

observations related to the detainee's disability;

- 3) finding on whether the detainee has a disability and how the disability or impairment limits the detainee's ability to access programs or activities within the detention setting;
- 4) the facility's final decision on any requested accommodations;
- 5) provision of any aids or services to the detainee, including the specific type(s) of accommodation provided and/or steps taken by the facility, and the implementation date(s);
- 6) a copy of any written notification provided to the detainee, including the justification in the case of a denial; and
- 7) the results and date(s) of any reassessment(s), if applicable, including reasons for any decisions made.

## G. Denial of an Accommodation

Permissible reasons for the facility to deny an accommodation to a detainee who has been determined to have a disability include: (1) the detainee is not denied access to the facility's programs or activities because of a disability; (2) there is not a nexus between the disability and the requested accommodation; (3) the requested accommodation would fundamentally alter the nature of the program, service, or activity; (4) the requested accommodation would result in an undue financial and administrative burden; or (5) the detainee poses a direct threat to staff or other detainees.

Both "fundamental alteration" and "undue financial and administrative burden" are generally high standards that are difficult to meet. Further, if a particular accommodation would result in an undue financial and administrative burden or fundamental

alteration, the facility must take any other action that would not result in such an undue burden or fundamental alteration but would nevertheless ensure that, to the maximum extent possible, detainees with a disability receive the benefits and services of the program or activity. Similarly, determinations that individuals pose a "direct threat" are generally very rare, and require a careful, individualized assessment as described below.

### 1. Fundamental Alteration

A "fundamental alteration" to a facility's programs, services, or activities is a change that is so significant that it alters the essential nature of the program, service, or activity offered. Whether a change constitutes a fundamental alteration is a determination that must be made on a case-by-case basis, and that must consider the unique characteristics of each facility and each detainee with a disability.

### 2. Undue Financial and Administrative Burden

An "undue financial and administrative burden" is a significant difficulty or expense related to a facility's operations, programs, or activities. In evaluating whether a particular accommodation would result in an undue burden, the facility must consider all resources available for use in the funding and operation of the conducted program or activity *as a whole*.

### 3. Direct Threat

The facility may justify the denial of an accommodation to a detainee with a disability on the basis of the detainee posing a direct threat to staff or other detainees only if providing the accommodation would unavoidably exacerbate the threat. The determination that a detainee with a disability poses such a direct threat to staff or other detainees must be reached through an individualized assessment by a multidisciplinary team. The assessment must rely on reasonable judgment and current medical evidence, or the best available

objective evidence, to determine the nature, duration, and severity of the risk, and whether any modifications of policies, practices, or procedures can mitigate or eliminate the risk. Detainees who are found to pose a direct threat are nevertheless entitled to auxiliary aids or services to allow for effective communication.

## **H. External Notifications**

### **1. Notification of a Detainee with a Communication or Mobility Impairment**

The facility shall notify the Field Office Director as soon as practicable, but no later than 72 hours, after the multidisciplinary team has completed its review of the needs of any detainee with a communication or mobility impairment. This notification must include, at a minimum,

- a. the nature of the detainee's disability or impairment;
- b. the accommodation requested by the detainee; and
- c. the facility's plan to accommodate the detainee.

### **2. Notification of Facility Denials and Provision of Alternative Accommodations**

The facility shall notify the Field Office Director in writing within 72 hours of any final denial by the facility administrator or assistant facility administrator of any accommodations request reviewed by the multidisciplinary team. This notification must include, at a minimum,

- a. the nature of the detainee's disability;
- b. the accommodation requested by the detainee;
- c. the reason for denial; and
- d. any steps the facility has taken to address the detainee's needs.

ICE may review the facility's denial of a request for an accommodation. The facility shall provide additional information as needed to further ICE's

review, and shall cooperate with ICE on any additional steps that may be necessary.

## **I. Staff Training**

Training on the facility's Disability and Reasonable Accommodations procedures shall be provided to employees, volunteers, and contract personnel, and shall also be included in annual refresher training thereafter. New facility staff, including contractors and volunteers, shall receive this training as part of the Initial Orientation training required by Standard 7.3. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's disability accommodations policy.

"Appendix 4.8.A: Resources" following this standard lists resources available from the U.S. Department of Justice and organizations that may be useful in developing a training program, and/or for direct use in training.

## **J. Detainee Orientation**

The facility orientation program required by standard 2.1, "Admission and Release," and the detainee handbook required by standard 6.1, "Detainee Handbook," shall notify and inform detainees about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request. The facility will post other documents for detainee awareness in detainee living areas and in the medical unit, as requested by the local ICE/ERO Field Office.



## Appendix 4.8.A: Resources

*Note: This appendix is not, and should not be interpreted as, legal advice. This appendix is intended only as a reference. The materials referenced herein are non-exhaustive, and facilities are responsible for determining whether and how any additional laws apply.*

### Applicable Federal Laws and Regulations

**Section 504 of the Rehabilitation Act of 1973**, as amended, 29 U.S.C. § 794 (Section 504)

- Section 504 prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. Section 504 requires that no individual with a disability may be denied the opportunity to participate in a program, service, or activity solely by reason of a disability. The facility is required to provide reasonable modifications to provide individuals with disabilities with an equal opportunity to access, participate in, or benefit from the facility's programs, services, and activities. When considering what reasonable modifications to provide, the facility will engage in an interactive and individualized process that considers the individual's needs and gives primary consideration to the preferences of the individual with a disability.
  - DHS' Section 504 implementing regulations: 6 C.F.R. Part 15
  - Link to DHS' Section 504 regulations: <https://www.gpo.gov/fdsys/pkg/CFR-2004-title6-vol1/pdf/CFR-2004-title6-vol1-part15.pdf>
- Architectural Barriers Act of 1968**, 42 U.S.C. §§ 4151 *et seq.* (ABA)
- The ABA requires that buildings and facilities that are designed, constructed, or altered with

Federal funds, or leased by a Federal agency, comply with Federal standards for physical accessibility. ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those buildings and facilities.

- Implementing Regulations: 41 CFR Subpart 101-19.6
- Link to the ABA: <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards>

### U.S. Department of Homeland Security (DHS) Resources

#### Directive No. 065-01: Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment)

- This Directive establishes the DHS policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504.  
[https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access\\_0\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access_0_1.pdf)

#### Directive 065-01-001: Instruction on Nondiscrimination for Individuals with a Disability in DHS-Conducted Programs and Activities (Non-Employment)

- This Instruction implements the DHS Directive 065-01, Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment).  
[https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities\\_03-07-15.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities_03-07-15.pdf)

#### A Guide to Interacting with People who Have Disabilities:

- The DHS Office for Civil Rights and Civil Liberties developed this Guide to assist DHS personnel, contractors, and grantees in their interactions with people who have disabilities. Under Section 504, DHS has a legal obligation to ensure nondiscrimination in the employment of people with disabilities as well as by providing program access, physical access, effective communication, and reasonable accommodation to people with disabilities encountered and served by DHS programs and activities. Examples of these interactions include detainees with disabilities who are in ICE custody awaiting a hearing or removal; this also includes individuals with disabilities who are members of the public, a family member, friend and/or attorney of a detainee who seek to access ICE programs, services and activities. Ensuring nondiscrimination often begins by practicing effective methods for interaction, such as treating individuals with respect and using appropriate language. This Guide offers a summary of disability myths and facts, guidance on appropriate language, and tips for successfully interacting with people who have disabilities. It is intended as a general overview of the topic and does not supplant any specific policies and procedures used by the DHS Components.

[https://www.dhs.gov/sites/default/files/publications/guide-interacting-with-people-who-have-disabilities\\_09-26-13.pdf](https://www.dhs.gov/sites/default/files/publications/guide-interacting-with-people-who-have-disabilities_09-26-13.pdf)

## **Other Federal Government Resources**

**Disability.gov:** [www.disability.gov](http://www.disability.gov)

- Disability.gov is the U.S. federal government website for comprehensive information about disability-related programs, services, policies, laws and regulations nationwide. The site links to thousands of resources from many different federal government agencies, as well as state and local governments and nonprofit organizations across the country. New resources are frequently

added to Disability.gov's 10 main subject areas: Benefits, Civil Rights, Community Life, Education, Emergency Preparedness, Employment, Health, Housing, Technology and Transportation.

**U.S. Department of Justice, Disability Rights Section:** [www.ada.gov](http://www.ada.gov)

- ADA.gov is a website operated by the Disability Rights Section in the Civil Rights Division of the U.S. Department of Justice (DOJ) to continuously provide new and updated information and guidance on the Americans with Disabilities Act (ADA) and its requirements. DOJ also operates a toll-free information line for those seeking to comply with the ADA: (800) 514-0301 for voice calls; or (800) 514-0383 for TTY. [Note: The ADA does not apply to ICE's detention programs and activities. However, ada.gov provides helpful disability-related technical assistance materials on various subjects.]

**The U.S. Access Board:** [www.access-board.gov](http://www.access-board.gov)

- The U.S. Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology. The Board develops and maintains design criteria for the built environment, transit vehicles, telecommunications equipment, medical diagnostic equipment, and information technology. The Board also provides technical assistance and training on these requirements and on accessible design and continues to enforce accessibility standards that cover federally funded facilities. The Board's Section 508 Standards apply to electronic and information technology procured by the federal government, including computer hardware and software, websites, phone systems, and

copiers. They were issued under section 508 of the Rehabilitation Act which requires access for both members of the public and federal employees to such technologies when

developed, procured, maintained, or used by federal agencies. The Board operates a toll-free-line: (800) 872-2253 or TTY (800) 993-2822.

## 5.1 Correspondence and Other Mail

### I. Purpose and Scope

This detention standard ensures that detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials consistent with the safe and orderly operation of the facility.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall be able to correspond with their families, the community, legal representatives, government offices and consular officials.
2. Detainees shall be notified of the facility’s rules on correspondence and other mail through the detainee handbook, or supplement, provided to

each detainee upon admittance.

3. The amount and content of correspondence detainees send at their own expense shall not be limited, except to protect public safety or facility security and order.
4. Indigent detainees shall receive a specified postage allowance to maintain community ties and necessary postage for privileged correspondence.
5. Detainees shall have access to general interest publications.
6. Incoming and outgoing mail, with the exception of special correspondence or legal mail, shall be opened to inspect for contraband and to intercept cash, checks and money orders.
7. General correspondence shall be read or rejected only to protect the safe, secure and orderly operation of the facility, and detainees shall be notified in writing when correspondence is withheld in part or in full.
8. Detainees shall be permitted to send special correspondence or legal mail to a specified class of persons and organizations, and incoming mail from these persons shall be opened only in the presence of the detainees (unless waived) to check for contraband (except when contamination is suspected).
9. Incoming and outgoing letters shall be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends, holidays or exceptional circumstances.
10. Detainees in Special Management Units (SMU) shall have the same correspondence privileges as detainees in the general population.
11. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the

provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Correspondence and Other Mail” dated 12/2/2008.

### VI. References

American Correctional Association 4th Edition, *Standards for Adult Detention Facilities*: 4-ALDF-5B-05, 5B-06, 5B-07, 5B-08, 5B-09, 5B-10, 2A-27, 2A-60, 6A-09.

### V. Expected Practices

#### A. General

Each facility shall have written policy and procedures concerning detainee correspondence and other mail.

The quantity of correspondence a detainee may receive or send at his/her own expense shall not be limited. Facilities shall not limit detainees to postcards and shall allow envelope mailings. For reasons of safety, security and the orderly operation

of the facility, non-correspondence mail, such as packages and publications, shall be subject to certain restrictions.

#### B. Indigent Detainees

Ordinarily, a detainee is considered “indigent” if he/she has less than \$15.00 in his/her account. Facilities shall make a timely determination as to whether a detainee is indigent.

Each facility shall have written procedures that explain how indigent detainees can request postage at government expense. Such procedures shall also be posted in a common area where all detainees can view them.

At government expense, as determined by ICE/ERO, indigent detainees shall be permitted to post a reasonable amount of mail each calendar week (see “J. Postage Costs”) below, including the following:

1. an unlimited amount of special correspondence or legal mail, within reason;
2. three pieces of general correspondence; and/or
3. packages as deemed necessary by ICE/ERO.

#### C. Detainee Notification

The facility shall notify detainees of its rules on correspondence and other mail through the detainee handbook, or supplement, provided to each detainee upon admittance. At a minimum, the notification shall specify:

1. That a detainee may receive mail, the mailing address of the facility, and instructions on how envelopes shall be addressed;
2. That a detainee may send mail, the procedure for sending mail, and instructions on how outgoing mail must be addressed;
3. That general correspondence and other mail addressed to detainees shall be opened and inspected in the detainee’s presence, unless the facility administrator authorizes inspection without the detainee’s presence for security

reasons;

4. The definition of special correspondence or legal mail, including instructions on the proper labeling as “special correspondence” or “legal mail” to ensure that it is treated as privileged mail; the notification shall clearly state that it is the detainee’s responsibility to inform senders of the labeling requirement;
5. That incoming special correspondence or legal mail may only be opened in the detainee’s presence, and may be inspected for contraband, but not read, and that outgoing special correspondence or legal mail shall not be opened, inspected or read;
6. That packages may neither be sent nor received without advance arrangements approved by the facility administrator, as well as information regarding how to obtain such approval;
7. A description of mail which may be rejected by the facility and which the detainee shall not be permitted to keep in his/her possession;
8. That identity documents, such as passports, birth certificates, etc., in a detainee’s possession are contraband and may be used by ICE/ERO as evidence against the detainee or for other purposes authorized by law (however, upon request, the detainee shall be provided a copy of each document, certified by an ICE/ERO officer to be a true and correct copy; the facility shall consult ICE/ERO with any and all requests for identity documents);
9. The procedure to obtain writing implements, paper and envelopes; and
10. The procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.

The rules notification shall be posted in each housing area.

The facility shall provide key information to

detainees in languages spoken by any significant portion of the facility’s detainee population. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

## D. Processing

Detainee correspondence and other mail shall be delivered to the detainee and to the postal service on regular schedules.

1. Incoming correspondence shall be distributed to detainees within 24 hours (one business day) of receipt by the facility.
2. Outgoing correspondence shall be delivered to the postal service no later than the day after it is received by facility staff or placed by the detainee in a designated mail depository, excluding weekends and holidays.
3. An exception may be made for correspondence or other mail that requires special handling for security purposes. For example, in exceptional circumstances, special correspondence may be held for 48 hours, to verify the status of the addressee or sender.

As a routine matter, incoming mail shall be distributed to detainees on the day received by the facility. Incoming priority, overnight, certified mail and deliveries from a private package delivery service, etc., shall be recorded with detainee signatures in a logbook maintained by the facility.

## E. Packages

Each facility shall implement policies and procedures concerning detainee packages.

*Detainees shall not be allowed to receive or send packages without advance arrangements approved by the facility administrator. The detainee shall pay postage for packages and oversized or overweight mail.*



## **F. Inspection of Incoming Correspondence and Other Mail**

### **1. General Correspondence and Other Mail**

All facilities shall implement procedures for the inspection of all incoming general correspondence and other mail (including packages and publications) for contraband.

Staff shall open and inspect incoming general correspondence and other mail (including packages and publications) in the presence of the detainee unless otherwise authorized by the facility administrator. Incoming general correspondence may be read to the extent necessary to maintain security, as authorized by the facility administrator.

Inspection is generally for the purpose of detecting contraband. Reading of mail, which requires approval of the facility administrator, may be conducted at random. Mail may also be read when a specific security concern arises with respect to an individual detainee, including, but not limited to, for obtaining information such as escape plots, plans to commit illegal acts and plans to violate institution rules.

### **2. Special Correspondence or Legal Mail**

“Special correspondence” or “legal mail” shall be defined as the term for detainees’ written communications to or from any of the following:

- a. private attorneys and other legal representatives;
- b. government attorneys;
- c. judges and courts;
- d. embassies and consulates;
- e. the president and vice president of the United States;
- f. members of Congress;
- g. the Department of Justice (including the DOJ Office of the Inspector General);
- h. the Department of Homeland Security (including

U.S. Immigration and Customs Enforcement, ICE Health Services Corps, the Office of Enforcement and Removal Operations, the DHS Office for Civil Rights and Civil Liberties, and the DHS Office of the Inspector General);

- i. outside health care professionals;
- j. administrators of grievance systems; and
- k. representatives of the news media.

Correspondence shall only be treated as special correspondence or legal mail if the title and office of the sender (for incoming correspondence) or addressee (for outgoing correspondence) are unambiguously identified on the envelope, and the envelope is labeled “special correspondence” or “legal mail.”

All facilities shall implement procedures for inspecting for contraband, in the presence of the detainee, all special correspondence or legal mail. Detainees shall sign a logbook upon receipt of special correspondence and/or legal mail to verify that the special correspondence or legal mail was opened in their presence.

Staff shall neither read nor copy special correspondence or legal mail. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

## **G. Inspection of Outgoing Correspondence and Other Mail**

### **1. General Correspondence and Other Mail**

Outgoing general correspondence and other mail may be inspected or read if:

- a. the addressee is another detainee; or
- b. there is evidence the item might present a threat to the facility’s secure or orderly operation, endanger the recipient or the public or facilitate criminal activity.

The detainee must be present when the

correspondence or other mail, including packages, is inspected, unless otherwise authorized by the facility administrator.

## **2. Special Correspondence or Legal Mail**

Staff shall neither read nor copy outgoing special correspondence or legal mail. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

Staff shall treat outgoing correspondence as special correspondence or legal mail only if the name, title and office of the recipient are clearly identified on the envelope and the envelope is labeled “special correspondence” or “legal mail.”

## **H. Rejection of Incoming and Outgoing Mail**

All facilities shall implement policies and procedures addressing acceptable and non-acceptable mail.

Detainees may receive as correspondence any material reasonably necessary for the detainee to present his/her legal claim, in accordance with this standard.

Incoming and outgoing general correspondence and other mail may be rejected to protect the security, good order or discipline of the institution; to protect the public; or to deter criminal activity.

When incoming or outgoing mail is confiscated or withheld (in whole or in part), the detainee shall be notified and given a receipt.

The facility administrator shall ordinarily consult a religious authority before confiscation of a religious item that constitutes “soft” contraband.

Correspondence and publications that may be rejected include, but are not limited to, the following.

1. Material depicting activities that present a significant risk of physical violence or group disruption (e.g., material with subjects of self-

defense or survival, weaponry, armaments, explosives or incendiary devices); however, note that newspaper articles that depict or describe violence in a detainee’s country of origin may be relevant to a detainee’s legal case and should not automatically be considered contraband;

2. Information regarding escape plots, or plans to commit illegal activities, or to violate ICE/ERO rules or facility guidelines;
3. Information regarding the production of drugs or alcohol;
4. Sexually explicit material that is obscene or prurient in nature;
5. Threats, extortion, obscenity or gratuitous profanity;
6. Cryptographic or other surreptitious code that may be used as a form of communication; or
7. Other contraband (any package received without the facility administrator’s prior authorization is considered contraband).

Both sender and addressee shall be provided written notice, signed by the facility administrator, with explanation, when the facility rejects incoming or outgoing mail. Rejected mail shall be considered contraband and handled as detailed in the next section of this standard.

A detainee may appeal rejection of correspondence through the Detainee Grievance System.

## **I. Contraband Recording and Handling**

When an officer finds an item that must be removed from a detainee’s mail, he/she shall make a written record that includes:

1. the detainee’s name and A-number;
2. the name of the sender and recipient;
3. a description of the mail in question;
4. a description of the action taken and the reason for it;

5. the disposition of the item and the date of disposition; and
6. the officer's signature.

