



December 2024

# IMMIGRATION COURTS

## Actions Needed to Track and Report Noncitizens' Hearing Appearances

## Why GAO Did This Study

Each year, EOIR issues hundreds of thousands of decisions for cases involving noncitizens charged as removable under U.S. immigration law. As of July 2024, EOIR reported a backlog of nearly 3.5 million pending cases.

GAO was asked to review EOIR's data on in absentia removal orders. This report examines (1) the extent to which EOIR tracks respondent hearing appearances, and (2) EOIR data related to in absentia removal orders, among other objectives.

GAO analyzed EOIR documentation and data on immigration court removal cases that were opened or pending at any point from fiscal year 2016 through fiscal year 2023. This analysis comprised the in absentia rates for non-detained respondents and various respondent characteristics, including legal representation status. GAO interviewed EOIR officials and made virtual and in-person site visits to five immigration courts selected based on various factors, such as a range of in absentia rates. During these visits, GAO interviewed government officials (e.g., immigration judges) and nongovernmental stakeholders (e.g., private bar attorneys) to obtain their views on respondent hearing appearances, among other things.

## What GAO Recommends

GAO is making two recommendations to EOIR to collect and publicly report data on respondent hearing appearances. EOIR concurred with the recommendations.

View [GAO-25-106867](#). For more information, contact Rebecca Gambler at (202) 512-8777 or [GamblerR@gao.gov](mailto:GamblerR@gao.gov).

# IMMIGRATION COURTS

## Actions Needed to Track and Report Noncitizens' Hearing Appearances

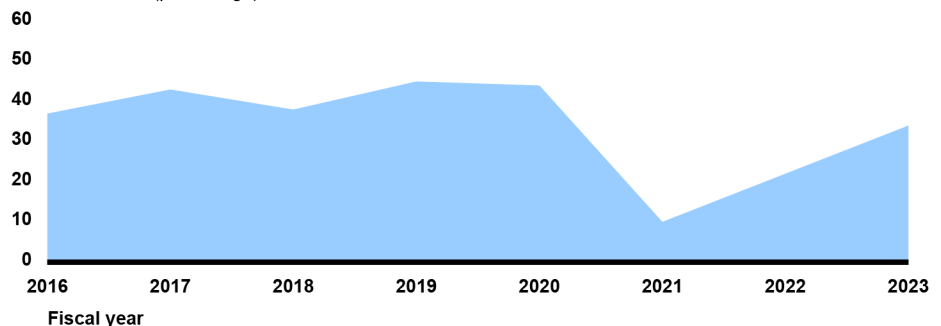
### What GAO Found

The Department of Justice's Executive Office for Immigration Review (EOIR) is responsible for conducting immigration court proceedings. If a respondent—a noncitizen who has been charged with violating immigration law—fails to appear for any of their hearings, an immigration judge may order them removed from the country in their absence ("in absentia"). A judge may also waive their appearance and otherwise resolve the case, depending on the facts and circumstances. However, EOIR does not track or report data on whether respondents appear at their hearings or whether their appearance was waived, because EOIR's case management system does not have a function to systematically record such information. EOIR officials stated that the system has other information that could indicate whether respondents appeared at hearings, such as data on in absentia removal orders and certain hearing adjournment codes. However, these data do not reliably track respondents' appearance at hearings. Developing and implementing a function in its system and publicly reporting on that data would better position EOIR to provide reliable information to Congress and others about the extent respondents appear for their hearings.

According to EOIR data, from fiscal years 2016 through 2023, the total in absentia rate was 34 percent for removal cases of non-detained respondents. EOIR calculates the in absentia rate by dividing the number of in absentia removal orders by the number of immigration judges' initial decisions resolving cases. The rate varied by certain characteristics, such as court location, legal representation status, and demographic characteristics.

### Rates of Non-detained Respondent Cases Ordered Removed in Absentia Out of Initial Case Decisions

In absentia rate (percentage)



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: The fiscal year 2021 decrease in the rate may be associated with factors such as fewer hearings because of the COVID-19 pandemic and higher legal representation rates.

Government officials and stakeholders stated that respondents may not appear for their court hearings for a variety of reasons, such as language barriers, not having transportation to court, or respondents choosing not to go to court because they fear that they will be detained upon appearing at their hearing.

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# Contents

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Letter		1
	Background	5
	EOIR Does Not Track Respondent Hearing Appearances, and Reasons Vary for Respondents Not Appearing About a Third of Non-detained Respondent Initial Case Completions Resulted in In Absentia Removal Orders, and Such Orders Varied Based on Certain Factors	11
	Case Processing Times Varied by Custody and Legal Representation Status	22
	Conclusion	36
	Recommendations for Executive Action	47
	Agency Comments	48
Appendix I	Objectives, Scope, and Methodology	48
Appendix II	Immigration Court Hearing Adjournments and Adjournment Codes	50
Appendix III	Reasons Immigration Judges May Grant Continuances Instead of in Absentia Removal Orders	59
Appendix IV	Comments from the U.S. Department of Justice	63
Appendix V	GAO Contact and Staff Acknowledgments	66
Tables		
	Table 1: In Absentia Rates for Non-detained Respondents Placed in Special Dockets for Family Unit Cases, Fiscal Years 2016 through 2023	28
	Table 2: Median Number of Days from Start of Case to Initial Case Completion, by Custody Status and Fiscal Year of Completion, Cases Received from Fiscal Years 2016 through 2023	38

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Table 3: Cumulative Percent of Non-detained Cases Completed within up to 7 Years from Case Start to Initial Case Completion, by Fiscal Year of Case Start, 2016 through 2022	39
Table 4: Median Number of Days from Start of Case to Initial Case Completion, by Custody and Legal Representation Status and Fiscal Year of Completion, Cases Received from Fiscal Years 2016 through 2023	43
Table 5: Ten Most Often Used Immigration Court Adjournment Codes to Adjourn Non-detained Respondent Hearings, Fiscal Year 2016 through Fiscal Year 2023	62

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Figures

Figure 1: Immigration Court Removal Proceedings General Steps and Concepts	8
Figure 2: Information Gaps That May Affect Respondent Appearance at Immigration Court, as Identified by Selected Government Officials and Nongovernmental Stakeholders	18
Figure 3: Logistical Challenges That May Affect Respondent Appearances at Immigration Court, as Identified by Selected Government Officials and Nongovernmental Stakeholders	20
Figure 4: Reasons Selected Government Officials and Nongovernmental Stakeholders Attributed to Respondents Choosing Not to Appear at Immigration Court	21
Figure 5: Initial Case Completions and In Absentia Rates for Cases of Non-detained Respondents, Fiscal Years 2016 through 2023	23
Figure 6: Total In Absentia Rates for Non-detained Respondents by Immigration Court Location, Fiscal Years 2016 through 2023	25
Figure 7: In Absentia Rates for Non-detained Respondents Based on Legal Representation, Fiscal Years 2016 through 2023	26
Figure 8: In Absentia Rates for Non-detained Adult Respondents with and without Family Relationships, Fiscal Years 2016 through 2023	30

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Figure 9: In Absentia Rates for Accompanied Juveniles and Unaccompanied Juveniles, Fiscal Years 2018 through 2023	32
Figure 10: In Absentia Rates for Non-detained Respondents by Top 10 Countries of Origin with the Highest Number of Initial Case Completions, Fiscal Years 2016 through 2023	33
Figure 11: In Absentia Rates for Non-detained Respondents by Top 10 Languages with the Highest Number of Initial Case Completions, Fiscal Years 2016 through 2023	35
Figure 12: Median Case Processing Times from the Initial Master Calendar Hearing to the First Merits Hearing, by Custody Status, Cases Received from Fiscal Years 2016 Through 2023	41
Figure 13: Key Drivers of Case Processing Times Identified by Selected Government Officials and Nongovernmental Stakeholders	45
Figure 14: Dedicated Docket Case Processing Times and Number of Cases, by Legal Representation Status, Cases Received from Fiscal Years 2021 through 2023	47
Figure 15: Immigration Court Hearing Adjournment Code Categories for Non-Detained Respondents, Fiscal Year 2016 through Fiscal Year 2023	61
Figure 16: Reasons Immigration Judges May Grant Continuances Instead of In Absentia Removal Orders, According to Interviews with Selected Government Officials and Nongovernmental Stakeholders	64

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### Abbreviations

CASE	Case Access System for the Executive Office for Immigration Review
DHS	Department of Homeland Security
DOJ	Department of Justice
EOIR	Executive Office for Immigration Review
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
OPLA	Office of the Principal Legal Advisor

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December 19, 2024

The Honorable Ron Johnson  
Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Jim Jordan  
Chairman  
Committee on the Judiciary  
House of Representatives

Each year, the Department of Homeland Security (DHS) initiates hundreds of thousands of removal cases with the U.S. immigration court system.<sup>1</sup> The Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR) is responsible for conducting immigration court proceedings and other activities to administer and interpret U.S. immigration laws and regulations fairly, expeditiously, and uniformly. As of July 2024, EOIR reported a backlog of nearly 3.5 million pending cases—more than seven times the number of pending cases at the beginning of fiscal year 2015, which we noted in our prior work.<sup>2</sup> We have previously reported that the effects of this backlog are significant and wide-ranging, including some respondents waiting years to have their cases heard and immigration judges having less time to consider cases.<sup>3</sup> We have also made recommendations to improve EOIR’s management practices,

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<sup>1</sup>DHS is responsible for identifying, detaining, and initiating removal proceedings for individuals who are suspected and determined to be in the U.S. in violation of U.S. immigration laws. It is also responsible for litigating administrative immigration charges against, and executing removal orders for, these individuals.

<sup>2</sup>Department of Justice, Executive Office for Immigration Review, “Adjudication Statistics,” accessed July 19, 2024, <https://www.justice.gov/eoir/workload-and-adjudication-statistics>. See GAO, *Immigration Courts: Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*, GAO-17-438 (Washington, D.C.: June 1, 2017).

<sup>3</sup>See GAO-17-438.

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including its workforce planning and data quality practices, and EOIR has implemented some of those recommendations.<sup>4</sup>

EOIR’s immigration judges preside over hearings to decide whether noncitizen respondents—foreign nationals charged as removable for violating immigration law—are removable as charged and, if so, may be granted any requested protection or other relief to lawfully remain in the U.S.<sup>5</sup> If a respondent fails to appear for any of their hearings, the immigration judge may order them removed from the country “in absentia” (i.e., in the respondent’s absence), unless the judge has previously waived the respondent’s appearance.

You asked us to review EOIR’s data on in absentia removal orders and case processing times. This report examines (1) the extent to which EOIR

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<sup>4</sup>See [GAO-17-438](#). EOIR has implemented 10 of the 11 recommendations we made in this report. Most recently, in August 2024, EOIR developed a Strategic Management of Human Capital and Workforce Strategy Implementation Plan. This plan includes goals and measures by which EOIR can evaluate the agency’s progress towards its human capital goals moving forward. By developing and implementing a strategic workforce plan that incorporates key principles of effective strategic workforce planning, EOIR should be better positioned to address current and future staffing needs. See also GAO, *Immigration Courts: Actions Needed to Address Workforce, Performance, and Data Management Challenges*, [GAO-23-105431](#) (Washington, D.C.: Apr. 26, 2023). We made six recommendations, five of which EOIR implemented as of November 2024. For example, EOIR implemented our recommendation to complete a strategic plan in March 2024 by publishing its strategic plan for fiscal years 2024 to 2028. Further, in June 2024, EOIR released Strategic Management of Human Capital and Workforce Plan, which involved key leadership and stakeholders in establishing a documented governance structure for workforce planning. EOIR also implemented our recommendation to develop guidelines for disseminating quality information to the public, including documenting standards and procedures for information quality. In August 2024, EOIR finalized its Data Quality Guidelines and Data Management Plan for Public-level Data. These guidelines were developed to ensure the utility and integrity of information EOIR uses and disseminates, to maximize the objectivity of that information, and to provide the public with a framework through which they can seek correction of information. For the remaining open recommendation, that the agency communicate clear information to Congress regarding its workforce needs as a part of its annual budget, EOIR is working to realign its reported positions in its 2025 budget submission. Here EOIR is striving for a more realistic portrait of what additional resources the agency needs to execute its mission.

<sup>5</sup>In this report, we use the term “respondent” to refer to someone of foreign nationality who is charged as removable and has a case in immigration court. A respondent may be removable on statutory grounds of inadmissibility, if they have no prior lawful admission, Immigration and Nationality Act (INA) § 212(a), 8 U.S.C. § 1182(a); or deportability, if they were previously lawfully admitted, INA § 237, 8 U.S.C. § 1227. See also 8 U.S.C. § 1229a(c), (e)(2). The lawfulness of a prior admission may be at issue in removal proceedings. See, e.g., 8 U.S.C. §§ 1182(a)(6)(C)(i) (inadmissibility for having obtained admission into the U.S. by fraud or willful misrepresentation of material fact), 1227(a)(1)(A) (deportability for having been inadmissible at the time of entry).



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tracks respondent hearing appearances, and what perspectives government officials and nongovernmental stakeholders have on factors that affect respondent appearances; (2) EOIR data related to in absentia removal orders; and (3) EOIR data about case processing times.

To address all three objectives, we analyzed EOIR data from its case management system on immigration court removal cases that were opened or pending from fiscal year 2016 through fiscal year 2023.<sup>6</sup> We selected this time frame to cover the period since our previous report in which we analyzed EOIR data on cases through the last full fiscal year of data available at the time of our review.<sup>7</sup> We assessed the reliability of these data through electronic tests and discussions with EOIR officials. Based on this analysis, we removed about 65,000 cases from the data (about 1 percent of the entire dataset).<sup>8</sup> We found the data to be sufficiently reliable for the purpose of describing (1) hearing adjournments, (2) in absentia removal orders, and (3) case processing times.

To determine the extent to which EOIR tracks respondent hearing appearances, we reviewed EOIR's process to assess the extent to which relevant fields in EOIR's case management system—such as judges' notes, adjournment codes, and in absentia removal orders—track respondent appearances. We also interviewed EOIR officials and judges during our five site visits to immigration courts, as described below, about the steps EOIR takes to collect information related to respondent appearances at court. We compared this information against the principles in *Standards for Internal Control in the Federal Government*

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<sup>6</sup>The Case Access System for EOIR (CASE) is the database application used by EOIR personnel for immigration case management and immigration appeals tracking. CASE is the primary application used by the EOIR immigration courts to record events, actions, decisions, and workflow for immigration cases. An immigration case may have several hearings. For instance, there are master hearings—where charges are introduced, removability is contested or established, and the court ensures the case is ready for trial—and merits hearings—where removability may still be at issue, and respondents may argue for relief and present evidence for the court to consider in deciding whether the noncitizen may stay in the country or is should be ordered removed.

<sup>7</sup>We previously reported on immigration cases from fiscal year 2006 through fiscal year 2015. See [GAO-17-438](#).

<sup>8</sup>We removed cases for various reasons, such as because they had a missing date of issuance for the Notice to Appear (i.e., a charging document) or they had a missing date of EOIR's receipt of the Notice to Appear.

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related to using quality information and communicating externally.<sup>9</sup> We also assessed EOIR's process against Office of Management and Budget guidance related to information quality assurance.<sup>10</sup>

To examine EOIR data related to in absentia removal orders, we analyzed in absentia removal orders for initial case completions of removal cases from fiscal year 2016 through fiscal year 2023.<sup>11</sup> We limited our analysis to data for non-detained respondents because in absentia removal orders for detained respondents were outside the scope of our review.<sup>12</sup> We calculated the rates of in absentia removal orders out of initial case completions by immigration court location and respondent characteristics (legal representation status, family cases placed on special dockets, nationality, and language, among other characteristics).

To examine EOIR data about case processing times, we analyzed case processing times for removal cases EOIR received from fiscal year 2016 through fiscal year 2023. We calculated the processing time for several milestones of a case, including the time between the start of a removal case and the initial case completion and the time between selected hearings. We further analyzed how three factors were related to case processing times: (1) the respondent's custody status (i.e., detained or non-detained), (2) the respondent's legal representation status, and (3) whether the case was on a special docket for families.<sup>13</sup>

In addition, we conducted a mix of virtual and in-person site visits to five immigration courts selected to reflect a range of characteristics. These

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<sup>9</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>10</sup>Office of Management and Budget, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 67 Fed. Reg. 8,452-8,460 (Feb. 22, 2002) (originally printed Jan. 3).

<sup>11</sup>EOIR refers to the first resolution of a case as an "initial case completion." However, cases may be appealed or reopened after the initial resolution of a case, which would require a new case completion. EOIR refers to resolutions to cases after the initial case completion as "subsequent case completions."

<sup>12</sup>Non-detained respondents are respondents who have never been in U.S. Immigration and Customs Enforcement's (ICE) custody or have been released from ICE custody. Detained respondents in ICE custody must rely on ICE to bring them to their immigration court hearings.

<sup>13</sup>The custody status of a case receipt and an initial case completion may differ. When calculating the custody status for initial case completions, we used the custody status at the time of the initial case completion.

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characteristics included different rates of in absentia removal orders, number of initial case completions, and geographic locations. Our selection also included locations with a Legal Orientation Program for Custodians of Unaccompanied Children.<sup>14</sup> During these site visits, we conducted interviews with government officials and selected nongovernmental stakeholders to obtain their perspectives on respondent hearing appearances, in absentia removal orders, and case processing times.<sup>15</sup> We also selected six external nongovernmental stakeholders from national organizations that consist of members who are EOIR judges, attorneys participating in EOIR cases, or organizations providing services to respondents. We also selected stakeholders who had published reports or articles using empirical data on in absentia removal order rates or factors affecting respondent appearances at hearings since 2016. Appendix I provides more information on our scope and methodology.

We conducted this performance audit from May 2023 to December 2024, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

### Roles and Responsibilities within the Immigration Court System

EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings. Within EOIR, the Office of Chief Immigration Judge employs over 700 immigration judges. These judges are responsible for conducting immigration court proceedings and acting independently in deciding matters before them in 71 immigration courts and three immigration adjudication centers across the country as

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<sup>14</sup>The Legal Orientation Program for Custodians of Unaccompanied Children provides legal orientation presentations to custodians of unaccompanied children to help ensure the child's appearance at all immigration court hearings. The program also provides free information about social services, legal counsel, and how to protect children from mistreatment, exploitation, and trafficking.

<sup>15</sup>We conducted 24 interviews with assistant chief immigration judges, immigration judges, attorneys from the DHS's U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor, private bar attorneys, and service providers for the Legal Orientation Program for Custodians of Unaccompanied Children, where applicable.

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of August 2024.<sup>16</sup> As of the end of fiscal year 2023, 52 of those immigration courts have either non-detained dockets (i.e., dockets in which none of the respondents are in custody at the time of their hearings) or hybrid dockets (i.e., dockets with some respondents in custody at the time of their hearing and others are not). Immigration judges are tasked with resolving cases in a manner that is timely, impartial, and consistent with the Immigration and Nationality Act, federal regulations, and precedent decisions of the Board of Immigration Appeals and federal appellate courts. Assistant chief immigration judges serve as liaisons between EOIR's senior leadership and the immigration courts. They also have supervisory authority over immigration judges.<sup>17</sup> Assistant chief immigration judges also conduct hearings and manage dockets of their own.<sup>18</sup>

Attorneys in the U.S. Immigration and Customs Enforcement's (ICE) Office of the Principal Legal Advisor (OPLA) serve as civil prosecutors representing the U.S. government in all removal proceedings before EOIR.<sup>19</sup> ICE's Enforcement and Removal Operations is responsible for overseeing certain potentially removable noncitizens throughout their removal proceedings, including detaining certain noncitizens pending the outcome of their immigration court cases and ensuring noncitizens comply with an immigration judge's final order of removal from the country, if appropriate.

Individuals appearing before the immigration court—respondents—may represent themselves or be represented by an attorney of their choosing, at no cost to the government.<sup>20</sup> The government generally does not

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<sup>16</sup>EOIR immigration adjudication centers are locations where immigration judges and court staff conduct hearings exclusively through video teleconferences. As of the end of fiscal year 2023, EOIR had 734 immigration judges.

<sup>17</sup>Assistant chief immigration judges have supervisory authority over the immigration judges, but they do not review the immigration judges' decisions, which are reviewed only on appeal by the Board of Immigration Appeals. See 8 C.F.R. § 1003.1; see also *id.* § 1003.9(c) (the chief immigration judge has no authority to direct the result of an adjudication assigned to another immigration judge).

