APPENDIX J

Citation Guidelines*

When filing papers before the Board, parties should keep in mind that accurate and complete legal citations strengthen the argument made in the appeal, motion, or brief. This Appendix provides guidelines for frequently cited sources of law.

The Board generally follows *A Uniform System of Citation* (also known as the "Blue Book"), but digresses from that convention in certain instances. The Board appreciates but does not require citations that follow the examples used in this Appendix. The citation categories are:

I. Cases
II. Regulations
III. Statutes/laws
IV. Legislative history
V. Treaties and international materials
VI. Publications and communications by governmental agencies, and
VII. Commonly cited commercial publications

Note that, for the convenience of filing parties, some of the citation formats in this Appendix are less formal than those used in the Board's published cases. Once a source has been cited in full, the objective is brevity without compromising clarity.

This Appendix concerns the citation of legal authority. For guidance on citing to the record and other sources, review Chapter 3.3(e) (Source materials) and Chapter 4.6(d) (Citation).

As a practice, the Board prefers italics in case names and publication titles, but underlining is an acceptable alternative.

□ □ □ □ □

* The Board wishes to thank Thomas Hutchins, Esquire, and Wan Chen, law student intern, of the Immigrant and Refugee Appellate Center (IRAC) for their invaluable assistance in preparing this appendix.

I. *Cases*

General guidance: *Abbreviations in case names.* As a general rule, well-known agency abbreviations (e.g., INS, FBI, Dep't of Justice) may be used in a case name, but without periods. If an agency name includes reference to the "United States," it is acceptable to abbreviate it to "U.S." However, when the "United States" is named as a party in the case, do not abbreviate "United States." For example:

INS v. Smith ..... not *I.N.S. v. Smith*
U.S. Dep't of Justice v. Smith ..... not *United States Department of Justice v. Smith*
United States v. Smith ..... not *U.S. v. Smith*

Short form of case names. After a case has been cited in full, a shortened form of the name may be used thereafter. For example:

full: *INS v. Phinpathya,* 464 U.S. 183 (1984)

short: *Phinpathya,* 464 U.S. at 185

full: *Matter of Nolasco,* 22 I&N Dec. 632 (BIA 1999)

short: *Nolasco,* 22 I&N Dec. at 635

Board decisions: *Published decisions.* Board precedent decisions should be cited in the "I&N Dec." form illustrated below. The citation must identify the adjudicator (BIA, A.G., etc.) and the year of the decision. Note that there are no spaces in "I&N" and that only "Dec." has a period. For example:

Matter of Balsillie, 20 I&N Dec. 486 (BIA 1992)

Unpublished decisions. Citation to unpublished decisions is discouraged because these decisions are not controlling on any other case. When citation to an unpublished case is necessary, a copy of the case should be provided, and the citation should include the alien's full name, the alien registration number, the

adjudicator, and the precise date of the decision. Italics, underlining, and "*Matter of*" should not be used. For example:

Jane Smith, A12 345 678 (BIA July 1, 1999)

"Interim Decision." In the past, the Board issued precedent decisions in slip opinion or "Interim Decision" form. See Chapter 1.4(d) (Interim Decisions). Because all published cases are now available in final form (as "I&N Decisions"), citations to "Interim Decisions" are no longer appropriate and are disfavored.

"Matter of" and not "In re." All precedent decisions should be cited as *"Matter of."* The use of *"In re"* is not favored. For example: *Matter of Yanez*, and not *In re Yanez*.

Federal & State Courts:

Generally. Federal and state court decisions should generally be cited according to the standard legal convention, as set out in the latest edition of *A Uniform System of Citation* (also known as the "Blue Book"). For example:

INS v. Phinpathya, 464 U.S. 183 (1984)

Saakian v. INS, 252 F.3d 21 (1st Cir. 2001)

Smith v. United States, __ F.3d __, No. 03-1234 (5th Cir. 2003)

McDaniel v. United States, 142 F. Supp. 2d 219 (D. Conn. 2001)

U.S. Supreme Court. The Supreme Court Reporter citation ("S.Ct.") should be used only when the case has not yet been published in the United States Reports ("U.S.").

