

**MEMORANDUM OF UNDERSTANDING
REGARDING THE IMPLEMENTATION OF
NEW PERFORMANCE MEASURES
FOR IMMIGRATION JUDGES**

This Memorandum of Understanding (MOU) between the Executive Office for Immigration Review (hereinafter Agency) and the National Association of Immigration Judges (NAIJ) (collectively, the Parties) sets forth the agreement the Parties reached at the conclusion of impact and implementation bargaining regarding the implementation of numeric performance measures (NPM) for Immigration Judges. The NPM are incorporated into Element 3 of the Judge Performance Work Plan (PWP). The revised Element 3 is attached to this MOU. See Attachment A. The Parties recognize that nothing in this MOU abrogates the Agency's obligation to provide notice to the NAIJ of future changes in working conditions (including but not limited to changes to performance measures and the definitions underlying such measures) or the NAIJ's right to bargain any such changes as allowable pursuant to labor law. Nothing in this MOU abrogates the right of NAIJ or an individual Judge to file a legal action challenging the application of the NPM.

1. The Parties recognize that the imposition of the NPMs is a management right under the current state of labor law. Nothing in this MOU will be construed to imply that the NAIJ agrees to the specific performance measures developed by the Agency or the wisdom of having numeric performance measures for Judges.

2. Prior to or upon its initial implementation of the NPMs, and consistent with its obligations under Article 22 of the CBA, the Agency will:

- (a) Provide Judges an opportunity to preview the Immigration Judge Performance Data Dashboard (Dashboard) in advance of the implementation date (*i.e.*, the date the Judges will begin being measured against the NPMs), provide specific instructions for how to access the Dashboard, and offer an overview of how to use the Dashboard;
- (b) Provide Judges with definitions and information regarding how the Agency is calculating the NPMs, including the types of decisions that are considered case completions for Measure 1;
- (c) Meet with each court as an opportunity for the Judges and their respective ACIJs to discuss matters related to the NPMs. This meeting is an opportunity for open dialogue and discussion, and Judges may raise topics including but not limited to the Judge's duty to exercise decisional independence and how any court-specific considerations, specialized dockets, and caseloads may be considered as mitigating factors in the application of performance measures. However, no such meeting is intended to abrogate the ACIJ's authority to assign work to Judges or to otherwise interfere with management rights. If the meeting conflicts with a particular Judge's lunch period, that Judge may take an alternative lunch period before or after the meeting. Before moving or canceling a hearing or hearings to accommodate an alternative lunch period, a Judge must consult

with his or her supervising ACIJ, and both the ACIJ and affected Judge will strive to find suitable alternatives to canceling or moving scheduled cases to the extent practicable.

3. The NPMs will be implemented on October 1, 2018, or when the Dashboard has been made available to the Immigration Judge corps, whichever is latest. Judges will only be held accountable to the NPMs as of the date the NPMs are implemented. For instance, the case completion goals will be pro-rated accordingly.
4. Upon a Judge's request, the Agency will provide one (or more, if it is agreed that more than one is needed) individualized training session for the requesting Judge on set up and use of the Dashboard. Judges who experience challenges accessing or operating the Dashboard are encouraged to take advantage of the procedures detailed in paragraph 5 of this MOU.
5. Judges who are experiencing difficulty accessing and operating the Dashboard may contact their supervising ACIJ and/or the OIT service desk (or Agency-designated support team) by phone or e-mail for assistance. If neither the ACIJ nor the OIT service desk is able to resolve the inquiry within two business days, NAIJ may contact a designated Agency representative on behalf of the Judge. NAIJ will establish a single point of contact, and a back-up point of contact, to act as a liaison with the designated Agency representative concerning Dashboard access issues. Any concerns not addressed by the supervising ACIJ and/or the OIT service desk will be brought to the Agency's attention through the NAIJ liaison. The Agency will strive to resolve any concerns brought to its attention by the NAIJ within five business days. To the extent practicable, the Agency will provide to NAIJ information regarding widespread or significant issues, either nationwide or within a specific court or types of courts, related to Dashboard inaccessibility, if such trends are found to exist by OIT.
6. Judges may use a reasonable amount of work time to track their work performance and maintain data relevant to their performance evaluation. Judges also may use a reasonable amount of work time to familiarize themselves with law, policy, practice, or procedures, as necessary. The parties recognize that Judges are professionals who will conduct these activities in an expeditious and proficient manner. If a Judge does not have at least four hours of administrative time (which includes at least one two-hour block) allotted on his/her agenda on a weekly basis, agenda accommodations may be made with the consent of the ACIJ. Such consent will not be withheld on any arbitrary or prohibited basis.
7. When a Judge believes that Agency data is inaccurate or a mistake in data entry has been made, the Judge should communicate to the supervising ACIJ, or other person as designated by the Agency, what he or she believes the error is, what the correct information should reflect, and support or background regarding why the change is appropriate. The ACIJ will notify the Judge within a reasonable period of time when the matter has been resolved.
8. For any significant time period (four continuous weeks or more) that the Dashboard is inoperable and the Agency does not provide reports consistent with Article 22.4.c. of the CBA, the Agency will consider whether an individual Judge's inability to access data during that time period affected that Judge's ability to meet the NPMs.

