

§ 1003.31 Filing documents and applications.

This section applies to the filing of all documents, including motions and applications, before the immigration courts.

(a) *Filing parties.* DHS and all attorneys and accredited representatives of record for persons appearing before the immigration courts are required to electronically file all documents, including charging documents, with the immigration courts through EOIR's electronic filing application in all cases eligible for electronic filing. Although not required, unrepresented respondents or applicants; reputable individuals and accredited officials who are representatives of record; other authorized individuals; and practitioners filing an EOIR-61, may electronically file documents with the immigration courts through EOIR's electronic filing application in cases eligible for electronic filing. An unrepresented respondent or applicant; reputable individual; accredited official; other authorized individual; or practitioner filing an EOIR-61, who elects to use EOIR's electronic filing application shall be required to register with EOIR as a condition of using that application. If a party not required to file electronically opts to use EOIR's electronic filing application for a case, the individual must electronically file all documents with the immigration courts for that case unless an immigration judge, only upon a motion filed by the individual with good cause shown, grants leave to opt out of using the electronic filing application. Such an individual who has been granted leave to opt out of using EOIR's electronic filing application for a case may not subsequently opt in to use that application for the same case.

(b) *Filing requirements.* If EOIR's electronic filing application is unavailable due to an unplanned system outage on the last day for filing in a specific case, then the filing deadline will be extended to the first day that the electronic filing application becomes accessible that is not a Saturday, Sunday, or legal holiday. For planned system outages, parties must electronically file documents during system availability within the applicable filing

deadline or paper file documents within the applicable filing deadline. EOIR will issue public communications for planned system outages ahead of the scheduled outage. Any planned system outage announced five or fewer business days prior to the start of the outage will be treated as an unplanned outage. In all other situations in cases eligible for electronic filing, an immigration judge retains the discretion to accept paper filings in all cases.

(c) *Originals.* Parties must make the originals of all filed documents available upon request to the immigration court or the opposing party for review.

(d) *Classified information.* Notwithstanding any other provision of this chapter, classified information is never allowed to be electronically filed.

(e) *Sealed medical documents.* Notwithstanding any other provision of this chapter, parties are not permitted to file electronically any sealed medical documents.

(f) *Where to file.* All documents that are to be considered in a proceeding before an immigration judge must be filed with the immigration court having administrative control over the Record of Proceeding.

(g) *Fees.* Except as provided in §1240.11(f) of this chapter, all documents or applications filed with the immigration courts requiring the payment of a fee must be accompanied by a fee receipt from DHS, alternate proof of payment consistent with § 1103.7(a)(3) of this chapter, or a fee waiver request pursuant to §1103.7(c). Except as provided in §1003.8, any fee relating to immigration judge proceedings shall be paid to, and accepted by, any DHS office authorized to accept fees for other purposes pursuant to §1103.7(a).

(h) *Filing deadlines.* The immigration judge may set and extend time limits for the filing of applications and related documents and responses thereto, if any. If an application or document is not filed within the time set by the immigration judge, the opportunity to file that application or document shall be deemed waived.

(i) *Filing under seal.* DHS may file documents under seal by including a cover sheet identifying the contents of

the submission as containing information which is being filed under seal. Documents filed under seal shall only be examined by persons with authorized access to the administrative record.

(j) *Signatures.* All documents filed with the immigration courts that require a signature must have an original, handwritten ink signature, an encrypted digital signature, or an electronic signature. Electronic filings submitted through EOIR's electronic filing application that require the user's signature may have a conformed signature. This paragraph is subject to the requirements of the application or document being submitted.

[86 FR 70722, Dec. 13, 2021]

§ 1003.32 Service and size of documents.

The service of filings with the immigration courts depends on whether the documents are filed through EOIR's electronic filing application or in paper.

(a) *Service of electronic filings.* If all parties are using EOIR's electronic filing application in a specific case, the parties do not need to serve a document that is filed through EOIR's electronic filing application on the opposing party. If all parties are using EOIR's electronic filing application in a specific case, EOIR's electronic filing application will effectuate service by providing a notification of all electronically filed documents on all parties. Upon successful upload by one of the parties, EOIR will email a notification to the email addresses provided in paragraph (b) of this section. If one or more parties are not filing through EOIR's electronic filing application in a specific case, the parties must follow the service procedures in paragraph (c) of this section.

(b) *Valid email address.* Use of EOIR's electronic filing application requires a valid email address for electronic service. The immigration courts will use the email address provided through eRegistry for electronic service on participating parties. Users must immediately update their eRegistry account if their email address changes. Representatives must additionally file a new Form EOIR-28 with the immigra-

tion court if their email address changes. EOIR will consider service completed when the electronic notification is delivered to the last email address on file provided by the user.

(c) *Service of paper filings.* If electronic filing is not being used in a particular case, the party filing with the immigration court must serve a copy of the filing on the opposing party and include a certificate of service showing service on the opposing party with their filing. The immigration judge will not consider any documents or applications that do not contain a certificate of service unless service is made on the record during a hearing.

(d) *Size and format of documents.* Unless otherwise permitted by the immigration judge, all written material presented to immigration judges including offers of evidence, correspondence, briefs, memoranda, or other documents must be submitted on 8½" x 11" size pages, whether filed electronically or in paper. The immigration judge may require that exhibits and other written material presented be indexed, paginated, and that a table of contents be provided.

[86 FR 70723, Dec. 13, 2021]

§ 1003.33 Translation of documents.

Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator that must be printed legibly or typed. Such certification must include a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities.

[59 FR 1900, Jan. 13, 1994]

§ 1003.34 Testimony.

Testimony of witnesses appearing at the hearing shall be under oath or affirmation.

[52 FR 2936, Jan. 29, 1987. Redesignated at 57 FR 11571, Apr. 6, 1992]

§ 1003.35 Depositions and subpoenas.

(a) *Depositions.* If an Immigration Judge is satisfied that a witness is not reasonably available at the place of