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AUTHORITY: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

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**§ 1003.0 Executive Office for Immigration Review.**

(a) *Organization.* Within the Department of Justice, there shall be an Executive Office for Immigration Review (EOIR), headed by a Director who is appointed by the Attorney General. The Director shall be assisted by a Deputy Director and the heads of EOIR's other components, who shall report to the Director and Deputy Director. EOIR shall include the Board of Immigration Appeals, the Office of the Chief Immi-

gration Judge, the Office of the Chief Administrative Hearing Officer, the Office of Policy, the Office of the General Counsel, and such other components and staff as the Attorney General or the Director may provide.

(b) *Powers of the Director*—(1) *In general.* The Director shall manage EOIR and its employees and shall be responsible for the direction and supervision of each EOIR component in the execution of its respective duties pursuant to the Act and the provisions of this chapter. Unless otherwise provided by the Attorney General, the Director shall report to the Deputy Attorney General and the Attorney General. The Director shall have the authority to:

(i) Issue operational instructions and policy, including procedural instructions regarding the implementation of new statutory or regulatory authorities;

(ii) Direct the conduct of all EOIR employees to ensure the efficient disposition of all pending cases, including the power, in his discretion, to set priorities or time frames for the resolution of cases; to direct that the adjudication of certain cases be deferred; to regulate the assignment of adjudicators to cases; and otherwise to manage the docket of matters to be decided by the Board, the immigration judges, the Chief Administrative Hearing Officer, or the administrative law judges;

(iii) Provide for appropriate administrative coordination with the other components of the Department of Justice, with the Department of Homeland Security, with the Department of Health and Human Services, and with the Department of State;

(iv) Evaluate the performance of the Board of Immigration Appeals, the Office of the Chief Immigration Judge, the Office of the Chief Administrative Hearing Officer, and other EOIR activities, make appropriate reports and inspections, and take corrective action where needed;

(v) Provide for performance appraisals for immigration judges and Board members while fully respecting their roles as adjudicators, including a process for reporting adjudications that reflect temperament problems or poor decisional quality;

(vi) Administer an examination for newly-appointed immigration judges and Board members with respect to their familiarity with key principles of immigration law before they begin to adjudicate matters, and evaluate the temperament and skills of each new immigration judge or Board member within 2 years of appointment;

(vii) Provide for comprehensive, continuing training and support for Board members, immigration judges, and EOIR staff in order to promote the quality and consistency of adjudications;

(viii) Implement a process for receiving, evaluating, and responding to complaints of inappropriate conduct by EOIR adjudicators; and

(ix) Exercise such other authorities as the Attorney General may provide.

(2) *Delegations.* (i) Except as provided in paragraph (b)(2)(ii) of this section, the Director may delegate the authority given to him by this part or otherwise by the Attorney General to the Deputy Director, the Chairman of the Board of Immigration Appeals, the Chief Immigration Judge, the Chief Administrative Hearing Officer, the Assistant Director for Policy, the General Counsel, or any other EOIR employee.

(ii) The Director may not delegate the authority assigned to the Director in §§1003.1(e)(8)(ii) and 1292.18 and may not delegate any other authority to adjudicate cases arising under the Act or regulations unless expressly authorized to do so.

(c) *Limit on the authority of the Director.* Except as provided by statute, regulation, or delegation of authority from the Attorney General, or when acting as a designee of the Attorney General, the Director shall have no authority to adjudicate cases arising under the Act or regulations or to direct the result of an adjudication assigned to the Board, an immigration judge, the Chief Administrative Hearing Officer, or an Administrative Law Judge. When acting under authority described in this paragraph (c), the Director shall exercise independent judgment and discretion in considering and determining the cases and may take any action consistent with the Director's authority as is appropriate and necessary for the disposition of the

case. Nothing in this part, however, shall be construed to limit the authority of the Director under paragraph (a) or (b) of this section.

(d) *Deputy Director.* The Deputy Director shall advise and assist the Director in the supervision and management of EOIR and the formulation of policy and guidelines. Unless otherwise limited by law or by order of the Director, the Deputy Director shall exercise the full authority of the Director in the discharge of his or her duties.

(e) *Office of Policy.* Within EOIR, there shall be an Office of Policy consisting of an Assistant Director for Policy and other such staff as the Director deems necessary. Subject to the supervision of the Director, the Office of Policy shall provide assistance to the Director and heads of the other components within EOIR.

