



OOD
PM 25-25
Effective: March 14, 2025

To: All of EOIR
From: Sirce E. Owen, Acting Director
Date: March 14, 2025

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OWEN

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CANCELLATION OF DIRECTOR'S MEMORANDUM 22-07

PURPOSE:	Rescind and Cancel Director's Memorandum 22-07
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	Director's Memorandum 22-07

On August 11, 2022, the EOIR Director issued Director's Memorandum (DM) 22-07 purporting to provide "guidance" to EOIR Immigration Judges¹ regarding "internet-based video hearings." The need for such "guidance" was unclear. EOIR has successfully used video conferencing (VC) to conduct immigration hearings since the early 1990s, and "internet-based video hearings" are simply a subset of hearings conducted by VC.² Further, EOIR already had established guidance on VC hearings, Policy Memorandum (PM) 21-03, *Immigration Court Hearings Conducted by Telephone and Video Teleconferencing* (Nov. 6, 2020), which DM 22-07 did not purport to withdraw or cancel. Consequently, DM 22-07 appeared, at best, pointless and unhelpful.

If DM 22-07 had been merely ineffectual, it would have warranted rescission and termination. But, more problematically, it also directed Immigration Judges to decide motions related to VC usage a particular way. Not only did such a directive override the decisional independence of an Immigration Judge, but it was beyond the authority of the Director to direct. *See* 8 C.F.R. §

¹ Most Immigration Judges strongly support the use of VC for immigration court hearings because it increases efficiency and flexibility, allows the adjudication of cases from multiple settings without being tethered to a particular courtroom, and does not compromise the fairness of the hearing. (Many parties to such proceedings have shared similar sentiments privately, though they are reluctant to say so publicly to avoid contradicting the often-tendentious, or partisan, public arguments on the use of VC made by those hoping to pressure EOIR adjudicators into resolving cases a particular way regardless of the facts, evidence, or law.) However, Immigration Judges are not the only EOIR adjudicators to utilize VC. Indeed, among its other flaws, DM 22-07 did not address "internet-based video hearings" conducted by the Office of the Chief Administrative Hearing Officer (OCAHO), which has also used VC to conduct hearings for many years. Although multiple components have experience with using VC for hearings, EOIR will continue to provide training to its adjudicators across those components on VC usage to ensure they continue to conduct hearings in an appropriate manner.

² Although there is a technological distinction between a hearing conducted through standard VC equipment and one conducted through an internet platform on a desktop computer, both hearings are conducted through means of video conferencing, and there is no legal distinction between the two.

1003.0(c).³ Moreover, it directly contradicted PM 21-03 which made clear that “no EOIR officer or employee may direct an immigration judge to grant or deny such a motion [related to appearing by VTC] or direct an immigration judge to allow or disallow an appearance by an alien or a representative of either party by VTC.” PM 21-03, at 4-5.

In short, in addition to being purposeless, DM 22-07 was both likely *ultra vires* and contradictory of a prior PM without resolving the conflict and leaving Immigration Judges unclear as to which guidance to follow. Accordingly, DM 22-07 is cancelled and rescinded.

This PM is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing herein should be construed as mandating a particular outcome in any specific case. Nothing in this PM limits an adjudicator’s independent judgment and discretion in adjudicating cases or an adjudicator’s authority under applicable law.

Please contact your supervisor if you have any questions.

³ Contrary to this regulation (and the spirit of PM 21-03, if not its specific text), in August 2023, the Director ordered OCAHO to conduct a hearing through VC after the presiding Administrative Law Judge had already determined that an in-person hearing was appropriate. Although the Director ultimately backed down only after a personal friend of his intervened—and accepting the same arguments made by his friend that he had rejected from the Chief Administrative Hearing Officer—current EOIR leadership does not condone that approach and will follow the law consistent with the agency’s core values.