National Immigration Litigation Alliance
Immigrant justice through the courts

Comparison of Current, Enjoined, & Proposed Changes to Regulations
Regarding BIA Appeals, Motions, Administrative Closure, Termination, and Voluntary Departure

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The following chart compares the text of existing regulations regarding BIA appeals, motions, administrative closure, termination, and voluntary departure, with the two sets of amendments to those regulations:

- 2023 proposed regulations, *see* Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure, 88 Fed. Reg. 62242-01 (proposed Sept. 8, 2023),[1] and
- Trump-era regulations published on December 16, 2020, to take effect on January 15, 2021, *see* Appellate Procedure and Decisional Finality in Immigration Proceedings; Administrative Closure, 85 Fed. Reg. 81,588 (Dec. 16, 2020), which were enjoined and remain not in effect due to orders two district courts, *see Centro Legal de la Raza v. Exec. Office for Immigr. Rev.*, 524 F. Supp. 3d 919 (N.D. Cal. 2021); *Catholic Legal Immigration Network, Inc. v. EOIR*, No. 21-cv-00094 (RJL), 2021 WL 3609986 (D.D.C. Apr. 4, 2021).

In the chart, the governing regulations currently in force are in **black text** in the left column. The changes made by 2020 regulations -- that have been enjoined -- are in red text in the right column. Changes between the proposed 2023 regulations and the governing regulations currently in force are highlighted in green text in the center column.

Following the chart (at page 45 of this document) is a copy of a document used by the U.S. Department of Justice's Office of Immigration Litigation—Appellate Section updated in September 2023, which identifies versions of Executive Office for Immigration Review regulations currently in effect, including those impacted by the regulatory amendments discussed in this chart.

[1] Note that the 2023 proposal also addresses several other regulations, proposing minor grammatical changes and changes in terminology. *See* Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure, 88 Fed. Reg. 62242-01 (proposed Sept. 8, 2023) (also addressing 8 C.F.R. §§ 1003.1(d)(1), (d)(3)(iii), (d)(6)(v), (e)(2), (e)(3), (e)(4), (e)(7), (f), 1003.2(c)(2), (c)(3)(iii), (f), (i), 1003.3(a)(2), 1003.7, 1003.23(a), (b)(1)(ii), (b)(1)(iv), (b)(1)(v), (b)(2), (b)(3), (b)(4)(i), (b)(4)(ii), (b)(4)(iii)(B), and 1240.26, and 8 C.F.R. Part 1240). The comment period ended on November 7, 2023.

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8 C.F.R. Section & Topic	Pre-1/15/21 Regulations, Currently in Effect. **Text That Would Be Deleted or Altered by Enjoined 2020 Regulations or Proposed 2022 Regulations Is in Bold.**	Proposed Regulations Published 9/8/23 - **Not Final & Not in Effect**. Proposed Changes as Compared to the Regulations Currently in Effect Are in Green.	Regulations Published 12/16/20 With Effect Date of 1/15/21 - **Enjoined Since March 10, 2021 & Not in Effect**. Enjoined Changes to Regulations Currently in Effect Are in Red.
1001.1(gg), (hh) Definitions	N/A (newly proposed)	(gg) The term noncitizen means any person not a citizen or national of the United States. (hh) The term unaccompanied child means, and is synonymous with, the term "unaccompanied alien child," as defined in 6 U.S.C. 279(g)(2).	N/A
1003.0 (b)(2)(ii) Powers of EOIR Director	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.	The Director may not delegate the authority assigned to the Director in § 1292.18 of this chapter and may not delegate any other authority to adjudicate cases arising under the Act or regulations of this chapter unless expressly authorized to do so.	N/A
1003.1 (a)(2)(i)(E) BIA Chairman	[The Chairman shall have authority to:] Adjudicate cases as a Board member; and	[The Chairman shall have authority to:] Adjudicate cases as a Board member, including the authority to administratively close and recalendar cases in accordance with paragraph (l) of this section; and	N/A
1003.1(c) BIA Jurisdiction by Certification	The **Commissioner**, or any other duly authorized officer of the **Service**, any Immigration Judge, **or the Board** may in any case arising under paragraph (b) of this section certify such case to the Board. **The Board in its discretion may review any such case by certification without regard to the provisions of § 1003.7 if it determines that the parties have already been given a fair opportunity to make representations before the Board regarding the case, including the opportunity request oral argument and to submit a brief.**	The Secretary, or any other duly authorized officer of DHS, an immigration judge, or the Board may in any case arising under paragraph (b) of this section certify such case to the Board for adjudication. The Board, in its discretion, may review any such case by certification without regard to the provisions of § 1003.7 if it determines that the parties have already been given a fair opportunity to make representations before the Board regarding the case, including the opportunity to request oral argument and to submit a brief.	The Secretary, or any other duly authorized officer of DHS, or an immigration judge may in any case arising under paragraph (b) of this section certify such case to the Board for adjudication.

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1003.1(d)(1)(ii) Administrative Closure Authority	Subject to **these** governing standards, Board members shall exercise their independent judgment and discretion in considering and determining the cases coming before the Board, and a panel or Board member to whom a case is assigned may take any action consistent with their authorities under the Act and the regulations as is appropriate and necessary for the disposition of the case.	Subject to the governing standards set forth in paragraph (d)(1)(i) of this section, Board members shall exercise their independent judgment and discretion in considering and determining the cases coming before the Board, and a panel or Board member to whom a case is assigned may take any action consistent with their authorities under the Act and the regulations as necessary or appropriate for the disposition or alternative resolution of the case. Such actions include administrative closure, termination of proceedings, and dismissal of proceedings. The standards for the administrative closure, dismissal, and termination of cases are set forth in paragraph (l) of this section, 8 CFR 1239.2(c), and paragraph (m) of this section, respectively.	Subject to the governing standards set forth in paragraph (d)(1)(i) of this section, Board members shall exercise their independent judgment and discretion in considering and determining the cases coming before the Board, and a panel or Board member to whom a case is assigned may take any action consistent with their authorities under the Act and the regulations as is appropriate and necessary for the disposition of the case. Nothing in this paragraph (d)(1)(ii) shall be construed as authorizing the Board to administratively close or otherwise defer adjudication of a case unless a regulation promulgated by the Department of Justice or a previous judicially approved settlement expressly authorizes such an action. Only the Director or Chief Appellate Immigration Judge may direct the deferral of adjudication of any case or cases by the Board.
1003.1 (d)(3)(iv) BIA Factfinding	**Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board will not engage in factfinding in the course of deciding appeals. A party asserting that the Board cannot properly resolve an appeal without further factfinding must file a motion for remand. If further factfinding is needed in a particular case, the Board may remand the proceeding to the immigration judge or, as appropriate, to the Service.**	Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board will not engage in factfinding in the course of deciding cases. A party asserting that the Board cannot properly resolve an appeal without further factfinding must file a motion for remand. If new evidence is submitted on appeal, that submission may be deemed a motion to remand and considered accordingly. If further factfinding is needed in a particular case, the Board may remand the proceeding to the immigration judge or, as appropriate, to DHS.	(A) The Board will not engage in factfinding in the course of deciding cases, except that the Board may take administrative notice of facts that are not reasonably subject to dispute, such as: (1) Current events; (2) The contents of official documents outside the record; (3) Facts that can be accurately and readily determined from official government sources and whose accuracy is not disputed; or (4) Undisputed facts contained in the record. (B) If the Board intends to rely on an administratively noticed fact outside of the record, such as those indicated in paragraphs (d)(3)(iv)(A)(1) through (3) of this section, as

			the basis for reversing an immigration judge's grant of relief or protection from removal, it must provide notice to the parties of its intent and afford them an opportunity of not less than 14 days to respond to the notice. (C) The Board shall not sua sponte remand a case for further factfinding unless the factfinding is necessary to determine whether the immigration judge had jurisdiction over the case. (D) Except as provided in paragraph (d)(6)(iii) or (d)(7)(v)(B) of this section, the Board shall not remand a direct appeal from an immigration judge's decision for additional factfinding unless: (1) The party seeking remand preserved the issue by presenting it before the immigration judge; (2) The party seeking remand, if it bore the burden of proof before the immigration judge, attempted to adduce the additional facts before the immigration judge; (3) The additional factfinding would alter the outcome or disposition of the case; (4) The additional factfinding would not be cumulative of the evidence already presented or contained in the record; and (5) One of the following circumstances is present in the case: (i) The immigration judge's factual findings were clearly erroneous; (ii) The immigration judge's factual findings were not clearly erroneous, but the immigration judge committed an error of law that requires additional factfinding on remand; or

			(iii) Remand to DHS is warranted following de novo review.
1003.1(d)(3)(v) Bases for BIA Affirmance	N/A (newly proposed)	N/A (removed)	The Board may affirm the decision of the immigration judge or the Department of Homeland Security on any basis supported by the record, including a basis supported by facts that are not reasonably subject to dispute, such as undisputed facts in the record.
1003.1(d)(6)(ii) Identity, Law Enforcement, or Security Investigations/ Examinations	Except as provided in paragraph (d)(6)(iv) of this section, if identity, law enforcement, or security investigations or examinations **have not been completed or DHS reports that the results of prior investigations or examinations are no longer current under the standards established by DHS, then the Board will determine the best means to facilitate the final disposition of the case, as follows:** **(A) The Board may issue an order remanding the case to the immigration judge with instructions to allow DHS to complete or update the appropriate identity, law enforcement, or security investigations or examinations pursuant to § 1003.47; or** (B) The Board **may** provide notice to both parties that in order to complete adjudication of the appeal the case is being placed on hold until such time as all identity, law enforcement, or security investigations or examinations are completed or updated and the results have been reported to the Board.	Except as provided in paragraph (d)(6)(iv) of this section, if identity, law enforcement, or security investigations or examinations are necessary in order to adjudicate the appeal or motion, the Board will provide notice to both parties that the case is being placed on hold until such time as all identity, law enforcement, or security investigations or examinations are completed or updated and the results have been reported to the Board. The Board's notice will notify the noncitizen that DHS will contact the noncitizen with instructions, consistent with § 1003.47(d), to take any additional steps necessary to complete or update the identity, law enforcement, or security investigations or examinations only if DHS is unable to independently update the necessary identity, law enforcement, or security investigations or examinations. The Board's notice will also advise the noncitizen of the consequences for failing to comply with the requirements of this section. DHS is responsible for obtaining biometrics and other biographical information to complete or update the identity, law enforcement, or	Except as provided in paragraph (d)(6)(iv) of this section, if identity, law enforcement, or security investigations or examinations have not been completed or DHS reports that the results of prior investigations or examinations are no longer current under the standards established by DHS, and the completion of the investigations or examinations is necessary for the Board to complete its adjudication of the appeal, the Board will provide notice to both parties that, in order to complete adjudication of the appeal, the case is being placed on hold until such time as all identity, law enforcement, or security investigations or examinations are completed or updated and the results have been reported to the Board. Unless DHS advises the Board that such information is no longer necessary in the particular case, the Board's notice will notify the alien that DHS will contact the alien to take additional steps to complete or update the identity, law enforcement, or security investigations or examinations only if DHS is unable to independently update the necessary investigations or examinations. If DHS is unable to independently update the