(1) *In general.* In coordination with the Director and subject to the Director's supervision, the Assistant Director for Policy shall supervise all policy activities of EOIR. Subject to the supervision of the Director and in coordination with other components as appropriate, the Assistant Director for Policy shall also oversee EOIR's regulatory development and implementation process, shall supervise and coordinate EOIR's internal development, dissemination, and implementation of policy guidance, shall supervise and administer EOIR's *pro bono* and legal orientation program activities, shall supervise the provision of legal and policy training to all components within EOIR on all relevant matters under its supervision, and shall perform other such duties or exercise other such authorities as the Director may provide.

(2) *Limit on the Authority of the Assistant Director for Policy.* The Assistant Director for Policy shall have no authority to adjudicate cases arising under the Act or regulations, except under paragraph (e)(3) of this section, and shall not direct the result of an adjudication assigned to the Board, an immigration judge, the Chief Administrative Hearing Officer, or an Administrative Law Judge; provided, however, that nothing in this part shall be construed to limit the authority of the Assistant Director for Policy under paragraph (e)(1) of this section.

(3) *Recognition and accreditation.* The Assistant Director for Policy, in consultation with the Director, shall maintain a division within the Office of Policy to develop and administer a program to recognize organizations and accredit representatives to provide representation before the Immigration Courts, the Board, and DHS, or DHS alone. The Assistant Director for Policy shall determine whether an organization and its representatives meet the eligibility requirements for recognition and accreditation in accordance with this chapter. The Assistant Director for Policy shall also have the authority to administratively terminate the recognition of an organization and the accreditation of a representative and to maintain the roster of recognized organizations and their accredited representatives. The Assistant Director for Policy, in consultation with the Director, may also delegate authority established in 8 CFR 1292.6 and 8 CFR 1292.11 through 1292.20 within the Office of Policy.

(f) *General Counsel.* Subject to the supervision of the Director, the General Counsel shall serve as the chief legal counsel of EOIR on matters of ethics, records management, release of information pursuant to the Freedom of Information Act, employee performance and discipline (except in matters related to the discipline of adjudicators for decisions made in the adjudication of cases under the Act), practitioner discipline, and other related areas not inconsistent with the law. Subject to the supervision of the Director, the General Counsel shall supervise all legal activities and provide legal advice and assistance to the Director, Deputy Director, and other component heads in accordance with this section. In consultation with other EOIR components as appropriate, the General Counsel may also advise the Director or Deputy Director on other legal matters, including matters related to immigration law or policy and related to adjudicator discipline, provided that the General Counsel shall have no authority, directly or indirectly, to direct or influence the adjudication of any cases under the Act.

(1) *Professional standards.* The General Counsel shall administer programs to

protect the integrity of legal representation in immigration proceedings before EOIR, including administering the disciplinary program for practitioners and recognized organizations under subpart G of this part.

(2) *Fraud issues.* The General Counsel shall designate an anti-fraud officer who shall—

(i) Serve as a point of contact relating to concerns about possible fraud upon EOIR, particularly with respect to matters relating to fraudulent applications or documents affecting multiple removal proceedings, applications for relief from removal, appeals, or other proceedings before EOIR;

(ii) Coordinate with investigative authorities of the Department of Homeland Security, the Department of Justice, and other appropriate agencies with respect to the identification of and response to such fraud; and

(iii) Notify the EOIR disciplinary counsel and other appropriate authorities with respect to instances of fraud, misrepresentation, or abuse pertaining to an attorney or accredited representative.

(g) *Citizenship Requirement for Employment.* (1) An application to work at EOIR, either as an employee or a volunteer, must include a signed affirmation from the applicant that he or she is a citizen of the United States of America. If requested, the applicant must document United States citizenship.

(2) The Director of EOIR may, by explicit written determination and to the extent permitted by law, authorize the appointment of an alien to an EOIR position when necessary to accomplish the work of EOIR.

[72 FR 53676, Sept. 20, 2007, as amended at 81 FR 92361, Dec. 19, 2016; 84 FR 44541, Aug. 26, 2019; 85 FR 69482, Nov. 3, 2020]

## Subpart A—Board of Immigration Appeals

### § 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) *Organization.* There shall be in the Department of Justice a Board of Immigration Appeals, subject to the general supervision of the Director, Executive Office for Immigration Review