9. To achieve a rating of “Satisfactory” in Element 3 of the Judge PWP, Judges are expected to meet the measures, including the NPMs, set forth in the PWP. If a Judge does not meet a specific NPM, that Judge will not necessarily be rated less than satisfactory in Element 3. Rather, consistent with Article 22.3.h. of the CBA, and the FAQs as defined in paragraph 11, the Agency will take into account relevant factors that may have affected the Judge’s ability to meet the specific measure to determine the Judge’s rating for Element 3.

10. If a Judge’s Dashboard reflects that he/she has not met a particular NPM, the Agency will consider whether there is enough data to accurately measure the Judge’s performance with respect to the particular NPM.

11. The Agency has provided questions and answers set forth in the attached document “Frequently Asked Questions.” See Attachment B. Any such answers are the Agency’s answers and are not subject to editing or revision by NAIJ. Attachment B (including both questions and answers) will be made available to all Judges prior to or upon implementation of the NPMs. The Agency may revise and/or add new questions and answers to the FAQ at its discretion, but when doing so will provide prior notice to and allow timely input (within four business days) from NAIJ before releasing such questions and answers. NAIJ may request that additional questions be addressed in the FAQ. The Agency will take any such requests from NAIJ under consideration. The Parties recognize that the FAQ is intended to be a living document that may be edited and updated by the Agency.

12. Within 90 days of the end of each rating period, the Agency will provide to the NAIJ a report that contains the following information:

- (a) Total number of Judges rated using the NPMs.
- (b) Total number of Judges rated “Satisfactory” in Element 3 of the Judge PWP using the NPMs.
- (c) Total number of Judges rated “Needs Improvement” in Element 3 of the Judge PWP using the NPMs.
- (d) Total number of Judges rated “Unsatisfactory” in Element 3 of the Judge PWP using the NPMs.
- (e) A list of illustrative categories of bases, reasons, explanations, or exceptions that the Agency considered to elevate the Judges’ ratings in Element 3 of the Judge PWP.
- (f) Total number of Judges whose rating the Agency elevated in Element 3 of the Judge PWP as a result of the Agency’s consideration of the relevant factors set forth in CBA Article 22.3.h. If the number is greater than five percent of the total Judges, the Agency will provide a copy of the “Performance Goals Detail Report by Judge” (with the names of the Judges redacted) for the applicable rating period. See sample Attachment C.

13. (a) The Agency agrees to meet with NAIJ representatives, at the request of NAIJ, once per quarter so that NAIJ may raise questions and/or concerns regarding the Dashboard and/or the application of the NPMs. The meetings will normally be held by tele-video or teleconference.

