

Requests to Review the Record of Proceeding

Revised: 6/8/2017

Summary: *How to process requests received in person or by mail to review the court's case files (ROPs); who may access case files; providing copies of case documents and/or digital audio (DAR) recordings; requests for certified copies.*

References: [Immigration Court Practice Manual, 1.6\(c\)](#)
[FOIA Requests \(ICPM\), Ch. 12](#)
[IIRIRA §384](#) (Penalties for Disclosure)

GENERAL

Requests to review an official record of proceeding (ROP) maintained by the court should generally be made in advance, either in person or in writing. If the request is made in person (at the front counter) and time/resources allow -- the ROP should be retrieved and the requester permitted to review the file (under supervision of court staff) at the time the request is made. If the ROP requested is stored at the Federal Records Center (FRC), the ROP should be ordered from FRC as a permanent withdrawal, and the requestor should be contacted when the ROP arrives at the court to schedule a review date/time.

WHO MAY HAVE ACCESS TO REVIEW THE ROP

Access to ROPs and copies of case documents may be provided to the following individuals:

- An **attorney of record** with an EOIR-28 Appearance on file.
- An **attorney with a signed release** from the respondent that allows for access to their file. (*See sample Signed Release form*). **NOTE:** The DOJ-361 "Certification of Identity" form may be used for this purpose, as long as it has been signed by the respondent.
- **Respondent** (respondent must appear in person with picture identification).
- **DHS official** (e.g., Assistant Chief Counsel, ICE Officer, Border Patrol Agent).
- "Other" designated officials (consult the Court Administrator).


NOTE: Law students who have filed both an EOIR-28 and "representation statement" as described in [8 C.F.R. § 1292.1 \(a\) \(2\)](#), and [ICPM -- 2.5\(b\)\(ii\)](#), may review ROPs. As long as the supervising attorney or faculty member has notified the court in advance -- law students may review case files without the supervising attorney being present.

Non-parties may request copies of case documents through a formal FOIA request. Requestors may be referred to the agency's **FOIA Service Center** at (703) 605-1297, or to the EOIR public website for FOIA information, at: www.justice.gov/eoir/foia-facts

ROP REVIEW PROCEDURE

STEP 1: Verify that the requestor is authorized to have access to the ROP (*see above*). For an attorney of record or respondent, check CASE data, then ask to see photo ID for verification. If access is not permitted, refer the requestor to the court's FOIA resources (DOJ/EOIR public website) to obtain copies of court documents. If access is allowed, make a photocopy of the requestor's ID and release letter if applicable, then complete a **File Review** form.

STEP 2: For case files stored on site, retrieve the ROP and arrange for the attorney or respondent to review the ROP privately with court staff supervision in the attorney/client (pro bono) room, or at the attorney table in an available courtroom. Reputable attorneys who are known to court staff may review ROPs in the lobby area. Attorneys and/or DHS officials should NOT be brought into the clerk's office for this purpose. If this type of supervised review is not immediately practical due to limited space or staff resources – please consult the Court Administrator for assistance.

 **IMPORTANT:** All items from the left side of the ROP (administrative documents) MUST be temporarily removed prior to providing the physical ROP for review by any party.

STEP 3: For case files requested which are not available on site (e.g., stored at FRC, currently with BIA, FOIA office, etc.), inform the requestor that the file will be ordered and the requestor notified when the ROP is available. Be sure to obtain the requestor's phone number, e-mail and mailing address on the File Review form. Track the request and ROP retrieval.

STEP 4: Following the ROP review, place a signed copy of the File Review form, photo ID and release letter in the left (administrative) side of the ROP. Add a comment to CASE with the date and name of the ROP reviewer.

REQUESTS FOR COPIES OF DOCUMENTS AND/OR AUDIO RECORDINGS

Parties authorized to review ROPs may also request copies of case documents and/or audio (tapes or DAR) recordings as a result of that review. In this limited instance, the File Review form may serve as the written request for copies.

There is no fee for copies of documents, CDs of digital audio (DAR) recordings, or copies of audio tapes. All reasonable requests should be fulfilled while the person waits, if possible. A “reasonable” copy request is generally 25 pages or less (see [*Immigration Court Practice Manual, 1.6\(c\)*](#)).

For requests which may take more time or when staff availability is limited, the requestor may be asked to return at a later date/time to pick up copies – or opt to receive them later by mail.

REQUESTS FOR CERTIFIED COPIES

Only the EOIR Court Administrator is authorized to **certify** copies of court documents, audio CDs and/or audio tapes of court proceedings. Please make copies of the requested items then contact the CA, who will provide a certification letter and seal for the certified items.

<Date>

DOJ/EOIR Immigration Court
One Federal Drive, Suite 1850
Fort Snelling, MN 55111

To: Immigration Court Clerk

From: <Respondent's Name>

< A# >

I hereby authorize <attorney's name> to be given full access to my immigration court case file maintained at the Bloomington/Fort Snelling, Minnesota Immigration Court. This authorization includes any request he/she may have for copies of documents from my case file.

Signature

Printed Name

SAMPLE