Unpublished cases. Citation to unpublished cases is discouraged. When citation to an unpublished case is necessary, a copy of the case should be provided, and the citation should include the docket number, court, and precise date. For example:

Stokes v. INS, No. 74 Civ. 1022 (S.D.N.Y. Sept. 10, 1976)

□ □ □ □ □

II. *Regulations*

General guidance: *Regulations generally.* There are two kinds of postings in the Federal Register: those that are simply informative in nature (such as "notices" of public meetings) and those that are regulatory in nature (referred to as "rules"). There are different types of "rules," including "proposed," "interim," and "final." The type of rule will determine whether or not (and for how long) the regulatory language contained in that rule will be in effect. Generally speaking, proposed rules are not law and do not have any effect on any case, while interim and final rules do have the force of law and, depending on timing, may affect a given case.

Federal Register and Code of Federal Regulations. Regulations appear first in the Federal Register (Fed. Reg.) and then in the Code of Federal Regulations (C.F.R.). Once regulations appear in a volume of the C.F.R., do not cite to the Federal Register *unless* there is a specific reason to do so (discussed below).

C.F.R.: For the Code of Federal Regulations, always identify the volume, the section number, and the year. The year need not be given after the first citation, unless a subsequent citation refers to a regulation published in a different year. Always use periods in the abbreviation "C.F.R." For example:

full: 8 C.F.R. § 1003.1 (2002)

short: 8 C.F.R. § 1003.1

Fed. Reg.: Citations to regulatory material in the Federal Register should be used only when:

- the citation is to information that will never appear in the C.F.R., such as a public notice or announcement
- the rule contains regulatory language that will be, but is not yet, in the C.F.R.

- the citation is to information associated with the rule, but which will not appear in the C.F.R. (e.g., a preamble or introduction to a rule)

- the rule contains proposed or past language of a regulation that is pertinent in some way to the filing or argument

The first citation to the Federal Register should always include (i) the volume, (ii) the abbreviated form "Fed. Reg.", (iii) the page number, (iv) the date, and (v) important identifying information such as "proposed rule," "interim rule," "supplementary information," or the citation where the rule will appear. For example:

full: 67 Fed. Reg. 52627 (Aug. 13, 2002) (proposed rule)

full: 67 Fed. Reg. 38341 (June 4, 2002) (to be codified at 8 C.F.R. §§ 100, 103, 236, 245a, 274a, and 299)

short: 67 Fed. Reg. at 52627-28; 67 Fed. Reg. 38343

Since the Federal Register does not use commas in its page numbers, do not use a comma in page numbers. Use abbreviations for the month.

When citing the preamble to a rule, identify it exactly as it is titled in the Federal Register, e.g., 67 Fed. Reg. 54878 (Aug. 26, 2002) (supplementary information).

□ □ □ □ □

III. *Statutes / laws*

General guidance: *Full citations.* Whenever citing a statute for the first time, be certain to include all the pertinent information, including the name of the statute, its public law number, statutory cite, and a parenthetical identifying where the statute was codified (if applicable). The only exception is the Immigration and Nationality Act, which is illustrated below.

Short citations. The use of short citations is encouraged, but only after the full citation has been used.

Special rule for U.S.C. and C.F.R. There are two abbreviations that never need to be spelled out: "U.S.C." for the U.S. Code and the "C.F.R." for the Code of Federal Regulations. Always use periods with these abbreviations.

Special rule for the INA. Given the regularity with which the Immigration and Nationality Act is cited before the Board, there is generally no need to provide the Public Law Number, the Stat. citation, or U.S.C. citation. The Board will presume INA citations refer to the current language of the Act unless the year is provided.

