



ADMINISTRATIVE CLOSURE, TERMINATION, AND *TEXAS V.* *DEPARTMENT OF JUSTICE*

By ILRC Attorneys

I. Introduction

On June 22, 2026, a federal district court in the Northern District of Texas issued a final decision in a case called *Texas v. U.S. Department of Justice*.¹ The court's decision vacated a 2024 federal rule² that, among other things, clarified the immigration court's authority to grant administrative closure and termination ("The 2024 Final Rule") and set guidelines around these docketing tools.³ While the process of this case was highly irregular and its holding is being challenged, immigration courts across the country are currently applying this decision in individual cases and practitioners should be prepared to respond.

This practice advisory summarizes *Texas v. DOJ* and offers practice tips for advocates who are seeking administrative closure or termination on behalf of their clients, and/or who are defending against motions to recalendar proceedings filed by the Department of Homeland Security (DHS). The practice advisory also includes sample language in the Appendices to help practitioners present these arguments to the immigration court.⁴

II. Summary of *Texas v. DOJ*

On June 22, 2026, the State of Texas filed a complaint against the United States Department of Justice (DOJ) in the federal district court for the Northern District of Texas. The complaint raised claims under the Administrative Procedure Act, which allows injured parties to challenge agency policies that are arbitrary and capricious, fail to follow APA procedures, or are contrary to statutory language or constitutional rights. The complaint argued that the 2024 Final Rule is *ultra vires*, meaning it goes beyond the scope of what the Immigration & Nationality Act (INA)

¹ See *Texas v. U.S. Dep't of Justice*, Case No. 7:26-cv-00070-O, 2026 WL 1803245, at *1 (N.D. Tx. June 22, 2026) (hereinafter *Texas v. DOJ*).

² EOIR, *Efficient Case and Docket Management in Immigration Proceedings*, 89 Fed. Reg. 46,742 (May 29, 2024).

³ See, e.g., 8 CFR §§ 1003.18(c)-(d), 1003.1(l)-(m).

⁴ The ILRC has thoroughly researched the cases and legal arguments discussed herein, however the advisory and sample language should not be used as a substitute for individual research and knowledge. The topics discussed in this advisory are subject to active litigation and are constantly developing, and advocates must conduct their own research and analysis in every case. The sample language in the Appendices is intended to aid advocates filing and responding to motions in individual cases, but advocates should always conduct independent research to ensure arguments and citations are accurate. The ILRC thanks Emily Robinson for her valuable contributions to the sample language attached to this alert, as well as counsel for Intervenor in *Texas v. DOJ*.

authorizes, and that it violates the U.S. Constitution’s requirement that the Executive branch “take care that the laws be faithfully executed.”⁵

The complaint—referring to “the Administrative Closure Rule”—challenges the historic practice of administrative closure, characterizing it as a form of “indefinite amnesty.”⁶ The complaint claims that the 2024 Final Rule made administrative closure a “permanent form of relief from removal” not authorized under the INA, and asserts that the 2024 Final Rule has permitted “countless illegal aliens to remain in the country who would otherwise have been removed.”⁷

The same day the complaint was filed, Texas and the DOJ filed a Joint Motion for Entry of Consent Decree, settling the case and waiving any right to appeal. The district court signed the Consent Decree and issued a final judgment just hours later, ordering the following:

1. Declaring that the 2024 Final Rule exceeds statutory authority and is contrary to law;
2. Vacating the “Administrative Closure Rule” in its entirety;
3. Permanently enjoining DOJ from enforcing the “Administrative Closure Rule”; and
4. Permanently enjoining DOJ, including under future administrations, from promulgating any regulations that “permit immigration judges the authority to administratively close removal proceedings without reaching the merits of the case absent an express statutory basis to do so.”⁸

The court’s order purports to vacate the entire 2024 Final Rule, even though the complaint only challenged the practice of administrative closure. The 2024 Final Rule is much broader than administrative closure and also created or modified regulations on topics including:

- Termination of proceedings (8 CFR §§ 1003.1(m), 1003.18(d));
- Retroactive application of *Matter of Thomas & Thompson*, 27 I&N Dec. 674 (A.G. 2019) to certain post-conviction relief (8 CFR § 1003.55);
- Transitioning federal regulations away from use of the offensive term “alien” (8 CFR § 1001.1); and
- Other administrative and organizational procedures of the Board of Immigration Appeals (BIA), including certification of cases, *sua sponte* reopening or reconsideration, BIA adjudication times, and voluntary departure.

The *Texas v. DOJ* court also did not acknowledge that the 2024 Final Rule included a severability clause, establishing that if any portion of the 2024 Final Rule was enjoined, vacated, stayed, not implemented, or otherwise held invalid, the remaining portions of the rule would remain in effect.⁹ In many jurisdictions, however, DHS and immigration judges (IJs) are interpreting the court’s order as vacating the entire 2024 Final Rule.

On August 7, 2026, three cities (Baltimore, MD; Columbus, OH; and New Haven, CT) and one nonprofit organization (Centro Legal de la Raza in Oakland, CA) (“Intervenors”) filed an emergency motion to intervene in *Texas v. DOJ*, asking the court for permission to step in and

⁵ U.S. Const. Art. II, § 3.

⁶ *Texas v. DOJ* Complaint ¶ 1, ECF No. 1.

⁷ *Id.* ¶¶ 56, 69.

⁸ *Texas v. DOJ*, 2026 WL 1803245, at *1.

⁹ 89 Fed. Reg. 46,786.

defend the 2024 Final Rule because the DOJ has refused to do so.¹⁰ The Intervenor raise several challenges to the collusive nature of the lawsuit itself as well as to the claims asserted in Texas’s complaint.¹¹ Texas opposed the Intervenor Motion on August 17, 2026.¹² The DOJ also opposed, although their response was untimely and stated only that their opposition “aligns with the arguments set forth by” Texas.¹³ On August 21, 2026, the district court denied the Intervenor Motion,¹⁴ and the Intervenor have appealed that ruling to the Fifth Circuit. As of the writing of this advisory, the appeal remains pending.

