



U.S. Department of Justice
Executive Office for Immigration Review
Office of the Director
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

FACT SHEET

Contact: Office of Communications and Legislative Affairs
(703) 305-0289 Fax: (703) 605-0365
PAO.EOIR@usdoj.gov
Internet: www.justice.gov/eoir/

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EOIR’s Attorney Discipline Program and Professional Conduct Rules for Immigration Attorneys, Accredited Representatives & Recognized Organizations

In June 2000, the Executive Office for Immigration Review (EOIR) implemented a regulation, “Professional Conduct for Practitioners – Rules and Procedures,” to protect the public, preserve the integrity of immigration proceedings and adjudications, and maintain high professional standards among immigration practitioners.

The term “practitioners” applies to private immigration attorneys and accredited representatives who are authorized to represent aliens before EOIR’s immigration courts and the Board of Immigration Appeals (BIA), EOIR’s appellate component. It does not apply to government attorneys because they are subject to separate regulations and disciplinary procedures.

EOIR amended the regulation on December 18, 2008, to enhance the rules and procedures governing EOIR’s Attorney Discipline Program for immigration attorneys and accredited representatives (73 Federal Register 76914). On December 19, 2016, EOIR amended the regulation to extend the rules and procedures of EOIR’s Attorney Discipline program to recognized organizations (81 Federal Register 92346). EOIR most recently amended the rules and procedures governing EOIR’s Attorney Discipline Program on September 14, 2022 (87 Federal Register 56247) in connection with amendments to permit practitioners to make limited appearances for document assistance. The regulations are found at 8 C.F.R. § 1003.101 *et seq.*

EOIR’s Grounds for Disciplining Attorneys and Accredited Representatives (8 C.F.R. § 1003.102)

1. Charging a grossly excessive fee;
2. Engaging in bribery or coercion;

3. Knowingly or with reckless disregard making a false statement or willfully misleading, misinforming, threatening, or deceiving any person;
4. Soliciting professional employment;
5. Is subject to a final order of disbarment or suspension, or has resigned, while a disciplinary investigation or proceeding is pending;
6. Knowingly or with reckless disregard making a false or misleading communication about qualifications or services (e.g., practitioners must be recognized as certified specialists in immigration law in order to refer to themselves as such);
7. Engaging in rude, insulting, or obnoxious conduct that would constitute contempt of court;
8. Having been convicted in any state or federal court of a serious crime;
9. Knowingly or with reckless disregard falsely certifying a copy of a document as being true and complete;
10. Engaging in frivolous behavior;
11. Engaging in conduct that constitutes ineffective assistance of counsel as found by an immigration judge, the BIA, or a federal court;
12. Repeatedly failing to appear for scheduled pre-hearing conferences or hearings in a timely manner without good cause;
13. Assisting a person other than a practitioner to practice law;
14. Engaging in conduct that is prejudicial to the administration of justice;
15. Failing to provide competent representation to a client;
16. Failing to consult with a client concerning the objectives of the representation or abide by decisions of the client concerning how to achieve those objectives;
17. Failing to act with reasonable diligence and promptness;
18. Failing to maintain communication with a client;
19. Failing to disclose to an adjudicator controlling legal authority known to the practitioner that is directly adverse to the position of the client if not disclosed by opposing counsel;

20. Repeatedly failing to submit a signed and completed Notice of Entry of Appearance on the appropriate form in compliance with the applicable rules and regulations;
21. Repeatedly drafting notices, motions, or briefs that contain boilerplate language that evidences a failure to competently and diligently represent the client;
22. Accredited representative acting outside the scope of approve authority; and
23. Repeatedly failing to sign any pleading, application, motion, petition, brief, or other document that is prepared, drafted, or filed with EOIR.

EOIR's Grounds for Disciplining Recognized Organizations (8 C.F.R. § 1003.110)

1. Knowingly or with reckless disregard providing a false statement or misleading information in applying for recognition or accreditation of its representatives;
2. Knowingly or with reckless disregard providing false or misleading information to clients or prospective clients regarding the scope of authority of, or the services provided by, the organization or its accredited representatives;
3. Failing to adequately supervise accredited representatives;
4. Employing, receiving services from, or affiliating with an individual who performs an activity that constitutes the unauthorized practice of law or immigration fraud; and
5. Engaging in the practice of law through staff when an organization does not have an attorney or accredited representative.