(b) In addition, at these meetings, NAIJ may raise questions on behalf of any individual Judge who is not on track to receive a Satisfactory rating in Element 3 of the PWP and does not appear to be receiving guidance or assistance from the respective ACIJ. If NAIJ clearly and affirmatively invokes this subparagraph with respect to a particular matter concerning a particular Judge, the Agency will respond to the named Judge, the substance of which response is in the sole discretion of the Agency, and the Agency will strive to respond in a timely fashion. Concerns about data accuracy are covered by paragraph 7 herein, and are not subject to this subparagraph.
14. The Agency will make available on the EOIR intranet an archive of all available historical adjournment codes.
15. As part of the negotiation process, the Agency has provided NAIJ with access to the Dashboard. The Agency has also provided to NAIJ a document that defines and details the goals and benchmarks of the NPMs. See Attachment D. The Agency may revise this document at its discretion and will provide four business days' advance notice to NAIJ prior to making any such revisions effective.
16. At a minimum, the Dashboard will provide a visual representation of data that shows how a Judge is performing against the goals and benchmarks as defined in Attachment D. In addition, the Agency will strive to update the Dashboard, on a schedule it determines, to include the following information, if such updates are technologically feasible and cost-effective:
 - (a) Hyperlinks from the A numbers listed on Dashboard to the eROP, once available Agency-wide;
 - (b) The ability to "copy" and "paste" information contained in the Dashboard and its reports;
 - (c) Modify the physical layout to place case completions and remand rate first in a visually distinct manner from the benchmarks;
 - (d) Add a "calendar" function that allows access to data by month and year for any period of time for which the Dashboard has been operational, from October 1, 2018, forward;
 - (e) Calculate Measure 4 based on the actual date a motion is physically received by the Judge.

FOR THE AGENCY:

Katherine H. Reilly
Deputy Director
Executive Office for Immigration
Review

Rena Scheinkman
Associate General Counsel
Employee/Labor Relations Unit
Office of the General Counsel

FOR NAIJ:

Date  A. Ashley Tabaddor
President, NAIJ

10-3-2018
Date

Date

Attachment A

**EOIR PERFORMANCE PLAN
Adjudicative Employees**

3. Job Element: Accountability for Organizational Results

| | | | |
|---|----------|--------------------------|--------------|
| X | Critical | <input type="checkbox"/> | Non-critical |
|---|----------|--------------------------|--------------|

Definition: Exercises effort to ensure the integrity of the organization. Holds self accountable for organizational goals and objectives. Ensures cases are completed in a timely, efficient, and effective manner that meets objectives. Focuses on established organizational goals, results, and attainment of outcomes. Specific goals are attached.

Performance Standards:

Satisfactory:

Performance at this level is satisfactory when the applicable standards stated below are achieved in a timely and correct manner.

3.1 Acts consistently with the goals and priorities established by the Agency. (See attached goals.)

3.2 Makes rulings and decisions in a timely manner, consistent with available resources.

3.3 Manages the immigration judge calendar efficiently, monitoring pending caseload, as needed.

3.4 Cooperates to achieve a productive work environment with other judges, court administrators, and staff members.

3.5 As assigned, performs special assignments and details, including conducting hearings of various types, at times on short notice, based on the needs of the agency.

3.6 Demonstrates appropriate use of courtroom technology.

Unsatisfactory:

Performance at this level shows a serious deficiency in one or more factors of this element.

Performance Goals
Immigration Judge

All goals are measured annually, from October 1 to September 30.

Satisfactory performance:

Goal 1: Case Completions: 700 cases per year.

and

Goal 2: Remand Rate (including BIA and Circuit Courts): less than 15%.

and

The immigration judge meets at least half of the following Benchmarks that are applicable to the judge's work during the rating period, as long as the judge's performance in each applicable Benchmark is above the "Unsatisfactory" performance level.

Benchmarks:

Benchmark 1: In 85% of non-status detained removal cases, no more than three days elapse from merits hearing to immigration judge case completion.

Benchmark 2: In 85% of non-status, non-detained removal cases, no more than 10 days elapse from merits hearing to immigration judges case completion, unless completion is prohibited by statute (e.g. a cap on grants of relief) or completion is delayed due to a need for completion of background checks.

Benchmark 3: In 85% of motions matters, no more than 20 days elapse from immigration judge receipt of the motion to adjudication of the motion.

Benchmark 4: In 90% of custody redetermination cases, case is completed on the initial scheduled custody redetermination hearing date unless DHS does not produce the alien on the hearing date.

