Rules and Regulations of the State of Georgia

Department 291 THE IMMIGRATION ENFORCEMENT REVIEW BOARD

Current through Rules and Regulations filed through October 27, 2026

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ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 291-1 entitled "Organization of the Board" has been adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Chapter 291-2 entitled "Complaint Procedures" has been adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Cite as Ga. Comp. R. & Regs. R. dept. 291, ADMINISTRATIVE HISTORY

Chapter 291-1. Organization of the Board.

Rule 291-1-.01. Organization.

(1) The Immigration Enforcement Review Board ("IERB") is a regulatory agency entrusted with the task of reviewing compliance by a public agency or employee with an eligibility status provision of Georgia law.

(2) The mailing address of the IERB is:

Immigration Enforcement Review Board

270 Washington Street, SW

Room 1-156

Atlanta, GA 30334.

(3) All legal notices as well as all other notices and correspondence shall be directed to the IERB at the address of:

Immigration Enforcement Review Board

270 Washington Street, SW

Room 1-156

Atlanta, GA 30334

except for complaints regarding non-compliance with an eligibility status provision by a public agency or employee which will be governed by the rules applicable to making such complaints.

(4) A record shall be kept of all actions of the IERB, including all actions of any review panel of the IERB. Copies of the official minutes, along with all initial and final decisions of the IERB or a review panel of the IERB, shall be maintained by the vice-chairperson.

(5) The IERB shall meet at the call of the chairperson or at a date and time set by a majority vote of the IERB.

Cite as Ga. Comp. R. & Regs. R. 291-1-.01
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Organization" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-1-.02. Definitions.

The following definitions shall apply generally to all rules and regulations of the Immigration Enforcement Review Board.

(1) "Chairperson" shall mean the chairperson of the IERB.

(2) "Complainant" shall mean a person filing a complaint with the IERB.

(3) "Complaint" shall mean a formal notice, received in a manner proscribed by the IERB, in which a complainant alleges that a public agency or employee violated or failed to enforce an eligibility status provision.

(4) "Department" or "Department of Audits and Accounts" shall mean the Department of Audits and Accounts for the State of Georgia.

(5) "Eligibility status provision" shall mean one or more of the following code sections: O.C.G.A. §§ 13-10-91, 36-80-23, and 50-36-1.

(6) "Final decision" shall mean an order of the IERB that has become final due to:

a. a failure to appeal an initial decision dismissing a complaint;

b. a failure to appeal a recommendation of sanctions; or

c. issuance of the order by the full membership of the IERB.

(7) "Immigration Enforcement Review Board" or "IERB" or "Board" shall mean the Immigration Enforcement Review Board.

(8) "Initial hearing" shall mean a hearing held by a review panel at which evidence is taken to determine if there has been a violation of or failure to enforce an eligibility status provision by a public agency or employee.

(9) "Initial review" shall mean an assessment of a complaint by a review panel to determine if a complaint falls within the purview of the IERB and requires a hearing by the review panel.

(10) "Public agency or employee" shall have the meaning as that term is defined in O.C.G.A. § 50-36-3.

(11) "Recommendation of sanctions" shall mean an order issued by a review panel of the IERB, after a finding of a knowing and willful violation or failure to enforce an eligibility status provision, ordering one or more of the following:

a. removal from the list of qualified local governments under Chapter 8 of Title 50 of the Georgia Code;

b. loss of appropriated state funds; and

c. a monetary fine of not less than $1,000.00 nor more than $5,000.00.

(12) "Remedial action" shall mean any action deemed necessary by an initial decision of a review panel to correct or ameliorate a violation of or failure to enforce an eligibility status provision.

(13) "Review panel" shall mean a panel comprised of either the full IERB or a panel consisting of two or more members of the IERB conducting reviews and hearings on complaints received by the IERB.

(14) "Sanction hearing" shall mean a hearing by the review panel after an initial decision finding a violation of or failure to enforce an eligibility status provision in which the review panel determines whether to issue an order imposing sanctions against the public agency or employee.

(15) "Sanction response" shall mean the response filed by a public agency or employee, after an initial decision finding a violation of or failure to enforce an eligibility status

provision, identifying remedial action undertaken and argument as to why sanctions should not be imposed.

(16) "Served" or "service" shall have the meaning as that term is defined in O.C.G.A. § 50-36-3.

(17) "Vice-chairperson" shall mean the vice-chairperson of the IERB.