Filing a Complaint about an Immigration Attorney, Accredited Representative, or Recognized Organization

Any individual who believes that an immigration attorney, accredited representative, or recognized organization has engaged in criminal, unethical, or unprofessional conduct while practicing before EOIR may file a complaint with the EOIR Disciplinary Counsel. The complaint must be in writing and include relevant names, dates, locations, and other details sufficient to clearly identify the offending conduct or behavior. Individuals are encouraged to use a Form EOIR-44 to file a complaint, which may be sent by mail or email to the EOIR Disciplinary Counsel.

Receiving and Investigating Complaints — EOIR and DHS Authority

EOIR's Disciplinary Counsel investigates alleged misconduct associated with practice before EOIR's immigration courts and the BIA. The EOIR Disciplinary Counsel will conduct a preliminary inquiry to determine if the complaint has merit. If the EOIR Disciplinary Counsel determines that the complaint has merit and that formal disciplinary sanctions should be imposed, the EOIR Disciplinary Counsel initiates formal disciplinary proceedings before the

BIA. During the preliminary inquiry, the complaint remains confidential, with limited exceptions.

All complaints concerning alleged misconduct associated with practice before the Department of Homeland Security (DHS) must be directed to DHS. (Practice before DHS relates to immigration benefit issues such as affirmative asylum, adjustment of status, and visa petitions.) DHS has similar conduct rules for attorneys and accredited representatives (8 CFR § 292.3). If DHS determines that a complaint has merit and that formal disciplinary sanctions should be imposed, DHS initiates formal disciplinary proceedings before the BIA.

While EOIR and DHS receive and investigate their respective misconduct complaints separately under their respective conduct rules, the agencies initiate formal disciplinary proceedings before the BIA.

Referring Complaints to Additional Authorities

If a complaint about criminal conduct is found to have merit, it may also be referred to appropriate investigative or prosecutorial authorities within the Department of Justice or DHS. Complaints about unethical or unprofessional conduct may also be referred to the appropriate state licensing authorities.

Initiating Disciplinary Proceedings

If a complaint is found to have merit, the Disciplinary Counsel for EOIR or DHS may:

- Informally resolve the complaint through the issuance of a confidential warning letter or informal admonition;
- Enter into an agreement in lieu of discipline with a practitioner; or
- Initiate formal disciplinary proceedings. For a practitioner, this may result in a censure or suspension or disbarment from practice before the immigration courts, the BIA, and DHS. For a recognized organization, this may result in the organization's recognition being revoked or terminated.

Formal disciplinary proceedings begin when the Disciplinary Counsel for EOIR or DHS issues a Notice of Intent to Discipline (NID) to the practitioner or recognized organization and files the NID with the BIA. The practitioner or recognized organization must respond to the NID within 30 days and, in the response, may request a hearing.

Immediate Suspension

While disciplinary proceedings are pending, the BIA may immediately suspend a practitioner who:

- Has been disbarred or suspended by a federal or state court;

- Has resigned from legal practice while a disciplinary investigation or proceeding is pending before a federal or state court; or
- Has been convicted of a serious crime.

Failing to Respond to Allegations

The BIA considers a practitioner's or recognized organization's failure to respond to the allegations in the NID within 30 days as an admission of misconduct and a forfeiture of the right to a hearing. Consequently, when a practitioner or recognized organization fails to respond timely to the allegations in the NID, the BIA will issue a final order imposing the sanctions proposed in the NID, unless there are considerations that compel the BIA to digress from the proposed sanctions.

Requesting a Hearing

When a practitioner or recognized organization requests a hearing, EOIR's Chief Immigration Judge will appoint an immigration judge as the adjudicating official who will conduct a hearing and render a decision in the case. The adjudicating official is not an immigration judge before whom the practitioner or the organization's representatives regularly appear or who is the complainant or a witness in the matter. The disciplinary hearing generally is open to the public.

