

## **CORRECTIVE ACTION PLAN**

**Report:** U.S. Asylum System: Significant Variation Existed in Asylum Outcomes across Immigration Courts and Judges

**Recommendation:** That the Executive Office for Immigration Review develop a plan for supervisory immigration judges, to include an assessment of the resources.

**Final Product 2:** Continuing Education Plan for ACIJs

**Task 2:** Conduct assessment to determine skills, knowledge, and abilities necessary to effectively perform identified ACIJ duties and tasks.

**Due:** 2-28-09

### **SKILLS, KNOWLEDGE, AND ABILITIES NECESSARY TO PERFORM ASSISTANT CHIEF IMMIGRATION JUDGE TASKS AND DUTIES**

#### **A. Supervisory Functions**

1. Determine the number of staff necessary for effective operation of the court.
2. Adjust staffing levels.
3. Recruit qualified employees.
4. Select qualified employees.
5. Hire qualified employees.
6. Orient new employees.
7. Train employees or arrange for training.
8. Supervise court employees.
9. Set immigration judge agendas.
10. Distribute cases equitably among judges.
11. Assign duty and liaison judges.
12. Review IJ decisions for correctness.
13. Correct problems in IJ decisions.
14. Set up a system for even distribution of assignments to judicial law clerks.
15. Organize staff meetings and events.
16. Define the impact of a collective bargaining agreement on the supervision of an employee.
17. Oversee accurate employee time and attendance reporting.
18. Decide requests for leave.
19. Implement alternate work schedules.
20. Advise staff of agency rules, policies, directives, law, regulations, and procedures.
21. Enforce codes of conduct, ethics, and professional responsibility.
22. Implement performance work plans.
23. Review employee conduct and performance.
24. Identify deficiencies in employee conduct or performance.
25. Document employee conduct and performance.
26. Rate employee conduct and performance.
27. Address deficiencies in employee conduct or performance.
28. Reward positive conduct and performance.
29. Investigate complaints against employees.
30. Respond to complaints against employees.
31. Handle employee grievances and actions.
32. Enforce Equal Employment Opportunity and No Fear Act rules.
33. Build teams and coalitions.
34. Create a positive work environment.

35. Resolve employee conflicts and problems.
36. Prepare for the departure of an employee.
37. Decide requests for employee transfer or reassignment.

**B. Court Operations Functions**

1. Manage resources and supplies necessary for effective operation of the court.
2. Coordinate resource needs with the appropriate authorities.
3. Forecast potential changes in the court caseload.
4. Ensure proper use of government resources.
5. Plan for continued operations during times of resource shortages.
6. Ensure court is fully staffed during operating hours.
7. Enforce all agency policies, directives, rules, regulations, procedures, etc.
8. Determine court operation hours and closures.
9. Oversee operations in all hearing locations.
10. Coordinate operations with other court locations.
11. Participate in the Organizational Results Program.
12. Implement change based upon the Organizational Results reports.
13. Respond to requests for information.
14. Manage and coordinate court space and facilities.
15. Ensure standard security measures are in place.
16. Manage and maintain court computer systems and databases.
17. Manage and maintain court recording equipment.
18. Coordinate provision of competent interpreting services.
19. Oversee proper processing of certificates of interpretation.
20. Track court dockets and caseload.
21. Run and analyze court computer reports.
22. Respond to shifts in dockets and caseload.
23. Manage caseload priorities.
24. Oversee accurate reporting of case clock issues and adjournment codes.
25. Managing employee details and travel.
26. Oversee compliance with travel regulations and policies.
27. Ensure high quality customer service at each court location.
28. Coordinate public affairs and outreach programs.
29. Coordinate policy for arrest of aliens on EOIR property.
30. Coordinate pro bono and legal orientation programs.
31. Respond to correspondence.
32. Implement agency's mass migration plan.
33. Implement a stipulated removal program.
34. Implement procedures for handling juvenile and unaccompanied alien children.
35. Coordinate court criminal alien hearing program.
36. Address attorney discipline issues.
37. Address unauthorized practice of law or fraud.

