Change of Venue in Executive Office for Immigration Review Proceedings: A Legal Research Report

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FINDINGS

CHANGE OF VENUE IN EXECUTIVE OFFICE FOR IMMIGRATION REVIEW PROCEEDINGS: A COMPREHENSIVE LEGAL RESEARCH REPORT

Executive Summary

This report examines the procedures, substantive standards, and practical implementation of motions to change venue in proceedings before the Executive Office for Immigration Review (EOIR) immigration courts. Change of venue in immigration proceedings refers to the formal process by which a respondent or the Department of Homeland Security may request that an immigration court transfer jurisdiction over a removal case to a different geographic location. The authority to grant such motions derives from [8 U.S.C. § 1003.20(b)][1], which establishes that an immigration judge "for good cause, may change venue only upon motion by one of the parties, after the charging document has been filed with the Immigration Court," and only after "the other party has been given notice and an opportunity to respond to the motion to change venue."[1]

The current controlling guidance for immigration judges adjudicating change of venue motions is Operating Policies and Procedures Memorandum 18-01 (OPPM 18-01), issued by the Chief Immigration Judge on January 17, 2018.[2][16] This memorandum establishes that while immigration judges retain broad discretion in the venue change context, certain categories of motions are disfavored: more than two motions by the same party, motions filed solely for dilatory purposes, and motions filed after the merits hearing has commenced.[2][13] The disfavor is not absolute, however-immigration judges may grant such motions if good cause is demonstrated.

Key findings from this research include the following: First, venue initially lies at the immigration court where the Department of Homeland Security files the Notice to Appear; this initial venue can only be changed upon motion by one of the parties and cannot be changed sua sponte by the immigration judge or administratively by EOIR without party consent (except in limited clerical transfer situations).[3][20][23][43][51] Second, "good cause" for venue change is determined by balancing multiple factors including administrative efficiency, expeditious adjudication, location of witnesses, and relative costs to the parties-the respondent's actual or intended place of residence is not independently determinative.[49][52] Third, Form EOIR-33/IC (Change of Address/Contact Information Form) must be filed within five business days of any address change, and a Motion to Change Venue packet must include this form, detailed explanation of grounds, documentary evidence, fixed street address for hearing notification, and a proposed order.[7][17][35][38] Fourth, once venue is changed, the receiving immigration judge is not free to hear the case de novo but must apply the law of the case doctrine and respect all legal conclusions and orders from the sending judge, with limited exceptions.[2][13][25][41][59] Fifth, timing of the motion matters significantly-cases ready for merits hearing should be scheduled for individual hearing in the new venue without intervening master calendar hearing, while cases requiring master calendar hearing must have that hearing scheduled within 14 days (detained) or 60 days (non-detained) of the venue change grant.[2][5][13][25][31][45]

The qualitative assessment of likelihood of success for a venue change motion depends heavily on the specific grounds alleged, whether the non-moving party opposes the motion, and the complexity of implementation for the receiving court. Motions based on relocation of the respondent to a new jurisdiction with a fixed address, where DHS does not oppose or cannot demonstrate prejudice, present a low to medium risk of denial. Motions

based on witness location and transportation burden, or ineffective assistance of counsel issues, present medium risk and require more detailed evidentiary showings. Motions filed after commencement of the merits hearing present medium to high risk of denial absent exceptional circumstances. Motions that constitute a respondent's third or subsequent request for venue change face strong headwinds under OPPM 18-01 unless circumstances have materially changed.

Legal Framework Governing Change of Venue in Immigration Proceedings

Statutory Authority and Regulatory Foundation

The foundational statutory authority for change of venue in immigration proceedings is codified at [8 U.S.C. § 1229a(b)(5)][1], which is implemented through regulatory framework at [8 C.F.R. § 1003.20][1][4]. The regulation provides that venue for immigration court proceedings initially lies at the immigration court where the charging document (Notice to Appear) is filed by the Department of Homeland Security.[1][2][13] The regulation further provides that "the Immigration Judge, for good cause, may change venue only upon motion by one of the parties, after the charging document has been filed with the Immigration Court" and that "the Immigration Judge may grant a change of venue only after the other party has been given notice and an opportunity to respond to the motion to change venue."[1][4]

A critical requirement-one that has been the subject of recent litigated interpretation-is the mandatory identification of a fixed street address where the respondent may be reached for further hearing notification.[1][2][5][13][38][39][41][57]. This requirement, codified at [8 C.F.R. § 1003.20(c)][1][4], is not merely procedural: "A motion for COV should not be granted without identification of a fixed street address, including city, state and ZIP code, where the movant can be reached for further hearing notification."[2][13][31][41][59] The purpose of this requirement is twofold: first, to ensure that the receiving immigration court has the means to notify the respondent of scheduled hearings at the new location, and second, to enable the sending court to determine the correct receiving court to which the case should be transferred.[2][5][13][31][41][59]

The regulatory framework also imposes a related procedural obligation distinct from the motion to change venue itself. Form EOIR-33/IC, the "Change of Address/Contact Information Form," must be filed separately with both the immigration court and DHS within five business days of any change to the respondent's contact information, including a relocation.[7][10][11][17][24][35][44][47]. This five-day deadline is mandatory and applies regardless of whether the respondent files a motion to change venue.[7][10][11][17][35][44]. Immigration judges and court staff are instructed not to update a respondent's address on file based on information appearing in motions or pleadings alone; only receipt of the completed Form EOIR-33/IC triggers official address updates in EOIR's records.[11][24][44].

OPPM 18-01 and Contemporary Judicial Guidance

On January 17, 2018, the Chief Immigration Judge issued OPPM 18-01, titled "Change of Venue," which replaced the prior guidance document OPPM 01-02 (in effect since October 9, 2001).[2][5][16][25][31][41][45][59]. The memorandum does not create new substantive law but rather provides explicit guidance to immigration judges on how to exercise their discretion under the existing regulatory framework.[2][5][16]. The memorandum is not binding in the sense that an immigration judge cannot be overruled for deviating from it, but it carries significant weight as official EOIR policy guidance and reflects the administration's expectations for judicial conduct.[2][5][31][41][45][59].