Benchmark 5: In 95% of all cases, individual merits hearing is completed on the initial scheduled hearing date, unless, if applicable, DHS does not produce the alien on the hearing date.

Benchmark 6: In 100% of credible fear and reasonable fear reviews, case is completed on the initial hearing date unless DHS does not produce the alien on the hearing date.

Needs improvement:

Goal 1: Case Completions: More than 560 but fewer than 700 cases per year.

or

Goal 2: Remand Rate (including BIA and Circuit Courts): between 15% and 20%.

or

The immigration judge fails to perform to the Satisfactory level in more than half of the applicable Benchmarks, as long as the judge's performance in each applicable Benchmark is above the "Unsatisfactory" performance level.

Unsatisfactory performance:

Goal 1: Case Completions: fewer than 560 cases per year.

or

Goal 2: Remand Rate (including BIA and Circuit Courts): greater than 20%.

or

The immigration judge's performance in one or more of the following Benchmarks that are applicable to the judge's work during the rating period is Unsatisfactory.

Unsatisfactory Performance Benchmarks:

Benchmark 1: In greater than 35% of non-status detained removal cases, more than three days elapse from merits hearing to immigration judge case completion.

Benchmark 2: In greater than 35% of non-status, non-detained removal cases, more than 10 days elapse from merits hearing to immigration judge case completion, excepting cases where completion is prohibited by statute (e.g. a cap on grants of relief) or completion is delayed due to a need for completion of background checks.

Benchmark 3: In greater than 35% of motions matters, more than 20 days elapse from immigration judge receipt of the motion to adjudication of the motion.

Benchmark 4: In greater than 30% of custody redetermination cases, case is not completed on the initial scheduled custody redetermination hearing date excluding cases where DHS does not produce the alien on the hearing date.

Benchmark 5: In greater than 25% of all cases, individual merits hearing is not completed on the initial scheduled hearing date, excluding cases where DHS does not produce the alien on the hearing date.

Benchmark 6: In greater than 20% of credible fear and reasonable reviews, case is not completed on the initial hearing date, excluding cases where DHS does not produce the alien on the hearing date.

Attachment B

Frequently Asked Questions

These Frequently Asked Questions (FAQs) are intended to provide guidance regarding the Immigration Judge Performance Data Dashboard (the Dashboard) and the numeric performance measures contained in Element 3 of the Immigration Judge Performance Work Plan (PWP). The Agency recognizes that performance management requires analysis of each Judge's individual performance, including each Judge's particular circumstances that might be relevant in assessing whether the Judge met the goals and benchmarks set out in Element 3 of the PWP. As such, it is impossible for this FAQ to account for every circumstance that may affect a particular Judge's ability to meet the established goals and benchmarks. ACIJ's and Judges are encouraged to discuss any questions and concerns related to an individual Judge's performance, Dashboard, and/or relevant factors that may affect the Judge's ability to meet the goals and benchmarks.

Question 1: When evaluating an individual Judge's performance with respect to the new measures, what factors does the Agency take into account?

The Agency will follow Article 22 of the Collective Bargaining Agreement, in particular Article 22.3.h., when evaluating an individual judge's performance with respect to the new numeric measures.

Question 2: When a judge believes that something beyond his or her control is affecting his or her ability to meet the numeric metrics, how should the judge assure that the fact is considered by the Agency?

The Judge should bring the matter to attention of the supervising ACIJ and seek guidance.

Question 3: What is considered a "completion" for the purposes of evaluating the performance of an Immigration Judge?

Only dispositive immigration judge decisions on the following case (proceeding) types are counted as case completions: removal (RMV), deportation (DEP), exclusion (EXC), asylum only (AOC), withholding only (WHO), or rescission (REC). Dispositive immigration judge decisions include the following: Relief Granted, Grant, Conditional Grant, Final Grant of EOIR 42B/SUSP, Deny, Abandonment, Remove, Terminate/Terminated, Voluntary Departure, Admit, Withdraw, Exclude, and Deport.