Prohibited items discovered in the mail shall be handled as follows:

1. A receipt shall be issued to the detainee for all cash, which shall be safeguarded and credited to the detainee's account in accordance with standard "2.5 Funds and Personal Property."
2. Identity documents (e.g., passports, birth certificates) shall be placed in the detainee's A-file and, upon request, the detainee shall be provided with a copy of the document, certified by an ICE/ERO officer to be a true and correct copy.
3. Other prohibited items found in the mail shall be handled in accordance with standard "2.3 Contraband"; however, at the discretion of the facility administrator, soft contraband may be returned to the sender.
4. The facility administrator shall ensure that facility records of the discovery and disposition of contraband are accurate and current.

## **J. Postage Costs**

1. The facility shall not limit the amount of correspondence detainees may send at their own expense, except to protect public safety or facility security and order.
2. The facility shall provide a postage allowance at government expense under two circumstances:
  - a. to indigent detainees only; or
  - b. to all detainees, if the facility does not have a system for detainees to purchase stamps.
3. Free postage is generally limited to letters weighing one ounce or less, with exceptions allowed for special correspondence; however, in compelling circumstances, the facility may also provide free postage for general correspondence and other mail.

4. Detainees who qualify for a postage allowance as defined above shall be permitted to mail, at government expense, the following:

- a. a reasonable amount of mail each week, including at least three pieces of general correspondence;
- b. an unlimited amount of correspondence related to a legal matter, within reason, including correspondence to a legal representative, free legal service provider, any court, opposing counsel or to a consulate, potential legal representative and any court, as determined by the facility administrator; and
- c. packages containing personal property, when the facility administrator determines that storage space is limited and that mailing the property is in the government's best interest. See standard "2.5 Funds and Personal Property" for detailed information.

## **K. Writing Implements, Paper and Envelopes**

The facility shall provide writing paper, writing implements and standard sized envelopes at no cost to detainees. Special sized envelopes may be provided to detainees at their cost.

## **L. Detainees in Special Management Units (SMU)**

All facilities shall have written policy and procedures regarding mail privileges for detainees housed in an SMU.

Detainees in administrative or disciplinary segregation shall have the same correspondence privileges as detainees in the general population.

## **M. Correspondence with Representative of the News Media**

A detainee may use special correspondence to communicate with representatives of news media.

A detainee may not receive compensation or anything of value for correspondence with news media, including, but not limited to, publishing under a byline. A detainee may not act as a reporter.

Representatives of news media may initiate correspondence with a detainee; however, such correspondence shall be treated as special correspondence only if the envelope is properly addressed with the name, title and office of the media representative and is clearly labeled “special correspondence.”

#### **N. Notaries, Certified Mail and Miscellaneous Needs Associated With Legal Matters**

If a detainee without legal representation requests

certain services in connection with a legal matter, such as notary public or certified mail, and has no family member, friend or community organization to provide assistance, the facility shall consult with ICE/ERO to provide the necessary services and shall assist the detainee in a timely manner.

If it is unclear whether the requested service is necessary in pursuit of a legal matter, the respective ICE Office of Chief Counsel shall be consulted.

#### **O. Facsimile Communication**

When timely communication through the mail is not possible, the facility administrator may in his/her discretion allow for a reasonable amount of communication by means of facsimile device between the detainee and his/her designated legal representatives.

## 5.2 Trips for Non-medical Emergencies

### I. Purpose and Scope

This detention standard permits detainees to maintain ties with their families through emergency staff-escorted trips into the community to visit critically ill members of the immediate family or to attend their funerals.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Within the constraints of safety and security, selected detainees shall be able to visit critically ill members of the immediate family, attend their funerals or attend family-related state court proceedings, while under constant staff supervision.
2. Safety and security shall be primary

considerations in planning, approving and escorting a detainee out of a facility for a non-medical emergency.

### III. Standards Affected

This detention standard replaces “Escorted Trips for Non-medical Emergencies” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-1B-06.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “1.3 Transportation (by Land)”;
- “2.10 Searches of Detainees”; and
- “2.15 Use of Force and Restraints.”

ICE Interim Use of Force Policy (7/7/2004), as amended or updated.

### V. Expected Practices

#### A. Non-Medical Emergency Trip Requests and Approvals

On a case-by-case basis, and with approval of the respective Field Office Director, the facility administrator may allow a detainee, under ICE/ERO staff escort, to visit a critically ill member of his/her immediate family, attend an immediate family member’s funeral and/or wake or attend a family-related state court proceeding.

“Immediate family member” refers to a parent (including stepparent or foster parent), brother, sister, biological or adopted child and spouse (including common-law spouse).

The Field Office Director is the approving official for non-medical emergency escorted trips from SPCs, CDFs and IGSAs, and may delegate this authority to the Assistant Field Office Director-level for any

detainee who does not require a high degree of control and supervision.

The facility administrator shall designate staff to help detainees prepare requests for non-medical emergency trip requests, according to the following stipulations.

1. That staff member shall forward the completed request to the detainee's deportation officer.
2. The deportation officer shall review the merits of the request, to include consultations with immigration enforcement agents, medical staff, the detainee's family and other persons in positions to provide relevant information.
3. On the basis of the information collected, the deportation officer shall report to the facility administrator on the appropriateness of the detainee's request and the amount of supervision the travel plan may entail.

## **B. Types of Trips and Travel Arrangements**

### **1. Local Trip**

A "local" trip constitutes up to and including a 10-hour absence from the facility. ICE/ERO assumes the costs, except that the detainee must pay for his/her own commercial carrier transportation (e.g., plane, train), if needed for the trip.

### **2. Extended Trip**

An "extended" trip involves more than a 10-hour absence and may include an overnight stay. The cost of the detainee's roundtrip transportation on a commercial carrier must be prepaid by the detainee, the detainee's family or another source approved by the Field Office Director.

### **3. Travel Arrangements**

ICE/ERO shall make all travel arrangements; however, travel involving a commercial carrier may not commence until the detainee or person acting on his/her behalf has submitted an open paid-in-full ticket or electronic-ticket voucher in the detainee's

name.

As needed, ICE/ERO shall provide overnight housing in an SPC, CDF or IGSA facility.

ICE/ERO shall pay the travel costs incurred by the transporting officers.

## **C. Selection of Escorts**

No less than two escorts are required for each trip. The Field Office Director or his/her designee shall select and assign the roles of the transporting officers (escorts) and delegate to one the decision-making authority for the trip. Ordinarily, probationary officers may not be assigned, and in no case may more than one probationary officer be on an escort team.

## **D. Supervision and Restraint Requirements**

Except when the detainee is housed in a detention facility, transporting officers shall maintain constant and immediate visual supervision of any detainee who is under escort and shall follow the policy and procedures in the standards on "Transportation (By Land)" and "Use of Force and Restraints."

## **E. Training**

Escort officers and others, as appropriate, shall receive training on:

1. standard "5.2 Trips for Non-medical Emergencies"; and
2. standards "1.3 Transportation (By Land)" and "2.15 Use of Force and Restraints."

## **F. Escort Instructions**

1. Escorts shall follow the applicable policies, standards and procedures listed above in this standard.
2. Routes, meals and lodgings (if necessary) shall be arranged prior to departure.
3. Escorts shall follow the schedule included in the



trip authorization, arriving at and departing from the place(s) and event(s) listed at the specified times.

4. For security reasons, the trip route and schedule shall be confidential.
5. The responsible transporting officer shall report unexpected developments to the Control Center at the originating facility. Control Center staff shall relay the information to the highest-ranking supervisor on duty, who shall issue instructions for completion of the trip.
6. Escorts shall deny the detainee access to any intoxicant, narcotic, drug paraphernalia or drug not prescribed for his/her use by the medical staff.
7. If necessary, the transporting officers may increase the minimum restraints placed on the detainee at the outset of the trip, but at no time may reduce the minimum restraints. Since escorts may exercise no discretion in this matter and are prohibited from removing the restraints, the detainee shall visit a critically ill relative, attend a funeral or attend a family-related state court proceeding in restraints.
8. Escorts shall advise the detainee of the rules in effect during the trip, in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall

be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

9. Among other things, the escorted detainee may not:
  - a. bring discredit to ICE/ERO;
  - b. violate any federal, state or local law;
  - c. make unauthorized phone call(s); or
  - d. arrange any visit(s) without the express permission of the facility administrator.
10. If the detainee breaches any of these rules, the responsible officer may decide to terminate the trip and immediately return to the facility.
11. Officers shall also remind the detainee that, during the trip and upon return to the facility, he/she is subject to searches in accordance with standard "2.10 Searches of Detainees," as well as tests for alcohol or drug use.
12. Officers may not accept gifts or gratuities from the detainee or any other person in appreciation for performing escort duties or for any other reason.
13. Escorts shall ensure that detainees with physical or mental disabilities are provided reasonable accommodations in accordance with security and safety concerns.

## 5.3 Marriage Requests

### I. Purpose and Scope

This detention standard ensures that each marriage request from an ICE/ERO detainee receives a case-by-case review, based on internal guidelines for approval of such requests.

The guidelines provided in this Detention Standard are internal and shall not be construed as creating rights for detainees or other persons or preventing the facility administrator from exercising discretion in conducting the required case-by-case review.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Each marriage request from an ICE/ERO detainee shall be reviewed on a case-by-case basis.
2. Consistency in decisions to approve or deny a marriage request shall be achieved by the application of guidelines.

3. Ordinarily, a detainee’s request for permission to marry shall be granted.
4. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Marriage Requests” dated 12/2/2008.

### IV. References

None

### V. Expected Practices

#### A. Written Policy and Procedures Required

All facilities shall have in place written policy and procedures to enable eligible ICE/ERO detainees to

marry.

## B. Detainee Notification

The *National Detainee Handbook* and local facility supplement, provided each detainee upon admittance, shall advise detainees of the facility's marriage request procedures.

## C. Detainee Request to Marry

A detainee, or his/her legal representative, may submit to the facility administrator or Field Office Director (FOD) a written request for permission to marry.

The request must:

1. specifically express that the detainee is legally eligible to be married in the state where the detainee is being held; and
2. be accompanied by the intended spouse's written affirmation of his/her intent to marry the detainee.

## D. Consideration and Approval

### 1. SPCs and CDFs

*The facility administrator may approve or deny a marriage request, using the guidelines that follow. Approval or denial of all marriage requests should be reviewed by the FOD or designee.*

- a. *Any facility administrator's decision to deny a marriage request shall be forwarded to the respective FOD for review.*
- b. *The Field Office Director (or designee), after whatever consultations he or she believes are advisable, may uphold or reverse the facility administrator's denial.*

If the request is denied, ICE/ERO shall notify the detainee, in writing, of the reasons for the denial within 30 days from the date of the request.

Detainees may seek legal assistance throughout the marriage application process.

## 3. IGSAs

The facility administrator shall notify and consult the respective Assistant Field Office Director, who shall use the guidelines below to approve or deny the request. Approval or denial of all marriage requests should be reviewed by the FOD (or designee).

- a. The FOD (or designee), after whatever consultations he or she believes are advisable, may uphold or reverse the facility administrator's denial.
- b. If the request is approved, the marriage ceremony shall take place at the facility. If necessary under some extraordinary circumstances, ICE/ERO may assume temporary custody of the detainee for the marriage ceremony.

If the request is denied, ICE/ERO shall notify the detainee, in writing, of the reasons for the denial within 30 days from the date of the request.

Detainees may seek legal assistance throughout the marriage application process.

## E. Guidelines

When a detainee requests permission to marry:

1. The facility administrator or Field Office Director shall consider each marriage request on a case-by-case basis.
2. A detainee's request for permission to marry shall be denied if:
  - a. the detainee is not legally eligible to be married;
  - b. the detainee is not mentally competent, as determined by a qualified medical practitioner;
  - c. the intended spouse has not affirmed, in writing, his/her intent to marry the detainee;
  - d. the marriage would present a threat to the security or orderly operation of the facility; or
  - e. there are compelling government interests for

denying the request.

If the request is denied, the detainee may file an appeal to the Field Office Director.

3. When a request is approved, the detainee, legal representative or other individual(s) acting on his/her behalf must make all the marriage arrangements, including, but not limited to:

- a. blood tests;
- b. obtaining the marriage license; and
- c. retaining an official to perform the marriage ceremony.

ICE/ERO personnel shall not participate in making marriage arrangements nor serve as witnesses in the ceremony.

4. The facility administrator or designated Field Office staff shall notify the detainee in a timely manner of a time and place for the ceremony.

The marriage may not interrupt regular or scheduled processing or action in a detainee's legal case. Specifically, it may neither interrupt nor stay any hearing, transfer to another facility or removal from the United States.

Transfers shall not occur solely to prevent a marriage.

5. Ordinarily, arrangements made by the detainee or

persons acting on his/her behalf shall be accommodated, consistent with the security and orderly operation of the facility, according to the following stipulations:

- a. the ceremony shall take place inside the facility; the detainee may not leave the facility to make arrangements;
- b. all expenses relating to the marriage shall be borne by the detainee or person(s) acting on his/her behalf; and
- c. the ceremony shall be private with no media publicity. Only individuals essential for the marriage ceremony, such as required witnesses may attend.

The facility administrator or FOD reserves the right of final approval concerning the time, place and manner of all arrangements.

## **F. Revocation of Approval**

The FOD may revoke approval of a marriage request for good cause in writing to the detainee. In such instances, the detainee may file an appeal.

## **G. Documentation in Detention File**

Once the marriage has taken place, the facility administrator shall forward original copies of all documentation to the detainee's A-file and maintain copies in the facility's detention file.

## 5.4 Recreation

### I. Purpose and Scope

This detention standard ensures that each detainee has access to recreational and exercise programs and activities, within the constraints of safety, security and good order.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall have daily opportunities at a reasonable time of day to participate in leisure-time activities outside their respective living areas.
2. Detainees shall have access to exercise opportunities and equipment at a reasonable time of day, including at least one hour daily of

physical exercise outside the living area, and outdoors when practicable. Facilities lacking formal outdoor recreation areas are encouraged to explore other, secure outdoor areas on facility grounds for recreational use. Daily indoor recreation shall also be available. During inclement weather, detainees shall have access to indoor recreational opportunities, preferably with access to natural light.

- \*\*Detainees shall have at least four hours a day access, seven days a week, to outdoor recreation, weather and scheduling permitted. Outdoor recreation shall support leisure activities, outdoor sports and exercise as referenced and defined by the National Commission on Correctional Health Care Standards, provided outside the confines of the housing structure and/or other solid enclosures.*
3. Any detainee housed in a facility that does not meet minimum standards for indoor and outdoor recreation shall be considered for voluntary transfer to a facility that does meet minimum standards for indoor and outdoor recreation.
  4. Each detainee in a Special Management Unit (SMU) shall receive (or be offered) access to exercise opportunities and equipment outside the living area and outdoors, when practicable, unless documented security, safety or medical considerations dictate otherwise. Detainees in the SMU for administrative reasons shall receive at least one (1) hour a day, seven (7) times a week, detainees in the SMU for disciplinary reasons shall receive at least one (1) hour a day, five (5) times per week.
  5. Each recreation volunteer who provides or participates in facility recreational programs shall complete an appropriate, documented orientation program and sign an acknowledgement of his/her understanding of the applicable rules and procedures and agreement to comply with them.
  6. The facility shall provide communication assistance to detainees with disabilities and

detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to English speaking detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Recreation” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-01, 5C-02, 5C-03, 5C-04, 2A-66, 5A-01, 6B-04, 7B-03, 7C-02, 7F-05.

### V. Expected Practices

#### A. Indoor and Outdoor Recreation

1. It is expected that every ICE/ERO detainee shall be placed in a facility that provides indoor and

outdoor recreation. However, in exceptional circumstances, a facility lacking outdoor recreation opportunities or any recreation area may be used to provide short-term housing.

2. If a facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight shall be provided.
3. If a detainee is housed for more than 10 days in a facility that provides neither indoor nor outdoor recreation, he/she may be eligible for a voluntary transfer to a facility that does provide recreation.
4. If a detainee is housed for more than three months in a facility that provides only indoor recreation, he/she may be eligible for a voluntary transfer to a facility that provides outdoor recreation.

#### B. Recreation Schedule

If outdoor recreation is available at the facility, each detainee in general population shall have access for at least one hour, seven days a week, at a reasonable time of day, weather permitting.

Detainees shall have access to clothing appropriate for weather conditions.

If only indoor recreation is available, detainees in general population shall have access for no less than one hour, seven days a week and shall have access to natural light.

*\*\*Detainees in the general population shall have access at least four hours a day, seven days a week to outdoor recreation, weather and scheduling permitted. Daily indoor recreation shall also be available. During inclement weather, detainees shall have access to indoor recreational opportunities with access to natural light.*

Recreation schedules shall be provided to the detainees or posted in the facility.

Under no circumstances shall the facility require detainees to forgo basic law library privileges for recreation privileges. (See standard “6.3 Law



Libraries and Legal Material.”)

### C. Recreation Specialist

The facility administrator shall designate an individual responsible for the development and oversight of the recreation program. Every facility with a rated capacity of 350 or more ICE detainees shall employ a fulltime recreation specialist with special training in implementing and overseeing a recreation program. The recreation specialist shall assess the needs and interests of the detainees.

### D. General Requirements

1. All facilities shall provide recreational opportunities for detainees with disabilities.
2. Exercise areas shall offer a variety of equipment. Weight training, if offered, must be limited to fixed equipment. Free weights are prohibited.
3. Cardiovascular exercise shall be available to detainees for whom outdoor recreation is unavailable.
4. Recreational activities shall be based on the facility's size and location. Recreational activities may include limited-contact sports, such as soccer, basketball, volleyball and table games, and may extend to intramural competitions among units.

Dayrooms in general population housing units shall offer board games, television and other sedentary activities.

Detention personnel shall supervise dayroom activities, distributing games and other recreation materials daily.

5. All detainees participating in outdoor recreation shall have access to drinking water and toilet facilities.
6. Detention or recreation staff shall search recreation areas before and after use to detect altered or damaged equipment, hidden contraband and potential security breaches. They

shall also issue all portable equipment items, and check each item for damage and general condition upon its return.

7. Programs and activities are subject to the facility's security and operational guidelines and may be restricted at the facility administrator's discretion.
8. Recreation areas shall be under continuous supervision by staff equipped with radios or other communication devices to maintain contact with the Control Center.
9. Contraband searches of detainees who are moving from locked cells or housing units to recreation areas shall be conducted in accordance with standard “2.10 Searches of Detainees.”
10. Detainees may engage in independent recreation activities, such as board games and small-group activities, consistent with the safety, security and orderly operation of the facility.
11. The facility administrator shall establish facility policy concerning television viewing in dayrooms. All television viewing schedules shall be subject to the facility administrator's approval.

*\*\*Detainees shall be provided FM wireless headsets for television viewing, with access to appropriate language stations or choices.*

### E. Recreation for a Special Management Unit (SMU)

Recreation for detainees housed in the SMU shall occur separately from recreation for the general population.

Facilities are encouraged to maximize opportunities for group participation in recreation and other activities, consistent with safety and security considerations. Recreation for certain individuals shall occur separate from all other detainees when necessary or advisable to prevent assaults and reduce management problems. The facility administrator shall develop and implement procedures to ensure that detainees who must be kept apart never

participate in activities in the same location at the same time.

Unless documented security, safety or medical considerations dictate otherwise:

Each detainee in a Special Management Unit (SMU) shall receive (or be offered) access to exercise opportunities and equipment outside the living area and outdoors, unless documented security, safety or medical considerations dictate otherwise.

