

Request for Records Disposition Authority

Records Schedule Number DAA-0582-2017-0002

Schedule Status Approved

Agency or Establishment Executive Office for Immigration Review

Record Group / Scheduling Group Records of the Executive Office for Immigration Review

Records Schedule applies to Agency-wide

Schedule Subject Attorney Discipline Program Records

Internal agency concurrences will be provided No

Background Information

The Executive Office for Immigration Review (EOIR) was created on January 9, 1983, through an internal Department of Justice (DOJ) reorganization which combined the Board of Immigration Appeals (BIA or Board) with the Immigration Judge function previously performed by the former Immigration and Naturalization Service (INS). The reorganization made the Immigration Courts independent from the agency charged with enforcement of Federal immigration laws. The 2003 creation of the Department of Homeland Security (DHS) removed INS from DOJ, further separating DHS and EOIR functions.

The primary mission of EOIR is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings. EOIR is accorded bureau level status for the administration of information and records management under Record Group 582.

In June 2000, the EOIR implemented the regulation, "Professional Conduct for Practitioners – Rules and Procedures," to protect the public, preserve the integrity of immigration proceedings and adjudications, and maintain high professional standards among immigration practitioners.

The term "practitioners" applies to private immigration attorneys and representatives who are authorized to represent aliens before EOIR's immigration court and the Board, EOIR's appellate component. It does not apply to government attorneys because they are subject to separate regulations and disciplinary procedures.

The EOIR Attorney Discipline Program resides in the Office of the General Counsel (OGC). Proceedings created as a result of the Attorney Discipline Program may include paper and electronic files created by Disciplinary Counsel, attorneys supporting the program, or program staff; and paper and electronic adjudication files of the BIA, the Office of Chief Immigration Judge (OCIJ), and/or the Office of the Chief Administrative Hearing Officer (OCAHO).

The Attorney Discipline Program receives complaints of professional misconduct or notices of disciplinary action against practitioners through multiples sources, such as: practitioner self-reporting; the public; immigration judges; the Board; DHS attorneys; or State Bar Disciplinary Counsel. In response to a complaint, the Attorney Discipline Program may: (1) determine that the complaint is without merit and take no further action; (2) refer the complaint to a federal or state disciplinary or law enforcement authority; (3) issue warning letters and admonitions or enter into agreements in lieu of discipline; (4) file a Notice of Intent to Discipline with the Board based on prima facie evidence of professional misconduct; or (5) file with the Board a Petition for Immediate Suspension and Notice of Intent to Discipline if a practitioner has been convicted of a serious crime or has been suspended or disbarred by the highest court of any State or any Federal court. 8 C.F.R. §§ 1003.103(a), (b), 1003.104(b), (c), (d), 1003.105(a), 1003.106(d).

In cases involving a Notice of Intent to Discipline, a practitioner may file a written response and request a hearing on a material issue of fact in dispute 8 C.F.R. §§ 1003.105(c). If no material issue of fact is in dispute, the Board retains jurisdiction and issues a final order 8 C.F.R. § 1003.106(a). If a material issue of fact is in dispute, the case is referred to an OCIJ or OCAHO adjudicating official for a hearing. 8 C.F.R. § 1003.106(a)(i). After the conclusion of the hearing, the adjudicating official renders a decision that may be appealed by either party to the Board. 8 C.F.R. § 1003.106(b), (c).

To facilitate the attorney discipline adjudication process, EOIR developed an electronic database that contains information to track complaints from receipt through final disposition. The system is segregated by need to know user controls and allows authorized users to track various stages of the proceedings. The system also contains templates to generate letters, notices, and decisions used in the attorney discipline process. The system can generate reports by case status and disposition.

Item Count

Number of Total Disposition Items	Number of Permanent Disposition Items	Number of Temporary Disposition Items	Number of Withdrawn Disposition Items
7	0	7	0

GAO Approval

0004

Outline of Records Schedule Items for DAA-0582-2017-0002

Sequence Number	
1	Disciplinary Counsel Attorney Discipline Program Files
1.1	Formal Discipline Case Files Disposition Authority Number: DAA-0582-2017-0002-0001
1.2	Non Reinstatement Case Files Disposition Authority Number: DAA-0582-2017-0002-0002
1.3	Referral, Warning, and Admonition Case Files Disposition Authority Number: DAA-0582-2017-0002-0003
1.4	Case Files Closed Without Further Action on a Complaint Disposition Authority Number: DAA-0582-2017-0002-0004
2	Adjudicating Official Attorney Discipline Case Files
2.1	Formal Discipline Case Files Disposition Authority Number: DAA-0582-2017-0002-0005
2.2	Requests for Reinstatement Case Files Disposition Authority Number: DAA-0582-2017-0002-0006
2.3	Non Reinstatement Cases. Disposition Authority Number: DAA-0582-2017-0002-0007

Records Schedule Items

Sequence Number	
1	<p>Disciplinary Counsel Attorney Discipline Program Files Records regarding practitioners subject to EOIR discipline.</p>
1.1	<p>Formal Discipline Case Files</p> <p>Disposition Authority Number DAA-0582-2017-0002-0001</p> <p>Disciplinary Counsel Formal Discipline Case Files consist of cases that involve formal disciplinary proceedings before the Board and/or an Adjudicating Official and that result in a private censure or public discipline, such as disbarment, expulsion, suspension, or public censure. These files may also contain records regarding reinstatement, referrals to outside entities, disciplinary complaints, evidence related to the complaints, correspondence, Government and practitioner filings, and disciplinary decisions.</p> <p>Final Disposition Temporary</p> <p>Item Status Active</p> <p>Is this item media neutral? Yes</p> <p>Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes</p> <p>Do any of the records covered by this item exist as structured electronic data? Yes</p> <p>Disposition Instruction</p> <p>Cutoff Instruction Cut off at the end of the calendar year in which reinstatement occurs, or upon the conclusion of imposed disbarment, expulsion, suspension, or censure.</p> <p>Retention Period Destroy 15 year(s) after cutoff.</p> <p>Additional Information</p> <p>GAO Approval Not Required</p>
1.2	<p>Non Reinstatement Case Files</p> <p>Disposition Authority Number DAA-0582-2017-0002-0002</p> <p>Cases where the practitioner is ineligible for reinstatement or where the practitioner does not request reinstatement to practice during or upon conclusion of a suspension period.</p>

