

Executive Office for Immigration Review, Justice

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direct the result of an adjudication assigned to another immigration judge, provided, however, that nothing in this part shall be construed to limit the authority of the Chief Immigration Judge in paragraph (b) of this section.

(d) *Immigration Court.* The term Immigration Court shall refer to the local sites of the OCIJ where proceedings are held before immigration judges and where the records of those proceedings are created and maintained.

[72 FR 53677, Sept. 20, 2007]

§ 1003.10 Immigration judges.

(a) *Appointment.* The immigration judges are attorneys whom the Attorney General appoints as administrative judges within the Office of the Chief Immigration Judge to conduct specified classes of proceedings, including hearings under section 240 of the Act. Immigration judges shall act as the Attorney General's delegates in the cases that come before them.

(b) *Powers and duties.* In conducting hearings under section 240 of the Act and such other proceedings the Attorney General may assign to them, immigration judges shall exercise the powers and duties delegated to them by the Act and by the Attorney General through regulation. In deciding the individual cases before them, and subject to the applicable governing standards set forth in paragraph (d) of this section, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases. Immigration judges shall administer oaths, receive evidence, and interrogate, examine, and cross-examine aliens and any witnesses. Subject to §§1003.35 and 1287.4 of this chapter, they may issue administrative subpoenas for the attendance of witnesses and the presentation of evidence. In all cases, immigration judges shall seek to resolve the questions before them in a timely and impartial manner consistent with the Act and regulations. Nothing in this paragraph (b) nor in any regulation contained in part 1240 of this chapter shall be construed as authorizing an immigration judge to administratively close or otherwise defer

adjudication of a case unless a regulation promulgated by the Department of Justice or a previous judicially approved settlement expressly authorizes such an action. Only the Director or Chief Immigration Judge may direct the deferral of adjudication of any case or cases by an immigration judge. In the absence of exceptional circumstances, an immigration judge shall complete administrative adjudication of an asylum application within 180 days after the date an application is filed. For purposes of this paragraph (b) and of §§1003.29 and 1240.6 of this chapter, the term *exceptional circumstances* refers to exceptional circumstances (such as battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the party or immigration judge, or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the parties or the immigration court. A finding of good cause does not necessarily mean that an exceptional circumstance has also been established.

(c) *Review.* Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction as provided in 8 CFR 1003.1.

(d) *Governing standards.* Immigration judges shall be governed by the provisions and limitations prescribed by the Act and this chapter, by the decisions of the Board, and by the Attorney General (through review of a decision of the Board, by written order, or by termination and ruling pursuant to section 103 of the Act).

(e) *Temporary immigration judges—(1) Designation.* The Director is authorized to designate or select temporary immigration judges as provided in this paragraph (e).

(i) The Director may designate or select, with the approval of the Attorney General, former Board members, former immigration judges, administrative law judges employed within or retired from EOIR, and administrative law judges from other Executive Branch agencies to serve as temporary immigration judges for renewable

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terms not to exceed six months. Administrative law judges from other Executive Branch agencies must have the consent of their agencies to be designated as temporary immigration judges.

(ii) In addition, the Director may designate, with the approval of the Attorney General, Department of Justice attorneys with at least 10 years of legal experience in the field of immigration law to serve as temporary immigration judges for renewable terms not to exceed six months.

(2) *Authority.* A temporary immigration judge shall have the authority of an immigration judge to adjudicate assigned cases and administer immigration court matters, as provided in the immigration laws and regulations, subject to paragraph (e)(3) of this section.

(3) *Assignment of temporary immigration judges.* The Chief Immigration Judge is responsible for the overall oversight and management of the utilization of temporary immigration judges and for evaluating the results of the process. The Chief Immigration Judge shall ensure that each temporary immigration judge has received a suitable level of training to enable the temporary immigration judge to carry out the duties assigned.

[72 FR 53677, Sept. 20, 2007, as amended at 79 FR 39956, July 11, 2014; 85 FR 81655, 81750, Dec. 16, 2020]

§ 1003.11 Administrative control Immigration Courts.

An administrative control Immigration Court is one that creates and maintains Records of Proceedings for Immigration Courts within an assigned geographical area. All documents and correspondence pertaining to a Record of Proceeding shall be filed with the Immigration Court having administrative control over that Record of Proceeding and shall not be filed with any other Immigration Court. A list of the administrative control Immigration Courts with their assigned geographical areas will be made available to the public at any Immigration Court.

8 CFR Ch. V (1–1–24 Edition)

Subpart C—Immigration Court— Rules of Procedure

§ 1003.12 Scope of rules.

These rules are promulgated to assist in the expeditious, fair, and proper resolution of matters coming before Immigration Judges. Except where specifically stated, the rules in this subpart apply to matters before Immigration Judges, including, but not limited to, deportation, exclusion, removal, bond, rescission, departure control, asylum proceedings, and disciplinary proceedings under this part 3. The sole procedures for review of credible fear determinations by Immigration Judges are provided for in § 1003.42.

[57 FR 11571, Apr. 6, 1992, as amended at 62 FR 10331, Mar. 6, 1997; 65 FR 39526, June 27, 2000]

§ 1003.13 Definitions.

As used in this subpart:

Administrative control means custodial responsibility for the Record of Proceeding as specified in § 1003.11.

Charging document means the written instrument which initiates a proceeding before an Immigration Judge. For proceedings initiated prior to April 1, 1997, these documents include an Order to Show Cause, a Notice to Applicant for Admission Detained for Hearing before Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien. For proceedings initiated after April 1, 1997, these documents include a Notice to Appear, a Notice of Referral to Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien.

[62 FR 10332, Mar. 6, 1997, as amended at 86 FR 70722, Dec. 13, 2021]

§ 1003.14 Jurisdiction and commencement of proceedings.

(a) Jurisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service. The charging document must include a certificate showing service on the opposing party pursuant to § 1003.32 which indicates the Immigration Court in which the charging