Detainees in the SMU for administrative reasons shall be offered at least one hour of exercise opportunities per day, seven days a week, outside their cells, and outdoors when practicable, and scheduled at a reasonable time.

*\*\*Facilities operating at the optimal level shall offer detainees at least two hours of recreation or exercise opportunities per day, seven days a week.*

Detainees in the SMU for disciplinary reasons shall be offered at least one hour of exercise opportunities per day, five days per week, outside their cells, and outdoors when practicable, and scheduled at a reasonable time.

*\*\*Facilities operating at the optimal level shall offer detainees at least one hour of recreation or exercise opportunities per day, seven days a week.*

Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire.

The recreation privilege shall be denied or suspended only if the detainee's recreational activity may unreasonably endanger safety or security:

1. A detainee may be denied recreation privileges only with the facility administrator's written authorization, documenting why the detainee poses an unreasonable risk even when recreating alone; however, when necessary to control an immediate situation for reasons of safety and security, SMU staff may deny an instance of recreation, upon verbal approval from the shift

supervisor, and shall document the reasons in the unit logbook(s). The supervisor may also require additional written documentation for the facility administrator. When a detainee in an SMU is deprived of recreation (or any usual authorized items or activity), a written report of the action shall be forwarded to the facility administrator. Denial of recreation must be evaluated daily by a shift supervisor.

2. A detainee in disciplinary segregation may temporarily lose recreation privileges upon a disciplinary panel's written determination that he/she poses an unreasonable risk to the facility, himself/herself or others.
3. When recreation privileges are suspended, the disciplinary panel or facility administrator shall provide the detainee written notification, as well as documentation of the reason for the suspension, any conditions that must be met before restoration of privileges, and the duration of the suspension provided the requisite conditions are met for its restoration.
4. The case of a detainee denied recreation privileges shall be reviewed at least once each week as part of the reviews required for all detainees in SMU status.
5. In accordance with SMU procedures, and using the forms required in standard "2.12 Special Management Units," the reviewer(s) shall state, in writing, whether the detainee continues to pose a threat to self, others, or facility security and, if so, why.
6. Denial of recreation privileges for more than seven days requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur and only in extreme circumstances.
7. The facility shall notify the ICE/ERO Field Office Director in writing when a detainee is denied recreation privileges in excess of seven days.

## F. Other Programs and Activities

Facilities shall offer access to leisure reading materials, through libraries with regular hours, book carts or other means. Reading materials in English, Spanish and, if practicable, other languages, should be made available.

*\*\* Facilities shall offer other programmatic activities, such as:*

- 1. educational classes or speakers;*
- 2. sobriety programs such as alcoholics anonymous; and*

- 3. other organized activities or recreational programs.*

## G. Volunteer Program Involvement

A volunteer group may provide a special recreational or educational program, consistent with security considerations, availability of detention personnel to supervise participating detainees, and sufficient advance notification to the facility administrator.

Standard “5.7 Visitation” details requirements that must be met for a volunteer to be approved to visit with or provide religious activities for detainees.

## 5.5 Religious Practices

### I. Purpose and Scope

This detention standard ensures that detainees of different religious beliefs are provided reasonable and equitable opportunities to participate in the practices of their respective faiths, constrained only by concerns about safety, security and the orderly operation of the facility.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”):

1. Detainees shall have regular opportunities to participate in practices of their religious faiths, limited only by a documented threat to the safety of persons involved in such activity itself or disruption of order in the facility;
2. All religions represented in a detainee population shall have equal status without discrimination based on any detainee’s race, ethnicity, religion, national origin, gender, sexual orientation or disability;
3. Each facility’s religious program shall be planned, administered and coordinated in an organized and orderly manner;
4. Adequate space, equipment and staff (including security and clerical) shall be provided for in order to conduct and administer religious programs;
5. The chaplain or religious services coordinator will make documented efforts to recruit external clergy or religious service providers to provide services to adherents of faith traditions not directly represented by chaplaincy or religious services provider staff. Detainees are encouraged to provide information about local religious providers;
6. Each facility’s religious program shall be augmented and enhanced by community clergy, contractors, volunteers and groups who provide individual and group assembly religious services and counseling;
7. Detainees in Special Management Units (SMUs) and hospital units shall have access to religious activities and practices to the extent compatible with security and medical requirements;
8. Special diets shall be provided for detainees whose religious beliefs require adherence to religious dietary laws; and
9. Detainees shall be provided information about religious programs at the facility, including how to contact the chaplain or religious services coordinator, how to request visits or services by other religious services providers, how to request religious diets and how to access religious property and headwear as part of the facility’s admission and orientation program in a language

or manner the detainee can understand.

10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Religious Practices” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-17, 5C-18, 5C-19, 5C-20, 5C-21, 5C-22, 5C-23, 5C-24, 2A-66, 4A-10, 6B-02, 6B-05, 7B-03, 7F-04.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “4.1 Food Service”; and
- “5.7 Visitation.”

The Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb et seq.

Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc et seq.

## V. Expected Practices

### A. Religious Opportunities and Limitations

1. Detainees shall have opportunities to engage in practices of their religious faith consistent with safety, security and the orderly operation of the facility. Religious practices to be accommodated are not limited to practices that are compulsory, central or essential to a particular faith tradition, but cover all sincerely held religious beliefs. Attendance at all religious activities is voluntary.

Efforts shall be made to allow for religious practice in a manner that does not adversely affect detainees not participating in the practice.

Detainees cannot be required to participate in or attend a religious activity in order to receive a service of the facility or participate in other, non-religious activities. Chaplains, religious services coordinators and volunteers shall not provide unsolicited religious services or counseling to detainees.

2. Religious activities shall be open to the entire detainee population, without discrimination based on a detainee’s race, ethnicity, religion, national origin, gender, sexual orientation or disability.

Language services shall be provided to detainees who have limited English proficiency to provide them with meaningful access to religious activities. As needed, accommodations will be provided to detainees with disabilities to provide them with equal access to religious services.

3. When necessary for the security or the orderly

operation of the facility, the facility administrator may discontinue a religious activity or practice or limit participation to a reasonable number of detainees or to members of a particular religious group after consulting with the chaplain or religious services coordinator. Facility records shall reflect the limitation or discontinuance of a religious practice, as well as the reason for such limitation or discontinuance.

4. Ordinarily, when the nature of the activity or practice (e.g., fasts, ceremonial meals, headwear requirements, work proscriptions) indicates a need for such a limitation, only those detainees whose files reflect the pertinent religious preference shall be included.
5. When a detainee submits a request concerning the reason for denial of access to religious activities, facilities or meals, a copy of the request and response to the request shall be placed in the detention file.

## **B. Religious Preferences**

Each detainee shall designate any religious preference, or none, during in processing. Staff, contractors and volunteers may not disparage the religious beliefs of a detainee, nor coerce or harass a detainee to change religious affiliation.

A detainee may request to change his/her religious preference designation at any time by notifying the chaplain, religious services coordinator or other designated individual in writing, and the change shall be effected in a timely fashion.

In the interest of maintaining the security and orderly running of the facility and to prevent abuse or disrespect by detainees of religious practice or observance, the chaplain or religious services coordinator shall monitor patterns of changes in declarations of religious preference.

In determining whether to allow a detainee to participate in specific religious activities, staff may refer to the initial religious preference information

and any subsequent changes in the detainee's religious designation. Detainees whose files show "No Preference" may be restricted from participation in those activities deemed appropriate for members only.

## **C. Chaplains or Other Religious Services Coordinators**

The facility administrator shall designate a staff member, contractor or volunteer to manage and coordinate religious activities for detainees. Ordinarily, that person shall be the facility chaplain, who shall, in cooperation with the facility administrator and staff, plan, direct and supervise all aspects of the religious program, including approval and training of both lay and clergy volunteers from faiths represented in the detainee population. The facility administrator shall provide non-detainee clerical staff support for confidential materials.

The chaplain or other religious services coordinator, regardless of his/her specific religious affiliation, shall have basic knowledge of different religions and shall ensure equal status and protection for all religions.

The chaplain or other religious services coordinator shall have physical access to all areas of the facility to serve detainees.

A chaplain shall have a minimum qualification of clinical pastoral education or specialized training, and endorsement by the appropriate religious-certifying body. In lieu of these, the facility administrator may accept adequate documentation of recognized religious or ministerial position in the faith community.

The chaplain shall be available to provide pastoral care and counseling to detainees who request it, both through group programs and individual services. Detainees who belong to a religious faith different from that of the chaplain or religious services provider staff may, if they prefer, have access to pastoral care and counseling from external clergy and



religious service providers. The chaplain may, for the purpose of informed decision-making, ask a detainee to explain special or unfamiliar requests.

If the facility has a religious services coordinator rather than a chaplain, the coordinator shall have the necessary training to connect detainees with a broad range of religious services and be prepared to arrange religious services for multiple faith traditions and connect incoming detainees with resources and services specific to the detainee's particular faith.

The term "individual services" includes counseling services provided to individual detainees or members of their families in personal crisis and family emergency situations.

#### **D. Schedules and Facilities**

All facilities shall designate adequate space for religious activities.

This designated space must be sufficient to accommodate the needs of all religious groups in the detainee population fairly and equitably and the general area shall include office space for the chaplain, storage space for items used in religious programs, and proximity to lavatory facilities for staff and volunteers.

Religious service areas shall be maintained in a neutral fashion suitable for use by various faith groups.

The chaplain or religious services coordinator shall schedule and direct the facility's religious activities, and current program schedules shall be posted on all unit and detainee bulletin boards in languages understood by a majority of detainees.

When scheduling approved religious activities, chaplains or religious services coordinator must consider both the availability of staff supervision and the need to allot time and space equitably among different groups. The chaplain or religious services coordinator shall not ordinarily schedule religious services to conflict with meal times.

If outdoor recreation is available at the facility, detainees shall have opportunities for outside worship, prayer and meditation, which shall be provided in a manner that does not conflict with meal times.

#### **E. Contractors and Volunteers**

All facilities shall have procedures so that clergy, contractors, volunteers and community groups may provide individual and group assembly religious services and counseling that augment and enhance the religious program. When recruiting citizen volunteers, the chaplain or religious services coordinator and other staff shall be cognizant of the need for representation from all cultural and socioeconomic parts of the community. Each facility shall provide security, including staff escorts, to allow such individuals and groups facility access for sanctioned religious activities.

The chaplain or religious services coordinator may contract with representatives of faith groups in the community to provide specific religious services that he/she cannot personally deliver, and may secure the assistance and services of volunteers.

"Representatives of faith groups" includes both clergy and spiritual advisors. All contractual representatives of detainee faith groups shall be afforded the same status and treatment to assist detainees in observing their religious beliefs, unless the security and orderly operation of the facility warrant otherwise.

Standard "5.7 Visitation" details requirements that must be met for a volunteer to be approved to visit with and/or provide religious activities for detainees, including advance notice, identification, a background check, an orientation to the facility and a written agreement to comply with applicable rules and procedures. Visits from religious personnel shall not count against a detainee's visitor quota. Provided they meet established security requirements for entrance into the facility, religious services providers' interpreters shall be allowed to

accompany the religious services provider within the facility.

The facility administrator or designee (ordinarily the chaplain) may require a recognized representative of a faith group to verify the religious credentials of contractors or volunteers prior to approving their entry into the facility.

Detainees who are members of faiths not represented by clergy may conduct their own services, provided these do not interfere with facility operations.

## **F. Pastoral Visits**

If requested by a detainee, the chaplain or religious services coordinator or designee shall facilitate arrangements for pastoral visits by a clergy person or representative of the detainee's faith.

The chaplain or religious services coordinator may request documentation of the person's religious credentials, as well as a criminal background check.

Pastoral visits shall ordinarily take place in a private visiting room during regular visiting hours. Accommodation may be made in the legal visitation area when available.

## **G. Detainees in Special Management (SMU) and Hospital Units**

Detainees in an SMU (e.g., administrative, disciplinary or protective custody) or hospital unit shall be permitted to participate in religious practices, consistent with the safety, security and orderly operation of the facility.

Detainees in an SMU or hospital unit shall have regular access to the chaplain or other religious services provider staff. The chaplain or other religious services provider staff shall provide pastoral care in SMUs and hospital units weekly at minimum.

Detainees of any faith tradition may ordinarily have access to official representatives of their faith groups while housed in SMUs or hospital units, by requesting such visits through the chaplain or other

religious service coordinator. Requests shall be accommodated consistent with the terms of the representative's contract and the security and orderly operation of the facility.

If the representative of the faith group is a volunteer, he/she shall at all times be escorted in an SMU.

## **H. Introduction of New or Unfamiliar Religious Components**

If a detainee requests the introduction of a new or unfamiliar religious practice, the chaplain or religious services coordinator may ask the detainee to provide additional information to use in deciding whether to include the practice.

Detainees may make a request for the introduction of a new component to the Religious Services program (e.g., schedule, meeting time and space, religious items and attire) to the chaplain or religious services coordinator. The chaplain or religious services coordinator may ask the detainee to provide additional information to use in deciding whether to include the practice. Ordinarily, the process shall require up to 30 business days for completion.

The chaplain or religious services coordinator shall research the request and make recommendations to the facility administrator, who shall add his/her own recommendations and forward them to the respective Field Office Director for approval. Such decisions are subject to the facility's requirement to maintain a safe, secure and orderly facility, and the availability of staff for supervision. The Field Office Director shall forward the final decision to the facility administrator, and the chaplain or religious services coordinator shall communicate the decision to the detainee.

## **I. Religious Holy Days**

Each facility shall have in place written policy and procedures to facilitate detainee observance of important holy days, consistent with the safety, security and orderly operation of the facility, and the

chaplain or religious services coordinator shall work with detainees to accommodate proper observances.

The facility administrator shall facilitate the observance of important religious holy days that involve special fasts, dietary regulations, worship or work proscription. When the facility administrator, chaplain or religious services provider is unfamiliar with the requested observance, the facility administrator may direct the chaplain or religious services coordinator to consult with community representatives of the detainee's faith group and other appropriate sources.

## **J. Religious Property and Personal Care**

Each facility administrator shall allow detainees to have access to personal religious property, consistent with the safety, security and orderly operation of the facility. If necessary, the religious significance of such items shall be verified by the chaplain prior to facility administrator approval. The facility administrator may also direct the chaplain or religious services coordinator to obtain information and advice from representatives of the detainee's faith group or other appropriate sources, about the religious significance of the items.

Detainee religious property includes, but is not limited to, holy books, rosaries and prayer beads, oils, prayer rugs, prayer rocks, phylacteries, medicine pouches and religious medallions. Such items are part of a detainee's personal property and are subject to normal considerations of safety, security and orderly operation of the facility.

As is consistent with the safety, security and orderly operation of the facility, the facility administrator shall ordinarily allow a detainee to wear or use personal religious items during religious services, ceremonies and meetings in the chapel, and may, upon request of a detainee, allow a detainee to wear or use certain religious items throughout the facility.

Items of religious wearing apparel include, but are not limited to:

1. prayer shawls and robes;
2. kurda or ribbon shirts;
3. medals and pendants;
4. beads; and
5. various types of headwear.

"Appendix 5.5.A: Religious Headwear, Garments and Other Religious Property" provides examples of acceptable religious headwear, garments and other religious property. There may be circumstances in which it is not advisable to permit the use of these items in a facility. Nothing in these guidelines is intended to prevent facilities from making individualized decisions based on the need to maintain good order and the safety of detainees and staff. Any denial and the reason for it shall be documented and placed in the alien's detention file.

Religious headwear, notably kufis, yarmulkes, turbans, crowns and headbands, as well as scarves and head wraps for Orthodox Christian, Muslim and Jewish women are permitted in all areas of the facility, subject to the normal considerations of the safety, security and orderly operation of the facility, including inspection by staff. Religious headwear and other religious property shall be handled with respect at all times, including during the in-take process.

Consistent with safety, security and the orderly operation of the facility, the facility shall not cut or shave religiously significant hair.

A detainee who wishes to have religious books, magazines or periodicals must comply with the facility's general rules for ordering, purchasing, retaining and accumulating personal property. Religious literature is permitted in accordance with the procedures governing incoming publications. Distribution to detainees of religious literature purchased by or donated to ICE/ERO is contingent upon approval from the chaplain or religious services coordinator.

## K. Dietary Requirements

When a detainee's religion requires special food services, daily or during certain holy days or periods that involve fasting, restricted diets, etc., staff shall make all reasonable efforts to accommodate those requirements (e.g., by modifying the detainee's menus to exclude certain foods or food combinations or providing the detainee's meals at unusual hours).

A detainee who wants to participate in the religious diet ("common fare") program may initiate the "Authorization for Common Fare Participation" form that is attached to standard "4.1 Food Service." That standard also details the circumstances under which a detainee may be removed from a special religious diet because he/she has failed to observe those dietary restrictions.

"Common fare" refers to a no-flesh protein option provided whenever an entrée containing flesh is offered as part of a meal. Likewise, a "common fare" meal offers vegetables, starches and other foods that are not seasoned with flesh. The diet is designed as the foundation from which modifications can be made to accommodate the religious diets of various faiths. Modifications to the standard common fare menu may be made to meet the requirements of various faith groups (e.g. for the inclusion of kosher and/or halal flesh-food options).

When there is any question about whether a requested diet is nutritious or may pose a threat to health, the chaplain or religious services coordinator shall consult with the medical department.

## L. Religious Fasts

The chaplain or religious services coordinator shall develop the religious fast schedule for the calendar year and shall provide it to the facility administrator or designee. There are generally two different types of fasts: a public fast and a private or personal fast.

When detainees observe a public fast that is mandated

by law or custom for all the faith adherents (e.g., Ramadan, Lent, Yom Kippur), the facility shall provide a meal nutritionally equivalent to the meal(s) missed. Public fasts usually begin and end at specific times.

When a detainee fasts for personal religious reasons, no special accommodations need to be made for the meal(s) missed. Requests for meals after a personal fast shall be determined by the facility administrator on a case-by case basis.

## M. Work Assignments

Detainees who have voluntary work assignments shall not be compelled to work on their religious holy days.

## N. Religious Use of Wine

Religious use of wine by clergy members is generally permitted when mandated by the particular faith and pursuant to strict controls and supervision, to include the following provisions:

1. Only a small amount of wine for clergy members and that which is necessary to perform religious ceremonies or services shall be permitted in the facility.
2. All wine brought into the facility shall be secured in an appropriate area by staff prior to the religious ceremony or service for which the wine is needed.
3. Following the religious ceremony or service, unused portions of wine shall be immediately discarded, stored in a secure area, or removed from the facility.

## O. Death or Serious Illness of Family Members

The facility administrator will establish procedures to involve the chaplain or religious services coordinator in notifying detainees of serious illness or death of their family members.



## Appendix 5.5.A: Religious Headwear, Garments and Other Religious Property

The following are examples of generally acceptable religious headwear, garments and other religious property/articles of faith. There may be circumstances in which it is not advisable to permit the use of these items in a facility. Nothing in these guidelines is intended to prevent facilities from making individualized decisions based on the need to maintain good order and the safety of detainees and staff. Any denial of accommodation and the reason for it shall be documented and placed in the alien's detention file.

### A. Religious Headwear

Examples of religious headwear include:

- yarmulke (Jewish)
- kufi (Muslim)
- hijab (Muslim; worn by women)
- crown (Rastafarian)
- turban (Sikh)

Facilities may restrict the color, size or other features of religious headwear, as necessary to maintain the safety, security and the orderly operation of the facility. Where facilities restrict the color, size, or other features of religious headwear, and the detainee's personal religious headwear does not conform to the standard, the facility must ensure that detainees are provided conforming religious headwear for free or at a de minimus cost. The chaplain or religious services coordinator, in consultation with community representatives of the detainee's faith group and other appropriate sources, when necessary, shall ensure that the facility restrictions on color, size, or other features of religious headwear are appropriate and meet the needs of the respective faith traditions.

