



## U.S. Immigration and Customs Enforcement

### OPLA NEW ORLEANS: REQUESTING PROSECUTORIAL DISCRETION

Prosecutorial discretion (PD) will be exercised on a case-by-case basis considering the totality of the circumstances. Affirmative written PD requests are highly encouraged, and OPLA New Orleans will strive to be as responsive to such requests as resources permit. For more information on PD and OPLA, please visit <https://www.ice.gov/about-ice/opla/prosecutorial-discretion>.

Here are guidelines for sending PD requests to OPLA New Orleans and sub-offices in Memphis, Jena, and Oakdale:

**WHEN:** At the earliest moment practicable, preferably no later than 30 days prior to an individual hearing for a non-detained case and no later than 14 days prior to an individual hearing for a detained case.

**WHERE:** OPLA New Orleans prefers requests be submitted through ICE eService. Both attorneys and *pro se* noncitizens can register for ICE eService at <https://eserviceregistration.ice.gov/>. Do not submit duplicate copies (e.g., one via eService and a duplicate paper copy). PD Requests should be uploaded to the appropriate OPLA New Orleans sub-office responsible for the corresponding Immigration Court.

In the event an attorney or *pro se* noncitizen is unable to register for ICE eService, PD requests may be submitted to the relevant email address located at <https://www.ice.gov/about-ice/opla/prosecutorial-discretion>.

**HOW:** The subject/title of your ICE eService submission should contain the case number, the specific type of PD requested, the court location of the next hearing, and the date of the next hearing. For example: *A123456789.Request for Joint Dismissal Pursuant to Prosecutorial Discretion, New Orleans, July 14, 2021*; *A123456789.Request for Non-Opposition to Motion to Reopen Pursuant to Prosecutorial Discretion, Memphis, August 12, 2021*

The contents of the PD request should:

- specify with particularity the type of PD you seek (e.g., dismissal of the proceedings, a joint motion, a non-opposition to a continuance, a stipulation to narrow the issues in dispute, a waiver of appeal);
- note any specific type of PD you do not desire;
- list and analyze the reason(s) you believe PD should be granted and include documentation to support the grounds for the request;

- fully develop the mitigating factors and equities, such as length of time in the United States and family ties, along with aggravating factors, such as criminal history;
- include any relevant documentation, including, but not limited to, copies of the application(s) for relief and supporting evidence establishing *prima facie* eligibility (e.g., the beneficiary of an approved I-130 should submit a copy of the approved I-130, the I-485 application, and supporting evidence to establish *prima facie* eligibility for adjustment of status); birth or marriage certificates establishing family relationships, tax returns, school and employment documentation, medical records, or any other evidence; and
- include a E-28, E-27, or G-28 for the representing attorney.

*Please note, this information relates to cases pending before EOIR that are handled by OPLA New Orleans and does not relate to PD that can be exercised by ERO or other DHS components. For information relating to PD requests that fall within the discretion of ERO, please contact the New Orleans Field Office Director to request a case review. See <https://www.ice.gov/ICEcasereview>.*

### **PD Email Limited Data Security Waiver**

Those engaging in email exchange with OPLA's prosecutorial discretion (PD) email addresses acknowledge and agree to a limited waiver of data security that shall only attach to the electronic service and transmittal of documents that may contain sensitive personally identifiable information (SPII). Senders to the email addresses should be aware, however, that ICE cannot ensure that information transmitted outside of the DHS network will remain secure during transmission. This waiver applies to both your receipt of information transmitted by ICE and the transmission of information from you to ICE. Please also be advised that (1) from the time information leaves the DHS network until receipt by your email system and (2) during the time that information is being transmitted by your email system to the DHS network, the information contained within the email, including but not limited to SPII, is not necessarily secure against interception. You are strongly encouraged to encrypt any documents containing SPII prior to sending it to OPLA via email and to send passwords under separate email. By participating in use of the PD email addresses, you expressly agree to assume the risk that SPII may be intercepted during transmission to or from the DHS network and, as a result, be obtained by or disclosed to third-parties.