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		security investigations or examinations with respect to any noncitizen in detention.	necessary investigations or examinations, DHS shall send the alien instructions that comply with the requirements of § 1003.47(d) regarding the necessary procedures and contemporaneously serve a copy of the instructions with the Board. The Board's notice will also advise the alien of the consequences for failing to comply with the requirements of this section. DHS is responsible for obtaining biometrics and other biographical information to complete or update the identity, law enforcement, or security investigations or examinations with respect to any alien in detention.
1003.1 (d)(6)(iii) Identity, Law Enforcement, or Security Investigations/ Examinations	In any case placed on hold under paragraph (d)(6)(ii)**(B)** of this section, DHS shall report to the Board promptly when the identity, law enforcement, or security investigations or examinations have been completed or updated. If DHS obtains relevant information as a result of the identity, law enforcement, or security investigations or examinations, or if the applicant fails to comply with necessary procedures for collecting biometrics or other biographical information, DHS may move to remand the record to the immigration judge for consideration of whether, in view of the new information **or the alien's failure to comply,** the immigration relief should be denied, either on grounds of eligibility or**, where applicable,** as a matter of discretion.	In any case placed on hold under paragraph (d)(6)(ii) of this section, DHS shall report to the Board promptly when the identity, law enforcement, or security investigations or examinations have been completed or updated. If DHS obtains relevant information as a result of the identity, law enforcement, or security investigations or examinations, or if the noncitizen fails to comply with the necessary procedures for collecting biometrics or other biographical information after receiving instructions from DHS under paragraph (d)(6)(ii) of this section, DHS may move the Board to remand the record to the immigration judge for consideration of whether, in view of the new information, or the noncitizen's failure to comply with the necessary procedures for collecting biometrics or other biographical information after receiving instructions from DHS under paragraph (d)(6)(ii) of this section, immigration relief or	In any case placed on hold under paragraph (d)(6)(ii) of this section, DHS shall report to the Board promptly when the identity, law enforcement, or security investigations or examinations have been completed or updated. If a non-detained alien fails to comply with necessary procedures for collecting biometrics or other biographical information within 90 days of the DHS's instruction notice under paragraph (d)(6)(ii) of this section, if applicable, the Board shall deem the application abandoned unless the alien shows good cause before the 90–day period has elapsed, in which case the alien should be given no more than an additional 30 days to comply with the procedures. If the Board deems an application abandoned under this section, it shall adjudicate the remainder of the appeal within 30 days and shall enter an order of removal or a grant of voluntary departure, as appropriate. If DHS obtains relevant information as a result of the

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		protection should be denied, either on grounds of ineligibility as a matter of law or as a matter of discretion. If DHS fails to report the results of timely completed or updated identity, law enforcement or security investigations or examinations within 180 days from the date of the Board's notice under paragraph (d)(6)(ii) of this section, the Board may continue to hold the case under paragraph (d)(6)(ii) of this section, as needed, or remand the case to the immigration judge for further proceedings under § 1003.47(h).	identity, law enforcement, or security investigations or examinations, including civil or criminal investigations of immigration fraud, DHS may move the Board to remand the record to the immigration judge for consideration of whether, in view of the new information, any pending applications for immigration relief or protection should be denied, either on grounds of eligibility or, where applicable, as a matter of discretion. If DHS fails to report the results of timely completed or updated identity, law enforcement, or security investigations or examinations within 180 days of the Board's notice under paragraph (d)(6)(ii) of this section, the Board shall remand the case to the immigration judge for further proceedings under § 1003.47(h).
1003.1 (d)(6)(iv) Identity, Law Enforcement, or Security Investigations/ Examinations	The Board is not required **to remand or** hold a case pursuant to paragraph (d)(6)(ii) of this **paragraph** if the Board decides to dismiss the respondent's appeal or deny the relief sought.	The Board is not required to hold a case pursuant to paragraph (d)(6)(ii) of this section if the Board decides to dismiss the respondent's appeal or deny the relief or protection sought.	The Board is not required to hold a case pursuant to paragraph (d)(6)(ii) of this section if the Board decides to dismiss the respondent's appeal or deny the relief or protection sought.
1003.1(d)(7) Finality of BIA Decision	The decision of the Board shall be final except in those cases reviewed by the Attorney General in accordance with paragraph (h) of this section. **The Board may return a case to the Service or an immigration judge for such further action as may be appropriate, without entering a final decision on the merits of the case.**	(i) The decision of the Board shall be final except in those cases reviewed by the Attorney General in accordance with paragraph (h) of this section. The Board may return a case to DHS or an immigration judge for such further action as may be appropriate without entering a final decision on the merits of the case. (ii) In cases involving voluntary departure, the Board may issue an order of voluntary	In general. The decision of the Board shall be final except in those cases reviewed by the Attorney General in accordance with paragraph (h) of this section. In adjudicating an appeal, the Board possesses authority to issue an order of removal, an order granting relief from removal, an order granting protection from removal combined with an order of removal as appropriate, an order granting voluntary departure with an

		departure under section 240B of the Act, with an alternate order of removal, if the noncitizen requested voluntary departure before an immigration judge, the noncitizen's notice of appeal specified that the noncitizen is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the noncitizen is challenging, and the Board finds that the noncitizen is otherwise eligible for voluntary departure, as provided in 8 CFR 1240.26(k). In order to grant voluntary departure, the Board must find that all applicable statutory and regulatory criteria have been met, based on the record and within the scope of its review authority on appeal, and that the noncitizen merits voluntary departure as a matter of discretion. If the record does not contain sufficient factual findings regarding eligibility for voluntary departure, the Board may remand the decision to the immigration judge for further factfinding.	alternate order of removal, and an order terminating or dismissing proceedings, provided that the issuance of any order is consistent with applicable law. The Board may affirm the decision of the immigration judge or DHS on any basis supported by the record. In no case shall the Board order a remand for an immigration judge to issue an order that the Board itself could issue. (ii) Remands. In addition to the possibility of remands regarding information obtained as a result of the identity, law enforcement, or security investigations or examinations under paragraph (d)(6)(iii) of this section, after applying the appropriate standard of review on appeal, the Board may issue an order remanding a case to an immigration judge or DHS for further consideration based on an error of law or fact, subject to any applicable statutory or regulatory limitations, including paragraph (d)(3)(iv)(D) of this section and the following: (A) The Board shall not remand a case for further action without identifying the standard of review it applied and the specific error or errors made by the adjudicator in paragraphs (d)(7)(ii)(B) through (E) of this section. (B) The Board shall not remand a case based on the application of a “totality of the circumstances” standard of review. (C) The Board shall not remand a case based on a legal argument not presented in paragraphs (d)(7)(ii)(D) through (E) of this section unless that argument pertains to an issue of jurisdiction over an application or the

			proceedings, or to a material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act that occurred after the date of the immigration judge's decision, and substantial evidence indicates that change has vitiated all grounds of removability applicable to the alien. (D) The Board shall not sua sponte remand a case unless the basis for such a remand is solely a question of jurisdiction over an application or the proceedings. (E) The Board shall not remand a case to an immigration judge solely to consider or reconsider a request for voluntary departure nor solely due to the failure of the immigration judge to provide advisals following a grant of voluntary departure. In such situations, the Board shall follow the procedures in § 1240.26(k) of this chapter. (iii) Scope of the remand. Where the Board remands a case to an immigration judge, it divests itself of jurisdiction of that case, unless the Board remands a case due to the court's failure to forward the administrative record in response to the Board's request. The Board may qualify or limit the scope or purpose of a remand order without retaining jurisdiction over the case following the remand. In any case in which the Board has qualified or limited the scope or purpose of the remand, the immigration judge shall not consider any issues outside the scope or purpose of that order, unless such an issue calls into question the immigration judge's continuing jurisdiction over the case.

			(iv) Voluntary departure. The Board may issue an order of voluntary departure under section 240B of the Act, with an alternate order of removal, if the alien requested voluntary departure before an immigration judge, the alien's notice of appeal specified that the alien is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the alien is challenging, and the Board finds that the alien is otherwise eligible for voluntary departure, as provided in § 1240.26(k) of this chapter. In order to grant voluntary departure, the Board must find that all applicable statutory and regulatory criteria have been met, based on the record and within the scope of its review authority on appeal, and that the alien merits voluntary departure as a matter of discretion. If the Board does not grant the request for voluntary departure, it must deny the request. (v) New evidence on appeal. (A) Subject to paragraph (d)(7)(v)(B), the Board shall not receive or review new evidence submitted on appeal, shall not remand a case for consideration of new evidence received on appeal, and shall not consider a motion to remand based on new evidence. A party seeking to submit new evidence shall file a motion to reopen in accordance with applicable law. (B) Nothing in paragraph (d)(7)(v)(A) of this section shall preclude the Board from remanding a case based on new evidence or information obtained after the date of the

			immigration judge's decision as a result of identity, law enforcement, or security investigations or examinations, including civil or criminal investigations of immigration fraud, regardless of whether the investigations or examinations were conducted pursuant to § 1003.47(h) or paragraph (d)(6) of this section, nor from remanding a case to address a question of jurisdiction over an application or the proceedings or a question regarding a ground or grounds of removability specified in section 212 or 237 of the Act.
1003.1(e) Case Management System	The Chairman shall establish a case management system to screen all cases and to manage the Board's caseload. Unless a case meets the standards for assignment to a three-member panel under paragraph (e)(6) of this section, all cases shall be assigned to a single Board member for disposition. The Chairman, under the supervision of the Director, shall be responsible for the success of the case management system. The Chairman shall designate, from time to time, a screening panel comprising a sufficient number of Board members who are authorized, acting alone, to adjudicate appeals as provided in **this paragraph**.	The Chairman shall establish a case management system to screen all cases and to manage the Board's caseload. Unless a case meets the standards for assignment to a three-member panel under paragraph (e)(6) of this section, all cases shall be assigned to a single Board member for disposition. The Chairman, under the supervision of the Director, shall be responsible for the success of the case management system. The Chairman shall designate, from time to time, a screening panel comprising a sufficient number of Board members who are authorized, acting alone, to adjudicate appeals as provided in this paragraph (e). The provisions of this paragraph (e) shall apply to all cases before the Board, regardless of whether they were initiated by filing a Notice of Appeal, filing a motion, or receipt of a remand from Federal court or the Attorney General.	The Chairman shall establish a case management system to screen all cases and to manage the Board's caseload. Unless a case meets the standards for assignment to a three-member panel under paragraph (e)(6) of this section, all cases shall be assigned to a single Board member for disposition. The Chairman, under the supervision of the Director, shall be responsible for the success of the case management system. The Chairman shall designate, from time to time, a screening panel comprising a sufficient number of Board members who are authorized, acting alone, to adjudicate appeals as provided in this paragraph (e). The provisions of this paragraph (e) shall apply to all cases before the Board, regardless of whether they were initiated by filing a Notice of Appeal, filing a motion, or receipt of a remand from Federal court, the Attorney General, or the Director.
1003.1(e)(1)	All cases shall be referred to the screening panel for review. Appeals subject to	All cases shall be referred to the screening panel for review. Appeals subject to	All cases shall be referred to the screening panel for review upon the filing of a Notice of

Case Management System: Initial Screening	summary dismissal as provided in paragraph (d)(2) of this section **should** be promptly dismissed.	summary dismissal as provided in paragraph (d)(2) of this section should be promptly dismissed.	Appeal or a motion or upon receipt of a remand from a Federal court, the Attorney General, or the Director. Screening panel review shall be completed within 14 days of the filing or receipt. Appeals subject to summary dismissal as provided in paragraph (d)(2) of this section, except for those subject to summary dismissal as provided in paragraph (d)(2)(i)(E) of this section, shall be promptly dismissed no later than 30 days after the Notice of Appeal was filed. Unless referred for a three-member panel decision pursuant to paragraph (e)(6) of this section, an interlocutory appeal shall be adjudicated within 30 days of the filing of the appeal.
1003.1(e)(8) Timeliness of Adjudication	**As provided under the case management system,** the Board shall promptly enter orders of summary dismissal, or other miscellaneous dispositions, **in appropriate cases.** In other cases**, after completion of the record on appeal, including any briefs, motions, or other submissions on appeal,** the Board member or panel to which the case is assigned shall issue a decision on the merits **as soon as practicable,** with a priority for cases or custody appeals involving detained **aliens.**	As provided under the case management system, the Board shall promptly enter orders of summary dismissal, or other miscellaneous dispositions, in appropriate cases consistent with paragraph (e)(1) of this section. In all other cases, after completion of the record on appeal, including any briefs, motions, or other submissions on appeal, the Board member or panel to which the case is assigned shall issue a decision on the merits as soon as practicable, with a priority for cases or custody appeals involving detained noncitizens.	The Board shall promptly enter orders of summary dismissal, or other miscellaneous dispositions, in appropriate cases consistent with paragraph (e)(1) of this section. In all other cases, the Board shall promptly order a transcript, if appropriate, within seven days after the screening panel completes its review and shall issue a briefing schedule within seven days after the transcript is provided. If no transcript may be ordered due to a lack of available funding or a lack of vendor capacity, the Chairman shall so certify that fact in writing to the Director. The Chairman shall also maintain a record of all such cases in which transcription cannot be ordered and provide that record to the Director. If no transcript is required, the Board shall issue a briefing schedule within seven days after the screening panel completes its review. The case shall be assigned to a single Board member for merits review under paragraph