### B. Religious Garments

Examples of religious attire and garments include but are not limited to:

- Scarves and headwraps (hijabs) (Jewish, Muslim, Rastafarian, Orthodox Christian; worn by women). These may be black, white or off-white.
- Jumper dresses may be worn by women who wear loose-fitting clothing for the sake of modesty as consistent with their religious beliefs.
- Kachhehra (soldier's shorts) (Sikh men)
- Prayer shawls and robes
- Kurda or ribbon shirts during ceremonial use

### C. Religious Property and Articles of Faith

Examples of religious property and articles of faith include but are not limited to:

- Holy books: Examples include but are not limited to: the Bible (Christian); the Koran (Muslim); and the Torah (Jewish). Holy books are permitted in accordance with the facility's general rules relating to retention of personal property and incoming publications, such as types of binding permitted.
- Kara (steel bracelet) (Sikh) may be permitted during meal times and under other limited circumstances depending on the size, weight and appearance of the Kara and in light of security considerations. For example, a plain, light-weight and non-decorative Kara is generally appropriate for low and medium security detainees.
- Rosaries and prayer beads.
- Oils.
- Prayer rugs.
- Prayer rocks.

- Phylacteries.
- Religious medallions and pendants.



## 5.6 Telephone Access

### I. Purpose and Scope

This detention standard ensures that detainees may maintain ties with their families and others in the community, legal representatives, consulates, courts and government agencies by providing them reasonable and equitable access to telephone services.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall have reasonable and equitable access to reasonably priced telephone services.
2. Detainees with hearing or speech disabilities shall be granted reasonable accommodations to allow for equal access to telephone services.

3. Detainees in Special Management Units (SMU) shall have access to telephones, commensurate with facility security and good order.
4. Detainees and their legal counsel shall be able to communicate effectively with each other.
5. Privacy for detainee telephone calls regarding legal matters shall be ensured.
6. Telephone access procedures shall foster legal access and confidential communications with attorneys.
7. Detainees shall be able to make free calls to the ICE/ERO-provided list of free legal service providers for the purpose of obtaining initial legal representation, to consular officials, to the Department of Homeland Security (DHS) Office of the Inspector General (OIG), and to the ICE Office of Professional Responsibility (OPR) Joint Intake Center (JIC). Indigent detainees, who are representing themselves pro se, shall be permitted free calls on an as-needed basis to family or other individuals assisting with the detainee’s immigration proceedings.
8. Telephones shall be maintained in proper working order.
9. Facilities shall strive to reduce telephone costs, including through the use of emerging telecommunications, voiceover and Internet protocol technologies.
10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide

detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Telephone Access” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-65, 2A-66, 5B-11, 5B-12, 6a-02, 6A-09.

ICE/ERO *Performance-based National Detention Standards 2011*: “2.13 Staff-Detainee Communication,” in regard to monitoring and documenting telephone serviceability.

### V. Expected Practices

#### A. Telephones and Telephone Services

##### 1. Number

To ensure sufficient access, each facility shall provide at least one operable telephone for every 25 detainees.

*\*\*Facilities shall be operating at the optimal level when at least one telephone is provided for every ten (10) detainees.*

##### 2. Cost

Generally, detainees or the persons they call shall be responsible for the costs of telephone calls; required exceptions are listed below.

Each facility shall provide detainees with access to reasonably priced telephone services. Contracts for such services shall comply with all applicable state and federal regulations and be based on rates and surcharges comparable to those charged to the general public. Any variations shall reflect actual costs associated with the provision of services in a detention setting. Contracts shall also provide the broadest range of calling options including, but not limited to, international calling, calling cards and collect telephone calls, determined by the facility administrator to be consistent with the requirements of sound detention facility management. Facilities shall post a list of card and calling rates in each housing unit. Facility administrators are encouraged to explore the use of new technologies which can facilitate the provision of cost effective means for enhancing detainees’ ability to communicate by telephone, such as, and not limited to, wireless and/or internet communications.

##### 3. Maintenance

Each facility shall maintain detainee telephones in proper working order. Designated facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service so that required repairs are completed quickly. This information shall be logged and maintained by each Field Office. Facility staff shall notify detainees and the ICE/ERO free legal service providers of procedures for reporting problems with telephones.

ICE/ERO headquarters shall maintain and provide Field Offices a list of telephone numbers for current free legal service providers, consulates and the Department of Homeland Security’s (DHS) Office of the Inspector General (OIG), as determined by ICE. All Field Offices are responsible for ensuring facilities which house ICE detainees under their jurisdiction are provided with current pro bono legal service

information.

#### 4. Monitoring Detainee Telephone Services

##### a. Facility Staff Requirements

Facility staff members are responsible for ensuring on a daily basis that telephone systems are operational and that the free telephone number list is posted. After ensuring that each phone has a dial tone, when testing equipment the officers must be able to demonstrate that an individual has the ability to make calls using the free call platform. Any identified problems must immediately be logged and reported to the appropriate facility and ICE/ERO staff. ICE/ERO staff shall review and follow up on problems reported by detainees and others.

#### B. Monitoring of Detainee Telephone Calls

Each facility shall have a written policy on the monitoring of detainee telephone calls. If telephone calls are monitored, the facility shall:

1. include a recorded message on its phone system stating that all telephone calls are subject to monitoring;
2. notify detainees in the detainee handbook, or equivalent, provided upon admission; and
3. at each monitored telephone, place a notice that states the following:
  - a. that detainee calls are subject to monitoring; and
  - b. the procedure for obtaining an unmonitored call to a court, a legal representative or for the purposes of obtaining legal representation.

ICE/ERO and the facility shall coordinate in posting the notice in Spanish and in the language of significant segments of the population with limited English proficiency, where practicable.

A detainee's call to a court, a legal representative, DHS OIG, DHS Civil Rights and Civil Liberties (CRCL) or for the purposes of obtaining legal

representation, may not be electronically monitored without a court order.

#### C. Detainee Notification

Each facility shall provide telephone access rules in writing to each detainee upon admission, and also shall post these rules where detainees may easily see them. ICE/ERO and the facility shall coordinate in posting these rules where practicable in Spanish and in the language of significant segments of the population with limited English proficiency.

Telephone access hours shall also be posted. Updated telephone and consulate lists shall be posted in detainee housing units. Translation and interpretation services shall be provided as needed.

#### D. Detainee Access

Each facility administrator shall establish and oversee rules and procedures that provide detainees reasonable and equitable access to telephones during established facility "waking hours" (excluding the hours between lights-out and the morning resumption of scheduled activities). Telephones shall be located in parts of the facility that are accessible to detainees. Telephone access hours shall be posted near the telephones.

Each facility shall provide detainees access to international telephone service.

Ordinarily, a facility may restrict the number and duration of general telephone calls only for the following reasons.

##### 1. Availability

When required by the volume of detainee telephone demand, rules and procedures may include, but are not limited to, reasonable limitations on the duration and the number of calls per detainee, the use of predetermined time-blocks and institution of an advanced sign-up system.

##### 2. Orderly Facility Operations

Calls may be restricted or limited if necessary to

prevent interference with counts, meals, scheduled detainee movements, court schedules, or other events constituting the orderly operation of the facility.

### 3. Emergencies

Telephone access and use may be limited in the event of escapes, escape attempts, disturbances, fires, power outages, etc. Telephone privileges may be suspended entirely during an emergency, but only with the authorization of the facility administrator or designee and only for the briefest period necessary under the circumstances. If suspension of telephone access exceeds 12 hours, ICE/ERO should be notified.

### E. Direct or Free Calls

Even if telephone service is generally limited to collect calls, each facility shall permit detainees to make direct or free calls to the offices and individuals listed below. The Field Office Director shall ensure that all information is kept current and is provided to each facility. Updated lists need to be posted in the detainee housing units. A facility may place reasonable restrictions on the hours, frequency and duration of such direct and/or free calls, but may not limit a detainee's attempt to obtain legal representation. Full telephone access shall be granted in order for a detainee to contact the following:

- the Executive Office for Immigration Review or local immigration court;
- the Board of Immigration Appeals;
- federal and state courts where the detainee is or may become involved in a legal proceeding;
- consular officials;
- DHS/OIG;
- legal representatives, to obtain legal representation, or for consultation when subject to expedited removal (when a detainee is under an expedited removal order, his/her

ability to contact pro bono legal representatives shall not be restricted);

- legal service providers or organizations listed on the ICE/ERO free legal service provider list;
- United Nations High Commissioner for Refugees (UNHCR), from asylum-seekers and stateless individuals;
- federal, state or local government offices to obtain documents relevant to his/her immigration case;
- immediate family or others for detainees in personal or family emergencies or who otherwise demonstrate a compelling need (to be interpreted liberally); or
- ICE/OPR Joint Intake Center (JIC).

#### 1. Request Forms

Free and direct calls shall be easily accessible. If detainees are required to complete request forms to make direct or free calls, facility staff must assist them as needed, especially illiterate or non-English speaking detainees. The detainees should also be permitted to seek assistance from their legal representatives, family, or other detainees.

#### 2. Time Requirements

Staff shall allow detainees to make such calls as soon as possible after submission of requests, factoring in the urgency stated by the detainee. Access shall be granted within 24 hours of the request, and ordinarily within eight facility-established "waking hours." Staff must document and report to ICE/ERO any incident of delay beyond eight "waking hours."

#### 3. Indigent Detainees

Ordinarily, a detainee is considered "indigent" if he/she has less than \$15.00 in his/her account for ten (10) days. A facility shall make a timely effort to determine indigence.

Indigent detainees are afforded the same telephone access and privileges as other detainees. Each facility

shall enable all detainees to make calls to the ICE/ERO-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party. The indigent detainee may request a call to immediate family or others in personal or family emergencies or on an as-needed basis.

#### **4. Phone System Limitations**

If the limitations of an existing phone system preclude meeting these requirements, the facility administrator must notify ICE/ERO so that a means of telephone access may be provided.

SPCs, CDFs, and dedicated IGSAAs shall require its telephone service providers to program and keep current, the telephone system to permit detainees free calls to numbers on the official pro bono legal representation list and to consulates. Other facilities shall adopt equivalent procedures.

### **F. Legal Calls**

#### **1. Restrictions**

A facility may neither restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call at the first available opportunity, if desired.

A facility may place reasonable restrictions on the hours, frequency and duration of such direct and/or free calls but may not otherwise limit a detainee's attempt to obtain legal representation.

#### **2. Privacy**

For detainee telephone calls regarding legal matters, each facility shall ensure privacy by providing a reasonable number of telephones on which detainees can make such calls without being overheard by staff or other detainees. Absent a court order, staff may not monitor phone calls made in reference to legal

matters.

The facility shall inform detainees to contact an officer if they have difficulty making a confidential call relating to a legal proceeding. If notified of such a difficulty, the officer shall take measures to ensure that the call can be made confidentially.

Privacy may be provided in a number of ways, including:

- a. telephones with privacy panels (side partitions) that extend at least 18 inches to prevent conversations from being overheard;
- b. telephones placed where conversations may not be readily overheard by others; or
- c. office telephones on which detainees may be permitted to make such calls; and
- d. detainees shall be supervised within eyeshot, but out of earshot

### **G. Telephone Access for Detainees with Disabilities**

The facility shall provide a TTY device or Accessible Telephone (telephones equipped with volume control and telephones that are hearing-aid compatible for detainees who are deaf or hard of hearing). Detainees who are deaf or hard of hearing shall be provided access to the TTY on the same terms as hearing detainees are provided access to telephones. Except to the extent that there are time limitations, detainees using the TTY shall be granted additional time, consistent with safety and security concerns..

If an Accessible Telephone or TTY is not available in the same location as telephones used by other detainees, detainees shall be allotted additional time to walk to and from the Accessible Telephone or TTY location. Consistent with the order and safety of the facility, the facility shall ensure that the privacy of telephone calls by detainees using Accessible Telephones or TTY is the same as other detainees using telephones.

*\*\* The facility shall maintain other equipment, such as video relay service and video phones, for detainees who are deaf or hard of hearing.*

Accommodations shall also be made for detainees with speech disabilities.

Consistent with Standard 4.8 “Disability Identification, Assessment, and Accommodation,” the facility shall engage in an interactive and individualized process that considers whether a detainee with a disability needs any additional accommodation to access facility telephones.

## **H. Telephone Privileges in Special Management Units (SMU)**

While there are differences in telephone access in SMU, depending on whether a detainee is in Administrative Segregation or Disciplinary Segregation, in general a detainee in either status may be reasonably restricted from using or having access to a phone for the following reasons.

- If that access is used for criminal purposes or would endanger any person, including that detainee.
- If the detainee damages the equipment provided.
- For the safety, security and good order of the facility.

In such instances, staff must clearly document why such restrictions are necessary to preserve the safety, security and good order of the facility in the appropriate SMU log. Detainees and their legal counsel shall nevertheless be accommodated in order for them to be able to communicate effectively with each other. Telephone access for legal calls, courts, government offices (including the DHS OIG and the DHS JIC) and embassies or consulates shall not be denied.

### **1. Administrative Segregation**

Generally, detainees in administrative segregation

should receive the same privileges available to detainees in the general population, subject to any existing safety and security considerations. This requirement applies to a detainee in Administrative Segregation pending a hearing because he/she has been charged with a rule violation, as well as a detainee in Administrative Segregation for other than disciplinary reasons, such as protective custody or suicide risk.

## **2. Disciplinary Segregation**

Detainees in Disciplinary Segregation may be restricted from using telephones to make general calls as part of the disciplinary process. Even in Disciplinary Segregation, however, detainees shall have some access for special purposes. Ordinarily, staff shall permit detainees in Disciplinary Segregation to make direct and/or free and legal calls as previously described in above in sections V.E and V.F, except in the event of compelling and documented reasons of threats to the safety, security and good order of the facility.

## **I. Inter-facility Telephone Calls**

Upon a detainee’s request, facility staff shall make special arrangements to permit the detainee to speak by telephone with an immediate family member detained in another facility. Immediate family members include spouses, common-law spouses, parents, stepparents, foster parents, brothers, sisters, natural or adopted children and stepchildren.

Reasonable limitations may be placed on the frequency and duration of such calls. Facility staff shall liberally grant such requests to discuss legal matters and shall afford the detainee privacy to the extent practicable, while maintaining adequate security.

## **J. Incoming Calls**

The facility shall take and deliver telephone messages to detainees as promptly as possible.

When facility staff receives an emergency telephone

call for a detainee, the caller's name and telephone number shall be obtained and promptly given to the detainee. The detainee shall be permitted to promptly return an emergency call at their own cost

within the constraints of security and safety. The facility shall enable indigent detainees to make a free return emergency call.



## 5.7 Visitation

### I. Purpose and Scope

This detention standard ensures that detainees shall be able to maintain morale and ties through visitation with their families, the community, legal representatives and consular officials, within the constraints of the safety, security and good order of the facility.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

News media interviews and tours are outlined in standard “7.2 Interviews and Tours.”

Conjugal visits for ICE/ERO detainees are prohibited.

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Facilities are encouraged to allow detainees to

maintain ties to their family and friends in the community. Detainees shall be able to receive visits from legal representatives, consular officials and others in the community.

2. Visits between legal representatives and assistants and an individual detainee are confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.
3. Detainees shall be advised of their right to contact their consular representatives and receive visits from their consulate officers.
4. Facilities are encouraged to provide opportunities for both contact and non-contact visitation with approved visitors during both day and evening hours.
5. Information about visiting policies and procedures shall be readily available to the public.
6. The number of visitors a detainee may receive and the length of visits shall be limited only by reasonable constraints of space, scheduling, staff availability, safety, security and good order. Generally visits should be for the maximum period practicable but not less than one hour with special consideration given to family circumstances and individuals who have traveled long distances.
7. Visitors shall be screened and approved upon arrival and shall be required to adequately identify themselves and register to be admitted into a facility, so that safety, security and good order can be maintained.
8. A background check shall be conducted on all new volunteers prior to their being approved to provide services to detainees.
9. Each new volunteer shall complete an appropriate, documented orientation program and sign an acknowledgement of his or her understanding of the applicable rules and procedures and agreement to comply with them.

10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Visitation” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF: 5B-01, 5B-02, 5B-03, 5B-04, 2A-21, 2A-27, 2A-61, 6A-06, 7B-03, 7C-02, 7F-05, 7F-06.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.10 Searches of Detainees”;

- “3.1 Disciplinary System”; and
- “7.2 Interviews and Tours.”

## V. Expected Practices

### A. Overview

Facilities that house ICE/ERO detainees shall provide visiting procedures for detainees to maintain communication with persons in the community. Safety, security and good order are always primary considerations in a detention facility, and visitors must be properly identified and attired and are subject to search upon entering the facility and at any other time. Except as otherwise permitted herein, visitors may not give anything directly to a detainee, although it may be permissible for visitors to leave certain items and funds for a detainee with a staff member, at the discretion of the facility administrator. An itemized receipt that lists funds and property brought for the detainee shall be provided to the visitor.

Any violation of the visitation rules, by the detainee, may result in disciplinary action against the detainee and introduction of contraband or other criminal violations may lead to criminal prosecution of a visitor, detainee or both.

Differences in the various conditions of each visit, including who may visit, when they may visit, how they may be approved to visit and where in the facility they may visit, are detailed later in this standard and are dependent on the type of visitation, according to the following designations:

1. social visitation: family, relatives, friends and associates; minors may be subject to special restrictions (see “I. Visits by Family and Friends” in this standard);
2. legal visitation: attorneys, other legal representatives, legal assistants (see “J. Visits by Legal Representatives and Legal Assistants” in this standard);

3. consultation visitation: for detainees subject to expedited removal (see “K. Consultation Visits for Detainees Subject to Expedited Removal” in this standard);
4. consular visitation: similar to legal visitation but with consular officials who have state department issued identification (see “L. Consular Visitation” in this standard);
5. community service organization visitation: representatives of civic, religious, cultural groups, etc. (see “M. Visits from Representatives of Community Service Organizations” in this standard); and
6. other special visitation (see “N. Other Special Visits” in this standard; for non-governmental organizations (NGO) please see standard “7.2 Interviews and Tours.”)

## B. General

Each facility shall establish written visiting procedures, including a schedule and hours of visitation and make them available to the public.

Each facility administrator shall decide whether to permit contact visits, as appropriate for the facility’s physical plant and detainee population. Exceptions to this standard can be made by the facility administrator on a case-by-case basis when warranted by compelling circumstances or individual needs or conduct.

A facility administrator may temporarily restrict visiting when necessary to ensure the security and good order of the facility. Each restriction or denial of visits, including the duration of and reasons for the restriction, shall be documented in writing.

## C. Notification of Visiting Rules and Hours

Each facility shall:

1. Provide written notification of visitation rules and hours in the detainee handbook or local supplement given each detainee upon admission,

and post those rules and hours where detainees can easily see them. Such information shall be posted in each housing unit.

2. Make the schedule and procedures available to the public, both in written form and telephonically. A live voice or recording shall provide telephone callers the rules and hours for all categories of visitation.
3. Post schedule, procedures and notification of visitation rules and hours in the visitor waiting area in English, Spanish and, where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

## D. Visitor Logs

Each facility shall maintain a log of all general visitors, and a separate log of legal visitors. If the stated purpose of the visit is for Expedited Removal consultation, the visit shall be logged in the Legal Visitation Log. Staff shall record in the general visitors’ log:

1. the name and alien-registration number (A-number) of the detainee visited;
2. the visitor’s name and address;
3. the visitor’s relationship to the detainee; and
4. the date, arrival time and departure time.