**C. Case Processing Functions**

1. Oversee proper maintenance, storage, and retirement of court records.
2. Implement procedures for processing mail and case filings.
3. Implement procedures for handling classified materials.
4. Implement procedures for protecting confidential case information.
5. Ensure proper processing of case appeals.
6. Enforce court Practice Manual.

**D. Conducting Hearings**

1. Balance hearing cases with ACIJ duties.
2. Conduct hearings and ceremonies within the jurisdiction of the immigration judge.
3. Foster a bias-free environment and perception of access to the courts.



**E. Leadership/Management Skills**

1. Lead effectively.
2. Build teams.
3. Communicate effectively.
4. Conduct effective meetings.
5. Manage time effectively.
6. Foster employee wellness.
7. Manage stress.
8. Deal with high conflict personalities.
9. Foster sensitivity and cultural awareness.

**F. Special Projects**

1. Write clearly.

## CORRECTIVE ACTION PLAN

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**Recommendation:** That the Executive Office for Immigration Review develop a plan for supervisory immigration judges, to include an assessment of the resources.

**Final Product 2:** Continuing Education Plan for ACIJ's

**Task 1:** Analyze ACIJ position and develop a comprehensive list of duties and tasks performed by ACIJ's.

**Due:** 1-31-09

### DUTIES AND TASKS PERFORMED BY ASSISTANT CHIEF IMMIGRATION JUDGES

#### **I. Supervisory Functions**

- A. Staffing of immigration courts at appropriate levels.
  - 1. Working with the Office of the Chief Immigration Judge to determine appropriate staffing levels.
  - 2. Recruiting qualified employees.
    - a. Reviewing applications for employment.
    - b. Interviewing candidates for employment.
    - c. Checking references.
    - d. Evaluating candidates.
    - e. Selecting an employee.
  - 3. Hiring a selected employee.
    - a. Making an offer of employment.
    - b. Facilitating the employee's entry on duty.
    - c. Ensuring that all personnel and benefit matters are addressed.
  - 4. Orienting the new employee.
    - a. Ensuring mandatory new federal employee training is completed.
    - b. Ensuring job specific employee training takes place.
- B. Supervising court employees on a daily basis.
  - 1. Supervising court administrators and deputy court administrators.
  - 2. Supervising court interpreters and supervisory court interpreters.
  - 3. Supervising immigration judges.
    - a. Coordinating the mentoring program for new immigration judges.
    - b. Coordinating sending of new immigration judges to the new immigration judge training program.
    - c. Ensuring that new immigration judges are authorized to hear cases.
    - d. Setting up agendas for immigration judges.
    - e. Distributing cases equitably among judges based upon both quantity and complexity of cases assigned.
    - f. Assigning duty and liaison immigration judges.
    - g. Reviewing immigration judge decisions.
      - 1) Reviewing immigration judge decisions for disparity.
        - a) Identifying whether a disparity exists.
        - b) Determining the cause of the disparity.
        - c) Analyzing for patterns of reversal.
        - d) Taking appropriate action to correct disparate decision making.