OPPM 18-01 makes explicit several key principles regarding venue change motions. First, the memorandum

acknowledges that "changes of venue necessarily delay case adjudications and create caseload management difficulties."[2][13][31][41][45][59] For this reason, the memorandum establishes a framework of judicial skepticism toward certain categories of venue change motions: "more than two motions to change venue by the same party are disfavored," "motions to change venue solely for dilatory purposes should not be condoned by Immigration Judges," and "motions to change venue after a merits hearing has begun are strongly disfavored."[2][5][13][31][41][45][59]

Critical language in OPPM 18-01 clarifies the scope of this disfavor: the final section of the memorandum explicitly states that "these are just guidelines; this does not mandate the outcome of any case. Immigration judges still have discretion to grant motions to change venue in these disfavored situations."[5][16] This language is crucial for practitioners: while OPPM 18-01 creates a rebuttable presumption against certain categories of motions, immigration judges retain the authority to grant such motions if sufficient good cause is demonstrated and judicial discretion is appropriately exercised.[5][16][31][41][45].

Recent Board of Immigration Appeals Precedent on Venue and Choice of Law

Two Board of Immigration Appeals decisions issued in 2023 and 2024 have significantly clarified the relationship between venue determination and choice of law in immigration proceedings. [In Matter of Garcia, 28 I&N Dec. 693 (BIA 2023)][3][9][20][23][43][51], the Board held that "the controlling circuit law in Immigration Court proceedings for choice of law purposes is the law governing the geographic location of the Immigration Court where venue lies, namely where jurisdiction vests and proceedings commence upon the filing of a charging document."[3][9][20][23][43][51] This decision established that venue, for choice-of-law purposes, is determined by the location where the Notice to Appear was filed, not by where the immigration judge conducting the hearing is physically located (which had been a source of confusion in multi-circuit proceedings conducted via video).

Subsequently, [in Matter of M-N-I-, 28 I&N Dec. 803 (BIA 2024)][3][20][23][43][46][51], the Board reinforced and elaborated upon this principle, emphasizing a critical distinction between administrative control of a case and venue for choice-of-law purposes. The Board stated: "Since choice of law is dependent on venue in Immigration Court proceedings, the controlling circuit law is not affected by a change in the administrative control court and will only change upon the granting of a motion to change venue."[23][46] The Board further held that EOIR cannot unilaterally effect a change of venue through administrative reassignment: "Although some interplay exists between an Immigration Court's administrative control over a case and that case's venue for choice of law purposes, the agency's administrative control designation over a record of proceedings does not replace nor circumvent the regulatory requirements for a change of venue."[3][20][23][43][46][51]

The practical significance of these decisions is substantial. They establish that only a party may initiate a change of venue through formal motion; administrative transfers by EOIR, while occasionally permissible in limited circumstances (such as closure of a court location or transfer from detained to non-detained status), do not effect a formal change of venue for purposes of determining which circuit's law applies.[2][3][20][23][43][46][51][56]. This principle has major implications for respondents whose cases have been reassigned administratively among different EOIR courts located in different circuits-the respondent may need to file an explicit motion to change venue to the court with appropriate choice of law.

Precedent on "Good Cause" Standard

The controlling precedent establishing the "good cause" standard for venue change is [Matter of Rahman, 20 I&N Dec. 480 (BIA 1992)][49][52]. In Rahman, the Board held that an immigration judge's discretion to

change venue is "subject to the existence of good cause" and that good cause "is determined by balancing the following factors: administrative efficiency, expeditious adjudication of the respondent's case, the location of relevant witnesses, and the costs of transporting witnesses or evidence to the proposed venue."[49][52] The Board explicitly rejected the notion that the respondent's actual or intended place of residence is independently determinative: "the respondent's actual or intended place of residence is not determinative, particularly where the non-moving party objects to a change of venue or would be prejudiced by it."[49][52]

[Matter of Velasquez, 19 I&N Dec. 377, 382-83 (BIA 1986)][49][52] also contributes to the good cause analysis, establishing that immigration judges should consider the same factors identified in Rahman and should give appropriate weight to DHS's showing of potential prejudice (such as transportation costs, detention facility considerations, and risk of non-appearance).

In the modern context, immigration courts have applied these factors in diverse factual scenarios. Courts have found good cause where a respondent has relocated and presents documentary evidence of a fixed address in the new location, particularly where DHS does not oppose or cannot demonstrate meaningful prejudice.[27][42][52] Courts have found good cause where a respondent's witnesses are located far from the original venue, provided the respondent submits adequate evidence of witness testimony requirements and geographic distance.[27][42][52] Courts have found good cause where a respondent seeks to remain with established counsel practicing in a different jurisdiction, though this is a weaker ground where the respondent's relocation is the independent cause.[27][38][42][45][52]. Courts have denied good cause where venue change is sought solely to delay proceedings, where multiple prior motions have been filed without material change in circumstances, or where the respondent's preferred venue would cause significant additional burden to DHS.[27][38][42][45][49][52].

Procedural Requirements for Filing and Adjudicating Change of Venue Motions

Filing Requirements and Motion Packet Contents

Under Immigration Court Practice Manual Chapter 5.10(c), a motion to change venue "should be made by written motion" and "should be supported by documentary evidence."[57] The motion must contain specific information prescribed by both regulation and practice guidance. First, the motion must include "the date and time of the next scheduled hearing."[39][57] This requirement ensures that the immigration judge can assess whether the timing of the venue change request is strategic or dilatory.

Second, the motion must include "a fixed street address where the alien may be reached for further hearing notification."[39][57] As noted previously, this requirement is mandatory and cannot be satisfied with a post office box, care-of address, or other designation lacking sufficient specificity.[1][2][39][57]. The address must include city, state, and ZIP code at minimum.[1][2][39][57].

Third, "if the address at which the alien is receiving mail has changed, a properly completed change of address form (Form EOIR33/IC)" must accompany the motion.[39][57] While technically a separate document, EOIR practice treats this form as an integral part of the motion packet.[2][7][10][35][44][57]. The form must be completed in full, signed, and include a declaration under penalty of perjury and proof of service to DHS.[7][10][35][44].

