



OOD
PM 25-44
Effective: September 5, 2025

To: All of EOIR
From: Sirce E. Owen, Acting Director
Date: September 5, 2025

PROCEDURES FOR GOING OFF-THE-RECORD DURING IMMIGRATION COURT PROCEEDINGS

PURPOSE:	To provide updated guidance on procedures for going off-the-record during Immigration Court proceedings
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	Operating Policies and Procedures Memorandum 03-06

I. Introduction

On October 10, 2003, the Office of the Chief Immigration Judge (OCIJ) issued Operating Policies and Procedures Memorandum (OPPM) 03-06: *Procedures for Going Off-Record During Proceedings*, which provided guidance to Immigration Judges on procedures to use when going off-the-record during a hearing. As OPPM 03-06 was largely founded on other OPPMs that have now been cancelled,¹ this PM cancels and replaces OPPM 03-06 and provides updated guidance on procedures that Immigration Judges must use when going off-the-record during Immigration Court proceedings.

II. Scope of the Policy

Immigration Judges must maintain and preserve a thorough and complete record of the proceedings. *See* INA § 240(b)(4)(C), 8 U.S.C. § 1229a(b)(4)(C). With the exception of custody or bond hearings,² and statements made off-the-record with the permission of the Immigration

¹ OPPM 03-06 supplemented OPPM 98-2, *Guidelines for Recording Immigration Hearings* which was rescinded and cancelled on August 8, 2025. *See* PM 25-38, *Cancellation of Operating Policies and Procedures Memoranda 84-9 and 98-2*. The cancellation of OPPM 98-2 provides further impetus to rescind and cancel OPPM 03-06. OPPM 03-06 was also to be read in conjunction with now-rescinded OPPM 98-10, *Classified Information in Immigration Court Proceedings*, and 02-02, *Protective Orders and the Sealing of Records*. In addition to the procedures outlined in this PM, Immigration Judges must also remain aware of specific procedures for cases involving protective orders, sealed records, or classified information. *See* OPPM 09-02, *Protective Orders and the Sealing of Records in Immigration Proceedings*; PM 25-37, *Classified Information in EOIR Proceedings*.

² Bond proceedings are separate from removal proceedings. *See* 8 C.F.R. § 1003.19(d) (“Consideration by the

Judge, all hearings before Immigration Judges “shall be recorded verbatim.” 8 C.F.R. § 1240.9. This PM provides the procedures that must be followed by Immigration Judges if an off-the-record discussion occurs.

III. Procedures for Going Off-the-Record

Immigration Judges should limit all off-the-record dialogue. On rare occasions, an Immigration Judge may permit off-the-record dialogue during Immigration Court proceedings when necessary to the appropriate consideration of the relevant case. The Immigration Judge may initiate the decision to go off-the-record, or a party may make such a request. The decision to authorize an off-the-record discussion is solely within the discretion of the Immigration Judge, and the Immigration Judge should make clear on the record that the parties are aware that the Digital Audio Recording (DAR) system is being turned off. *See* 8 C.F.R. § 1240.9.

When an off-the-record discussion is allowed by the Immigration Judge, the contents of the off-the-record discussion must be summarized by the Immigration Judge immediately upon return to the record. *See* EOIR Policy Manual, Part II, Ch. 4.10(a). The Immigration Judge shall provide the parties with a summary of the off-the-record discussion and then ask the parties if the summary is true and complete. *Id.* As appropriate, the parties shall be given the opportunity to add or amend the summary of the off-the-record discussion. *Id.*

IV. Conclusion

These procedures will assist Immigration Judges and the Immigration Courts in meeting the obligation to preserve a true and complete record of the hearing. *See* 8 C.F.R. §§ 1003.36 (“The Immigration Court shall create and control the Record of Proceeding.”), 1240.9. Additionally, these procedures will serve to protect the parties and the Immigration Court in relation to conversations that occurred off-the-record and to maintain the fidelity of the overall proceeding. A failure to follow these policies, particularly in situations where such failure undermines EOIR’s integrity, may result in corrective or disciplinary action.

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.

Immigration Judge of an application or request of a respondent regarding custody or bond . . . shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding.”); *see also* EOIR Policy Manual, Part II, Ch. 9.3(a), (e).