Sections of law. Full citations are often lengthy, and filing parties are sometimes uncertain where to put the section number in the citation. For the sake of simplicity, use the word "section" and give the section number in front of the full citation to the statute. Once a full citation has been given, use the short citation form with a section symbol "§." This practice applies whether the citation is used in a sentence or after it. For example:

> The definition of the term "alien" in section 101(a)(3) of the Immigration and Nationality Act applies to persons who are not citizens or nationals of the United States. The term "national of the United States" is expressly defined in INA § 101(a)(22), but the term "citizen" is more complex. *See* INA §§ 301-309, 316, 320.

INA:

full: section xxx of Immigration and Nationality Act

short: INA § xxx

USA PATRIOT:	full:	section xxx of Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272
	short:	USA PATRIOT Act § xxx
LIFE:	full:	section xxx of Legal Immigration and Family Equity Act, Pub. L. No. 106-553, 114 Stat. 2762 (2000), *amended by* Pub. L. No. 106-554, 114 Stat. 2763 (2000)
	short:	LIFE Act § xxx
CCA:	full:	section xxx of Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631
	short:	CCA § xxx
NACARA:	full:	section xxx of Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105-100, tit. II, 111 Stat. 2193 (1997), *amended by* Pub. L. No. 105-139, 111 Stat. 2644 (1997)
	short:	NACARA § xxx
IIRIRA:	full:	section xxx of Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of Pub. L. No. 104-208, 110 Stat. 3009-546
	short:	IIRIRA § xxx
AEDPA:	full:	section xxx of Antiterrorism and Effective Death Penalty Act, Pub. L. No. 104-132, 110 Stat. 1214
	short:	AEDPA § xxx

INTCA:

full: section xxx of Immigration and Nationality Technical Corrections Act of 1994, Pub. L. No. 103-416, 108 Stat. 4305, *amended by* Pub. L. No. 105-38, 111 Stat. 1115 (1997)

short: INTCA § xxx

MTINA:

full: section xxx of Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. No. 102-232, 105 Stat. 1733

short: MTINA § xxx

IMMACT90:

full: section xxx of Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978

short: IMMACT90 § xxx

ADAA:

full: section xxx of Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181

short: ADAA § xxx

IMFA:

full: section xxx of Immigration Marriage Fraud Amendments of 1986, Pub. L. No. 99-639, 100 Stat. 3537

short: IMFA § xxx

IRCA:

full: section xxx of Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359

short: IRCA § xxx

□ □ □ □ □

IV. *Legislative History*

General guidance: *Difficult to locate.* Because sources of legislative history are often difficult to locate, err on the side of providing more information, rather than less. If a source is difficult to locate, include a copy of the source with your filing (or an Internet address for it) and make clear reference to that source in your filing.

Sources. To locate legislative history, try the Library of Congress web site (www.thomas.loc.gov) or commercial services. Citation to common electronic sources is encouraged.

Bills: Provide the following information the first time a bill is cited: (i) the bill number, (ii) the number of the Congress, (iii) the session of that Congress, (iv) the section number of the bill, if you are referring to a specific section, (v) the Congressional Record volume, (vi) the Congressional Record page or pages, (vii) the date of that Congressional Record, and (viii) the edition of the Congressional Record, if known. For example:

full: S. 2104, 100th Cong., 2d Sess. § 102, 134 Cong. Rec. 2216 (daily ed. Mar. 15, 1988)

short: 134 Cong. Rec. at 2218

Reports: Provide the following information the first time a report is cited: (i) whether it is a Senate or House report, (ii) the report number, (iii) the year, and (iv) where it is reprinted (a reference to where the document is available electronically is acceptable). The short form may refer either to the page numbers of the report or the page numbers where the report is reprinted. For example:

full: H.R. Conf. Rep. No. 104-828 (1996), *available in* 1996 WL 563320

short: H.R. Conf. Rep. No. 104-828, at 5

full: S. Rep. No. 98-225 (1983), *reprinted in* 1984 U.S.C.C.A.N. 3182

short: 1984 U.S.C.C.A.N. at 3183

Many committee reports are available on-line through the Library of Congress web site (www.thomas.loc.gov) or commercial services. Copies of the U.S. Code Congressional & Administrative News (U.S.C.C.A.N.), which compiles many legislative documents, are available in some public libraries.