Fourth, the motion must include "a detailed explanation of the reasons for the request."[39][57][38][30] This explanation is the substantive core of the motion and must be supported by evidence. Generic assertions ("I have moved" or "I need to be closer to my family") are insufficient; the respondent must articulate which factors from the Rahman/Velasquez good cause analysis favor the venue change and must address foreseeable

counterarguments from DHS.[27][38][42][45][49][52][57]. The explanation should identify specific hardships caused by the current venue, specific advantages of the proposed venue, and factual support for each claim.

Fifth, the motion packet should include "documentary evidence" supporting the request.[39][57] For relocation cases, this typically includes utility bills, lease agreements, employment verification, school enrollment documentation, or other materials establishing current residence at the proposed new address.[28][30][32][38][57]. For cases involving witness testimony, affidavits from potential witnesses or at minimum detailed descriptions of their proposed testimony and location are appropriate.[28][30][32][38][52][57]. For cases involving travel burden or transportation hardship, evidence of distance and associated costs strengthens the motion.[28][30][38][57].

Sixth, the motion packet must include "a proposed order for change of venue."[39][57] This is a template order that the immigration judge can grant, specifying the current venue and proposed venue and leaving blank spaces for the judge's signature and date.[7][17][35][38][40][44][57]. EOIR provides sample orders for this purpose; counsel should modify these templates to match their specific case circumstances.[7][17][35][38][40][44][57].

Seventh, the motion packet requires proof of service to both the immigration court and the Office of the Principal Legal Advisor (OPLA) for DHS.[7][17][35][38][40][44][57]. The proof of service must specify the date of service, method of service (mail, in-person, eService portal), and addressee (the court and the specific OPLA field office assigned to that court).[7][17][35][38][40][44][57]. Failure to properly serve DHS or service to an incorrect address is grounds for motion denial.[3][8][14][28][32][38][42][52][57].

Filing Deadlines and Procedural Timing

Unlike some immigration law filings (such as applications for relief from removal), motions to change venue are not subject to a fixed filing deadline relative to the hearing date.[5][31][38][45][57]. However, practical considerations counsel early filing. If a respondent files the motion after a master calendar hearing has commenced, the motion falls within the OPPM 18-01 disfavored categories and faces higher scrutiny.[2][5][13][31][45][59]. If a respondent files shortly before a scheduled hearing, the receiving court may lack sufficient time to process the case transfer and schedule appropriate hearings, leading to potential delays or denials.[5][31][45].

Best practice is to file the motion at least three weeks before the next scheduled hearing, allowing sufficient time for the court to docket the motion, provide it to DHS for response, adjudicate the motion, and (if granted) transfer the record of proceedings and schedule a hearing at the new venue.[5][38][57]. For detained respondents, timing is even more critical, as the 14-day deadline for master calendar hearing at the new venue (if the case proceeds to master calendar rather than direct merits hearing) begins running from the date the venue change is granted.[2][5][13][31][45][59].

Critically, filing a motion to change venue does not excuse the respondent's obligation to appear at all scheduled hearings in the current venue until the motion is granted.[5][28][32][35][38][42][47][57]. The sources repeatedly emphasize: "Until your Motion to Change Venue is GRANTED, your case will continue at the same immigration court location, and you may need to travel to that court for your immigration hearings."[28][32][47]. Failure to appear at a scheduled hearing, pending adjudication of a venue change motion, can result in an order of removal in absentia, potentially rendering the venue change motion moot.[5][8][28][32][35][42][47][57].

Service Requirements and OPLA Field Office Identification

Service of the motion to change venue packet to DHS requires identification of the correct Office of the Principal Legal Advisor (OPLA) field office assigned to the respondent's immigration court. OPLA is the litigation arm of Immigration and Customs Enforcement (ICE) within DHS and is the entity that actually appears before immigration judges to present the government's case in removal proceedings. The OPLA field office assignment is based on the immigration court's geographic location, not the respondent's current location.[7][8][28][32][35][38][42][44][57].

EOIR provides guidance on locating the correct OPLA address through multiple mechanisms. First, the sample motion packet templates available on EOIR's website typically include the correct OPLA address printed on the first page.[7][17][35][38][40][44]. Second, the respondent can call the immigration court directly and ask for the OPLA office address.[8][28][32][38][42][44][57]. Third, EOIR maintains an online directory of ICE field offices and OPLA locations accessible at https://www.ice.gov/contact/legal.[8][28][32][35][38][44][57].

Service to OPLA can be effected by mail, in-person delivery (typically to the government's counsel office at the immigration court), or through the eService portal (https://eserviceregistration.ice.gov) if counsel is registered in that system.[7][8][35][38][44][57]. Service must be documented in the proof of service section of the motion packet, specifying the date, method, and addressee.[7][17][35][38][40][44][57]. Failure to serve DHS adequately may result in the motion being denied or returned by the receiving immigration court.[3][8][28][32][35][38][42][57].

Immigration Court Practice Manual Requirements and Local Variations

The EOIR Immigration Court Practice Manual, Chapter 5.10(c), specifies baseline requirements applicable nationwide but also contemplates local variations by specific courts.[39][57]. The manual provides that motions to change venue "should be filed with a cover page labeled 'MOTION TO CHANGE VENUE,' accompanied by a proposed order for change of venue, and comply with the deadlines and requirements for filing."[39][57] The manual further specifies that "the motion should demonstrate good cause for the change in venue, and any grant or denial of such a motion is within the discretion of the Immigration Judge" and cites regulatory authority at [8 C.F.R. § 1003.20(b)][39][57].

However, specific immigration courts may impose additional requirements through local rules or practices. For example, some courts may require oral argument on contested venue change motions; others resolve them on the written record.[5][38][57]. Some courts may require respondents to "concede allegations" in the Notice to Appear before granting venue change; this practice is not mandated by regulation but has been adopted by some judges.[30][37]. Some courts may require detailed witness affidavits; others accept general descriptions of anticipated testimony.[27][28][30][38][52].

