

# United States Senate

WASHINGTON, DC 20510

July 3, 2025

Sirce E. Owen  
Acting Director  
Executive Office for Immigration Review  
5107 Leesburg Pike  
Falls Church, VA 22041

Dear Acting Director Owen:

This spring, the Department of Justice’s Executive Office for Immigration Review (EOIR) made the unprecedented decision not to convert half of a class of probationary immigration judges (IJs) to permanent positions. We are deeply concerned that this decision may have been made for politically motivated reasons — and that such politicized conversion decisions could become a trend for upcoming classes of IJs, eroding Americans’ faith in our nonpolitical immigration court system.

IJs are “non-political members of the career civil service.”<sup>1</sup> They serve a critical role in the nation’s immigration system, impartially resolving cases in accordance with immigration law.<sup>2</sup> IJs are selected through a rigorous application process and, like many Department of Justice attorneys, they typically first serve for a 2-year probationary appointment.<sup>3</sup> After that 24-month period, “a decision is made whether to convert an IJ to a permanent position.”<sup>4</sup> Normally, “the vast majority of IJs reaching the end of their 24-month [probationary period] have been converted to permanent positions,” with roughly a *94 percent* conversion rate in recent years.<sup>5</sup> The first Trump Administration adjusted the process to “clarify” that the Deputy Attorney General and Attorney General (AG) conduct “a performance review” of probationary IJs and that the AG “retains discretion” over whether to convert them.<sup>6</sup> Even still, qualified IJs were almost uniformly converted to become permanent judges.<sup>7</sup>

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<sup>1</sup> Letter from Assistant Attorney General, Carlos Uriarte, Office of Legislative Affairs (OLA) to House Judiciary Chairman Jim Jordan, May 7, 2024, <https://www.justice.gov/ola/media/1385976/dl>.

<sup>2</sup> Executive Office for Immigration Review, Immigration Court Practice Manual, <https://www.justice.gov/eoir/reference-materials/ic/chapter-1/2#:~:text=Immigration%20Judges%20are%20tasked%20with,Appeals%20and%20federal%20appellate%20courts>

<sup>3</sup> 5 USC § 7511(a)(1)(C)

<sup>4</sup> Letter from Assistant Attorney General, Carlos Uriarte, Office of Legislative Affairs (OLA) to House Judiciary Chairman Jim Jordan, May 7, 2024, <https://www.justice.gov/ola/media/1385976/dl>.

<sup>5</sup> *Id.*

<sup>6</sup> Executive Office for Immigration Review, Immigration Judge and Appellate Immigration Judge Hiring Process, August 12, 2024, <https://www.justice.gov/eoir/JudgeHiringPolicy1> ; Memorandum for the Former Attorney General, William Barr, Signed and Approved Recommendation regarding IJ and AIJ Hiring Process, P. 5-6, February 19, 2019, <https://www.justice.gov/eoir/page/file/1280781/dl?inline>.

However, on April 22, 2025, a class of 16 IJs reached the end of their probationary period, and EOIR decided not to convert 8 of them, in other words, roughly half the class<sup>8</sup> — overriding their supervising Assistant Chief Immigration Judges, who had recommended them for conversion. Around the same time, EOIR posted IJ job openings for the judges’ courts, located in Massachusetts, Louisiana, and California<sup>9</sup> — suggesting that EOIR intended to replace them even before the formal decision was made at the end of their probationary period. The IJs were provided with no rationale for their dismissal and were simply told: “Pursuant to Article II of the Constitution, the Attorney General has decided not to extend your term or convert it to a permanent appointment.”<sup>10</sup>

Anecdotally, observers noticed a pattern: those who had backgrounds working in immigration enforcement were converted, while those who previously worked in other parts of government, nonprofits, or private practice were not.<sup>11</sup> We are concerned that EOIR may be deciding whether to convert IJs at least in part based on their prior professional backgrounds, not based on their performance in the job itself. One possibility is that the Trump Administration is using this prior employment as an indicator of whether they will be supportive of the Administration’s immigration agenda.

This was the first class of IJs to reach the end of their probationary appointment during the second Trump Administration. It is troubling that the Administration may be making decisions about these IJs that are not based on their performance in the job. As additional classes reach this mark over the coming months, EOIR must ensure that its conversion decisions are based solely on judges’ performance, not their perceived loyalty to the Trump Administration’s immigration agenda or any other criteria.

If EOIR does not act to address the perception of political favoritism, it risks eroding confidence in the nonpolitical immigration court system and wasting valuable resources. EOIR invests significant time and energy in vetting and training each individual IJ. The onboarding process includes multiple rounds of interviews, an extensive background check, weeks of training, and time observing experienced IJs in court.<sup>12</sup> Start to finish, the IJ hiring and training process often takes several months or longer.<sup>13</sup> New IJs then receive 24 months of experience managing full

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<sup>7</sup> Letter from Assistant Attorney General, Carlos Uriarte, Office of Legislative Affairs (OLA) to House Judiciary Chairman Jim Jordan, May 7, 2024, <https://www.justice.gov/ola/media/1385976/dl>.

