



OOD
PM 25-26
Effective: March 14, 2025

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

SIRCE
OWEN

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ADDITIONAL ADJUDICATOR PERSONNEL MATTERS

PURPOSE:	Further re-establish consistent and lawful practices regarding EOIR adjudicator personnel matters
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	None

This Policy Memorandum (PM) supplements PM 25-24, *Adjudicator Personnel Matters*. Consistent with that PM,¹ Department of Justice policy, and the law, EOIR now resets additional personnel policies following the discovery of further problematic personnel practices concerning adjudicators, particularly Immigration Judges serving temporary appointments, that called its integrity, credibility, and impartiality into serious question.

To ensure compliance with the Constitution, the termination of employment of any EOIR officer, including an adjudicator, requires the approval, expressed through concurrence, of the Attorney General. *See, e.g., Duenas v. Garland*, 78 F.4th 1069, 1074 (9th Cir. 2023) (noting that “there can be no doubt that the Attorney General enjoys the power to remove Immigration Judges ..., just as he or she enjoys the power to appoint them”). To that end, in 2015, EOIR formally established a policy (“2015 Policy”), with the Attorney General’s approval, that all terminations of employment of Immigration Judges require the Attorney General’s concurrence.

Between February 1, 2021, and January 20, 2025, the Department of Justice terminated employment of at least fifteen Immigration Judges at the end of their initial temporary term appointments and constructively terminated at least three other adjudicators during that same period.² All such terminations should have required the concurrence of the Attorney General, yet EOIR has been unable to find any written memorialization of such concurrence.³

¹ The same definitions and caveats applicable to that PM also apply to the instant PM.

² One of the three adjudicators had been previously demoted from adjudicator duties, which is another adverse action which should have required Attorney General concurrence. EOIR has also been unable to find any written memorialization of the Attorney General’s approval of that action either.

³ Between 2015 and at least January 2021, the 2015 Policy was interpreted by EOIR to apply to the termination of Immigration Judges through non-conversion at the conclusion of their initial temporary term appointments. In 2022,

Aside from the agency's apparent failure to abide by a policy of the Attorney General, the secretive nature of EOIR's prior practice on this subject casts doubt on the validity of the alleged bases for the terminations. Moreover, it needlessly exposed the agency to litigation risk, particularly from those who may have credibly challenged their terminations as discriminatory. Thus, although the agency will not waive any valid jurisdictional defenses to challenges to these actions, in the absence of proof of Attorney General concurrence, it may have difficulty defending the terminations on the merits.

The agency's behavior on this subject is inexcusable, and going forward, all terminations of employment of adjudicators will be forwarded by the Director⁴ for concurrence by the Attorney General, consistent with established policy and the law. Moreover, the agency notes that any adjudicator terminated between February 1, 2021, and January 20, 2025, at the end of their initial temporary term appointments may re-apply for any future EOIR adjudicator vacancy without prejudice.

Relatedly, some of the adjudicators terminated during that time have also credibly alleged that meritless complaints filed through the Judicial Conduct and Professionalism Unit were weaponized against them as a pretext to terminate them for discriminatory or otherwise unlawful reasons. Although EOIR treats all complaints against adjudicators seriously, it is also aware that baseless or merits-related complaints are predominantly the ones filed, and such complaints should not be used as a basis to terminate an adjudicator. It is also aware that certain advocates have sometimes undertaken coordinated campaigns to target certain adjudicators based on those adjudicators' views of the law and the outcomes of their decisions by raising multiple baseless or merits-related complaints.⁵ Accordingly, EOIR is no longer confident in the accuracy or objectivity of performance feedback it receives from parties appearing before an adjudicator and—absent corroboration and independent verification by an EOIR or Department of Justice

EOIR changed its position and asserted that the 2015 Policy did not apply to such terminations. However, that change in position neither acknowledged it was a change nor provided a reasonable explanation as to why a change was warranted. Moreover, unlike the 2015 Policy, the change in position was not approved by the Attorney General, and EOIR lacks authority to simply change a policy of the Attorney General unilaterally. As a result, the 2022 change in position was likely invalid *ab initio* and, at the least, was invalid due to violating basic principles of administrative law. Even if it was not void from the beginning, the instant PM makes clear that it is not the position of EOIR and is, accordingly, rescinded. Moreover, even if the 2022 position were valid, it required notification of a non-conversion to the Office of the Deputy Attorney General, and EOIR has no record of memorialization of any such notifications for any Immigration Judges terminated after that position was effectuated. Finally, the 2022 change in position was not retroactive, and EOIR has no record of Attorney General approval of any termination of an Immigration Judge through non-conversion in 2021 or in 2022 prior to the change in position.

⁴ As the individual "responsible for the direction and supervision of each EOIR component in the execution of its respective duties pursuant to the [law]," 8 C.F.R. § 1003.0(b)(1), the Director is responsible for, *inter alia*, submitting recommendations to the Attorney General regarding hiring and termination decisions for adjudicators, and the Director has not delegated that authority to any other EOIR employee.

⁵ EOIR is also aware of an allegation that a prominent immigration advocacy organization provided to prior EOIR leadership a list of names of adjudicators whom the organization wanted terminated based on the adjudicators' decisions and that EOIR leadership obliged in some cases. If this allegation is true, it is repugnant to EOIR's core values and likely implicates prior EOIR leadership in prohibited personnel practices or otherwise illegal activity. Even if it turns out to be unsubstantiated, the mere fact that it is plausible, particularly in light of all of the other problematic personnel activities EOIR undertook during the same time period, reinforces how much damage has been done to EOIR's integrity and impartiality.

employee—will not rely on such feedback as a basis to terminate an adjudicator at the conclusion of his or her temporary appointment or subsequent trial period.

As EOIR noted previously, due to the practices of EOIR leadership between February 1, 2021, and January 20, 2025, the agency cannot be certain that all personnel actions related to adjudicators effectuated by that leadership were undertaken lawfully. *See generally* PM 25-24. EOIR is cognizant of the damage those actions have done to its integrity and impartiality, and it is committed to rectifying those harms and re-establishing itself as the preeminent federal administrative adjudicatory agency.

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.