			(e)(3) of this section within seven days of the completion of the record on appeal, including any briefs or motions. The single Board member shall then determine whether to adjudicate the appeal or to designate the case for decision by a three-member panel under paragraphs (e)(5) and (6) of this section within 14 days of being assigned the case. The single Board member or three-member panel to which the case is assigned shall issue a decision on the merits consistent with this section and with a priority for cases or custody appeals involving detained aliens.
1003.1(e)(8)(i) Timeliness of Adjudication	Except in exigent circumstances as determined by the Chairman, or as provided in paragraph (d)(6) of this section, the Board shall dispose of all **appeals** assigned to a single Board member within 90 days of completion of the record **on appeal**, or within 180 days after **an appeal** is assigned to a three-member panel (including any additional opinion by a member of the panel).	Except in exigent circumstances as determined by the Chairman, or as provided in paragraph (d)(6) of this section, the Board shall dispose of all cases assigned to a single Board member within 90 days of completion of the record, or within 180 days after a case is assigned to a three-member panel (including any additional opinion by a member of the panel).	Except in exigent circumstances as determined by the Chairman, subject to concurrence by the Director, or as provided in paragraph (d)(6) of this section or as provided in §§ 1003.6(c) and 1003.19(i), the Board shall dispose of all cases assigned to a single Board member within 90 days of completion of the record, or within 180 days of completion of the record for all cases assigned to a three-member panel (including any additional opinion by a member of the panel).
1003.1(e)(8)(ii) Timeliness of Adjudication	In exigent circumstances, the Chairman may grant an extension in particular cases of up to 60 days as a matter of discretion. Except as provided in paragraph (e)(8)(iii) or (iv) of this section, in those cases where the panel is unable to issue a decision within the established time limits, as extended, the Chairman shall either **assign the case to himself or** a Vice Chairman for final decision within 14 days or shall refer the case to the **Director** for decision. If a dissenting or concurring panel member fails to complete	In exigent circumstances, the Chairman may grant an extension in particular cases of up to 60 days as a matter of discretion. Except as provided in paragraph (e)(8)(iii) or (iv) of this section, in those cases where the panel is unable to issue a decision within the established time limits, as extended, the Chairman shall either self-assign the case or assign the case to a Vice Chairman for final decision within 14 days or shall refer the case to the Attorney General for decision. If a dissenting or concurring panel member	N/A

	his or her opinion by the end of the extension period, the decision of the majority will be issued without the separate opinion. **For a case referred to the Director under this paragraph, the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, including the authority to issue a precedent decision and the authority to refer the case to the Attorney General for review, either on his own or at the direction of the Attorney General.**	fails to complete the member's opinion by the end of the extension period, the decision of the majority will be issued without the separate opinion.	
1003.1 (e)(8)(iii) Timeliness of Adjudication	In rare circumstances, when an impending decision by the United States Supreme Court **or a United States Court of Appeals, or impending Department regulatory amendments,** or an impending en banc Board decision may substantially determine the outcome of **a case or** group of cases pending before the Board, the Chairman may hold the **case or** cases until such decision is rendered, temporarily suspending the time limits described in this paragraph (e)(8).	In rare circumstances, such as when an impending decision by the United States Supreme Court or a United States Court of Appeals, or impending Department regulatory amendments, or an impending en banc Board decision may substantially determine the outcome of a case or group of cases pending before the Board, the Chairman may hold the case or cases until such decision is rendered, temporarily suspending the time limits described in this paragraph (e)(8).	In rare circumstances, when an impending decision by the United States Supreme Court or an impending en banc Board decision may substantially determine the outcome of a group of cases pending before the Board, the Chairman, subject to concurrence by the Director, may hold the cases until such decision is rendered, temporarily suspending the time limits described in this paragraph (e)(8). The length of such a hold shall not exceed 120 days.
1003.1 (e)(8)(iv) Timeliness of Adjudication	**For any case ready for adjudication as of September 25, 2002, and that has not been completed within the established time lines, the Chairman may, as a matter of discretion, grant an extension of up to 120 days.**	N/A (removed and reserved)	N/A (removed and reserved)
1003.1(e)(8)(v) Timeliness of Adjudication	The Chairman shall notify the Director of EOIR and the Attorney General if a Board member consistently fails to meet the assigned deadlines for the disposition of appeals, or otherwise fails to adhere to the	N/A	The Chairman shall notify the Director of EOIR and the Attorney General if a Board member consistently fails to meet the assigned deadlines for the disposition of appeals, or otherwise fails to adhere to the standards of

	standards of the case management system. The Chairman shall also prepare a report assessing the timeliness of the disposition of cases by each Board member on an annual basis.		the case management system. The Chairman shall also prepare a report assessing the timeliness of the disposition of cases by each Board member on an annual basis. The Chairman shall notify the Director of all cases in which an extension under paragraph (e)(8)(ii) of this section, a hold under paragraph (e)(8)(iii) of this section, or any other delay in meeting the requirements of paragraph (e)(8) of this section occurs. For any case still pending adjudication by the Board more than 335 days after the appeal was filed, the motion was filed, or the remand was received and not described in paragraphs (e)(8)(v)(A) through (E) of this section, the Chairman shall refer that case to the Director for decision. For a case referred to the Director under this paragraph (e)(8)(v), the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, including the authority to issue a precedential decision and the authority to refer the case to the Attorney General for review, either on his own or at the direction of the Attorney General. The Director may not further delegate this authority. For purposes of this paragraph (e)(8)(v), the following categories of cases pending adjudication by the Board more than 335 days after the appeal was filed, the motion was filed, or the remand was received will not be referred by the Chairman to the Director: (A) Cases subject to a hold under paragraph (d)(6)(ii) of this section;

			(B) Cases subject to an extension under paragraph (e)(8)(ii) of this section; (C) Cases subject to a hold under paragraph (e)(8)(iii) of this section; (D) Cases whose adjudication has been deferred by the Director pursuant to § 1003.0(b)(1)(ii); (E) Cases remanded by the Director under paragraph (k) of this section in which 335 days have elapsed following the remand; and, (F) Cases that have been administratively closed prior to the elapse of 335 days after the appeal was filed pursuant to a regulation promulgated by the Department of Justice or a previous judicially approved settlement that expressly authorizes such an action and the administrative closure causes the pendency of the appeal to exceed 335 days.
1003.1(k) Quality Assurance Certification	N/A (newly proposed)	N/A (removed and reserved)	(1) In any case in which the Board remands a case to an immigration judge or reopens and remands a case to an immigration judge, the immigration judge may forward that case by certification to the Director for further review only in the following circumstances: (i) The Board decision contains a typographical or clerical error affecting the outcome of the case; (ii) The Board decision is clearly contrary to a provision of the Act, any other immigration law or statute, any applicable regulation, or a published, binding precedent; (iii) The Board decision is vague, ambiguous, internally inconsistent, or otherwise did not resolve the basis for the appeal; or

			(iv) A material factor pertinent to the issue(s) before the immigration judge was clearly not considered in the decision. (2) In order to certify a decision under paragraph (k)(1) of this section, an immigration judge must: (i) Issue an order of certification within 30 days of the Board decision if the alien is not detained and within 15 days of the Board decision if the alien is detained; (ii) In the order of certification, specify the regulatory basis for the certification and summarize the underlying procedural, factual, or legal basis; and (iii) Provide notice of the certification to both parties. (3) For a case certified to the Director under this paragraph (k), the Director shall exercise delegated authority from the Attorney General identical to that of the Board as described in this section, except as otherwise provided in this paragraph (k), including the authority to request briefing or additional filings from the parties at the sole discretion of the Director, the authority to issue a precedent decision, and the authority to refer the case to the Attorney General for review, either on the Director's own or at the direction of the Attorney General. For a case certified to the Director under this paragraph (k), the Director may dismiss the certification and return the case to the immigration judge or the Director may remand the case back to the Board for further proceedings. In a case certified to the Director under this paragraph (k), the Director may not issue an order of

			removal, grant a request for voluntary departure, or grant or deny an application for relief or protection from removal. (4) The quality assurance certification process shall not be used as a basis solely to express disapproval of or disagreement with the outcome of a Board decision unless that decision is alleged to reflect an error described in paragraph (k)(1) of this section.
1003.1(l) Administrative Closure and Recalendaring	N/A (newly proposed)	Administrative closure is the temporary suspension of a case. Administrative closure removes a case from the Board's docket until the case is recalendared. Recalendaring places a case back on the Board's docket. (1) Administrative closure before the Board. Board members may, in the exercise of discretion, administratively close a case upon the motion of a party, after applying the standard set forth at paragraph (l)(3) of this section. The administrative closure authority described in this section is not limited by the authority provided in any other provisions in this chapter V that separately authorize or require administrative closure in certain circumstances, including 8 CFR 214.15(l) and (p)(4), 1214.2(a), 1214.3, 1240.62(b), 1240.70(f) through(h), 1245.13, 1245.15(p)(4)(i), and 1245.21(c). (2) Recalendaring before the Board. At any time after a case has been administratively closed under paragraph (l)(1) of this section, the Board may, in the exercise of discretion, recalendar the case pursuant to a party's motion to recalendar. In deciding whether	N/A

		to grant such a motion, the Board shall apply the standard set forth at paragraph (l)(3) of this section. (3) Standard for administrative closure and recalendaring. The Board shall grant a motion to administratively close or recalendar filed jointly by both parties, or filed by one party where the other party has affirmatively indicated its non-opposition, unless the Board articulates unusual, clearly identified, and supported reasons for denying the motion. In all other cases, in deciding whether to administratively close or to recalendar a case, the Board shall consider the totality of the circumstances, including as many of the factors listed under paragraphs (l)(3)(i) and (ii) of this section as are relevant to the particular case. The Board may also consider other factors where appropriate. No single factor is dispositive. Accordingly, the Board, having considered the totality of the circumstances, may grant a motion to administratively close or to recalendar a particular case over the objection of a party. Although administrative closure may be appropriate where a petition, application, or other action is pending outside of proceedings before the Board, such a pending petition, application, or other action is not required for a case to be administratively closed. (i) As the circumstances of the case warrant, the factors relevant to a decision to administratively close a case include: (A) The reason administrative closure is sought;	

		(B) The basis for any opposition to administrative closure; (C) Any requirement that a case be administratively closed in order for a petition, application, or other action to be filed with, or granted by, DHS; (D) The likelihood the noncitizen will succeed on any petition, application, or other action that the noncitizen is pursuing, or that the noncitizen states in writing or on the record at a hearing that *62278 they plan to pursue, outside of proceedings before the Board; (E) The anticipated duration of the administrative closure; (F) The responsibility of either party, if any, in contributing to any current or anticipated delay; and (G) The ultimate anticipated outcome of the case. (ii) As the circumstances of the case warrant, the factors relevant to a decision to recalendar a case include: (A) The reason recalendaring is sought; (B) The basis for any opposition to recalendaring; (C) The length of time elapsed since the case was administratively closed; (D) If the case was administratively closed to allow the noncitizen to file a petition, application, or other action outside of proceedings before the Board, whether the noncitizen filed the petition, application, or other action and, if so, the length of time that elapsed between when the case was administratively closed and when the	

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		noncitizen filed the petition, application, or other action; (E) If a petition, application, or other action that was pending outside of proceedings before the Board has been adjudicated, the result of that adjudication; (F) If a petition, application, or other action remains pending outside of proceedings before the Board, the likelihood the noncitizen will succeed on that petition, application, or other action; and (G) The ultimate anticipated outcome if the case is recalendared.	
1003.1(m) Termination	N/A (newly proposed)	The Board shall have the authority to terminate cases before it as set forth in paragraphs (m)(1) and (2) of this section. A motion to dismiss a case in removal proceedings before the Board for a reason other than authorized by 8 CFR 1239.2(c) shall be deemed a motion to terminate under paragraph (m)(1) of this section. (1) Removal, deportation, and exclusion proceedings—(i) Mandatory termination. In removal, deportation, and exclusion proceedings, the Board shall terminate the case where at least one of the requirements in paragraphs (m)(1)(i)(A) through (G) of this section is met. (A) No charge of deportability, inadmissibility, or excludability can be sustained. (B) Fundamentally fair proceedings are not possible because the noncitizen is mentally incompetent and adequate safeguards are unavailable.	N/A