For Northern California, the San Francisco Immigration Court (located at multiple addresses including 100 Montgomery Street, Suite 800, San Francisco, CA 94104; 630 Sansome Street, 4th Floor, Room 475, San Francisco, CA 94111; and the Concord Hearing Location at 1855 Gateway Blvd., Suite 850, Concord, CA 94520) operates under the general EOIR Practice Manual standards but may have specific local procedures reflected in judge-specific practices or posted on the court's website. Practitioners with cases in San Francisco Immigration Court should consult the court's website or call the court directly (typically 415-555-XXXX or through the EOIR hotline at 1-800-898-7180) to determine any local variations in venue change motion procedures.

Standards for Demonstrating "Good Cause" Under Rahman and Velasquez

The Multi-Factor Balancing Test

Under [Matter of Rahman][49][52], good cause for venue change is determined not by a single dispositive factor but by "balancing" multiple relevant factors. These factors include: (1) administrative efficiency; (2) expeditious adjudication of the respondent's case; (3) location of relevant witnesses; and (4) costs of transporting witnesses or evidence to the proposed venue.[49][52] A subsequent decision, [Matter of Velasquez, 19 I&N Dec. 377, 382-83 (BIA 1986)][49][52], reaffirmed these factors and emphasized that they must be "balanced" rather than weighted mechanically. The balancing test thus requires fact-specific analysis; a venue change that improves efficiency in one dimension (e.g., brings respondent closer to witnesses) may simultaneously compromise efficiency in another dimension (e.g., requires DHS to arrange transportation of a detained respondent over greater distance).

In applying the administrative efficiency factor, immigration judges consider whether the proposed new venue can accommodate the case without undue burden on that court's docket or resources. The OPPM 18-01 memorandum notes that venue changes "create caseload management difficulties," implying that judges should consider the administrative strain on the receiving court.[2][13][31][41][45][59] However, this factor is not determinative: a court cannot deny venue change simply because the receiving court is busy or has a heavy caseload.[5][27][38][45][49][52]. Rather, immigration judges must consider whether the proposed venue transfer will create administrative complications specific to that case (for example, requiring coordination with a detention facility in a different location, or necessitating interpreter services in an under-resourced language).

The expeditious adjudication factor examines whether changing venue will accelerate or delay case resolution. Ordinarily, any venue change introduces some procedural delay-the receiving court must docket the case, scheduling staff must identify an appropriate hearing date, and parties must coordinate preparation in a new forum.[2][5][31][45][59]. However, if the respondent can demonstrate that the change will facilitate earlier resolution (for example, by bringing the respondent and witnesses to a common jurisdiction), this factor weighs in favor of the motion.[27][38][42][45][49][52]. Conversely, if DHS can demonstrate that the change will materially delay adjudication (for example, by moving the case away from the detention facility where the respondent is held), this factor weighs against the motion.[49][52].

The witness location factor is often the strongest basis for venue change motions. If a respondent can demonstrate that key witnesses supporting their asylum or withholding claim are located in the proposed new venue, and that these witnesses would face significant hardship in traveling to the current venue, this factor strongly favors venue change.[27][28][38][42][45][49][52]. The respondent need not provide formal witness affidavits, though these strengthen the motion; general descriptions of anticipated testimony and witness location suffice.[5][27][28][38][42][52]. However, the witnesses must be "material" to the respondent's case, meaning that their testimony is genuinely necessary to prove elements of the respondent's relief application (not merely helpful or peripheral).[27][28][38][42][52].

The costs factor examines transportation expenses, detention facility coordination costs, and associated burdens. If a detained respondent seeks venue change and DHS must arrange transportation of the respondent and associated security personnel over a greater distance to move the respondent from a detention facility near the current venue to a new venue far away, DHS can present evidence of substantial costs, which weighs against the motion.[49][52]. Conversely, if a non-detained respondent would otherwise incur substantial travel costs to repeatedly appear at hearings far from home, evidence of such costs weighs in favor of the motion.[27][28][38][42][45][52].

Application of Good Cause Analysis to Common Scenarios

Scenario 1: Respondent Relocation. A respondent who has relocated to a new state and is living with family members has established a fixed address in that state. The respondent files a motion to change venue from the original immigration court (where the Notice to Appear was filed) to an immigration court with jurisdiction over the new address. DHS does not oppose the motion. In this scenario, good cause is readily established: the respondent's relocation demonstrates that appearance at the original venue would impose hardship; the fixed address satisfies the administrative requirement; and absent DHS opposition, DHS cannot demonstrate meaningful prejudice.[27][28][38][42][45][49][52]. Courts in this scenario typically grant the motion. However, if DHS opposes on grounds of detention facility location or significant transportation costs, immigration judges must balance these factors; a judge could theoretically deny the motion, though grants are far more common in this scenario.

Scenario 2: Witness Location and Persecution-Based Relief. A respondent from Honduras applying for asylum based on gang persecution has key family members who are witnesses to persecution living in Northern California, where the respondent has relocated. The respondent's original venue is an immigration court in Arizona. The respondent files a motion to change venue to San Francisco Immigration Court, attaching declarations from the family members describing their anticipated testimony regarding persecution the respondent faced in Honduras. DHS opposes, arguing that the respondent's relocation is voluntary and that the family members could testify telephonically via video. In this scenario, the witness location factor weighs heavily in favor of the motion, but DHS's opposition and technology arguments inject complexity. Immigration judges in the Ninth Circuit have increasingly recognized that in-person testimony is substantially more effective than remote testimony for credibility assessment, and some courts have begun requiring evidence that remote testimony is inadequate.[5][27][28][38][42][45][52]. A motion in this scenario faces medium risk of denial, primarily because DHS opposition and the video testimony alternative mean the immigration judge must exercise discretion in balancing factors; however, a well-documented motion showing material witness need and distance-related hardship will likely prevail.

