

Model Hearing Program: **Practice Tips and Pointers for Private Practitioners**

Below is a list of practice tips and pointers for private practitioners appearing before an Immigration Judge in immigration proceedings.

I. Before a Hearing

- Respondent's contact information – Confirm your client's address and phone number in advance (and email address, as appropriate) and prepare an [EOIR-33](#), Alien's Change of Address Form/Contact Information Form, Immigration Court, if necessary.
- Notice of Appearance – File an [EOIR-28](#), Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court, with the immigration court to enter your notice of appearance. When using the [EOIR Courts & Appeals System \(ECAS\)](#), take care to verify that your account contact information is correct.
- Respondent's best language – Confirm your client's best language, including dialect where relevant.
- 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 EOIR 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.
- Amendments to applications – If you have substantial changes to make to a previously filed application, file and serve an updated application in accordance with [Part II, Chapter 3](#) of the EOIR Policy Manual.
- File all relief applications on time and in compliance with all instructions – File proof of biometrics compliance as well as receipt notices for any applications for which a fee or fee waiver is required. An application may be deemed abandoned for failure to comply with a deadline.

- 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 your client’s case.
- Discretion – If discretion is applicable to your client’s requested relief, file appropriate documentation to show that your client merits a favorable exercise. For example, any documentation to show that it is in the best interests of the United States that your client be allowed to remain here.
- 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.
- Be on time – Allow time for building security screenings. If you will arrive separately from your client, give your client a copy of the hearing order so that your client can access the building. If you will appear by telephone or video, make sure you are available to answer the Immigration Judge’s call.
- Verify that your client’s address is correct and that your notice of appearance is on file. Prepare an [EOIR-28](#) or [EOIR-33](#) in advance of the hearing, if necessary.
- If your client’s case will not have a master calendar hearing, be prepared during the scheduled individual hearing to make pleadings and designate a country of removal.
- If the parties have entered into a stipulation that has been accepted by the court, your client need not testify to the stipulated issue.

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 your client’s electronic immigration files, if applicable, and attempt to obtain electronic courtesy copies of DHS’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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