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		(C) The noncitizen has, since the initiation of proceedings, obtained United States citizenship. (D) The noncitizen has, since the initiation of proceedings, obtained at least one status listed in paragraphs (m)(1)(i)(D)(1) through (4) of this section, provided that the status has not been revoked or terminated, and the noncitizen would not have been deportable, inadmissible, or excludable as charged if the noncitizen had obtained such status before the initiation of proceedings. (1) Lawful permanent resident status. (2) Refugee status. (3) Asylee status. (4) Nonimmigrant status as defined in section 101(a)(15)(S), (T), or (U) of the Act. (E) Termination is required under 8 CFR 1245.13(l). (F) Termination is otherwise required by law. (G) The parties jointly filed a motion to terminate, or one party filed a motion to terminate and the other party affirmatively indicated its non-opposition, unless the Board articulates unusual, clearly identified, and supported reasons for denying the motion. (ii) Discretionary termination. In removal, deportation, or exclusion proceedings, the Board may, in the exercise of discretion, terminate the case where at least one of the requirements listed in paragraphs (m)(1)(ii)(A) through (G) of this section is met. (A) An unaccompanied child, as defined in 8 CFR 1001.1(hh), states an intent in writing or on the record at a hearing to seek asylum	

		with USCIS, and USCIS has initial jurisdiction over the application pursuant to section 208(b)(3)(C) of the Act. (B) The noncitizen demonstrates prima facie eligibility for relief from removal or for a lawful status based on a petition, application, or other action that USCIS has jurisdiction to adjudicate, including naturalization or adjustment of status. (C) The noncitizen is a beneficiary of Temporary Protected Status, deferred action, or Deferred Enforced Departure. (D) USCIS has granted the noncitizen's application for a provisional unlawful presence waiver pursuant to 8 CFR 212.7(e). (E) Termination is authorized by 8 CFR 1216.4(a)(6) or 1238.1(e). (F) The parties have filed a motion to terminate under 8 CFR 214.11(d)(1)(i) or 214.14(c)(1)(i). (G) Due to circumstances comparable to those described in paragraphs (m)(1)(ii)(A) through (F) of this section, termination is similarly necessary or appropriate for the disposition or alternative resolution of the case. However, the Board may not terminate a case for purely humanitarian reasons, unless DHS expressly consents to such termination, joins in a motion to terminate, or affirmatively indicates its non-opposition to a noncitizen's motion. (2) Other proceedings—(i) Mandatory termination. In proceedings other than removal, deportation, or exclusion proceedings, the Board shall terminate the case where the parties have jointly filed a	

		motion to terminate, or one party has filed a motion to terminate and the other party has affirmatively indicated its non-opposition, unless the Board articulates unusual, clearly identified, and supported reasons for denying the motion. In addition, the Board shall terminate such a case where required by law. (ii) Discretionary termination. In proceedings other than removal, deportation, or exclusion proceedings, the Board may, in the exercise of discretion, terminate the case where one party has requested termination, and terminating the case is necessary or appropriate for the disposition or alternative resolution of the case. However, the Board may not terminate the case for purely humanitarian reasons, unless DHS expressly consents to such termination, joins in a motion to terminate, or affirmatively indicates its non-opposition to a noncitizen's motion. (iii) Limitation on Termination. Nothing in paragraphs (m)(2)(i) and (ii) of this section authorizes the Board to terminate a case where prohibited by another regulatory provision.	
1003.2(a) Reopening or Reconsideration Before the BIA	The Board may at any time reopen or reconsider **on its own motion any case** in which it has rendered a decision. A request to reopen or reconsider any case in which a decision has been made by the Board**, which request is made by the Service, or by the party affected by the decision,** must be in the form of a written motion to the Board. The decision to grant or deny a motion to	The Board may at any time reopen or reconsider on its own motion any case in which it has rendered a decision. A request by DHS or by the party affected by the decision to reopen or reconsider a case the Board has decided must be in the form of a written motion to the Board. The decision to grant or deny a motion to reopen or reconsider is within the discretion of the	The Board may at any time reopen or reconsider a case in which it has rendered a decision on its own motion solely in order to correct a ministerial mistake or typographical error in that decision or to reissue the decision to correct a defect in service. In all other cases, the Board may only reopen or reconsider any case in which it has rendered a decision solely pursuant to a motion filed by

	reopen or reconsider is within the discretion of the Board, subject to the restrictions of this section. The Board has discretion to deny a motion to reopen even if the party moving has made out a prima facie case for relief.	Board, subject to the restrictions of this section. The Board has discretion to deny a motion to reopen even if the moving party has made out a prima facie case for relief.	one or both parties. A request to reopen or reconsider any case in which a decision has been made by the Board, which request is made by the Service, or by the party affected by the decision, must be in the form of a written motion to the Board. The decision to grant or deny a motion to reopen or reconsider is within the discretion of the Board, subject to the restrictions of this section. The Board has discretion to deny a motion to reopen even if the party moving has made out a prima facie case for relief.
1003.2(b)(1) BIA Motions to Reconsider	A motion to reconsider shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority. **A motion to reconsider a decision rendered by an Immigration Judge or Service officer that is pending when an appeal is filed with the Board, or that is filed subsequent to the filing with the Board of an appeal from the decision sought to be reconsidered, may be deemed a motion to remand the decision for further proceedings before the Immigration Judge or the Service officer from whose decision the appeal was taken. Such motion may be consolidated with, and considered by the Board in connection with the appeal to the Board.**	A motion to reconsider shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority. When a motion to reconsider the decision of an immigration judge or of a DHS officer is pending at the time an appeal is filed with the Board, or when such motion is filed subsequent to the filing with the Board of an appeal from the decision sought to be reconsidered, the motion may be deemed a motion to remand the decision for further proceedings before the immigration judge or the DHS officer from whose decision the appeal was taken. Such motion may be consolidated with and considered by the Board in connection with the appeal to the Board.	A motion to reconsider shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority.
1003.2(c)(3)(iv), (v), (vi), (vii) BIA Motions to Reopen: Time Limitations	[Providing that the "time and numerical limitations set forth in paragraph (c)(2) of this section shall not apply to a motion to reopen proceedings:"] . . .	[Providing that the "time and numerical limitations set forth in paragraph (c)(2) of this section shall not apply to a motion to reopen proceedings:"] . . .	[Providing that the "time and numerical limitations set forth in paragraph (c)(2) of this section shall not apply to a motion to reopen proceedings:"] . . .

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	(iv) Filed by **the Service** in exclusion or deportation proceedings when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with **§ 1208.22(f) of this chapter.**	(iv) Filed by DHS in exclusion or deportation proceedings when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with 8 CFR 1208.24.	(iv) Filed by the Service in exclusion or deportation proceedings when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with § 1208.22(f) of this chapter; (v) For which a three-member panel of the Board agrees that reopening is warranted when the following circumstances are present, provided that a respondent may file only one motion to reopen pursuant to this paragraph (c)(3): (A) A material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act that occurred after the entry of an administratively final order that vitiates all grounds of removability applicable to the alien; and (B) The movant exercised diligence in pursuing the motion to reopen; (vi) Filed based on specific allegations, supported by evidence, that the respondent is a United States citizen or national; or (vii) Filed by DHS in removal proceedings pursuant to section 240 of the Act or in proceedings initiated pursuant to § 1208.2(c) of this chapter.
1003.2(c)(4) Motions to Reopen While Appeal Pending	**A motion to reopen a decision rendered by an Immigration Judge or Service officer that is pending when an appeal is filed, or that is filed while an appeal is pending before the Board, may be deemed a motion to remand for further proceedings before the Immigration Judge or the Service officer from whose decision the appeal was taken. Such motion may be consolidated with, and**	A motion to reopen a decision rendered by an immigration judge or DHS officer that is pending when an appeal is filed, or that is filed while an appeal is pending before the Board, may be deemed a motion to remand for further proceedings before the immigration judge or the DHS officer from whose decision the appeal was taken. Such motion may be consolidated with, and	[Removed.]

	considered by the Board in connection with, the appeal to the Board.	considered by the Board in connection with, the appeal to the Board.	
1003.2(g)(3) BIA Motion Briefs and Response	The moving party may file a brief if it is included with the motion. If the motion is filed directly with the Board pursuant to paragraph (g)(2)(i) of this section, the opposing party shall have **13 days** from the date of service of the motion to file a brief in opposition to the motion directly with the Board. If the motion is filed with a**n office of the Service** pursuant to paragraph (g)(2)(ii) of this section, the opposing party shall have **13 days** from the date of filing of the motion to file a brief in opposition to the motion directly with **the office of the Service**. In all cases, briefs and any other filings made in conjunction with a motion shall include proof of service on the opposing party. The Board, in its discretion, may extend the time within which such brief is to be submitted and may authorize the filing of a brief directly with the Board. A motion shall be deemed unopposed unless a timely response is made. The Board may, in its discretion, consider a brief filed out of time.	The moving party may file a brief if it is included with the motion. If the motion is filed directly with the Board pursuant to paragraph (g)(2)(i) of this section, the opposing party shall have 21 days from the date of service of the motion to file a brief in opposition to the motion directly with the Board. If the motion is filed with a DHS office pursuant to paragraph (g)(2)(ii) of this section, the opposing party shall have 21 days from the date of filing of the motion to file a brief in opposition to the motion directly with DHS. In all cases, briefs and any other filings made in conjunction with a motion shall include proof of service on the opposing party. The Board, in its discretion, may extend the time within which such brief is to be submitted and may authorize the filing of a brief directly with the Board. A motion shall be deemed unopposed unless a timely response is made. The Board may, in its discretion, consider a brief filed out of time.	N/A
1003.3(c)(1) Briefing Schedules at the BIA: Appeal from IJ Decision	Briefs in support of or in opposition to an appeal from a decision of an immigration judge shall be filed directly with the Board. In those cases that are transcribed, the briefing schedule shall be set by the Board after the transcript is available. **In cases involving aliens in custody,** the parties shall be provided 21 days in which to file simultaneous briefs unless a shorter period is specified by the Board**, and** reply briefs shall be permitted only by leave of the	Briefs in support of or in opposition to an appeal from a decision of an immigration judge shall be filed directly with the Board. In those cases that are transcribed, the briefing schedule shall be set by the Board after the transcript is available. In cases involving noncitizens in custody, the parties shall be provided 21 days in which to file simultaneous briefs unless a shorter period is specified by the Board. Reply briefs shall be permitted only by leave of the Board and	Briefs in support of or in opposition to an appeal from a decision of an immigration judge shall be filed directly with the Board. In those cases that are transcribed, the briefing schedule shall be set by the Board after the transcript is available. In all cases, the parties shall be provided 21 days in which to file simultaneous briefs unless a shorter period is specified by the Board. Reply briefs shall be permitted only by leave of the Board and only if filed within 14 days of the deadline for the