Cite as Ga. Comp. R. & Regs. R. 291-1-.02
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Definitions" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-1-.03. Officers.

(1) There shall be a chairperson of the IERB selected from among the members of the IERB, elected by a majority vote of the members of the IERB. After the initial organization of the IERB and election of a chairperson, subsequent elections of a chairperson for the IERB shall be made at the first quarterly meeting of the IERB in the year immediately following a statewide general election. Should a vacancy occur in the office of the chairperson of the IERB, the vice-chairperson of the IERB shall assume the office of the chairperson of the IERB until the next quarterly meeting of the IERB, at which time the members of the IERB shall elect a chairperson to serve until the first quarterly meeting of the IERB in the year immediately following a statewide general election. A chairperson of the IERB can stand for re-election as chairperson of the IERB.

(2) There shall be a vice-chairperson of the IERB selected from among the members of the IERB, elected by a majority vote of the members of the IERB. After the initial organization of the IERB and election of a vice-chairperson, subsequent elections of a vice-chairperson for the IERB shall be made at the first quarterly meeting of the IERB in the year immediately following a statewide general election. Should a vacancy occur in the office of the vice-chairperson of the IERB, an election will be held at the next quarterly meeting of the IERB at which a vice-chairperson will be elected from among the members of the IERB to serve until the first quarterly meeting of the IERB in the year immediately following a statewide general election. A vice-chairperson of the IERB can stand for re-election as vice-chairperson of the IERB.

(3) The powers and duties of the chairperson of the IERB shall be as follows:

(a) Preside at all meetings of the IERB and conduct said meetings in an orderly and impartial manner so as to permit a free and full discussion by the membership of such matters as may be before the Board;

(b) Have the same voting rights as any regular member;

(c) Establish and appoint any committees or task forces or review panel as may be deemed necessary by the chairperson or the IERB;

(d) Select and so designate the Chair and members of each committee or task force or review panel;

(e) Appoint someone to perform the duties of the vice-chairperson of the IERB for a meeting at which the vice-chairperson is unable to perform the duties of the vice-chairperson;

(f) Advise the Governor and the General Assembly on behalf of the IERB of the status of the IERB's efforts and endeavors; and

(g) Perform such other duties as the Governor, the General Assembly, or the Board may delegate to the chairperson of the IERB.

(4) The powers and duties of the vice-chairperson of the IERB shall be as follows:

(a) Perform all duties of the chairperson in the absence of the chairperson, or in the event of the inability of the chairperson to act;

(b) Have the same voting rights as any regular member; and

(c) Keep and maintain the official record of all actions taken by the IERB, including minutes of any meetings of the IERB.

Cite as Ga. Comp. R. & Regs. R. 291-1-.03
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Officers" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Chapter 291-2. Complaint Procedures.

Rule 291-2-.01. Filing of Complaints.

(1) Any legal resident of the State of Georgia, as that term is defined in O.C.G.A. § 40-2-1, who is also a legally registered voter, may file a complaint with the IERB. Complaints filed by an individual who is not a legal resident of the State of Georgia or who is not a legally registered voter shall not be considered by the IERB.

(2) Complaints shall be made on the form promulgated by the IERB and in the manner proscribed by the IERB. Complaint forms shall be posted on the website for the Department of Audits and Accounts. Complaints received on forms not promulgated by the IERB shall not be considered by the IERB. Complaints received in a manner other than through the methods adopted by the IERB shall not be considered by the IERB.

(3) Complaints must contain the following:

(a) the name of the public agency or employee who is alleged to have violated or failed to enforce the eligibility status provision;

(b) the city or county in which the public agency or employee allegedly committed the violation or failure to enforce;

(c) sufficient facts concerning the alleged violation of failure to enforce the eligibility status provision, including a date or range of dates in which this violation or failure to enforce allegedly occurred, to determine if a *prima facie* case exists for finding a violation or failure to enforce;

(d) the name, address, and telephone number of the complainant; and

(e) an attestation by the complainant that the complainant is both a legal resident of the State of Georgia as well as a legally registered voter and that the contents of the complaint as stated by the complainant are true.

(4) Complaints shall be mailed to the IERB at the following address:

Immigration Enforcement Review Board

270 Washington Street, SW

Room 1-156

Atlanta, GA 30334.