## E. Incoming Property and Funds for Detainees

In accordance with standard “2.5 Funds and Personal Property,” each facility shall have written procedures regarding incoming property and money for detainees.

The facility administrator may permit a visitor to leave cash or a money order with a designated staff member for deposit in a detainee’s account; the staff member must provide the visitor a receipt for all money or property left at the facility. Under no circumstances may visitors give property or money

directly to a detainee.

The shift supervisor must approve all items brought for detainees. The visiting room officer may not accept articles or gifts of any kind for a detainee, unless the facility administrator and/or shift supervisor has approved these items in advance.

Due to the relatively short length of stay and the fact that ICE/ERO provides all necessities, detainees may receive only minimal amounts of personal property, including:

1. small religious items;
2. religious and secular reading material (soft cover);
3. legal documents and papers;
4. pictures: 10 maximum, measuring 5" x 7" or smaller each;
5. prescription glasses;
6. dentures;
7. personal address book or pages;
8. correspondence;
9. wedding rings;
10. telephone calling cards; and
11. other items approved by the facility administrator.

## **F. Sanctions for Violation of Visitation and Contraband Rules**

Any violation of the visitation rules by the detainee may result in disciplinary action against the detainee, including loss of visitation privileges, excluding legal and consular visits. Visiting privileges may be revoked only through the formal detainee disciplinary process. However, the facility administrator has the authority to restrict or suspend a detainee's ordinary visiting privileges temporarily when there is reasonable suspicion that the detainee has acted in a manner constituting a threat to the

safety, security or good order of the facility. Each incident shall be documented, and the restriction or suspension shall be limited to the time required to investigate and complete the disciplinary process. Legal visitation shall be suspended only if necessary to maintain the safety or security of the facility.

A visitor's failure to abide by visiting rules may result in immediate cancellation or termination of a visit and/or suspension of future visitation privileges.

Introduction of contraband or other criminal violations may lead to criminal prosecution of a visitor, a detainee or both.

## **G. Dress Codes for Visitors**

If the facility establishes and maintains a dress code for visitors, it shall be made available to the public, e.g., posted on the facility's website, telephone message and included in the detainee handbook.

## **H. Visiting Room Conditions**

The facility's visiting areas shall be appropriately furnished and arranged, and made as comfortable and pleasant as practicable. Also, as practicable, space shall be provided outside of the immediate visiting areas for the secure storage of visitors' coats, handbags and other personal items.

The facility administrator shall provide adequate supervision of all visiting areas, and the visiting area officer shall ensure that all visits are conducted in an orderly and dignified manner.

## **I. Visits by Family and Friends**

### **1. Hours and Time Limits**

Each facility shall establish a visiting schedule based on the detainee population and the demand for visits. Visits shall be permitted during set hours on Saturdays, Sundays and holidays, and to the extent practicable, facilities shall also establish visiting hours on weekdays and during evening hours. The facility shall accommodate the scheduling needs of

visitors for whom scheduled visiting hours pose a hardship, for example, authorizing special visits for family visitors.

To accommodate the volume of visitors within the limits of space and staff resources, and to ensure adequate security, the facility administrator may restrict visits (e.g., some or all detainees and visitors may be limited to visiting on Saturday or on Sunday, but not both days). ICE/ERO does not require a facility to permit every visitor to visit on both days of a weekend, nor to permit every detainee to have visits on both days of a weekend. However, to the extent practicable, ICE/ERO encourages the facility administrator to establish visiting hours for each detainee on both days of the weekend, and to try to accommodate visitors who can only visit on a specific weekend day.

The facility's written rules shall specify time limits for visits, no less than one hour, under normal conditions.

ICE/ERO encourages more generous limits when possible, especially for family members traveling significant distances. In unforeseen circumstances, such as the number of visitors exceeding visiting room capacity, the facility administrator may modify visiting periods.

## **2. Persons Allowed to Visit**

Individuals from the following categories shall be permitted to visit, unless they pose a threat to the security and good order of the facility:

- a. **Immediate Family:** Immediate family may include mothers, fathers, stepparents, foster parents, brothers, sisters, stepbrothers, stepsisters, biological and adopted children, stepchildren, foster children and spouses, including common-law spouses.

Immediate family members detained at the same facility may visit with each other during normal visiting hours, regardless of gender, when practicable.

- b. **Minors:** Facilities should have provisions to allow for contact or non-contact visitation with minor children, stepchildren and foster children.

Facilities that allow visitations by minor children, stepchildren and foster children should try to facilitate contact visitation when possible.

Facilities should allow detainees to see their minor children as soon as possible after admission. Generous time allotments for visitation with minor children are recommended.

At facilities where there is no provision for visits by minors, upon request, ICE/ERO shall arrange for a visit by children, stepchildren and foster children within the first 30 days. After that time, upon request, ICE/ERO shall consider a request for transfer, when possible, to a facility that shall allow such visitation. Upon request, ICE/ERO shall continue monthly visits, if transfer is not approved, or until an approved transfer can be effected.

At the supervisor's discretion, a minor without positive identification may be admitted if the accompanying adult visitor vouches for his/her identity. Minors must remain under the direct supervision of an adult visitor so as not to disturb other visitors, and excessively disruptive conduct by minors may result in termination of the visit.

- c. Others may include grandparents, uncles, aunts, in-laws, cousins, nieces, nephews, non-relatives and friends.

## **3. Visitor Identification and Search Procedures**

Staff shall verify each adult visitor's identity before admitting him/her to the facility. No adult visitor may be admitted without government-issued photo identification. All visitors shall be subject to identification and personal search in accordance with standard "2.4 Facility Security and Control."

The facility administrator may establish a procedure for random criminal background and warrant checks for the purpose of ensuring facility safety, security

and good order. Visitors shall not be precluded from visiting a detainee solely because of a past conviction. Facilities can exclude visitors based on an examination of the underlying conduct of the conviction.

Staff shall escort visitors to the visiting room only after completing identification and inspection as provided in the facility's written procedures. All visitors are subject to a personal search, which may include a pat ("pat-down") search as well as a visual inspection of purses, briefcases, packages and other containers. Written procedures shall be publicly available to inform visitors that they are subject to search procedures. Any person who refuses to be searched is prohibited from visiting a detainee.

In each facility, written procedures shall provide for the prevention, cancellation or termination of any visit that appears to pose a threat to safety, security or good order. Visiting area officers or other staff, who believe a situation poses such a threat, shall alert the shift supervisor or equivalent; the supervisor may then prevent, cancel or terminate the visit.

*The inspecting officer may ask the visitor to open a purse, briefcase, package, and other container for visual inspection of its contents. If warranted, the officer may ask the visitor to remove the contents and place them on a table; however, the officer may not place his or her hands inside the container. Facilities shall provide and promote visitors' use of lockers or a secure area provided for safekeeping of personal belongings during visits.*

*Only an officer with the rank of supervisor or above may deny or cancel a visit. In those cases, the officer shall document his or her action in a memorandum sent through official channels to the facility administrator. The visiting room officer, with concurrence from the shift supervisor, may terminate visits involving inappropriate behavior.*

*Facilities shall not require approved visitor lists from ICE/ERO detainees.*

#### **4. Contact Visits**

Written procedures shall detail the limits and conditions of contact visits in facilities that permit them. Ordinarily, within the bounds of propriety, handshaking, embracing and kissing are permitted only at the beginning and end of the visit; however, staff may limit physical contact to minimize opportunities for contraband introduction and to otherwise maintain the orderly operation of the visiting area.

Detainees receiving contact visits shall be given a thorough pat-down search prior to entering the visiting room. Upon exiting, searches of detainees shall be conducted in accordance with facility policy and procedures, which should be reflective of such factors as:

- a. the nature of the facility;
- b. whether the facility houses detainees pending trial for violent or drug-related crimes;
- c. the availability of appropriate screening devices; monitoring technology; and/or
- d. concern for contraband entering the facility.

A facility may only adopt a policy permitting strip searches after contact visits in the absence of reasonable suspicion if detainees have the right to choose non-contact visitation instead. Detainees must be fully informed of that option and the policy generally in a language or manner they understand. The facility must document all strip searches that are performed based on such policy.

#### **5. Visits for Administrative and Disciplinary Segregation Detainees**

While in administrative or disciplinary segregation status, a detainee ordinarily retains visiting privileges.

Segregated detainees may ordinarily use the visiting room during normal visiting hours. However, the facility may restrict or disallow visits for a detainee who violates visiting rules or whose behavior



indicates that he/she may be a threat to the security or good order of the visiting room.

Under no circumstances may detainees be permitted to participate in visitation while in restraints. If the detainee's behavior warrants restraints, the visit may not be granted under general population visiting conditions. Any restriction or denial of visits shall be documented in writing.

Detainees in protective custody, and violent and/or disruptive detainees, shall not use the visitation room during normal visitation hours. In cases in which a visit may present an unreasonable security risk, visits may be disallowed for a particular detainee.

## **J. Visits by Legal Representatives and Legal Assistants**

### **1. General**

In visits referred to as "legal visitation," each detainee may meet privately with current or prospective legal representatives and their legal assistants. Legal visits may not be terminated for routine official counts.

### **2. Hours**

Each facility shall permit legal visitation seven days a week, including holidays, for a minimum of eight hours per day on regular business days (Monday through Friday), and a minimum of four hours per day on weekends and holidays.

The facility shall provide notification of the rules and hours for legal visitation as specified above. This information shall be prominently posted in the waiting areas and visiting areas and in the housing units.

On regular business days, legal visitations may proceed through a scheduled meal period, and the detainee shall receive a tray or sack meal after the visit.

In emergency circumstances, facilities may consider

requests from legal representatives for extended visits or visits outside normal facility visiting hours.

### **3. Persons Allowed to Visit**

Subject to the restrictions stated below, individuals in the following categories may visit detainees to discuss legal matters:

- a. **Attorneys and Other Legal Representatives:** An attorney is any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under an order of any court suspending, enjoining, restraining, disbaring or otherwise restricting him/her in the practice of law.

A legal representative is an attorney or other person representing another in a matter of law, including: law students or law graduates not yet admitted to the bar under certain conditions; accredited representatives; and accredited officials and attorneys licensed outside the United States. See 8 C.F.R. § 292.1 for more detailed definitions of these terms.

- b. **Legal Assistants:** Upon presentation of a letter of authorization from the legal representative under whose supervision he/she is working, an unaccompanied legal assistant may meet with a detainee during legal visitation hours. The letter shall state that the named legal assistant is working on behalf of the supervising legal representative for purposes of meeting with the ICE/ERO detainee(s).
- c. **Translators and Interpreters:** The facility shall permit translators and interpreters to accompany legal representatives and legal assistants on legal visits, subject to "Visitor Identification and Search Procedures" detailed above.
- d. **Messengers:** The facility shall permit messengers (who are not legal representatives or legal assistants) to deliver documents to and from the facility, but not to visit detainees.



#### **4. Identification of Legal Representatives and Legal Assistants**

Prior to each visit, all legal representatives and assistants shall be required to provide appropriate identification, such as a bar card from any state, a document demonstrating partial or full accreditation from the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), or a letter of authorization from the legal representative or attorney under whose supervision the individual is working as detailed above.

Legal representatives and legal assistants shall not be asked to state the legal subject matter of the meeting.

Legal representatives and legal assistants are subject to a non-intrusive search—such as a pat-down search of the person or a search of the person’s belongings—at any time for the purpose of ascertaining the absence of contraband.

#### **5. Identification of Detainee to Be Visited**

While identification by A-number is preferable, a facility may not require legal representatives and assistants to submit a detainee’s A-number as a condition of visiting. Where the legal representative or assistant provides alternative information sufficient to reasonably identify the specific detainee, the facility shall make a good-faith effort to locate a detainee.

#### **6. Call-Ahead Inquiries**

Each facility shall establish a written procedure to allow legal representatives and assistants to telephone the facility in advance of a visit to determine whether a particular individual is detained there. The request must be made to the on-site ICE/ERO staff or, where there is no resident staff, to the ICE/ERO office with jurisdiction over the facility.

#### **7. Pre-Representation Meetings**

During the regular hours for legal visitation, the facility shall permit detainees to meet with prospective legal representatives or legal assistants.

The facility shall document such “prerepresentation meetings” in the logbook for legal visitation.

To meet with a detainee, a legal service provider’s representative need not complete a Form G-28 (stating that he/she is legal representatives of the detainee) at the “pre-representation” stage.

#### **8. Form G-28 and Attorney/Client Meetings**

Attorneys representing detainees on legal matters unrelated to immigration are not required to complete a Form G-28.

Once an attorney-client relationship has been established, or if an attorney-client relationship already exists, the legal representative shall complete and submit a Form G-28, available in the legal visitation reception area. Staff shall collect completed forms and forward them to ICE/ERO.

#### **9. Private Meeting Room and Interruption for Head Counts**

Visits between legal representatives or legal assistants and an individual detainee are confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.

Officers may terminate legal visits at the end of the allotted time or to maintain security, but not for routine official counts.

Staff shall not be present in the confidential area during the meeting unless the legal representative or legal assistant requests the presence of an officer; however, as long as staff cannot overhear the conversation, staff may observe such meetings visually through a window or camera, to the extent necessary to maintain security.

When a situation arises in which private conference rooms are in use and the attorney wishes to meet in a regular or alternate visiting room, the request shall be accommodated to the extent practicable. Such meetings shall be afforded the greatest possible degree of privacy under the circumstances.

## **10. Materials Provided to Detainees by Legal Representatives**

The facility's written legal visitation procedures must provide for the exchange of documents between a detainee and the legal representative or assistant, even when contact visitation rooms are unavailable.

Documents or other written material provided to a detainee during a visit with a legal representative shall be inspected but not read. Detainees are entitled to retain legal material received for their personal use. Quantities of blank forms or self-help legal material in excess of those required for personal use may be held for the detainee with his/her property. The detainee shall be permitted access to these documents utilizing the established avenues of communication.

## **11. Administrative and Disciplinary Segregation**

Detainees in administrative or disciplinary segregation shall be allowed legal visitation. If the facility administrator considers special security measures necessary, he/she shall notify the legal service provider of the security concerns prior to the meeting.

## **12. Group Legal Meetings**

Upon request of a legal representative or assistant, the facility administrator may permit a confidential meeting (with no officer present) involving the requester and two or more detainees. This may occur for various purposes (e.g., pre-representational, representational, removal-related). The facility shall grant such requests to the greatest extent practicable, if it has the physical capacity and if the meeting shall not interfere with the safety, security and good order of the facility. Each facility administrator shall limit detainee attendance according to the practical concerns of the facility, or the security concerns associated with the meeting in question.

See also standard "6.4 Legal Rights Group Presentations."

## **13. ICE/ERO-Provided List of Free Legal Service**

## **Providers and Detainee Sign-Up**

ICE/ERO shall provide each facility the official list of local free legal service providers, updated quarterly by the local DOJ Executive Office for Immigration Review. The facility shall promptly and prominently post the current list in detainee housing units and other appropriate areas.

Any legal organization or individual on the current list may write the facility administrator to request the posting and/or general circulation of a sign-up sheet.

The facility administrator shall then notify detainees of the availability of the sign-up sheet and according to established procedures, ensure coordination with the pro bono organization.

## **14. Legal Visitation Log**

Staff shall maintain a separate log to record all legal visitors, including those denied access to the detainee. The log shall include the reason(s) for denying access.

*Log entries shall include the following information:*

- a. date;*
- b. time of arrival;*
- c. visitor's name;*
- d. visitor's address;*
- e. supervising attorney's name (if applicable);*
- f. detainee's name and A-number;*
- g. whether the detainee currently has a G-28 on file;*
- h. time visit began; and*
- i. time visit ended.*

*Staff shall also record any important comments about the visit.*

## **15. Availability of Legal Visitation Policy**

The facility's written legal visitation policy shall be available upon request. The site-specific policy shall specify visitation hours, procedures and standards

and address, at a minimum, the following:

- a. telephone inquiries;
- b. dress code;
- c. legal assistants working under the supervision of an attorney;
- d. pre-representational meetings;
- e. Form G-28 requirements;
- f. identification and search of legal representatives;
- g. identification of visitors;
- h. materials provided to detainees by legal representatives;
- i. confidential group legal meetings; and
- j. detainee sign-up.

## **K. Consultation Visits for Detainees Subject to Expedited Removal**

### **1. General**

Detainees who are subject to expedited removal and who have been referred to an asylum officer are entitled by statute and regulation to consult with persons of the detainee's choosing, both prior to the interview and while the asylum officer's decision is under review. Such consultation visitation is for the general purpose of discussing immigration matters, not for purely social visits covered earlier.

- a. The consultation visitation period begins before any interview with an asylum officer and continues while the asylum officer's determination is under review by the supervisory asylum officer or immigration judge.
- b. The consultation visitation period ends with the issuance of a Notice to Appear and once the detainee is placed in removal proceedings before an immigration judge; however, the detainee retains legal and other visitation privileges in accordance with this standard.

"Consultation visitation" may neither incur

government expense nor unduly delay the removal process.

### **2. Method of Consultation**

Because expedited removal procedures occur within short time frames, each facility shall develop procedures that liberally allow for consultation visitation, to ensure compliance with statutory and regulatory requirements and to prevent delay in the expedited removal process. Given the time constraints, consultation by mail is highly discouraged.

Facility staff shall ensure that consultation, whether in person, by telephone or by electronic means, proceed without hindrance. Staff shall be sensitive to individual circumstances when resolving consultation-related issues.

Consultation visitation shall be allowed during legal visitation hours and during general visitation hours. If necessary to meet demand, the facility administrator shall increase consultation visiting hours.

### **3. Persons Allowed to Visit for Consultation Purposes**

Detainees subject to expedited removal may consult whomever they choose, in person, by phone or by other electronic means, at any time during the first 48 hours of detention. Consultants might include, but are not limited to, attorneys and other legal representatives, prospective legal representatives, legal assistants, members of non-governmental organizations (NGOs) and friends and family.

Consultants are subject to the same identification and security screening procedures as general visitors. If documented security concerns preclude an in-person visit with a particular individual, the facility administrator shall arrange for consultation by telephone or other electronic means. If security reasons also preclude consultation by telephone or other electronic means, the facility administrator, through the Field Office Director, shall consult the respective ICE Office of Chief Counsel.

#### 4. Privacy

Consultation visits, whether in person, by telephone or other electronic means, shall receive the same privacy as communications between legal representatives and detainees.

#### 5. Admittance for Asylum Officer Interview

Detainees subject to expedited removal may bring and consult advisors during the asylum officer interview. The presence of persons to consult is also allowed during the Immigration Judge's review of a negative credible fear determination, at the judge's discretion.

#### 6. Log

Staff shall record consultation visits in the legal visitation log.

#### 7. Form G-28 for Consultation Visits

Visitors are not required to file a Form G-28 to participate in a consultation visit or provide consultation during an asylum officer interview or Immigration Judge's review of a negative credible fear determination. This stipulation applies even if the visitor is an attorney or legal representative.

#### 8. Other Considerations for Consultation Visits

The above procedures for "Visits by Legal Representatives and Legal Assistants" apply to other considerations in regard to consultation visits such as the following:

- a. group consultations;
- b. call-ahead inquiries;
- c. searches;
- d. detainee identification;
- e. materials provided to detainees by the visitor;
- f. consultation visits for detainees in administrative and disciplinary segregation;
- g. pro-bono list and detainee sign-up; and
- h. availability of consultation visitation policy.