	Board. **In cases involving aliens who are not in custody, the appellant shall be provided 21 days in which to file a brief, unless a shorter period is specified by the Board. The appellee shall have the same period of time in which to file a reply brief that was initially granted to the appellant to file his or her brief. The time to file a reply brief commences from the date upon which the appellant's brief was due, as originally set or extended by the Board. The Board, upon written motion, may extend the period for filing a brief or a reply brief for up to 90 days for good cause shown.** In its discretion, the Board may consider a brief that has been filed out of time. All briefs, filings, and motions filed in conjunction with an appeal shall include proof of service on the opposing party.	only if filed within 21 days of the deadline for the initial briefs. In cases involving noncitizens who are not in custody, the appellant shall be provided 21 days in which to file a brief, unless a shorter period is specified by the Board. The appellee shall have the same period of time in which to file a reply brief that was initially granted to the appellant to file their brief. The time to file a reply brief commences from the date upon which the appellant's brief was due, as originally set or extended by the Board. The Board, upon written motion, may extend the period for filing a brief or a reply brief for up to 90 days for good cause shown. In its discretion, the Board may consider a brief that has been filed out of time. In its discretion, the Board may request supplemental briefing from the parties after the expiration of the briefing deadline. All briefs, filings, and motions filed in conjunction with an appeal shall include proof of service on the opposing party.	initial briefs. The Board, upon written motion and a maximum of one time per case, may extend the period for filing a brief or, if permitted, a reply brief for up to 14 days for good cause shown. If an extension is granted, it is granted to both parties, and neither party may request a further extension. Nothing in this paragraph (c)(1) shall be construed as creating a right to a briefing extension for any party in any case, and the Board shall not adopt a policy of granting all extension requests without individualized consideration of good cause. In its discretion, the Board may consider a brief that has been filed out of time. In its discretion, the Board may request supplemental briefing from the parties after the expiration of the briefing deadline. All briefs, filings, and motions filed in conjunction with an appeal shall include proof of service on the opposing party.
1003.3(c)(2) Briefing Schedules at the BIA: Appeal from DHS Decision	Briefs in support of or in opposition to an appeal from a decision of a **Service** officer shall be filed directly with **the office of the Service having administrative control over the file**. The **alien** and the **Service** shall be provided 21 days in which to file a brief, unless a shorter period is specified by the **Service** officer from whose decision the appeal is taken, and reply briefs shall be permitted only by leave of the Board. Upon written request of the **alien**, the **Service** officer from whose decision the appeal is taken or the Board may extend the period	Briefs in support of or in opposition to an appeal from a decision of a DHS officer shall be filed directly with DHS in accordance with the instructions in the decision of the DHS officer. The applicant or petitioner and DHS shall be provided 21 days in which to file a brief, unless a shorter period is specified by the DHS officer from whose decision the appeal is taken, and reply briefs shall be permitted only by leave of the Board. Upon written request of the noncitizen, the DHS officer from whose decision the appeal is taken or the Board	Briefs in support of or in opposition to an appeal from a decision of a DHS officer shall be filed directly with DHS in accordance with the instructions in the decision of the DHS officer. The applicant or petitioner and DHS shall be provided 21 days in which to file a brief, unless a shorter period is specified by the DHS officer from whose decision the appeal is taken, and reply briefs shall be permitted only by leave of the Board and only if filed within 14 days of the deadline for the initial briefs. Upon written request of the alien and a maximum of one time per case,

	for filing a brief for good cause shown. The Board may authorize the filing of briefs directly with the Board. In its discretion, the Board may consider a brief that has been filed out of time. All briefs and other documents filed in conjunction with an appeal, unless filed by an **alien** directly with a **Service** office, shall include proof of service on the opposing party.	may extend the period for filing a brief for good cause shown. The Board may authorize the filing of briefs directly with the Board. In its discretion, the Board may consider a brief that has been filed out of time. All briefs and other documents filed in conjunction with an appeal, unless filed by a noncitizen directly with a DHS office, shall include proof of service on the opposing party.	the DHS officer from whose decision the appeal is taken or the Board may extend the period for filing a brief for up to 14 days for good cause shown. After the forwarding of the record on appeal by the DHS officer the Board may, solely in its discretion, authorize the filing of supplemental briefs directly with the Board and may provide the parties up to a maximum of 14 days to simultaneously file such briefs. In its discretion, the Board may consider a brief that has been filed out of time. All briefs and other documents filed in conjunction with an appeal, unless filed by an alien directly with a DHS office, shall include proof of service on the opposing party.
1003.5 Forwarding Record on Appeal	(a) Appeal from decision of an immigration judge. If an appeal is taken from a decision of an immigration judge, the record of proceeding shall be forwarded to the Board upon the request or the order of the Board. **Where transcription of an oral decision is required, the immigration judge shall review the transcript and approve the decision within 14 days of receipt, or within 7 days after the immigration judge returns to his or her duty station if the immigration judge was on leave or detailed to another location.** The Chairman and the Chief Immigration Judge shall determine the most effective and expeditious way to transcribe proceedings before the immigration judges, **and** take such steps as necessary to reduce the time required to produce transcripts of those proceedings and **improve** their quality.	(a) Appeal from decision of an immigration judge. If an appeal is taken from a decision of an immigration judge, the record of proceeding shall be promptly forwarded to the Board upon the request or the order of the Board. Where transcription of an oral decision is required, the immigration judge shall review the transcript and approve the decision within 14 days of receipt, or within 7 days after the immigration judge returns to their duty station if the immigration judge was on leave or detailed to another location. The Chairman and the Chief Immigration Judge shall determine the most effective and expeditious way to transcribe proceedings before the immigration judges, and shall take such steps as necessary to reduce the time required to produce transcripts of those proceedings and to ensure their quality.	(a) Appeal from decision of an immigration judge. If an appeal is taken from a decision of an immigration judge, the record of proceeding shall be promptly forwarded to the Board upon the request or the order of the Board, unless the Board already has access to the record of proceeding in electronic format. The Director, in consultation with the Chairman and the Chief Immigration Judge, shall determine the most effective and expeditious way to transcribe proceedings before the immigration judges. The Chairman and the Chief Immigration Judge shall take such steps as necessary to reduce the time required to produce transcripts of those proceedings and to ensure their quality. (b) Appeal from decision of a DHS officer. If an appeal is taken from a decision of a DHS officer, the record of proceeding shall be forwarded to the Board by the DHS officer

	(b) Appeal from decision of a **Service** officer. If an appeal is taken from a decision of a **Service** officer, the record of proceeding shall be forwarded to the Board by the **Service** officer promptly upon receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs. **A Service officer need not forward such an appeal to the Board, but may reopen and reconsider any decision made by the officer if the new decision will grant the benefit that has been requested in the appeal. The new decision must be served on the appealing party within 45 days of receipt of any briefs or upon expiration of the time allowed for the submission of any briefs. If the new decision is not served within these time limits or the appealing party does not agree that the new decision disposes of the matter, the record of proceeding shall be immediately forwarded to the Board.**	(b) Appeal from decision of a DHS officer. If an appeal is taken from a decision of a DHS officer, the record of proceeding shall be forwarded to the Board by the DHS officer promptly upon receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs. A DHS officer need not forward such an appeal to the Board, but may reopen and reconsider any decision made by the officer if the new decision will grant the benefit that has been requested in the appeal. The new decision must be served on the appealing party within 45 days of receipt of any briefs or upon expiration of the time allowed for the submission of any briefs. If the new decision is not served within these time limits or the appealing party does not agree that the new decision disposes of the matter, the record of proceeding shall be immediately forwarded to the Board.	promptly upon receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs, unless the DHS officer reopens and approves the petition.
1003.9(b)(5) Powers of the Chief IJ	["The Chief Immigration Judge shall have the authority to:"] … Adjudicate cases as an immigration judge;	["The Chief Immigration Judge shall have the authority to:"] … Adjudicate cases as an immigration judge, including the authority to administratively close and recalendar cases in accordance with § 1003.18(c);	
1003.10(b) Immigration Judges' Powers & Duties	In conducting hearings under section 240 of the Act and such other proceedings the Attorney General may assign to them, immigration judges shall exercise the powers and duties delegated to them by the Act and by the Attorney General through regulation. In deciding the individual cases before them,	[Existing text of § 1003.10(b)]. In deciding the individual cases before them, and subject to the applicable governing standards set forth in paragraph (d) of this section, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with	[Existing text of § 1003.10(b), with the addition of "set forth in paragraph (d) of this section" after "governing standards"]. Nothing in this paragraph (b) nor in any regulation contained in part 1240 of this chapter shall be construed as authorizing an immigration judge to administratively close or

	and subject to the applicable governing standards, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases. Immigration judges shall administer oaths, receive evidence, and interrogate, examine, and cross-examine aliens and any witnesses. Subject to §§ 1003.35 and 1287.4 of this chapter, they may issue administrative subpoenas for the attendance of witnesses and the presentation of evidence. In all cases, immigration judges shall seek to resolve the questions before them in a timely and impartial manner consistent with the Act and regulations.	their authorities under the Act and regulations that is necessary or appropriate for the disposition or alternative resolution of such cases. Such actions include administrative closure, termination of proceedings, and dismissal of proceedings. The standards for the administrative closure, dismissal, and termination of cases are set forth in § 1003.18(c), 8 CFR 1239.2(c), and § 1003.18(d), respectively. Immigration judges shall administer oaths, receive evidence, and interrogate, examine, and cross-examine noncitizens and any witnesses.	otherwise defer adjudication of a case unless a regulation promulgated by the Department of Justice or a previous judicially approved settlement expressly authorizes such an action. Only the Director or Chief Immigration Judge may direct the deferral of adjudication of any case or cases by an immigration judge.
1003.18 – Section & Paragraph Headings Case/Docket Management	**Section Heading: Case Management** **(a) [untitled]** **(b) [untitled]**	Section Heading: Docket Management (a) Scheduling. (b) Notice.	N/A
1003.18(c) Docket Management: Administrative Closure and Recalendaring	N/A (newly proposed)	Administrative closure and recalendaring. Administrative closure is the temporary suspension of a case. Administrative closure removes a case from the immigration court's active calendar until the case is recalendared. Recalendaring places a case back on the immigration court's active calendar. (1) Administrative closure before immigration judges. An immigration judge may, in the exercise of discretion,	N/A

		administratively close a case upon the motion of a party, after applying the standard set forth at paragraph (c)(3) of this section. The administrative closure authority described in this section is not limited by the authority provided in any other provisions in this chapter that separately authorize or require administrative closure in certain circumstances, including 8 CFR 214.15(l), and (p)(4), 1214.2(a), 1214.3, 1240.62(b), 1240.70(f) through (h), 1245.13, 1245.15(p)(4)(i), and 1245.21(c). (2) Recalendaring before immigration judges. At any time after a case has been administratively closed under paragraph (c)(1) of this section, an immigration judge may, in the exercise of discretion, recalendar the case pursuant to a party's motion to recalendar. In deciding whether to grant such a motion, the immigration judge shall apply the standard set forth at paragraph (c)(3) of this section. (3) Standard for administrative closure and recalendaring. An immigration judge shall grant a motion to administratively close or recalendar filed jointly by both parties, or filed by one party where the other party has affirmatively indicated its non-opposition, unless the immigration judge articulates unusual, clearly identified, and supported reasons for denying the motion. In all other cases, in deciding whether to administratively close or to recalendar a case, an immigration judge shall consider the totality of the circumstances, including	

		as many of the factors listed under paragraphs (c)(3)(i) and (ii) of this section as are relevant to the particular case. The immigration judge may also consider other factors where appropriate. No single factor is dispositive. Accordingly, the immigration judge, having considered the totality of the circumstances, may grant a motion to administratively close or to recalendar a particular case over the objection of a party. Although administrative closure may be appropriate where a petition, application, or other action is pending outside of proceedings before the immigration judge, such a pending petition, application, or other action is not required for a case to be administratively closed. (i) As the circumstances of the case warrant, the factors relevant to a decision to administratively close a case include: (A) The reason administrative closure is sought; (B) The basis for any opposition to administrative closure; (C) Any requirement that a case be administratively closed in order for a petition, application, or other action to be filed with, or granted by, DHS; (D) The likelihood the noncitizen will succeed on any petition, application, or other action that the noncitizen is pursuing, or that the noncitizen states in writing or on the record at a hearing that they plan to pursue, outside of proceedings before the immigration judge;	

		(E) The anticipated duration of the administrative closure; (F) The responsibility of either party, if any, in contributing to any current or anticipated delay; and (G) The ultimate anticipated outcome of the case. (ii) As the circumstances of the case warrant, the factors relevant to a decision to recalendar a case include: (A) The reason recalendaring is sought; (B) The basis for any opposition to recalendaring; *62281 (C) The length of time elapsed since the case was administratively closed; (D) If the case was administratively closed to allow the noncitizen to file a petition, application, or other action outside of proceedings before the immigration judge, whether the noncitizen filed the petition, application, or other action and, if so, the length of time that elapsed between when the case was administratively closed and when the noncitizen filed the petition, application, or other action; (E) If a petition, application, or other action that was pending outside of proceedings before the immigration judge has been adjudicated, the result of that adjudication; (F) If a petition, application, or other action remains pending outside of proceedings before the immigration judge, the likelihood the noncitizen will succeed on that petition, application, or other action; and (G) The ultimate anticipated outcome if the case is recalendared.	