Scenario 3: Ineffective Assistance of Counsel. A respondent received an order of removal and later discovered that the respondent's prior counsel made significant errors in handling the case. The respondent seeks to file a motion to reopen based on ineffective assistance of counsel. However, the respondent's prior counsel still practices in the original venue, and moving to a new venue might facilitate obtaining new counsel. If the respondent files a motion to change venue in conjunction with or in anticipation of an ineffective assistance motion, courts generally view this unfavorably unless relocation is the independent cause of the venue change.[27][42][45][49][52]. The motion faces medium to high risk of denial as a dilatory motion, unless the respondent can establish good cause independent of the ineffective assistance context (such as genuine relocation or witness location).

Scenario 4: Multiple Prior Motions. A respondent has already filed two previous motions to change venue, both denied, without material change in the respondent's circumstances. The respondent files a third motion to change venue, offering essentially the same rationale as the prior motions. This motion faces very high risk of denial under OPPM 18-01's disfavoring of multiple motions by the same party and the prohibition against condoning dilatory motions.[2][5][13][31][45][59]. Even if good cause could be demonstrated, the immigration judge would likely decline to grant the motion absent truly exceptional circumstances or material change in facts (for example, detainee relocation, closure of the original court, or unexpected witness availability in a new location).

Procedural Status of Good Cause Analysis and Burden of Proof

Under the regulatory framework and case law, the moving party bears the burden of demonstrating good

cause.[49][52][57]. The respondent's motion must affirmatively establish good cause through documentary evidence and detailed explanation; mere assertion is insufficient.[5][27][28][38][42][45][49][52][57]. If DHS files an opposition to the motion, DHS need not independently demonstrate lack of good cause; rather, DHS presents counterarguments and evidence of prejudice, and the immigration judge weighs the parties' presentations.[27][42][49][52].

Importantly, an unopposed motion to change venue is "not necessarily granted" simply because DHS does not file a response.[39][57] The Practice Manual explicitly states that "a motion is deemed unopposed unless timely response is made. Parties should note that unopposed motions are not necessarily granted."[39][57] Immigration judges retain discretion to deny unopposed motions if they conclude that the motion does not satisfy legal requirements (such as failure to identify a fixed address) or if the immigration judge concludes that good cause is lacking despite DHS's non-opposition.[39][57]. However, as a practical matter, unopposed motions change venue are granted far more frequently than opposed motions.[27][38][42][45][49][52].

OPPM 18-01 Framework: Disfavored Motions and Judicial Discretion

Three Categories of Disfavored Motions

OPPM 18-01 identifies three categories of motions that are disfavored but not categorically prohibited: multiple motions by the same party, motions filed solely for dilatory purposes, and motions filed after the merits hearing has begun.[2][5][13][31][41][45][59]

Multiple motions by the same party. The memorandum states: "more than two motions to change venue by the same party are disfavored."[2][5][13][31][41][45][59] This language establishes that one or even two motions by the same respondent are not inherently problematic; disfavor attaches only to the third and subsequent motions.[2][5][13][31][45][59]. The disfavor reflects the OPPM's recognition that "changes of venue necessarily delay case adjudications and create caseload management difficulties."[2][13][31][41][45][59] The practical effect of this guidance is that a respondent's third venue change motion faces heightened scrutiny and the respondent must demonstrate that material change has occurred since the prior motions were filed or denied.[2][5][13][31][45][59]. However, immigration judges retain discretion to grant third or subsequent motions if sufficient good cause exists; the disfavor is rebuttable, not absolute.[5][31][45].

Motions filed solely for dilatory purposes. The memorandum states: "motions to change venue solely for dilatory purposes should not be condoned by Immigration Judges."[2][5][13][31][41][45][59] The phrase "solely for dilatory purposes" is key: a motion is not disfavored merely because it has the practical effect of delaying the case; rather, the motion is disfavored if its primary or exclusive purpose is delay. A motion filed shortly before a master calendar hearing, or immediately after a master calendar hearing is scheduled, might raise suspicions of dilatory intent, particularly if coupled with other evidence of delay tactics (for example, if the respondent has also filed motions for continuance or applications for relief that appear frivolous).[2][5][31][45][59]. However, a motion to change venue filed in genuine response to relocation or to facilitate witness testimony should not be characterized as dilatory merely because it has the practical effect of adjusting the hearing schedule.[5][27][28][38][42][45][52].

Motions filed after merits hearing has begun. The memorandum states: "Motions to change venue after a merits hearing has begun are strongly disfavored."[2][5][13][31][41][45][59] The use of the qualifier "strongly" (rather than merely "disfavored") signals that this category faces particularly high scrutiny. Once an immigration judge has conducted an individual merits hearing on the respondent's application for relief from removal, the case is largely adjudicated; changing venue at that point would typically require the receiving immigration judge to rehear evidence or examine the record de novo (though the law of the case doctrine

limits the latter).[2][5][13][31][41][45][59]. The disruption caused by such a change-combined with the marginal utility (since merits adjudication is mostly complete)-explains the strong disfavor. However, even this category may be subject to exception in extraordinary circumstances, such as if the respondent's appeal is pending and facts suggest the original venue determination was procedurally flawed.[2][5][31][45][59].

Rebuttal of Disfavor: The Role of Judicial Discretion

The critical language in OPPM 18-01 is the disclaimer that "these are just guidelines; this does not mandate the outcome of any case. Immigration judges still have discretion to grant motions to change venue in these disfavored situations."[5][16] This language preserves judicial discretion and prevents the disfavor categories from becoming de facto prohibitions. An immigration judge may grant a motion that falls within a disfavored category if the judge concludes that good cause has been demonstrated and that equitable considerations favor the venue change. For example, an immigration judge might grant a respondent's third motion to change venue if the respondent can demonstrate that material facts have changed (for example, the original venue was closed, or the respondent has relocated to an entirely new jurisdiction) and if new good cause exists.[5][31][45].

The rebuttal of disfavor requires affirmative showing by the moving party. Simply filing a motion and hoping the judge exercises discretion in the respondent's favor is insufficient; rather, the respondent should explicitly address the disfavor category in the motion, explain why disfavor should not apply or should be overcome, and present evidence of good cause or changed circumstances.[5][27][28][38][42][45][52]. A motion in a disfavored category that fails to address the disfavor and provide compelling reasons to overcome it faces high risk of denial.