- 2) Reviewing Board of Immigration Appeals decisions critical of the decision of an immigration judge.
    - a) Reassigning cases to another immigration judge where appropriate.
4. Supervising judicial law clerks and attorney advisors.
  - a. Assigning mentors for new judicial law clerks.
  - b. Participating in selection of judicial law clerks under the Attorney General's Honor Graduate Program.
  - c. Balancing the workload of judicial law clerks and attorney advisors between the various judges.
  - d. Organizing brown bag presentations by judicial law clerks and attorney advisors on various legal topics.
5. Supervising legal technicians and supervisory legal technicians.
6. Supervising volunteers and interns.
7. Supervising employees who are members of a collective bargaining unit.
  - a. Learning collective bargaining contract provisions.
  - b. Ensuring that employee rights under the contract are protected.
    - 1) Ensuring that employees are aware of their Weingarten rights.
  - c. Working with the National Association of Immigration Judges (NAIJ).
    - 1) Accommodating the court agenda for the NAIJ president and vice president.
    - 2) Approving official time for NAIJ activities.
  - d. Working with administrative and support staff collective bargaining units.
8. Supervising employees in a separate geographic location.
- C. Ensuring equitable distribution of work among employees.
- D. Ensuring that employees are aware of all available employee benefits.
- E. Handling time and attendance matters.
  1. Ensuring that employee time and attendance matters are accurately recorded and reported.
  2. Approving requests for leave (i.e., annual, sick, compensatory, administrative, without pay, other).
  3. Implementing and overseeing alternate work schedules.
- F. Overseeing training of employees.
  1. Ensuring that employees complete all mandatory training (i.e., computer security training, sexual harassment/EEO training, SF-278 training, Attorney General Professionalism Training, International Religious Freedom Act training, Trafficking Victim Protection Reauthorization Act Training, government ethics training, contracting officials training, No Fear Act training, etc.).
  2. Advising employees of other training opportunities.
    - a. Advising employees of Department sponsored training (e.g., National Advocacy Center, LearnDOJ, JustLearn, paralegal training, etc.).
    - b. Organizing court specific training programs (e.g., Westlaw training, LEXIS training, guest speaker programs, etc.).
  3. Coordinating training opportunities with the Assistant Chief Immigration Judge for Training.
  4. Facilitating peer observations for employees.
  5. Educating employees regarding educational resources (e.g., Immigration Judge Bench Book, Administrative Manual, Uniform Docketing System Manual, Immigration Court Practice Manual, the Immigration Law Advisor, the EOIR Intranet, the EOIR Virtual Law



Library, the EOIR Subject Matter Mentor Directory, Board of Immigration Appeals Library services, etc.).

- G. Communicating with the staff.
  - 1. Ensuring that staff is aware of new Department or agency directives or policies including, but not limited, to OPPM policy memos issued by the Office of the Chief Immigration Judge.
  - 2. Ensuring that staff is aware of changes in law and regulations.
  - 3. Ensuring that staff is aware of changes in the Practice Manual or other court procedures.
  - 4. Conducting staff meetings.
- H. Ensuring that employees comply with ethical rules and codes of conduct.
  - 1. Ensuring that government ethics rules are strictly adhered to.
    - a. Ensuring compliance with the Hatch Act.
  - 2. Ensuring that professional codes are strictly adhered to (e.g., attorneys and interpreters).
    - a. Reviewing requests for recusal of a judge directed to the Assistant Chief Immigration Judge.
- I. Implementing performance work plans.
  - 1. Reviewing employee performance and conduct.
    - a. Conducting mid-year performance reviews.
    - b. Conducting year end performance reviews.
    - c. Conducting probationary period reviews.
    - d. Contacting outside sources for performance and conduct input.
  - 2. Appraising employee performance and conduct.
  - 3. Rating employee performance and conduct.
- J. Addressing deficiencies in employee performance or conduct.
  - 1. Identifying employee problems.
    - a. Identifying performance problems.
    - b. Identifying conduct, temperament, and professionalism problems.
  - 2. Investigating problems.
    - a. Reviewing records.
    - b. Listening to hearings.
  - 3. Documenting performance review and actions.
  - 4. Taking corrective or adverse action if appropriate.
    - a. Counseling employees.
    - b. Issuing warning letters.
    - c. Providing additional employee training.
      - 1) Working with the Assistant Chief Immigration for Training to develop individualized training plans.
    - d. Reassigning employees.
    - e. Suspending employees.
    - f. Terminating employees.
  - 5. Referring disciplinary matters to the appropriate authorities (i.e., Chief Immigration Judge, Assistant Chief Immigration Judge for Professionalism, Assistant Chief Immigration Judge for Training, Office of Professional Responsibility, Office of the Inspector General, etc.).
- K. Recognizing positive performance and conduct through awards and other recognition.
  - 1. Recommending employees for cash awards.
  - 2. Recommending employees for on-the-spot awards.
  - 3. Recommending employees for time off awards.
- L. Handling complaints against employees.
  - 1. Reviewing complaints.
  - 2. Investigating complaints.
  - 3. Responding to complaints.