<sup>18</sup>A docket refers to the caseload of a judge or court. The chief immigration judge may adjudicate cases as an immigration judge, including the authorities described in section 1003.10(b). See 8 C.F.R. § 1003.9(b)(5).

<sup>19</sup>See 6 U.S.C. § 252(c).

<sup>20</sup>8 U.S.C. §§ 1229a(b)(4)(A), 1362. Respondents may also be represented in certain circumstances by accredited representatives and certain other categories of persons who are expressly recognized by the immigration court. See 8 C.F.R. §§ 1001.1(j), 1292.1.

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provide legal counsel in immigration court proceedings.<sup>21</sup> In cases where a respondent has legal representation, the attorney may speak for the respondent, receives court documents such as hearing notices, and submits motions and evidence to the court. These private bar attorneys must be registered with the immigration court.<sup>22</sup>

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## Overview of Removal Proceedings

Immigration court proceedings begin when DHS charges an individual as removable and files the “Notice to Appear,” the charging document that orders the respondent to appear before an immigration judge to respond to the charges on a date DHS selects from EOIR’s scheduling system.<sup>23</sup> On the Notice to Appear, DHS notes the date, time, and location the respondent must appear, records the respondent’s residential address, if any, and selects the immigration court that has geographic jurisdiction over that address. DHS transmits the notice to the appropriate immigration court, and the court enters the respondent’s mailing address and other information, such as primary language spoken and country of origin, into EOIR’s electronic case management system.<sup>24</sup>

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<sup>21</sup>In certain circumstances, the government provides legal counsel through the Counsel for Children Initiative and the National Qualified Representative Program. The Counsel for Children Initiative works to provide government-funded legal representation to certain unaccompanied children in immigration proceedings in 11 immigration courts, according to EOIR. Through this initiative, EOIR also works to identify children who have been victims of human trafficking or abuse and refer them to appropriate support services. The National Qualified Representative Program provides representation to certain respondents who have been determined to be incompetent to represent themselves in immigration proceedings.

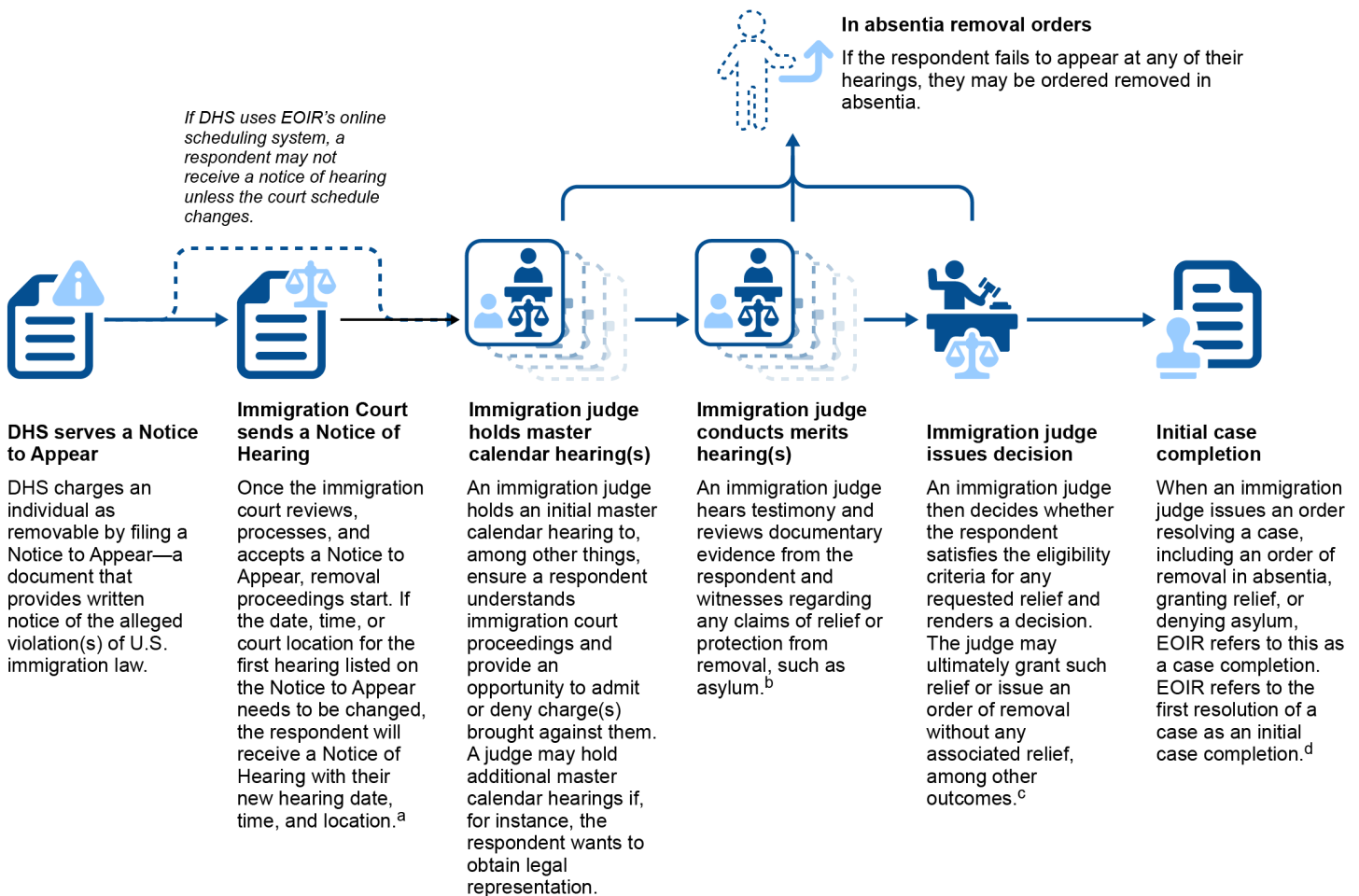
<sup>22</sup>Private bar attorneys must be in good standing with the highest court of any state, possession, territory, or commonwealth of the U.S., or the District of Columbia. Attorneys also cannot be under any order suspending, enjoining, restraining, disbaring, or otherwise restricting them in the practice of law. See 8 C.F.R. §§ 1001.1(f), 1292.1(a)(1).

<sup>23</sup>See 8 U.S.C. § 1229(a). The Interactive Scheduling System enables DHS to access EOIR’s case management system to enter case data and to schedule initial master calendar hearings. EOIR provided DHS access to its case management system in 2018. Beginning in February 2022, EOIR required DHS to submit Notices to Appear electronically through its EOIR Courts and Appeals System. EOIR officials told us that all documents must be submitted electronically as of March 2024.

<sup>24</sup>Prior to EOIR requiring electronic filing of documents, DHS either electronically submitted the Notice to Appear to the court, mailed it to the court, or manually filed the Notice to Appear with the court. The case is not in the jurisdiction of the immigration court until the court accepts the Notice to Appear.

Immigration court removal proceedings generally follow several steps, as shown in figure 1.<sup>25</sup>

**Figure 1: Immigration Court Removal Proceedings General Steps and Concepts**



Source: GAO analysis of Executive Office for Immigration Review (EOIR) and Department of Homeland Security (DHS) information; GAO adaptation of Icons-Studio/stock.adobe.com (icons). | GAO-25-106867

<sup>25</sup>In this report we focus on removal proceedings because they represent the preponderance of cases being adjudicated in immigration courts. Immigration judges also preside over other types of proceedings, including but not limited to reviews of negative credible and reasonable fear determinations made by U.S. Citizenship and Immigration Services asylum officers, withholding-only proceedings for noncitizens found to have a reasonable fear of persecution or torture, and asylum-only proceedings in which immigration judges determine whether certain individuals who are not entitled to a removal hearing (i.e., crewman, stowaways, Visa Waiver Program travelers, and those ordered removed from the U.S. on security grounds) are eligible for asylum or withholding of removal under INA § 241(b)(3) or the Convention Against Torture.

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<sup>a</sup>If the date, time, or location listed on the original Notice to Appear does not change, the immigration court will not issue a hearing notice.

<sup>b</sup>U.S. immigration law provides that foreign nationals arriving or present in the country may be granted humanitarian protection in the form of asylum if they are unable or unwilling to return to their home country because of past persecution or a well-founded fear of future persecution based on their race, religion, nationality, membership in a particular social group, or political opinion. See 8 U.S.C. § 1158.

<sup>c</sup>Under U.S. immigration law, a foreign national is removable if: (1) not admitted to the U.S. and found inadmissible under section 212 of the INA; or (2) admitted to the U.S. and deemed deportable under INA § 237. See 8 U.S.C. §§ 1182(a), 1227, 1229a(c), (e)(2). Those determined to be removable and not eligible for any requested relief or protection from removal would be subject to removal pursuant to the judge's order once it is administratively final. 8 C.F.R. § 1241.1

<sup>d</sup>A removal proceeding may have more than one completion. For instance, a respondent can submit a motion to reopen a case after an initial case completion, and the immigration judge may agree to reopen the case. In this example, while a judge has made an initial case completion, the case would require a second resolution to be completed. EOIR refers to any completion after the initial case completion as a subsequent case completion.

As shown in figure 1, immigration courts mail respondents a hearing notice, which includes the mode of the hearing—either video teleconference, telephone, or in person.<sup>26</sup> If the immigration court plans to conduct the hearing remotely, the hearing notice includes a web address for the judge's video teleconferencing site.<sup>27</sup>

## Respondents' Responsibilities During Proceedings

During immigration court removal proceedings, respondents have several responsibilities:

1. Respondents must notify the court of changes to their address within 5 days.<sup>28</sup>

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<sup>26</sup>Respondents appearing via telephone access the hearing through the internet-based hearing information.

<sup>27</sup>When DHS officials use the online scheduling system to schedule a court date, EOIR generally does not issue a separate notice of hearing if the location, date, or time does not change from what DHS enters on the Notice to Appear charging document.

<sup>28</sup>See 8 C.F.R. § 1003.15(d)(2). The requirement to inform the immigration court of a change of address applies any time a respondent's address changes. Within 5 days of any change in address, the respondent must complete and submit to the court a form EOIR-33, a Change of Address/Contact Information. Also, if the respondent's address change would result in a different court having jurisdiction over the case, the respondent must file a motion to change venues before the court currently with jurisdiction.

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2. Respondents must also separately notify DHS of changes to their address or telephone number.<sup>29</sup>
  3. According to the hearing notice, respondents are encouraged to confirm the time and date of hearings in case there are changes. The hearing notice lists a 1-800 number that communicates hearing and court closure information in both English and Spanish. The notice also contains a QR code that respondents may use to read the notice in 10 additional languages online.<sup>30</sup> Additionally, respondents may monitor changes to their hearing information through EOIR's online respondent portal.<sup>31</sup>

In addition, respondents whose appearance has not been waived and fail to appear for any of their immigration court hearings may be subject to legal consequences. For instance, they may be subject to an in absentia removal order, and any applications or potential applications for relief or protection from removal may be deemed abandoned by the immigration court. Further, those who without reasonable cause fail or refuse to attend or remain in attendance at a removal proceeding and who seek admission to the U.S. within 5 years of their subsequent departure or removal, are inadmissible.<sup>32</sup> Those against whom a final order of removal is entered in absentia, and who receive requisite notice of consequences, are ineligible for certain forms of relief, such as adjustment to lawful

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<sup>29</sup>Under 8 U.S.C. § 1229(a)(1)(F)(ii), the respondent must provide the Attorney General immediately with a written record of any change of their address or telephone number. Pursuant to 6 U.S.C. § 557, regarding transfer of functions under the Homeland Security Act of 2002, a reference to a department, commission, or agency or any officer or office the functions of which are transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is transferred. Therefore, 8 U.S.C. § 1229 is read through the lens of 6 U.S.C. § 557 to require the respondent to provide a change of address to ICE at least until the notice to appear has been filed with the immigration court. See *Fuentes-Pena v. Barr*, 917 F.3d 827 (5th Cir. 2019).

<sup>30</sup>A QR code is a square grid of smaller black and white squares containing encoded data that is designed to be optically scanned, as to provide information about a product or service.

<sup>31</sup>For respondent online access, see <https://acis.eoir.justice.gov/en/> (visited July 13, 2024). Respondents may also check to see if the court is open by visiting <https://www.justice.gov/eoir/immigration-court-information> (visited July 13, 2024).

<sup>32</sup>8 U.S.C. § 1182(a)(6)(B). A noncitizen is also inadmissible to the U.S. if they were ordered removed after proceedings initiated upon their arrival and then seek entry within 5 years of their removal. 8 U.S.C. § 1182(a)(9)(A)(i).



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permanent residence, within 10 years from the date of the final order of removal.<sup>33</sup>

#### Respondents' Custody Status

While removal proceedings are pending, respondents may be detained in ICE custody or, if eligible for release, released on bond, conditional parole, terms of supervision, or other alternatives to detention.<sup>34</sup> We refer to cases where respondents are in ICE custody as detained cases. Detained respondents may request a bond redetermination hearing in which an immigration judge reviews ICE's custody and bond decision.<sup>35</sup> For this report, we refer to cases involving respondents who either have never been in ICE custody or have been released from ICE custody as "non-detained cases."<sup>36</sup>

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### EOIR Does Not Track Respondent Hearing Appearances, and Reasons Vary for Respondents Not Appearing

#### EOIR Does Not Systematically Track or Report on Respondents' Appearance at Hearings

As previously noted, respondents are expected to appear for their immigration court hearings unless their appearance has been waived by an immigration judge.<sup>37</sup> EOIR officials stated that respondents appearing

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<sup>33</sup>*Id.* § 1229a(b)(7).

<sup>34</sup>The Immigration and Nationality Act (INA), as amended, provides DHS with broad discretion (subject to certain legal standards) to detain or conditionally release noncitizens depending on the circumstances and statutory basis for detention. See 8 U.S.C. §§ 1226(a), 1231(a)(6). The law requires DHS to detain particular categories of noncitizens, such as those deemed inadmissible for certain criminal convictions or terrorist activity. See 8 U.S.C. §§ 1225(b)(1)(B)(iii)(IV), 1226(c)(1), 1226a(a)(1), 1231(a)(2). Respondents who are unaccompanied children may be in the custody of the Department of Health and Human Services, specifically the Office of Refugee Resettlement.

<sup>35</sup>8 C.F.R. § 1003.19.

<sup>36</sup>This report focuses primarily on non-detained respondents, except for case processing times.

<sup>37</sup>See 8 U.S.C. §§ 1229(a)(1)(G), 1229a(b)(5); 8 C.F.R. §§ 1003.25(a), 1003-.26.

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for hearings is important because it allows them to actively participate in their own claims.

However, EOIR does not track or report data on whether respondents appear at their hearings or whether their appearances were waived because EOIR's case management system does not have a function to systematically record such information.<sup>38</sup> In the absence of such a function, EOIR officials stated that the agency's case management system has other data fields that could be used to indicate whether respondents appeared at hearings, including a narrative field, an adjournment code, and in absentia removal orders. However, according to these officials, these data are not a reliable source for tracking respondent appearances. Specifically:

**Circumstances When Immigration Judges May Waive Respondent's Court Appearance**

Immigration judges and assistant chief immigration judges we interviewed identified several types of respondents for whom they may choose to waive appearances including but not limited to

- Juvenile respondents after their initial master calendar hearing, so that the respondents may attend school;
- Respondents who have legal representation do not need to appear at pre-hearing conferences or certain master calendar hearings; and
- Respondents who face extenuating circumstances, such as illnesses or emergencies.

Source: GAO analysis of Department of Justice information. | GAO-25-106867

- **Narrative field.** EOIR's case management system has a narrative field, which immigration judges may use to record notes about the case, including whether the respondent appeared at a hearing and whether the respondent's appearance was waived. Judges can use these notes to determine which respondents appeared at a hearing or had their appearance waived on a case-by-case basis.<sup>39</sup> However, because these notes are entered in a narrative field on a case-by-case basis, EOIR cannot use them to systematically track or report on appearances across cases or to determine a rate of respondent attendance.
- **Adjournment code indicating a respondent's or legal representative's absence.** According to EOIR officials, immigration judges enter various adjournment codes in EOIR's case management system to record reasons they adjourn hearings, but these codes do

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<sup>38</sup>The presiding immigration judge may, for good cause, and consistent with 8 U.S.C. § 1229a(b), waive the presence of a respondent at a hearing when the respondent is represented or when the respondent is a minor child who is accompanied by at least one of their parents or their legal guardian. When it is impracticable by reason of a respondent's mental incompetency for the respondent to be present, the presence of the respondent may be waived provided that the respondent is represented at the hearing by an attorney or legal representative, a near relative, legal guardian, or friend. 8 C.F.R. § 1003.25(a).

<sup>39</sup>According to EOIR officials, EOIR's case management system consists of several applications, including CASE, Judicial Tools, and the Electronic Record of Proceedings. Immigration judges can record their notes in the Judicial Tools application.

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not specify if respondents appeared at the hearings.<sup>40</sup> In particular, EOIR's case management system includes one adjournment code that judges can select when the hearing adjourned because either the respondent or their legal representative was absent. However, this adjournment code does not provide reliable information on whether respondents appeared for their hearing because the code can be used in either situation. Moreover, because judges can only select one adjournment code for each hearing, they may select an adjournment code unrelated to the presence or absence of respondents or their legal representative if the judges determine that another reason was the primary reason for the adjournment.

Further, in our interviews with assistant chief immigration judges and immigration judges, judges provided differing perspectives on how they used this code most often. In six of 10 interviews, judges stated that they most often used this adjournment code because the respondent was present but the respondent's legal representative was absent. In two of 10 interviews, judges stated they most often used the code because the respondent was absent, but the respondent's legal representative was present. In the final two of 10 interviews, judges indicated they used the code equally for both situations.

- **In absentia removal orders.** Through its case management system, EOIR tracks and publicly reports information on instances in which immigration judges ordered respondents who did not appear at a hearing to be removed from the country. In our previous work on EOIR's public reporting of data, we found the agency reports immigration data to the public and external users in several ways, including by (1) reporting immigration case statistics on its public website and (2) responding to Freedom of Information Act requests.<sup>41</sup> Some entities have used EOIR's publicly reported data to calculate in absentia removal order rates as a proxy for rates of respondent appearance, including as part of information provided at

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<sup>40</sup>EOIR's case management system requires judges to select a reason for adjourning hearings. At the end of each hearing, judges select a code to indicate why they adjourned the hearing. Judges may choose one adjournment code for each hearing. If more than one code applies, the judge is to choose the code that best represents the main reason for the adjournment. For more information on EOIR's use of adjournment codes, see appendix II.

<sup>41</sup>See 5 U.S.C. § 552. GAO, *Immigration Courts: Actions Needed to Address Workforce, Performance, and Data Management Challenges*, [GAO-23-105431](#) (Washington D.C.: Apr. 26, 2023).

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Congressional hearings.<sup>42</sup> However, in absentia removal orders cannot be used to reliably calculate rates of respondent appearance. Specifically, in absentia removal order rates only reflect closed cases; therefore, they do not include respondents who may have appeared at previous hearings but whose cases were still pending. Also, in absentia rates do not include respondents who did not appear in court because an immigration judge waived their appearance, or respondents who did not appear in court but did not receive an in absentia removal order.<sup>43</sup>

Further, in absentia rates do not differentiate between respondents who never appeared for court and respondents who appeared for one or more hearings but were ordered removed in absentia at a subsequent hearing.<sup>44</sup> Thus, recording and reporting the rate of in absentia removal orders does not provide quality information on how often respondents were present at their immigration court hearings.

