

United States Senate

WASHINGTON, DC 20510

October 15, 2026

The Honorable Sirce E. Owen
Acting Director
Executive Office for Immigration Review
U.S. Department of Justice
5107 Leesburg Pike
Falls Church, VA 22041

Dear Acting Director Owen:

We write to express our concern regarding the Honolulu Immigration Court's dramatic shift away from video appearances by respondents and toward in-person hearings. That shift has its most striking impact on Hawaii's neighbor island residents, who now face the choice between flying to Oahu at their own expense or risking an in absentia order of removal.¹

Honolulu is the only immigration court in Hawaii, serving respondents who reside on Maui, Kauai, Hawaii Island, Molokai and Lanai. Accessing the court in Honolulu requires these residents to travel by air. For years, to overcome that obstacle, the court has conducted proceedings by video conference. This practice is permitted under the Immigration and Nationality Act² and consistent with the longstanding practice of the Executive Office for Immigration Review ("EOIR"). In November 2020, EOIR itself recognized the benefits of video teleconferencing³ for its immigration courts and respondents. In 2022, EOIR Director's Memorandum 22-07 directed immigration judges to accommodate a party's request for a remote appearance where appropriate and practicable.⁴

That established practice has now been abruptly reversed. According to a recent analysis of EOIR's own case data, 87 percent of neighbor island respondents with proceedings during July and August 2026 were required to travel to Oahu for at least one in-person hearing.⁵ During the same period in 2025, just under one-third were required to travel to Oahu. For respondents with out-of-state addresses, the percentage requiring an in-person appearance jumped to 82 percent, from 14 percent. In August 2026, 176 of the court's 249 hearings were in-person, compared to just 38 of 120 hearings in August 2025. Approximately 90 percent of hearings scheduled for October 2026 are marked as in-person, compared to 22 percent in October 2025. Practitioners report that respondents are now being ordered to appear in-person even when their counsel is

¹ INA § 240(b)(5)(A), 8 U.S.C. § 1229a(b)(5)(A).

² INA § 240(b)(2)(A)(iii), 8 U.S.C. § 1229a(b)(2)(A)(iii).

³ EOIR, Policy Memorandum 21-03, "Telephone and Video Conference Hearings" (Nov. 6, 2020), available at <https://www.justice.gov/eoir/reference-materials/OD2103/dl>.

⁴ EOIR, Director's Memorandum 22-07, "Internet-Based Hearings" (Aug. 11, 2022), available at https://iptp-production.s3.amazonaws.com/media/documents/2022.08.11_EOIR_DM_22-07_-_Internet-based_Hearings.pdf.

⁵ Jeremy Hay & Caitlin Thompson, "Judges' Crackdown on Virtual Hearings Adds Hurdles For Immigrants in Court," Honolulu Civil Beat (Sept. 29, 2026), <https://www.civilbeat.org/2026/09/judges-crackdown-virtual-hearings-immigrants-hawaii/>.

authorized to appear by video.⁶

The effect on neighbor island families is stark. A single hearing can now entail inter-island airfare, an overnight hotel room on Oahu, lost work hours, and unexpected childcare costs—expenses that low-income respondents cannot afford. And when respondents cannot make these appearances, the consequence can be an in absentia order of removal, regardless of the merits of their pending applications for asylum or petitions to adjust their status. Hawaii practitioners report that an increasing share of their clients—people who have lived in Hawaii for years, worked, paid taxes and raised families—are forced to waive viable claims rather than facing these costs.⁷

We understand that in March 2025, EOIR rescinded Director’s Memorandum 22-07. EOIR now asserts that the Director lacks authority to direct immigration judges how they should rule on motions for video hearings.⁸ If it is accurate that the decisional independence of immigration judges bars the Director from instructing them to grant such motions, it equally bars EOIR leadership from encouraging their denial.

We request written answers to the following from you by November 5, 2026 to help us understand what has changed and why:

1. All written guidance, training materials, communications, or informal direction given to immigration judges assigned to the Honolulu Immigration Court since March 14, 2025, regarding video or telephonic appearances by respondents, counsel or witnesses, motions to change venue, or the scheduling of in-person hearings, together with a description of any performance measures or expectations that could affect a judge’s decision to require an in-person appearance.
2. Has EOIR or the Office of the Chief Immigration Judge implemented any policy, formal or informal, to discourage or limit video appearances at the Honolulu Immigration Court or nationwide? If not, please explain what accounts for the changes described above.
3. For the Honolulu Immigration Court, for the period June 1 through September 30, 2026, and for the same period in 2025: (a) the number of hearings that were held in-person and by video; (b) the number of motions made by a respondent, counsel, or witness to appear by video, and the number that were granted and denied; (c) the number of motions to change venue that were filed and the number that were granted and denied; and (d) the number of in absentia removal orders that were entered. For both the 2025 and 2026 periods, please further break out each of those figures by the county in which the respondent resides (Honolulu, Maui, Kauai or Hawaii), by whether the respondent resides out of state, and by whether the respondent is detained or not detained.

⁶ *Id.*

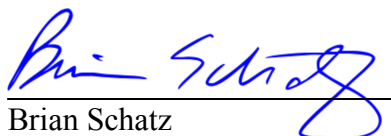
⁷ *Id.*

⁸ EOIR, Policy Memorandum 25-25, “Cancellation of Director’s Memorandum 22-07” (Mar. 14, 2025), available at <https://www.justice.gov/eoir/media/1393481/dl?inline>.

4. The steps EOIR will take to ensure that residents of the neighbor islands who cannot afford inter-island travel are not ordered removed, including whether EOIR will (a) implement a presumption, consistent with the approach of former Director's Memorandum 22-07,⁹ that respondents and counsel who can only reach the court by air may appear by video unless there is a specific finding that an in-person hearing is necessary; (b) set up video hearings or hearing days at least once per month on Maui, Kauai and Hawaii Island; and (c) require that a motion for a video appearance filed by a respondent who resides outside Oahu be ruled on with written reasons before the respondent is required to travel.

Hawaii's unique geography does not eliminate the due process rights of our nation's immigrants. We look forward to your response and thank you for your consideration of this matter.

Sincerely,



Brian Schatz
United States Senator



Mazie K. Hirono
United States Senator



Ed Case
Member of Congress



Jim Tokuda
Member of Congress

⁹ See Director's Memorandum 22-07, *supra* note 4.