WARNING! The DOJ may promulgate new regulations governing administrative closure and termination. At the time of writing, the DOJ has indicated that it intends to publish an Interim Final Rule, *Reforming the Use of Administrative Closure and Termination Authority*.¹⁵ This new rule has not yet been published in the Federal Register and we do not know what it will contain. Although the arguments laid out in this advisory should be preserved for appeal, advocates should be aware that, if published, this new rule will impact regulations pertaining to administrative closure and termination of immigration proceedings. Advocates should be prepared to address these new regulations if they take effect.

III. Filing Motions to Administratively Close Proceedings After *Texas v. DOJ*

If administrative closure would benefit your client, practitioners should consider filing a motion for administrative closure supported by thorough arguments, even if it is unlikely that the IJ or BIA will grant administrative closure. This is an important step to preserve arguments for appeal. Below are several arguments that administrative closure may still be legally appropriate after the *Texas v. DOJ* decision, some or all of which may apply in your case.

PRACTICE TIP: In addition to the arguments below, practitioners seeking administrative closure will likely still need to address recent BIA precedent that has discouraged IJs from utilizing administrative closure under certain circumstances. For example, *Matter of B-N-K-* held that the “primary” factor when considering administrative closure is “whether there are persuasive reasons for a case to proceed and be resolved on the merits.”¹⁶ Other BIA cases have targeted administrative closure for specific forms of relief.¹⁷ But importantly, even though all of these cases have found administrative closure to be inappropriate based on the specific facts, they

¹⁰ *Texas v. DOJ*, Emergency Mot. to Intervene, ECF No. 6 (hereinafter “Intervenor Motion”).

¹¹ *Id.*

¹² *Id.*, Texas Response to Intervenor Mot., ECF No. 19.

¹³ *Id.*, Mot. To Accept Defendant’s Position on Intervenor Mot., ECF No. 21 (hereinafter “DOJ Response”).

¹⁴ See *Texas v. DOJ*, 2026 WL 2455363, at *4 (N.D. Tx. Aug. 21, 2026).

¹⁵ See Office of Information and Regulatory Affairs, *Reforming the Use of Administrative Closure and Termination Authority Interim Final Rule* (August 2026), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202510&RIN=1125-AB35>.

¹⁶ *Matter of B-N-K-*, 29 I&N Dec. 96, 100 (BIA 2025).

¹⁷ E.g., *Matter of Ibarra-Vega*, 29 I&N Dec. 476 (BIA 2026) (U visa); *Matter of Cahuec Tzalam*, 29 I&N Dec. 300 (BIA 2025) (special immigrant juvenile status); *Matter of Medina-Madrid*, 29 I&N Dec. 514 (BIA 2026) (provisional waiver of unlawful presence). Note that in some cases advocates may want to argue that because these decisions rested on regulations that have since been vacated, their holdings no longer control to the extent they depend on those regulations.

are all premised on the assumption that the practice is a “docket management tool” that IJs are authorized to utilize.¹⁸

A. The unusual proceedings in *Texas v. DOJ* raise serious concerns as to the judgment’s validity

It is worth noting the extremely unusual path the case took to decision in the Northern District of Texas. The case was commenced, resolved by joint motion for consent judgment, and reduced to final judgment on the same day without going through merits briefing, and the parties waived appeal. Practitioners may consider raising concerns about the validity of the court’s judgment in their motions for administrative closure. However, it is unlikely that an IJ or the BIA will engage with the validity of the *Texas v. DOJ* judgment. While no EOIR guidance has been made public, IJs appear to have received instructions to apply the decision nationwide, as practitioners across the country report that IJs are citing the case to deny administrative closure and termination and to recalendar cases that were previously administratively closed.¹⁹ Nevertheless, it might still be worth preserving concerns over the unusual process in this case, particularly in light of the lack of any real adversarial controversy.

This may include pointing out that through this collusive lawsuit, the federal government circumvented the APA’s notice-and-comment procedure that is required to rescind an agency rule.²⁰ Advocates could also argue that the relief granted exceeded the scope of *Texas*’s complaint, which challenged only administrative closure. Advocates wishing to develop these arguments should review the Intervenor Motion, which lays out several challenges to the *Texas v. DOJ* order.²¹ Keep in mind, however, that while the Immigration Court Practice Manual (ICPM) does not explicitly set a page limit for motion responses, motion briefs should adhere to the same rules applied to pre-hearing briefs, which are generally limited to 25 pages.²² Accordingly, advocates may choose to limit this particular argument to a few sentences and focus on challenges that are specific to the facts of their case and can be litigated through the immigration court, BIA, and circuit court. At the very least, advocates can ask the court to take notice of the ongoing litigation.

B. The 2024 Final Rule supports administrative closure²³

Although the *Texas v. DOJ* order is a final judgment, the Intervenor is continuing to litigate their ability to intervene and defend the regulation. If that appeal is ultimately granted, the

¹⁸ *B-N-K-*, 29 I&N Dec. at 97.

¹⁹ Interestingly, although Supreme Court precedent allows district courts to vacate federal rules under APA § 706, DOJ has argued against this proposition in many cases where it is seeking to defend agency policies. See, e.g., *Texas v. United States*, 126 F.4th 392, 418 (5th Cir. 2025) (“The government contends that the APA does not authorize vacatur of agency action.”); *Pablo Sequen v. Albarran*, No. 25-CV-06487, at 38 (N.D. Cal. June 23, 2026) (“The government first points to a three-Justice concurrence suggesting that § 706 may not authorize vacatur.”). But in *Texas v. DOJ*, DOJ took the opposite position, demonstrating the current administration’s willingness to compromise legal consistency in order to pursue its policy goals.

²⁰ See APA § 553.

²¹ See Intervenor Motion at 15, ECF No. 6.

²² See EOIR-ICPM Ch. 4.5.

²³ These arguments can also be used to support motions to terminate and to oppose recalendar.