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<sup>42</sup>For example, see Congressional Research Service, *At What Rate Do Noncitizens Appear for Their Removal Hearings? Measuring In Absentia Removal Order Rates*, IF 11892 (Washington, D.C.: Aug. 5, 2021); Eagly & Shafer, Article: *Measuring in Absentia Removal in Immigration Court*, 168 U. Pa. L. Rev. 817 (2020). For examples of immigration court respondent appearance information and in absentia rate information being included in Congressional hearing records, see *Courts in Crisis: The State of Judicial Independence and Due Process in U.S. Immigration Courts: Hearing Before the H. Comm. on the Judiciary, Subcomm. on Immigr. and Citizenship*, 116th Cong. 3, 143, 187-93 (2020) (statement of Rep. Ken Buck, Ranking Member, Subcomm. on Immigr. and Citizenship; colloquy between Rep. Veronica Escobar, Member, Subcomm. on Immigr. and Citizenship, and A. Ashley Tabaddor, President, National Association of Immigration Judges; and Human Rights First, *Immigration Court Appearance Rates* (Feb. 2018), submitted for the record by Rep. Mary Gay Scanlon, Member, Subcomm. on Immigr. and Citizenship); and *The Implications of the Reinterpretation of the Flores Settlement Agreement for Border Security and Illegal Immigration Incentives: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affs.*, 115th Cong. 8, 21-22 (2018) (testimony of Matthew T. Albence, Executive Associate Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; colloquy between Sen. Gary C. Peters, Member, S. Comm. on Homeland Sec. and Governmental Affs., and Mr. Albence).

<sup>43</sup>For example, immigration judges may choose to issue continuances if the respondent did not appear at their hearing. We asked government officials and nongovernmental stakeholders about their perspectives on reasons judges grant continuances instead of ordering respondents removed in absentia. See appendix III.

<sup>44</sup>According to EOIR officials, EOIR's case management system has the ability to track the number of hearings that occurred before an in absentia initial case closure. However, the system does not collect information on whether respondents appeared at those hearings.

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Assistant chief immigration judges and EOIR senior leadership we interviewed reported benefits and drawbacks to recording and reporting respondent appearance data.

- **Judges:** Four of five assistant chief immigration judges we interviewed identified benefits of recording respondent appearances.<sup>45</sup> For example, one judge stated that EOIR could use these data to better understand the effects of nonappearances on judges' caseloads. Further, three of the five stated they could not identify any drawbacks to EOIR recording this information. However, two judges identified drawbacks, specifically questioning whether recording this information would be resource intensive for the immigration judges.
- **EOIR senior leadership:** EOIR senior officials we interviewed also identified benefits of recording respondent appearances and tracking this information at an organizational level. For instance, the officials stated that EOIR would be able to conduct more precise analyses to determine if there are national trends in respondent nonappearance or differences in nonappearance at specific court locations. Such analysis could inform EOIR planning and operations. Further, tracking this type of information at an organizational level would allow EOIR to better track efficiencies or inefficiencies in immigration court operations. Tracking and reporting this information would also allow EOIR to answer questions posed by external stakeholders about respondent appearances. EOIR officials also noted potential drawbacks of collecting this information, stating that collecting appearance and waiver information would increase the amount of manual data entry required for each case and therefore increase the potential for data entry errors.

Federal internal control standards call for an agency's management to design a process that identifies the information requirements for achieving the agency's objectives and addresses any risks.<sup>46</sup> EOIR's Strategic Plan includes an objective to manage its caseload efficiently and effectively, including by analyzing the case lifecycle to identify points of inefficiency.<sup>47</sup> Further, the internal control standards call for the agency's information requirements to consider the expectations of both internal and external

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<sup>45</sup>We asked the five assistant chief immigration judges we met with during our site visits about the benefits and drawbacks of tracking this respondent appearance. We did not ask this question to the other five immigration judges.

<sup>46</sup>[GAO-14-704G](#).

<sup>47</sup>See Department of Justice Executive Office for Immigration Review, *EOIR Strategic Plan* (Falls Church, VA, 2024).

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users. The standards call for the agency to obtain relevant data from reliable internal and external sources in a timely manner based on the identified information requirement.

Federal internal control standards also call for agencies to select appropriate methods to communicate externally—including to the President, Congress, and the general public—based on a variety of factors such as the audience, nature of information, and availability, among others.<sup>48</sup> In addition, Office of Management and Budget guidelines on maximizing the quality of reported data call for agencies to incorporate aspects of quality into their information management practices. These aspects of quality include utility, whether the information is useful for its intended users and purpose.<sup>49</sup>

EOIR senior officials stated that the agency is considering whether to add a method for noting respondents' appearance as part of future information technology system updates, but does not have plans or time frames for making this decision. EOIR stated that they could do this by updating their current case management system. They also stated that if individual immigration judges need to know this information, they can record it on a case-by-case basis in their notes in the agency's case management system. However, as previously discussed, senior officials also noted benefits of systematically recording this information, such as an enhanced ability to track efficiencies in court operations and improvements in information provided to customers and stakeholders. It could also provide more systematic information on respondents' appearance beyond the information judges may record in their notes on a case-by-case basis.

By developing and implementing a function in its case management system for recording respondents' appearances and whether appearances were waived, EOIR would be better positioned to track and report data on respondent hearing appearance and waivers. This in turn could help EOIR systematically identify and assess trends in respondents appearing or not appearing at hearings, and provide insights into the court's caseload. Moreover, implementing such a function could help ease the burden on judges by reducing the need for judges to enter

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<sup>48</sup>[GAO-14-704G](#).

<sup>49</sup>Office of Management and Budget, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 67 Fed. Reg. 8,452-460 (Feb. 22, 2002) (originally printed Jan. 3). As previously reported, EOIR officials told us they take steps to ensure the quality of their publicly reported immigration data. See [GAO-23-105431](#).

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narrative information about respondents' attendance in their case notes. For example, the system might include check boxes to indicate whether respondents appeared or had their appearance waived, rather than judges entering such information manually in the system's narrative field. Moreover, by publicly reporting the data periodically, consistent with EOIR's other public reporting on its caseload, the data would have greater use for external users. Congress and other external users thus would have reliable information about the extent to which respondents appear for immigration court hearings. This, in turn, may help inform Congressional oversight of immigration court activities.

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Government Officials and  
Nongovernmental  
Stakeholders Identified  
Reasons Why  
Respondents May Not  
Appear at Court

We conducted 30 interviews with government officials and nongovernmental stakeholders to obtain their perspectives on reasons for respondents not appearing at their hearings.<sup>50</sup> Based on their responses, we identified three general categories of reasons why respondents may not appear for hearings: (1) respondents may be limited by information gaps, (2) respondents may face logistical challenges, and (3) respondents may choose not to appear at their hearings.

**Respondents may not appear at court hearings because of information gaps.** As shown in figure 2, government officials and nongovernmental stakeholders identified seven respondent-related and six government-related information gaps that may affect respondents' appearances at immigration courts.

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<sup>50</sup>Specifically, we conducted 15 interviews with relevant government officials at five selected immigration courts. Government officials included EOIR assistant chief immigration judges, immigration judges, and OPLA attorneys. Further, we interviewed nine nongovernmental stakeholders across five selected courts, which included private bar attorneys representing respondents and service providers for the Legal Orientation Program for Custodians of Unaccompanied Children. We also interviewed six additional nongovernmental stakeholders with broader experience across the immigration courts. For more information about the officials and nongovernmental stakeholders we interviewed and how we selected them, see appendix I.

**Figure 2: Information Gaps That May Affect Respondent Appearance at Immigration Court, as Identified by Selected Government Officials and Nongovernmental Stakeholders**

	Assistant chief immigration judge and immigration judge	U.S. Immigration and Customs Enforcement OPLA <sup>a</sup>	Private bar attorneys	Legal Orientation Program for Custodians of Unaccompanied Children	External stakeholders	Total responses per reason category
<b>Respondent-related information gaps</b>						
Not updating address or requesting a change in court	●●●●● ○ ○ ○ ○ ○	●●○○○○	●●●○○○	●●○○○	●●●○○○ ○	<b>15</b>
Language barriers or inability to understand notices	●○○○○○ ○ ○ ○ ○ ○	●○○○○○	●●●○○○	●●●●○	●●●●○○ ○	<b>12</b>
Problems or confusion with court processes (e.g., unsure whether to attend in person or online)	●●○○○○○ ○ ○ ○ ○ ○	○○○○○○○	●●●○○○	●●●●○	●●●○○○ ○	<b>11</b>
Confusion between court and Department of Homeland Security (DHS)	○○○○○○○ ○ ○ ○ ○ ○	○○○○○○○	●●○○○○○	●●●●○	●●●○○○ ○	<b>8</b>
Unaware of hearings or not receiving hearing notice	●●●○○○○ ○ ○ ○ ○ ○	○○○○○○○	●○○○○○○	●○○○○○	●○○○○○ ○	<b>6</b>
Forgetting to go to court because of long gaps between court milestones	●●○○○○○ ○ ○ ○ ○ ○	○○○○○○○	○○○○○○○	●○○○○○	●○○○○○ ○	<b>4</b>
Legal representative making an error	●○○○○○○ ○ ○ ○ ○ ○	●○○○○○○	●○○○○○○	○○○○○○○	○○○○○○○ ○	<b>3</b>
<b>Government-related information gaps</b>						
Online or 1-800 hotline problems accessing hearing information	○○○○○○○ ○ ○ ○ ○ ○	●○○○○○○	●●○○○○○	●●○○○○○	●●○○○○○ ○	<b>7</b>
Notices not having correct hearing dates	●○○○○○○ ○ ○ ○ ○ ○	○○○○○○○	●●●○○○	●●○○○○○	●○○○○○ ○	<b>7</b>
Change in hearing dates from what was listed on notices	●○○○○○○ ○ ○ ○ ○ ○	●○○○○○○	●○○○○○○	●●○○○○○	●○○○○○ ○	<b>6</b>
DHS or court not filing or entering charging document in case management system, thus respondents cannot update their address for hearing notices <sup>b</sup>	●○○○○○○ ○ ○ ○ ○ ○	○○○○○○○	●●○○○○○	●○○○○○	●●○○○○○ ○	<b>6</b>
Charging document not having respondent's correct mailing address	●●○○○○○ ○ ○ ○ ○ ○	●○○○○○○	○○○○○○○	●○○○○○	●○○○○○ ○	<b>5</b>
Other problems with the charging documents or notices	●●○○○○○ ○ ○ ○ ○ ○	●●○○○○○	○○○○○○○	●●○○○○○	●●●○○○ ○	<b>9</b>

**Interview respondents**  
 ● Yes ○ No

Source: GAO analysis of interviews with selected government officials and nongovernmental stakeholders; GAO adaptation of Icons-Studio/stock.adobe.com (illustrations). | GAO-25-106867

Note: We conducted interviews of government officials and nongovernment stakeholders at five selected courts. Specifically, we interviewed assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA) attorneys representing the U.S. government in immigration court, private bar attorneys representing noncitizens with cases in immigration court, and service providers of the Legal Orientation Program for



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Custodians of Unaccompanied Children. We also interviewed six external stakeholders such as associations representing practitioners and immigration law researchers.

<sup>a</sup>U.S. Immigration and Customs Enforcement OPLA attorneys serve as civil prosecutors representing the U.S. government in all removal proceedings before the Executive Office for Immigration Review.

<sup>b</sup>According to Executive Office for Immigration Review (EOIR) officials, respondents may send EOIR a change of address form before the immigration court has reviewed and accepted the Notice to Appear charging document. They stated that as soon as EOIR accepts the Notice to Appear into its case management system, the system automatically links the change of address form to the respondent's case and updates the respondent's address.

In general, nongovernmental stakeholders reported information gaps more often than government officials as a reason respondents may not appear for their hearings. The most-cited information gap among nongovernmental stakeholders (mentioned in 10 of 15 interviews) was language barriers or the inability to understand notices. The most often cited information gap that government officials identified (mentioned in seven out of 15 interviews) was respondents not updating their address with the courts, to ensure they receive updated information about their upcoming hearings.<sup>51</sup>

**Respondents may face logistical challenges that limit appearances.** Government officials and nongovernmental stakeholders identified nine different logistical challenges that may affect respondents' appearance at court hearings, as shown in figure 3.

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<sup>51</sup>While these responses cannot be generalized, the results provide examples of how various types of stakeholder groups interviewed can have different perspectives on information gap challenges.

**Figure 3: Logistical Challenges That May Affect Respondent Appearances at Immigration Court, as Identified by Selected Government Officials and Nongovernmental Stakeholders**

	Assistant chief immigration judge and immigration judge	U.S. Immigration and Customs Enforcement OPLA <sup>a</sup>	Private bar attorneys	Legal Orientation Program for Custodians of Unaccompanied Children	External stakeholders	Total responses per reason category
Transportation problems (e.g., not having transportation to get to court)	●●●●●	●●○○○○	●○○○○	●●○○○	●○○○○○	12
Distance to travel to appear at court	●●○○○○	●●○○○○	●○○○○	●●○○○	●●○○○○	9
Lacking resources needed to appear at court (e.g., funds to travel)	●○○○○○	●○○○○○	●●○○○○	●●○○○	●●●○○○	9
Extenuating circumstances such as illness, family illness, or emergency	●●●○○○	●●○○○○	●○○○○	●○○○○	○○○○○○	7
Confusion about the immigration court's physical location	●○○○○○	●●○○○○	○○○○○○	○○○○○	●○○○○○	4
Difficulties entering the courthouse or courtroom (e.g., long lines to get into the building)	○○○○○○	●○○○○○	●○○○○○	●●○○○	○○○○○○	4
Challenges using the court's online video teleconferencing system	○○○○○○	○○○○○○	●○○○○○	○○○○○	●●●○○○	4
Respondents cannot leave work	●●○○○○	○○○○○○	○○○○○○	○○○○○	○○○○○○	2
Respondents are incarcerated	●○○○○○	○○○○○○	●○○○○○	○○○○○	○○○○○○	2

**Interview respondents**

● Yes ○ No

Source: GAO analysis of interviews with selected government officials and nongovernmental stakeholders; GAO adaptation of Icons-Studio/stock.adobe.com (illustrations). | GAO-25-106867

Note: We conducted interviews of government officials and nongovernment stakeholders at five selected courts. Specifically, we interviewed assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA) attorneys representing the U.S. government in immigration court, private bar attorneys representing noncitizens with cases in immigration court, and service providers of the Legal Orientation Program for Custodians of Unaccompanied Children. We also interviewed six external stakeholders such as associations representing practitioners and immigration law researchers.

<sup>a</sup>U.S. Immigration and Customs Enforcement OPLA attorneys serve as civil prosecutors representing the U.S. government in all removal proceedings before the Executive Office for Immigration Review.

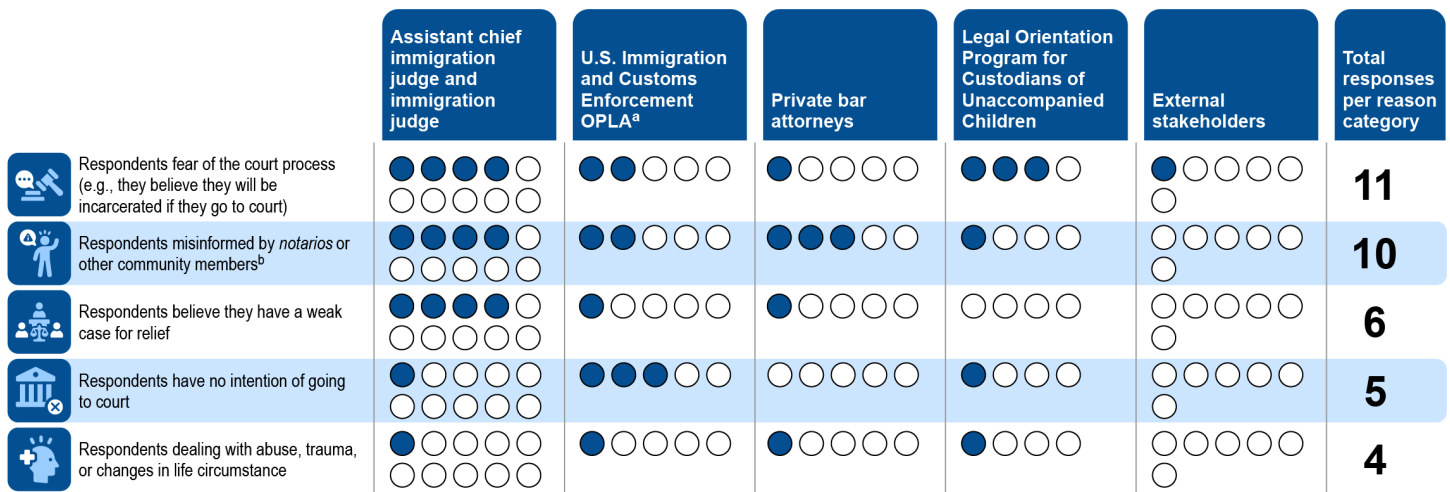
While there was variation in the responses between government officials and nongovernmental stakeholders, both government officials and nongovernmental stakeholders identified logistical issues as possibly affecting respondent appearance about the same number of times. As shown in figure 3, government officials most often cited respondents having transportation problems that may make it difficult to appear for their hearings, mentioning it in eight of 15 interviews. In contrast,

nongovernmental stakeholders identified respondents not having necessary resources to get to court most often as a logistical challenge, mentioning it in seven of 15 interviews.

**Respondents may choose not to appear at court hearings.**

Government officials and nongovernmental stakeholders identified five reasons respondents may choose not to appear at court hearings, as shown in figure 4.

**Figure 4: Reasons Selected Government Officials and Nongovernmental Stakeholders Attributed to Respondents Choosing Not to Appear at Immigration Court**



**Interview respondents**

● Yes ○ No

Source: GAO analysis of interviews with selected government officials and nongovernmental stakeholders; GAO adaptation of Icons-Studio/stock.adobe.com (illustrations). | GAO-25-106867

Note: We conducted interviews of government officials and nongovernment stakeholders at five selected courts. Specifically, we interviewed assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA) attorneys representing the U.S. government in immigration court, private bar attorneys representing noncitizens with cases in immigration court, and service providers of the Legal Orientation Program for Custodians of Unaccompanied Children. We also interviewed six external stakeholders such as associations representing practitioners and immigration law researchers.

<sup>a</sup>U.S. Immigration and Customs Enforcement OPLA attorneys serve as civil prosecutors representing the U.S. government in all removal proceedings before the Executive Office for Immigration Review.

<sup>b</sup>In many Spanish-speaking nations, “notarios” are attorneys with special legal credentials. In the U.S., however, notary publics are people authorized by state governments to witness the signing of important documents and to administer oaths but are not necessarily authorized to provide legal services. A notario is not authorized to provide any legal services related to immigration in the U.S.

Overall, government officials and nongovernmental stakeholders cited respondents choosing not to appear at court fewer times than the other two categories previously discussed. Government officials cited

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respondents fear of the court process and respondents being misinformed by notarios or other community members equally as reasons why respondents may choose not to appear at court, being identified during interviews six times each in 15 interviews.<sup>52</sup> Nongovernmental stakeholders also identified respondents' fear of the court process most often among the reasons, mentioning it in five of 15 interviews.

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### About a Third of Non-detained Respondent Initial Case Completions Resulted in In Absentia Removal Orders, and Such Orders Varied Based on Certain Factors

From fiscal year 2016 through fiscal year 2023, our analysis of EOIR data shows that the total in absentia rate for initial case completions of non-detained respondent cases was 34 percent.<sup>53</sup> The in absentia rate also varied by court location, legal representation status, and demographic characteristics.

