

Congress of the United States
House of Representatives
Washington, DC 20515-2107

December 7, 2020

The Honorable James McHenry
Director
Executive Office for Immigration Review
U.S. Department of Justice
5107 Leesburg Pike, 18th Floor
Falls Church, VA 22041

Dear Director McHenry,

I write to express my grave concern about the recent scheduling orders of the Immigration Court. It has come to my attention that the Boston Immigration Court, and other Immigration Courts across the country, recently began sending scheduling orders to many young people and unaccompanied children who have cases pending before the Court.

These new deadlines established by the Executive Office for Immigration Review (EOIR) jeopardize the due process rights of the children who come before the Court seeking asylum and special immigrant juvenile visas. These scheduling orders are particularly concerning considering the Trump Administration's overt efforts to ramp up enforcement and other efforts to expedite removals.

I am particularly concerned to see that these scheduling orders appear to have been sent out [en masse](#). Many recipients are children who came to the United States as unaccompanied minors. These children are particularly vulnerable due to their young age and are generally provided special protections in immigration proceedings due to their circumstances. To fast-track these cases is both unnecessary and unjust as they rob children of their right to due process.

The scheduling orders give respondents and their attorneys a very short window of time to submit an application for relief from removal with the Immigration Court. In many instances, attorneys are only given mere weeks to submit an application that could have life or death consequences for the child. This is an unjustifiable and unrealistic deadline as we continue to be in the midst of a worsening COVID-19 pandemic that has made it impossible for attorneys to safely meet in person with their young clients to prepare these complex and sensitive applications.

According to the New England Chapter of the American Immigration Lawyers Association (AILA NE), whose member attorneys have received many of these scheduling orders, the orders include boilerplate language that is inaccurate in many cases. For example, the standard language

in the order states that the respondent was previously found removable by an Immigration Judge. However, this is not the case in many cases, as the Court has not yet established removability. The standard language also says that the Court had previously set a deadline for submission of an application. In many cases, this is also untrue. It is troubling that so many of these orders are inaccurate and they appear to be sent without reviewing the respondents' files.

In addition to the troubling inaccuracies of these scheduling orders, they also present extremely high stakes consequences. The scheduling orders state that if no application has been received by the Immigration Court by the deadline, the Court could enter a removal order in the respondent's case. It seems the Immigration Court could be ordering children removed from the United States for failure to comply with orders that are unjustifiable and, in many cases, inapplicable to the child's case.

Many of these unaccompanied children are often eligible for relief from removal and are properly seeking such relief before the United States Citizenship and Immigration Services (USCIS), as required. Because their cases are before USCIS, they are not currently in a procedural posture to file any application with the Immigration Court. Thus, to ask these children to file applications before the Immigration Court right away or face a removal order suggests that the Court may order children removed from the United States who would have been eligible to obtain lawful status.

I am very concerned about these children's fate and the due process rights of all who appear before the Immigration Court. I request your answers to the following questions by December 14, 2020:

1. What is the policy objective behind these standing scheduling orders?
2. Why are the vast majority of recipients targeted young people who entered the United States as unaccompanied children?
3. Why is the language included within these orders inaccurate in many cases and without review of the respondents' individual files?
4. What is being done to protect the due process rights of these children, who are often the most vulnerable among us?

I request your immediate attention to this matter as time is of the essence. In the meantime, I strongly urge you to reconsider the practice of standing orders in this manner as the lives and safety of unaccompanied minors hang in the balance.

Sincerely,

A handwritten signature in black ink that reads "Ayanna Pressley". The signature is written in a cursive, flowing style.

Ayanna Pressley
Member of Congress