Intervenors will be able to appeal the “merits” ruling to the Fifth Circuit. Because the litigation is ongoing, practitioners may wish to preserve arguments that administrative closure is supported by the vacated regulations (the 2024 Final Rule). This will typically involve a balancing of the factors set forth in 8 CFR §§ 1003.18(c)(3) (in immigration court) or 1003.1(l)(3) (at the BIA), based on the facts of your case. The ILRC has published a practice advisory on how to apply these regulations to the facts of your case that may be useful in making those arguments: ILRC, *Seeking Administrative Closure and Termination: Using New EOIR Regulations in a Hostile Enforcement Environment* (Feb. 2025).²⁴

C. Even without the 2024 Final Rule, IJs still have general authority to administratively close proceedings

The INA Authorizes Administrative Closure. Advocates may argue that, although the INA does not use the phrase “administrative closure,” it does expressly authorize the Attorney General to supervise the immigration court system, including establishing regulations for procedural rules and docket management.²⁵ Courts have long recognized the Attorney General’s “broad discretion” to establish procedural rules under this general statutory authority, and the DOJ has cited this broad general authority in support of its current policies that have been challenged in other lawsuits.²⁶

Attorney General and BIA Caselaw Authorize Administrative Closure. Before the 2024 Final Rule, the BIA had long assumed that administrative closure was a permissible docket management practice in at least some circumstances, even without any express provision of the INA authorizing it. *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018) was the first time the agency ever prohibited the practice of administrative closure, and that case was vacated by *Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021) and has not been reinstated. As Attorney General precedent decisions, these cases are binding on immigration courts and the BIA and cannot be overturned by the BIA.²⁷ Note, however, that depending on the circuit, agency caselaw authorizing administrative closure might not apply, so it is important to review your circuit’s caselaw and craft arguments accordingly.

Circuit Court Caselaw Authorizes Administrative Closure in Some Circuits. In addition to BIA precedent, practitioners in some circuits can argue that applicable circuit court precedent authorizes administrative closure. Many of these cases conclude that IJs and the BIA have inherent discretionary authority to administratively close cases under the INA and regulations,

²⁴ <https://www.ilrc.org/resources/seeking-administrative-closure-and-termination-using-new-eoir-regulations-hostile>.

²⁵ See INA §§ 103(g)(1)-(2) (granting the Attorney General “such authorities and functions under this chapter and all other laws relating to the immigration and naturalization of aliens” and directing the Attorney General to “establish such regulations ... and perform such other acts as the Attorney General determines to be necessary for carrying out this section”).

²⁶ See, e.g., *Meija-Alvarenga v. Garland*, 95 F.4th 319, 326-27 (5th Cir. 2024) (“[B]ecause Congress has given the BIA the responsibility to conduct its own proceedings, the agency should be free to fashion its own rules of procedure”) (cleaned up); *Amica Ctr. For Immigrant Rights v. EOIR*, 1:26-cv-00696 (D.D.C. filed Mar. 4, 2026) (ECF No. 26 at 4, 11).

²⁷ See 8 CFR § 1003.1(d)(1)(i).

including 8 CFR §§ 1003.10(b), 1003.1(d)(1)(ii), and 1240.1(a)(iv).²⁸ The *Texas v. DOJ* decision does not address these specific regulations or otherwise abrogate these circuit court cases.²⁹ In fact, in its opposition to the Intervenor Motion, Texas concedes that these cases remain applicable and may still authorize administrative closure in certain cases.³⁰

Administrative Closure is for a Limited Period of Time. Much of the *Texas v. DOJ* complaint focused on the accusation that administrative closure functions as an “indefinite amnesty” or permanent form of relief because, according to the complaint, cases remain administratively closed for years or decades with no plan to recalendar on a date certain. In many cases, however, a party is seeking administrative closure to await a specific event, such as adjudication of a collateral application by USCIS or resolution of a case in criminal court. In these cases, advocates might consider asking for administrative closure until a specific date and arguing that the limited duration distinguishes the present request from the so-called “indefinite” closure that the Texas challenged.³¹

The State of Texas and DOJ’s oppositions to the Intervenor Motion both suggest that the parties did not intend to undermine the practice of administrative closure generally, but the practice of “permanent” or indefinite administrative closure.³²

Sample language laying out the statutory and caselaw authority for administrative closure is at **Appendix A**.

²⁸ Advocates should also be prepared for DHS to argue that, with the 2024 Final Rule vacated, a previous rulemaking from the first Trump Administration now controls. See EOIR, *Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure*, 85 Fed. Reg. 81,588 (Dec. 16, 2020). That rule only took effect briefly before being preliminarily enjoined in *Centro Legal de la Raza v. Exec. Off. for Immigr. Rev.*, 524 F. Supp. 3d 919 (N.D. Cal. 2021). Although *Centro Legal* was voluntarily dismissed after publication of the 2024 Final Rule, advocates might argue that the enjoined rule still does not control.

²⁹ See, e.g., *Arcos Sanchez v. Att’y Gen.*, 997 F.3d 113 (3d Cir. 2021) (holding that 8 CFR §§ 1003.10(b) and 1003.1(d)(1)(i) “unambiguously confer” upon EOIR adjudicators the general authority to administratively close cases); *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019) (same); *Meza Morales v. Barr*, 973 F.3d 656 (7th Cir. 2021) (in an opinion by now Justice Barrett, finding that “the immigration regulations that grant immigration judges their general powers [are] broad enough to implicitly encompass [administrative closure] authority,” and rejecting argument that “timeliness” requirement forecloses administrative closure); *Gonzalez-Caraveo v. Sessions*, 882 F.3d 885, 889–90 (9th Cir. 2018) (assuming validity of administrative closure generally and finding jurisdiction to review EOIR’s administrative closure decisions); but see *Hernandez-Serrano v. Garland*, 981 F.3d 459 (6th Cir. 2020) (concluding that 8 CFR §§ 1003.10(b) and 1003.1(d) do not grant immigration judges general authority to administratively close cases); *Garcia-DeLeon v. Garland*, 999 F.3d 986 (6th Cir. 2021) (analyzing *Hernandez-Serrano* and concluding that regulations at 8 CFR §§212.7(e)(4)(iii), 1003.10(b), and 1003.1(d)(1)(ii) collectively authorize administrative closure for noncitizens to pursue provisional waivers of unlawful presence)).