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### About a Third of Non-detained Respondents' Cases Completed from Fiscal Year 2016 through Fiscal Year 2023 Resulted in an In Absentia Removal Order

From fiscal year 2016 through fiscal year 2023, the average annual number of initial case completions for non-detained respondents was about 187,000. The number of initial case completions ranged from about 87,000 in fiscal year 2021 to about 473,000 in fiscal year 2023, as shown in figure 5. According to EOIR officials, there were fewer initial case completions in fiscal year 2021 due to court closures and hearing postponements during the COVID-19 pandemic. In fiscal year 2022 and fiscal year 2023, EOIR added new courts and increased the number of

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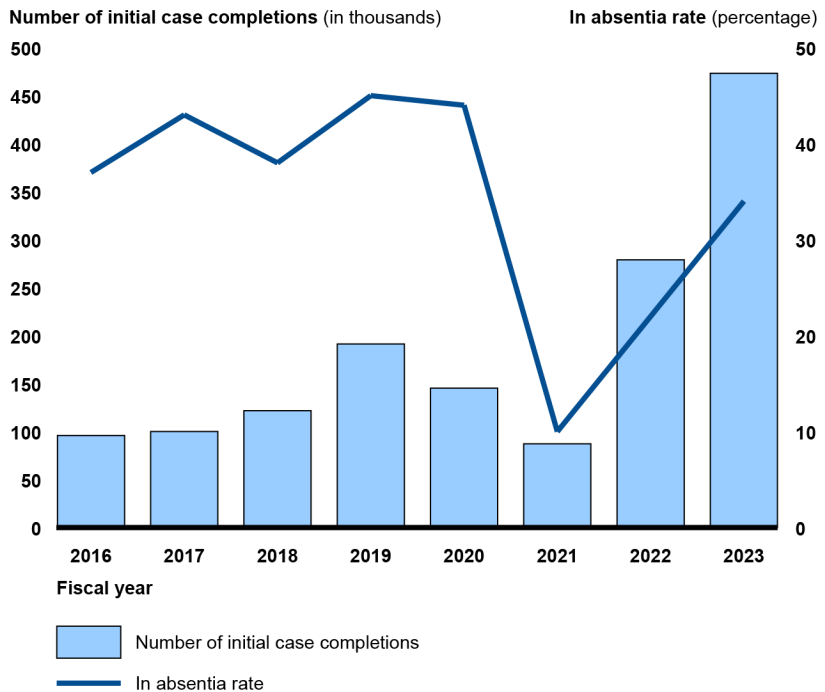
<sup>52</sup>While in many Spanish-speaking nations, *notarios* are attorneys with special legal credentials, in the U.S., *notarios* are not authorized to provide any legal services related to immigration.

<sup>53</sup>EOIR refers to the first resolution of a case as an initial case completion. However, cases may be appealed or reopened after the initial resolution of a case, which would require a new order to resolve the case. We analyzed EOIR data on in absentia removal orders for only non-detained respondents because in absentia removal orders are uncommon for detained respondents. Adult detained respondents are in ICE custody and rely on ICE to bring them to their immigration court hearings. We use the term "in absentia rate" instead of "in absentia removal rate" to refer to the percentage of respondent cases that have been issued in absentia removal orders out of all initial case completions.

immigration judges, which increased the agency's capacity to process cases.

Among initial case completions for non-detained respondents, the total in absentia rate from fiscal year 2016 through fiscal year 2023 was 34 percent.<sup>54</sup> Over this period, the in absentia rate ranged from 10 percent in fiscal year 2021 to 45 percent in fiscal year 2019, as shown in figure 5.

**Figure 5: Initial Case Completions and In Absentia Rates for Cases of Non-detained Respondents, Fiscal Years 2016 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year.

The respondent in absentia rate decreased from 44 percent, nearly its highest rate in fiscal year 2020, to 10 percent, its lowest rate in fiscal year 2021. According to our analysis, this decrease was associated with

<sup>54</sup>EOIR calculates the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year.

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factors such as fewer hearings because of the COVID-19 pandemic and higher legal representation rates.

- **Fewer hearings in fiscal year 2021:** EOIR officials told us that in absentia rates were lower in fiscal year 2021 because there were comparably fewer hearings held (about 251,000 hearings compared to a total annual average of about 770,000 hearings from fiscal years 2016 through fiscal year 2023) and fewer cases completed. EOIR officials also told us that since courts could not hold hearings during fiscal year 2021 in particular, the courts focused on cases that they determined were ready to move forward for adjudication.
- **Higher legal representation rates:** There were higher legal representation rates in fiscal years 2021 and 2022, 85 percent and 73 percent respectively, than in earlier fiscal years, which correlated with lower in absentia rates. The legal representation rate across initial case completions from fiscal years 2016 through 2020 was 59 percent. We discuss the link between representation rates and in absentia removal orders later in this report.

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## In Absentia Rates Varied by Court Location and Legal Representation Status

### In Absentia Rates by Court Location

Our analysis of EOIR data shows that in absentia rates for non-detained cases varied by court location, ranging from 10 percent (Honolulu, Hawaii) to 64 percent (Charlotte, North Carolina) from fiscal year 2016 through fiscal year 2023, as shown in figure 6.

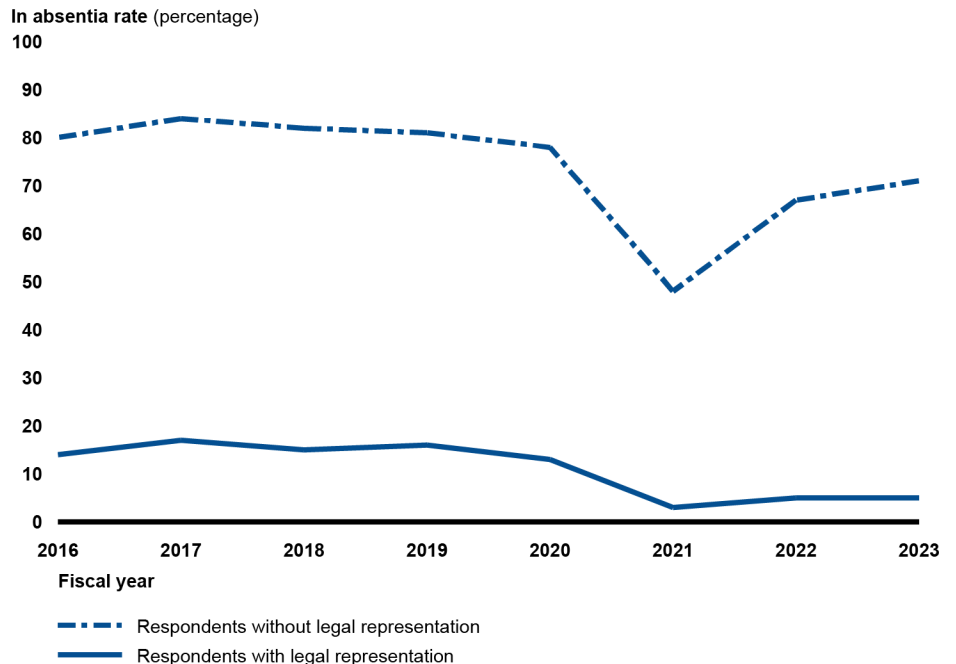


## In Absentia Rates by Legal Representation

immigration court told us in three interviews that the court has jurisdiction for both North Carolina and South Carolina—a large geographic area. Further, one nongovernmental stakeholder told us it could be difficult for respondents who are traveling from one state to another to use public transportation to appear at court, particularly for hearings scheduled to start in the early morning.

Our analysis of EOIR data shows that in absentia rates for non-detained cases varied by whether the respondent had legal representation.<sup>55</sup> The total in absentia rate was 9 percent for non-detained respondents' cases with legal representation and 75 percent for those without legal representation from fiscal year 2016 through fiscal year 2023, as shown in figure 7.

**Figure 7: In Absentia Rates for Non-detained Respondents Based on Legal Representation, Fiscal Years 2016 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year. We considered a respondent to have legal representation if they had legal representation at any point in their case.

<sup>55</sup>In our analysis of EOIR data, we considered a case to have had legal representation if the respondent had representation at any point during the case.



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Government officials and nongovernmental stakeholders told us in 12 of 30 interviews we conducted that legal representation increases the likelihood that respondents will appear for their immigration court hearings. Private bar attorneys we interviewed shared several practices when representing respondents in immigration court that may help their clients appear for their hearings. For example, in three out of five interviews with private bar attorneys, they told us that they remind their clients about upcoming hearings and inform them of the consequences of not appearing. Further, private bar attorneys told us in four interviews that their clients never or rarely missed court hearings.

Our statistical analysis showed that respondents with legal representation had 97 percent lower odds of receiving an in absentia removal order for their initial case completion.<sup>56</sup> We found similar association even when we accounted for four factors described later in this report —court location, placement on a special family docket, respondent’s nationality, and language.

However, these data do not necessarily indicate a causal relationship between legal representation and in absentia orders. There may be other factors that independently affect both legal representation and in absentia orders. For example, five government officials, including two assistant chief immigration judges and two immigration judges, told us that respondents who have strong cases for asylum may be more likely to appear for their hearings. Similarly, respondents who have strong cases for asylum may also be more likely to obtain legal representation. One private bar attorney told us that she only chooses to represent respondents who have a strong case for asylum.

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## In Absentia Rates Varied by Respondent Demographic Characteristics

### In Absentia Rates of Families on Special Dockets

Our analysis of EOIR data shows that in absentia rates varied for non-detained cases placed on special dockets for families. As shown in table 1, DHS had three different initiatives to prioritize, expedite, and track

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<sup>56</sup>We developed multivariate statistical models to estimate the association between legal representation and in absentia removal orders for initial case completions. This estimate had a 95 percent margin of error of plus or minus 0.1 percent or less. We define odds as the probability of an event happening divided by the probability of an event not happening. Appendix I provides further details on these models.

family unit cases from fiscal year 2014 to fiscal year 2021. From fiscal year 2014 through fiscal year 2017, DHS tracked family cases for two different dockets: adults with children released on alternatives to detention and adults with children who were detained. From fiscal year 2019 through March 2020, DHS tracked family unit cases. On May 28, 2021, DHS and DOJ announced the current family docket initiative. This docket, known as the dedicated docket, processes recently arrived families that meet certain criteria.<sup>57</sup> EOIR scheduled master calendar and merits hearings for these cases on an expedited timeline compared to cases not on any special docket.

**Table 1: In Absentia Rates for Non-detained Respondents Placed in Special Dockets for Family Unit Cases, Fiscal Years 2016 through 2023**

Special docket	Respondents who were prioritized in the docket	Expected completion or scheduled hearing time	Fiscal years active	Number of initial case completions	In absentia rate (percent) <sup>a</sup>
Dedicated docket	Family units who were apprehended between ports of entry, placed in removal proceedings, enrolled in the U.S. Immigration and Customs Enforcement’s (ICE) Alternatives to Detention Program, and reside in one of 11 designated cities <sup>b,c</sup>	Completion within 300 days of the initial master calendar hearing	2021 – Present	54,465	31
Family unit cases	Family units placed in removal proceedings and whose cases were filed by the Department of Homeland Security in one of 10 designated immigration court locations <sup>b</sup>	Completion within one year of EOIR’s receipt of the case	2019 – 2020	73,228	67
Adults with children - alternatives to detention	Adults and their children placed in ICE’s Alternatives to Detention Program <sup>c</sup>	Scheduling of the initial master calendar hearing within 28 days of EOIR’s receipt of the case	2014 – 2017	23,503 <sup>d</sup>	65 <sup>d</sup>
Adults with children-detained <sup>e</sup>	Adults and their children who were formerly detained but later released	Scheduling of a master calendar hearing within 28 days of respondent’s release from custody	2014 – 2017	2,116 <sup>d</sup>	62 <sup>d</sup>

<sup>57</sup>Executive Office for Immigration Review, *Dedicated Docket*, PM 21-23 (Falls Church, VA: May 27, 2021). Families may qualify for the dedicated docket if they are apprehended between ports of entry on or after May 27, 2021; placed in removal proceedings; enrolled in an alternatives to detention program; and reside in one of 11 designated cities. According to EOIR, the goal of the dedicated docket is for immigration judges to decide these cases expeditiously.

Special docket	Respondents who were prioritized in the docket	Expected completion or scheduled hearing time	Fiscal years active	Number of initial case completions	In absentia rate (percent) <sup>a</sup>
No special docket <sup>f</sup>	N/A	N/A	2016 – 2023	1,224,521	32

N/A = Not applicable

Source: GAO analysis of Executive Office for Immigration Review (EOIR) documentation and data. | GAO-25-106867

<sup>a</sup>We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year.

<sup>b</sup>DHS defines a family unit as a non-U.S. citizen child or children under the age of eighteen accompanied by their non-U.S. citizen parent(s) or legal guardian(s).

<sup>c</sup>ICE oversees the Alternatives to Detention Program to ensure compliance with release conditions and provides case management services for non-detained noncitizens.

<sup>d</sup>For the adults with children-alternatives to detention and adults with children-detained dockets, the number of initial case completions and the in absentia rate may not include all cases that were active during the entire duration of the dockets. It only includes cases that were completed from fiscal year 2016 through fiscal year 2023.

<sup>e</sup>We included cases in which the respondent was originally detained and then later released among the non-detained cases.

<sup>f</sup>The “No Special Docket” category includes all respondents who were not placed in any special docket for family units. This could include single adults and unaccompanied juveniles.

Our analysis of EOIR data shows that cases placed on special family dockets from fiscal year 2016 through fiscal year 2020 had about double the in absentia rates as cases not placed on any special docket. However, from fiscal year 2021 through fiscal year 2023, in absentia rates were about the same for cases on the dedicated docket and those not placed on any special docket.

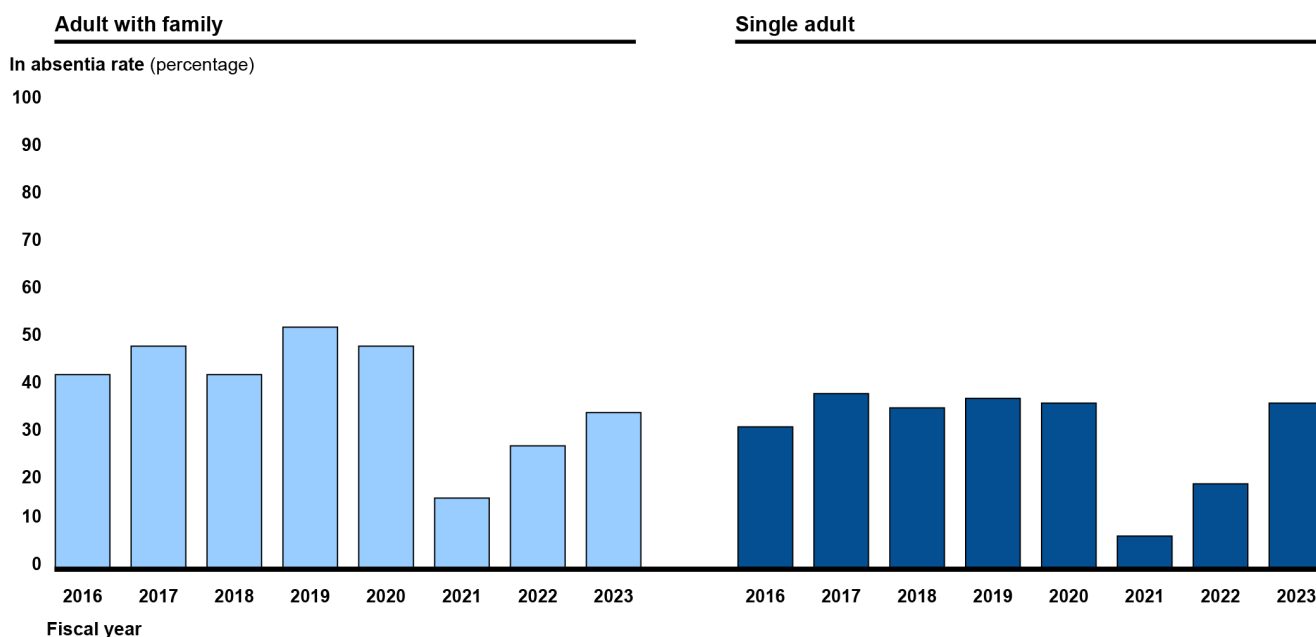
Nongovernmental stakeholders told us in two interviews that families placed on the dedicated docket face various challenges because of the docket’s expedited time frames. One stakeholder noted that families on the dedicated docket may receive less advance notice for their hearings due to the expedited nature of the dedicated docket. Government officials and nongovernmental stakeholders told us in four interviews that families on the dedicated docket may have challenges obtaining and working with an attorney due to the expedited time frames.

### In Absentia Rates for Adults with Family Relationships and Juvenile Status

Our analysis of EOIR data shows that in absentia rates varied based on whether non-detained adults also had other family members in

immigration proceedings.<sup>58</sup> Figure 8 shows that adults with family relationships generally had higher in absentia rates than single adults. Stakeholders we interviewed cited several potential reasons for these higher rates. Nongovernmental stakeholders told us in three interviews that families with children may face challenges, such as finding childcare in order to appear for their court hearing.<sup>59</sup> In addition, government officials and nongovernmental stakeholders told us in two interviews that the expedited nature of the dedicated docket provides families with less time to save money to afford an attorney.

**Figure 8: In Absentia Rates for Non-detained Adult Respondents with and without Family Relationships, Fiscal Years 2016 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year. We used Executive Office for Immigration Review (EOIR) data to identify cases of adults, which, according to EOIR officials, are

<sup>58</sup>Immigration judges link or join individual respondents' cases together based on familial relationships that have similar circumstances and claims when respondents move to consolidate their cases. Linking the cases allows judges to streamline immigration proceedings by scheduling these respondents' hearings at the same time. These individuals can have a variety of familial relationships such as two spouses, a parent and a child, or an uncle and a nephew.

<sup>59</sup>During our immigration court observations, we observed immigration judges waiving children's appearance after their first master calendar hearing.

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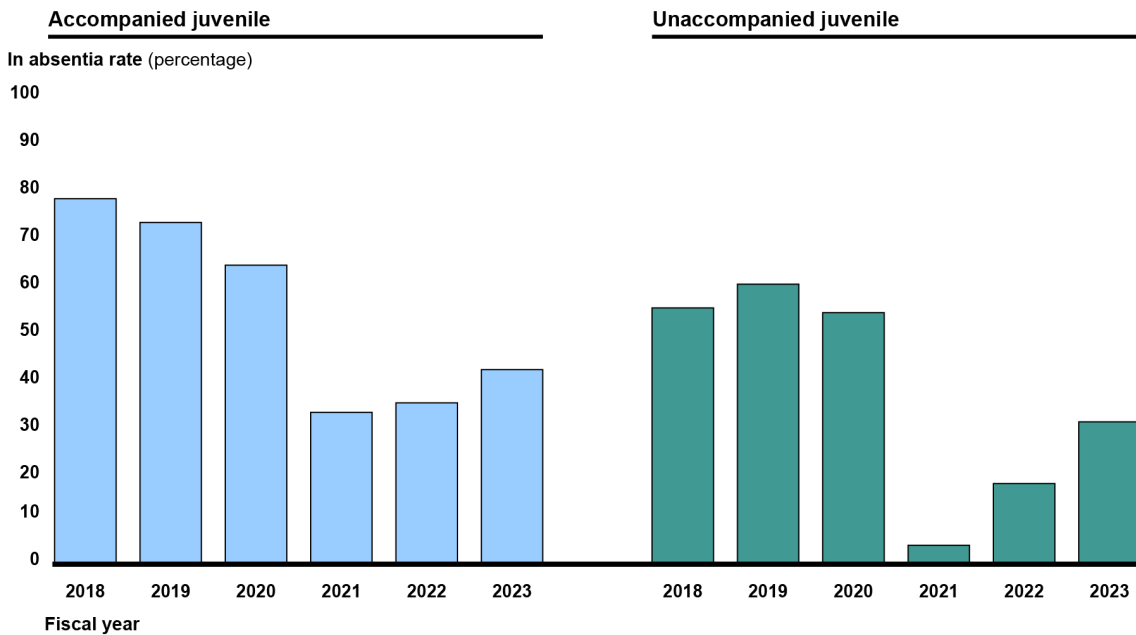
tracked in EOIR's case management system as individuals aged 21 and over who are also not designated as unaccompanied juveniles. According to EOIR officials, there could be respondents who are age 21 and over who remain designated as unaccompanied juveniles because they were eligible for benefits such as the Special Immigrant Juvenile Status, through U.S. Citizenship and Immigration Services. We then used EOIR's data on "leads and riders" to identify adults with family relationships and compared them to single adults without family relationships. According to EOIR officials, immigration judges may link or join individual respondents' cases together based on familial relationships if they have separate but overlapping circumstances or claims for relief, and move to consolidate their cases. These individuals may have a variety of familial relationships such as two spouses, a parent and a child, or an uncle and a nephew. Our analysis also shows that the in absentia rates for both (1) adults with family and (2) single adults without family relationships generally reflect the trends of the overall in absentia rate, with the notable decrease in fiscal year 2021.