Administrative and Procedural Requirements Following Venue Change Grant

Law of the Case Doctrine and the Receiving Judge's Obligations

Once an immigration judge grants a motion to change venue through a written order, the case transfers to the receiving immigration court and a receiving immigration judge assumes jurisdiction. A cornerstone principle established in OPPM 18-01 is that the receiving judge is not "free to hear the case de novo and ignore any orders prior to the venue change, unless exceptional circumstances, described in this OPPM, permit departure from this policy."[2][13][31][41][45][59] This principle reflects the law of the case doctrine, a well-established federal law principle that binds successive judges once a trial-level judge has made legal rulings or factual findings.[2][13][31][41][45][59].

The law of the case doctrine as applied in immigration proceedings requires that the receiving immigration judge respect all legal conclusions and their related orders made by the sending immigration judge prior to the venue change, absent exceptional circumstances.[2][13][31][41][45][59] OPPM 18-01 identifies limited exceptions to this doctrine: (1) supervening rule of law (a new appellate decision that changes applicable law); (2) compelling and unusual circumstances; (3) new evidence available to the receiving judge (not available at the time of the sending judge's ruling); and (4) such clear error in the previous decision that its result would be manifestly unjust.[2][13][31][41][45][59].

Importantly, one exception does not apply: a receiving immigration judge cannot return a case to the sending court on the ground that the venue change was improper.[2][13][31][41][45][59] Even if the receiving judge concludes that good cause was not demonstrated or that the venue change was error, the receiving judge must proceed with the case in the new venue, not reverse the venue change order. This protects the finality of venue change determinations and prevents parties from using the receiving court as a means to relitigate the venue

change decision.

Scheduling Procedures and Timing Requirements for Cases After Venue Change

OPPM 18-01 establishes specific timing requirements for scheduling hearings at the receiving immigration court. The requirement depends on whether the case is to proceed to a master calendar hearing or directly to an individual merits hearing.

For cases scheduled for master calendar hearing at the new venue: "the master calendar hearing at the new court should occur as soon as practicable and no later than 14 days (for a detained case) or 60 days (for a non-detained case) after the date the change of venue was granted."[2][5][13][31][41][45][59] These deadlines are not firm but rather "as soon as practicable" targets with an outside limit. The rationale for these deadlines is that venue changes create delays in adjudication, and EOIR wants to minimize such delays by scheduling hearings promptly upon case transfer.[2][5][31][45][59]. For detained respondents, the 14-day deadline reflects the urgency of detained cases; for non-detained respondents, the 60-day deadline provides more flexibility but still encourages prompt scheduling.[2][5][31][45][59].

For cases ready to proceed to individual merits hearing: If the sending immigration judge concludes at the time of granting the venue change that the case is ready for an individual merits hearing (pleadings have been taken, the respondent has filed an application for relief from removal, and the case is otherwise ready for adjudication), the sending judge should indicate this on the case worksheet.[2][5][13][31][41][45][59] The receiving court should then schedule an individual merits hearing without an intervening master calendar hearing.[2][5][13][31][45][59] The sending judge must advise the respondent that any arrangements to obtain or retain counsel should be made sufficiently in advance of the merits hearing to enable the hearing to proceed on the scheduled date; the receiving judge, when ruling on motions for continuance, should consider the respondent's efforts to secure representation and the amount of time available to do so.[2][5][13][31][45][59].

The rationale for skipping the master calendar hearing when the case is ready for merits adjudication is efficiency: requiring an intervening master calendar hearing would waste judicial resources and delay final adjudication.[2][5][31][45][59]. However, if the receiving immigration judge discovers issues in the record of proceedings that require clarification or additional proceedings (for example, defects in service of the Notice to Appear, or jurisdictional questions), the receiving judge may schedule a master calendar hearing despite the sending judge's indication that the case was ready for merits hearing.[2][5][31][45][59].

Completion of Pre-Venue-Change Proceedings and Pleadings

Before granting a motion to change venue, the sending immigration judge should "make every effort, consistent with procedural due process requirements, to complete as much of the case as possible in the time available."[2][13][31][41][45][59] This includes obtaining pleadings (the respondent's responses to charges of alienage, removability, or inadmissibility), determining the respondent's positions regarding DHS's charges, and identifying what forms of relief the respondent intends to seek.[2][13][31][41][45][59]. The purpose of this requirement is to spare the receiving court from having to conduct preliminary proceedings that should have been completed at the sending court.[2][13][31][45][59].

Specifically, the sending immigration judge should attempt to: (1) take pleadings on the Notice to Appear allegations; (2) determine whether the respondent concedes alienage, removability, or inadmissibility, or contests any of these elements; (3) identify what forms of relief the respondent will seek; (4) set a date certain by which the respondent must file any applications for relief from removal; and (5) determine whether the case is ready to proceed to an individual merits hearing or requires an intervening master calendar hearing at the new venue.[2][13][31][45][59].

Northern California Implementation: San Francisco Immigration Court and Asylum Office Considerations

San Francisco Immigration Court Structure and Procedures

The San Francisco Immigration Court operates as a component of EOIR under the broader judicial structure but maintains certain local procedures influenced by caseload, demographics, and judicial preferences. The court sits at multiple locations: the main courthouse at 100 Montgomery Street, Suite 800, San Francisco, CA 94104; an additional location at 630 Sansome Street, 4th Floor, Room 475, San Francisco, CA 94111; and a satellite location in Concord at 1855 Gateway Blvd., Suite 850, Concord, CA 94520.[1] This multi-location structure reflects the high caseload and geographic spread of cases in Northern California.[1]

San Francisco Immigration Court, like all EOIR courts, is bound by the regulatory framework at [8 C.F.R. § 1003.20][1][4] and by OPPM 18-01 guidance.[2][5][16][25][31][41][45][59] However, individual immigration judges assigned to the court may have developed particular practices or preferences regarding venue change motions, based on their interpretation of the good cause standard and their judicial philosophies regarding case management.[38][45][57]. Practitioners with cases in San Francisco should be mindful of judge-specific practices: some judges may favor early venue changes to accommodate relocation or witness accessibility; other judges may view such motions skeptically absent compelling evidence of good cause.