³⁰ Texas Response at 21 (“However, none of those decisions addressed the Administrative Closure Rule at issue here, which goes far beyond the limited, case-specific administrative closure those courts considered. The Final Rule authorized indefinite closure ... [which is] a fundamentally different regulatory scheme from the targeted, circumstance-specific closures at issue in the Third, Fourth, and Seventh Circuit cases.”).

³¹ In *B-N-K-*, the BIA suggested that administrative closure may be appropriate to “achiev[e] some foreseeable resolution to the ongoing proceedings within a reasonably short period of time.” 29 I&N Dec. at 99. In *Ibarra-Vega*, 29 I&N Dec. at 481, the BIA suggested that a period of six months or less may be considered reasonable.

³² See Texas Response at 20 (“The practice that Proposed Intervenor seeks to defend is not ‘docket management’—it is the indefinite suspension of the INA’s adjudicatory mandate, with average closure durations of 16.5 years at the immigration court level and 29 years at the BIA level.”) (adopted by DOJ at DOJ Response at 2).

Alternative Administrative Closure Regulations. Other regulations not at issue in *Texas v. DOJ* separately authorize EOIR adjudicators to administratively close removal proceedings in certain circumstances, often with DHS agreement. If your client falls within one of the categories below, you may also pursue administrative closure based on an alternative regulation:

Regulation	Circumstance	Requires DHS agreement?
8 CFR § 1240.62(b)(1)-(2)	Assuming administrative closure available for certain Guatemalan and Salvadoran nationals applying for NACARA.	No
8 CFR § 1245.13(d)(3)	Certain Nicaraguan and Cuban nationals applying for adjustment of status under NACARA.	Yes
8 CFR § 1245.15(p)(4)	Certain Haitian nationals applying for adjustment of status under HRIFA.	Without DHS consent, admin closure is discretionary. With DHS consent, mandatory.
8 CFR § 1245.21(c)	Certain Vietnamese, Cambodian, and Laotian nationals applying for adjustment of status under Indochinese Parole Adjustment Act.	Yes
8 CFR § 1214.3	Certain noncitizens who are eligible for V nonimmigrant status.	No (admin closure mandatory if noncitizen “appears eligible”)
8 CFR § 1214.2(a)	Certain noncitizens who are awaiting adjudication of T nonimmigrant petitions before USCIS.	Yes

IV. Responding to DHS Motions to Recalendar After *Texas v. DOJ*

Practitioners in many jurisdictions also report that DHS is filing Motions to Recalendar administratively closed cases, including cases that were closed pursuant to the 2024 Final Rule and those that were closed earlier pursuant to BIA caselaw and IJs’ general discretionary authority. As with administrative closure, advocates may wish to preserve arguments that recalendar is not appropriate under the factors laid out in the now-vacated 2024 Final Rule, in the event that the district court’s order is reversed on appeal. Under the 2024 Final Rule, IJs and the BIA must consider the “totality of the circumstances” using the factor-based test laid out in the regulations.³³ The ILRC has published a practice advisory which lays out some of these arguments.³⁴ In addition, advocates might preserve other arguments challenging the applicability of the *Texas v. DOJ* decision generally, as laid out in **Section III.A**. Some potential arguments against recalendar are laid out below.

DHS did not follow the necessary procedures or provide a valid reason to recalendar proceedings. Even if the IJ assumes that the *Texas v. DOJ* vacatur is valid, there may still be arguments that DHS did not follow required procedures to recalendar the case. The ICPM sets out requirements for motions generally, including specific requirements for motions to

³³ 8 CFR §§ 1003.1(l)(3)(ii), 1003.18(c)(3)(ii).

³⁴ ILRC, *Defending Against DHS Motions to Recalendar* (July 2025), <https://www.ilrc.org/resources/responding-dhs-motions-recalendar>.

recalendar.³⁵ For example, a motion must provide the date and the reason the case was administratively closed.³⁶ If a motion filed by DHS fails to comply with the ICPM, arguably it should be denied without prejudice and re-filed in compliance with applicable rules. Additionally, under *Matter of W-Y-U-*, advocates should remind adjudicators that “the primary consideration for an [IJ] in determining whether to administratively close or recalendar proceedings is whether the party opposing administrative closure has provided a persuasive reason for the case to proceed and be resolved on the merits.”³⁷ If DHS’s only reason for recalendaring the case is the *Texas v. DOJ* decision, advocates might argue that this decision alone—which does not address recalendaring at all—is insufficient justification under *W-Y-U-*.

The *Texas v. DOJ* decision does not reach recalendaring. As discussed in **Section II**, advocates might argue that *Texas v. DOJ* does not reach recalendaring because of the scope of the complaint, the parties’ intent, and the 2024 Final Rule’s severability clause. Sample language in support of these arguments is at **Appendix B**, with a separate paragraph on severability at **Appendix C**.

***Texas v. DOJ* does not require recalendaring of previously closed cases.** Even if the adjudicator disagrees with your argument that the *Texas v. DOJ* decision does not reach recalendaring, you can still argue that the judgment does not apply to previously administratively closed cases. Advocates might argue that the vacatur of the 2024 Final Rule is a change in law that does not apply retroactively to cases that are already administratively closed, and therefore it does not require recalendaring of those cases. When an agency rule changes, courts apply a five-factor test to determine whether the new rule should apply retroactively.³⁸ With respect to cases that are already administratively closed, *Texas v. DOJ* causes an “abrupt departure” from well-established practice and undermines substantial reliance interests of the individuals in these cases and, therefore, cannot be applied retroactively to require recalendaring.³⁹ Indeed, while the district court stated that some cases “may be recalendared” as a result of the judgment, it declined to say that recalendaring of all cases is a “certainty.”⁴⁰ And both parties to the *Texas v. DOJ* case have stated that the judgment does not require immigration courts to recalendar cases that were already administratively closed.⁴¹ Sample language in support of these arguments is at **Appendix D**.

