



ASIAN AMERICANS
**ADVANCING
JUSTICE**
AAJC



April 7, 2026

Submitted via Regulations.gov

Jamee E. Comans
Acting Assistant Director
Office of Policy
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2500
Falls Church, VA 22041

Re: Appellate Procedures for the Board of Immigration Appeals, EOIR Docket No. EOIR–26–AB37 | RIN 1125–AB37

Dear Assistant Director Comans:

Asian Americans Advancing Justice | AAJC (AAJC) and the Southeast Asia Resource Action Center (SEARAC) respectfully submit this comment in response to the Executive Office of Immigration Review’s (EOIR) interim final rule (IFR) fundamentally restructuring appellate review before the Board of Immigration Appeals (BIA).¹ Southeast Asian deportation cases are complicated and involve significant barriers to representation. These cases are often dependent on meaningful appellate review. The IFR’s limitations will have a disproportionate impact on Southeast Asian immigrants and refugees, particularly those who have had contact with the criminal legal system. For this reason, we urge EOIR to rescind the IFR.

Asian Americans Advancing Justice | AAJC is a national non-profit, non-partisan organization founded in 1991. Our mission is to advance the civil and human rights of Asian Americans and build and promote a fair and equitable society for all. Our wide-ranging efforts include

¹ Appellate Procedures for the Board of Immigration Appeals,” *Federal Register* 91, no. 25 (February 6, 2026): 5267–5278, <https://www.federalregister.gov/documents/2026/02/06/2026-02326/appellate-procedures-for-the-board-of-immigration-appeals>

promoting civic engagement, forging strong and safe communities, and creating an inclusive society. Furthermore, advocacy on immigration policy has been central to Advancing Justice | AAJC's work from the beginning.

SEARAC is a national civil rights organization that advances the rights and opportunities of Southeast Asian American refugees from Cambodia, Laos, and Vietnam and their descendants. Our communities are uniquely and disproportionately impacted by the U.S. deportation system, particularly individuals with prior contact with the criminal legal system, many of whom have decades old convictions tied to the structural conditions of refugee resettlement, poverty, and over-policing.

The Executive Office of Immigration Review Should Rescind the Interim Final Rule

This IFR represents one of the most sweeping rollbacks of administrative appellate review in modern immigration adjudication. By making merits review discretionary, imposing default summary dismissal, and drastically shortening the appeal and briefing timelines, the rule effectively transforms the BIA into a mechanism that significantly limits meaningful review in cases that warrant thorough consideration.

The IFR introduces several structural changes to the BIA appellate process that disadvantage SEAs:

- Default summary dismissal of appeals unless a majority of BIA members affirmatively vote to review the case on the merits within a short window;
- Reduction of the appeal filing deadline from 30 days to 10 days; and
- Simultaneous and compressed briefing schedules, typically requiring briefs within 20 days and limiting extensions.

If no action is taken by the Board within a short timeframe, the immigration judge's decision automatically becomes the final agency decision. Together, these provisions represent a fundamental shift away from error-correcting appellate review toward rapid case disposition.

For Southeast Asian Americans who have had contact with the criminal legal system, the consequences are especially severe. This IFR disproportionately impacts SEAs and will accelerate deportations, reduce critical safeguards against legal error, and increase the likelihood of removal to countries where these individuals have no meaningful ties.

The Historical and Structural Context of Southeast Asian Deportations Is Unique

SEAs are uniquely situated within the U.S. immigration enforcement system due to the intersection of forced displacement, resettlement conditions, and criminalization. Many individuals now facing deportation for prior contact with the criminal legal system arrived in the United States as refugees in the aftermath of U.S. military involvement in Southeast Asia. They were often resettled into communities with limited economic opportunity, under-resourced

schools, and minimal culturally competent services.² These structural conditions contributed to increased contact with the criminal legal system during the 1980s and 1990s.

For example, many SEAA youths were subjected to disproportionate policing and sentencing practices, collectively creating a school-to-prison-to-deportation pipeline within the Southeast Asian community while simultaneously removing the primary source of income from already impoverished households. During the prison boom of the 1990s, the Asian American and Pacific Islander prisoner population grew by 250 percent.³

During this time, Asian juveniles in California were more than twice as likely to be tried as adults compared to white juveniles who committed similar crimes.⁴ And arrests of AAPI youth in the United States increased by 726 percent from 1977–1997.⁵ In cities such as Oakland, AAPI youth have had very high arrest rates: Cambodians with 63 per 1000 individuals and Laotians with 52 per 1000.⁶ Another study by the California Youth Authority in 2002 found that Cambodian and Laotian youth were incarcerated at 4 and 9 times the rate that would be expected by their respective populations.⁷ Vietnamese and Laotian youth had the second and third highest arrest rates in Richmond in 2000 after African American youth.⁸

Subsequent changes to immigration law, especially the expansion of deportation grounds under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, retroactively rendered many long-term lawful permanent residents deportable for past convictions. As a result, Southeast Asian deportation cases today reflect the cumulative effects of U.S. foreign policy, refugee resettlement failures, and criminal legal system disparities.

Available federal and independent datasets show that Southeast Asian deportations are primarily based on prior convictions, often from years or decades in the past. Between January 2025 and October 2025, deportation data show that individuals from Cambodia, Laos, and Vietnam continued to be removed from the United States primarily on prior contact with the criminal

² Southeast Asia Resource Action Center and Asian Americans Advancing Justice—Los Angeles, *Southeast Asian American Journeys: A National Snapshot of Our Communities* (2020).

