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Policy Brief: Critical Threats Endanger Due Process in Immigration Courts

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Across the nation, U.S. courts are widely seen as independent institutions that apply the law fairly and consistently and deliver results that will be respected and enforced. Unfortunately, the Trump Administration is systematically dismantling due process protections in U.S. immigration courts, prioritizing speed and enforcement over fairness, accuracy, and fundamental justice. The result is a system where life-changing decisions are made by less qualified judges under impossible time pressure, with fewer safeguards against error and growing barriers to due process. These dramatic new policies compound existing [structural problems](#) in the immigration court system that have severely eroded both its capacity to deliver just decisions in a timely manner and public confidence in its outcomes. This brief outlines these policy changes and offers solutions to improve oversight and reform of the court system.

DOJ is firing immigration judges without explanation.

- **What Happened:** Since early 2025, DOJ has [dismissed](#) well over [100](#) immigration judges without public explanation or transparent review. Members of Congress and other critics have [alleged](#) firings are politically motivated.
- **Why It Matters:** No court can be fair when judges risk losing their jobs for political reasons. Judicial independence is foundational to justice, and removing judges without explanation undermines the neutrality that immigration courts desperately need.
- **The Risk:** These firings create a chilling effect throughout the immigration court system. When judges see colleagues dismissed without clear cause, they may feel pressure to prioritize speed and enforcement outcomes over fairness—denying continuances, bonds, or relief to avoid scrutiny.
- **What Congress Should Do:** Demand answers about why judges were fired and hold hearings to examine whether these dismissals are politically motivated. See [Senate](#) oversight letter.

DOJ set a new rule reducing requirements and training for immigration judges.

- **What Changed:** A new rule now allows any attorney—including [military](#) and administrative law judges—to serve as a temporary immigration judge with minimal training and just six-month appointments. Up to 150 temporary judges will comprise as much as [one fourth](#) of all 600 remaining judges.
- **Why It Matters:** Immigration cases are extraordinarily complex, often determining whether families are separated or individuals are sent back to dangerous situations. These life-or-death decisions deserve judges with specialized expertise and true independence, not appointees who may lack immigration law experience.

- **The Risk:** Rushed, inconsistent decisions by inexperienced judges increase the likelihood of grave mistakes in deportation cases.
- **What Congress Should Do:** Press DOJ for transparency about who is serving as temporary judges, what training they receive, and how their independence is safeguarded. See [Senate](#) and [House](#) oversight letters.
- **Read:** AILA's policy brief: [Militaryizing Immigration Courts](#).

DOJ downsized the Board of Immigration Appeals, which will lead to errors and bigger backlogs.

- **What Changed:** The Board of Immigration Appeals (BIA) was [reduced](#) from 28 members to just 15, concentrating decision-making power and slowing the appeals process. The backlog of these cases has grown from 138,000 at the end of 2024 to 186,000 in the third quarter of 2025.
- **Why It Matters:** The BIA serves as the essential check on mistakes made in the nation's busiest court system. With nearly half the Board eliminated, far fewer cases receive careful appellate review. This reduces both the diversity of judicial perspectives and the Board's capacity to catch errors.
- **The Risk:** Streamlining justice often means denying justice. Fewer judges cannot handle the same caseload without sacrificing the careful deliberation that protects against wrongful deportations.
- **What Congress Should Do:** Demand data on case backlogs, reversal rates, and whether downsizing is worsening delays or reducing accountability.

The Administration has stripped immigration judges of longstanding authority regarding detention.

- **What Changed:** A new [policy](#) reverses decades of settled practice and says immigration courts no longer have the authority to decide to release certain people from detention.
- **Why It Matters:** The policy shift has created chaos as many immigration judges are rejecting people's requests for release without considering the facts. Before this change, immigration judges under both Republican and Democratic administrations had authority to conduct bond hearings to determine if detention is justified for those who entered without inspection.
- **The Risk:** Millions of people who are neither a flight risk nor a public safety threat will be at risk of detention. Immigration detention centers nationwide are dangerously overcrowded, lack adequate medical care, and have a history of abuse and poor conditions. Detaining that many people would also cost the public [billions of dollars](#)—far more than programs that offer [alternatives to detention](#).
- **What Congress Should Do:** Press DOJ for data on who is being detained and whether any individual assessment is being done to determine if detention is justified.
- **Read:** AILA's [press statement](#).

Judges are dismissing cases without looking at the merits, and ICE is detaining people at court.

- **What Changed:** This May, ICE attorneys started asking immigration judges to dismiss cases nationwide in order for people to be immediately detained and put in a faster deportation process. A different new [policy](#) instructs judges to dismiss certain asylum cases and has resulted in the rejection of applications with minor clerical omissions such as leaving a question unanswered.

- **Why It Matters:** Dismissing people’s applications for asylum and other legal relief without a full review is a fundamental denial of constitutionally protected due process. When ICE obtained court dismissals, chaos ensued in the courts as the nation watched people showing up to their court hearings only to be arrested and placed in detention.
- **The Risk:** Unfair denials of asylum and other protection put people in danger. Court backlogs will grow when people appeal the dismissals and resubmit their applications.
- **What Congress Should Do:** Affirm statutory due process protections to ensure that individuals are not removed without a fair hearing before an immigration judge.
- **Read:** AILA policy brief: [ICE Arrests at Immigration Courts](#).

New case completion quotas pressure judges to compromise accuracy and fairness.

- **What Changed:** The Administration reintroduced completion benchmarks nationwide, requiring immigration judges to complete cases within 180 days and the BIA to rule on appeals within 90 days.
- **Why It Matters:** Arbitrary deadlines pressure judges to rush cases and deny continuances—depriving immigrants and their attorneys of the time they need to gather evidence and prepare their cases. Justice cannot be measured by speed alone. Similar performance metrics were previously withdrawn after being shown to compromise judicial independence. This represents a return to a failed policy.
- **The Risk:** Increased in absentia orders (deportations issued when people can't appear), more wrongful deportations, and more appeals that worsen backlogs long-term.
- **What Congress Should Do:** Require EOIR to disclose data on in absentia orders and continuance denials since these benchmarks were imposed.

Recommendations

Immigration courts handle some of the most consequential decisions in our legal system. To ensure integrity and efficiency in decision making, courts need the resources, independence, and procedural safeguards necessary to get those decisions right. Severe underfunding has led to a growing backlog of nearly 4 million cases leaving people waiting many years for decisions. Congress should appropriate additional resources to improve court operations and reduce the current case backlog. In addition, immigration courts are housed within and controlled by the Department of Justice, which can exercise improper influence over judges’ decisions. Congress should create an [Article I immigration court system](#) that will be better insulated from political influence and operate with more independence. AILA recommends Congress take the following steps to reform the immigration court system and ensure fair, consistent, and efficient handling of all cases that come before the courts.

- Demand transparency and data from the Department of Justice about the impact of these policy changes on judge performance, court efficiency, and due process.
- Observe immigration court hearings to hold the system accountable for the fair and balanced application of law.
- Conduct oversight hearings to evaluate whether these policies are undermining the courts’ fairness, consistency, and operational efficiency.

- Request independent reviews from the Government Accountability Office (GAO) and agency Inspectors General.
- Provide adequate funding to ensure courts have the resources to operate efficiently and reduce the massive backlog of cases.
- Introduce legislation to create an independent Article I immigration court.