V. Filing Motions to Terminate Proceedings After *Texas v. DOJ*

As with administrative closure, if termination of proceedings would benefit your client, it is important to still file a motion to terminate to at least preserve the request for appeal. Below are some arguments that termination is still permissible even after the *Texas v. DOJ* decision.

The *Texas v. DOJ* decision does not reach the termination regulations. As with recalendaring, the *Texas v. DOJ* complaint and order do not mention termination of proceedings. The complaint challenges the practice of administrative closure generally, but it

³⁵ ICPM Ch. 4.10(u).

³⁶ *Id.*

³⁷ 27 I&N Dec. 17, 20 (2017).

³⁸ See, e.g., *Matter of Forjoe*, 29 I&N Dec. 463, 472 (BIA 2026).

³⁹ *Id.*

⁴⁰ *Texas v. DOJ*, 2026 WL 2455363, at *3 (N.D. Tx. Aug. 21, 2026).

⁴¹ Texas Response at 11 (adopted by DOJ at DOJ Response at 2).

does not mention termination of proceedings, allege that termination is not authorized by the INA, or blame termination for the same collateral harms that administrative closure supposedly creates. Unlike administrative closure, termination “bring[s] the litigation to a close”⁴² and can be appealed to the BIA as a final order, and therefore is unlike administrative closure as challenged in the Texas complaint.⁴³ Additionally, advocates can also argue, as discussed in **Section III**, that the 2024 Final Rule included a severability clause.

The regulations established by the 2024 Final Rule set forth categories of mandatory and discretionary termination.⁴⁴ If you argue that *Texas v. DOJ* did not vacate the termination regulations, you will need to show that your case qualifies for either mandatory or discretionary termination under the 2024 Final Rule. See ILRC, *Seeking Administrative Closure and Termination: Using New EOIR Regulations in a Hostile Enforcement Environment* (Feb. 2025).⁴⁵ If you are requesting discretionary termination, it is important to also show why your client merits a favorable exercise of discretion.⁴⁶

The INA, BIA Precedent, and Circuit Court Caselaw Authorize Termination. Before the 2024 Final Rule, BIA precedent established that termination of proceedings was appropriate in certain circumstances. *Matter of Coronado-Acevedo*, 28 I&N Dec. 648 (A.G. 2022). The BIA has long acknowledged that IJs *must* terminate proceedings if the charges of removability cannot be sustained.⁴⁷ Other BIA cases have also authorized termination in other specific circumstances.⁴⁸ In 2018, the Attorney General held that IJs lacked general authority to terminate proceedings in *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G.2018), but that case was vacated by *Matter of Coronado-Acevedo* and has not been reinstated.

Sample language in support of these arguments is at **Appendices E, C, and F**.

Alternative Termination Regulations. Other regulations not at issue in *Texas v. DOJ* separately authorize EOIR adjudicators to terminate removal proceedings in certain circumstances, often with DHS agreement. If your client falls within one of the categories below, you may also pursue termination based on an alternative regulation:

Regulation	Circumstance	Requires DHS agreement?
8 CFR § 1216.4(a)(6)	Conditional residents in removal proceedings who have filed and been granted I-751 removal of conditions on residency.	Yes

⁴² *INS v. Abudu*, 485 U.S. 94, 107 (1988) (“There is a strong public interest in bringing the litigation to a close as promptly as is inconsistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases.”)

⁴³ Complaint at ¶ 122 (referring to administrative closure as “a system of indefinite non-adjudication”); ¶ 161 (asserting that administrative closure is “typically something between indefinite and effectively permanent”).

⁴⁴ See 8 CFR §§ 1003.18(d)(1), 1003.1(m)(1).

⁴⁵ <https://www.ilrc.org/resources/seeking-administrative-closure-and-termination-using-new-eoir-regulations-hostile>.

⁴⁶ See *Matter of Santiago-Santiago*, 29 I&N Dec. 589, 592 (BIA 2026) (reversing termination of proceedings because immigration judge failed to weigh discretionary factors as required under 8 CFR § 1003.18(d)).

⁴⁷ See, e.g., *Matter of Lopez-Barrios*, 20 I&N Dec. 203, 204 (BIA 1990).

⁴⁸ See *Matter of M-A-M-*, 25 I&N Dec. 474, 477 (BIA 2011) (contemplating termination of proceedings where the respondent is incompetent and safeguards are insufficient to ensure a fair hearing).

Regulation	Circumstance	Requires DHS agreement?
8 CFR § 214.14(c)(1)(i)	To await adjudication of U nonimmigrant petition filed by noncitizen in removal proceedings.	Yes
8 CFR § 1239.2(f) (2023)	To allow LPR to seek naturalization when certain conditions are met.	No

VI. Alternatives to Administrative Closure and Termination

Continuances. If the IJ is unwilling to consider administrative closure or termination, advocates may consider requesting a continuance of proceedings. Under 8 CFR § 1003.29, an IJ may grant a continuance “for good cause shown.” In *Matter of L-A-B-R-*, the Attorney General established a multifactor balancing test for determining whether “good cause” exists to continue proceedings to await adjudication of a collateral benefit.⁴⁹ Remember, however, that the BIA has issued several precedent decisions recently that purport to restrict continuances in many cases. In addition, EOIR reportedly conducted a training in September 2026 endorsing a very strict interpretation of “good cause” and instructing IJs to deny continuances in circumstances that have previously been found to constitute “good cause.”⁵⁰

The recent BIA cases addressing the “good cause” standard for a continuance focused a great deal of their analysis on timing, both of the availability of the collateral relief and of the filing of the motion to continue. In *Matter of L-A-B-R-*, the BIA held that the timing of the continuance motion was a relevant secondary factor that should be considered by the IJ in deciding whether or not to grant a continuance.⁵¹ However, in 2025, the BIA held that IJs should not grant continuance motions filed close in time to an individual hearing or that are considered to be a “dilatory tactic.”⁵² Similarly, in *Matter of Pinzon Rozo*, the BIA found the grant of a continuance to a respondent with an approved SIJS I-360 to be improper due to the unknown and lengthy wait for the priority date to become current.⁵³ While the BIA found that Pinzon Rozo satisfied the primary factors set out in *L-A-B-R-*, it held that the secondary factors weighed against a continuance.⁵⁴ In light of these cases, advocates should be sure to analyze and address all of the *L-A-B-R-* factors—not just the primary factors—in any motion to continue. Advocates should also consider timing to avoid allegations that the motion is being filed as a “dilatory tactic.”