4. Cooperating with Office of Professional Responsibility investigations.
  5. Cooperating with Office of the Inspector General investigations.
  6. Addressing Board of Immigration Appeals referrals.
- M. Addressing employee grievances.
1. Implementing sexual harassment, equal employment, and No Fear Act rules and procedures.
    - a. Determining whether a reasonable accommodation can and should be provided.
  2. Coordinating a response to EEO and MSPB actions with agency officials.
- N. Encouraging team building among court employees.
1. Facilitating positive morale.
    - a. Organizing a Morale Committee.
    - b. Organizing staff celebrations and events.
  2. Resolving conflicts between employees.
  3. Creating the best possible work environment.
    - a. Ensuring positive workplace conditions.
- O. Handling problems of employees not relating to conduct or performance.
1. Counseling employees on personal issues.
    - a. Dealing with wellness and stress issues.
    - b. Dealing with employee personal and professional problems.
      - 1) Referring employees to employee assistance programs.
  2. Resolving disputes.
    - a. Dealing with high conflict personalities.
- P. Addressing the departure of an employee.
1. Planning for succession.
    - a. Assessing the impact of an employee departure on the court.
    - b. Training employees to perform the position to be vacated as early as possible.
      - 1) Preserving institutional memory where possible.
    - c. Coordinating issuance of a job announcement as early as possible.
    - d. Planning for a smooth reassignment of court cases.
  2. Referring the departing employee to the appropriate Human Resource office to process the leave of agency service.
  3. Determining requests for an employee transfer or reassignment.
    - a. Using the reassignment register to determine whether an employee is entitled to a reassignment.

## II. **Court Operation Functions**

### A. Managing court resources

1. Ensuring that each court has the necessary resources to function (i.e. strategic planning).
  - a. Keeping the Office of the Chief Immigration Judge apprised of resource needs.
2. Submitting to the Chief Executive Officer budget requests to ensure that court operations are properly funded.
3. Coordinating with the Department of Homeland Security and other federal, state, and local officials to predict likely changes in caseload.
4. Overseeing court purchasing and procurement.
  - a. Ensuring that each court has the necessary legal resources to properly function.
  - b. Ensuring that each court maintains an adequate stock of office supplies to properly function.
    - 1) Ensuring that current versions of all forms used by the court are adequately stocked.



- c. Overseeing proper use of government issued credit cards.
  - 5. Overseeing proper use of court resources.
    - a. Ensuring proper maintenance and use of government telephone service.
    - b. Ensuring proper maintenance and use of court computers, internet, and e-mail service.
    - c. Ensuring proper maintenance, use and functionality of video teleconferencing equipment.
    - d. Ensuring proper use of overnight mail service.
    - e. Ensuring proper use of contract interpreting service.
    - f. Ensuring proper use of government office supplies and equipment.
  - 6. Planning strategically for dealing with shortages in resources.
- B. Overseeing all court operations.
  - 1. Ensuring that the court is properly staffed during operating hours.
  - 2. Ensuring compliance with all Department and agency policies, procedures, and directives.
  - 3. Coordinating with all other EOIR components to ensure efficient operation of the court.
  - 4. Determining whether to close a court facility in accordance with proper procedures for medical reasons, for natural or man-made reasons, or for other causes.
  - 5. Visiting all hearing locations on a regular basis to ensure proper operations and oversight.
  - 6. Coordinating efforts with other courts and court managers.
    - a. Resolving jurisdictional issues with other courts.
    - b. Addressing change of venue issues with other courts.
    - c. Resolving inter-court disputes between court administrators, immigration judges, or other employees over operating matters or procedures.
  - 7. Participating in organizational results program evaluations.
    - a. Implementing changes based upon organizational results reviews.
  - 8. Responding to requests for information from EOIR or outside sources.
    - a. Implementing effective procedures for timely responding to Freedom of Information Act requests.
- C. Overseeing immigration court space and facilities.
  - 1. Assessing current and future space and facilities.
  - 2. Coordinating with the EOIR Space and Facilities staff regarding space, facilities, furniture, computer needs, etc.
    - a. Coordinating closure of an immigration court facility.
    - b. Coordinating opening of a new immigration court facility.
      - 1) Assisting to locate appropriate space.
      - 2) Assisting in planning build outs of existing space or building a new facility.
      - 3) Coordinating data transfers from a prior base city or hearing location.
    - c. Coordinating relocation of a court.
  - 3. Addressing facility maintenance issues.
- D. Overseeing court security.
  - 1. Coordinating with the EOIR Security Staff.
    - a. Ensuring that standard security measures are in place.
      - 1) Ensuring that employee access to ingress and egress to the facility (i.e., keys, pass cards, etc.) is properly controlled.



