

United States Department of Justice
Executive Office for Immigration Review
Bloomington Immigration Court
Local Operating Procedures

LOCAL OPERATING PROCEDURES

Procedure 1. GENERAL

- A. These Local Operating Procedures are promulgated pursuant to the authority vested by 8 C.F.R. § 1003.40, and are intended as complements to the regulations set forth under Chapter 8 of the Code of Federal Regulations. These Local Operating Procedures are not to be applied inconsistently with any immigration laws or regulations.
- B. Failure to comply with these procedures may result in the submission or issue in question being found or ruled conceded, denied, evidentiary weight diminished, rejected, and/or waived against the party failing to comply.
- C. The procedures set forth herein shall not diminish the Immigration Judge's discretion to order a deadline and procedure be followed in a specific case or to waive a requirement or deadline upon a showing of emergent circumstances, exigent circumstances, or good cause.

Procedure 2. FILING PROCEDURES

- A. Except for those items specifically required to be filed in open court, all documents, applications, and written motions shall be filed by mail, in person, or other delivery service at the public window of the Immigration Court in Bloomington, Minnesota during regular business hours as posted in the Immigration Court. No receipt or filing by facsimile is authorized unless by specific permission by the Court for each individual submission. Items left unattended at the public window or slipped under the door are not considered as having been received until they have been stamped as received by the Court.
- B. In all consolidated cases, there shall be submitted a separate copy of each application for placement in each individual Record of Proceeding, except that a "master exhibit" may be filed in the lead individual's file for supporting documentation applicable to more than one individual. The applicable individual's name and "A" file number shall be prominently displayed on each submission.
- C. In addition to complying with 8 C.F.R. §§ 1003.31 and 1003.32, all documents and applications shall be two-hole punched at the top of the page with holes 2 3/4 inches apart. All filings exceeding five (5) pages in length shall be paginated at the bottom of each page and shall have as a first page a table of contents with page number identification. The use of exhibit tabs is strongly discouraged. Nonconforming documents will not be accepted for filing.

- D. A document smaller than 8 ½ x 11 inches shall be affixed to an 8 ½ x 11 inch blank sheet of paper or enlarged to 8 ½ x 11. If the document is larger than 8 ½ inches, it must be reduced in size by photocopying or other appropriate means as authorized by the presiding Immigration Judge. An exception shall be made for those documents whose size cannot be altered without altering their authenticity. All documents must be legible. Copies which are so poor in quality as to be illegible will be returned to the submitting party and not included in the record. When background documents of more than five pages are submitted, counsel shall highlight or otherwise direct the Court's attention to those portions which counsel wish to emphasize. Any specific reference to a Respondent shall be highlighted. This applies to both the Court's copy and the copy served on opposing counsel.
- E. All proposed exhibits and briefs, except those used to impeach witnesses, shall be received in the Immigration Court of Bloomington, Minnesota no later than ten (10) calendar days prior to the scheduled Individual Calendar hearing unless otherwise authorized by the Immigration Judge. Exhibit and brief due dates set at the Master Calendar hearing shall prevail over this 10-day rule. If no due date is set, the 10-day rule shall apply to both parties. If a document is offered after the expiration of the filing deadline, or within ten (10) days of the date of the hearing if no deadline was set, the document may not be accepted unless supported by a declaration of counsel for the offer or, if not represented, a declaration by the unrepresented party, that the document is material and was not available and could not have been discovered or presented by the filing deadline. Documentation filed in an untimely manner may also be accepted at the discretion of the presiding Immigration Judge for good cause shown.
- F. All proposed exhibits and briefs shall be accompanied by a certificate of service showing that a copy of the document has been served on the opposing party. Documents being served on the Department of Homeland Security ("DHS") Office of Chief Counsel, formerly known as the Immigration and Naturalization Service ("INS") Office of District Counsel, in Bloomington, Minnesota should be mailed to:

DHS – Office of Chief Counsel
P.O. Box 11898
St. Paul, Minnesota 55111

If the Respondent/Applicant wishes to serve a document on the DHS Office of Chief Counsel through an overnight mail service, the following address should be used:

DHS – Office of Chief Counsel
2901 Metro Drive, Suite 214
Bloomington, Minnesota 55425

Procedure 3. TRIAL PREPARATION

A. AT THE MASTER CALENDAR HEARING:

1. The DHS shall be prepared to file with the Court and serve on opposing counsel all necessary documents to establish deportability/removability of the Respondent or to contest admissibility of the Applicant.
2. The Respondent/Applicant shall be prepared to respond to the allegations contained in the charging document.
3. The Respondent/Applicant shall be prepared to indicate all applications for relief from deportation, removal, or exclusion sought.
4. The Respondent/Applicant and the DHS shall be prepared to state (in hours) the estimated time needed to present the case at the Individual Calendar hearing.