Although these recent BIA cases have discouraged IJs from granting continuances, the “good cause” standard is regulatory and *L-A-B-R-* is an Attorney General decision entitled to significant weight. Strong motions will distinguish the facts from recent BIA fact patterns and show how good cause supports a continuance in their case.

Status Docket Placement. If a respondent can successfully establish “good cause” for a continuance, they may also consider requesting that the court place the case on the “Status

⁴⁹ See 27 I&N Dec. 405, 408 (A.G. 2018).

⁵⁰ See AILA, *EOIR Training Documents on Handling Requests for Continuances*, AILA Doc. No. 26090805 (Sep. 2, 2026).

⁵¹ *Id.* at 415.

⁵² *Matter of J-A-F-S-*, 29 I&N Dec. 195, 198 (BIA 2025).

⁵³ 29 I&N Dec. 507 (BIA 2026).

⁵⁴ *Id.*

Docket.” Once a case is on a status docket, no hearings are scheduled and parties must file written updates, informing the court of the status of the pending collateral process. The case is only scheduled for a new hearing if the respondent fails to timely file this update, or when the collateral process has concluded. Although EOIR policy on status dockets has fluctuated over time, current EOIR guidance still allows limited categories of cases to be placed on the status docket after an IJ has ruled that a continuance is warranted:

1. Cases in which the IJ is required to continue the case pursuant to binding authority to await adjudication of an application or petition by USCIS;
2. Cases in which the IJ is required to reserve a decision rather than completing the case pursuant to law or policy; and
3. Cases that are subject to a deadline established by a federal court.⁵⁵

Category (1) “include[s] many cases in which a continuance has appropriately been granted to await the adjudication of an application or petition by USCIS.”⁵⁶ Therefore, in these cases, advocates may file a motion for placement on the status docket, arguing that a continuance is warranted under 8 CFR § 1003.29 and *Matter of L-A-B-R-*, and that the case falls within one of the categories listed above.

VII. Conclusion

While the court’s order in *Texas v. DOJ* has made requests for administrative closure and termination, as well as defending against DHS motions to recalendar, much more difficult, it is important that advocates continue to zealously advocate for these docket management tools to preserve these issues for appeal and protect their clients’ rights to due process of law.



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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC’s mission is to protect and defend the fundamental rights of immigrant families and communities.

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⁵⁵ See EOIR Policy Memorandum 19-13, *Use of Status Dockets* (Aug. 16, 2019), <https://www.justice.gov/eoir/page/file/1196336/dl>. PM 19-13 was rescinded under the Biden administration but was reinstated in 2025. See EOIR Policy Memorandum 25-27, *Cancellation of Director’s Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13* (Mar. 21, 2025), <https://www.justice.gov/eoir/media/1394086/dl?inline>.

⁵⁶ *Id.* at 2.

Sample Legal Arguments

NOTE: The ILRC has thoroughly researched the cases and legal arguments included in these sample legal arguments, however the language should not be used as a substitute for individual research and knowledge. The topics discussed in this advisory are subject to active litigation and are constantly developing, and advocates must conduct their own research and analysis in every case. These sample legal arguments are intended to aid advocates filing and responding to motions in individual cases, but advocates should always conduct independent research to ensure arguments and citations are accurate.

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APPENDIX A

EVEN WITHOUT THE 2024 REGULATIONS, IJS STILL HAVE GENERAL AUTHORITY TO ADMINISTRATIVELY CLOSE PROCEEDINGS

Contrary to *Texas v. DOJ*'s overbroad declaration, the INA does authorize administrative closure as one of many tools that EOIR adjudicators can use to manage their dockets. INA § 103(g) affirmatively authorizes the Attorney General to “establish such regulations, ... issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out” his responsibilities under the INA. INA §103(g)(2). INA § 240 establishes the overall process for carrying out removal proceedings, but § 103(g) instructs the Attorney General to create processes, through regulation, to manage the minutiae of the immigration court system day-to-day. Courts have long interpreted this delegation of authority as broadly allowing the agency to establish its own rules and procedures for docket management. *See, e.g., Mejia-Alvarenga v. Garland*, 95 F.4th 319, 326-27 (5th Cir. 2024) (rejecting challenge to the BIA’s single-member decision-making process, and stating, “because Congress has given the BIA the responsibility to conduct its own proceedings, the agency should be free to fashion its own rules of procedure”).

Indeed, the Board of Immigration Appeals (BIA) and circuit courts have long recognized that the INA authorizes IJs to administratively close cases. *See* 89 Fed. Reg. 46742, 46745 (May 29, 2024) (“Since at least the 1980s, IJs and the Board have exercised their authority, where appropriate, to use administrative closure as a docketing tool.”); *see also Romero v. Barr*, 937 F.3d 282, 296 (4th Cir. 2019) (noting that administrative closure has been a procedural mechanism employed since the 1980s). Before the 2024 Final Rule was published,

administrative closure was available under binding Attorney General precedent *Matter of Cruz-Valdez*, 28 I&N Dec. 326, 329 (AG 2021), which has not been overruled and is not impacted by *Texas v. DOJ. Cruz-Valdez* overruled *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018) in its entirety, and held that except where a court of appeals has held otherwise, IJs and the BIA should apply the standard for administrative closure set out in *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012) and *Matter of W-Y-U-*, 27 I&N Dec. 17 (BIA 2017). *Cruz-Valdez*, *Avetisyan*, and other BIA cases ground adjudicators' authority to administratively close cases in longstanding regulations that grant IJs and the BIA their general powers. *See, e.g., Avetisyan*, 25 I&N Dec. at 694 (*citing* 8 CFR §§ 1240.1(a)(iv), (c)).