Disciplinary Decisions - Final Orders - Public Notification

When the disciplinary proceedings are completed, EOIR issues a final order. EOIR regularly updates the public about disciplined attorneys and representatives who are no longer authorized to represent clients before the immigration courts, the BIA, and DHS by maintaining a "List of Currently Disciplined Practitioners" on EOIR's website at <https://www.justice.gov/eoir/list-of-currently-disciplined-practitioners> and by tweeting updates to the list on EOIR's Twitter account (@DOJ_EOIR).

Appealing a Disciplinary Decision

A disciplined practitioner or recognized organization or the EOIR and DHS Disciplinary Counsel may appeal an adjudicating official's decision to the BIA within 30 days. The BIA will conduct its appellate review of disciplinary decisions in the same way it reviews appeals of decisions in immigration proceedings.

Reinstatement (8 C.F.R. §1003.107)

Practitioners who are suspended or disbarred must request reinstatement from the BIA. They must be granted reinstatement by the BIA before they can resume the practice of law before the immigration courts, the BIA, and DHS.

Forms

Below are the four EOIR forms that are mentioned in the professional conduct regulations. These forms are available at each immigration court location and on EOIR's website at: <https://www.justice.gov/eoir/list-downloadable-eoir-forms>.

- **Form EOIR-28, Notice of Entry of Appearance before the Immigration Court**
Practitioners must file the Form EOIR-28 to enter an appearance with the immigration court.
- **Form EOIR-27, Notice of Entry of Appearance before the BIA**
Practitioners must file the Form EOIR-27 to enter an appearance with the BIA.
- **Form EOIR-44, Immigration Practitioner Complaint Form**
Individuals who seek to file a disciplinary complaint against a practitioner or recognized organization who practices before EOIR may file a Form EOIR-44. However, a Form EOIR-44 is not required to file a complaint. Individuals may write and submit their own complaint statement or letter according to the instructions in the "Questions and Answers" section on the following page.
- **Form EOIR-45, Notice of Appeal from an Adjudicating Official's Decision in a Disciplinary Case**
Practitioners and recognized organizations must use Form EOIR-45 to appeal to the BIA an adverse decision from an adjudicating official in a disciplinary proceeding.

Additional Information on the Complaint Process

A series of questions and answers about the complaint process, for complainants as well as practitioners and recognized organizations, follows on the next page.

The Complaint Process: Questions and Answers

How do I make a complaint against an immigration attorney, an accredited representative, or a recognized organization?

If you have a complaint concerning the conduct of a private attorney, an accredited representative, or a recognized organization, you may submit a completed Form EOIR-44 (Immigration Practitioner/Organization Complaint Form), or you may write your own complaint statement or letter.

Where can I get the Form EOIR-44 complaint form?

The Form EOIR-44 complaint form is available at each immigration court location and on EOIR's website at: <https://www.justice.gov/eoir/list-downloadable-eoir-forms>.

If I use the Form EOIR-44 complaint form, what additional information should I provide?

Along with your completed Form EOIR-44, you may also submit supporting documents and information, such as:

- Correspondence between you and your attorney or accredited representative.
- Documents concerning the underlying immigration case (including the case name and number).
- Copies of filings in connection with the case.

If I don't use the Form EOIR-44 complaint form, and instead write my own complaint statement or letter, what information should I provide?

Your statement or letter must include.

- Your name and contact information (address, telephone number, and/or email address).
- The name and address of the attorney, accredited representative, or recognized organization.
- An explanation of the circumstances and details of your complaint.
- Your signature.

Along with your complaint statement or letter, you may also submit supporting documents and information, such as:

- Correspondence between you and your attorney or accredited representative,

- Documents concerning the underlying immigration case (including the case name and number), and
- Copies of filings in connection with the case.

Where do I send a complaint against my immigration attorney, accredited representative, or recognized organization?

