

## SUBCHAPTER A—GENERAL PROVISIONS

### PART 1000 [RESERVED]

### PART 1001—DEFINITIONS

AUTHORITY: 5 U.S.C. 301; 8 U.S.C. 1101, 1103; Pub. L. 107-296, 116 Stat. 2135; Title VII of Pub. L. 110-229.

#### § 1001.1 Definitions.

As used in this chapter:

(a) The terms defined in section 101 of the Immigration and Nationality Act (66 Stat. 163) shall have the meanings ascribed to them in that section and as supplemented, explained, and further defined in this chapter.

(b) The term *Act* means the Immigration and Nationality Act, as amended.

(c) The term *Service* means the Immigration and Naturalization Service, as it existed prior to March 1, 2003. Unless otherwise specified, references to the Service on or after that date mean the offices of the Department of Homeland Security to which the functions of the former Service were transferred pursuant to the Homeland Security Act, Public Law 107-296 (Nov. 25, 2002), as provided in 8 CFR chapter I.

(d) The term *Commissioner* means the Commissioner of the Immigration and Naturalization Service prior to March 1, 2003. Unless otherwise specified, references to the Commissioner on or after that date mean those officials of the Department of Homeland Security who have succeeded to the functions of the Commissioner of the former Service, as provided in 8 CFR chapter I.

(e) The term *Board* means the Board of Immigration Appeals.

(f) The term *attorney* means any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

(g) Unless the context otherwise requires, the term *case* means any proceeding arising under any immigration or naturalization law, Executive order,

or Presidential proclamation, or preparation for or incident to such proceeding, including preliminary steps by any private person or corporation preliminary to the filing of the application or petition by which any proceeding under the jurisdiction of the Service or the Board is initiated.

(h) The term *day* when computing the period of time for taking any action provided in this chapter including the taking of an appeal, shall include Saturdays, Sundays, and legal holidays, except that when the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday.

(i) The term *practice* means exercising professional judgment to provide legal advice or legal services related to any matter before EOIR. Practice includes, but is not limited to, determining available forms of relief from removal or protection; providing advice regarding legal strategies; drafting or filing any document on behalf of another person appearing before EOIR based on an analysis of applicable facts and law; or appearing on behalf of another person in any matter before EOIR.

(j) The term *representative* refers to a person who is entitled to represent others as provided in §§ 1292.1(a) (2), (3), (4), (5), (6), and 1292.1(b) of this chapter.

(k) The term *preparation* means the act or acts consisting solely of filling in blank spaces on printed forms with information provided by the applicant or petitioner that are to be filed with or submitted to EOIR, where such acts do not include the exercise of professional judgment to provide legal advice or legal services. When this act is performed by someone other than a practitioner, the fee for filling in blank spaces on printed forms, if any, must be nominal, and the individual may not hold himself or herself out as qualified in legal matters or in immigration and naturalization procedure.

(l) The term *immigration judge* means an attorney whom the Attorney General appoints as an administrative

judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240 of the Act. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.

(m) The term *representation* before the Board and the Service includes practice and preparation as defined in paragraphs (i) and (k) of this section.

(n) The term *Executive Office* means Executive Office for Immigration Review.

(o) The term *Director*, unless otherwise specified, means the Director of the Executive Office for Immigration Review. For a definition of the term *Director* when used in the context of an official with the Department of Homeland Security, see 8 CFR 1.1(o).

(p) The term *lawfully admitted for permanent residence* means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Such status terminates upon entry of a final administrative order of exclusion, deportation, removal, or rescission.

(q) The term *arriving alien* means an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport. An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of pa-

role, as an arriving alien under section 235(b)(1)(A)(i) of the Act.

(r) The term *respondent* means a person named in a Notice to Appear issued in accordance with section 239(a) of the Act, or in an Order to Show Cause issued in accordance with §242.1 of 8 CFR chapter I as it existed prior to April 1, 1997.

(s) The terms *government counsel* or *DHS counsel*, in the context of proceedings in which DHS has appeared, mean any officer assigned to represent DHS in any proceeding before an immigration judge or the Board of Immigration Appeals.

(t) The term *aggravated felony* means a crime (or a conspiracy or attempt to commit a crime) described in section 101(a)(43) of the Act. This definition is applicable to any proceeding, application, custody determination, or adjudication pending on or after September 30, 1996, but shall apply under section 276(b) of the Act only to violations of section 276(a) of the Act occurring on or after that date.

(u) The term *Department*, unless otherwise specified, means the Department of Justice.

(v) The term *Secretary*, unless otherwise specified, means the Secretary of Homeland Security.

(w) The term *DHS* means the Department of Homeland Security. These rules incorporate by reference the organizational definitions for components of DHS as provided in 8 CFR 1.1.

(x)–(aa) [Reserved]

(bb) The term *transition program effective date* as used with respect to extending the immigration laws to the Commonwealth of the Northern Mariana Islands means November 28, 2009.

(cc) The term *case eligible for electronic filing* means any case that DHS seeks to bring before an immigration court after EOIR has formally established an electronic filing system for that court, or any case before an immigration court or the Board of Immigration Appeals that has an electronic record of proceeding. Any reference to a record of proceeding in this chapter shall include an electronic record of proceeding.

(dd) The term *filing* means the actual receipt of a document by the appropriate immigration court or the Board

of Immigration Appeals. An electronic filing that is accepted by the Board or an immigration court will be deemed filed on the date it was submitted. A paper filing that is accepted by the Board or an immigration court will be deemed filed on the date it was received by the Board or the immigration court. A filing that is rejected by the Board or the immigration court as an improper filing will not be deemed filed on the date it was submitted or received.

(ee) The term *service* means physically presenting, mailing, or electronically providing a document to the appropriate party or parties; except that an Order to Show Cause or Notice of Deportation Hearing shall be served in person to the alien, or by certified mail to the alien or the alien's attorney, and a Notice to Appear shall be served to the alien in person, or if personal service is not practicable, shall be served by regular mail to the alien or the alien's attorney of record.

(ff) The term *practitioner* means an attorney as defined in paragraph (f) of this section who does not represent the Federal Government, or a representative as defined in paragraph (j) of this section.

[23 FR 9115, Nov. 26, 1958]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1001.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

## PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Sec.

1003.0 Executive Office for Immigration Review.

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