#).

(21) Referral of Fraud and Abuse.

- Established a Fraud Program.
- Appointed an anti-fraud officer to identify fraud and coordinate interagency responses.
- Trained immigration court and BIA staff about EOIR’s Fraud Program so that cases of immigration fraud and abuse can be properly referred and routed to the appropriate investigative agencies for their action.

(22) Enhancing EOIR’s Pro Bono Program.

- Established a Committee on Pro Bono that consulted with federal and non-governmental agencies, as well as the private bar, to recommend initiatives that expand and improve EOIR’s pro bono programs. More information is available online in EOIR’s fact sheet, “[EOIR to Expand and Improve Pro Bono Programs](#).”
- Expanded the Legal Orientation Program from six to 12 sites since September 2006.
- Increased outreach efforts to the federal courts.
- Expanded the BIA Pro Bono Project to serve more non-detained appellants.
- Established “best-practices” procedures to promote pro bono representation in immigration courts by issuing Operating Policies and Procedures Memorandum ([OPPM](#)) 08-01, *Guidelines for Facilitating Pro Bono Legal Services*.
- Began developing regulations to strengthen both the recognition/accreditation process for immigration practitioners and the requirements for private attorneys and organizations to appear on EOIR’s List of Free Legal Services Providers.

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EOIR, an agency within the Department of Justice, 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.