Our analysis of EOIR data shows that in absentia rates also varied between accompanied juveniles and unaccompanied juveniles.<sup>60</sup> The in absentia rates for accompanied juveniles from fiscal year 2018 through fiscal year 2023 were higher than the in absentia rates for unaccompanied juveniles, as shown in figure 9. Four government officials and nongovernmental stakeholders we interviewed told us that immigration judges are more likely to grant continuances at the first master calendar hearing than issue in absentia orders for unaccompanied juveniles, which may partly explain the higher in absentia rates for accompanied juveniles. Accompanied juveniles' cases are often heard at the same time as their family members' cases. However, their appearance is often waived in order for them to attend school and immigration judges require the appearance of an adult family member or a legal representative in their place, according to our interviews. One nongovernmental stakeholder said this may result in an in absentia removal order for the accompanied juvenile if the adult family member does not appear for their hearing.

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<sup>60</sup>EOIR officials responsible for maintaining the case management system told us that their system tracks individuals as unaccompanied juveniles if they are under the age of 21, have no lawful immigration status in the U.S., and do not have a parent or legal guardian in the U.S. available to provide care and physical custody. Officials also stated that the case management system may continue to designate individuals aged 21 and over as unaccompanied juveniles if they were eligible for benefits such as the Special Immigrant Juvenile Status, through U.S. Citizenship and Immigration Services. These officials also stated that EOIR's case management system tracks individuals as accompanied juveniles if they are under the age of 21, have no lawful immigration status, and are traveling with a parent or legal guardian. The Director's Memorandum on Children's Cases in Immigration Court, issued in December 2023, also defines the terms children and juveniles as individuals under the age of 21.

**Figure 9: In Absentia Rates for Accompanied Juveniles and Unaccompanied Juveniles, Fiscal Years 2018 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year. We analyzed data from fiscal year 2018 through fiscal year 2023 because EOIR did not start tracking both accompanied juveniles and unaccompanied juveniles until fiscal year 2018.

### In Absentia Rates by Nationality

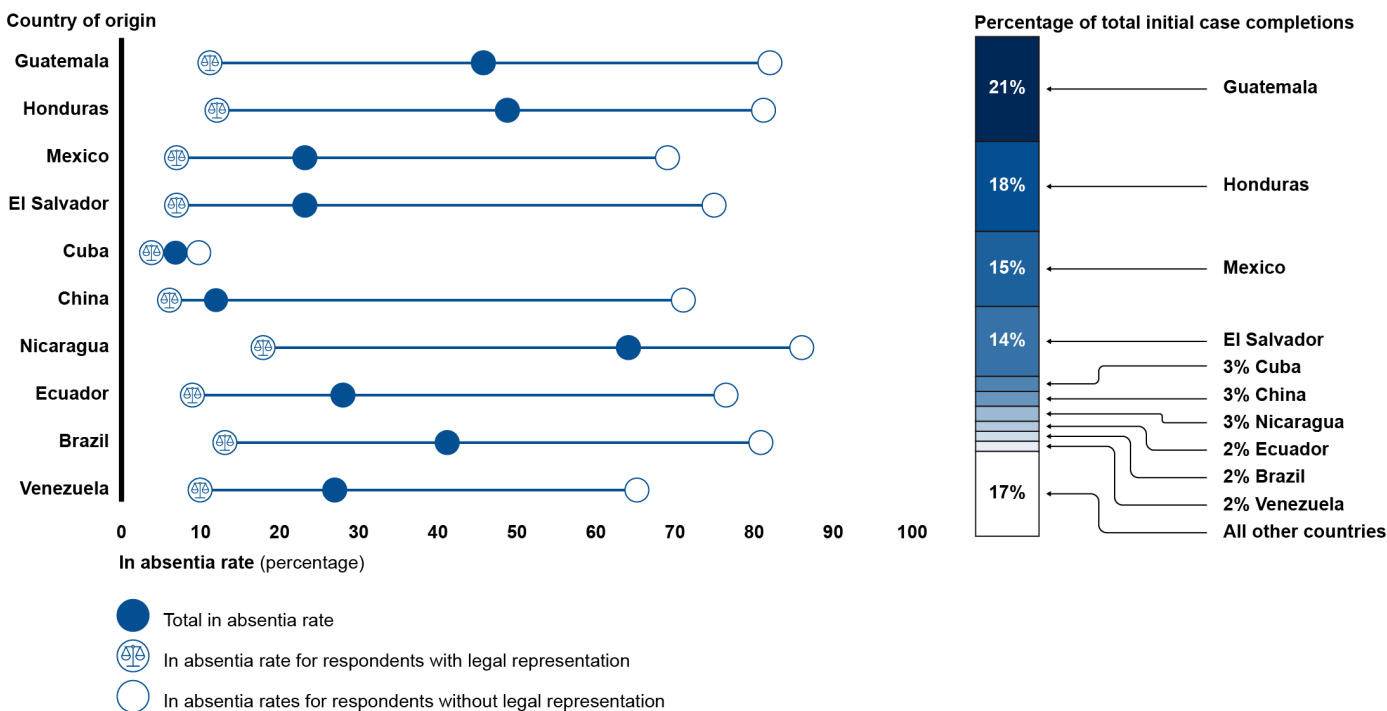
Our analysis of EOIR data shows that in absentia rates varied by the respondents' nationality. Across the 10 countries with the highest volume of initial case completions across fiscal year 2016 through fiscal year 2023, the in absentia rates ranged from 7 percent for respondents from Cuba to 64 percent for respondents from Nicaragua. Within the top 10 countries with the most initial case completions, Guatemala, Honduras, Mexico, and El Salvador collectively made up about two-thirds of non-detained initial case completions.<sup>61</sup> Respondents from Guatemala and Honduras had in absentia rates of 46 percent and 49 percent, respectively, while respondents from Mexico and El Salvador both had in absentia rates of 23 percent.

Respondents from Cuba and China had notably lower total in absentia rates, 7 percent and 12 percent respectively, as shown in figure 10. For

<sup>61</sup>We analyzed data for the 10 countries with the highest volume of initial case completions because they accounted for 83 percent of total initial case completions from fiscal year 2016 through fiscal year 2023.

Chinese respondents, the lower in absentia rate could be related to a high rate of legal representation, as 92 percent of respondents from China were represented during this time period. In absentia rates for all nationalities were lower for respondents with legal representation and higher for respondents without legal representation. As described earlier in the report, stakeholders told us that legal representation helps to increase respondent appearances at their immigration court hearings. For respondents from Cuba, one government official told us that Cuban respondents are more likely to appear for their hearings to establish eligibility to apply to become lawful permanent residents under the Cuban Adjustment Act of 1966.<sup>62</sup>

**Figure 10: In Absentia Rates for Non-detained Respondents by Top 10 Countries of Origin with the Highest Number of Initial Case Completions, Fiscal Years 2016 through 2023<sup>a</sup>**



Source: GAO analysis of Executive Office for Immigration Review data; GAO (icon). | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year.

<sup>62</sup>The Cuban Adjustment Act of 1966 allows Cuban natives or citizens living in the U.S. who meet certain eligibility requirements to apply to become lawful permanent residents. Pub. L. No. 89-732, 80 Stat. 1161.

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## In Absentia Rates by Language

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<sup>a</sup>The name for the data field we used for this analysis in EOIR's case management system is nationality. However, the data presented in the data field are country names, indicating the country of origin.

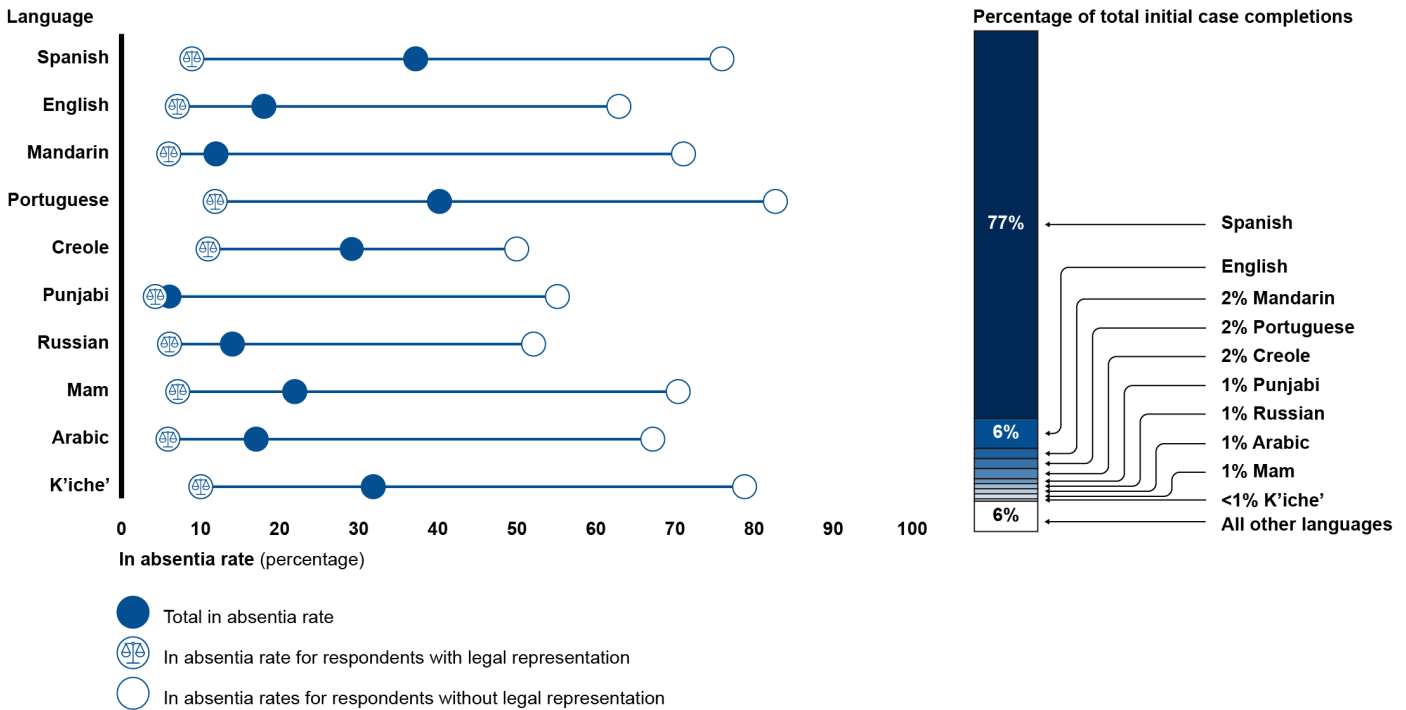
Our analysis of EOIR data shows that in absentia rates varied by the language that respondents best spoke and understood.<sup>63</sup> The in absentia rates for the top 10 languages with the highest number of initial case completions across fiscal year 2016 through fiscal year 2023 ranged from 6 percent for Punjabi speakers to 40 percent for Portuguese speakers, as shown in figure 11. Our analysis showed that Spanish was most frequently cited as the language best spoken and understood by respondents, representing 77 percent of all initial case completions. The total in absentia rate for respondents who best spoke and understood Spanish was among the highest, about 37 percent. In 12 interviews we conducted with government officials and nongovernmental stakeholders, they told us that language barriers or the respondents' inability to understand immigration court notices or charging documents may be reasons why respondents miss their hearings, which could result in them receiving an in absentia removal order.

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<sup>63</sup>During the master calendar hearings, immigration judges confirm with each respondent that they have the correct language that the respondent best understands and speaks. However, if the respondent never appears for their initial master calendar hearing, the indicated language is what DHS has identified.



**Figure 11: In Absentia Rates for Non-detained Respondents by Top 10 Languages with the Highest Number of Initial Case Completions, Fiscal Years 2016 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data; GAO (icon). | GAO-25-106867

Note: We calculated the in absentia rate by dividing the number of in absentia removal orders issued by the total number of initial case completions in a fiscal year.

<sup>a</sup>Mam and K'iche' are indigenous languages that belong to the Mayan linguistic family. Mam is the Spanish name of the language and is known as Q'ooj among native speakers.

In absentia rates for all languages we analyzed were lower for respondents with legal representation and higher for respondents without legal representation. For example, respondents who spoke Mandarin, Punjabi, and Russian had the three lowest overall in absentia rates. This could partly be explained by high legal representation rates for the three groups: Mandarin (92 percent), Punjabi (97 percent), and Russian (83 percent).

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## Respondents May File Motions to Reopen Cases with In Absentia Removal Orders, and Immigration Judges Grant the Majority of Such Motions

After receiving an in absentia removal order, respondents can submit a motion to reopen their case by providing the reason they did not appear at their hearing, which immigration judges may grant or deny.<sup>64</sup> From fiscal year 2016 through fiscal year 2023, 11 percent of about 504,000 non-detained cases initially resolved by an in absentia removal order had a motion to reopen. Among cases that had motions to reopen, immigration judges granted the motion for 81 percent of cases. In total, from fiscal year 2016 through fiscal year 2023, about 47,000 out of about 504,000 initial case completions that had an in absentia removal order were reopened, or 9 percent.

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## Case Processing Times Varied by Custody and Legal Representation Status

### Detained Respondents' Cases Were Completed Faster Than Non-detained Respondents' Cases

Our analysis of EOIR data shows that EOIR received about 3.9 million new cases from fiscal year 2016 through fiscal year 2023, and the processing time for these cases varied by the custody status (i.e., detained or non-detained). Cases with detained respondents, which historically have been an EOIR priority, had faster initial case completion times than cases with non-detained respondents. In addition, detained respondents' cases also reached the milestones within a case, such as the master calendar and merits hearing, faster than non-detained respondents' cases.

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<sup>64</sup>According to EOIR's Immigration Court Practice Manual, a motion to reopen to rescind an in absentia order must demonstrate that the respondent did not appear due to one of the following reasons: exceptional circumstances, respondent did not receive proper notice, or respondent was in federal or state custody. If the motion to reopen is based on an allegation that the respondent did not appear due to exceptional circumstances, the motion must be filed within 180 days after the in absentia order. See 8 U.S.C. § 1229a(b)(5)(C); 8 C.F.R. § 1003.23(b)(3), (4).

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## Initial Case Completion

A greater proportion of detained cases had an initial case completion within the time frame of our analysis than non-detained cases.<sup>65</sup> Our analysis shows that about one-third of the 3.9 million cases EOIR received from fiscal year 2016 through fiscal year 2023 also had an initial case completion during that time. Specifically, EOIR received about 347,000 detained respondents' cases and about 343,000 detained respondents' cases had an initial case completion. EOIR also received about 3.5 million non-detained respondents' cases, and about 1.1 million non-detained respondents' cases had an initial case completion from fiscal year 2016 through fiscal year 2023.

The median case processing time—the median length of time from the start of a case to an initial case completion—varied by the custody status of the respondent.<sup>66</sup> Across the completed cases that EOIR received from fiscal year 2016 through fiscal year 2023, the median case processing time was 394 days, according to our analysis.<sup>67</sup> However, the median case processing time for detained respondents' cases was 52 days, and

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<sup>65</sup>An initial case completion occurs when an immigration judge issues an order resolving a case, including an order of removal in absentia, granting relief, or granting dismissal of the case, among other dispositions. 8 C.F.R. § 1240.12. A dismissal occurs when DHS moves to dismiss the case and an immigration judge grants the dismissal. 8 C.F.R. § 1239.2. See also *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (AG 2022). A dismissal ends a respondent's immigration court case and any active applications for relief remain adjudicated. Respondents whose cases are dismissed may or may not have lawful immigration status and could pursue other forms of relief outside of the immigration court. Our analysis showed that dismissals for non-detained cases remained steady from fiscal year 2016 through fiscal year 2020, but dismissals increased drastically starting in fiscal year 2021 through fiscal year 2023. According to OPLA officials, the increase in dismissals is an expected outcome of DHS policy changes regarding immigration enforcement priorities, such as threats to (1) national security, (2) public safety, and (3) border security. The September 2021 DHS immigration enforcement priorities initially went into effect on November 29, 2021. The related OPLA guidance took effect on April 25, 2022. A June 2022 ruling of a Texas federal district court vacated the DHS enforcement priorities. On June 23, 2023, the Supreme Court reversed the June 2022 decision. As a result, the enforcement priorities and related guidance were fully implemented beginning in July 2023.

<sup>66</sup>We consider the start of the case to be either the date EOIR accepts the Notice to Appear from DHS or the date DHS uses EOIR's electronic case system to schedule the initial master calendar hearing for the purposes of issuing a Notice to Appear to a respondent.

<sup>67</sup>The Department of Justice's *Fiscal Year 2022 Annual Performance Report/FY 2024 Annual Performance Plan* contains a performance measure for EOIR called median case completion time. EOIR defines that measure as the value lying at midpoint of all case completion times, which EOIR measures from DHS's filing of the Notice to Appear in immigration court to an immigration judge's issuance of a decision. EOIR officials told us that the performance measure includes both detained and non-detained cases, as well as all types of cases, such as removal and credible fear review.

for non-detained respondents' cases, it was 625 days. Processing times for detained respondents' cases varied less than processing times for non-detained respondents' cases across fiscal years.<sup>68</sup>

As shown in table 2, the median case processing time also varied by the fiscal year of completion. For detained respondents, the median case processing time varied from 39 days in fiscal year 2018 to 92 days in fiscal year 2020.<sup>69</sup> For non-detained respondents, it varied from 239 days in fiscal year 2017 to 1,051 days in fiscal year 2021.

**Table 2: Median Number of Days from Start of Case to Initial Case Completion, by Custody Status and Fiscal Year of Completion, Cases Received from Fiscal Years 2016 through 2023**

Custody status	Number of initial case completions <sup>a</sup>	Median number of days from case start to initial completion						
		2017	2018	2019	2020	2021	2022	2023 <sup>b</sup>
Detained	342,977	40	39	52	92	50	50	47
Non-detained <sup>c</sup>	1,123,002	239	420	355	332	1,051	1,036	846

Source: GAO analysis of EOIR data. | GAO-25-106867

<sup>a</sup>Total cases include removal cases that the Executive Office for Immigration Review (EOIR) received from fiscal years 2016 through 2023 and had an initial case completion during that time. About 11,000 detained cases and 2.4 million non-detained cases did not have an initial case completion by the end of fiscal year 2023. The number of detained cases with and without an initial case completion do not equal the total number of cases received because the custody status of a case receipt and an initial case completion may differ. Data for cases received in fiscal year 2016 reflected only cases EOIR received and completed in one fiscal year, resulting in artificially lower case processing times, compared to other fiscal years in our analysis. Therefore, we did not include the median number of days from case start to initial case completion for completions that occurred in fiscal year 2016.

<sup>b</sup>The median number of days from the start of a case to initial case completion in fiscal year 2023 may be lower than prior years, particularly for non-detained cases, because cases starting in later fiscal years had less time to finish, and only those cases completing within the shorter time contributed to the median.

<sup>c</sup>We included cases in which the respondent was originally detained and then later released among the non-detained cases.

<sup>68</sup>Specifically, 25 percent of detained respondents' cases had a processing time of less than 20 days, while 75 percent of detained respondents' cases had a processing time of less than 113 days. In contrast, 25 percent of non-detained respondents' cases had a processing time of less than 274 days, while 75 percent of non-detained respondents' cases had a processing time of less than 1,253 days. About 11,000 detained cases and 2.4 million non-detained cases did not have an initial case completion by the end of fiscal year 2023. The number of detained cases with and without an initial case completion do not equal the total number of cases received because the custody status of a case receipt and an initial case completion may differ. Processing times for all cases EOIR received from fiscal year 2016 through fiscal year 2023 may change when all cases have an initial case completion.

<sup>69</sup>EOIR officials told us that immigration courts held fewer hearings during fiscal year 2020 and fiscal year 2021 because of the COVID-19 pandemic.

EOIR officials told us that the median case processing time can vary each fiscal year depending on the custody status of the respondent and the composition of completed cases, among other factors. In addition, EOIR makes decisions about how to prioritize its pending caseload, which can affect the composition—that is, the number of old and new cases—completed each year, and therefore also affect case processing times. For example, EOIR officials told us that many of the cases with an initial completion in fiscal year 2022 were older cases that had a longer case completion time. Further, they told us that the median case processing time decreased in fiscal year 2023 due, in part, to EOIR prioritizing newer cases.

Our analysis of EOIR data found that the length of time to initial case completion varied across fiscal years. Specifically, we calculated the percent of cases that initially completed within 1 to 7 years, separately for cases starting in fiscal years 2016 through 2022, as shown in table 3. We found that the less than 1-year initial completion rates decreased from the first 4 fiscal years to the last 3 fiscal years in our analysis, suggesting that processing times have slowed in recent years. For example, cases starting in fiscal year 2019 had a 24 percent chance of initially completing within 1 year, compared to a 5 to 12 percent chance among cases starting in fiscal year 2020 through fiscal year 2022.