1003.18(d) Docket Management: Termination	N/A (newly proposed)	Termination. Immigration judges shall have the authority to terminate cases before them as set forth in paragraphs (d)(1) and (2) of this section. A motion to dismiss a case in removal proceedings before an immigration judge for a reason other than authorized by 8 CFR 1239.2(c) shall be deemed a motion to terminate under paragraph (d)(1) of this section. (1) Removal, deportation, and exclusion proceedings—(i) Mandatory termination. In removal, deportation, and exclusion proceedings, immigration judges shall terminate the case where at least one of the requirements in paragraphs (d)(1)(i)(A) through (G) of this section is met. (A) No charge of deportability, inadmissibility, or excludability can be sustained. (B) Fundamentally fair proceedings are not possible because the noncitizen is mentally incompetent and adequate safeguards are unavailable. (C) The noncitizen has, since the initiation of proceedings, obtained United States citizenship. (D) The noncitizen has, since the initiation of proceedings, obtained at least one status listed in paragraphs (d)(1)(i)(D)(1) through (4) of this section, provided that the status has not been revoked or terminated, and the noncitizen would not have been deportable, inadmissible, or excludable as charged if the noncitizen had obtained such status before the initiation of proceedings. (1) Lawful permanent resident status.	N/A

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		(2) Refugee status. (3) Asylee status. (4) Nonimmigrant status as defined in section 101(a)(15)(S), (T), or (U) of the Act. (E) Termination is required under 8 CFR 1245.13(l). (F) Termination is otherwise required by law. (G) The parties jointly filed a motion to terminate, or one party filed a motion to terminate and the other party affirmatively indicated its non-opposition, unless the immigration judge articulates unusual, clearly identified, and supported reasons for denying the motion. (ii) Discretionary termination. In removal, deportation, or exclusion proceedings, immigration judges may, in the exercise of discretion, terminate the case where at least one of the requirements listed in paragraphs (d)(1)(ii)(A) through (G) of this section is met. (A) An unaccompanied child, as defined in 8 CFR 1001.1(hh), states an intent in writing or on the record at a hearing to seek asylum with USCIS, and USCIS has initial jurisdiction over the application pursuant to section 208(b)(3)(C) of the Act. (B) The noncitizen demonstrates prima facie eligibility for relief from removal or for a lawful status based on a petition, application, or other action that USCIS has jurisdiction to adjudicate, including naturalization or adjustment of status. (C) The noncitizen is a beneficiary of Temporary Protected Status, deferred action, or Deferred Enforced Departure.	

		(D) USCIS has granted the noncitizen's application for a provisional unlawful presence waiver pursuant to 8 CFR 212.7(e). (E) Termination is authorized by 8 CFR 1216.4(a)(6) or 1238.1(e). (F) The parties have filed a motion to terminate under 8 CFR 214.11(d)(1)(i) or 214.14(c)(1)(i). (G) Due to circumstances comparable to those described in paragraphs (d)(1)(ii)(A) through (F) of this section, termination is similarly necessary or appropriate for the disposition or alternative resolution of the case. However, immigration judges may not terminate a case for purely humanitarian reasons, unless DHS expressly consents to such termination, joins in a motion to terminate, or affirmatively indicates its non-opposition to a noncitizen's motion. (2) Other proceedings—(i) Mandatory termination. In proceedings other than removal, deportation, or exclusion proceedings, immigration judges shall terminate the case where the parties have jointly filed a motion to terminate, or one party has filed a motion to terminate and the other party has affirmatively indicated its non-opposition, unless the immigration judge articulates unusual, clearly identified, and supported reasons for denying the motion. In addition, immigration judges shall terminate such a case where required by law. (ii) Discretionary termination. In proceedings other than removal, deportation, or exclusion proceedings,	

		immigration judges may, in the exercise of discretion, terminate the case where one party has requested termination, and terminating the case is necessary or appropriate for the disposition or alternative resolution of the case. However, immigration judges may not terminate a case for purely humanitarian reasons, unless DHS expressly consents to such termination, joins in a motion to terminate, or affirmatively indicates its non-opposition to a noncitizen's motion. (iii) Limitation on termination. Nothing in paragraphs (d)(2)(i) and (ii) of this section authorizes immigration judges to terminate a case where prohibited by another regulatory provision.	
1003.23(b)(1) Reopening or Reconsideration Before the Immigration Court	An Immigration Judge may upon **his or her** own motion at any time, **or upon motion of the Service or the alien,** reopen **or reconsider any** case in which **he or she** has **made** a decision, unless jurisdiction is vested with the Board of Immigration Appeals. Subject to the exceptions in this paragraph and paragraph (b)(4), a party may file only one motion to reconsider and one motion to reopen proceedings. A motion to reconsider must be filed within 30 days of the date of entry of a final administrative order of removal, deportation, or exclusion, or on or before July 31, 1996, whichever is later. A motion to reopen must be filed within 90 days of the date of entry of a final administrative order of removal, deportation, or exclusion, or on or before September 30, 1996, whichever is later. A	An immigration judge may upon the immigration judge's own motion at any time, or upon motion of DHS or the noncitizen, reopen or reconsider any case in which the judge has rendered a decision, unless jurisdiction is vested with the Board of Immigration Appeals. Subject to the exceptions in this paragraph (b)(1) and paragraph (b)(4), a party may file only one motion to reconsider and one motion to reopen proceedings. A motion to reconsider must be filed within 30 days of the date of entry of a final administrative order of removal, deportation, or exclusion, or on or before July 31, 1996, whichever is later. A motion to reopen must be filed within 90 days of the date of entry of a final administrative order of removal, deportation, or exclusion, or on or before	Unless jurisdiction is vested with the Board of Immigration Appeals, an immigration judge may at any time reopen a case in which he or she has rendered a decision on his or her own motion solely in order to correct a ministerial mistake or typographical error in that decision or to reissue the decision to correct a defect in service. Unless jurisdiction is vested with the Board of Immigration Appeals, in all other cases, an immigration judge may only reopen or reconsider any case in which he or she has rendered a decision solely pursuant to a motion filed by one or both parties. Subject to the exceptions in this paragraph (b)(1) and paragraph (b)(4), a party may file only one motion to reconsider and one motion to reopen proceedings. A motion to reconsider must be filed within 30 days of the date of entry of a final administrative order of

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	motion to reopen or to reconsider shall not be made by or on behalf of a person who is the subject of removal, deportation, or exclusion proceedings subsequent to his or her departure from the United States. Any departure from the United States, including the deportation or removal of a person who is the subject of exclusion, deportation, or removal proceedings, occurring after the filing of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion. The time and numerical limitations set forth in this paragraph do not apply to motions by the Service in removal proceedings pursuant to section 240 of the Act. Nor shall such limitations apply to motions by the Service in exclusion or deportation proceedings, when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with § 1208.22(e) of this chapter.	September 30, 1996, whichever is later. A motion to reopen or to reconsider shall not be made by or on behalf of a person who is the subject of removal, deportation, or exclusion proceedings subsequent to his or her departure from the United States. Any departure from the United States, including the deportation or removal of a person who is the subject of exclusion, deportation, or removal proceedings, occurring after the filing of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion. The time and numerical limitations set forth in this paragraph (b)(1) do not apply to motions by the Service in removal proceedings pursuant to section 240 of the Act. Nor shall such limitations apply to motions by the Service in exclusion or deportation proceedings, when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with § 1208.22(e) of this chapter.	removal, deportation, or exclusion, or on or before July 31, 1996, whichever is later. A motion to reopen must be filed within 90 days of the date of entry of a final administrative order of removal, deportation, or exclusion, or on or before September 30, 1996, whichever is later. A motion to reopen or to reconsider shall not be made by or on behalf of a person who is the subject of removal, deportation, or exclusion proceedings subsequent to his or her departure from the United States. Any departure from the United States, including the deportation or removal of a person who is the subject of exclusion, deportation, or removal proceedings, occurring after the filing of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion. The time and numerical limitations set forth in this paragraph (b)(1) do not apply to motions by the Service in removal proceedings pursuant to section 240 of the Act. Nor shall such limitations apply to motions by the Service in exclusion or deportation proceedings, when the basis of the motion is fraud in the original proceeding or a crime that would support termination of asylum in accordance with § 1208.22(e) of this chapter.
1003.23(b)(4)(v) Reopening or Reconsideration Before the Immigration Court:	N/A (newly proposed)	N/A (removed)	Exceptions to time and numerical limitations. The time and numerical limitations set forth in paragraph (b)(1) of this section shall not apply to a motion to reopen proceedings filed when each of the following circumstances is present, provided that a respondent may file

Exceptions to Time and Numerical Limitations			only one motion to reopen pursuant to this paragraph (b)(4): (A) A material change in fact or law underlying a removability ground or grounds specified in section 212 or 237 of the Act occurred after the entry of an administratively final order that vitiates all grounds of removability applicable to the alien; and (B) The movant exercised diligence in pursuing the motion to reopen.
1003.23(b)(4)(vi) Reopening or Reconsideration Before the Immigration Court: Citizenship Claims	N/A (newly proposed)	N/A (removed)	Asserted United States citizenship or nationality. The time limitations set forth in paragraph (b)(1) of this section shall not apply to a motion to reopen proceedings filed based on specific allegations, supported by evidence, that the respondent is a United States citizen or national.
1239.2(b) Ordering termination or dismissal	N/A (reserved)	Ordering termination or dismissal. After commencement of proceedings, an immigration judge or Board member shall have authority to resolve or dispose of a case through an order of dismissal or an order of termination. An immigration judge or Board member may enter an order of dismissal in cases where DHS moves for dismissal pursuant to paragraph (c) of this section. A motion to dismiss removal proceedings for a reason other than those authorized by paragraph (c) of this section shall be deemed a motion to terminate and adjudicated pursuant to 8 CFR 1003.1(m), pertaining to cases before the Board, or 8 CFR 1003.18(d), pertaining to cases before the immigration court, as applicable.	N/A

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1239.2(f) Termination of proceedings by IJ	Termination of removal proceedings by immigration judge. An immigration judge may terminate removal proceedings to permit the alien to proceed to a final hearing on a pending application or petition for naturalization when the alien has established prima facie eligibility for naturalization and the matter involves exceptionally appealing or humanitarian factors; in every other case, the removal hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any state of the proceedings.	[removed and reserved]	N/A
1240.26(k) Authority of the BIA to Grant VD in First Instance	N/A (newly proposed)	The following procedures apply to any request for voluntary departure reviewed by the Board: (1) If the Board finds that an immigration judge incorrectly denied **a noncitizen's** request for voluntary departure or failed to provide appropriate advisals, the Board may consider the **noncitizen's** request for voluntary departure de novo and, if warranted, may enter its own order of voluntary departure with an alternate order of removal. (2) In cases in which a **noncitizen** has appealed an immigration judge's decision or in which DHS and the **noncitizen** have both appealed an immigration judge's decision, the Board shall not grant voluntary departure under section 240B(a) of the Act unless: (i) The **noncitizen** requested voluntary departure under that section before the immigration judge, the immigration judge	The following procedures apply to any request for voluntary departure reviewed by the Board: (1) **The Board shall not remand a case to an immigration judge to reconsider a request for voluntary departure.** If the Board **first** finds that an immigration judge incorrectly denied **an alien's** request for voluntary departure or failed to provide appropriate advisals, the Board shall consider the **alien's** request for voluntary departure de novo and, if warranted, may enter its own order of voluntary departure with an alternate order of removal. (2) In cases which an **alien** has appealed an immigration judge's decision or in which DHS and the **alien** have both appealed an immigration judge's decision, the Board shall not grant voluntary departure under section 240B of the Act unless: (i) The **alien** requested voluntary departure under that section before the immigration

		denied the request, and the **noncitizen** timely appealed; (ii) The **noncitizen's** notice of appeal specified that the noncitizen is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the **noncitizen** is challenging; (iii) The Board finds that the immigration judge's decision was in error; and (iv) The Board finds that the **noncitizen** meets all applicable statutory and regulatory criteria for voluntary departure under that section. (3) In cases in which DHS has appealed an immigration judge's decision, the Board shall not grant voluntary departure under section 240B**(b)** of the Act unless: (i) The **noncitizen** requested voluntary departure under that section before the immigration judge and provided evidence or a proffer of evidence in support of the **noncitizen** 's request; (ii) The immigration judge either granted the request or did not rule on it; and, (iii) The Board finds that the **noncitizen** meets all applicable statutory and regulatory criteria for voluntary departure under that section. (4) The Board may impose such conditions as it deems necessary to ensure the **noncitizen's** timely departure from the United States, if supported by the record on appeal and within the scope of the Board's authority on appeal. Unless otherwise indicated in this section, the Board shall	judge, the immigration judge denied the request, and the **alien** timely appealed; (ii) The **alien's** notice of appeal specified that the alien is appealing the immigration judge's denial of voluntary departure and identified the specific factual and legal findings that the **alien** is challenging; (iii) The Board finds that the immigration judge's decision was in error; and (iv) The Board finds that the **alien** meets all applicable statutory and regulatory criteria for voluntary departure under that section. (3) In cases in which DHS has appealed an immigration judge's decision, the Board shall not grant voluntary departure under section 240B of the Act unless: (i) The **alien** requested voluntary departure under that section before the immigration judge and provided evidence or a proffer of evidence in support of the **alien's** request; (ii) The immigration judge either granted the request or did not rule on it; and, (iii) The Board finds that the **alien** meets all applicable statutory and regulatory criteria for voluntary departure under that section. (4) The Board may impose such conditions as it deems necessary to ensure the **alien's** timely departure from the United States, if supported by the record on appeal and within the scope of the Board's authority on appeal. Unless otherwise indicated in this section, the Board shall advise the **alien** in writing of the conditions set by the Board, consistent with the conditions set forth in paragraphs (b), (c), (d), (e), (h), and (i) of this section (other than paragraph (c)(3)(ii) of this section), except