The following actions do not constitute a case completion: change of venue, transfer, decision on a bond, administrative closure, or other administrative decision.¹ Subsequent completions are counted.² For cases with a lead and rider

¹ Other administrative decision may include failure to prosecute, other administrative completion, and "zero bond." A zero bond case type is one where a bond decision is made prior to the filing of a charging document.

² For example, if a case was completed by one judge, but later was reopened and a new proceeding created and

relationship, the lead case and all associated rider cases are counted as separate completions.

Question 4: Do the following count as case completions?

a. decision on a motion to terminate.

If the motion is granted, and the case is terminated, then this counts as a case completion. If the motion is denied, the case is not considered completed.

b. decision on a motion to reopen.

No, unless the motion to reopen is granted and the reopened case is terminated as part of the same order.

c. decision on a motion to reconsider.

No, unless the motion to reconsider is granted and the case is terminated as part of the same order.

d. decision on a motion to recalendar.

No, unless the motion to recalendar is granted and the recalendared case is terminated as part of the same order.

e. decision on a credible fear review.

No.

f. decision on a reasonable fear review.

No.

g. decision on a mental competency inquiry.

No.

Question 5: Are cases that have been placed on a status docket or cases continued due to an application process outside the court's jurisdiction included in case completions once they are completed?

Yes, if the disposition meets the criteria of a completion as defined in response to Question 2 above.

completed with a different judge, both the judge who completed the initial proceeding and the judge who completed the subsequent proceeding will get credit for a completion.

Question 6: How will the appropriate placement of a case on a status docket affect benchmarks 1 and 2 (regarding completions within three days (for detained cases) and ten days (for non-detained cases) of the final hearing)?

It will depend on the specific facts of the situation. EOIR does not anticipate that many cases will be placed on a status docket after the conclusion of a merits hearing, except for cases subject to a cap or a mental competency inquiry. Such cases are excluded from the Benchmarks 1 and 2.

Question 7: If the respondent withdraws the request for a custody redetermination, and the judge issues an order affirming the withdrawal on the initial scheduled hearing date, will this count as a completion on the initial scheduled date for purposes of benchmark 4?

Yes.

Question 8: Are the measures with days counted (benchmarks 1 and 2) in business days or calendar days?

Calendar days. However, if a deadline falls on a Saturday, Sunday, or federal holiday, then the deadline is extended to the next business day.

Question 9: If one judge completes the case initially and then again if it is reopened and subsequently completed again, does the judge get two completions?

Yes.

Question 10: Which cases in ORR custody will be counted as a detained case?

Juveniles in ORR custody at ORR facilities should be marked as "detained" in CASE. Cases marked in CASE as "detained" are counted as detained cases for purposes of the Dashboard.

Question 11: How will inherited cases/ dockets be handled?

For all of the performance measures, Judges are held accountable only for their own performance with respect to each measure. To the extent practicable, we have removed data from other Judges from each Judge's performance data dashboard. For example, for benchmarks 4, 5, and 6, the Judge will be assessed only on whether that Judge completed the case with only one scheduled hearing. If another Judge previously had the case and adjourned it, that adjournment will not count against the Judge who ultimately decides the case.

Question 12: How will the Agency handle the Judge's decisions made prior to October 1,

2018?

The Judge is only held accountable to meeting the new measures as of October 1, 2018. Actions the Judge took prior to October 1, 2018, will not be considered in the dashboard (as far as practicable) or in the Judge's performance rating. For example, adjournments that occurred before October 1, 2018, are not taken into consideration in determining whether the Judge meets benchmark 5 for a particular case.

Question 13: For benchmark 5, what is the definition of "individual merits hearing"?

An individual merits hearing is one in which the merits of the respondent's claim are adjudicated. Only hearings that meet this definition should be identified as merits hearings in CASE. Judges should work with their ACIJs to ensure that to the extent practicable, hearings that are not meant to be dispositive merits hearings are not scheduled as a merits hearing in CASE.

Question 14: Do the following count as an individual merits hearings for the purposes of benchmark 5?

a. Master calendar hearing.

No.

b. Pre-trial conference.

No, as long as the conference is not designated in CASE as a merits hearing.

c. Hearing on contested service of NTA.

No, as long as the hearing is not designated in CASE as a merits hearing.

d. Hearing on a contested charge of removability.