³ Oh, Angela E. and Karen Umemoto. “Asian Americans and Pacific Islanders: From incarceration to re-entry,” *Amerasian Journal*, 31, no. 3 (2005):43-59.

⁴ Males, Mike and Dan Macallair. *The Color of Justice: An Analysis of Juvenile Adult Court Transfers in California*, (Washington, DC: Building Blocks For Youth, 2000).

⁵ Asian/Pacific Islander Youth Violence Prevention Center, *Asian/Pacific Islander Communities: An Agenda for Positive Action*, (Oakland: National Council on Crime and Delinquency, 2001).

⁶ API Youth Violence Prevention Center, *Under the Microscope: Asian and Pacific Islander Youth in Oakland - Needs, Issues, Solutions*, (Oakland: National Center for Crime & Delinquency, 2007).

⁷ Arifuku, Isami, Delores D. Peacock, and Caroline Glesmann, “Profiling Incarcerated Asian and Pacific Islander Youth: Statistics Derived from California Youth Authority Administrative Data,” *AAPI Nexus*, 4, no. 2 (2006): 69-93.

⁸ Thao Le et al. *Not Invisible: Asian Pacific Islander Juvenile Arrests in Alameda County* (Oakland: National Council on Crime and Delinquency, 2001), 25.

legal system.⁹ Historical data further underscores this pattern. According to the U.S. Department of Homeland Security’s *Yearbook of Immigration Statistics*, the majority of removals to Cambodia, Laos, and Vietnam over the past two decades have involved individuals with prior convictions.¹⁰ As a result, Southeast Asian cases entering the appellate system today are disproportionately dependent on full review, precisely the type of review that the IFR curtails.

Southeast Asian Cases that Require Appellate Review Would be Significantly Disadvantaged Because of the IFR

A defining feature of Southeast Asian deportation cases is that many individuals are long-term lawful permanent residents whose cases involve prior contact with the criminal legal system¹¹ and whose countries of origin that have historically resisted repatriation or have a long history of documented human rights concerns with regards to select ethnic groups. For example, in a December 2021 report, the United Nations outlined escalating targeting, discrimination, and violence of the Hmong in Laos related to the forced disappearances of four Hmong individuals.¹²

These unique features make SEAs particularly vulnerable under the changes in the IFR. The summary dismissal changes, for example, would make it extremely difficult for any case, much less the more complex cases involving contact with the criminal legal system, to be reviewed. This defeats the core purpose of the BIA and its role as an appellate body and significantly increases the likelihood that prior errors will go unnoticed. Because Southeast Asian deportation cases often involve older convictions and incomplete records, they are particularly susceptible to misclassification and legal error. For this population, the BIA’s role as an error-correcting body is essential to determine if these long-term residents are eligible for the limited relief available to them, such as a withholding of removal or a cancellation of removal.

In addition, the IFR’s shortening of appeal filing deadlines and compression of briefing schedules also disproportionately and negatively affects SEAs. Because of the complex nature of cases involving criminal legal system contact, competent legal representation is extremely difficult to obtain. Proper representation for SEAs must be both familiar with the immigration legal system and the criminal legal system, in addition to the historical context of Southeast Asian refugees related to their countries of origin. It requires highly specialized attorneys in an environment where legal representation is already difficult to find.

⁹ Deportation Data Project, “Immigration and Customs Enforcement (ICE) Data: Processed Detentions (Stay-Level Dataset),” accessed April 4, 2026, <https://deportationdata.org/data/processed/ice.html>.

¹⁰ U.S. Department of Homeland Security, Office of Homeland Security Statistics, “Noncitizen Removals by Criminal Status and Region and Country of Nationality,” *Yearbook of Immigration Statistics*, various years (2002–2022), accessed April 4, 2026, <https://ohss.dhs.gov/topics/immigration/yearbook/2022>.

¹¹ See nn. 9 and 10 above.

¹² United Nations Human Rights Council, *Cooperation with the United Nations, Its Representatives and Mechanisms in the Field of Human Rights: Report of the Secretary-General*, A/HRC/48/28 (December 1, 2021), sec. on Lao People’s Democratic Republic (Hmong), <https://docs.un.org/en/A/HRC/48/28>.

The change from a 30-day appeal window to a 10-day deadline would prevent many SEAs from finding a qualified attorney to represent their appeal. Even in the cases where a SEA finds one of the few attorneys capable of adequately representing them, the compressed briefing schedule makes it exceedingly difficult to provide a full and comprehensive legal representation. The IFR would force a significant portion of SEA cases into summary dismissal and emphasize speed over the individualized analysis these cases demand.

By limiting access to meaningful appellate review in cases that are legally complex and resource-intensive, the IFR significantly increases the risk of erroneous deportation for Southeast Asians. The consequences of these errors are irreversible. These individuals would be deported to countries where they may have no meaningful ties; face permanent separation from their families and communities; and face possible human rights abuse at the hands of a government they already fled.

The IFR fundamentally alters the nature of appellate review in immigration proceedings. For Southeast Asian Americans facing deportation, this rule removes critical safeguards at the very moment they are most needed. This rule will determine whether individuals are deported without meaningful appellate review, despite decades of residence, demonstrated rehabilitation, and strong family ties in the United States. AAJC and SEARAC urge EOIR to rescind this IFR to ensure that the immigration system remains fair, accurate, and just. If you have any questions, please reach out to Martin Kim, Director of Immigration Advocacy, at mkim@advancingjustice-aaajc.org or Kham S. Moua, National Deputy Director, at kham@searac.org.

Sincerely,

Asian Americans Advancing Justice | AAJC

Southeast Asia Resource Action Center