

Model Hearing Program: **Practice Tips and Pointers for DHS Attorneys**

Below is a list of practice tips and pointers for U.S. Department of Homeland Security (DHS) attorneys appearing before an Immigration Judge in immigration proceedings.

I. Before a Hearing

- Background and Security Investigations – Obtain the respondent’s background checks, as they are necessary for a grant of most forms of relief. See [8 C.F.R. § 1003.47\(g\)](#). If the checks are not complete, be prepared to discuss the reason as you understand it.
- EOIR Policy Manual – Be familiar with the [EOIR Policy Manual](#). The EOIR Policy Manual applies to all parties appearing for proceedings before the immigration court.
- Ensure that your filings are in conformity with [Part II, Chapter 3](#) of the EOIR Policy Manual and that your motions are in conformity with [Part II, Chapter 5](#) of the Policy Manual.
- Opposing party’s position on motions – The party filing a motion should make a good-faith effort to ascertain the opposing party’s position on the motion and include it in the motion.
- Statements for testifying witnesses – Submit an affidavit or declaration so that, if appropriate, the parties may stipulate that the witness would testify in conformity with the witness’s affidavit.
- Pre-hearing orders – If the Immigration Judge hearing the case issued a pre-hearing scheduling order, take note of, and comply with, the requirements and deadlines.
- Re-file evidence from bond proceedings – In removal proceedings, re-file any relevant evidence from the respondent’s bond proceedings. The record in bond proceedings is separate and apart from the record in removal proceedings. [8 C.F.R. § 1003.19\(d\)](#). Evidence from a bond hearing cannot be referred to in removal proceedings unless specifically and separately submitted and introduced into evidence in the removal proceedings.
- Criminal issues – If you seek to include criminal records as evidence of removability, take care to file such records in accordance with [Part II, Chapter 3](#) of the EOIR Policy Manual. In some cases, police reports, charging documents, and plea minutes may be material evidence.
- Be aware of the burdens of proof for the different issues in the respondent’s case. For example, if removability is at issue, be prepared to file evidence of removability at the proper time during the hearing.
- Conference with opposing counsel – Confer with opposing counsel prior to the individual hearing to narrow disputed issues and stipulate to undisputed issues of fact or law.

II. Day of Hearing

- Prepare, prepare, prepare.
- Impeachment or rebuttal evidence – If you are appearing remotely and anticipate that you may want to file impeachment or rebuttal evidence, arrange to file and serve that evidence prior to the hearing.
- If the respondent’s case will not have a master calendar hearing, be prepared during the scheduled individual hearing to designate a country of removal.

III. During the COVID-19 Pandemic

- Health and safety procedures – Be familiar with the practices in EOIR’s [Public Health Notice](#), which has been implemented to help protect all people working in and visiting EOIR spaces throughout the country. Familiarize yourself with your [immigration court’s web page](#), including the dedicated “Public Health” section, and EOIR’s [Frequently Asked Questions](#).
- Telephonic or video appearances – Be familiar with any standing orders for the relevant Immigration Judge and immigration court about telephonic and video appearances. Local standing orders are available on the web pages for the individual immigration courts, which are listed on the [EOIR website](#). Make an appropriate motion in advance regarding any changes to manner of appearance for the hearing.
- Immigration case files – If paper immigration files are not available due to the COVID-19 pandemic, be familiar with the respondent’s electronic immigration files, if applicable, and attempt to obtain electronic courtesy copies of respondent’s submissions.
- Electronic filings – Be flexible with filing requirements and be certain to serve opposing counsel as necessary. Be prepared to file and serve documents by email if needed.
- Court closures – To find the latest operational status of immigration courts nationwide, visit [EOIR’s Operational Status Map](#), follow EOIR on [Twitter](#) and [Facebook](#), or call your immigration court.

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