B. POST-MASTER CALENDAR HEARING AND PRE-INDIVIDUAL CALENDAR HEARING:

1. At the time of filing the application for relief or at the time a referred asylum application is set for final hearing, the Respondent/Applicant shall make all the originals of all supporting documents available to the DHS for review and/or investigation (e.g. passport, birth certificate, national identity card, medical records, party membership documents, etc.). Whatever party is in custody of the original documents, for which a copy has been previously included in the record, shall make those documents available at the final hearing.
2. Proof of official records, domestic or foreign, shall comply with 8 C.F.R. § 1287.6.
3. Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator that the translation is true and accurate to the best of the translator's abilities, in accordance with 8 C.F.R. § 1003.33. This includes untranslated documents included in a referred asylum application.
4. It is the Respondent/Applicant's obligation to have the necessary fingerprinting and Form G-325A done in a timely manner in all applications for relief. In addition, in adjustment of status cases, it is the Respondent's obligation to have an I-864 Affidavit of Support and supporting documents and any other additional documents required by the Court. Failure to meet these requirements can result in denial of the application.
5. Parties are advised that if they are applying for voluntary departure, they must follow 8 C.F.R. § 1240.26.
6. If either party plans on having an expert witness testify at the final hearing, a curriculum vitae and a statement by the expert, which summarizes the proposed testimony, shall be filed with the Immigration Court no later than ten (10) calendar days prior to the final hearing, unless otherwise authorized by the Court.

7. If either party plans on having any witnesses besides the Respondent/Applicant testify at the final hearing, a witness list must be filed with the Court and served on the opposing party no later than ten (10) calendar days prior to the final hearing. That list shall include the following information about each witness: true and complete name, complete address, phone number, and a DHS "A" file number, if applicable. A summary of each of the witness' testimony shall be filed with the witness list. If a case is continued for the presentation of rebuttal evidence, the same witness disclosure shall be provided to the Court.
8. At least ten (10) calendar days prior to the final hearing, the Respondent/Applicant shall file with the Court, and serve on the DHS Office of Chief Counsel, a red-lined copy of the previously-filed application setting forth any changes or updates. All changes shall be made in red pen or marker and be numbered consecutively. If no changes are to be made, the Respondent/Applicant shall forego this step.

C. AT THE INDIVIDUAL CALENDAR HEARING:

1. The DHS shall be prepared to state its position on all issues and applications for relief from deportation, removal, or exclusion.
2. Both parties shall be prepared to present all witnesses and evidence on all issues, including rebuttal, within the time limits set by the Court.
3. The use of telephonic witnesses is disfavored. If a party seeks to present the testimony of a witness telephonically, a written motion shall be filed with the Court at least ten (10) calendar days before the hearing date. The motion shall:
 - a. state the reasons why the witness cannot appear in person;
 - b. identify the location (e.g. police station, Immigration Court office, DHS office) and telephone number from which the witness will testify; and
 - c. include a copy of the witness' identification documents (e.g. state driver's license; state identification card; passport photo page; alien registration card, if applicable; work authorization card, if applicable), the original of which will be presented at the location from which the witness will testify.

Procedure 4. CONTINUANCES

Parties seeking a continuance of any scheduled Individual Calendar hearing before an Immigration Judge shall file a written motion for continuance no less than twenty (20) calendar days prior to the scheduled hearing. Motions requesting a continuance of a Master Calendar must be filed no less than ten (10) calendar days prior to the scheduled hearing, unless the motion is unopposed or jointly filed. The motion shall set forth the Respondent/Applicant's name and file number, the name of the Immigration Judge before whom the matter is set, and the reason(s) that the continuance is requested. Unless notified by the Immigration Judge that the motion for continuance has been granted, all parties must attend the hearing and be prepared to proceed. Untimely motions for continuance may be considered only in the discretion of the Immigration Judge. Counsel are encouraged to seek agreement on continuances prior to submitting the motion.

Procedure 5. WRITTEN MOTIONS IN GENERAL

- A. All written motions shall be in a “legal motion” format containing:
1. A caption identifying:
 - a. Immigration Court (i.e., Bloomington, MN);
 - b. Name of the Immigration Judge presiding over the proceeding;
 - c. Name of the Respondent/Applicant;
 - d. A-file number;
 - e. Type of Proceeding;
 - f. Scheduled hearing date;
 2. Title of the motion;
 3. Text specifying reasons for the motion;
 4. Date;
 5. Signature; and
 6. Certificate of service.
- B. A “letter” format is unacceptable, except those filed by unrepresented Respondents/Applicants.
- C. All pre-hearing motions will be decided on the basis of the written record, unless the Immigration Judge determines that oral argument is necessary to make a decision on the motion.