- 2) Ensuring that all employees are in possession of a valid agency identification document.
      - a) Coordinating implementation of HSPD 12 regarding new government identification documents.
    - 3) Ensuring regular safety drills and tests of security equipment.
    - 4) Ensuring that an emergency occupancy plan is in place.
    - 5) Coordinating court security guard services.
    - 6) Coordinating Federal Protective Service services.
  - b. Ensuring that all employees are advised regarding standard security procedures.
    - 1) Ensuring that employees are educated regarding personal safety.
- E. Overseeing court computer systems and technologies.
  - 1. Ensuring proper installation and operation of the court computer system with the Office of Information and Resource Management and the EOIR Help Desk.
  - 2. Ensuring that computer security procedures are closely followed.
  - 3. Ensuring successful implementation and use of the CASE case management system.
    - a. Ensuring case information is being properly entered and recorded.
  - 4. Coordinating installation of the Digital Audio Recording system in select immigration court locations.
- F. Overseeing court interpretation services.
  - 1. Coordinating interpretation services with the Language Services Unit.
    - a. Ensuring compliance with interpreter quality assurance measures.
      - 1) Providing records of a contract interpreter's first hearing.
      - 2) Addressing issues of unsatisfactory interpreter performance or conduct.
    - b. Ensuring proper processing of Certificates of Interpretation and Certificates of Telephonic Interpretation.
- G. Tracking court dockets and caseload.
  - 1. Reviewing court dockets and calendars on a regular basis.
    - a. Running CASE and COGNOS computer reports to manage court operations.
      - 1) Tracking case receipts, pending cases, off calendar cases and case completions.
      - 2) Taking appropriate action in response to court reports and caseload shifts.
        - a) Updating immigration judge agendas to meet caseload needs.
  - 2. Managing caseload priorities.
    - a. Tracking compliance with case completion goals relating to matters including, but not limited to, removal proceedings, aged cases, expedited asylum claims, detained cases, bond proceedings, claimed status review proceedings, and credible fear proceedings.
    - b. Determining whether waivers or exemptions to case goals are appropriate.
  - 3. Addressing "clock" issues relating to the length of time a matter or proceeding is pending.
    - a. Ensuring that appropriate hearing adjournment codes are being used.

- H. Managing employee details and travel.
  - 1. Selecting employees for mandatory details.
  - 2. Ensuring that employees comply with travel regulations.
  - 3. Approving travel authorizations and vouchers.
  - 4. Approving requests for compensatory time due to travel.
  - 5. Determining the need for employee assistance through incoming details.
  - 6. Approving requests for assistance of court employees through outgoing details.
  - 7. Considering the use of tele-video conferencing and other technologies in place of details and travel.
- I. Ensuring high quality customer service at each court location.
- J. Coordinating public affairs and outreach programs for the court.
  - 1. Conducting outreach and serving as liaison with the American Immigration Lawyers Association, contract detention facilities, the Department of Homeland Security (i.e., Immigration and Customs Enforcement, Detention and Removal Operations, Citizenship and Immigration Service, asylum offices, etc.), the private bar, the general public, non-governmental organizations, and others.
    - a. Addressing with DHS the issue of arrest of aliens at court locations.
  - 2. Coordinating with the Office of Public and Legislative Affairs (OPLA).
    - a. Providing information to OPLA in response to media and press requests.
    - b. Participating in the drafting of press releases including, but not limited to, topics such as the opening of new courts and the hiring of new judges.
    - c. Assisting in the drafting of agency and court informational brochures and resources.
  - 3. Providing tours to approved court visitors including, but not limited to, international guests and visitors.
  - 4. Speaking at functions as approved by the Office of General Counsel.
  - 5. Coordinating pro bono representation programs.
    - a. Coordinating with legal orientation program coordinators.
  - 6. Responding to correspondence.
- K. Implementing the agency's mass migration plan.
- L. Implementing a stipulated removal program.
- M. Implementing procedures for handling of juvenile and unaccompanied minor cases.
  - 1. Implementing measures to comply with the Trafficking Victims Protection Reauthorization Act.
- N. Overseeing the courts' criminal alien hearing program.
  - 1. Coordinating conducting criminal alien program hearings with appropriate detention facilities.
- O. Addressing problems of attorney/legal representative discipline.
  - 1. Instituting disciplinary action against respondent's counsel including, but not limited to, referring matters to EOIR Bar Counsel.
  - 2. Instituting disciplinary action against DHS counsel including, but not limited to, referring matters to DHS Office of Professional Responsibility.
  - 3. Taking action against "notarios" and other unauthorized practitioners.
  - 4. Referring matters involving fraud to the Office of General Counsel, Fraud Unit.