No, as long as the hearing is not designated in CASE as a merits hearing.

e. Mental competency inquiry.

No, as long as the inquiry is not designated in CASE as a merits hearing.

f. Other non-dispositive hearings.

No, as long as the hearing is not designated in CASE as a merits hearing.

Question 15: With respect to benchmarks 4, 5, and 6, if the case was completed with only one merits hearing held but then was reset to a master or merits hearing for an oral decision, does it fail the measure?

Yes. If the case is reset to a master subsequent to the merits hearing, or to a second merits hearing, it will fail the measure.

Question 16: With respect to benchmark 5, my report on the dashboard shows that I have cases that did not meet the measure, but the case had only one merits hearing. Why did that case fail the measure?

The most likely reason for this outcome is that the Judge scheduled the case for a master hearing after the conclusion of the merits hearing. When that occurs, the case fails the measure.

Question 17: With respect to benchmark 5, if the case was completed with only one merits hearing held but the judge asks for closing briefs, then issues a written decision at a later time, does it fail the measure?

No, as long as no additional master or merits hearing is scheduled. However, in this situation, the case may fail benchmark 1 or 2.

Question 18: With respect to benchmarks 4, 5, and 6, how does the Agency account for cases rescheduled due to court operational needs?

In circumstances where the case is appropriately reset for genuine operational needs using adjournment code 9A or 9B, that reset will not count against the Judge. The Judge can still receive credit for meeting this benchmark if the Judge then completes the case on the reset date.

Question 19: With respect to benchmark 5, how does the Agency account for cases reset well in advance of the hearing date?

If the case is reset more than 30 days in advance of the hearing date, the reset will not count against this measure. The Judge can still get credit for meeting this benchmark if the case is then heard on the reset date.

Question 20: With respect to benchmark 5, can multiple time slots on the same day be combined into one hearing?

Yes. Combining multiple agenda time slots in one day in order to give the Judge enough time to complete the case on that day is not intended to be counted as multiple hearings.

Question 21: With respect to benchmarks 4, 5, and 6, why are there adjournment codes listed in the report of cases not meeting the measure?

This information is provided in order for the Judge to ascertain why the case was adjourned without having to cross-reference the A number in CASE. Having this

information will assist the Judge and the ACIJ in determining whether the adjournment might fit into one of the relevant factors outlined in CBA Article 22.3.h.

Question 22: When calculating whether a Judge has met the goal for remand rates, will the following factors be considered?

- a. that there were multiple remands based on the same legal issue before the issue was decided by the BIA or the circuit court of appeals.**

This is information that a Judge could bring to the attention of his or her ACIJ.

- b. that many of the remands involved consolidated cases with only one decision.**

This is information that a Judge could bring to the attention of his or her ACIJ.

Attachment C

Attachment D

Immigration Judge Performance Data Dashboard

Dashboard Overview

The Immigration Judge Performance Data Dashboard (Dashboard) shows data from CASE as it relates to immigration judges' progress towards meeting the established numerical performance standards. At the Executive level, the user may choose an Assistant Chief Immigration Judge (ACIJ) and then see a list of all active judges under that ACIJ. At the ACIJ level, the user sees only the judges that they are responsible for. At the immigration judge level, the individual immigration judge sees only his or her own data.

Definitions

Case Completion

Only dispositive immigration judge decisions on the following case (proceeding) types are counted as case completions: removal (RMV), deportation (DEP), exclusion (EXC), asylum only (AOC), withholding only (WHO), or rescission (REC). Dispositive immigration judge decisions include the following: Relief Granted, Grant, Conditional Grant, Final Grant of EOIR 42B/SUSP, Deny, Abandonment, Remove, Terminate/Terminated, Voluntary Departure, Admit, Withdraw, Exclude, and Deport.

The following actions do not constitute a case completion: change of venue, transfer, decision on a bond, administrative closure, or other administrative decision.¹ Subsequent completions are counted.² For cases with a lead and rider relationship, the lead case and all associated rider cases are counted as separate completions.