<sup>8</sup> National Public Radio, “Trump fires more immigration judges even as he aims to increase deportations,” Ximena Bustillo, April 22, 2025, <https://www.npr.org/2025/04/22/nx-s1-5372681/trump-immigration-judges-fired>. The class began with 19 judges but 16 judges remained at the time of the conversion decision.

<sup>9</sup> *Id.*

<sup>10</sup> Letter from Acting Director of EOIR Sirce Owen to Immigration Judges, April 18, 2025, on file with the Office of Senator Elizabeth Warren.

<sup>11</sup> U.S. Department of Justice, “EOIR Announces 19 New Immigration Judges,” May 12, 2023, <https://www.justice.gov/eoir/page/file/1583531/dl?inline>; Interview with Immigration Judges, May 2, 2025, on file with the Office of Senator Elizabeth Warren.

<sup>12</sup> Memorandum for the Former Attorney General, William Barr, Signed and Approved Recommendation regarding IJ and AIJ Hiring Process, P. 5-6, February 19, 2019, <https://www.justice.gov/eoir/page/file/1280781/dl?inline>.

<sup>13</sup> Interview with NAIJ and immigration judges, on file with the Office of Senator Elizabeth Warren.

immigration court dockets. Allowing IJs to reach the end of this process and then simply dismissing them with no apparent rationale wastes taxpayers' investment in each judge.

Furthermore, EOIR's decision not to convert judges exacerbates the backlog of roughly 4 million cases pending in immigration court.<sup>14</sup> Replacing these IJs will likely take many months, and for *each* month that *each* judge's seat is unfilled, roughly 50 more immigration cases go unresolved.<sup>15</sup> These non-conversions follow other recent efforts to oust immigration adjudicators, including: the firing of over 20 IJs in February 2025, after EOIR announced that it was stripping them of their removal protections;<sup>16</sup> the "fork in the road" payout to 85 EOIR employees, including 18 judges;<sup>17</sup> and the firing of almost half the members the Board of Immigration Appeals.<sup>18</sup> Together, these steps appear to be an attempt to replace longstanding immigration judges and non-partisan officials with political loyalists — or to downsize the immigration court system altogether, given President Trump's assertion that "[w]e cannot give everyone a trial, because to do so would take, without exaggeration, 200 years."<sup>19</sup>

To address the concern that EOIR is declining to retain highly competent judges in order to advance a political agenda, we ask that you answer the following questions by July 27, 2025:

1. Why did the Trump administration decide not to convert half of the IJs whose probationary appointments ended on April 22, 2025?
  - a. Were there any performance-based reasons for the decision to not convert 8 of the probationary IJs? Please provide any evidence of performance-related issues.
  - b. Were there any disciplinary reasons for the decision to not convert 8 of the probationary IJs? Please provide any evidence of disciplinary issues.
  - c. How was each IJ's rate of granting relief to asylum seekers considered in the decision-making process?
2. Did the Trump administration take into consideration non-performance-based reasons for the non-conversion decisions, including the IJs' professional backgrounds and past work experience?
3. Has EOIR replaced the non-converted IJs?

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<sup>14</sup> Executive Office for Immigration Review, Executive Office for Immigration Review Adjudication Statistics: Pending Cases, New Cases, and Total Compensations, April 4, 2025, <https://www.justice.gov/eoir/media/1344791/dl?inline>.

<sup>15</sup> Los Angeles Times, "Trump fires more immigration judges in what some suspect is a move to bend courts to his will," Rachel Uranga, April 23, 2025, <https://www.latimes.com/california/story/2025-04-23/immigration-judges>.

<sup>16</sup> Executive Office for Immigration Review, Memorandum from Acting Direct Sirce Owens to All of EOIR, February 21, 2025, <https://www.justice.gov/eoir/media/1390441/dl?inline>.


<sup>17</sup> New York Times, "Immigration Judges and Court Staff Take Payout Offers to Leave," Eileen Sullivan, March 6, 2025, <https://www.nytimes.com/2025/03/06/us/politics/immigration-judges-payouts-trump.html>.

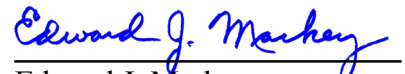
<sup>18</sup> Law360, "Trump Admin To Halve Immigration Appeals Board," Britain Eakin, February 20, 2025, <https://immigrationcourtside.com/wp-content/uploads/2025/02/Trump-Admin-To-Nearly-Halve-Immigration-Appeals-Board-Law360.pdf>.

<sup>19</sup> Donald J. Trump, Truth Social, April 22, 2025, <https://truthsocial.com/@realDonaldTrump/posts/114377993807616549>.

- a. If not, what is EOIR's intended timeline for hiring to replace the non-converted IJs? Please specify the intended amount of time it will take to hire any new IJs, from the moment of application to onboarding.
4. How will the non-conversion decision impact the caseload of remaining IJs in the Chelmsford, New Orleans, Adelanto, and San Francisco courts? How does the Trump administration plan to address the backlog in these immigration courts?
5. What notice did the Trump administration provide to the non-converted IJs, their supervisors, and their courts? When was notice of their non-conversion provided to these parties?

Sincerely,

  
Elizabeth Warren  
United States Senator

  
Edward J. Markey  
United States Senator