#### L. Consular Visitation

According to international agreements and under regulation 8 C.F.R. § 236.1, detainees must be advised of their right to consular access and ICE/ERO shall facilitate the detainee's access to consular officers. ICE/ERO policy and practice stipulate that all detained individuals be provided with notice, through the facility administrator, of their right to contact their consular representative(s) and receive visits from their consulate officer(s).

The facility administrator shall ensure that all detainees are notified of and afforded the right to contact and receive visits from their consular officers. The same hours, privacy and conditions that govern legal visitation apply to consular visitation. Consular visits may be permitted at additional times outside normal visitation hours, with the facility administrator's prior authorization.

To conduct such visits, consular officers must present Department of State-issued identification.

#### M. Visits from Representatives of Community Service Organizations

The facility administrator may approve visits to one or more detainees by individuals or groups representing community service organizations, including civic, religious, cultural, therapeutic and other groups. Volunteers may provide a special religious, educational, therapeutic or recreational activity.

The facility administrator's approval shall take into account such factors as:

1. safety and security considerations;
2. availability of detention personnel to supervise the activity; and
3. sufficient advance notification to the facility administrator.

*Detainees' immediate family and other relatives, friends and associates, as detailed above under*

*“Persons Allowed to Visit,” may not serve as volunteers.*

To inform the facility administrator’s decision, facility staff (such as chaplains and recreation specialists) shall verify the organization’s bona fide interests and qualifications for this kind of service.

*Groups and/or individuals from those groups must:*

- 1. Provide the facility with advance notification of the names, dates of birth and social security numbers or unexpired passport number of the group members who shall be visiting;*

*All volunteers, regardless of title or position, are subject to a background check that includes, but is not limited to, a criminal history check, verification of identity and occupation and verification of credentials for the type of activity involved;*

- 2. Provide identification for individual members of the group upon arrival at the facility.*

*Standard “2.4 Facility Security and Control” details procedures for checking a visitor’s identity, issuing visitor passes and accounting for visitors while they are in the facility;*

- 3. Comply with visitation rules: each approved volunteer shall receive an appropriate orientation to the facility, and shall acknowledge his/her understanding of rules and procedures by signing an agreement to comply with them, particularly in regard to permissible behavior and relationships with detainees. The orientation and signed agreement shall include at a minimum, the following functions:*

- a. specify lines of authority, responsibility and accountability for volunteers; and*
- b. prohibit volunteers from:*
  - 1) using their official positions to secure privileges for themselves or others;*
  - 2) engaging in activities that constitute a*

*conflict of interest; and*

- 3) accepting any gift from or engaging in personal business transactions with a detainee or a detainee’s immediate family.*

*All volunteers shall be held accountable for compliance with the rules and procedures.*

- 4. Read and sign a waiver of liability that releases ICE/ERO of all responsibility in case of injury during the visit before being admitted to any secure portion of the facility or location where detainees are present.*

## **N. Other Special Visits**

### **1. Independent Medical Service Providers and Experts**

A detainee or his/her legal representative may seek an independent medical or mental health examination to develop information useful in administrative proceedings, in accordance with “EE. Examinations by Independent Medical Service Providers and Experts” found in standard 4.3 “Medical Care.” Once the Field Office Director has approved the request for an independent examination, the facility shall provide a location for the examination but no medical equipment or supplies and the examination must be arranged and conducted in a manner consistent with maintaining the security and good order of the facility.

### **2. Law Enforcement Officials’ Visits**

Facility visitation procedures shall cover law enforcement officials requesting interviews with detainees. Facilities shall notify and seek approval from ICE/ERO of any proposed law enforcement officer visit with a detainee.

### **3. Visitation by Former Detainees or Aliens in Proceedings**

Former ICE/ERO detainees, individuals with criminal records and individuals in deportation proceedings shall not be automatically excluded from visitation. Individuals in any of these categories

must so notify the facility administrator before registering for visitation privileges. The facility administrator shall weigh the nature and extent of an individual's criminal record and/or prior conduct against the benefits of visitation in determining visitation privileges. A potential visitor's failure to disclose such matters may preclude visitation privileges.

#### **4. Business Visitors**

A detainee may not actively engage in business or professional interests or activities; however, in the event that a detainee must make a decision that shall substantially affect the assets or prospects of a

business, the facility administrator may permit a special visit.

ICE/ERO does not recognize or sanction any work-release program.

#### **5. Visiting Rules Regarding Animals**

Each facility shall establish and disseminate a policy and implementing procedures governing whether and, if so, under what circumstances animals may accompany human visitors onto or into facility property.

However, service animals shall be permitted to accompany all persons with disabilities.

## 5.8 Voluntary Work Program

### I. Purpose and Scope

This detention standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of the safety, security and good order of the facility.

While not legally required to do so, ICE/ ERO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of the safety, security and

good order of the facility.

2. Detainees shall be able to volunteer for work assignments but otherwise shall not be required to work, except to do personal housekeeping.
3. Essential operations and services shall be enhanced through detainee productivity.
4. The negative impact of confinement shall be reduced through decreased idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions shall comply with all applicable federal, state and local work safety laws and regulations.
6. There shall be no discrimination regarding voluntary work program access based on any detainee’s race, religion, national origin, gender, sexual orientation or disability.
7. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or



who is illiterate.

### III. Standards Affected

This detention standard replaces “Voluntary Work Program” dated 12/2/2008.

This detention standard incorporates the requirements regarding detainees’ assigned to work outside of a facility’s secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) (11/2/2004).

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “1.2 Environmental Health and Safety”; and
- “4.1 Food Service.”

### V. Expected Practices

#### A. Voluntary Work Program

Detainees shall be provided the opportunity to participate in a voluntary work program. The detainee’s classification level shall determine the type of work assignment for which he/she is eligible. Generally, high custody detainees shall not be given work opportunities outside their housing units/living areas. Non-dedicated IGSA’s will have discretion on whether or not they will allow detainees to participate in the voluntary work program.

#### B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure

perimeter of non-dedicated IGSA facilities.

*In SPCs, CDFs, and dedicated IGSA’s, low custody detainees may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of no less than one staff member to four detainees. The detainees shall be within sight and sound of that staff member at all times.*

#### C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

*Detainees are required to maintain their immediate living areas in a neat and orderly manner by:*

- 1. making their bunk beds daily;*
- 2. stacking loose papers;*
- 3. keeping the floor free of debris and dividers free of clutter; and*
- 4. refraining from hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures or other furniture.*

#### D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules shall be recorded in a facility procedure that shall include a voluntary work program agreement. The voluntary work program agreement shall document the facility’s program and shall be in compliance with this detention standard.

*The primary factors in hiring a detainee as a worker shall be his/her classification level and the specific requirements of the job.*

- 1. Staff shall present the detainee’s name to the shift supervisor or the requesting department head.*
- 2. The shift supervisor or department head shall review the detainee’s classification and other relevant documents in the detainee’s detention file.*
- 3. The shift supervisor or department head shall*

*assess the detainee's language skills because these skills affect the detainee's ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities shall be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.*

4. *Inquiries to staff about the detainee's attitude and behavior may be used as a factor in the supervisor's selection.*

*Staff shall explain the rules and regulations as well as privileges relating to the detainee worker's status. The detainee shall be required to sign a voluntary work program agreement before commencing each new assignment. Completed agreements shall be filed in the detainee's detention file.*

## **E. Special Details**

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve labor-intensive work.

## **F. Discrimination in Hiring Prohibited**

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, gender, sexual orientation or disability.

## **G. Detainees with Disabilities**

The facility shall allow, where possible, detainees with disabilities to participate in the voluntary work program in appropriate work assignments. Consistent with the procedures outlined in Standard 4.8 "Disability Identification, Assessment, and Accommodation," the facility shall provide reasonable accommodations and modifications to its policies, practices, and/or procedures to ensure that detainees with disabilities have an equal opportunity to access, participate in, and benefit from the voluntary work programs.

## **H. Hours of Work**

Detainees who participate in the volunteer work program are required to work according to a schedule.

The normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

## **I. Number of Details in One Day**

The facility administrator may restrict the number of work details permitted a detainee during one day.

*In SPCs, CDFs, and dedicated IGSA's a detainee may participate in only one work detail per day.*

## **J. Establishing Detainee Classification Level**

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

## **K. Compensation**

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

The compensation is at least \$1.00 (USD) per day. The facility shall have an established system that ensures detainees receive the pay owed them before being transferred or released.

## **L. Removal of Detainee from Work Detail**

A detainee may be removed from a work detail for such causes as:

1. unsatisfactory performance;
2. disruptive behavior, threats to security, etc.;
3. physical inability to perform the essential

elements of the job due to a medical condition or lack of strength;

4. prevention of injuries to the detainee; and/or
5. a removal sanction imposed by the Institution Disciplinary Panel for an infraction of a facility rule, regulation or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

Detainees may file a grievance to the local Field Office Director or facility administrator if they believe they were unfairly removed from work, in accordance with standard “6.2 Grievance System.”

## **M. Detainee Responsibility**

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

The detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

1. The detainee shall perform all assigned tasks diligently and conscientiously.
2. The detainee may not evade attendance and performance standards in assigned activities nor encourage others to do so.
3. The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor’s instructions.
4. In the event of a work-related injury, the detainee shall notify the work supervisor, who shall immediately implement injury-response procedures.

## **N. Detainee Training and Safety**

All detention facilities shall comply with all applicable health and safety regulations and

standards.

The facility administrator shall ensure that all department heads, in collaboration with the facility’s safety/training officer, develop and institute appropriate training for all detainee workers.

1. The voluntary work program shall operate in compliance with the following codes and regulations:
  - a. Occupational Safety and Health Administration (OSHA) regulations;
  - b. National Fire Protection Association 101 Life Safety Code; and
  - c. International Council Codes (ICC).

Each facility administrator’s designee is responsible for providing access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee’s assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials, including:
  - a. safety features and practices demonstrated by the supervisor; and
  - b. recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors (staff and detainees who do not read nor understand English shall not be authorized to work with hazardous materials).

A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement, which each detainee is required to sign prior to commencing each new assignment, shall be placed in the detainee's detention file.

3. For a food service assignment, medical staff, in conjunction with the U.S. Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
4. The facility shall provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

## **O. Detainee Injury and Reporting Procedures**

The facility administrator shall implement

procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/ERO.

If a detainee is injured while performing his/her work assignment:

1. The work supervisor shall immediately notify facility medical staff. In the event the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.
2. First aid shall be administered as necessary.
3. Medical staff shall determine what treatment is necessary and where that treatment shall take place.
4. The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee's detention file and A-file.

# 6.1 Detainee Handbook

## I. Purpose and Scope

This detention standard requires that, upon admission, every detainee be provided comprehensive written orientation materials that describe such matters as the facility's rules and sanctions, disciplinary system, mail and visiting procedures, grievance system, services, programs and medical care, in English, Spanish and other languages and that detainees acknowledge receipt of those materials.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard "7.5 Definitions."

## II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in "V. Expected Practices").

1. Upon admission to a facility, each detainee shall be provided the comprehensive written orientation materials, which shall consist of the

*ICE National Detainee Handbook* (ICE Handbook) and a local detainee handbook supplement. The facility shall develop the local detainee handbook supplement, which shall describe such matters as:

- a. the grievance system;
  - b. services and programs;
  - c. medical care;
  - d. access to legal counsel;
  - e. law libraries and legal material;
  - f. correspondence and other material;
  - g. staff-detainee communication;
  - h. the classification system;
  - i. visitation; and
  - j. the disciplinary system.
2. Each detainee shall verify, by signature and date, receipt of those orientation materials, and that acknowledgement shall be maintained in the detainee's detention file.
  3. The ICE Handbook will be provided to the facility in English, Spanish and other languages made available by ICE. The facility administrator shall ensure that the facility has sufficient quantities of the English and all translated versions of the ICE Handbook, and shall request additional copies of the ICE Handbook from the Field Office Director as needed.
  4. The local handbook supplement provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.  
  
Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate. Materials may be provided via audio or video recordings.

The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

### III. Standards Affected

This detention standard replaces “Detainee Handbook” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-27, 2A-28, 2A-29.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.2 Custody Classification System”;
- “2.13 Staff-Detainee Communication”;
- “3.1 Disciplinary System”;
- “4.3 Medical Care”;
- “5.1 Correspondence and Other Mail”;
- “5.7 Visitation”;
- “6.2 Grievance System”; and
- “6.3 Law Libraries and Legal Material.”

### V. Expected Practices

#### A. Distribution

The facility administrator shall distribute the ICE Handbook, and shall develop and distribute a local written supplement to the handbook.

For consistency among detention facilities, the ICE Handbook shall be used as a comprehensive orientation resource. In each facility, the local supplement contents shall be customized and adapted for that specific facility.

#### B. Contents of Local Supplement

Upon admission to a facility, prior to placement in general population, each detainee shall be provided a copy of the handbook and that facility’s local supplement to the handbook.

Staff shall require each detainee to verify, by signature, receipt of the handbook, and shall maintain that signed acknowledgement in the detainee’s detention file.

While all applicable topics from the handbook must be addressed, it is especially important that each local supplement notify each detainee of:

1. the rules, regulations, policies and procedures with which every detainee must comply;
2. detainee rights and responsibilities;
3. procedures for requesting interpretive services for effective communication;
4. Procedures for requesting reasonable accommodations
5. the facility’s zero tolerance policy for all forms of sexual abuse and assault;
6. the facility’s rules of conduct and prohibited acts, the disciplinary severity scale, the sanctions imposed for violations of the rules, the disciplinary process, the procedure for appealing disciplinary findings, and detainees’ rights in the disciplinary system, as required by standard “3.1 Disciplinary System,” at Section B of Expected Practices;

7. information about the facility's grievance system including medical grievances, as required by standard "6.2 Grievance System," at Section B of Expected Practices;
8. the facility's policies on telephone access and on the monitoring of telephone calls, if telephone calls are monitored;
9. the facility's visitation rules and hours;
10. rules and procedures governing access to the law library as required by standard "6.3 Law Libraries and Legal Material," at Sections E(2) and N of Expected Practices;
11. content and procedures of the facility's rules on legal rights group presentations, and the availability of legal orientation programs;
12. the facility's rules on correspondence and other mail, including information on correspondence procedures as required by standard "5.1 Correspondence and Other Mail," at Section C of Expected Practices;
13. the facility's policies and procedures related to personal property, as required by standard "2.5 Funds and Personal Property," at Section C of Expected Practices;
14. the facility's marriage request procedures;
15. contact information for the ICE/ERO Field Office and the scheduled hours and days that ICE/ERO staff is available to be contacted by detainees at the facility; and
16. procedures to submit written questions, requests, or concerns to ICE/ERO staff, as well as the availability of assistance to prepare such requests.

### **C. Translations and Access for Limited English Proficient Detainees**

The ICE Handbook shall be provided in English, Spanish and other predominant languages as determined necessary by the Field Office Director.

The facility administrator shall ensure that the facility has sufficient quantities of the English and all translated versions of the ICE Handbook and shall request additional copies of the ICE Handbook from the Field Office Director as needed. The local handbook supplement provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

If a detainee cannot read or does not understand the language of the handbook, the facility administrator shall provide the material using audio or video tapes in a language the detainee does understand, arrange for the orientation materials to be read to the detainee, or provide a translator or interpreter within a reasonable amount of time.

### **D. Detention Support Staff**

The facility administrator shall provide a copy of the ICE Handbook and the local supplement to every staff member who has contact with detainees, and shall address their contents in initial and annual staff training.

### **E. Updates**

The ICE Handbook will be updated as necessary by ICE/ERO. The facility administrator shall appoint a committee to review the local supplement annually and recommend changes. While the handbook does not have to be immediately revised and reprinted to incorporate every change, the facility administrator shall establish procedures for immediately communicating such changes to staff and detainees through methods including but not limited to the following:

1. posting changes on bulletin boards in housing units and other prominent areas;
2. notifying staff by memos and other means; and
3. informing new arrivals during orientation.

On occasion, ICE/ERO may require a specific and



immediate change to the handbook.

## **F. Reporting Allegations**

The ICE Handbook will explicitly address how

detainees shall report allegations of abuse and civil rights violations, along with violations of officer misconduct, directly to ICE/ERO headquarters or the DHS Office of Inspector General.

## 6.2 Grievance System

### I. Purpose and Scope

This detention standard protects a detainee's rights and ensures that all detainees are treated fairly by providing a procedure for them to file both informal and formal grievances, which shall receive timely responses relating to any aspect of their detention, including medical care.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard "7.5 Definitions."

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in "V. Expected Practices"):

1. Detainees shall be informed about the facility's informal and formal grievance system in a language or manner they understand.
2. In their daily interaction, staff and detainees shall mutually resolve most complaints and grievances orally and informally.
3. Detainees shall be able to file formal grievances,

including medical grievances, and shall receive written responses, including the basis for the decision, in a timely manner.

4. Detainees shall be able to file emergency grievances for incidents that involve an immediate threat to health, safety, or welfare, and shall receive written responses, including the basis for the decision, in a timely manner.
5. Detainees shall be able to appeal initial decisions on grievances to at least one higher level of review.
6. Facilities shall allow any ICE/ERO detainee dissatisfied with the facility's response to a grievance or those fearing retaliation to be able to appeal or communicate directly with ICE/ERO.
7. Accurate records shall be maintained for filed grievances and their resolution in a grievance log and the detainee's detention file.
8. No detainee shall be harassed, disciplined, punished or otherwise retaliated against for filing a complaint or grievance.
9. The facility shall assist detainees with disabilities and other special needs in preparing and pursuing a grievance, including those with serious mental illness, known intellectual or developmental disabilities, or who are blind or have low vision.
10. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance,

including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate. **III. Standards Affected**

This detention standard replaces “Detainee Grievance Procedures” dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-27, 6A-07, 6B-01.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.13 Staff-Detainee Communication”
- “5.1 Correspondence and Other Mail.”

“*Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*,” 79 Fed. Reg. 13100 (Mar. 7, 2014).

## V. Expected Practices

### A. Written Procedures Required

Each facility shall have written policy and procedures for a detainee grievance system that:

1. establish a procedure for any detainee to file an informal or formal grievance;
2. establish a procedure to track or log all ICE detainee grievances separately from other facility

populations;

3. establish reasonable time limits for:
  - a. processing, investigating and responding to grievances;
  - b. convening a grievance committee (or actions of a single designated grievance officer) to review formal complaints; and
  - c. providing written responses to detainees who filed formal grievances, including the basis for the decision;
4. ensure a procedure in which all medical grievances are received by the administrative health authority within 24 hours or the next business day, with a response from medical staff within five working days, where practicable;
5. establish a special procedure for time-sensitive, emergency grievances, including having a mechanism by which emergency medical grievances are screened as soon as practicable by appropriate personnel;
6. ensure each grievance receives appropriate review;
7. provide at least one level of independent appeal that excludes individuals previously involved in the decision making process for the same grievance;
8. include guarantees against reprisal; and
9. ensure information, advice and directions are provided to detainees in a language or manner they can understand, or that interpretation/translation services are utilized.