Hearings: Provide the following information the first time a hearing is cited: (i) name of the hearing, (ii) the committee or subcommittee that held it, (iii) the number of the Congress, (iv) the session of that Congress, (v) the page or pages of the hearing, (vi) the date or year of the hearing, and (v) information about what is being cited (such as the identity of the person testifying and context for the testimony). For example:

Operations of the Executive Office for Immigration Review (EOIR): Hearing before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary, 107th Cong., 2d Sess. 19 (2002) (testimony of EOIR Director)

□ □ □ □ □

V. *Treaties and International Materials*

CAT:

full: Article 3 of the Convention Against Torture, Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988)

short: Convention Against Torture, art. 3

UNHCR Handbook:

full: Office of the United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (Geneva 1992)

	short:	UNHCR Handbook ¶ xxx [use paragraph symbol "¶" or abbreviation "para."]
U.N. Protocol on Refugees:	full:	Article xxx of the United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, [1968] 19 U.S.T. 6223
	short:	U.N. Refugee Protocol art. xxx
U.N. Convention on Refugees:	full:	Article xxx of the United Nations Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6259
	short:	U.N. Refugee Convention art. xxx

□ □ □ □ □

VI. *Publications and Communications by Governmental Agencies*

General guidance: *No universal citation form.* In immigration proceedings, parties cite to a wide variety of administrative agency publications and communications, and there is no one format that fits all such documents. For that reason, use common sense when citing agency documents, and err on the side of more information, rather than less.

Difficult to locate material. If the document may be difficult for the Board to locate, include a copy of the document with your filing.

Internet material. If a document is posted on the Internet, identify the website where the document can be found or include a copy of the document with a legible Internet address.

Practice Manual: The BIA Practice Manual is not legal authority. However, if there is reason to cite it, the preferred form is to identify the specific provision by chapter and section along with the date at the bottom of the page on which the cited section appears. For example:

full: BIA Practice Manual, Chapter 8.5(a)(iii) (Sept. 25, 2002)

short: Practice Manual, Chap. 8.5(a)(iii)

Forms: Forms should first be cited according to their full name and number. A short citation form may be used thereafter. See Appendix E (Forms) for a list of common immigration forms. For example:

full: Notice of Appeal from a Decision of an Immigration Judge (Form EOIR-26)

short: Notice of Appeal *or* Form EOIR-26

If a form does not have a name, use the form number as the citation.

Country reports: State Department country reports appear both as compilations in Congressional committee prints and as separate reports and profiles. Citations to country reports should always contain the publication date and the specific page numbers (if available). Provide an Internet address when available. The first citation to any country report should contain all identifying information, and a short citation form may be used thereafter. For example:

full: Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *Nigeria Country Reports on Human Rights Practices – 2001* (Mar. 2002), *available at* http://www.state.gov/g/drl/rls/hrrpt/2001/af/8397.htm

short: *2001 Nigeria Country Reports*

full: Committees on Foreign Relations and International Relations, 104th Cong., 1st Sess., *Country Reports on Human Rights Practices for 1994* xxx (Joint Comm. Print 1995)

short: *1994 Country Reports* at page xxx

full: Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *The Philippines – Profile of Asylum Claims and Country Conditions* xxx (June 1995)

short: *1995 Philippines Profile* at page xxx

Visa Bulletin: Citations to the State Department's Visa Bulletin should include the volume, number, month, and year of the specific issue being cited. For example:

full: U.S. Dep't of State Visa Bulletin, Vol. VIII, No. 55 (March 2003)

short: Visa Bulletin (March 2003)

Internal documents: Any citation to an internal government document, such as a memo or a cable, should contain as much identifying information as possible. Be sure to include any identifying heading (e.g., the "re" line in a memo) and the precise date of the document being cited. Include a copy of the document with the filing or indicate where it has been reprinted publicly. For example:

Dep't of State cable (no. 97-State-174342) (Sept. 17, 1997) (copy attached)