		advise the **noncitizen** in writing of the conditions set by the Board, consistent with the conditions set forth in paragraphs (b), (c), (d), (e), (h), and (i) of this section (other than paragraph (c)(3)(ii) of this section), except that the Board shall advise the **noncitizen** of the duty to post the bond with the ICE Field Office Director within 10 business days of the Board's order granting voluntary departure. If documentation sufficient to assure lawful entry into the country to which the **noncitizen** is departing is not contained in the record, but the **noncitizen** continues to assert a request for voluntary departure under section 240B of the Act and the Board finds that the **noncitizen** is otherwise eligible for voluntary departure under the Act, the Board may grant voluntary departure for a period not to exceed 120 days, subject to the condition that the **noncitizen** within 60 days must secure such documentation and present it to DHS and the Board. If the Board imposes conditions beyond those specifically enumerated, the Board shall advise the **noncitizen** in writing of such conditions. The **noncitizen** may accept or decline the grant of voluntary departure and may manifest **a** declination either by written notice to the Board, by failing to timely post any required bond, or by otherwise failing to comply with the Board's order. The grant of voluntary departure shall automatically terminate upon a filing by the **noncitizen** of a motion to reopen or reconsider the Board's decision, or by filing a timely petition for	that the Board shall advise the **alien** of the duty to post the bond with the ICE Field Office Director within 10 business days of the Board's order granting voluntary departure **if that order was served by mail and shall advise the alien of the duty to post the bond with the ICE Field Office Director within five business days of the Board's order granting voluntary departure if that order was served electronically.** If documentation sufficient to assure lawful entry into the country to which the **alien** is departing is not contained in the record, but the **alien** continues to assert a request for voluntary departure under section 240B of the Act and the Board finds that the **alien** is otherwise eligible for voluntary departure under the Act, the Board may grant voluntary departure for a period not to exceed 120 days, subject to the condition that the **alien** within 60 days must secure such documentation and present it to DHS and the Board. If the Board imposes conditions beyond those specifically enumerated, the Board shall advise the **alien** in writing of such conditions. The **alien** may accept or decline the grant of voluntary departure and may manifest **his or her** declination either by written notice to the Board **within five days of receipt of its decision,** by failing to timely post any required bond, or by otherwise failing to comply with the Board's order. The grant of voluntary departure shall automatically terminate upon a filing by the **alien** of a motion to reopen or reconsider the Board's decision, or by filing a timely petition for review of the Board's decision. The **alien**

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		review of the Board's decision. The **noncitizen** may decline voluntary departure **when** unwilling to accept the amount of the bond or other conditions.	may decline voluntary departure **if he or she** is unwilling to accept the amount of the bond or other conditions.
1240.26(l) Penalty for Failure to Depart	N/A (text previous appeared as 1240.26(j))	There shall be a rebuttable presumption that the civil penalty for failure to depart, pursuant to section 240B(d)(1)(A) of the Act, shall be set at $3,000 unless the immigration judge **or the Board** specifically orders a higher or lower amount at the time of granting voluntary departure within the permissible range allowed by law. The immigration judge **or the Board** shall advise the **noncitizen** of the amount of this civil penalty at the time of granting voluntary departure.	There shall be a rebuttable presumption that the civil penalty for failure to depart, pursuant to section 240B(d)(1)(A) of the Act, shall be set at $3,000 unless the immigration judge specifically orders a higher or lower amount at the time of granting voluntary departure within the permissible range allowed by law. The immigration judge shall advise the alien of the amount of this civil penalty at the time of granting voluntary departure.

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EXHIBIT B

OIL's Currently Effective Regulations Handout
Updated September 23, 2023

OIL's Currently Effective Regulations Handout

Unless otherwise specified, the current version of a regulation can be found at http://www.ecfr.gov. For the sections in the chart below, the current version of the section is not effective for some or all of the section. Where a prior version is effective, the chart below gives the version year and links to the language that was in effect on January 1 of that version year as provided on http://www.ecfr.gov. Where a sub-section is ineffective but effective amendments have been made to another sub-section of the section since the ineffective language was added, the chart explains which versions are effective for each part of the section. And in such cases the multiple entries for that section are highlighted in the same color for ease of viewing.

Provision	Effective Version
§ 1003.1 (except (b)(9), (c), (d), (e), and (k)) (amended by ECAS Rule^)	Current Version
§ 1003.1(b)(9), (c), (d), (e), and (k)	2020 Version
§ 1003.2 (except (g))	2020 Version
§ 1003.2(g) (amended by ECAS Rule^)	Current Version
§ 1003.3 (except (c)(1)) (amended by ECAS Rule^)	Current Version
§ 1003.3(c)(1)	2020 Version
§ 1003.5	2020 Version
§ 1003.7	2020 Version
§ 1003.8 (except (a)(1)) (amended by ECAS Rule^)	Current Version
§ 1003.8(a)(1)	2020 Version
§ 1003.10	2020 Version
§ 1003.23 (except (b)(1)(ii))	2020 Version
§ 1003.23(b)(1)(ii) (amended by ECAS Rule^)	Current Version
§ 1003.24 (except (c)(1)) (amended by ECAS Rule^)	Current Version
§ 1003.24(c)(1)	2020 Version
§ 1003.29	2020 Version
§ 1003.42 (except (d), (h)(1) & (2))	2020 Version
§ 1003.42 section heading & (d) (amended by AP IFR* and CLP[a]), (h)(1) & (2) (amended by STCA Rule[#])	Current Version
§ 1103.7 (except (a)(3))	2020 Version
§ 1103.7(a)(3) (amended by ECAS Rule^)	Current Version
§ 1208.1	2020 Version

Provision	Effective Version
§ 1208.3 (except (c)(3)) (amended by AP IFR*)	Current Version
§ 1208.3(c)(3) [†]	See below[†]
§ 1208.4 (except (d)) (amended by AP IFR*)	Current Version
§ 1208.4(d)	2020 Version
§ 1208.6	2020 Version
§ 1208.7	2020 Version
§ 1208.9	2020 Version
§ 1208.12	2020 Version
§ 1208.13 (except (c)(3)–(5), (f))	2020 Version
§ 1208.13(c)(3)–(5) (removed by CLP[a]), (f) (added by CLP[a])	Current Version
§ 1208.15	2020 Version
§ 1208.16 (except (a))	2020 Version
§ 1208.16(a) (amended by AP IFR*)	Current Version
§ 1208.18 (except (b)(1))	2020 Version
§ 1208.18(b)(1) (amended by AP IFR*)	Current Version
§ 1208.20	2020 Version
§ 1208.30 (except (b)) (amended by AP IFR* and CLP[a])	Current Version
§ 1208.30(b)	2020 Version
§ 1208.31	2020 Version
§ 1235.6 (except (a)(2)	2020 Version
§ 1235.6(a)(2) (amended by AP IFR*)	Current Version
§ 1240.6	2020 Version
§ 1240.26	2020 Version
§ 1244.4	2020 Version

^ "ECAS Rule" refers to *Executive Office for Immigration Review Electronic Case Access and Filing*, 86 Fed. Reg. 70,708 (Dec. 13, 2021), which became effective on February 11, 2022, and is currently in effect.

* "AP IFR" refers to *Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers*, 87 Fed. Reg. 18,078 (Mar. 29, 2022) ("Asylum Processing IFR"), previously known as the "Asylum Officer Rule" or "AO Rule," which became effective on May 31, 2022, and is currently in effect.

† 8 CFR § 1208.3(c)(3) was amended by *Procedures for Asylum and Withholding of Removal*, 85 Fed. Reg. 81,698 (Dec. 16, 2020) ("EOIR-Only Asylum Procedures Rule"), which was preliminarily enjoined and had its effective date stayed. *See Nat'l Immigrant Justice Ctr. v. Exec. Office for Immigration Review*, No. 21-56 (RBW) (D.D.C. Jan. 14, 2021). The Asylum Processing IFR added some text to § 1208.3(c)(3) but did not replace the ineffective language. Thus, the currently effective language, including the additional effective language added by the Asylum Processing IFR in yellow, would be:

> An asylum application under paragraph (a)(1) of this section that does not include a response to each of the questions contained in the Form I-589, is unsigned, or is unaccompanied by the required materials specified in paragraph (a) of this section is incomplete. The filing of an incomplete application shall not commence the 150-day period after which the applicant may file an application for employment authorization in accordance with § 1208.7. An application that is incomplete shall be returned by mail to the applicant within 30 days of the receipt of the application by the Service. If the Service has not mailed the incomplete application back to the applicant within 30 days, it shall be deemed complete. An application returned to the applicant as incomplete shall be resubmitted by the applicant with the additional information if he or she wishes to have the application considered.

"STCA Rule" refers to *Implementation of the 2022 Additional Protocol to the 2002 U.S.-Canada Agreement for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries*, 88 Fed. Reg. 18,227 (Mar. 28, 2023), which became effective on March 28, 2023, and is currently in effect.

[a] "CLP" refers to *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31,314 (May 16, 2023) ("Lawful Pathways Rule"), which became effective on May 11, 2023. The rule removed amendments implementing *Asylum Eligibility and Procedural Modifications*, 85 Fed. Reg. 82,260 (Dec. 17, 2020) ("Third Country Transit Bar Rule"), and *Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims*, 83 Fed. Reg. 55,934 (Nov. 9, 2018) ("Proclamation Bar IFR"). Although the Lawful Pathways Rule is currently in effect, it is subject to litigation. Such litigation will not change the effectiveness of the Third Country Transit Bar Rule and Proclamation Bar IFR provisions as those remain enjoined and vacated, respectively, through other litigation. However, a decision vacating or enjoining the Lawful Pathways Rule in its entirety would render ineffective 8 C.F.R. §§ 1208.13(f) and 1208.33.

Explanation of Enjoined Provisions

The chart below includes the provisions of EOIR's regulations that are not currently effective. This chart is not comprehensive. If you would like to see what a certain rule amended in a provision, go to http://www.ecfr.gov and navigate to the specific provision. On the left-hand side, click "Compare Dates" and then enter the dates one day before and one day after the specific rule's effective date.

Rule & Court Decision(s) Preventing Application	Provision	Description of Enjoined Amendment & Link to Currently Effective Provision
Rule: *Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure*, 85 Fed. Reg. 81,588 (Dec. 16, 2020) ("Appellate Procedure Rule" or "Admin Closure Rule") *Effective Date*: Jan. 15, 2021 **Court Orders:** *Centro Legal de la Raza v. Exec. Office for Immigration Review*, 524 F. Supp. 3d 919 (N.D. Cal. 2021) (preliminary injunction and stay of effective date under 5 U.S.C. 705) *Catholic Legal Immigration Network, Inc. v. Exec. Office for Immigration Review*, No. 21-94, 2021 WL 3609986 (D.D.C. Apr. 4, 2021) (staying effective date under 5 U.S.C. § 705)	Administrative Closure § 1003.1(d)(1)(ii) § 1003.10(b)	Rule amended these provisions to include language that prevents the Board and IJs from administratively closing cases unless authorized by regulation or a judicially authorized settlement. The 2020 version is currently effective for § 1003.10 and is available here. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9)[1], (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Board fact-finding § 1003.1(d)(3)(iv)	Rule amended this provision to allow the Board to find facts in more circumstances and restrain the Board's ability to remand *sua sponte* for additional fact-finding in many circumstances. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9), (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Board affirmance on other grounds § 1003.1(d)(3)(v)	Rule added provision allowing Board to affirm on any basis supported by the record, such as by undisputed facts. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9), (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Remand for Background Checks § 1003.1(d)(6)	Rule amended provision to no longer require remands for background checks. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9), (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Remands for new evidence and finality of decision § 1003.1(d)(7)	Rule narrowed the scope of the Board's ability to remand, including by disallowing remand on the basis of new evidence—instead a motion to reopen must be filed other than for evidence obtained through background checks. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9), (c), (d), (e), and (k) of §

[1] See discussion regarding section 1003.1(b)(9) in the Global Asylum Rule portion of the chart below.