**Table 3: Cumulative Percent of Non-detained Cases Completed within up to 7 Years from Case Start to Initial Case Completion, by Fiscal Year of Case Start, 2016 through 2022**

Fiscal year of case start <sup>a</sup>	Total cases started in fiscal year	Cumulative percent of cases with an initial case completion <sup>b</sup>						
		< 1 year	< 2 years	< 3 years	< 4 years	< 5 years	< 6 years	< 7 years
2016	181,893	18%	31%	43%	52%	56%	64%	74%
2017	233,851	14%	27%	39%	43%	52%	65%	—
2018	253,193	15%	29%	32%	41%	56%	—	—
2019	462,958	24%	27%	35%	50%	—	—	—
2020 <sup>c</sup>	313,294	5%	10%	26%	—	—	—	—
2021 <sup>c</sup>	248,803	9%	28%	—	—	—	—	—
2022	731,653	12%	—	—	—	—	—	—

Legend:

< = Less than

— = Not available because cases that started in the fiscal year did not have a full year of data available for the calculation.

Source: GAO analysis of Executive Office for Immigration Review (EOIR) data. | GAO-25-106867

<sup>a</sup>We consider the case start to be either the date EOIR accepts the charging document (i.e., the Notice to Appear) from the Department of Homeland Security (DHS) or the date DHS uses EOIR's

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electronic case system to schedule the initial master calendar hearing for the purposes of issuing a Notice to Appear to a respondent.

<sup>b</sup>The cumulative percent of cases is the percent of cases that started in a fiscal year and had an initial case completion within the applicable length of time. We did not calculate all lengths of time for cases that started in each fiscal year because we did not have a full year of data available for the calculation. For example, cases that started in April 2021 would require data through April 2024 for the calculation up to 3 years. As a result, each successive row has one fewer year of data available. We analyzed data for removal cases that started from fiscal year 2016 through fiscal year 2022. We did not include cases that started in fiscal year 2023 because one full year of data was not available for the calculation.

<sup>c</sup>EOIR officials told us that immigration courts held fewer hearings during fiscal years 2020 and 2021 because of the COVID-19 pandemic.

## Master Calendar and Merits Hearings

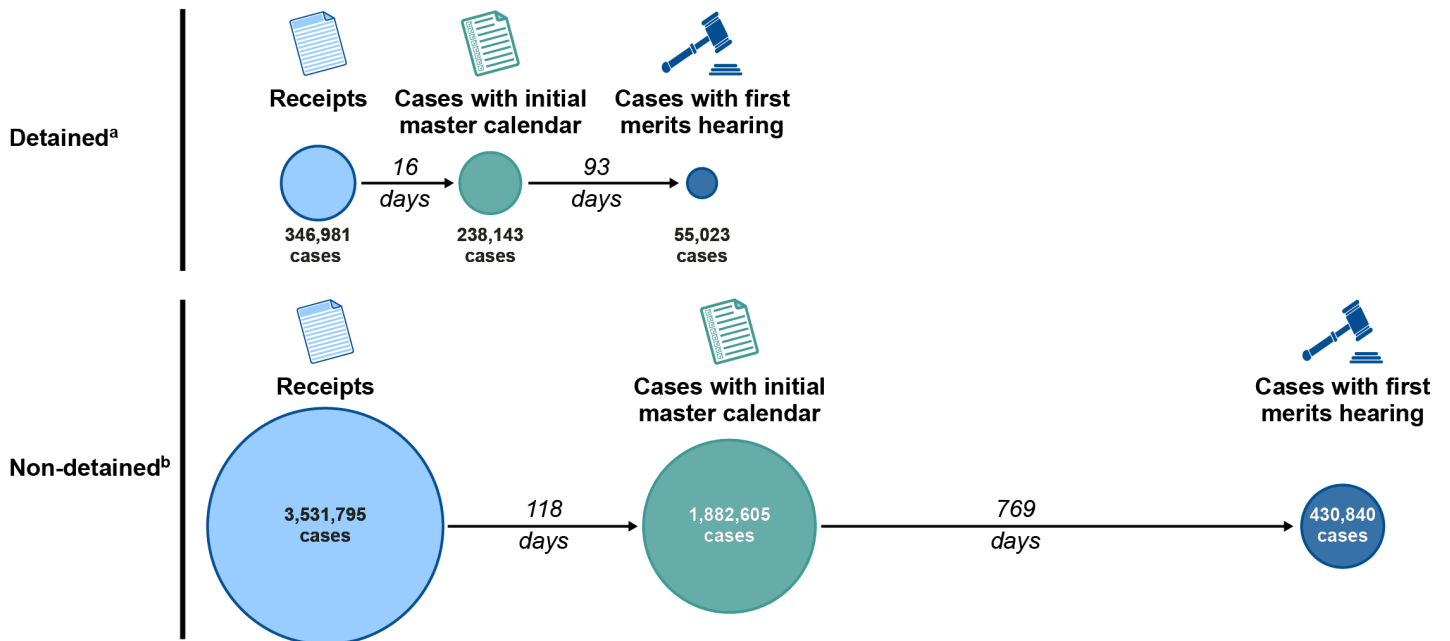
Similar to the initial case completion times, detained respondents' cases took a shorter amount of time to reach the milestones within a case than non-detained respondents' cases, according to our analysis of data on cases EOIR received from fiscal year 2016 through fiscal year 2023. Across these fiscal years, the median number of days from the start of a case to the initial master calendar hearing and the first merits hearing was shorter for detained respondents' cases than non-detained respondents' cases. These data include both cases with an initial case completion and cases that are pending (i.e., cases for which an immigration judge has not yet rendered a decision) as of the end of fiscal year 2023. As shown in figure 12, the median number of days it took detained respondents' cases to reach the initial master calendar hearing was 16 days and the median number of days from the initial master calendar hearing to the first merits hearing was 93 days.<sup>70</sup> In contrast, the median number of days non-detained respondents' cases took to reach the initial master calendar hearing was 118 days, about 4 months, and from that hearing to the first merits hearing was 769 days, about 2 years.<sup>71</sup>

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<sup>70</sup>For the time from the start of a case to the initial master calendar hearing, 25 percent of detained respondents' cases had a processing time of less than 10 days, while 75 percent of detained respondents' cases had a processing time of less than 33 days. For the time from the initial master calendar hearing to the first merits hearing, 25 percent of detained respondents' cases had a processing time of less than 61 days, while 75 percent of detained respondents' cases had a processing time of less than 145 days.

<sup>71</sup>For the time from the start of a case to the initial master calendar hearing, 25 percent of non-detained respondents' cases had a processing time of less than 44 days, while 75 percent of non-detained respondents' cases had a processing time of less than 329 days. For the time from the initial master calendar hearing to the first merits hearing, 25 percent of non-detained respondents' cases had a processing time of less than 294 days, while 75 percent of non-detained respondents' cases had a processing time of less than 1,309 days.

**Figure 12: Median Case Processing Times from the Initial Master Calendar Hearing to the First Merits Hearing, by Custody Status, Cases Received from Fiscal Years 2016 Through 2023**



Source: GAO analysis of Executive Office for Immigration Review data; GAO (icons). | GAO-25-106867

<sup>a</sup>We analyzed removal cases that the Executive Office for Immigration Review received from fiscal years 2016 through 2023. Of the detained cases, 342,977 had an initial case completion. The cases that do not have an initial case completion (i.e., pending cases) may have a master calendar hearing or merits hearing scheduled to take place in fiscal year 2024 or later.

<sup>b</sup>Of the non-detained cases, 1,123,002 had an initial case completion. A case, including those with an initial case completion, may not have an initial master calendar hearing or a merits hearing. For example, if an immigration judge issues an in absentia removal order at the master calendar hearing, that case would be completed without a merits hearing.

An initial case completion may occur without having a master calendar hearing or a merits hearing, such as when judges complete cases by issuing an in absentia removal order.<sup>72</sup> For example, if an immigration judge issues an in absentia removal order at the master calendar hearing,

<sup>72</sup>In April 2021, EOIR established a revised case flow processing model to increase docket efficiency and reduce the number of in-person hearings for dealing with preliminary and routine matters. This case flow processing model applies to non-detained cases in which a representative, as defined in 8 C.F.R. §§ 1001.1(j) and 1292.1, files a Form EOIR-28 at least 15 days before a master calendar hearing. For such cases, the court will vacate the master calendar hearing, and an immigration judge may decide the issue of removability based on written pleadings and filed evidence. The judge may also request additional evidence and briefings or schedule a hearing on removability. Executive Office for Immigration Review, *Revised Case Flow Processing Before the Immigration Courts*, OCIJ PM 21-18 (Washington, D.C.: Apr. 2, 2021).

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that case would be completed without a merits hearing. Our analysis of EOIR data shows that about 40 percent of in absentia removal orders in fiscal year 2021 occurred at the master calendar hearing. In fiscal year 2022, the percentage remained the same, about 40 percent. In fiscal year 2023, about 48 percent of in absentia removal orders in that fiscal year occurred at the master calendar hearing.

In addition, government officials and nongovernmental stakeholders told us in 18 of 24 interviews we conducted (including nine of 10 interviews with judges) that respondents miss the initial master calendar hearing more often than they miss other hearings.<sup>73</sup> For example, one assistant chief immigration judge told us that respondents may not attend their initial master calendar hearing for several reasons, such as the respondent not knowing they had a hearing.<sup>74</sup> Further, another assistant chief immigration judge told us that respondents who appear at their initial master calendar hearing typically continue to appear for additional hearings until the final merits hearing. In four of the 24 interviews, government officials and nongovernmental stakeholders told us that they could not identify a pattern regarding at which type of hearing respondents most often do not appear.

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### Cases with Legal Representation Had Longer Processing Times Than Cases Without Legal Representation

Cases with legal representation at any point in the case had longer initial case completion times than those without legal representation, according to our analysis of EOIR data.<sup>75</sup> Cases with legal representation generally reached the initial master calendar hearing faster than cases without legal

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<sup>73</sup>In an additional two of 24 interviews, ICE OPLA attorneys identified master calendar hearings as the hearing respondents miss more often, without specifying whether it would be the first or second master calendar hearing. We obtained perspectives on the type of hearing respondents would be likely to miss more often through interviews with the following government officials and nongovernmental stakeholders: EOIR assistant chief immigration judges, immigration judges, attorneys from ICE OPLA, private bar attorneys, and Legal Orientation Program for Custodians of Unaccompanied Children service providers. We did not ask the six external stakeholders we interviewed this question.

<sup>74</sup>As previously discussed, government officials and nongovernmental stakeholders provided their perspectives on reasons why a respondent may not appear at an immigration court hearing.

<sup>75</sup>We considered a respondent to have legal representation if they had legal representation at any point in their case.



representation and took longer to reach the first merits hearing than cases without legal representation.<sup>76</sup>

## Initial Case Completion

Our analysis of EOIR data shows that the median case processing time was longer for respondents with legal representation and shorter for respondents without legal representation. For example, across cases that had an initial case completion from fiscal year 2016 through fiscal year 2023, non-detained respondents with representation took 976 median days, about 2.7 years, from the start of the case to the initial case completion.<sup>77</sup> In contrast, non-detained respondents without representation took 353 median days, about 1 year.<sup>78</sup> Table 4 shows that cases with representation took longer to reach the initial case completion than cases without representation for each fiscal year from 2018 through 2023.

**Table 4: Median Number of Days from Start of Case to Initial Case Completion, by Custody and Legal Representation Status and Fiscal Year of Completion, Cases Received from Fiscal Years 2016 through 2023**

Custody and legal representation status <sup>a</sup>	Number of initial case completions <sup>b</sup>	Median number of days from case start to initial completion					
		2018	2019	2020	2021	2022	2023 <sup>d</sup>
Detained respondents with legal representation	106,437	88	94	118	101	96	105
Detained respondents without legal representation	236,540	25	36	86	26	37	27
Non-detained respondents with legal representation <sup>c</sup>	621,681	547	663	566	1,209	1,226	1,261
Non-detained respondents without legal representation <sup>c</sup>	501,321	319	203	218	681	659	503

Source: GAO analysis of Executive Office for Immigration Review (EOIR) data. | GAO-25-106867

<sup>76</sup>According to EOIR officials, there is no causal relationship between legal representation status and how fast an initial merits hearing is scheduled. Officials stated that, while the data indicate that cases with legal representation generally reach an initial master calendar hearing faster than cases without legal representation, DHS does not schedule cases with legal representation for initial hearings faster than cases without legal representation.

<sup>77</sup>Twenty-five percent of non-detained cases with legal representation had a processing time of less than 459 days, about 1.3 years, and 75 percent of these cases had a processing time of less than 1,511 days, about 4.1 years.

<sup>78</sup>Twenty-five percent of non-detained respondents' cases without legal representation had a processing time of less than 164 days, about 5.5 months, and 75 percent of these cases had a processing time of less than 760 days, about 2.1 years.

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<sup>a</sup>We considered a respondent to have legal representation if they had legal representation at any point in their case.

<sup>b</sup>Total cases include removal cases that EOIR received from fiscal year 2016 through fiscal year 2023 and had an initial case completion during that time. About 11,000 detained cases and 2.4 million non-detained cases did not have an initial case completion by the end of fiscal year 2023. The number of detained cases with and without an initial case completion do not equal the total number of cases received because the custody status of a case receipt and an initial case completion may differ. We did not include the median number of days from case start to initial case completion for completions that occurred in fiscal year 2016 or fiscal year 2017 since they consist of cases EOIR received and completed in two fiscal years, resulting in artificially lower case processing times, compared to other fiscal years in our analysis.

<sup>c</sup>We included cases in which the respondent was originally detained and then later released among the non-detained cases.

<sup>d</sup>The median number of days from the start of a case to initial case completion in fiscal year 2023 may be lower than prior years, particularly for non-detained cases without legal representation, because cases starting in later fiscal years had less time to finish, and only those cases completing within the shorter time contributed to the median.

## Master Calendar and Merits Hearings

The time to reach the initial master calendar and first merits hearings, for both detained and non-detained cases, varied by whether a respondent had legal representation at any point in their case, according to our analysis. For cases EOIR received from fiscal year 2016 through fiscal year 2023, respondents with legal representation reached the master calendar hearing faster than those without legal representation. For example, the median number of days in which non-detained respondents with legal representation reached the initial master calendar hearing was 100 days, while the median number for respondents without legal representation was 149 days. Respondents with legal representation moved from the initial master calendar hearing to the first merits hearing more slowly than those without legal representation. For example, the median number of days non-detained respondents with legal representation took from the initial master calendar hearing to the first merits hearing was 795 days, about 2.2 years, while the median for non-detained respondents without legal representation was 489 days, about 1.3 years.

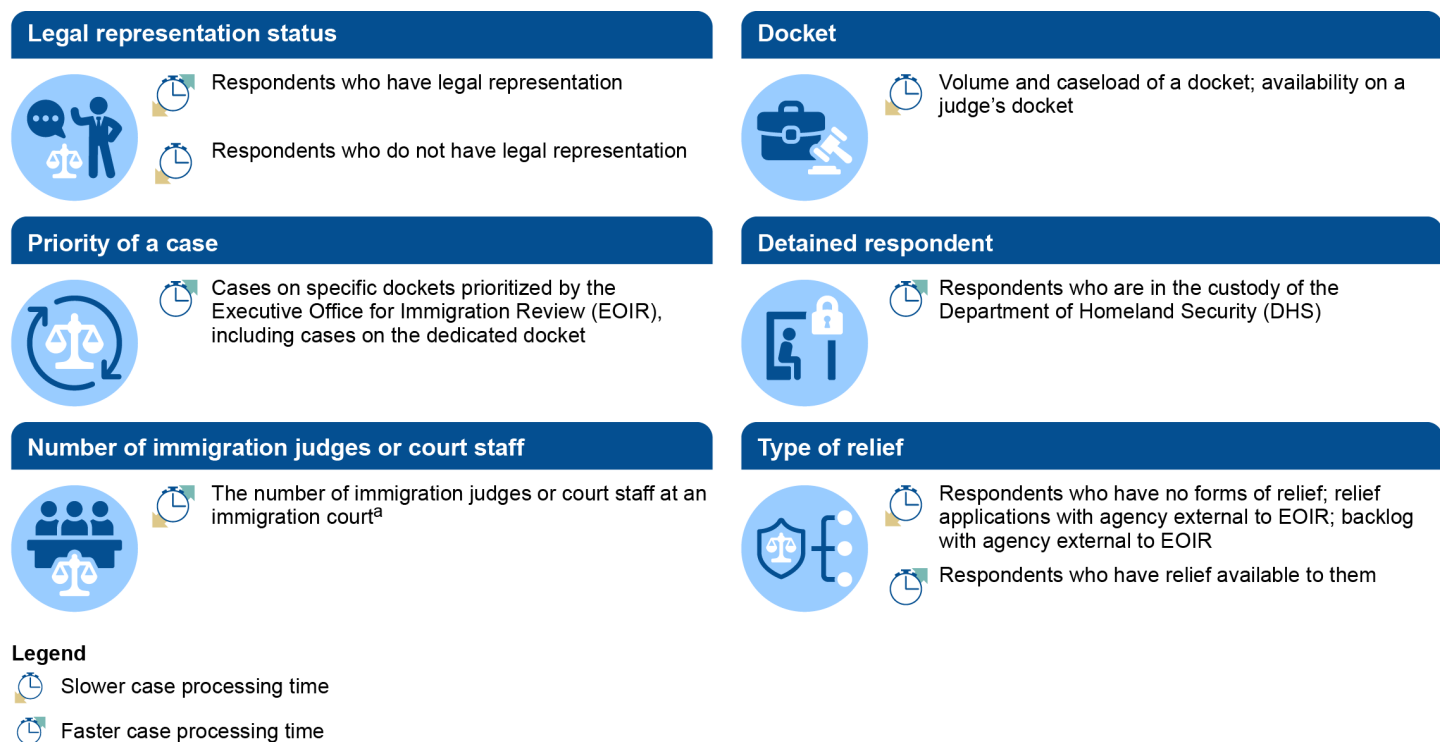
Government officials and nongovernmental stakeholders we interviewed provided their perspectives on the key drivers of case processing times, including the time to reach the hearings within a case or an initial case completion.<sup>79</sup> Some of the key drivers they identified as associated with faster case processing times—such as detained respondents—and others they identified as associated with slower case processing times—

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<sup>79</sup>We obtained perspectives on the key drivers of case processing times through interviews with the following government officials and nongovernmental stakeholders: EOIR assistant chief immigration judges, immigration judges, OPLA attorneys, private bar attorneys, and external stakeholders.

such as the volume and caseload of a docket, as shown in figure 13. For three of the identified drivers—legal representation status, number of immigration judges or court staff, and type of relief—some government officials and nongovernmental stakeholders stated that the driver was associated with faster case processing times, while others stated that the driver was associated with slower case processing times.

**Figure 13: Key Drivers of Case Processing Times Identified by Selected Government Officials and Nongovernmental Stakeholders**



Source: GAO analysis of interviews with selected government officials and nongovernmental stakeholders; GAO (clock illustrations); GAO adaptation of Icons-Studio/stock.adobe.com (illustrations). | GAO-25-106867SU

Note: We conducted interviews of government officials and nongovernment stakeholders at five selected courts. Specifically, we interviewed assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor attorneys representing the U.S. government in immigration court, and private bar attorneys representing noncitizens with cases in immigration court. We also interviewed six external stakeholders such as associations representing practitioners and immigration law researchers.

<sup>a</sup>Among the six interviews that identified the number of immigration judges or court staff at an immigration court as a key driver, four noted that limited immigration judges or court staff were associated with slower case processing times. Government officials from one interview noted that a new immigration court, and the associated increase in available judges, were associated with faster case processing times. Government officials from one additional interview did not specify whether a limited number of judges or increase in available judges were associated with slower case processing times.

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During these interviews, government officials and nongovernmental stakeholders identified respondents' legal representation status as a key driver of case processing times.<sup>80</sup> For instance, in five of these interviews, two OPLA attorneys, two nongovernmental stakeholders, and one immigration judge indicated that legal representation was associated with faster case processing times. Conversely, in six interviews, including two interviews mentioned above, four OPLA attorneys, one assistant chief immigration judge, and one private bar attorney indicated that legal representation was associated with slower case processing times.