Procedure 6. WITHDRAWAL/SUBSTITUTION OF REPRESENTATION

- A. Motions for Withdrawal of Counsel/Substitution of Representation
1. Motions for withdrawal of counsel shall be submitted no later than thirty (30) calendar days prior to the next Individual Calendar date; and no later than fourteen (14) calendar days prior to any Master Calendar hearing. Motions not timely filed may only be granted in the discretion of the presiding Immigration Judge where good cause for the failure to timely file has been established.
 2. Substitution of counsel will only be permitted if new counsel affirmatively represents in the motion that he/she is prepared to proceed with the hearing on the scheduled date.
- B. Withdrawal of representation shall be requested by a written or oral motion to withdraw addressed to the Immigration Judge to whom the matter is assigned and shall set forth the following:
1. The reason(s) for the request to withdraw;
 2. Evidence of the client’s consent to withdrawal, or a statement as to why such consent is unavailable;

3. The current or last-known address of the client;
 4. A statement as to whether the client was advised of any currently scheduled hearings, and if not, the effort made to contact and notify the client; and
 5. A certification by counsel that he/she will provide the respondent with a copy of his/her file within fourteen (14) days of such a motion being granted.
- C. Counsel shall continue to be considered by the Court as counsel of record until a request to withdraw has been granted by the Court or a motion for substitution of counsel has been granted by the Court.

Procedure 7. MOTIONS FOR CHANGE OF VENUE

- A. In addition to complying with 8 C.F.R. §§ 1003.20, 1003.23(a), and 1003.32, all motions for change of venue submitted by counsel shall contain the Respondent's/Applicant's plea to the allegations and charge(s) in the charging document; the designation of a country in the event of deportation/removal or the refusal to designate such a county; the relief, if any, which the Respondent/Applicant will be requesting; a copy of the application for relief; the date and time of any scheduled hearing; a clear and detailed statement of the reasons for the request. The Court notes, however, that in the case of a defensive asylum application, a copy of the asylum application, Form I-589, submitted to support a motion for change of venue is not considered a filing. In the case of a defensive asylum application, if the change of venue is granted, the actual filing must occur in open court at the receiving court.
- B. Except for emergency situations or for good cause shown, all motions for change of venue shall be submitted no later than thirty (30) calendar days prior to the date of any individual hearing and fourteen (14) calendar days prior to a master calendar hearing. Any party opposing such a motion shall file its opposition no later than ten (10) days after the filing of the motion.
- C. The pendency of a motion for change of venue does not excuse appearance at the scheduled hearing addressed by the motion. Unless the motion is granted in writing prior to the hearing, all parties and counsel are expected to be present at the hearing as scheduled and prepared to go forward.
- D. Nothing in this procedure shall be construed to limit the presiding Immigration Judge's authority to waive the provisions of this procedure and address expeditiously motions for change of venue in detained cases.

Procedure 8. COURTROOM DECORUM

- A. All verbal argument and statements must be directed to the presiding Immigration Judge during the recording of proceedings. Conversations and discussions during court proceedings that do not involve the presiding Immigration Judge must be conducted outside the courtroom.
- B. Due to space limitations and the need for orderly proceedings without noise or disturbances, any persons, including children, who are disruptive or noisy will be asked to leave the courtroom. The Court encourages other arrangements be made, when possible, for the care of young children, other than child witnesses and respondents, when attending Court.

- C. All persons, including parties and members of the press, are permitted to keep in their possession and use laptop computers, wireless telephones, electronic calendars, and other electronic devices commonly used to conduct business activities, including electronic devices which have collateral recording capability, provided they are turned off or made silent and such use does not disrupt the proceedings.

Procedure 9. ATTORNEY/REPRESENTATIVE'S CHANGE OF ADDRESS AND/OR TELEPHONE NUMBER

If an attorney/representative in any pending matter changes address and/or telephone number, he or she shall advise the Court by a written notification solely and specifically for that purpose within 10 days of such change. Each pending case shall be referenced by case name and file number.

Procedure 10. NOTICES OF APPEARANCE

Notices of Appearance shall be entered on Form EOIR-28. All information required on Form EOIR-28, including the date, shall be typed or clearly printed. A fixed address where the alien may be reached must be provided. Addresses must include zip codes, and where applicable, apartment numbers. If the alien's address is "in care of" another individual's residence, this must be specified.