### B. Informing Detainees about Grievance Procedures

The facility shall provide each detainee, upon admittance, a copy of the detainee handbook and local supplement (see also standard “6.1 Detainee Handbook”), in which the grievance section provides notice of the following:

1. The expectation that, to the greatest extent possible, complaints and grievances shall be handled orally and informally by staff in their daily interaction with detainees (at all times, the detainee shall be granted the right to file a formal grievance and pursue the formal grievance process);
2. The right to file a grievance, including medical grievances, both informal and formal;
3. The process for filing emergency grievances;
4. The procedures for filing and resolving a grievance, including the availability of assistance in preparing a grievance (assistance for detainees with impairments or disabilities, interpretation/translation services for detainees with limited English proficiency (LEP) and assistance for detainees with limited literacy);
5. The procedures for filing and resolving an appeal, including the right to appeal to specified higher levels if the detainee disagrees with the lower decisions;
6. The procedures for contacting ICE/ERO to appeal a decision;
7. The policy prohibiting staff from harassing, disciplining, punishing or otherwise retaliating against any detainee for filing a grievance or contacting the Office of the Inspector General (OIG); and
8. The opportunity at any point to file a complaint directly to the Department of Homeland Security (DHS) OIG about staff misconduct, physical or sexual abuse or civil rights violations; complaints may be filed by calling the DHS OIG Hotline at 800-323-8603 or by writing to: Department of Homeland Security Attn: Office of the Inspector General Washington, DC 20528

## C. Grievance Procedures

### 1. Informal Grievances

Informal grievance resolution offers a detainee the

opportunity to expediently resolve his/her cause for complaint before resorting to the more time-consuming written formal procedure. Staff at every facility shall make every effort to resolve a detainee's complaint or grievance at the lowest level possible, in an orderly and timely manner.

The facility administrator, or designee, shall establish written procedures for detainees to orally and informally present the issue of concern (as addressed in standard "2.13 Staff-Detainee Communication"). Upon request, additional assistance will be provided for detainees with impairments or disabilities, interpretation/translation services for detainees who are LEP, and assistance for detainees with limited literacy. Detention facility staff is encouraged to provide assistance if a detainee cannot properly communicate their concern.

A detainee is free to bypass or terminate the informal grievance process at any point and proceed directly to the formal grievance stage.

If an informal grievance is resolved, the employee need not provide the detainee written confirmation of the outcome, but shall document the result for the record in the detainee's detention file and in any logs or data systems the facility has established to track such actions.

Staff members who receive a detainee's informal complaint or grievance shall:

- a. attempt to resolve the issue informally, if the issue is within his/her scope of responsibility; or
- b. notify the appropriate supervisor of the grievance as soon as practical.

The supervisor may try to resolve the matter or advise the detainee to initiate a written grievance.

If the grievance is resolved at this informal level, the individual who resolved the issue shall document the circumstances and resolution in the detainee's detention file and in the facility's grievance log.

### 2. Emergency Grievances

Each facility shall implement written procedures for identifying and handling a time-sensitive emergency grievance that involves an immediate threat to health, safety or welfare. Written procedures shall also cover urgent access to legal counsel and the law library. All staff shall be trained to respond appropriately and in an expeditious manner to emergency grievances. Once the receiving employee determines that the detainee is raising an issue requiring urgent attention, emergency grievance procedures shall apply. Translation and interpretation services shall be made available to those who need it.

Emergency grievances may be brought by a detainee to a designated grievance officer (GO) or directly to the facility administrator or their designee. If these personnel are not available, a shift supervisor may be informed of the complaint.

A report of the grievance, including the nature of the complaint, the name of the detainee and the action taken to resolve the issue, shall be prepared in written form and forwarded to the facility administrator, or designee.

If the facility administrator determines that the grievance is not an emergency, standard grievance procedures shall apply.

All emergency grievance reports, to include the circumstances of the grievance and the resolution, shall be placed in the detainee's detention file and documented in the facility's grievance log.

Medical emergencies shall be brought to the immediate attention of proper medical personnel for further assessment. If it is determined that it is not a medical emergency, standard grievance procedures shall apply.

### **3. Formal Written Grievances**

The detainee may file a formal grievance at any time during, after, or in lieu of lodging an informal complaint. The facility may not impose a time limit on when a detainee may submit a formal grievance.

In preparing and pursuing a grievance, the facility administrator, or designee, shall ensure procedures are in place to provide the assistance to detainees with impairments or disabilities, interpretation/translation services for detainees who are LEP, and assistance for detainees with limited literacy.

Facility grievance procedures shall be communicated to a detainee in a language or manner the detainee can understand. All written materials provided to detainees shall be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Staff shall provide the number of forms and envelopes requested by the detainee. Within reason, detainees are not limited in the number of forms and envelopes they may request.

Each facility shall establish three levels of formal grievance review. These reviews shall consist of: 1) GO review; 2) grievance appeals board (GAB) review; and 3) appellate review. ICE will issue guidance on the designation of representatives and additional guidelines for conducting hearings.

#### **a. Grievance Procedure Guidelines**

- 1) To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.
- 2) Another detainee, facility staff, family member, legal representative or non-governmental organization may assist in the preparation of a grievance with a detainee's consent.
  - a) If the detainee claims that the issue is sensitive or that his/her safety or well-being may be jeopardized if others in the facility learn of the grievance, the detainee

must:

- describe in the grievance the reason for circumventing standard procedures; and
- be given the right to seal the grievance in an envelope clearly marked “sensitive” or “medically sensitive,” and submit it directly to the facility administrator, administrative health authority or designee.

- b) Each grievance form shall be delivered by authorized facility personnel (not detainees) without being read, altered or delayed.

#### b. Grievance Process

##### 1) GO review

- a) Designated GO shall conduct the initial adjudication of a formal or informal grievance.
- b) Detainee shall be provided with a written or oral response within five days of receipt of the grievance.
- c) GO or designee shall note the grievance log with the following information:
  - date grievance filed;
  - name of detainee that filed grievance;
  - nature of the grievance;
  - date decision provided to detainee; and
  - outcome of the adjudication.

##### 2) GAB review

- a) The detainee shall have the option to file an appeal if the detainee is dissatisfied with a GO decision, and shall be informed of that option.
- b) The designated members of the GAB shall review and provide a decision on the grievance within five days of receipt of the

appeal. The GAB shall not include any individuals named in the grievance.

- c) The GAB shall issue a written decision to the detainee in all cases.
- d) The GAB shall note the grievance log with the following information:
  - date appeal filed;
  - name of detainee that filed grievance;
  - nature of the grievance;
  - name of the GO that conducted the initial adjudication;
  - date decision provided to detainee; and
  - outcome of the adjudication.
- e) Officials previously involved in adjudicating the grievance shall not participate on the GAB.
- f) If the grievance involves a medical issue, at least one member of the GAB shall be a medical professional.
- g) If the outcome of the appeal is unfavorable to the detainee, the GAB shall forward the grievance and all supporting documentation to the facility administrator within 24 hours of issuing a decision.

##### 3) Appellate Review

- a) The detainee shall have the option to file an appeal if the detainee is dissatisfied with a GAB decision, and shall be informed of that option.
- b) The facility administrator, in some cases in conjunction with the Field Office Director, shall review the grievance appeal and issue a decision within five days of receipt of the appeal. A written decision shall be issued to the detainee in all cases and forwarded to the Field Office Director.
- c) The appellate reviewer shall note the

grievance log with the following information:

- date appeal received;
- name of detainee that filed grievance;
- nature of the grievance;
- basis of the GAB decision;
- date decision provided to detainee; and
- outcome of the adjudication.

d) Facilities shall allow any ICE/ERO detainee dissatisfied with the facility's response to a grievance or those fearing retaliation to be able to appeal or communicate directly with ICE/ERO.

#### **4. Medical Grievances**

Formal written grievances regarding medical care shall follow the same procedures per section "3. Formal Written Grievances" above, and shall be submitted directly to medical personnel designated to receive and respond to medical grievances at the facility. Medical grievances may be submitted in a sealed envelope clearly marked "medically sensitive."

Designated medical staff shall act on the grievance within five working days of receipt and provide the detainee a written response of the decision and the rationale. This record shall be maintained per the following section "D. Record-Keeping and File Maintenance."

#### **D. Record-Keeping and File Maintenance**

Each facility shall maintain a detainee grievance log that shall be subject to regular inspection by the Field Office Director and ICE headquarters staff. Documentation shall include the following information:

- date grievance filed;
- name of detainee that filed grievance;

- nature of the grievance;
- date decision provided to detainee; and
- outcome of the adjudication.

Medical grievances shall be maintained in the detainee's medical file.

Facility staff shall assign each grievance a log number, enter it in the space provided on the detainee grievance form, and record it in the detainee grievance log in chronological order, according to the following stipulations:

1. the log entry number and the detainee grievance number must match;
2. the log shall include the receipt date and the disposition date; and
3. nuisance or petty grievances and grievances rejected or denied must also be logged with the appropriate notation and justification (for example, "petty").

A copy of the grievance disposition shall be placed in the detainee's detention file and provided to the detainee within five days.

ICE may audit grievance logs and individual cases as often as necessary to ensure compliance with the established grievance procedures and to assess the implementation of decisions within the facility. The ICE Office of Professional Responsibility may conduct trend analysis to determine the nature of grievances being filed across ICE facilities, resources expended on their resolution and outcomes.

#### **E. Established Pattern of Abuse of the Grievance System**

If a detainee establishes a pattern of filing nuisance complaints or otherwise abusing the grievance system, the facility administrator may identify that person, in writing, as one for whom not all subsequent complaints must be fully processed.

However, feedback shall be provided to the detainee, and records shall be maintained of grievances



“rejected.”

For a detainee so identified by the facility administrator:

1. staff shall continue to attempt to resolve all informal oral grievances at the lowest level possible, as described above;
2. if designated staff at the facility’s first grievance system level make the initial determination that the grievance is one that should not be fully processed due to its frivolous nature, they shall forward the grievance to the next grievance level;
3. if staff at that level concurs that the grievance is frivolous, the grievance shall be logged in the detainee grievance log showing the disposition (e.g., “rejected”), and a copy of the grievance shall be placed in the detainee’s detention file;
4. the facility’s written policy and procedures may also require that each rejected grievance be forwarded to the facility administrator for review or concurrence; and
5. the designated final authority may decide to return the grievance to a lower level for full processing.

If the GO designated to receive grievances believes the grievance is one that should not be fully processed, he or she shall document that determination and refer the grievance to the GAB for second-level review. If the GAB concurs, the grievance shall be logged in the detainee grievance log with “rejected” as the disposition, and a copy of the grievance shall be placed in the detainee’s detention file.

## **F. Allegations of Staff Misconduct**

Upon receipt, facility staff must forward all detainee grievances containing allegations of staff misconduct to a supervisor or higher-level official in the chain of

command. While such grievances are to be processed through the facility’s established grievance system, CDFs and IGSA facilities must also forward a copy of any grievances alleging staff misconduct to ICE/ERO in a timely manner with a copy going to ICE’s Office of Professional Responsibility (OPR) Joint Intake Center and/or local OPR office for appropriate action.

Facilities shall send all grievances related to sexual abuse and assault and the facility’s decisions with respect to such grievances to the appropriate Field Office Director at the end of the grievance process.

## **G. Retaliation Prohibited**

Staff shall not harass, discipline, punish or otherwise retaliate against a detainee who files a complaint or grievance or who contacts the DHS Office of the Inspector General.

Actions are considered retaliatory if they are in response to an informal or formal grievance that has been filed and the action has an adverse effect on the resident’s life in the facility.

Immediately following any indication or allegation of retaliation, the facility and ICE/ERO shall conduct an investigation of alleged acts of retaliation in a timely manner, and take all steps necessary to remedy any retaliation determined to have occurred.

## **H. Review of Detainee Grievances**

The ICE Office of Detention Oversight may review on a periodic basis a statistical sampling of grievances at a facility to evaluate compliance with this grievance standard and the associated grievance procedures; to assess the reasonableness of final decisions; and to generate data showing trends in the types of grievances, time frames for resolution and outcomes at various facilities. Detainee grievances will also be reviewed during ICE/ERO-initiated facility inspections.

## 6.3 Law Libraries and Legal Material

### I. Purpose and Scope

This detention standard protects detainees' rights by ensuring their access to courts, counsel and comprehensive legal materials.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard "7.5 Definitions."

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in "V. Expected Practices").

1. Detainees shall have access to a properly equipped law library, legal materials and equipment (including photocopying resources) to facilitate the preparation of documents.
2. Detainees shall have meaningful access (no less than five hours per week) to law libraries, legal

materials and equipment.

3. *\*\*When requested and where resources permit, facilities shall provide detainees meaningful access to law libraries, legal materials and related materials on a regular schedule and no less than 15 hours per week.*
4. Special scheduling consideration shall be given to detainees facing deadlines or time constraints.
5. Detainees shall not be required to forgo recreation time to use the law library. Requests for additional time to use the law library shall be accommodated to the extent possible, including accommodating work schedules when practicable, consistent with the orderly and secure operation of the facility.
6. Detainees shall have access to courts and counsel.
7. Detainees shall be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence.
8. Detainees shall receive assistance where needed (e.g., orientation to written or electronic media and materials; assistance in accessing related programs, forms and materials); in addition, detainees who are illiterate, limited-English proficient or **have disabilities** shall receive appropriate special assistance.
9. Detainees in the Special Management Unit (SMU) shall have access to legal resources and materials on the same basis as the general population.
10. Detainees shall be notified of the facility's rules on law libraries and legal material through the detainee handbook.
11. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective

communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Access to Legal Material” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-6A-01, 6A-02, 6A-03, 6A-09, 2A-62.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “5.1 Correspondence and Other Mail,” in regard to correspondence with attorneys and other legal representatives, judges, courts, embassies and consulates;
- “5.6 Telephone Access,” in regard to phone calls to legal representatives or to obtain legal representation; and

- “5.7 Visitation,” in regard to visits from attorneys, other legal representatives and legal assistants.

## V. Expected Practices

### A. Law Library

Each facility shall provide a properly equipped law library in a designated, well-lit room that is reasonably isolated from noisy areas and large enough to provide reasonable access to all detainees who request its use. It shall be furnished with a sufficient number of tables and chairs to accommodate detainees’ legal research and writing needs.

### B. Supervision

The facility shall develop procedures that effectively prevent detainees from damaging, destroying or removing equipment, materials or supplies from the law library.

Facilities are encouraged to monitor detainee use of legal materials to prevent vandalism.

Supervision shall not be used to intimidate or otherwise impede detainees’ lawful use of the law library.

### C. Hours of Access

Each facility administrator shall devise a flexible schedule that:

1. permits all detainees, regardless of housing or classification, to use the law library on a regular basis;
2. enables maximum possible use without interfering with the orderly operation of the facility (law library hours of operation shall generally be scheduled between official counts, meals and other official detention functions);
3. determines the number of detainees permitted to use the law library at any given time; and

4. takes into consideration any rules and regulations that prohibit or regulate the intermingling of differently classified detainees.

Each detainee shall be permitted to use the law library for a minimum of five hours per week. Detainees may not be forced to forego their minimum recreation time in order to use the law library (see standard “5.4 Recreation”). Staff shall accommodate detainee requests for additional law library time to the extent possible, and requests for the accommodation of work schedules to the extent practicable, consistent with the orderly and secure operation of the facility, and with special priority given to such requests from detainees facing a court deadline.

## **D. Equipment**

The law library shall have an adequate number of computers and printers to support the detainee population. Sufficient writing implements, paper, photocopiers and related office supplies shall be provided to detainees to prepare documents for legal proceedings, special correspondence or legal mail. The law library shall also provide access to two-hole punches, folders, and, where appropriate, computer disk containers. A sign-in sheet shall be maintained to establish fair and orderly use, based on demand.

Typewriters, with replacement ribbons, carbon paper and correction tape may be temporarily substituted for computers and printers only until such time as the facility can provide computers and printers, and if approved by ICE/ERO. However, typewriters are not an adequate substitute if any library materials listed in “Appendix 6.3.A: List of Legal Reference Materials for Detention Facilities” are unavailable in hard copy and only available through electronic access on a computer.

Consistent with the safety and security of the facility, detainees shall be provided with a means of saving any legal work in a secure and private electronic format, password protected, so they may return at a later date to access previously saved legal work

products.

Each facility administrator shall designate an employee to inspect equipment daily, at a minimum, to ensure it is in good working order, and to stock sufficient supplies.

## **E. Maintaining Up-to-Date Legal Materials**

### **1. Materials for Law Libraries**

Each law library shall contain the materials listed in “Appendix 6.3.A: List of Legal Reference Materials for Detention Facilities” (unless any are found to be out of print) and may also include the optional legal reference materials in “Appendix 6.3.B: Optional Legal Reference Materials.” Each law library shall also contain any materials provided to the facility by ICE/ERO, including electronic media for legal research systems (e.g. CD-ROMs or External Hard Drives) and any accompanying written training or reference materials.

#### **a. Form of Materials**

##### **1) Paper Publications**

Facilities are encouraged to make available paper versions of the materials listed in “Appendix 6.3.A: List of Legal Reference Materials for Detention Facilities,” by ordering copies from the publisher. (See “Appendix 6.3.C: Publishers’ Addresses and Phone Numbers.” Ordering information can also be obtained from the ICE Office of the Principal Legal Advisor law librarian, at (202) 732-5000.)

##### **2) Electronic legal research media**

Regardless of whether paper versions are provided, facilities must make available in the law library any electronic media provided by ICE/ERO, containing the required publications or other supporting legal research platforms for detainees. This may include CD-ROMs or External Hard Drives developed by legal research services vendors utilized by ICE.

The facility administrator must certify to the respective Field Office Director, with verification from the Field Office Director, that the facility provides detainees sufficient access to:

- a) operable computers capable of running the electronic legal research media;
- b) operable printers;
- c) supplies for both; and
- d) instructions on basic use of the system.

The facility shall provide technical assistance to detainees as needed in using electronic materials, as well as any usage guides or other supporting materials supplied by ICE/ERO.

## **2. Updating and Replacing Legal Materials**

Each facility administrator shall designate a facility law library coordinator to be responsible for inspecting legal materials weekly, updating them, maintaining them in good condition and replacing them promptly as needed. The detainee handbook shall also provide detainees with information regarding the procedure for notifying a designated employee that library material is missing, out of date, or damaged.

### **a. ICE/ERO Headquarters Coordinator**

At ICE/ERO headquarters, the Detention Standards Compliance Unit (DSCU) in the Detention Management Division is designated as the coordinator to assist facilities and Field Offices in maintaining up-to-date law library materials.

Facilities must take care to ensure that the most updated statutes, regulations, and other required legal materials are in the library at all times.

ICE/ERO shall arrange a subscription to the updating service, if available, for each publication on the list.

### **b. List of Publishers**

Information regarding updating can be obtained

directly from the publishers. The facility administrator (or designee) may also seek assistance from the DSCU coordinator. Procedures for Replacement of Materials

When a facility receives replacement supplements or other materials, the law librarian or other designated individual shall dispose of the outdated ones.

Damaged or stolen materials shall be replaced promptly. In addition to conducting regular inspections, the facility shall encourage detainees to report missing or damaged materials. The facility may obtain replacements by contacting the DSCU coordinator.

If materials from outside organizations need to be replaced, the facility shall contact ICE/ERO to obtain replacements from the submitting organization.

## **F. Materials from Outside Persons or Organizations**

Outside persons and organizations may submit published or unpublished legal material for inclusion in a facility's law library. If the material is in a language other than English, an English translation must be provided.

### **1. Published Material**

If a facility receives published material, the facility administrator shall accept or decline this material based on considerations of usefulness and space limitations. If published materials related to immigration law or procedures are declined, the facility administrator shall notify the submitter and the Field Office Director in writing of the reason(s).