San Francisco Asylum Office and Affirmative Asylum Processes

While the motion to change venue is primarily a removal proceedings issue, practitioners handling asylum cases in Northern California should be aware of the related asylum asylum processing at the San Francisco Asylum Office. Individuals who apply affirmatively for asylum with USCIS at the San Francisco Asylum Office may later be referred to removal proceedings before an immigration judge if the asylum office denies their application or if the applicant is deemed subject to expedited removal proceedings.[55] In such cases, the respondent's case may be docketed at San Francisco Immigration Court. A respondent who has been living in the Bay Area while an affirmative asylum application was pending may wish to request venue change if later placed in removal proceedings, particularly if family or other support systems are located outside the Bay Area.[26][55]

Northern California Detention Facilities and Detained Case Considerations

Northern California has several ICE detention facilities that may hold respondents in removal proceedings, including the Santa Rita County Jail (Alameda County), Mesa Verde Correctional Facility (Kern County), and facilities in other northern California locations.[1] When a respondent is detained and held at a facility distant from San Francisco Immigration Court, the respondent or DHS may file a motion to change venue to move the case to an immigration court with jurisdiction over the detention facility's location or to coordinate with the detention facility's administrative procedures.[1][2][5][13][31][45][59]

Under OPPM 18-01 guidance, detained respondents receive special scheduling priority: master calendar hearings must occur within 14 days of venue change grant (versus 60 days for non-detained cases).[2][5][13][31][45][59] Additionally, EOIR has established "paired courts" system for certain detained-to-non-detained transitions (for example, when a respondent is released from detention and no longer qualifies for a detained docket).[56] In such circumstances, EOIR may effect a "clerical transfer" between paired detention and non-detention courts without requiring a formal motion to change venue, provided a fixed address for the respondent is available.[2][56].

Choice of Law Implications for Northern California Cases

A critical issue for Northern California immigration practitioners is the application of [Matter of Garcia][3][9][20][23][43][51] and [Matter of M-N-I-][3][20][23][43][46][51] regarding choice of law. The Ninth Circuit, which encompasses California, has established precedent on asylum, withholding of removal, and Convention Against Torture (CAT) protection that often differs from other circuits.[1] If a respondent's case is docketed at San Francisco Immigration Court (Ninth Circuit), but administrative control has been shifted to a court in a different circuit, the respondent should consider filing a motion to change venue to ensure that Ninth Circuit law (which may be more favorable) applies to the case.[3][20][23][43][46][51]

For example, under Ninth Circuit precedent, the standard for asylum persecution is established in [Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000)][1], which recognizes sexual orientation as a potential basis for persecution and establishes a relatively broad interpretation of what constitutes a "particular social group."[1] This standard may differ from circuits in other regions. If an immigration judge in a different circuit attempts to apply that circuit's law rather than Ninth Circuit law, a respondent should file a motion to change venue back to the Ninth Circuit or, if a venue change motion is filed by DHS, oppose it and argue that Ninth Circuit law should apply.[3][20][23][43][46][51]

Strategic Considerations and Risk Assessment

Risk Assessment Framework: Likelihood of Venue Change Grant

Assessing the likelihood that an immigration judge will grant a motion to change venue requires analysis of multiple factors and cannot be reduced to a single numeric probability. Instead, practitioners should assess qualitative likelihood using bands: high probability of grant, moderate to high probability, medium probability, low to medium probability, and low probability of grant. These assessments should be grounded in the specific facts of the case and the applicable legal standards.

High probability of grant typically applies to motions where: (1) the respondent has genuinely relocated to a new jurisdiction and presents documentary evidence of a fixed address at the new location; (2) DHS does not oppose the motion or cannot demonstrate meaningful prejudice; (3) no prior motions to change venue have been filed in the same case; (4) the motion is filed before the merits hearing commences; and (5) the respondent provides a detailed, well-documented explanation of the relocation and its necessity.[27][38][42][45][49][52]. In such circumstances, immigration judges typically grant the motion as a matter of course.

Moderate to high probability of grant applies to motions where: (1) good cause is apparent (relocation, witness location) but (2) DHS files an opposition based on detention facility location or transportation costs; and (3) the respondent's evidence of good cause is strong but not unassailable (for example, witnesses identified but not formally attested). In such cases, the immigration judge must exercise discretion in balancing the Rahman factors; the motion's success depends on whether the immigration judge views the respondent's evidence as outweighing DHS's prejudice arguments.

Medium probability of grant applies to motions where: (1) good cause exists but is not overwhelming (for example, respondent has moved, but the new location is only marginally more convenient); (2) DHS opposes and presents credible evidence of prejudice; or (3) the motion falls within a disfavored category (for example, third motion by same respondent) but extraordinary circumstances support granting it. Success in this band depends substantially on the immigration judge's individual judicial philosophy and application of discretion.

Low to medium probability of grant applies to motions where: (1) the moving party's evidence of good cause is weak or conclusory (bare assertion of hardship without documentary support); (2) DHS files a strong

opposition with evidence of substantial prejudice; (3) the motion falls into a disfavored category (multiple prior motions, filed after merits hearing begins) without compelling countervailing circumstances; or (4) the respondent fails to satisfy procedural requirements (no fixed address, inadequate service to DHS).

Low probability of grant applies to motions where: (1) the respondent has filed multiple prior motions without material change in circumstances; (2) the motion is filed immediately before or after a critical hearing or deadline, suggesting dilatory intent; (3) the respondent provides no evidence of good cause, relying solely on bare assertion; (4) DHS demonstrates that granting the motion would impose substantial prejudice (for example, requiring release of a detained respondent held hundreds of miles from the proposed venue); or (5) the respondent fails to satisfy mandatory procedural requirements (no fixed address, no service to DHS).

Government's Strongest Arguments Against Venue Change

To effectively argue for venue change, practitioners should understand DHS's likely counterarguments and how to preemptively address them. DHS's strongest arguments typically include the following.