Status Case

In the Immigration Court Performance Measures, published on January 17, 2018, a status case is defined as (1) one in which an immigration judge is required to continue the case pursuant to binding authority in order to await the adjudication of an application or petition by U.S. Citizenship and Immigration Services, (2) one in which the immigration judge is required to reserve a decision rather than completing the case pursuant to law or policy, or (3) one which is subject to a deadline established by a federal court order.

For purposes of this Dashboard, status cases are those that have a CASE identifier including (1) a 42B application with a reserved decision or an "RD" case identifier, (2) a Franco Litigation ('FL') or Status Docket ('DS') case identifier, and/or (3) a hearing with an accurately-used "7A" or "7B" adjournment code.³

¹ Other administrative decision may include failure to prosecute, other administrative completion, and "zero bond." A zero bond case type is one where a bond decision is made prior to the filing of a charging document.

² For example, if a case was completed by one judge, but later was reopened and a new proceeding created and completed with a different judge, both the judge who completed the initial proceeding and the judge who completed the subsequent proceeding will get credit for a completion.

³ "7A" means "ALIEN APPLICATION PROCESS" and "7B" means "DHS APPLICATION PROCESS."

Detained Case

A case is detained based on the detention status for the proceeding. Both DHS and IHP detained cases are counted as detained, as are certain cases where the respondent is in ORR custody. A non-detained case may either have been “never detained” or “released.”

Goals and Benchmarks

Goal 1: 700 case completions per year

The Dashboard will display, for the selected judge and relevant timeframe, the number of case completions, as defined above. The number is broken down by quarter. The goal is for each judge to complete at least 700 cases each fiscal year.

Completed Case Report:

This report shows, for the selected judge and the relevant timeframe, all cases completed during the relevant timeframe by a given judge.

Goal 2: Remand rate (including BIA and Circuit Courts) less than 15%

Gauge:

This gauge shows, for the selected judge and relevant timeframe, the percentage of appeals⁴ of immigration judge decisions that were remanded. Appeals include appeals to the Board of Immigration Appeals and Circuit Court petitions for review. Remands include all appeal decisions that remand the case to the immigration judge, that is, appeals with the decision code Remand (REM) or Background Check Remand (BCR). The appeal decision date must be in the current fiscal year, and only completed appeals are counted. For bond appeals, the appeal is counted for the judge who completed the bond. For appeals of IJ MTR, the appeal is counted for the judge who completed the motion. For other appeal types, the appeal is counted for the judge who completed the proceeding. The proceeding or bond or motion that was appealed may have been in a prior year. Interlocutory appeals are counted.

Remands:

This report shows, for the selected judge and the relevant timeframe, all remands of the immigration judge’s decisions from either the Board of Immigration Appeals or Circuit Courts.

Appeals Not Remanded:

This report shows, for the selected judge and the relevant timeframe, appeals of the

⁴ Appeals that would not result in a remand of an immigration judge’s decision (e.g., motions to reopen filed with the BIA) are not included.

immigration judge's decisions from either the Board of Immigration Appeals or Circuit Courts that were not remanded.

Benchmark 1: In 85% of non-status detained cases, no more than three days elapse from final hearing to immigration judge case completion

Gauge:

This gauge shows, for the selected judge and relevant timeframe, the percentage of non-status detained cases that were completed by a judge within three calendar days of the last hearing, based on the following logic: (1) If the final hearing was a merits hearing, the case meets the goal if it was completed within three calendar days of the final hearing; (2) If the final hearing was a merits hearing, the case does not meet the goal if it was completed more than three calendar days of the final hearing; (3) If the last hearing was a master hearing, the case meets the goal if it was completed within three days of the final hearing; and (4) If the final hearing was a master hearing, the case will not be counted as either meeting or not meeting the goal if the case was completed more than three days after the final hearing.

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all non-status detained cases that did not meet the goal as defined above.

Cases Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all non-status detained cases that met the goal as defined above.

Benchmark 2: In 85% of non-status non-detained cases, no more than 10 days elapse from final hearing to immigration judges case completion, unless completion is prohibited by statute (e.g. a cap on grants of relief) or completion is delayed due to a need for completion of background checks.