(5) The complaint form used by the IERB shall contain areas for the complainant to provide the following information:

(a) the name of the public agency or employee who is alleged to have violated or failed to enforce the eligibility status provision;

(b) the address and telephone number of the public agency or employee;

(c) the city or county in which the public agency or employee allegedly committed the violation or failure to enforce;

(d) which of the eligibility status provisions it is alleged that the public agency or employee violated or failed to enforce;

(e) a narrative describing sufficient facts concerning the alleged violation of failure to enforce the eligibility status provision to determine if a *prima facie* case exists for finding a violation or failure to enforce;

(f) a date or range of dates on which the public agency or employee allegedly committed the violation or failure to enforce;

(g) the name, address, and telephone number of the complainant; and

(h) an attestation by the complainant that the complainant is both a legal resident of the State of Georgia as well as a legally registered voter and that the contents of the complaint as stated by the complainant are true.

Cite as Ga. Comp. R. & Regs. R. 291-2-.01
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Filing of Complaints" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-2-.02. Initial Review.

(1) A review panel of the IERB shall review all complaints received by the IERB to determine their legal sufficiency.

(2) Any complaints made by an individual not authorized to file a complaint, made on forms not promulgated by the IERB, made in a manner not proscribed by the IERB, or which do not contain sufficient facts to determine whether a potential violation or failure to enforce has occurred shall not be considered by the IERB. Such determination shall not be considered either an initial or final decision of the IERB for purposes of either appeal or subject to the provisions dealing with service on the complainant or the applicable public agency or employee. Such determination shall be entered into the official records of the IERB.

(3) If the review panel determines that the complaint meets the procedural requirements adopted by the board and states sufficient facts to merit further hearing before the review panel, the review panel shall set the complaint down for an initial hearing before the review panel.

Cite as Ga. Comp. R. & Regs. R. 291-2-.02
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Initial Review" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-2-.03. Initial Hearings.

(1) Should the initial review by the review panel determine that the complaint should be set down for a hearing, the review panel shall set a date and time for the hearing to be held. The review panel shall provide notice of the date and time of the hearing to both the

complaining party and the applicable public agency or employee. The hearing shall be set for no earlier than thirty (30) days from the conclusion of the initial review.

(2) If either the complaining party or the applicable public agency or employee desires that the initial hearing be transcribed, they may do so upon arranging with the applicable court stenographer or court reporter to so transcribe the hearing. If both parties desire the initial hearing to be transcribed, they shall agree upon a mutually acceptable court stenographer or court reporter to transcribe the hearing, or, in the absence of an agreement on a mutually acceptable court stenographer or court reporter, the chair of the review panel shall determine which court stenographer or court reporter shall transcribe the hearing. The costs of the court stenographer or court reporter shall be born equally between the parties if both desire a court stenographer or reporter. The costs shall be born only by the requesting party if only one party desires a transcription of the hearing. All requests for transcription of the initial hearing shall be made in writing to the chair of the review panel by the requesting party and must be received no later than seven (7) days prior to the hearing. Requests must be sent to the mailing address of the IERB, to the attention of the chair of the review panel. If a party obtains a transcript of the hearing and that party subsequently files a sanction response or an appeal of either an initial decision or a sanction response, a true and correct copy of that transcript must be included as an attached exhibit to that filing.

(3) Upon motion by either the complaining party or the applicable public agency or employee, for good cause shown, the review panel may issue subpoenas to compel the attendance of and testimony by witnesses or the production of documents at the hearing. The party requesting the subpoena shall bear all costs related to service, witness fees, mileage, and other costs of attendance. Requests for issuance of subpoenas by either the complaining party or the applicable public agency or employee shall be made in writing to the chair of the review panel by the requesting party and must be received no later than fifteen (15) days prior to the hearing. Requests must be sent to the mailing address of the IERB, to the attention of the chair of the review panel. The review panel shall have the authority to issue subpoenas on its own motion to compel the attendance of and testimony by witnesses or the production of documents at the hearing, with the IERB bearing all costs related to service, witness fees, mileage, and other costs of attendance for any subpoenas issues on the motion of a review panel.

(4) Prior to any witness providing testimony to the review panel, the witness shall be administered an oath by the chair of the review panel or the designee of the chair swearing in the witness.

(5) Following the conclusion of the hearing, the review panel shall issue an initial decision, upon majority vote of the review panel, making a determination as to whether a violation of or failure to enforce an eligibility status provision has occurred. If the initial decision finds that there has been a violation of or failure to enforce an eligibility status provision, the initial decision shall set forth any remedial action deemed necessary by the review panel to correct the violation of or failure to enforce the eligibility status provision.

