

Simple Steps to Safeguard the Independence of Immigration Judges

- a. **Amend the definition of “Immigration Judge”** in the Immigration and Nationality Act (INA), Section 101(b)(4), to achieve the above and to guarantee decisional independence and insulation from retaliation or unfair sanctions of the judicial decision-making. DOJ refuses to honor the plain meaning of the statute which defines immigration judges as “judges,” not attorneys representing the government. An amendment is needed to make this abundantly clear.

In lieu of the extant definition, section 101(b)(4) of the Immigration and Nationality Act should be amended as follows:

“(4) The term ‘immigration judge’ means an attorney whom the Attorney General appoints as an United States Immigration Judge, qualified to conduct specified classes of proceedings, including the removal of proceedings under section 240.

- (A) An immigration Judge shall be subject to such supervision and shall perform such duties as the Attorney General shall proscribe.
 - (B) Although an Immigration Judge must be an attorney at the time of appointment, the position shall be deemed to be judicial in nature thereafter and not an attorney position.
 - (C) An Immigration Judge shall not be subject to any code of attorney behavior conduct or actions taken while performing duties as an Immigration Judge. Rather, actions taken while judicial capacity shall be reviewed only under rules and standards pertaining to judicial conduct.
 - (D) An Immigration Judge shall not be disciplined for actions or decisions made in good faith while in the course of performing the duties of an Immigration Judge. Criticism of an Immigration Judge in a decision of any appellate court standing alone shall not be considered or construed as an indication of misconduct.”
- b. **Provide a transparent, judicial complaint process** based on the American Bar Association (ABA) Guidelines for Judicial Evaluation Programs and Institute for Advancement of the American Legal System (IAALS) principles.
 - c. **Clarify the role of case completions goals**, reaffirming that they are merely a management tool for obtaining and allocating resources, not a measure of individual judicial performance.

- d. **Mandate promulgation of interim contempt regulations** applicable to all parties appearing before the Immigration Court within 60 days of enactment, with final regulation to be effective no later than 180 days after enactment.

- e. **Provide for meaningful, ongoing training** for judges, with time provided off the bench assimilate the knowledge gained, to implement the lessons learned, and to research and study legal issues. This contemplates a budget that allows for provision of in-person trainings, reference books and electronic media, and continuing legal education programs relevant to Immigration Judges' duties, so that they remain abreast of legal developments in the field.