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### Dedicated Docket Cases Took About One Year from Start to Initial Case Completion from Fiscal Year 2021 through Fiscal Year 2023

About 43 percent of cases assigned to the dedicated docket from fiscal year 2021 through fiscal year 2023 had an initial case completion, and the processing time was approximately 1 year.<sup>81</sup> EOIR received about 127,000 cases assigned to the dedicated docket during those fiscal years and about 55,000 of them had an initial case completion. The median case processing time across all the completed dedicated docket cases from fiscal year 2021 through fiscal year 2023 was 312 days, according to our analysis.<sup>82</sup>

A higher proportion of dedicated docket cases that started in fiscal year 2022 had an initial case completion in less than 1 year compared to cases not on the dedicated docket. For example, of cases that started in fiscal year 2022, 31 percent of dedicated docket cases were completed in less than 1 year, while 10 percent of non-detained cases not on the dedicated docket were completed in less than 1 year.

Dedicated docket cases with legal representation at any point in their case generally took longer to reach an initial case completion than those without legal representation. For example, of the initial case completions in fiscal year 2023, cases with legal representation took a median of 426

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<sup>80</sup>In seven interviews, including three interviews mentioned above, government officials and nongovernmental stakeholders identified respondents who do not have legal representation as having slower case processing times.

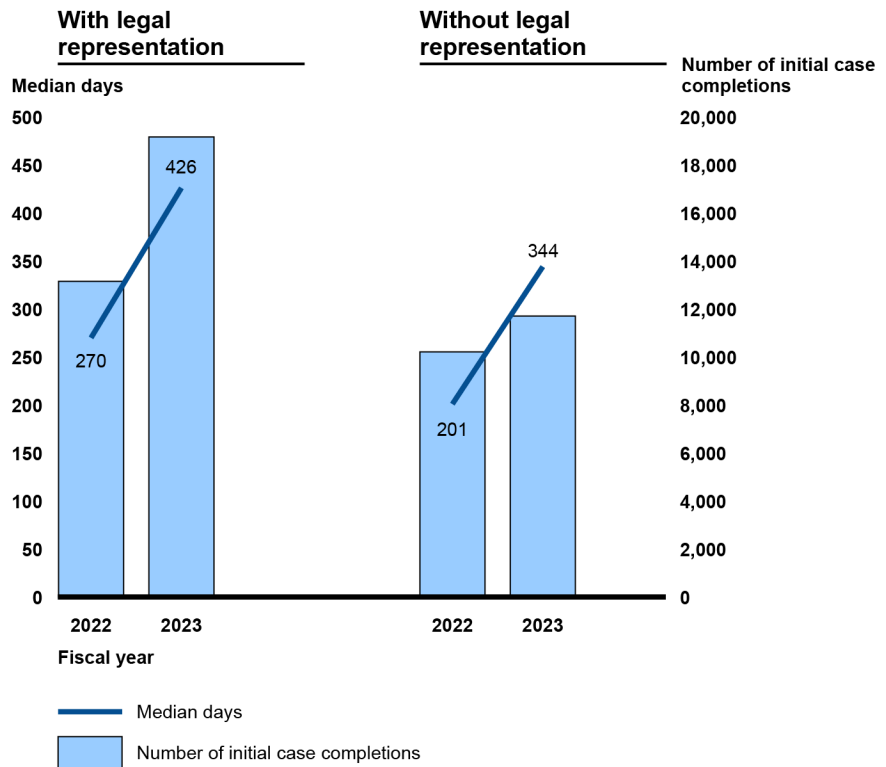
<sup>81</sup>The dedicated docket processes recently arrived families who may qualify for the docket based on certain criteria, such as being apprehended between ports of entry on or after May 28, 2021; placed in removal proceedings; enrolled in an alternatives to detention program; and reside in one of 11 designated cities.

<sup>82</sup>Twenty-five percent of dedicated docket cases had a processing time of less than 212 days, while 75 percent of dedicated docket cases had a processing time of less than 425 days.

days from the start of the case to reach an initial case completion. In contrast, cases without legal representation took a median of 344 days.

Figure 14 shows that as the number of initial case completions for dedicated docket cases increased from fiscal year 2022 to fiscal year 2023, the median number of days to reach an initial case completion also increased for cases with and without legal representation.

**Figure 14: Dedicated Docket Case Processing Times and Number of Cases, by Legal Representation Status, Cases Received from Fiscal Years 2021 through 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: We did not include the median number of days from case start to initial case completion for completions that occurred in fiscal year 2021 since they consist of cases the Executive Office for Immigration Review received and completed in less than 1 fiscal year, resulting in artificially lower case processing times, compared to other fiscal years in our analysis. As of the end of fiscal year 2023, EOIR had about 73,000 pending dedicated docket cases.

## Conclusion

EOIR continues to face a significant backlog of cases—nearly 3.5 million as of July 2024. During hearings for cases before the courts, respondents are expected to appear unless an immigration judge has waived their appearance. However, EOIR does not collect or report systematic data on

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respondents' appearance at hearings or whether appearance has been waived because it does not have a mechanism to do so. As a result, EOIR, Congress, and other stakeholders do not have insight into the extent to which respondents appear for their hearings. By adding a function in its case management system to record whether respondents appeared at their hearings or whether their appearance was waived, EOIR would be better positioned to systematically identify or assess trends in respondents' appearance and determine if such trends affect case management or other court operations.

This functionality would also allow EOIR to publicly report reliable data on respondent hearing appearances. By periodically reporting on information about respondent hearing appearances, EOIR would provide external users of EOIR data, including Congress, with reliable information about the extent to which respondents appear for immigration court hearings and help ensure data on respondent hearing appearance are available and accessible. This could in turn help inform congressional oversight efforts.

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## Recommendations for Executive Action

We are making the following two recommendations to EOIR:

The Director of EOIR should develop and implement a function in EOIR's case management system to record whether a respondent appeared or did not appear at each court hearing, and to record whether appearance was waived for any respondent who did not appear for the hearing. (Recommendation 1)

The Director of EOIR should periodically publicly report data on respondent hearing appearances. (Recommendation 2)

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## Agency Comments

We provided a copy of the draft report to the Department of Justice and DHS for review and comment. EOIR provided written comments, which are reproduced in appendix IV and summarized below. Both EOIR and DHS provided technical comments, which we incorporated as appropriate.

EOIR concurred with our recommendations. For the first recommendation, EOIR agreed and stated that tracking appearances at each hearing would be useful to the agency. For example, EOIR stated the agency could use the information to conduct more precise analyses to examine geographic trends in respondent appearances. For the second recommendation, EOIR agreed and stated that publicly reporting appearance information would be helpful to stakeholder operations and

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inform Congressional oversight of immigration court activities. In addition, after providing written comments, EOIR also provided us with additional information in response to the first recommendation. We will be reviewing this information to determine the extent to which it meets the intent of our recommendation.

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We are sending copies of this report to the appropriate congressional committees, the Attorney General, and the Secretary of Homeland Security. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Rebecca Gambler at 202-512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov). GAO staff that made key contributions to this report are listed in appendix V.



Rebecca Gambler  
Director, Homeland Security and Justice

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# Appendix I: Objectives, Scope, and Methodology

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This report examines

1. the extent to which the Executive Office for Immigration Review (EOIR) tracks respondent hearing appearances, and what perspectives government officials and nongovernmental stakeholders have on factors that affect respondent appearances;
2. EOIR data related to in absentia removal orders; and
3. EOIR data about case processing times.

To address all three objectives, we obtained and analyzed EOIR data from its case management system.<sup>1</sup> We requested data on immigration court cases that were opened or pending at any point from October 1, 2015, through September 30, 2023. We selected this time frame to cover the period since our previous report in which we analyzed EOIR data on cases through the last full fiscal year of data available at the time of our review.<sup>2</sup> To assess the reliability of the removal case data, we performed electronic and logic testing, reviewed documentation about the system, compared data to previously reported results, and interviewed agency officials about the reliability of the data. We found these data to be sufficiently reliable for the purpose of describing (1) hearing adjournments; (2) in absentia removal orders; and (3) case processing times. When we found discrepancies—such as missing data, duplicate records, or data entry errors—we brought them to EOIR’s attention and worked with officials to correct the discrepancies. Based on electronic tests and discussions, we removed about 65,000 cases from the data we obtained, which was about 1 percent of the entire dataset.<sup>3</sup> We discuss any specific limitations we found in the data in the appropriate objective’s methodology below.

In addition, we interviewed EOIR and Department of Homeland Security (DHS) officials from headquarters, conducted a mix of virtual and in-

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<sup>1</sup>CASE is the mission-critical database application currently used by EOIR personnel for immigration case management and immigration appeals tracking. CASE is the primary application used by the EOIR immigration courts to record events, actions, decisions, and workflow for immigration cases.

<sup>2</sup>We previously reported on immigration cases from fiscal year 2006 through fiscal year 2015. GAO, *Immigration Courts: Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*, [GAO-17-438](#) (Washington, D.C.: June 1, 2017).

<sup>3</sup>We removed cases for various reasons, such as cases that had a missing date of issuance for the Notice to Appear (i.e., a charging document) or a missing date of EOIR’s receipt of the Notice to Appear.



person site visits to five selected immigration courts, and conducted interviews with six nongovernmental external stakeholders. We selected these five immigration courts to reflect a range of in absentia rates and number of initial case completions, based on EOIR data from fiscal year 2022.<sup>4</sup> These five immigration courts represented high, medium, and low in absentia removal rates and number of initial case completions. We also considered other criteria, such as geographic diversity and existence of a Legal Orientation Program for Custodians of Unaccompanied Children at a court location, to select courts that represent a range of different characteristics.<sup>5</sup>

During these site visits, we conducted interviews with government officials and nongovernmental stakeholders to obtain their perspectives on respondent hearing appearance, in absentia removal orders, and case processing times. Specifically, we conducted 24 interviews with assistant chief immigration judges (5 interviews), immigration judges (5 interviews), attorneys from the U.S. Immigration and Customs Enforcement's (ICE) Office of the Principal Legal Advisor (OPLA) (5 interviews), private bar attorneys (5 interviews), and Legal Orientation Program for Custodians of Unaccompanied Children service providers (4 interviews). We also observed immigration court master calendar and merits hearings at courts in Atlanta, Georgia; Charlotte, North Carolina; Hyattsville, Maryland; and Los Angeles, California.

We also selected six nongovernmental external stakeholders to interview based on the following criteria: (1) national organizations that consist of members who are EOIR immigration judges or attorneys participating in EOIR cases; (2) national organizations that provide services to respondents; and (3) stakeholders who have published reports or articles using empirical data on in absentia rates or factors affecting respondent appearance at hearings since 2016. Specifically, we conducted interviews with representatives from the following four organizations: Acacia Center for Justice, American Immigration Lawyers Association, Heartland Alliance's National Immigrant Justice Center, and the National

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<sup>4</sup>We selected the following five immigration courts: Charlotte, North Carolina; Harlingen, Texas; Hyattsville, Maryland; Miami, Florida; and the Olive Street court in Los Angeles, California.

<sup>5</sup>The Legal Orientation Program for Custodians of Unaccompanied Children provides legal orientation presentations to custodians of unaccompanied children to help ensure the child's appearance at all immigration court hearings.

Association of Immigration Judges. We also interviewed the authors of two studies related to in absentia rates.<sup>6</sup>

We conducted a content analysis using information from these interviews on respondent hearing appearance, in absentia removal orders, and case processing times. First, an analyst assessed the information obtained in the interviews to identify (1) reasons why a respondent may not appear at an immigration court hearing; (2) reasons why immigration judges may not issue in absentia removal orders; and (3) key drivers that could affect case processing times of an immigration court case.<sup>7</sup> For each analysis, the analyst developed a list of categories and sub-categories, as appropriate, to capture the various reasons or factors. Next, an analyst reviewed and coded the information in each interview into one of the categories and sub-categories and a second analyst verified these codes and the testimonial evidence used to support them. The two analysts then reconciled any differences through discussion. Although the information obtained from these interviews is not generalizable, it provided insights into the range of government officials' and stakeholders' perspectives on respondents' appearance, in absentia removal orders, and case processing times.

To determine the extent to which EOIR tracks respondent hearing appearances, we examined available EOIR data related to respondent appearances at hearings. In the absence of a data field to track definitively whether respondents appeared at their hearing, we examined possible proxies, including adjournment codes and in absentia removal rates.

To assess the extent to which EOIR tracks respondent hearing appearances, we reviewed EOIR's process and examined how relevant fields, such as judges' notes, adjournment codes, and in absentia removal orders, track respondent appearances. We also interviewed

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<sup>6</sup>Eagly & Shafer, Article: "Measuring in Absentia Removal in Immigration Court," 168 U. Pa. L. Rev. 817 (2020); and Center for Law and Immigration Policy, University of California Los Angeles School of Law, *No Fair Day: The Biden Administration's Treatment of Children in Immigration Court* (December 2023).

<sup>7</sup>When identifying reasons why a respondent would not appear at an immigration court hearing, we reviewed all 30 interviews. When identifying reasons why immigration judges may not issue in absentia removal orders and key drivers that affect case processing times of an immigration court case, we reviewed 26 of the 30 interviews. We did so because we did not ask the four service providers of the Legal Orientation Program for Custodians of Unaccompanied Children to provide their perspectives on in absentia removal orders or case processing times.

EOIR officials and judges during our five site visits to immigration courts about the steps EOIR takes to collect information related to respondent appearance at court. We compared this information against the principles related to using quality information and communicating externally in *Standards for Internal Control in the Federal Government*.<sup>8</sup> We also assessed EOIR's process against Office of Management and Budget guidance related to information quality assurance.<sup>9</sup>

To identify perspectives that government officials and stakeholders have on factors that affect respondent appearance, we conducted 24 interviews during site visits of five immigration courts, selected as previously described. We also interviewed six external nongovernmental stakeholders, which we selected using the criteria previously described. We asked interviewees for their perspectives on reasons why respondents do not appear at their court hearings.

To examine EOIR data related to in absentia removal orders, we analyzed in absentia removal orders for initial case completions of removal cases from fiscal year 2016 through fiscal year 2023.<sup>10</sup> We limited our analysis to data for non-detained respondents because in absentia removal orders for detained respondents were outside the scope of our review.<sup>11</sup> We calculated the in absentia rate by dividing the number of in absentia removal orders issued in a fiscal year by the total number of initial case completions in that same year. In addition to analyzing overall in absentia rates over the period of our review, we also used existing data fields in EOIR data to analyze in absentia rates by immigration court location and respondent characteristics, including the following: legal representation status, family cases placed on special dockets, adults with

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<sup>8</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

<sup>9</sup>Office of Management and Budget, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 67 Fed. Reg. 8,452-8,460 (Feb. 22, 2002) (originally printed Jan.3).

<sup>10</sup>EOIR refers to the first resolution of a case as an initial case completion. However, cases may be appealed or reopened after the initial resolution of a case, which would require a new case completion. EOIR refers to resolutions to cases after the initial case completion as subsequent case completions.

<sup>11</sup>In this report, we refer to non-detained respondents as respondents who have never been in ICE custody or have been released from ICE custody. Detained respondents in ICE custody must rely on ICE to bring them to their immigration court hearings.

family relationships compared to single adults, accompanied juveniles compared to unaccompanied juveniles, nationality, and language.

With respect to nationality and language, we identified the respondent's nationality and best language using the respective variables in EOIR's case management system. According to EOIR officials, DHS first captures this information when it files the Notice to Appear, which the court then adds to the case management system when entering the Notice to Appear information to begin proceedings. Immigration judges then confirm the nationality and language of the respondent at the first master calendar hearing. If a respondent does not appear in court, this information would not be confirmed.

To analyze in absentia rates by respondents' legal representation status, we used EOIR's data field that indicates if a respondent had filed for legal representation.<sup>12</sup> For the purpose of our data analysis, we determined that we would count all cases that had at least one date in that data field as having legal representation. Individuals who had legal representation at some point in their case may not have had legal representation throughout the entire duration of the case. Therefore, the cases reported as having representation did not necessarily have representation throughout the case.

We used various fields within EOIR's data to identify individuals as juveniles or adults. EOIR officials told us that EOIR changed the system for categorizing juveniles in March 2017.<sup>13</sup> All juvenile and adult cases opened after this system was put in place had a record in the juvenile data table. EOIR officials told us that adult cases were represented by a "not applicable" juvenile status. According to EOIR officials, prior to March 2017, adult cases were not recorded in the juvenile data table. For adult cases opened prior to March 2017, we identified them as adults if they were not categorized as a juvenile in the juvenile data table. We also used EOIR's data to identify juveniles as accompanied or unaccompanied based on the latest recorded juvenile status at the point of initial case completion. Lastly, we used EOIR's data on "leads and riders" to identify

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<sup>12</sup>Respondent attorneys would file EOIR Form E-28 *Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court* to notify EOIR that they agree to legally represent the respondent.

<sup>13</sup>EOIR officials said EOIR changed the system for categorizing juveniles to track both accompanied juveniles and unaccompanied juveniles. Prior to this change, EOIR did not separately track accompanied juveniles.

whether adults also had other family members in immigration proceedings.

According to EOIR officials, immigration judges may link or join individual respondents' cases together for the purposes of the hearings at the respondents' request based on familial relationships and circumstances of the case. These individuals can have a variety of familial relationships such as two spouses, a parent and child, or an uncle and nephew. EOIR officials told us they typically classify the adult case in the familial relationship as the "lead" case, while the cases associated with children in the familial relationship would be classified as "riders." EOIR officials said immigration judges use the "lead" case as the primary case number identifier to schedule and hold hearings.

To analyze in absentia rates by court location, we consulted with EOIR officials to identify the data field for the unique physical court location. We excluded all courts that only held hearings for detained respondents, as they were outside the scope of our review. We also analyzed EOIR data on motions to reopen after an in absentia removal order was issued.<sup>14</sup>

We used logistic regression models to estimate the statistical association between representation and the probability that a case had an initial ruling in-absentia. We estimated a series of bivariate models and a joint model to estimate the partial association of representation, holding constant respondent language and nationality, court geographic location, and docket type. We estimated the models on a subpopulation of cases in our scope that had at least 20 cases across all combinations of the covariates. Trimming helped ensure we had sufficient control observations, among cases with and without representation. The sample sizes within each combination of the covariates were skewed toward small groups, ranging from 1 at the 10th quantile and to 186 at the 90th quantile, with a mean of 144 and median of 6. However, our model estimation sample included 98 percent of the original cases in scope. We transformed the estimated coefficients from all models into odds-ratios for reporting purposes.<sup>15</sup>

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<sup>14</sup>After receiving an in absentia removal order, respondents can submit a motion to reopen their case by providing the reason why they did not appear at their hearing, which immigration judges may grant or deny.

<sup>15</sup>Odds are defined as the probability of an event happening divided by the probability of an event not happening. Odds-ratios express the proportional difference in the odds between two groups.

As part of the interviews of immigration court officials and stakeholder groups conducted during the site visits, we asked interviewees to identify circumstances when immigration judges may grant continuances instead of in absentia removal orders when a respondent fails to appear at a hearing.<sup>16</sup> We asked this question to all government official and nongovernmental stakeholder groups except for Legal Orientation Program for Custodians of Unaccompanied Children providers because they do not provide legal representation to respondents, and therefore may not witness judges granting continuances.

To examine EOIR data about case processing times, we analyzed case processing times for removal cases EOIR received from fiscal year 2016 through fiscal year 2023. We calculated the processing time for several milestones of a case, including the time between the start of a removal case to the initial master calendar hearing; the initial master calendar hearing to the first merits hearing; and the start of a removal case to the initial case completion. For each of these analyses, and in consultation with EOIR officials, we removed cases for which the output resulted in a negative value.<sup>17</sup> We defined these milestones as follows:

- Start of a removal case: For cases EOIR received from fiscal years 2016 through 2018, we used the date EOIR accepts the Notice to Appear, referred to as the received date. For cases EOIR received fiscal years 2019 through 2023, we used either the received date or the date EOIR first used its electronic system to enter information on a case, referred to as the input date, whichever was earlier. We did so because the order in which these two data fields should occur differs based on whether DHS used the Interactive Scheduling System to schedule the initial master calendar hearing.<sup>18</sup>
- Initial master calendar hearing: The first master calendar hearing of a case that had a value indicating it was a master calendar hearing and

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<sup>16</sup>These interviews involved the previously described interview participants and methodology for analyzing interview responses.