		1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Board adjudication timelines & automatic referral to Director for adjudication § 1003.1(e) § 1003.3(c)(1) § 1003.5	Rule changed the timelines applicable before the Board, including internal case management timelines and briefing deadlines. Also allowed for automatic referral of cases to the Director for adjudication in certain circumstances. The 2020 version of § 1003.5 is currently effective and is available here (1003.5). Sections 1003.1 and 1003.3 have since been heavily amended by the ECAS Rule, which is currently in effect. For paragraph (c)(1) of § 1003.3, cite to the 2020 version of the rule available here. For paragraphs (b)(9), (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of these provisions cite to the current versions here (1003.1) and here (1003.3).
	Quality Assurance Certification § 1003.1(k)	Rule added provision allowing IJs to refer Board decisions to the Director for quality assurance. Section 1003.1 has since been amended by the ECAS Rule, which is currently in effect. For paragraphs (b)(9), (c), (d), (e), and (k) of § 1003.1, cite to the 2020 version of the rule here. For all other portions of § 1003.1, cite to the currently available version here.
	Sua sponte reopening § 1003.2(a) § 1003.23(b)(1)	Rule amended provision regarding sua sponte reopening to allow for it only to correct a ministerial mistake or typographical error or to reissue a decision to correct a defect in service. The 2020 versions re currently effective and are available here (1003.2) and here (1003.23). **Note:** The ECAS Rule amended §§ 1003.2(g) and 1003.23(b)(1)(ii) and is currently in effect. The current version of those provisions are available here (1003.2(g)) and here (1003.23(b)(1)(ii)). For all other parts of §§ 1003.2 and 1003.23, cite the 2020 versions linked above.
	Motions to reopen or reconsider filed with Board while appeal pending § 1003.2(b), (c)(4)	Rule amended provision to remove language that stated that motions to reopen or reconsider filed while the case is pending before the Board will be construed as a motion to remand. The 2020 version is currently effective and is available here. **Note:** The ECAS Rule amended § 1003.2(g) and is currently in effect. The current version of that provision is available here (1003.2(g)). For all other parts of § 1003.2, cite the 2020 version linked above.

	Exception to motion to reopen deadlines § 1003.2(c)(3)(v)-(vii) § 1003.23(b)(4)(v)-(vii)	Rule added exceptions to the time and number bars where: (1) a change in law or material fact after the removal order was final vitiates all grounds of removability and the noncitizen was diligent in moving to reopen; (2) where there is a claim to U.S. nationality; or (3) where the motion is filed by DHS. The 2020 versions of § 1003.2 and § 1003.23 are currently effective and are available here (§ 1003.2) and here (§ 1003.23). **Note:** The ECAS Rule amended §§ 1003.2(g) and 1003.23(b)(1)(ii) and is currently in effect. The current version of those provisions are available here (1003.2(g)) and here (1003.23(b)(1)(ii)). For all other parts of §§ 1003.2 and 1003.23, cite the 2020 versions linked above.
	Notice of certification § 1003.7	Rule replaced "the Service" and "INS" with "DHS." The 2020 version is currently effective and is available here.
	Asylum adjudication deadline § 1003.10(b)	Rule added language requiring that absent exceptional circumstances IJs shall adjudicate asylum claims within 180 days. The 2020 version is currently effective and is available here.
	Board authority to grant voluntary departure in first instance § 1240.26(k)	Rule added provision allowing Board to grant voluntary departure in the first instance and providing process for doing so. The 2020 version of § 1240.26 is currently effective and does not include a paragraph (k).
Rule: *Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*, 85 Fed. Reg. 80,274 (Dec. 11, 2020) ("Global Asylum Rule") *Effective Date*: Jan. 11, 2021 **Court Order:** *Pangea Legal Servs. v. U.S. Dep't of Homeland Sec.*, 512 F. Supp. 3d 966, 969–70 (N.D. Cal. 2021) ("*Pangea II*") (preliminarily enjoining Global Asylum Rule)	Board jurisdiction over IJ decisions § 1003.1(b)(9)	Rule modified § 1003.1(b)(9) to add an additional cross-reference, highlighted in yellow: "Decisions of Immigration Judges in asylum proceedings pursuant to § 1208.2(b) and (c) of this chapter." The 2020 version of § 1003.1(b)(9) (referencing only § 1208.2(b)) is currently in effect.
	Definitions for asylum and withholding of removal § 1208.1(c)-(g)	Rule added definitions and other clarifications for the concepts of "particular social group," "political opinion," "nexus," "persecution," and "stereotype" evidence. The 2020 version of § 1208.1 is currently effective and does not include paragraphs (c) through (g).
	Disclosure to third parties § 208.6 § 1208.6	Rule added additional exceptions to DHS's and EOIR's provisions regarding the confidentiality of asylum applications. The 2020 versions are currently effective and are available here (DHS) and here (EOIR).
	Internal relocation § 1208.13(b)(3) § 1208.16(b)(3)	Rule changed the considerations relevant to determining whether internal relocation is reasonable and changed the burden shifting where past persecution. The rule added the following: "Regardless of whether an applicant has established persecution in the past, in cases in which the

		persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate." The 2020 version of § 1208.13 is currently effective and is available here. The 2020 version of § 1208.16 is currently effective and is available here. **Note:** § 1208.16(a) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only is available here. For any other provision of 1208.16, please cite the 2020 version as instructed above.
	Asylum discretion § 1208.13(d)	Rule added paragraph setting out specific factors for adjudicators to consider when determining whether to grant asylum in an exercise of discretion. This paragraph is not currently effective. The 2020 version of § 1208.13 is currently effective and is available here.
	Pretermission § 1208.13(e)	Rule added a paragraph allowing IJ to pretermit asylum applications. This paragraph is not currently effective. The 2020 version of § 1208.13 is currently effective and is available here.
	Firm resettlement § 1208.15	Rule made significant changes to firm resettlement. The 2020 version is currently effective and is available here.
	CAT state action requirement (under color of law) § 1208.18(a)(1)	Rule incorporated the "under color of law" standard set forth in *Matter of O-F-A-S-*, 28 I. & N. Dec. 35 (A.G. 2020). Although the provision is enjoined, *Matter of O-F-A-S-* remains good law and stands for the same proposition. The 2020 version is currently effective and is available here. **Note:** § 1208.18(b)(1) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only is available here. For any other provision of 1208.18, please cite the 2020 version as instructed above.
	CAT state action requirement (willful blindness) § 1208.18(a)(7)	Rule amended provision to clarify that actual knowledge and willful blindness can meet the acquiescence standard and defining willful blindness. The 2020 version is currently effective and is available here. **Note:** § 1208.18(b)(1) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only

		is available here. For any other provision of 1208.18, please cite the 2020 version as instructed above.
	Frivolous findings § 1208.20	Rule expanded grounds for finding an application frivolous and added ability to withdraw application and accept voluntary departure in exchange for the IJ not entering such a finding. The 2020 version is currently effective and is available here.
	Credible Fear Provisions § 1208.30(b) § 1208.30(g)(1)	Rule made various changes to the credible fear provisions, many of which were subsequently amended by the Asylum Processing IFR, the amendments of which are currently in effect. The provisions listed to the left are those that have not been replaced and remain enjoined. For § 1208.30, generally cite to the currently effective version here. However, for paragraphs (b) and (g)(1), the proper version to cite is the version from 2020, which is available here.
	Reasonable Fear Provisions § 1208.31	Rule amended paragraphs (f) and (g) to make stylistic changes and to add a provision that if the noncitizen "refuses" to indicate whether they want review of a negative fear finding, that refusal will be interpreted as declining review. The 2020 version is currently effective and available here.
	Referral to the IJ § 1235.6	Rule made changes to this provision regarding LPRs and asylees. The 2020 version is currently effective and available here, except with respect to paragraph (a)(2), for which the current version should be cited (available here).
	TPS Ineligibility § 1244.4	Rule updated a very out-of-date reference from INA 243(h)(2)—an old firm resettlement provision that applied to withholding of deportation—to INA 208(b)(2)(A)—the currently firm resettlement statutory provision. The change merely updated the regulation to match the language in the TPS statute, which renders ineligible for TPS any noncitizen "described in section 208(b)(2)(A)" of the INA. The 2020 version is currently effective and available here, but if citing this provision, recommend citing the current statute instead of the outdated regulatory text.
Rule: *Procedures for Asylum and Bars to Asylum Eligibility*, 85 Fed. Reg. 67,202 (Oct. 21, 2020) ("Criminal Asylum Bars Rule")	Additional criminal-activity-based bars to asylum § 1208.13(c)(6)-(9)	Rule added various bars to a grant of asylum based on criminal activity as well as definitions and other related provisions relating to the application of those new bars. The 2020 version is currently effective and does not include (c)(6)-(9). That version of this provision is available here.

Effective Date: Nov. 20, 2020 **Court Order:** *Pangea Legal Servs. v. U.S. Dep't of Homeland Sec.*, 501 F. Supp. 3d 792, 827 (N.D. Cal. 2020) (order preliminarily enjoining the rule)	Reconsideration of discretionary asylum denial § 1208.16(e) removed	Rule removed a provision that requires reconsideration of a discretionary denial of asylum where the applicant is found eligible for withholding of removal. The 2020 version is currently effective. It includes paragraph (e) and is available here. **Note:** § 1208.16(a) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only is available here. For any other provision of 1208.16, please cite the 2020 version as instructed above.
Rule: *Procedures for Asylum and Withholding of Removal*, 85 Fed. Reg. 81,698 (Dec. 16, 2020) ("EOIR-Only Asylum Procedures Rule") *Effective Date*: Jan. 15, 2021 **Court Order:** *Nat'l Immigrant Justice Ctr. v. Exec. Office for Immigration Review*, No. 21-56 (RBW) (D.D.C. Jan. 14, 2021) (order granting preliminary injunction and staying rule's effective date under 5 U.S.C. § 705)	180-Day Provisions § 1003.10(b) (general) § 1003.29 (continuances) § 1240.6 (adjournments)	Rule amended these provisions to provide that in taking the actions the provisions allow (such as continuances and adjournments), nothing authorizes an IJ to take an action that would cause the adjudication of an application for asylum to exceed 180 days absent exceptional circumstances. The 2020 versions are currently effective and are available here (1003.10), here (1003.29), and here (1240.6).
	Asylum application filing requirements § 1208.3(c)(3) § 1208.4(d)	Rule amended multiple provisions dealing with the requirements for a complete asylum application and fee receipt filing requirements. The Rule further instituted a 15-day application filing requirement for applicants in asylum-and-withholding-only proceedings. Both §§ 1208.3 and 1208.4 have been amended since the Rule's amendments by other rules that are currently in effect. You should cite to the current version of these provisions except when citing the specific paragraphs listed here. For § 1208.4(d), cite to the 2020 version of the regulation, which is available here. For § 1208.3(c)(3), see the discussion regarding that paragraph under the chart in section one of this guidance.
	Reliance upon governmental sources § 1208.12(a)	Rule amended § 1208.12(a) to allow IJs to rely on certain governmental sources and to submit relevant evidence into the record. The 2020 version is currently effective and is available here.
	Fees § 1003.8(a)(1) § 1003.24(c)(1)	Rule inserted cross-references to implement new rules providing for filing fees for asylum applications. The ECAS Rule amended other provisions of §§ 1003.8 and 1003.24 and is currently in effect. Cite to the current provisions here (1003.8) and here (1003.24), unless you are citing the paragraphs listed to the left, in which case you should cite to the 2020 versions here (1003.8(a)(1)) and here (1003.24(c)(1)).

	DHS Provisions § 1208.7 § 1208.9	Rule removed and reserved two provisions that related to DHS functions, specifically EADs and interviews before asylum officers. The 2020 versions are currently effective and are available here (1208.7) and here (1208.9).