

Why GAO Did This Study

Each year, EOIR issues hundreds of thousands of decisions for cases involving noncitizens charged as removable under U.S. immigration law. As of July 2024, EOIR reported a backlog of nearly 3.5 million pending cases.

GAO was asked to review EOIR's data on in absentia removal orders. This report examines (1) the extent to which EOIR tracks respondent hearing appearances, and (2) EOIR data related to in absentia removal orders, among other objectives.

GAO analyzed EOIR documentation and data on immigration court removal cases that were opened or pending at any point from fiscal year 2016 through fiscal year 2023. This analysis comprised the in absentia rates for non-detained respondents and various respondent characteristics, including legal representation status. GAO interviewed EOIR officials and made virtual and in-person site visits to five immigration courts selected based on various factors, such as a range of in absentia rates. During these visits, GAO interviewed government officials (e.g., immigration judges) and nongovernmental stakeholders (e.g., private bar attorneys) to obtain their views on respondent hearing appearances, among other things.

What GAO Recommends

GAO is making two recommendations to EOIR to collect and publicly report data on respondent hearing appearances. EOIR concurred with the recommendations.

View [GAO-25-106867](#). For more information, contact Rebecca Gambler at (202) 512-8777 or GamblerR@gao.gov.

IMMIGRATION COURTS

Actions Needed to Track and Report Noncitizens' Hearing Appearances

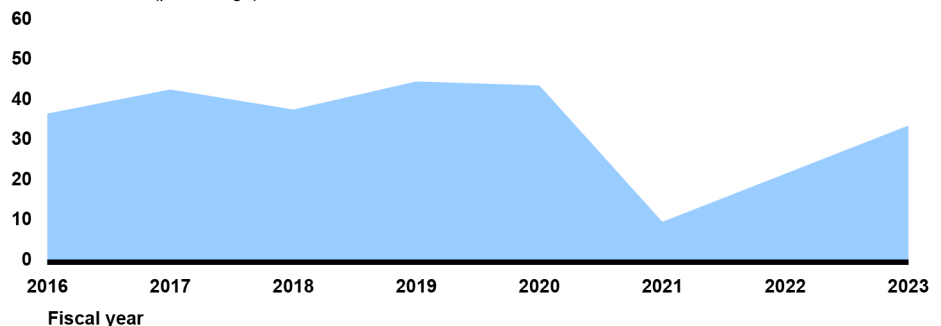
What GAO Found

The Department of Justice's Executive Office for Immigration Review (EOIR) is responsible for conducting immigration court proceedings. If a respondent—a noncitizen who has been charged with violating immigration law—fails to appear for any of their hearings, an immigration judge may order them removed from the country in their absence ("in absentia"). A judge may also waive their appearance and otherwise resolve the case, depending on the facts and circumstances. However, EOIR does not track or report data on whether respondents appear at their hearings or whether their appearance was waived, because EOIR's case management system does not have a function to systematically record such information. EOIR officials stated that the system has other information that could indicate whether respondents appeared at hearings, such as data on in absentia removal orders and certain hearing adjournment codes. However, these data do not reliably track respondents' appearance at hearings. Developing and implementing a function in its system and publicly reporting on that data would better position EOIR to provide reliable information to Congress and others about the extent respondents appear for their hearings.

According to EOIR data, from fiscal years 2016 through 2023, the total in absentia rate was 34 percent for removal cases of non-detained respondents. EOIR calculates the in absentia rate by dividing the number of in absentia removal orders by the number of immigration judges' initial decisions resolving cases. The rate varied by certain characteristics, such as court location, legal representation status, and demographic characteristics.

Rates of Non-detained Respondent Cases Ordered Removed in Absentia Out of Initial Case Decisions

In absentia rate (percentage)



Source: GAO analysis of Executive Office for Immigration Review data. | GAO-25-106867

Note: The fiscal year 2021 decrease in the rate may be associated with factors such as fewer hearings because of the COVID-19 pandemic and higher legal representation rates.

Government officials and stakeholders stated that respondents may not appear for their court hearings for a variety of reasons, such as language barriers, not having transportation to court, or respondents choosing not to go to court because they fear that they will be detained upon appearing at their hearing.