Gauge:

This gauge shows, for the selected judge and relevant timeframe, the percentage of non-status non-detained cases that were completed by a judge within 10 calendar days of the last hearing, based on the following logic: (1) If the final hearing was a merits hearing, the case meets the goal if it was completed within 10 calendar days of the final hearing; (2) If the final hearing was a merits hearing, the case does not meet the goal if it was completed more than 10 calendar days of the final hearing; (3) If the last hearing was a master hearing, the case meets the goal if it was completed within 10 days of the final hearing; and (4) If the final hearing was a master hearing, the case will not be counted as either meeting or not meeting the goal if the case was completed more than 10 days after the final hearing. Also, the case is

not counted as missing the goal if more than 10 days elapsed from the final hearing to completion, but the final hearing had an adjournment code of “24” (DHS to provide records/fingerprint check) or “36” (records check/fingerprints/overseas investigation).

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all non-status non-detained cases that did not meet the goal as defined above.

Cases Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all non-status detained cases that met the goal as defined above.

Benchmark 3: In 85% of motions matters, no more than 20 days elapse from immigration judge receipt of the motion to adjudication of the motion.

Gauge:

This gauge is designed to show, for the selected judge and relevant timeframe, the percentage of motions adjudicated (completed) within 20 calendar days of receipt by the immigration judge. Because the date that the motion was received by the judge is not currently captured in the CASE system, there is an allowance of 15 additional days. Therefore the gauge shows the percentage of motions completed within 35 days of the motion receipt date, for the selected judge and the relevant timeframe. All motion types and all completion types are included.

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all motions not adjudicated (completed) within 35 calendar days of the motion receipt date.

Cases Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all motions adjudicated (completed) within 35 calendar days of the motion receipt date.

Benchmark 4: In 90% of custody redetermination cases, the case is completed on the initial scheduled custody redetermination hearing date.

Gauge:

This gauge shows, for the selected judge and the relevant timeframe, the percentage of custody redeterminations that were completed with one custody redetermination⁵ hearing.

⁵ A custody redetermination hearing has schedule type ‘CY.’

Hearings with an adjournment code of “09” (alien in DHS custody not presented for hearing), “59” (court closure), “9A” (docket management – postpone hearing), “9B” (docket management – advance hearing), or adjournment code “99” (data entry error) are not counted. The hearing date must be between the receipt of the custody redetermination and its completion date.

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all completed custody redetermination proceedings that had two or more custody redetermination hearings.

Met Goal report:

This report shows, for the selected judge and the relevant timeframe, all completed custody redetermination proceedings that had zero or one custody redetermination hearing.

Benchmark 5: In 95% of all cases, individual merits hearing is completed on the initial scheduled hearing date.

Gauge:

This gauge shows, for the selected judge and relevant timeframe, cases (proceedings) that were completed with one merits hearing. Hearings with an adjournment code of “09” (alien in DHS custody not presented for hearing), “59” (court closure), “9A” (docket management – postpone hearing), “9B” (docket management – advance hearing), or adjournment code “99” (data entry error) are not counted. If the case is reset more than 30 days prior to the initial scheduled hearing date, the reset is not counted as a failure for the goal. If a case is completed without any merits hearings, the case is not counted.

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all completed cases that had two or more merits hearings scheduled, or had one merits hearing with a master hearing following the merits hearing.

Cases Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all completed cases that had one merits hearings scheduled, and did not have a master hearing following the merits hearing.

Benchmark 6: In 100% of credible fear and reasonable fear reviews, the case is completed on the initial hearing date

Gauge:

This gauge shows, for the selected judge and relevant timeframe, the percentage of credible fear and reasonable fear reviews that were completed with no more than one hearing. Hearings with an adjournment code of “09” (alien in DHS custody not presented for hearing), “59” (court closure), “9A” (docket management – postpone hearing), “9B” (docket management – advance hearing), or adjournment code “99” (data entry error) are not counted.

Cases Not Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all completed credible fear and reasonable fear cases (proceedings) that had two or more hearings of any kind.

Cases Meeting Goal:

This report shows, for the selected judge and the relevant timeframe, all completed credible fear and reasonable fear cases (proceedings) that had one or zero hearings of any kind.