### III. Case Processing Functions

- A. Overseeing proper maintenance, storage, and retirement of court records.



1. Implementing procedures for proper processing of mail.
2. Implementing procedures for proper processing of case filings.
  - a. Implementing procedures for processing case "call ups."
3. Ensuring proper recording of hearings using Digital Audio Recording or cassette tapes.
4. Implementing procedures for proper handling of classified materials.
5. Implementing procedures for protecting confidential case information such as battered spouse case information.
- B. Ensuring proper processing of appeals in removal and bond proceedings.
- C. Ensuring compliance with court procedures including, but not limited to, the immigration court Practice Manual.
- D. Overseeing proper maintenance, storage, and retirement of court records.
  1. Implementing procedures for proper handling of classified materials.
  2. Implementing procedures for protecting certain case information such as information regarding battered spouses.

**IV. Conducting Hearings**

- A. Balancing hearing of immigration cases with ACIJ Duties.
- B. Hearing cases.
  1. Conducting removal proceedings.
  2. Conducting bond proceedings.
  3. Conducting withholding only proceedings.
  4. Conducting reasonable fear proceedings.
  5. Conducting credible fear proceedings.
  6. Conducting claimed status review proceedings.
  7. Conducting civil detention review proceedings.
  8. Conducting attorney discipline proceedings.
  9. Conducting rescission proceedings.
  10. Conducting departure control proceedings.
- C. Conducting a naturalization ceremony.
- D. Ensuring proper usage of administrative closure.
- E. Implementing measures to create a bias-free environment and ensure increased public perception of access to the courts.

**V. Leadership/Management Skills Employed**

- A. Leading effectively.
  1. Building teams.
  2. Communicating effectively.
  3. Conducting effective meetings.
  4. Managing time effectively.
- B. Managing employees.
  1. Fostering employee wellness.
  2. Managing stress.
  3. Dealing with high conflict personalities.
  4. Promoting customer service.
  5. Fostering sensitivity and cultural awareness.

**VI. Special Projects Handled by Assistant Chief Immigration Judges**

- A. Drafting and implementing an immigration court Practice Manual.
- B. Drafting and implementing an immigration judge Bench Book.
- C. Providing feedback on regulations.
- D. Implementing and overseeing OCIJ's professionalism program.
- E. Implementing and overseeing OCIJ's training program.
- F. Serving as ACIJ for Operations (e.g., developing policy and operations guidance, making changes to organizational structure, communicating with various components and agencies regarding OCIJ operational matters, supervising OCIJ

administrative staff, approving immigration judge agendas, reviewing and approving award nominations, etc.).

- G. Conducting collective bargaining negotiations.
- H. Drafting an Assistant Chief Immigration Judge Handbook.
- I. Serving as the Acting Chief Immigration Judge or a backup Assistant Chief Immigration Judge.

**VII. Attachments**

- A. Official Position Description for Supervisory Immigration Judge (Assistant Chief Immigration Judge).