



Northern  
California



PUBLIC JUSTICE  
IMPACT. CHANGE.

VIA EMAIL & PERSONAL DELIVERY

Honorable Julie L. Nelson  
Assistant Chief Immigration Judge  
1855 Gateway Blvd., Suite 850  
Concord, CA 94520

June 11, 2025

**Re: Request to Protect Public Access to Judicial Proceedings**

Dear Honorable Julie L. Nelson:

Based on reports from legal observers that immigration proceedings at the Concord Immigration Court are currently being restricted to individuals with “official business,” we write on behalf of the American Civil Liberties Union of Northern California and Public Justice to respectfully request that these court proceedings remain open to the public, including community members, legal observers, and members of the press. For the reasons set forth in this letter, we respectfully request that the Court uphold longstanding constitutional principles and the presumption of public access to immigration hearings.

Any decision by this Court to abruptly cut off public access to immigration proceedings would contravene the First Amendment, federal law, and this Court’s own stated policies.<sup>1</sup> Such courtroom closures would also undermine confidence in our immigration court system at a time when the “government is asserting a right to stash away residents of this country in foreign prisons without [a] semblance of due process.” *Abrego Garcia v. Noem*, No. 25-1404, 2025 WL 1135112, \*1 (4th Cir. Apr. 17, 2025). The public’s interest in these proceedings is especially significant given the serious nature of these proceedings and the recent increased immigration enforcement actions throughout California, which have captured the attention of people across the country.

Under the First Amendment and common law, the public has a presumptive right to access judicial proceedings, unless a court makes “specific factual findings” that closure is necessary to serve an overriding interest and is narrowly tailored to serve that interest. *Phoenix Newspapers, Inc. v. U.S. Dist. Ct. for Dist. of Ariz.*, 156 F.3d 940, 949 (9th Cir. 1998) (citing *Oregonian Pub. Co. v. U.S. Dist. Ct. for Dist. of Oregon*, 920 F.2d 1466 (9th Cir. 1990)). Importantly, any person “excluded” from a proceeding “must be afforded a reasonable opportunity to state their objections.” *United States v. Brooklier*, 685 F.2d 1162, 1167-68 (9th Cir. 1982).

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<sup>1</sup> See Executive Office for Immigration Review (EOIR), U.S. Dep’t of Justice, Concord Immigration Court, *Observing Immigration Court Hearings*, <https://www.justice.gov/eoir/concord-immigration-court>.

Even when the government does purport to have a compelling interest in closure, that interest must be weighed against “conflicting constitutional claims” with a “presumption in favor of openness.” *In re Charlotte Observer (Div. of Knight Pub. Co.)*, 882 F.2d 850, 853 (4th Cir. 1989). In this context, it is well established that generalized security concerns, absent specific factual findings, cannot overcome the public’s presumptive right of access. *See, e.g., Phoenix Newspapers, Inc.*, 156 F.3d at 950; *Oregonian Pub. Co.*, 920 F.2d at 1467. And any measures aimed at protecting substantiated security concerns must still be narrowly tailored and no greater than is necessary to address that concern. A court therefore cannot terminate *all* public access for *all* proceedings for *all* time. Doing so would be impermissibly broad.

Federal immigration regulations likewise specifically protect the public’s right to observe immigration court hearings, making clear that removal proceedings—including master, bond, and merits hearings—are presumptively open to the public. *See* 8 C.F.R. § 1003.27; 8 C.F.R. § 1240.10(b). This foundational presumption in favor of openness is particularly important in cases involving the deportation of non-citizens where “[t]he only safeguard on this extraordinary governmental power is the public.” *Detroit Free Press v. Ashcroft*, 303 F.3d 681, 683 (6th Cir. 2002) (holding that national security concerns did not override the public’s First Amendment access right to immigration removal proceedings).

Given the foregoing law and constitutional liberties at stake, we urge you not to strip away the safeguard of transparency. “Public scrutiny . . . enhances the quality and safeguards the integrity of the factfinding process, with benefits to both the defendant and society as a whole.” *Globe Newspaper Co. v. Superior Ct. for the Cnty. of Norfolk*, 457 U.S. 596, 606 (1982). Simply put: a government official’s actions in the immigration context must not be beyond scrutiny because “democracies die behind closed doors.” *Detroit Free Press*, 303 F.3d at 683.

We respectfully request that you take immediate steps to ensure that members of the public are allowed to observe in person all further immigration hearings, unless an immigration judge meets the exacting requirements to close a proceeding established by federal law and enshrined in the U.S. Constitution. Further, because those excluded from the proceeding must be afforded a reasonable opportunity to state their objections, the undersigned request that any member of the public who is excluded from a proceeding be provided the specific factual basis for why closure of that particular proceeding might be warranted.

Sincerely,

**/s Angélica Salceda**

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cc: EOIR’s Office of Policy, PAO.EOIR@usdoj.gov

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