1.3

Final Disposition Temporary

Item Status Active

Is this item media neutral? Yes

Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes

Do any of the records covered by this item exist as structured electronic data? Yes

Disposition Instruction

Cutoff Instruction Cut off ten years after the final decision is issued.

Retention Period Destroy 25 year(s) after cutoff or when death of the subject occurs, whichever is sooner

Additional Information

GAO Approval Not Required

Referral, Warning, and Admonition Case Files

Disposition Authority Number DAA-0582-2017-0002-0003

Cases which result in the issuance of a warning, admonition, or agreement in lieu of discipline, or those which are referred for further action to a federal or state disciplinary or law enforcement authority.

Final Disposition Temporary

Item Status Active

Is this item media neutral? Yes

Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes

Do any of the records covered by this item exist as structured electronic data? Yes

Disposition Instruction

Cutoff Instruction Cut off files upon issuance of referral, warning, or admonition.

Retention Period Destroy 6 year(s) after cutoff

Additional Information

	GAO Approval Not Required
1.4	Case Files Closed Without Further Action on a Complaint
	Disposition Authority Number DAA-0582-2017-0002-0004
	Cases which are closed without action after investigation.
	Final Disposition Temporary
	Item Status Active
	Is this item media neutral? Yes
	Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes
	Do any of the records covered by this item exist as structured electronic data? Yes
	Disposition Instruction
	Cutoff Instruction Cut off files upon completion of EOIR investigation.
	Retention Period Destroy 2 year(s) after cutoff
	Additional Information
	GAO Approval Required and Received
2	Adjudicating Official Attorney Discipline Case Files
	Case Files may consist of pleadings, Government and practitioner filings and notices, evidence, orders, correspondence, testimony, and decisions.
2.1	Formal Discipline Case Files
	Disposition Authority Number DAA-0582-2017-0002-0005
	Adjudicatory Case Files consist of formal disciplinary proceedings before the Board and/or an Adjudicating Official that result in a private censure or public discipline, such as disbarment, expulsion, suspension, or public censure. These files may also contain records regarding reinstatement.
	Final Disposition Temporary
	Item Status Active
	Is this item media neutral? Yes
	Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes
	Do any of the records covered by this item exist as structured electronic data? Yes

2.2

Disposition Instruction

Cutoff Instruction Cut off annually at the end of the calendar year in which reinstatement occurs or upon the conclusion of imposed disbarment, expulsion, suspension, or censure.

Retention Period Destroy 15 year(s) after cutoff.

Additional Information

GAO Approval Not Required

Requests for Reinstatement Case Files

Disposition Authority Number DAA-0582-2017-0002-0006

Case Files exist where the practitioner files before the Board, a petition for reinstatement to practice, during, upon, or within 10 years of the disbarment, or at the conclusion of the suspension period.

Final Disposition Temporary

Item Status Active

Is this item media neutral? Yes

Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing? Yes

Do any of the records covered by this item exist as structured electronic data? Yes

Disposition Instruction

Cutoff Instruction Cut off files upon most recent decision on reinstatement.

Retention Period Destroy 10 year(s) after cutoff.

Additional Information

GAO Approval Not Required

2.3

Non Reinstatement Cases.

Disposition Authority Number DAA-0582-2017-0002-0007

Cases where the practitioner is ineligible for reinstatement or where the practitioner does not request reinstatement to practice during or upon conclusion of a suspension period.

Final Disposition Temporary

Item Status	Active
Is this item media neutral?	Yes
Do any of the records covered by this item currently exist in electronic format(s) other than e-mail and word processing?	Yes
Do any of the records covered by this item exist as structured electronic data?	Yes
Disposition Instruction	
Cutoff Instruction	Cut off 10 years after the final decision
Retention Period	Destroy 25 year(s) after cutoff or when death of the subject occurs, whichever is sooner
Additional Information	
GAO Approval	Not Required

Agency Certification

I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal in this schedule are not now needed for the business of the agency or will not be needed after the retention periods specified.

Signatory Information

Date	Action	By	Title	Organization
02/27/2017	Certify	Cecelia Espenoza	Records Officer - Sr Assoc General Counsel	Executive Office for Immigration Review - Office of the General Counsel
03/07/2017	Return for Revision	Ashby Crowder	Archives Specialist	National Archives and Records Administration - ACRA
04/18/2017	Submit For Certification	Cecelia Espenoza	Records Officer - Sr Assoc General Counsel	Executive Office for Immigration Review - Office of the General Counsel
04/18/2017	Certify	Cecelia Espenoza	Records Officer - Sr Assoc General Counsel	Executive Office for Immigration Review - Office of the General Counsel
10/11/2017	Submit for Concurrence	Ashby Crowder	Archives Specialist	National Archives and Records Administration - ACRA
10/24/2017	Concur	Margaret Hawkins	Director of Records Management Services	National Records Management Program - ACNR Records Management Services
10/24/2017	Concur	Margaret Hawkins	Director of Records Management Services	National Records Management Program - ACNR Records Management Services
10/25/2017	Approve	David Ferriero	Archivist of the United States	Office of the Archivist - Office of the Archivist