



OOD
PM 25-20
Effective: February 6, 2025

To: All of EOIR
From: Sirce E. Owen, Acting Director
Date: February 6, 2025

CANCELLATION OF DIRECTOR'S MEMORANDUM 23-02

PURPOSE:	Rescind and Cancel Director's Memorandum 23-02
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	Director's Memorandum 23-02

On June 6, 2023, the EOIR Director issued Director's Memorandum (DM) 23-02 purporting to provide guidance to EOIR Immigration Judges regarding "language access issues" in immigration court proceedings.¹ However well-intentioned DM 23-02 may have been, its inappropriate direction, questionable lawfulness, and paternalistic and patronizing tone do not support its retention. In particular, its direction to Immigration Judges to gather evidence outside of court exceeds the authority of both a DM to order and an Immigration Judge to execute. The job of an Immigration Judge is not to serve as a roving inspector of detention facility libraries operated by the Department of Homeland Security, and directing Immigration judges to engage in extrajudicial factfinding about such libraries was grossly improper. Similarly, pressuring Immigration Judges to extend certain deadlines, especially based on out-of-court evidence about which the parties may not have been heard, both inappropriately overrode individual Immigration Judge discretion on legal issues in particular cases and appeared premised on an unsubstantiated belief that Immigration Judges are too incompetent to handle language access issues on their own. Further, DM 23-02 failed to appreciate that many aliens, especially those with representation, may either not need language access services at all or may choose to waive them, particularly at a master calendar hearing, as long as the waiver is appropriate.

EOIR recognizes the importance of language access and interpretive services for aliens appearing in its proceedings, and it is committed to providing professional interpretive services in all appropriate cases. It also generally believes that its corps of Immigration Judges and interpreters are well-trained professionals who understand that commitment. To that end, there is no need to

¹ In addition to its numerous other flaws, DM 23-02 did not address any potential language access issues in proceedings conducted by the Office of the Chief Administrative Hearing Officer (OCAHO). Although the need for interpretive services in OCAHO cases is rare, OCAHO—and all other EOIR components—is generally staffed by professionals who can competently address any language issues which may arise.

dictate to that group of professionals a one-size-fits-all script to follow in every case, nor is there an empirical basis to presume that most Immigration Judges or interpreters are incapable of handling routine language access issues. Further, there is unequivocally no authorization for Immigration Judges to engage in out-of-court factfinding, particularly without giving the parties an opportunity to weigh in.

Accordingly, DM 23-02 is rescinded and cancelled. The rescission of DM 23-02 does not reinstate Operating Policies and Procedures Memorandum 04-08. EOIR will continue to adhere to the Department of Justice's Language Access Plan, *see* [OJP Language Access Plan, October 2024, Revised January 2025](#),² and to any EOIR Language Access Plan.³

This PM is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing herein should be construed as mandating a particular outcome in any specific case. Nothing in this PM limits an adjudicator's independent judgment and discretion in adjudicating cases or an adjudicator's authority under applicable law.

Please contact your supervisor if you have any questions.

² <https://www.ojp.gov/ojp-language-access-plan>.

³ EOIR's prior Language Access Plan is currently undergoing revision.