(6) The review panel shall provide service of the initial decision on both the complaining party and the applicable public agency or employee within sixty (60) days of the conclusion of the initial hearing.

Cite as Ga. Comp. R. & Regs. R. 291-2-.03
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Initial Hearings" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-2-.04. Recommendation of Sanctions.

(1) If an initial decision finds that there has been a violation of or failure to enforce an eligibility status provision, the public agency or employee shall have thirty (30) days from service of the initial decision to provide a sanction response to the review panel as to why sanctions should not be imposed and what, if any, remedial action has been undertaken. The public agency or employee shall provide service of the sanction response on the review panel.

(2) If the review panel determines that the sanction response, including any remedial action undertaken, is insufficient, and that the violation of or failure to enforce the eligibility status provision was knowing and willful based upon a preponderance of the evidence presented at the initial hearing, the review panel may make a recommendation of sanctions ordering one or more of the following:

a. removal from the list of qualified local governments under Chapter 8 of Title 50 of the Georgia Code;

b. loss of appropriated state funds; and

c. a monetary fine of not less than $1,000.00 nor more than $5,000.00.

(3) The recommendation of sanctions shall be served upon the complaining party and the applicable public agency or employee.

Cite as Ga. Comp. R. & Regs. R. 291-2-.04
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Recommendation of Santions" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.

Rule 291-2-.05. Appeals and Board Determinations.

(1) If an initial decision finding no violation of or failure to enforce an eligibility status provision is made by a review panel consisting of fewer than the entire board, the complaining party may appeal that initial decision to the entire board of the IERB by providing service of said appeal upon both the IERB and the applicable public agency or

employee. Said appeal shall be served upon the IERB and the applicable public agency or employee within thirty (30) days of service of the initial decision upon the applicable public agency or employee.

(2) If an initial decision finding no violation of or failure to enforce an eligibility status provision is made by a review panel consisting of the entire board, the initial decision will become the final decision of the IERB unless the IERB modifies that initial decision within thirty (30) days of service of the initial decision upon the applicable public agency or employee.

(3) If an initial decision finding no violation of or failure to enforce an eligibility status provision is made by a review panel consisting of the entire board, and the IERB modifies that initial decision on its own initiative prior to the expiration of thirty (30) days of service upon the applicable public agency or employee to make a finding that a violation of or failure to enforce an eligibility status provision has occurred, the matter will be subject to the same procedures in place as if the initial decision had originally determined that a violation of or failure to enforce an eligibility status provision had occurred. The applicable public agency or employee will have thirty (30) days from service of the modified initial decision to make a sanction response.

(4) If an initial decision finding no violation of or failure to enforce an eligibility status provision is made by a review panel consisting of the entire board, and the IERB modifies that initial decision on its own initiative prior to the expiration of thirty (30) days of service upon the applicable public agency or employee but still makes a finding that no violation of or failure to enforce an eligibility status provision has occurred, the modified initial decision shall become the final decision of the IERB within thirty (30) days of service of the initial decision upon the applicable public agency or employee.

(5) If there has been a recommendation of sanctions entered by a review panel consisting of less than the entire board, that recommendation of sanctions may be appealed to the entire board upon service of an appeal by either the complaining party or the applicable public agency or employee within thirty (30) days of service of the recommendation of sanctions upon the applicable public agency or employee.

(6) No appeal will be permitted from either a recommendation of sanctions or an initial decision if made by a review panel consisting of the entire board.

(7) No appeal will be permitted from an initial decision by a review panel consisting of less than the entire board finding a violation of or failure to enforce an eligibility status provision until after a recommendation of sanctions has been made by the review panel.

(8) If an appeal of either an initial decision or recommendation of sanctions is made within the applicable time period, the IERB shall have the options of:

(a) conducting an additional hearing on the matter;

(b) make a determination and final decision on the record made by the review panel; or

(c) determine that no additional action by the IERB is necessary.

(9) Any decision made by the full board following an appeal to the full board shall become the final decision of the IERB following the expiration of thirty (30) days from service of that full board decision on the applicable public agency or employee, unless further action is taken by the full board prior to the expiration of that thirty (30) days.

Cite as Ga. Comp. R. & Regs. R. 291-2-.05
Authority: O.C.G.A. § 50-36-3, enacted by 2011 Ga. Laws 794, 814.
History. New Rule entitled "Appeals and Board Determination" adopted. F. Jan. 20, 2012; eff. Feb. 9, 2012.