



## RESOLUTION TO ENHANCE ACCESS TO JUSTICE IN BOSTON IMMIGRATION COURT

The Boston Bar Association (“BBA”) -- in keeping with its long-standing support for civil rights and access to and administration of justice, and with its commitment to standing with all immigrant communities, as expressed in our Immigration Principles -- urges the Executive Office for Immigration Review to take the following actions to improve administrative efficiency and enhance meaningful access to justice for all individuals appearing before the Boston Immigration Court:

- (1) Hire a court administrator based in Boston to oversee management and administration of the Boston Immigration Court;
- (2) Institute a policy of pre-trial conferencing between counsel for the Department of Homeland Security, Immigrations and Custom Enforcement (DHS-ICE) and counsel for respondent, presided by an immigration judge, in order to narrow issues for review before the court and ensure efficient adjudication of cases;<sup>1</sup>
- (3) In recognizing that each form of relief available to individuals in removal proceedings before the Immigration Court are subject to different underlying requirements, ensure that deadlines and case conclusion timelines are based on an individual analysis of each case and the forms of relief being sought;<sup>2</sup>

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<sup>1</sup> This is consistent with the “*Enhanced Case Flow Processing in Removal Proceedings*” memorandum issued by Director James R. McHenry III on November 30, 2020.

<sup>2</sup> Some forms of relief require the approval of an immigrant visa by U.S. Citizenship and Immigration Services (USCIS), adjudication of an application by USCIS when initial jurisdiction lies with the agency

- (4) Allow each judge at the Boston Immigration Court to exercise discretion when considering a request for continuance based on good cause, the standard for a continuance pursuant to 8 C.F.R. sec. 1003.29;<sup>3</sup>
- (5) Abide by and comply with the protections afforded unaccompanied children under the Trafficking Victims Protection Reauthorization Act (TVPRA) to ensure that children appearing before the Boston Immigration Court can meaningfully access the forms of relief for which they are eligible;
- (6) Allow immigration judges the use of docket management tools, including but not limited to status dockets, for the efficient management of cases; and permit counsel for respondent as well as counsel for DHS-ICE to prioritize cases based on complexity and consistent with enforcement priorities, preserving all avenues for relief, and safeguarding due process;
- (7) Ensure the public health and safety of all parties appearing in person before the Boston Immigration Court or otherwise accessing the Court by enforcing COVID-19-related safety protocols that align with the Massachusetts Supreme Judicial Court's *Order Regarding Access to State Courthouses & Court Facilities*;
- (8) Clarify the process for allowing telephonic or tele-video appearances when requested by a party, consistent with COVID-19-related Standing Order 20-01 of October 8, 2020, *Telephonic Appearances Of Counsel, Respondents, Witnesses, And Other Individuals At Master Calendar And Individual Hearings*, and any subsequent orders, by establishing a designated channel of communication between practitioners with upcoming hearings and court

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and not with the Immigration Court, the payment of fees to USCIS, the issuance of a predicate order from the state court, among others.

<sup>3</sup> The Continuances memorandum issued by Director McHenry on January 8, 2021, serves as an aid to adjudicators when considering requests for continuance, but does not limit the discretion of Immigration Judges, and recognizes that, "[A]ppropriate use of continuances serves to protect due process."

personnel; and in cases where the hearing will take place remotely, to establish a means for the filing of documents which will ensure that the Court will have access to the documents at the scheduled hearing;

- (9) Conduct stakeholder meetings hosted by the Boston Immigration Court at least once per year to provide private and legal services practitioners an opportunity to provide feedback, ask questions, and maintain an open channel of communication with the Boston Immigration Court to increase efficiency and ensure compliance with all processes established and preferred by the Boston Immigration Court.