The majority of circuit courts that have addressed EOIR adjudicators' authority to administratively close cases have also held that administrative closure is "plainly within an immigration judge's authority" under 8 CFR § 1003.10(b), a regulation not at issue in *Texas v. USDOJ*. *See Meza Morales v. Barr*, 973 F.3d 656, 667 (7th Cir. 2020); *Arcos Sanchez v. Att'y Gen.*, 997 F.3d 113, 121–22 (3d Cir. 2021); *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019); *Gonzalez-Caraveo v. Sessions*, 882 F.3d 885, 889–90 (9th Cir. 2018); but see *Garcia v. Garland*, 64 F.4th 62, 74 (2d Cir. 2023) (holding that 8 CFR § 1003.10 does not unambiguously permit administrative closure); *Hernandez-Serrano v. Garland*, 981 F.3d 459, 462 (6th Cir. 2020) (holding that 8 CFR § 1003.10 does not delegate to IJ the authority to administratively close proceedings), *see also Garcia-DeLeon v. Garland*, 999 F.3d 986, 992 (6th Cir. 2021) (recognizing IJ authority to administratively close proceedings for respondent to seek a provisional unlawful presence waiver).

Therefore, even if the administrative closure regulations have been vacated by *Texas v. DOJ*, this Court has authority to administratively close these proceedings. *See Cruz-Valdez*, 28

I&N Dec. at 329; 8 CFR § 1003.10(b) (IJs shall exercise independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is necessary or appropriate for the disposition or alternative resolution of the case). Under *Avetisyan*, the Court should consider

(1) the reason administrative closure is sought; (2) the basis for any opposition to administrative closure; (3) the likelihood the respondent will succeed on any petition, application, or other action he or she is pursuing outside of removal proceedings; (4) the anticipated duration of the closure; (5) the responsibility of either party, if any, in contributing to any current or anticipated delay; and (6) the ultimate outcome of removal proceedings

25 I&N Dec. at 696. [Apply *Avetisyan* factors to your case.]

Further, much of the *Texas v. DOJ* complaint rested on the assumption that administrative closure is functionally “indefinite” and therefore runs afoul of the INA’s requirement that, “at the conclusion of the proceeding, the immigration judge shall decide” removability “based on the evidence produced at the hearing.” INA § 240(c)(1)(A). But even recently, the BIA has recognized that administrative closure may be appropriate in certain cases for a “reasonably short period of time.” *Matter of B-N-K-*, 29 I&N Dec. 96, 99 (BIA 2025). Here, administrative closure is requested for a limited time for the Respondent to [insert relief seeking].

APPENDIX B

THE TEXAS V. DOJ DECISION DOES NOT REACH RECALENDARING

Contrary to the Department’s assertion, *Texas v. DOJ* does not require that these proceedings be recalendared. The *Texas v. DOJ* order purports to vacate the 2024 Final Rule, permanently enjoin the Executive Office of Immigration Review (EOIR) from “enforcing” the 2024 Final Rule, and prohibit EOIR from promulgating new regulations authorizing administrative closure “absent an express statutory basis to do so.” *Texas v. DOJ*, Case No. 7:26-cv-00070-O, 2026 WL 1803245, at *1 (N.D. Tx. June 22, 2026). But the order does not direct that previously closed cases be recalendared; in fact, neither the complaint nor the order even mention recalendaring of any proceedings.

In its August 21, 2026 order denying the Intervenor Motion, the district court stated that “at most, the direct consequence of the Consent Judgment is that cases that are currently closed *may* be recalendared,” rejecting any speculation that recalendaring is now required. *See Texas v. DOJ*, 2026 WL 2455363, at *3 (N.D. Tx. Aug. 21, 2026). The parties to *Texas v. DOJ* have also rejected this concern, stating, “[T]his Court’s Consent Judgment [] does not order recalendaring ... or otherwise tell immigration judges what to do with their backlog of inactive cases.” Texas Response at 7 (adopted by DOJ at DOJ Response at 2). Thus, while the *Texas v. DOJ* order may prohibit this court from applying 8 CFR § 1003.18(c)(3)(ii) to recalendaring requests, it does not require this court to recalendar this or any other case.

Leaving a case in the status quo does not amount to “enforcement” of any regulation, and this court maintains authority to deny a motion to recalendar based on regulations and binding BIA precedent that predates the 2024 Final Rule and *Texas v. USDOJ*. *See, e.g.*, 8 CFR § 1003.1(d)(1)(ii), 1240.1(a)(1)(iv); *Matter of Avetisyan*, 25 I&N Dec. 17, 20 (BIA 2017).

APPENDIX C

THE 2024 FINAL RULE’S SEVERABILITY CLAUSE APPLIES TO RECALENDARING AND TERMINATION.

The 2024 Final Rule contains an express severability clause, stating that “all other parts of the rule that are capable of operating in the absence of the specific portion that has been invalidated [are] to remain in effect.” 89 Fed. Reg. at 46,786. The relevant portions of the 2024 Final Rule are not dependent upon the administrative closure regulations: [8 CFR § 1003.18(c)(3)(ii)/8 CFR § 1003.18(d)(1)] governs a separate, independent action subject to a separate, independent adjudicatory standard. Therefore, even if this court cannot enforce the regulations governing administrative closure, the [recalending/termination] regulations can continue to operate as to [cases that are already administratively closed/cases in which a party files a motion to terminate proceedings].

APPENDIX D

TEXAS V. USDOJ DOES NOT RETROACTIVELY REQUIRE RECALENDARING OF CASES THAT WERE PREVIOUSLY ADMINISTRATIVELY CLOSED.