First, administrative efficiency and caseload burden: DHS will argue that the sending court is already managing the case efficiently and that the receiving court may be overburdened. The respondent should counter by noting that administrative burden on the receiving court cannot alone defeat good cause and by offering evidence that the receiving court can accommodate the case without undue strain. Practitioners in less-busy immigration courts may face this argument more frequently.

Second, detention facility location and transportation costs: If the respondent is detained, DHS will argue that moving the case to a distant venue requires ICE to arrange transportation and security for a detained respondent, imposing substantial costs. The respondent should counter by noting that venue change does not necessarily require physical relocation of the respondent (though it may), that remote testimony via video may be available, or that the transportation burden is outweighed by other good cause factors (for example, presence of critical witnesses in the new venue).

Third, prejudice to DHS's ability to present its case: DHS will argue that venue change deprives DHS of convenient access to key government witnesses, documents held at the original venue, or familiarity with the original immigration judge's rulings. The respondent should counter by noting that DHS does not require "home field advantage" and that any inconvenience to the government is outweighed by convenience to the respondent or accessibility of respondent's witnesses.

Fourth, dilatory intent: DHS will argue that the motion is filed as a delay tactic, particularly if filed shortly before a scheduled hearing. The respondent should counter with evidence of good cause and a timeline showing that the circumstances necessitating venue change (for example, relocation) occurred independently of any litigation strategy.

Preservation of Arguments for Appeal

If an immigration judge denies a motion to change venue, and if the respondent subsequently receives an unfavorable decision on the merits and appeals to the Board of Immigration Appeals, the respondent should consider whether to preserve the venue change denial issue for appeal. While venue change denials are generally reviewed for abuse of discretion and are rarely successfully appealed, certain circumstances may warrant preservation.

First, if the immigration judge's denial was based on legal error (for example, misapplying the good cause standard or failing to properly consider the Rahman factors), preservation may be warranted.[49][52]. Second, if the respondent can demonstrate that the original venue's law differed materially from the receiving venue's

law (under Matter of Garcia), and if the respondent's case would have fared better under a different circuit's law, this preservation issue may support a broader appellate challenge to choice of law.[3][20][23][43][46][51]. Third, if subsequent appellate decisions change the interpretation of "good cause," the respondent might argue that the venue change should have been granted under the changed law.

However, in most cases, venue change denials do not warrant appellate preservation, as the issue is unlikely to provide grounds for reversal.

Conclusion: Summary of Key Principles and Practical Recommendations

Change of venue in EOIR removal proceedings is governed by [8 C.F.R. § 1003.20][1][4], guided by OPPM 18-01 judicial guidance,[2][5][16][25][31][41][45][59] and shaped by Board precedent from [Matter of Rahman][49][52], [Matter of Velasquez],[49][52] [Matter of Garcia],[3][9][20][23][43][51] and [Matter of M-N-I-].[3][20][23][43][46][51] Practitioners should understand the following core principles:

Venue is initially determined by where DHS files the Notice to Appear. This venue can only be changed upon formal motion by a party; EOIR cannot unilaterally effect a venue change without party consent (except in limited clerical transfer circumstances).[1][2][3][9][20][23][43][51]. Good cause for venue change is determined by balancing factors including administrative efficiency, expeditious adjudication, witness location, and relative costs. The respondent's residence is relevant but not independently determinative.[49][52]. Motions must include specific procedural elements: fixed street address, Form EOIR-33/IC, detailed explanation of grounds, documentary evidence, and proposed order. Failure to include these elements risks motion denial on procedural grounds.[7][17][35][38][44][57]. Service to both the immigration court and DHS OPLA is mandatory; service to incorrect addresses may result in motion rejection.[7][8][35][38][44][57]. Certain motions are disfavored but not prohibited: multiple motions by the same party (third and subsequent), motions filed solely for delay, and motions filed after the merits hearing begins. Immigration judges retain discretion to grant disfavored motions if good cause exists.[2][5][13][31][45][59].

Form EOIR-33/IC must be filed within five business days of any address change, independent of whether the respondent files a motion to change venue. This five-day deadline is mandatory and applies to all respondents, detained or non-detained.[7][10][11][17][24][35][44]. The respondent must continue appearing at all scheduled hearings in the original venue until the motion to change venue is granted. Failure to appear may result in an order of removal in absentia and may render the venue change motion moot.[5][28][32][35][38][42][47][57]. Once venue is changed, the receiving immigration judge must respect the law of the case and prior legal rulings, absent limited exceptions. The receiving judge cannot return the case to the original court on the ground that the venue change was improper.[2][13][31][41][45][59].

For detained respondents, master calendar hearings must occur within 14 days of venue change grant; for non-detained respondents, within 60 days. Cases ready for merits hearing should proceed directly to merits hearing in the new venue without intervening master calendar hearing.[2][5][13][31][45][59]. Practitioners should consider choice of law implications under Matter of Garcia and Matter of M-N-I-, ensuring that the correct circuit law applies to the respondent's case.[3][20][23][43][46][51]. Northern California practitioners should be familiar with San Francisco Immigration Court's structure, the San Francisco Asylum Office's procedures for referred cases, and Northern California detention facilities' locations.[1]

For respondents considering filing a motion to change venue, practitioners should recommend filing promptly upon relocation or identification of good cause, well in advance of scheduled hearings (ideally at least three weeks before), with comprehensive documentary evidence and detailed explanation of good cause factors. For

respondents opposing DHS-filed venue change motions, practitioners should carefully address the Rahman factors and provide evidence of prejudice to the respondent or undue burden to DHS. In all cases, practitioners should ensure strict compliance with procedural requirements to avoid procedural denials that would obscure the underlying merits of the request.

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Scope Note: This report addresses change of venue in Executive Office for Immigration Review proceedings and is applicable nationwide with specific attention to Ninth Circuit precedent and Northern California implementation. The report does not address change of venue in other administrative or judicial forums (e.g., federal district court, state courts), though comparative venue principles in such forums may offer supplementary authority.