If the complaint concerns the conduct of a private attorney, accredited representative, or recognized organization in a matter before EOIR's immigration courts or the BIA, send your completed Form EOIR-44 or your own complaint statement or letter with any supporting documents or information to:

EOIR.Attorney.Discipline@usdoj.gov

-or-

Office of the General Counsel
ATTN: Disciplinary Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041

If the complaint concerns the conduct of a private attorney, accredited representative, or recognized organization in a matter before DHS, send your Form EOIR-44 or your own complaint statement or letter with any supporting documents or information to:

DisciplinaryCounsel@uscis.dhs.gov

-or-

U.S. Citizenship and Immigration Services
ATTN: Disciplinary Counsel
Department of Homeland Security
5900 Capital Gateway Dr.
Camp Springs, MD 20588-0009
Mail Stop: 2120

Can I call EOIR or DHS to make a complaint against an immigration attorney, and accredited representative, or recognized organization over the telephone?

No. Neither EOIR nor DHS can accept complaints over the telephone.

After I file a complaint with EOIR, what will happen next?

After you file a complaint with EOIR:

- Your complaint will be reviewed by EOIR’s Disciplinary Counsel to determine whether it should be investigated further.
- If so, an investigation will be conducted.
- After the investigation, EOIR’s Disciplinary Counsel determines whether the practitioner or recognized organization has violated the professional conduct rules.
- If so, EOIR’s Disciplinary Counsel may either impose informal discipline (e.g., issue a warning letter or informal admonition), or initiate formal disciplinary proceedings against the practitioner or recognized organization.

Will EOIR inform me of the status of my complaint?

Yes. EOIR will notify you when your complaint has been received and will inform you of the outcome of your complaint.

Will I have to testify against my immigration attorney, accredited representative, or recognized organization?

Yes, you may be called to testify if a hearing is held. Your testimony may be important in determining whether the attorney, accredited representative, or recognized organization violated the professional conduct rules.

Can EOIR get my money back for me and find another attorney or accredited representative to represent me?

No. EOIR cannot:

- Require your attorney to give you your money back.
- Force your attorney to act for you or tell your attorney how to proceed with your case.
- Give you legal advice about your case or otherwise represent you.
- Recommend a particular attorney or law firm. However, EOIR provides a list of “Pro Bono Legal Service Providers” on its website at: <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>.

How do I know if an immigration attorney or accredited representative is currently disciplined by EOIR and, therefore, is not authorized to represent clients?

EOIR regularly updates the public about disciplined attorneys and representatives who are no longer authorized to represent clients before the immigration courts, the BIA, and DHS by

maintaining a “List of Currently Disciplined Practitioners” on EOIR’s website at <https://www.justice.gov/eoir/list-of-currently-disciplined-practitioners> and by tweeting updates to the list on EOIR’s twitter account at @DOJ_EOIR.

What if one of my clients files a frivolous complaint against me?

Every complaint will be investigated thoroughly. If the investigation concludes that no violation of the professional conduct rules has occurred, the matter will be closed. During the preliminary inquiry, the complaint remains confidential, with limited exceptions.

Am I entitled to be represented by counsel in a disciplinary proceeding?

You are entitled to be represented by counsel at no expense to the government or, if you so choose, you may represent yourself.

Where can I get the notice of appearance forms (Form EOIR-27 and Form EOIR-28), the complaint form (Form EOIR-44), and the appeal form (Form EOIR-45) for a practitioner discipline case?

These forms are available at immigration court locations and on EOIR’s website at: <https://www.justice.gov/eoir/list-downloadable-eoir-forms>.

- EOIR -

The Executive Office for Immigration Review (EOIR) is an agency within the Department of Justice. Under delegated authority from the Attorney General, immigration judges and the Board of Immigration Appeals interpret and adjudicate immigration cases according to United States immigration laws. EOIR’s immigration judges conduct administrative court proceedings in immigration courts located throughout the nation. They determine whether foreign-born individuals – whom the Department of Homeland Security charges with violating immigration law – should be ordered removed from the United States or should be granted relief from removal and be permitted to remain in this country. The Board of Immigration Appeals primarily reviews appeals of decisions by immigration judges. EOIR’s Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is committed to ensuring fairness in all of the cases it adjudicates.