<sup>17</sup>We determined that the number of cases that had a negative value was five percent or lower of the total number of cases.

<sup>18</sup>According to EOIR officials, cases for which DHS did not use the Interactive Scheduling System should have the received date occurring prior to the input date. Cases for which DHS used the Interactive Scheduling System can have the input date occurring prior to the received date or on the same day. According to our analysis of EOIR data, the number of cases for which the input date occurred prior to the received date started to increase in fiscal year 2019.

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did not have an adjournment code associated with a hearing that did not take place.<sup>19</sup>

- First merits hearing: The first merits hearing of a case that had a value indicating it was a merits hearing and did not have an adjournment code associated with a hearing that did not take place.<sup>20</sup>
- Initial case completion: As described above, the completion date of the first proceeding of a case for which the immigration judge resolved the case, which is indicated by a value in the immigration judge decision code data field.

We analyzed how three factors were related to case processing times. Specifically, we analyzed the custody status (i.e., detained or non-detained) of a respondent, legal representation status of a respondent, and whether the case was on the dedicated docket.<sup>21</sup> We chose these factors because EOIR had available data, and government officials and nongovernmental stakeholders we interviewed described them as important. We defined detained cases as those involving respondents in ICE custody. We defined non-detained cases as those involving respondents who either have never been in ICE custody or have been released from ICE custody. As previously described, we determined a case as having legal representation if a respondent was represented at any point in their immigration case and a case as not having legal representation if a respondent was never represented.

To identify perspectives that government officials and nongovernmental stakeholders have on case processing times, we conducted interviews during site visits of five immigration courts, selected as previously described. We asked interviewees for their perspectives on key drivers that could affect the processing time of immigration court cases. Interviewees included assistant chief immigration judges, immigration

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<sup>19</sup>In consultation with EOIR officials, we identified values in the Schedule\_Type data field that indicated a hearing was a master calendar hearing. We also excluded hearings with an adjournment code indicating that a hearing likely did not take place, such as the code 8A. EOIR defines this code as an “immigration judge completion prior to hearing,” which indicates that an immigration judge completed the immigration case prior to the scheduled hearing.

<sup>20</sup>In consultation with EOIR officials, we identified values in the Schedule\_Type data field that indicated a hearing was a merits hearing. We also excluded hearings with an adjournment code indicating that a hearing likely did not take place, as explained above.

<sup>21</sup>The custody status of a case receipt and an initial case completion may differ. When calculating the custody status for initial case completions, we used the custody status at the time of the initial case completion.

judges, ICE OPLA attorneys representing the government in immigration court proceedings, and private bar attorneys representing respondents. We did not ask Legal Orientation Program for Custodians of Unaccompanied Children service providers questions about case processing times because they generally do not have direct knowledge about case processing times from start to initial case completion. We also interviewed six external stakeholders, which we selected using the criteria previously described, resulting in a total of 26 interviews.

We conducted this performance audit from May 2023 to December 2024, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



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# Appendix II: Immigration Court Hearing Adjournments and Adjournment Codes

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The Executive Office for Immigration Review's (EOIR) case management system requires judges to select a reason for adjourning hearings. At the end of each hearing, judges select a code to indicate why they adjourned, choosing one adjournment code for each hearing. According to EOIR officials, if more than one adjournment code applies, the judge is to choose the adjournment code that best represents the main reason for the adjournment.

EOIR periodically updated its adjournment code guidance to discontinue codes or introduce new ones. As of December 2024, immigration judges could select from among 59 adjournment codes.<sup>1</sup> From fiscal year 2016 through fiscal year 2023, immigration judges used 74 codes, 33 of which EOIR discontinued at some point during this period.<sup>2</sup>

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## Adjournments by EOIR-designated Category

EOIR categorizes its adjournment codes into four groups, depending on which party or circumstance was most responsible for the hearing's adjournment:

- **Respondent-related adjournment codes**, which indicate that the respondent or the respondent's legal representation either requested an adjournment or the circumstances of the adjournment related to the respondent. For instance, a respondent may request more time to prepare for future court hearings or seek legal representation.
- **Department of Homeland Security (DHS)-related adjournment codes**, which indicate that DHS is responsible for a delay or U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) attorneys requested the adjournment. For instance, ICE OPLA attorneys may request more time to prepare for a case or decide to exercise prosecutorial discretion and move to dismiss the case.<sup>3</sup>

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<sup>1</sup>The list of adjournment codes is publicly available on EOIR's website at <https://www.justice.gov/eoir/reference-materials/general/shared-appendices/o>.

<sup>2</sup>In this report, we refer to adjournment codes that EOIR used to adjourn hearings but are not currently available for judges to use as "discontinued adjournment codes."

<sup>3</sup>Prosecutorial discretion refers to ICE OPLA's authority to decide where to focus its resources and whether or how to enforce immigration laws against an individual. Under existing OPLA guidance, prosecutorial discretion allows OPLA attorneys to decide how they want to proceed on an individual case, such as agreeing to remove a case from the immigration court docket through dismissal or administrative closure, or agreeing to stipulations on issues such as relief, bond, or continuances. Prosecutorial discretion is exercised on a case-by-case basis.

- **Immigration judge-related adjournment codes**, which indicate the judge needs more time for the hearing or the court requires a continuance. For instance, one code indicates that there was insufficient time to complete a hearing if, for example, a judge does not have the opportunity to hear and consider all the evidence needed to render a decision on the case. Another immigration judge-related code indicates that an interpreter appeared for the hearing, but spoke the wrong language or dialect required for the hearing to proceed.
- **Operational-related adjournment codes**, which indicate an operational source for the adjournment. Examples of operation-related codes include a judge progressing the case from a master calendar hearing to a merits hearing, or a judge making a decision on the merits of the case during the hearing that may, for example, result in an order of removal.

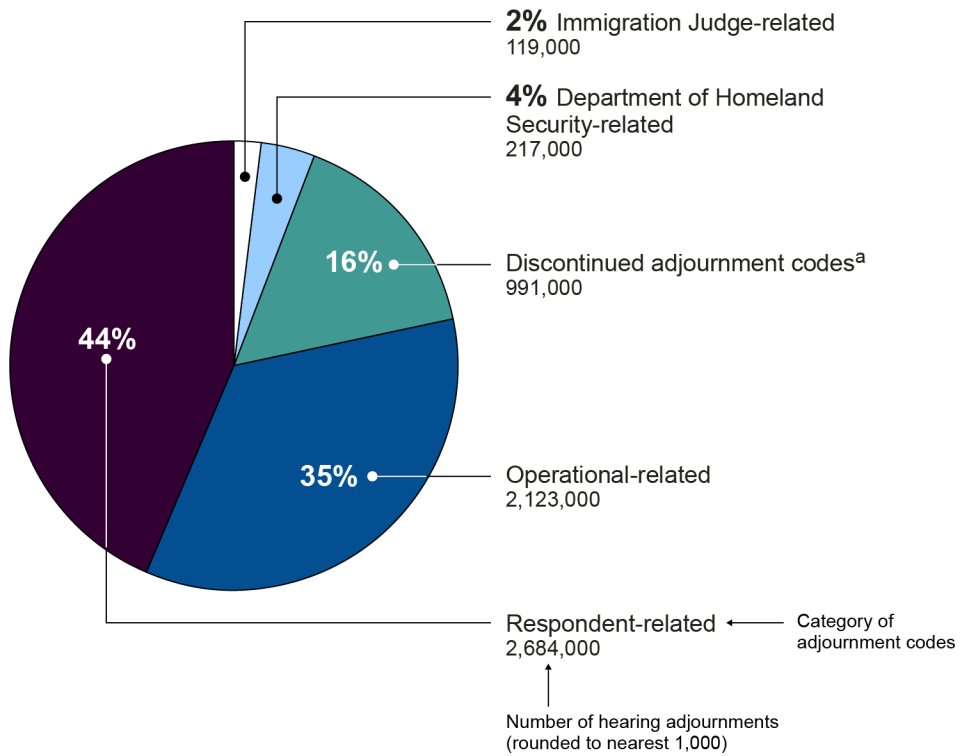
In addition, we grouped together discontinued adjournment codes, which represent adjournment codes that were in use at one time spanning fiscal year 2016 through fiscal year 2023 but which EOIR discontinued by the end of that period.

In conducting this analysis, we excluded certain adjournment codes based on the following criteria:

- *Adjournments that generally did not have a digital audio recording.* For non-detained hearings to be considered on the record, immigration judges must utilize a digital audio recording that is saved in the electronic case management system. EOIR officials provided us a list of all codes and the percent of times a digital audio recording was not associated with that code. According to EOIR officials, when an adjournment does not have an associated digital audio recording, it generally indicates that a hearing did not occur. Therefore, we excluded all adjournment codes for which EOIR reported they did not have a digital audio record for 90 percent or more of the adjournments.
- *Adjournments missing a code.* About 23,000 adjournments were missing an adjournment code, which accounted for less than 0.5 percent of the total number of adjournments.

From fiscal year 2016 through fiscal year 2023, judges most often selected respondent-related reasons for a hearing's adjournment, about 44 percent of all adjournments. See figure 15 for a breakdown of adjournments by category.

**Figure 15: Immigration Court Hearing Adjournment Code Categories for Non-Detained Respondents, Fiscal Year 2016 through Fiscal Year 2023**



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: Numbers do not sum to the total because of rounding.

<sup>a</sup>Discontinued adjournment codes are codes that immigration judges used at some point during the scope of the review but are no longer used by the Executive Office for Immigration Review.

### Adjournment Codes Most Often Used to Adjourn a Hearing

While there are 59 adjournment codes available for immigration judges to use, the top 10 accounted for about 75 percent of the approximately 6.1 million adjournments made from fiscal year 2016 through fiscal year 2023. Six of these codes were respondent-related, two were operational-related, one was immigration judge-related, and one was DHS-related. See table 5.

**Appendix II: Immigration Court  
Hearing Adjournments and  
Adjournment Codes**

**Table 5: Ten Most Often Used Immigration Court Adjournment Codes to Adjourn Non-detained Respondent Hearings, Fiscal Year 2016 through Fiscal Year 2023**

Adjournment reason	Number of hearing adjournments (rounded to nearest 1,000)	Percent of all hearing adjournments (out of 6,135,000)
Respondent to seek legal representation	1,045,000	17
Master calendar hearing adjourned to move to the merits portion of the case	1,030,000	17
Immigration judge issued a decision at the hearing	902,000	15
Respondent or respondent's legal representation requires more time to prepare case	628,000	10
Other reason for adjourning the hearing requested by the respondent or respondent's attorney	344,000	6
Respondent needs more time to prepare, file, or conduct Department of Homeland Security (DHS) application process	264,000	4
Respondent or respondent's legal representation did not appear for hearing	201,000	3
Respondent or respondent's legal representation rejected earliest hearing date	83,000	1
Immigration judge determines there is insufficient time to complete the hearing	80,000	1
DHS requires more time to prepare case	77,000	1

Source: GAO analysis of Executive Office for Immigration Review (EOIR) data. | GAO-25-106867

Note: For the purposes of our analysis, we did not include adjournment codes that EOIR discontinued during this time period. Discontinued adjournment codes that would have otherwise been among the top 10 codes used accounted for about 563,000 hearing adjournments, or about 9 percent of total hearings from fiscal year 2016 through 2023. For example, the most often used adjournment code that was discontinued was "respondent to file for asylum," which immigration judges used to adjourn about 234,000 hearings from fiscal year 2016 through fiscal year 2020. EOIR discontinued its use in fiscal year 2021.

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# Appendix III: Reasons Immigration Judges May Grant Continuances Instead of in Absentia Removal Orders

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Immigration judges have discretion to continue, or otherwise decide a case, rather than issue an in absentia order when a respondent fails to appear at a hearing.<sup>1</sup> We obtained perspectives on the reasons immigration judges may grant continuances instead of in absentia removal orders, through interviews with the following selected government officials and nongovernmental stakeholders: EOIR assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA), private bar attorneys, and external stakeholders, such as associations representing practitioners and immigration law researchers.<sup>2</sup> Figure 16 shows eight categories of reasons why immigration judges may grant a continuance instead of an in absentia removal order, based on our interviews with selected government officials and nongovernmental stakeholders.









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<sup>1</sup>See 8 U.S.C. § 1229a(b)(5) and 8 C.F.R. §§ 1003.10(b), 1003.25(a). In deciding cases, subject to certain governing standards, immigration judges are to use their independent judgment and discretion and may take any action consistent with their authorities that is necessary or appropriate to resolve their cases. 8 C.F.R. § 1003.10(b).

<sup>2</sup>We did not ask this question to the service providers for the Legal Orientation Program for Custodians of Unaccompanied Children.

**Appendix III: Reasons Immigration Judges May Grant Continuances Instead of In Absentia Removal Orders**

**Figure 16: Reasons Immigration Judges May Grant Continuances Instead of In Absentia Removal Orders, According to Interviews with Selected Government Officials and Nongovernmental Stakeholders**

	Assistant chief immigration judge and immigration judge	U.S. Immigration and Customs Enforcement OPLA <sup>a</sup>	Private bar attorneys	External stakeholders	Total responses per reason category
 Juvenile respondents	●●●○○ ○○○○○○	●●●●○	●○○○○	●●●●○ ○	<b>12</b>
 Issues with the Notice to Appear charging document <sup>b</sup>	●●●●○ ○○○○○○	●○○○○	○○○○○	●●●○○ ○	<b>8</b>
 Issues with the address in the Notice to Appear or hearing notice	●●●●● ○○○○○○	●●○○○	○○○○○	○○○○○ ○	<b>7</b>
 Issues with the hearing notice <sup>b</sup>	●●●○○ ○○○○○○	●○○○○	○○○○○	●○○○○ ○	<b>5</b>
 Respondent with sickness or health issues	●●●○○ ○○○○○○	●○○○○	●○○○○	○○○○○ ○	<b>5</b>
 Respondent's attorney provided good cause for respondent's absence	●●●○○ ○○○○○○	○○○○○	●○○○○	○○○○○ ○	<b>4</b>
 Issues with DHS Form I-213 <sup>c</sup> or establishment of removability	●○○○○ ○○○○○○	○○○○○	○○○○○	●●●○○ ○	<b>4</b>
 First time that respondent did not attend hearing	●○○○○ ○○○○○○	●○○○○	○○○○○	●○○○○ ○	<b>3</b>

**Interview respondents**

● Yes ○ No

Source: GAO analysis of interviews with selected government officials and nongovernmental stakeholders; GAO adaptation of Icons-Studio/stock.adobe.com (illustrations). | GAO-25-106867

Note: We conducted interviews of government officials and nongovernment stakeholders at five selected courts. Specifically, we interviewed assistant chief immigration judges, immigration judges, U.S. Immigration and Customs Enforcement Office of the Principal Legal Advisor (OPLA) attorneys representing the U.S. government in immigration court, and private bar attorneys representing noncitizens with cases in immigration court. We also interviewed six external stakeholders such as associations representing practitioners and immigration law researchers.

<sup>a</sup>U.S. Immigration and Customs Enforcement OPLA attorneys serve as civil prosecutors representing the U.S. government in all removal proceedings before the Executive Office for Immigration Review.

<sup>b</sup>The Notice to Appear or hearing notice may incorrectly spell the name of the respondent or may have missing details, such as the date and time of the hearing, according to our interviews.

<sup>c</sup>Department of Homeland Security prepares a Form I-213, Record of Deportable/Inadmissible Alien, which sets forth information to support the respondent's removability from the U.S.

In 12 of 26 interviews, government officials and nongovernmental stakeholders told us that immigration judges may grant continuances for unaccompanied or accompanied juvenile respondents. One government official told us that judges may grant such continuances for unaccompanied juveniles because they are a vulnerable population and often do not have the means to bring themselves to court. Among 10

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**Appendix III: Reasons Immigration Judges May  
Grant Continuances Instead of in Absentia  
Removal Orders**

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assistant chief immigration judges and immigration judges we interviewed, the most commonly cited reasons were address issues in the Notice to Appear or the hearing notice. For example, one government official told us if immigration judges notice a discrepancy between the address to which the Notice to Appear was sent and the address on file for the respondent, they may choose to grant a continuance instead of issuing an in absentia removal order. In that instance, immigration judges would send a new hearing notice to the address on file. Among six external stakeholders, three told us that judges may grant continuances instead of in absentia removal orders when there are issues related to the establishment of removability.

# Appendix IV: Comments from the U.S. Department of Justice



**U.S. Department of Justice**  
Executive Office for Immigration Review  
*Office of the General Counsel*

*5107 Leesburg Pike, Suite 2600  
Falls Church, Virginia 22041*

November 29, 2024

Rebecca Gambler  
Director, Homeland Security and Justice  
U.S. Government Accountability Office

Re: Draft Report GAO 25-106867, "Immigration Courts: Actions Needed to Track and Report Noncitizens' Hearing Appearances"

Dear Ms. Gambler:

The U.S. Department of Justice, Executive Office for Immigration Review (EOIR), appreciates the opportunity to work with the U.S. Government Accountability Office (GAO) on this review of EOIR's data to examine the extent to which the agency tracks respondent appearances at their immigration court hearings. EOIR agrees with GAO's statement that developing and implementing a function in its system to record respondents' appearances for their hearings and publicly reporting on that data would better inform agency operations and position EOIR to provide useful information to Congress and others.

EOIR further appreciates the work of the GAO team that performed this review and the attention given to EOIR's already robust data collection and statistical reporting to the public. Specific comments regarding the GAO's two recommendations are provided below. EOIR welcomes the opportunity to implement these recommendations so that EOIR can more effectively accomplish its mission.

**Recommendation 1** — The Director of EOIR should develop and implement a function in EOIR's case management system to record whether a respondent appeared or did not appear at each court hearing, and to record whether appearance was waived for any respondent who did not appear for the hearing.

EOIR concurs with this recommendation. While EOIR already tracks and periodically publishes data on the number of in absentia removal orders issued each year categorized by type,<sup>1</sup> EOIR agrees that adding a more detailed function tracking appearances at each hearing would be useful to the agency. EOIR would be able to conduct more precise analyses to examine geographic trends where respondents were not appearing in immigration court relative to other locations. This information would also supplement other fields in the agency's database to provide a more

<sup>1</sup> <https://www.justice.gov/eoir/workload-and-adjudication-statistics>.



enterprise-wide view of EOIR operations. EOIR will endeavor to create this function incorporating features that reinforce data viability and reduce the risk of human error inherent in processes that require manual data entry.

**Recommendation 2** — The Director of EOIR should periodically publicly report data on respondent hearing appearances.

EOIR concurs with this recommendation. EOIR understands that publicly reporting this data periodically, in addition to EOIR’s already established regular public reporting, would be of use to stakeholder operations and to inform Congressional oversight of immigration court activities. This recommendation is consistent with EOIR’s already established and successful initiative, “Access EOIR,” which launched in September 2021. Access EOIR provides respondents, representatives, and the general public with more direct access to agency and case information and the systems that contain it, further supporting transparency and due process for all those with business before the agency.<sup>2</sup> EOIR thus looks forward to expanding its transparency by increasing its data reporting to include data on respondent hearing appearances.

Thank you again for your review and for bringing these important issues to our attention. EOIR appreciates the recommendations that you have offered for improvements to agency data recording and public reporting.

Sincerely,

JILL  
ANDERSON

Digitally signed by JILL  
ANDERSON  
Date: 2024.11.29  
11:55:28 -05'00'

Jill Anderson  
General Counsel  
Executive Office for Immigration Review  
Office of the General Counsel

<sup>2</sup> <https://www.justice.gov/eoir/access-coir-initiative>.

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# Appendix V: GAO Contact and Staff Acknowledgments

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## GAO Contact

Rebecca Gambler at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Ashley Davis (Assistant Director), Jeremy Manion (Analyst in Charge), Lauri Barnes, Kathryn Bernet, Michele Fejfar, Eric Hauswirth, Emily Hutz, Grace Kwon, Grant Mallie, Sasan J. "Jon" Najmi, Jeff Tessin, and Christopher Zubowicz made key contributions to this report.

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