

practice and preparation as defined in paragraphs (i) and (k) of this section.

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

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

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

(q) The term *arriving alien* means an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport. An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.

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

(s) The terms *government counsel* or *Service counsel*, in the context of proceedings in which the Department of

Homeland Security has appeared, mean any officer assigned to represent the Department of Homeland Security in any proceeding before an immigration judge or the Board of Immigration Appeals.

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

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

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

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

[23 FR 9115, Nov. 26, 1958]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1001.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

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

SOURCE: Redesignated at 68 FR 9830, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1003 appear at 68 FR 9846, Feb. 28, 2003, and at 68 FR 10350, Mar. 5, 2003.

§ 1003.0 Executive Office for Immigration Review.

(a) *Organization.* Within the Department of Justice, there shall be an Executive Office for Immigration Review (EOIR), headed by a Director who is appointed by the Attorney General. The Director shall be assisted by a Deputy Director and by a General Counsel. EOIR shall include the Board of Immigration Appeals, the Office of the Chief Immigration Judge, the Office of the Chief Administrative Hearing Officer, and such other staff as the Attorney General or Director may provide.

(b) *Powers of the Director.*— (1) *In general.* The Director shall manage EOIR and its employees and shall be responsible for the direction and supervision of the Board, the Office of the Chief Immigration Judge, and the Office of

the Chief Administrative Hearing Officer in the execution of their respective duties pursuant to the Act and the provisions of this chapter. Unless otherwise provided by the Attorney General, the Director shall report to the Deputy Attorney General and the Attorney General. The Director shall have the authority to:

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

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

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

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

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

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

(vii) Provide for comprehensive, continuing training and support for Board

members, immigration judges, and EOIR staff in order to promote the quality and consistency of adjudications;

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

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

(2) *Delegations.* The Director may delegate the authority given to him by this part or by the Attorney General to the Deputy Director, the General Counsel, the Chairman of the Board of Immigration Appeals, the Chief Immigration Judge, the Chief Administrative Hearing Officer, or any other EOIR employee.

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

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

(e) *General Counsel.* Subject to the supervision of the Director, the General Counsel shall serve as the chief legal counsel of EOIR. The General Counsel shall provide legal advice and assistance to the Director, Deputy Director, and heads of the components within EOIR, and shall supervise all legal activities of EOIR not related to adjudications arising under the Act or this chapter.

(1) *Professional standards.* The General Counsel shall administer programs to protect the integrity of immigration proceedings before EOIR, including administering the disciplinary program for attorneys and accredited representatives under subpart G of this part.

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

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

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

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

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

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

[72 FR 53676, Sept. 20, 2007]

Subpart A—Board of Immigration Appeals

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

(a)(1) *Organization.* There shall be in the Department of Justice a Board of Immigration Appeals, subject to the general supervision of the Director, Executive Office for Immigration Review (EOIR). The Board members shall be attorneys appointed by the Attorney General to act as the Attorney General's delegates in the cases that come before them. The Board shall consist of 15 members. A vacancy, or the absence or unavailability of a Board member, shall not impair the right of the re-

maining members to exercise all the powers of the Board.

(2) *Chairman.* The Attorney General shall designate one of the Board members to serve as Chairman. The Attorney General may designate one or two Vice Chairmen to assist the Chairman in the performance of his duties and to exercise all of the powers and duties of the Chairman in the absence or unavailability of the Chairman.

(i) The Chairman, subject to the supervision of the Director, shall direct, supervise, and establish internal operating procedures and policies of the Board. The Chairman shall have authority to:

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

(B) Provide for appropriate training of Board members and staff on the conduct of their powers and duties;

(C) Direct the conduct of all employees assigned to the Board to ensure the efficient disposition of all pending cases, including the power, in his discretion, to set priorities or time frames for the resolution of cases; to direct that the adjudication of certain cases be deferred, to regulate the assignment of Board members to cases, and otherwise to manage the docket of matters to be decided by the Board;

(D) Evaluate the performance of the Board by making appropriate reports and inspections, and take corrective action where needed;

(E) Adjudicate cases as a Board member; and

(F) Exercise such other authorities as the Director may provide.

(ii) The Chairman shall have no authority to direct the result of an adjudication assigned to another Board member or to a panel; provided, however, that nothing in this section shall be construed to limit the management authority of the Chairman under paragraph (a)(2)(i) of this section.

(3) *Panels.* The Chairman shall divide the Board into three-member panels and designate a presiding member of each panel if the Chairman or Vice Chairman is not assigned to the panel. The Chairman may from time to time make changes in the composition of