Office of the General Counsel, INS, U.S. Dep't of Justice, Compliance with Article 3 of the Convention Against Torture in the cases of removable aliens (May 14, 1997), *reprinted in* 75 *Interpreter Releases* 375 (Mar. 16, 1998)

□ □ □ □ □

VII. *Commonly Cited Commercial Publications*

General guidance: *No universal citation form.* In immigration proceedings, parties cite to a wide variety of commercial texts and publications. Use common sense when citing these documents. If a document is difficult to locate, include a copy of the document with your filing (or an Internet address for it) and make clear reference to that document in your filing.

No endorsements or disparagements. The following list contains citations to specific publications that are frequently cited in filings before the Board. Their inclusion in the list is not an endorsement of the publication, nor is omission from this list a disparagement of any other publication.

Use of quotation marks, italics or underlining, and first initials. For purposes of appeals, motions, briefs, and other filings, the Board recommends using a single format for all publications – quotation marks around any article title (whether in a book, law review, or periodical), italics or underlining for the name of any publication (whether a book, treatise, or periodical), and reference to authors' last names only (although use of first initials is appropriate where there are multiple authors with the same last name).

Shortened names. Many publications have long titles. It is acceptable to use a shortened form of the title *after* the full title has been used. Be certain to use a short form that clearly refers back to the full citation. Page and/or section numbers should always be used, whether the publication is cited in full or in shortened form.

Articles in Books: Articles in books should identify the author (by last name only), title of the article, and the publication that contains that article (including the editor and year). For example:

full: Massimino, "Relief from Deportation Under Article 3 of the United Nations Convention Against Torture," *in* 2 *1997-98 Immigration & Nationality Law Handbook* 467 (American Immigration Lawyers Association, ed., 1997)

short: Massimino at 469

Bender's: Bender's Immigration Bulletin should be cited by author (last name only), article, volume, publication, month, and year. For example:

full: Sullivan, "When Representations Cross the Line," 1 *Bender's Immigration Bulletin* (Oct. 1996)

short: Sullivan at 3

Immigration Briefings: This publication should be cited by author (last name only), article, volume, publication, month, and year. For example:

full: Elliot, "Relief From Deportation: Part I," 88-8 *Immigration Briefings* (Aug. 1988)

short: Elliot at 18

Immigration Law and Procedure: Citations to treatises require particular attention to detail because their pagination is often complex. The first citation to this treatise must be in full and contain the volume number, the section number, the page number, the edition, and year. For example:

full: 2 Gordon, Mailman & Yale-Loehr, *Immigration Law and Procedure* § 51.01(1)(a), at 51-3 (rev. ed. 1997)

short: 2 *Immigration Law and Procedure* § 51.01(1)(a), at 51-3

Interpreter Releases: Citations to this publication should indicate the volume, title, page number(s), and precise date. Provide a parenthetical explanation for the citation when appropriate. For example:

full: 75 *Interpreter Releases* 275-76 (Feb. 23, 1998) (regarding INS guidelines on when to consent to reopening of proceedings)

short: 75 *Interpreter Releases* at 276

If an article has a title and named author, provide that information. For example:

full: Wettstein, "Lawful Domicile for Purposes of INA § 212(c): Can It Begin with Temporary Residence," in 71 *Interpreter Releases* 1273 (Sept. 26, 1994)

short: Wettstein at 1274

Law Reviews: Law review articles should identify the author (by last name) and the title of the article, followed by the volume, name, page number(s), and year of the publication. For example:

full: Hurwitz, "Motions Practice Before the Board of Immigration Appeals," 20 San Diego L. Rev. 79 (1982)

short: Hurwitz, 20 San Diego L. Rev. at 80

Sutherland: Citations to this treatise should include the volume number, author, name of the publication, section number, page number(s), and edition. For example:

full: 2A Singer, *Sutherland Statutory Construction* § 47.11, at 144 (4th ed. 1984)

short: 2A *Sutherland* § 47.11, at 144

□ □ □ □ □