Invalidation of an agency rule does not automatically erase every individual agency decision made under the rule. *See D.A.M. v. Barr*, 486 F. Supp. 3d 404, 414 (D.D.C. 2020)(“On the contrary, a judicial order vacating an agency rule does not automatically void every decision the agency made pursuant to the invalid rule.”); *Am. Pub. Health Ass’n v. Nat’l Institutes of Health*, 145 F.4th 39 (1st Cir. 2025); *Nat’l Institutes of Health v. Am. Pub. Health Ass’n*, 145 S. Ct. 2658, 222 L. Ed. 2d 1191 (2025)(Barrett, J., concurring)(“vacating the guidance does not necessarily void decisions made under it”).

General retroactivity principles reinforce this as well. The Supreme Court has cautioned against giving changes in law retroactive effect: “[re]troactivity is not favored in the law.” *Landgraf v. USI Film Prod.*, 511 U.S. 244, 265 (1994). Before applying *Texas v. DOJ* to require recalendaring the Respondent’s case, the court must consider applicable retroactivity principles. *See generally SEC v. Chenery Corp.*, 332 U.S. 194 (1947).

When an agency regulation changes, courts conduct a five-factor balancing test to balance the regulated party’s reliance interest on the previous rule against the agency’s interest in retroactive application of the new rule. *See Retail, Wholesale and Dep’t Store Union v. NLRB*, 466 F.2d 380, 390-93 (D.C. Cir. 1972). These factors include:

(1) Whether the particular case is one of first impression, (2) whether the new rule represents an abrupt departure from well-established practice or merely attempts to fill a void in an unsettled area of law, (3) the extent to which the party against whom the new rule is applied relied on the former rule, (4) the degree of the burden which a retroactive

order imposes on a party, and (5) the statutory interest in applying a new rule despite the reliance of a party on the old standard.

Id. at 390.⁵⁷ Here, the question of administrative closure and recalendaring is not one of first impression, but rather one that was previously governed by *Matter of Avetisyan*, other BIA cases, and most recently by the 2024 Final Rule, which largely codified those BIA standards. Individuals like Respondent, whose case was administratively closed prior to *Texas v. DOJ*, relied on the well-settled legal standards in place at the time when they [sought/agreed to] administrative closure. At minimum, these well-settled standards require that the court not recalendar proceedings solely because of *Texas v. USDOJ*, but rather apply [8 CFR § 1003.18(c)/1003.1(l)/*Matter of Avetisyan* and *Matter of W-Y-U*] to assess whether recalendaring is appropriate based on a totality of the circumstances.

⁵⁷ See also *Matter of Forjoe*, 29 I&N Dec. 463, 472 (BIA 2026) (applying *Retail Union* test to determine retroactivity of BIA case explicitly overruling prior BIA precedent).

APPENDIX E

THE TEXAS V. USDOJ DECISION DOES NOT REACH TERMINATION.

Contrary to the DHS's assertion, *Texas v. DOJ* does not prohibit this court from terminating removal proceedings. The *Texas v. DOJ* order purports to vacate the 2024 Final Rule and permanently enjoin EOIR from “enforcing” the 2024 Final Rule. Order at ¶¶ 2-4. But the complaint and order are both silent on termination of proceedings, either as authorized by the 2024 Final Rule or under any other authority; in fact, the entire *Texas v. DOJ* case refers to the “Administrative Closure Rule,” demonstrating the parties’ intent to undermine only those regulations. Indeed, the parties to the *Texas v. USDOJ* lawsuit—including DOJ—have even represented to that court that the lawsuit was not intended to impact termination and does not prohibit IJs from terminating specific cases based on an individualized assessment. *See Texas Response* at 26 (“Centro Legal may ... independently challenge ... any agency interpretation concerning termination authority.”) (adopted by DOJ at DOJ Response at 2).

APPENDIX F
THE INA, BIA PRECEDENT, AND CIRCUIT COURT CASELAW AUTHORIZE
TERMINATION.

Even if this court determines that *Texas v. USDOJ* vacated the termination regulations at 8 CFR § 1003.18(d), this court retains authority to terminate these proceedings under pre-2024 BIA caselaw, circuit court precedent, and the regulations governing IJs' general authority. Even before 2024, the regulations delegated to IJs and the BIA general authority to "take any action consistent with" the INA "as is appropriate and necessary for the disposition of the case. 8 CFR §§ 1003.1(d)(1)(ii), 1003.10(b), 1240.1(a)(1)(iv) (2020). Prior to the 2024 Final Rule, adjudicators had long recognized the availability of termination in certain circumstances. *See, e.g., Matter of Coronado-Acevedo*, 28 I&N Dec. 648 (A.G. 2022).

In *Coronado-Acevedo*, the Attorney General overruled *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G. 2018) and held that, pending the 2024 final rulemaking, IJs and the BIA can consider and, where appropriate, grant termination in at least the following types of circumstances: 1) where a noncitizen has obtained lawful permanent residence after being placed in removal proceedings, 2) where the pendency of removal proceedings causes adverse immigration consequences for a respondent who must travel abroad to obtain a visa, and 3) where termination is necessary for the respondent to be eligible to seek immigration relief before USCIS. *Coronado-Acevedo*, 28 I&N Dec. at 652. *Matter of Coronado-Acevedo* has not been overruled and remains binding precedent in these proceedings. Moreover, in *Gonzalez v. Garland*, the Fourth Circuit held that IJs and the BIA possess authority to terminate removal proceedings pursuant to the regulations granting IJs and the BIA their general authority—8 CFR §§ 1003.10(b) and 1003.1(d)(1)(ii)—abrogating *S-O-G- & F-D-B-*. 16 F.4th 131, 143 (4th Cir.

2021).

Even if the termination regulations have been vacated by *Texas v. USDOJ*, this court maintains authority to terminate these proceedings under *Coronado-Acevedo*, 28 I&N Dec. at 652, 8 CFR §§ 1003.10(b) and 1240.1(a)(1)(iv). [Explain how the facts of this case fit one of the three scenarios contemplated in *Coronado-Acevedo*]. Respondent also merits termination in an exercise of this court's discretion given [explain why the respondent merits termination in an exercise of discretion.]