### **2. Unpublished Material**

If the facility receives any unpublished legal material, the facility administrator shall forward this material as soon as possible to the Field Office Director for review and approval. Unpublished immigration-related material can include intake questionnaires

from non-governmental legal service provider organizations.

Unpublished material must have a cover page that:

- a. identifies the submitter and preparer of the material;
- b. clearly states that ICE/ERO did not prepare and is not responsible for the contents; and
- c. provides the date of preparation.

If unpublished materials related to immigration law or procedures are declined, ICE/ERO will notify the facility administrator and the submitter in writing of the reason(s). Within 30 days of receipt of the decision to deny the use of submitted material, the submitter may appeal the ICE/ERO decision to the DSCU. ICE headquarters will respond to the appeal in writing within 30 days.

## **G. Requests for Additional Legal Material**

Detainees who require legal material not available in the law library may make a written request to the facility law library coordinator, who shall inform the Field Office of the request as soon as possible.

ICE/ERO will answer all requests within five business days of receipt. Requests from detainees facing imminent deadlines for ER proceedings will be responded to within two (2) business days of receipt. Requests for copies of court decisions will normally be answered within three business days.

If the request is not approved, ICE/ERO shall inform the submitter in writing of the reason for the denial.

## **H. Photocopying Legal Documents**

The facility shall ensure that detainees can obtain at no cost to the detainee photocopies of legal material and special correspondence when such copies are reasonable and necessary for a legal proceeding involving the detainee. This may be accomplished by providing detainees access to a copier, or by making copies for detainees.

Detainees shall also be permitted to photocopy

grievances and letters regarding conditions of confinement. Detainees shall not be prohibited from photocopying sick call requests, disciplinary decisions, special needs forms, photographs, newspaper articles or other documents that are relevant to the presentation of any type of immigration proceeding.

The number of copies of documents to be filed with a particular court, combined with the number required for ICE/ERO records and the number required for the detainee's personal use shall determine the number of photocopies required.

Requests for photocopies of legal material may be denied only if:

1. the document(s) might pose a risk to the security and orderly operation of the facility;
2. copying would constitute a violation of any law or regulation;
3. the request is clearly abusive or excessive; or
4. there are other legitimate security reasons.

Facility staff shall inspect documents offered for photocopying to ensure that they comply with these rules. However, staff may not read a document that on its face is clearly a legal document involving that detainee.

## **I. Assistance to Detainees with Disabilities, Detainees with Limited-English Proficiency (LEP), and Illiterate Detainees**

### **1. Assistance from Facility Staff**

Facility staff shall provide assistance to detainees in accessing legal materials where needed (e.g. orientation to written or electronic media and materials; assistance in accessing related programs, forms and materials).

### **2. Assistance from Other Detainees**

The facility shall permit detainees to assist other



detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk. Such assistance is voluntary, and no detainee shall be allowed to charge a fee or accept anything of value for assistance.

Facilities are encouraged to allow outside volunteers and programs who train detainees to help other detainees to access legal materials.

The facility administrator may not provide compensation to a detainee for researching or preparing legal documents.

### 3. Assistance to Illiterate, Limited-English Proficient, and Disabled Detainees

Detainees with disabilities, LEP detainees and illiterate detainees who wish to pursue a legal claim related to their immigration proceedings or detention, and who request assistance or otherwise indicate difficulty with the legal materials, must be provided assistance beyond access to a set of English-language law books.

The facility shall make efforts to assist detainees who are illiterate, LEP and have disabilities in using the law library. Facilities shall establish procedures to meet this requirement, such as:

- a. having the facility's law librarian assist the detainee's legal research;
- b. permitting the detainee to receive assistance from other detainees in using the law library;
- c. assisting in contacting pro bono legal-assistance organizations from the ICE/ERO-provided list; and
- d. in the case of detainees with disabilities, providing reasonable accommodations and or auxiliary aids and services identified through the facility's reasonable accommodation process.

If such attempts are unsuccessful in providing the detainee sufficient assistance, the facility shall contact

the ICE/ERO Field Office to determine appropriate further action.

## J. Personal Legal Materials

The facility shall permit a detainee to retain all personal legal material upon admittance to the general population or to Administrative Segregation or Disciplinary Segregation units, unless retention of materials creates a safety, security or sanitation hazard.

For a detainee with a large amount of personal legal material, the facility shall make the following provisions.

1. A portion of the materials may be placed in a personal property storage area, with access permitted during designated hours.
2. The facility shall provide an explanation to the detainee as to why the material presents a safety, security or sanitation hazard.
3. Requests for access shall be granted as soon as feasible, but no later than 24 hours after receipt of the request, unless documented security concerns preclude action within that timeframe.
4. Detainees who have a documented, scheduled immigration hearing within 72 hours shall be provided access to their personal legal materials to the extent practicable.

## K. Law Library Access for Detainees in Special Management Units (SMUs)

Detainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.

Facilities may supervise library use by a detainee housed in an SMU, as warranted by the individual's conduct. Violent or uncooperative detainees may be temporarily denied access to the law library, as necessary to maintain security and until such time as their behavior warrants resumed access. Detainees



who are temporarily denied access to the law library under such circumstances shall be provided legal materials upon request.

Detainees segregated for protection must be provided access to legal materials. Such detainees may be required to use the law library separately or, if that is not feasible, legal materials and a computer must be brought to them upon request and they must be provided with assistance and have access to the list of the law library's holdings.

Denial of access to the law library must be:

1. supported by compelling security concerns;
2. limited to the shortest duration required for the safety, security and orderly operation of the facility;
3. fully documented in the SMU housing logbook; and
4. documented, with reasons listed, in the detention file.

The facility shall notify the Field Office every time access is denied, and shall send a copy of the proper documentation.

## **L. Envelopes and Stamps for Indigent Detainees**

Ordinarily, a detainee is considered "indigent" if he/she has less than \$15.00 in his/her account. Facilities shall make a determination without unreasonable delay as to whether a detainee is indigent.

The facility shall provide indigent detainees with free envelopes and stamps for domestic mail related to a legal matter, including correspondence to a legal representative, a potential legal representative, or any court. Requests to send international mail may also be honored.

Indigent detainees may receive assistance from local consular officials with international mail. As noted above in this standard, envelopes and stamps are

provided to indigent detainees for delivery of mail to consulates in the United States.

## **M. Notaries, Certified Mail and Miscellaneous Needs Associated With Legal Matters**

The facility shall provide assistance in a timely manner to any unrepresented detainee who requests a notary public, certified mail, or other such services to pursue a legal matter, if the detainee is unable to do so through a family member, friend or community organization.

If it is unclear whether the requested service is necessary, the respective ICE Office of Chief Counsel shall be consulted. A reply shall be received in a timely manner; pressing legal matters with a deadline shall be prioritized.

Telephone access for indigent unrepresented detainees requesting legal materials shall be in compliance with standard "5.6 Telephone Access."

## **N. Notice to Detainees**

The detainee handbook or supplement shall provide detainees the rules and procedures governing access to legal materials, including the following information:

1. that a law library is available for detainee use;
2. the scheduled hours of access to the law library;
3. the procedure for requesting access to the law library;
4. the procedure for requesting additional time in the law library (beyond the five-hours-per-week minimum);
5. the procedure for requesting legal reference materials not maintained in the law library; and
6. the procedure for notifying a designated employee that library material is missing or damaged;
7. the status of required access to computers,

printers and other supplies; and

8. if applicable, that LexisNexis is used at the facility and that instructions for its use are available.

These policies and procedures shall also be posted in the law library, along with a list of the law library's holdings. The list of the law library's holdings shall be kept up to date, and shall include the date and content of the most recent updates of all legal materials available to detainees in print and electronic media.

## **O. Retaliation Prohibited**

Staff shall not permit a detainee to be subjected to reprisals, retaliation or penalties because of a decision to seek judicial or administrative relief or investigation of any matter, including but not limited to the following:

1. the legality of his/her confinement;
2. the conditions of confinement or treatment while in detention;
3. any issue relating to his/her immigration proceedings;
4. any allegation that the Government is denying rights protected by law; or
5. any investigation conducted by the DHS Office for Civil Rights and Civil Liberties or the DHS Office of the Inspector General.

A detainee may be denied access to the law library or to legal material only in the event that the safety or security of the facility or detainee is a concern.

A detainee shall not be denied access to law libraries and legal materials as a disciplinary measure, reprisal, retaliation or penalty.

## Appendix 6.3.A: List of Legal Reference Materials for Detention Facilities

Revised December 2016

The information in “Appendix 6.3.A: List of Legal Reference Materials for Detention Facilities,” and Appendix 6.3.B: “Optional Legal Reference Materials” was updated as of December 2016. Further information may be obtained directly from the publishers.

### 1. *Constitution of the United States of America: Analysis and Interpretation*

Legal analysis and interpretation of the United States Constitution, based primarily on Supreme Court case law.

Order from U.S. Government Bookstore at:  
<http://bookstore.gpo.gov/>.

Also available at:  
<https://www.congress.gov/constitution-annotated/>.

### 2. *United States Code, Title 18, Crimes and Criminal Procedure*

Federal criminal code and procedure. Order from GPO U.S. Government Bookstore at:  
<https://bookstore.gpo.gov/catalog/laws-regulations/united-states-code>.

### 3. *United States Code, Title 8, Aliens and Nationality*

Outlines the role of aliens and nationality in the United States Code. Order from the U.S. Government

Bookstore at:  
<https://bookstore.gpo.gov/catalog/laws-regulations/united-states-code>.

### 4. *Code of Federal Regulations, Title 8, Aliens and Nationality*

A collection of general and permanent rules initially published in the Federal Register. Order from the U.S. Government Printing Office (GPO) at  
<https://bookstore.gpo.gov>.

Also available at:  
<https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/8cfr.html>.

### 5. *Bender’s Immigration and Nationality Act Set*

This is a private service that compiles the Immigration and Nationality Act and updates it quarterly to reflect new amendments and other changes.

Order from LexisNexis Matthew Bender (Publication Number 132) at:  
<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&skuId=SKU10725&catId=cat10920003&prodId=10725>.

### 6. *Bender’s Immigration Regulations Service*

This is a private service that compiles immigration-related regulations from the federal government and updates them monthly to reflect any changes.

Order from LexisNexis Matthew Bender (Publication Number 695) at:  
<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=10521>.

## 7. *Administrative Decisions Under Immigration and Nationality Laws*

Board of Immigration Appeals (BIA) decisions consisting of bound volumes and loose-leaf decisions. Published, precedential decisions from Volume 8 forward are available at:

<https://www.justice.gov/eoir/ag-bia-decisions>.

## 8. *National Immigration Project of the National Lawyers' Guild Publications*

The following are available for order at:

<https://www.nationalimmigrationproject.org/publications.html>.

- a. *Immigration Law and Defense*: A procedural handbook for immigration proceedings, with extensive references to judicial decisions and regulations and many official forms.
- b. *Immigration Law and Crimes*: Strategies, advice, and analysis for deportation defense.

## 9. *Immigrant Legal Resource Center Publications*

The following are available for order at:

<https://www.ilrc.org/publications>.

- a. *A Guide for Immigration Advocates*: A two-volume manual covering the basics of immigration law and research.
- b. *Inadmissibility & Deportability*: A manual introducing all common grounds of inadmissibility and deportability, as well as waivers.
- c. *Essentials of Asylum Law*: A comprehensive survey of the basic elements of asylum law, including an overview of asylum procedure.
- d. *Removal Defense*: A quick reference to key issues in removal defense, with overviews of

immigration proceedings, grounds of inadmissibility and deportability, pleadings, and common forms of relief.

- e. *The U Visa: Obtaining Status for Immigrant Victims of Crime*: A step-by-step guide through the process of handling an immigration case for a U visa applicant.
- f. *The VAWA Manual: Immigration Relief for Abused Immigrants*: A comprehensive guide for immigrant survivors of domestic violence.

## 10. *American Immigration Lawyers Association Publications*

The following are available for order at:

<http://agora.aila.org/>.

- a. *Asylum Primer*: A comprehensive guide to U.S. asylum law and procedure.
- b. *Representing Clients in Immigration Court (4th Edition)*: Strategies, advice, and analysis for deportation defense

## 11. *Tooby's Guide to Criminal Immigration Law*

A summary of criminal and immigration law and the connections between the two evolving areas of law.

Available for order at:

<https://nortontooby.com/node/657>.

## 12. *Country Reports on Human Rights Practices*

Department of State annual reports to Congress on human rights practices in individual countries.

Available for order from the U.S. Government Bookstore: <http://bookstore.gpo.gov/>.

Also available at: [www.state.gov/g/drl/rls/hrrpt/](http://www.state.gov/g/drl/rls/hrrpt/).

### 13. *Human Rights Watch: World Report*

The annual World Report summarizes key human rights issues in more than 90 countries and territories worldwide.

Available for order or online from Human Rights Watch at <http://www.hrw.org>.

### 14. *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*

A guide for government officials, judges, practitioners, and United Nations High Commissioner for Refugees (UNHCR) staff in applying the refugee definition.

Available at: <http://www.unhcr.org/en-us/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>.

The latest versions of the “Guidelines on International Protection,” which complement and update the Handbook, are available online at <http://www.unhcr.org/>.

### 15. *USCIS RAIO and Asylum Division Lessons Plans*

The Asylum Officer Basic Training Course lesson modules are used to train Asylum Officers and to articulate and communicate Asylum Division guidance on the substantive adjudication of asylum cases.

Available at: <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/asylum-division-training-programs>.

The Refugee, Asylum and International Operations (RAIO) Combined Training Lesson Plans are used to train all RAIO Officers.

Available at: <https://www.uscis.gov/about-us/directorates-and-program-offices/refugee-asylum-and-international-operations-directorate/raio-training-materials>.

### 16. *Immigration Court Practice Manual*

This is a publicly-accessible practice manual for immigration court proceedings from the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR).

Available at: <https://www.justice.gov/eoir/office-chief-immigration-judge-0>.

### 17. *Board of Immigration Appeals Practice Manual*

This is a publicly-accessible practice manual for appellate immigration court proceedings from DOJ EOIR.

Available at: <https://www.justice.gov/eoir/office-chief-immigration-judge-0>.

### 18. *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters*

Immigration legal services providers by state, county, or detention facility. Only nonprofit organizations that provide free or low-cost immigration legal services are included in this directory. State by state lists are available at: <https://www.immigrationadvocates.org/nonprofit/legaldirectory>.

### 19. *Rights of Prisoners* (3rd Edition), by Michael B. Mushlin

Order from Thompson Reuters at:  
<http://legalsolutions.thomsonreuters.com/law-products/Treatises/Rights-of-Prisoners-4th/p/100008943>.

## 20. *Federal Habeas Corpus, Practice & Procedure* (5th Edition)

Order from LexisNexis at:  
<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=7228>.

## 21. *Criminal Procedure (Hornbook)* by LaFave, Israel and King

Order from Thomson Reuters at:  
<http://legalsolutions.thomsonreuters.com/law-products/Treatises/Criminal-Procedure-4th-Wests-Criminal-Practice-Series/p/101763705>.

## 22. *Legal Research in a Nutshell* (9th Edition), by Cohen and Olson

Order from Thomson West at:  
<http://store.westacademic.com/s.nl/it.A/id.78526/.f>.

## 23. *Legal Research, Writing and Analysis* by Murray and DeSanctis

Order from Thomson West at:  
<http://store.westacademic.com/s.nl/it.A/id.15966/.f>.

## 24. *Federal Rules of Practice and Procedure*

- A. Rules of Appellate Procedure
- B. Rules of Civil Procedure

- C. Rules of Criminal Procedure
- D. Rules of Evidence
- E. Rules Governing Section 2254 (Habeas Corpus) and Section 2255 (Vacatur) Proceedings

Published when updated by the U.S. Courts, and available at:

<http://www.uscourts.gov/rules-policies/current-rules-practice-procedure>

## 25. *Federal Civil Judicial Procedure and Rules*

Order from Thomson West at:  
<http://legalsolutions.thomsonreuters.com/law-products/Statutes/Federal-Civil-Judicial-Procedure-and-Rules-2016-Revised-ed/p/103257254>.

## 26. *ICE Detainee Handbook*

To be provided by ICE.

## 27. *Legal Orientation Program (LOP) Self-Help Materials*

These are materials from the EOIR LOP program that educates detainees about their rights and the immigration court process. To be provided by ICE.

## 28. *Legal Dictionaries*

- A. *Black's Law Dictionary* (8th Edition)

Order from Thomson Reuters at:  
<http://legalsolutions.thomsonreuters.com/law-products/law-books/blacks-law-dictionary>.

- B. English-Spanish Legal Dictionary

The specific dictionary may be selected by the facility administrator or law librarian.

Examples include the following:

- i. McGraw-Hill's Spanish-English Legal Dictionary
- ii. Butterworth's Spanish/English Legal Dictionary
- iii. English-Spanish Legal Dictionary, Kaplan, (4th Edition)

### *29. Other Translation Dictionaries*

To be selected in accordance with the most common languages spoken by the respective detainee population.



## Appendix 6.3.B: Optional Legal Reference Materials

Revised December 2016

### 1. *Bender's Immigration Case Reporter*

Decisions from Federal Court, BIA, AAU and BALCA from 1984 forward

Order from LexisNexis Matthew Bender at:

<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=10436>.

### 2. *Kurzban's Immigration Law Sourcebook*

Reference on U.S. immigration law with comprehensive concise analysis.

Available for order from AILA at:

<https://agora.aila.org/product/detail/2521>.

## 6.4 Legal Rights Group Presentations

### I. Purpose and Scope

This detention standard protects detainees' rights by providing all detainees access to information presented by authorized persons and organizations for the purpose of informing them of U.S. immigration law and procedures.

Consistent with the security and orderly operation of each facility, ICE/ERO encourages such presentations. All facilities are required to cooperate fully with authorized persons seeking to make such presentations.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard "7.5 Definitions."

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in "V. Expected Practices").

1. Detainees shall have access to group presentations on United States immigration law and procedures

and all other relevant issues related to the immigration court, appeals and removal processes, including a detainee's legal rights.

2. Persons and organizations requesting to make such group presentations shall be able to obtain clear information about how to become authorized to provide legal rights group presentations, including regularly scheduled presentations.
3. Facility safety, security and good order shall be maintained.
4. Detainees shall not be subject to reprisals, retaliation or penalties for attending legal rights group presentations.
5. Detainees shall be able to communicate and correspond with representatives from the legal groups that make presentations at the facilities.
6. Detainees shall have access to information and materials provided by legal groups. Organizations shall be permitted to distribute information in response to specific legal inquiries.
7. Detainees shall have access to group presentations by diplomatic representatives.
8. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.
9. Detainees shall be notified of all scheduled

presentations at least 48 hours in advance.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Group Presentations on Legal Rights” dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-6A-04, 6A-06.

### V. Expected Practices

#### A. Requests to Make Group Presentations on Legal Rights

Attorneys or legal representatives interested in making a group presentation on legal rights must submit a written request to the ICE/ERO Field Office Director. ICE/ERO shall accommodate, to the greatest extent possible, the presenters’ need to amend the information contained in the written request to reflect the changes that may have occurred since the initial request was made, including, but not limited to, distribution materials, informational posters, languages and participants.

Requests must be submitted to ICE/ERO at least ten (10) days in advance of the proposed presentation. The ICE/ERO Field Office Director may allow a presentation to take place on shorter notice at his or her discretion, or when circumstances arise that compel presentations on shorter notice. ICE/ERO will notify the approved presenter ten days in

advance of the scheduled presentation, or within one week of the request having been made, whichever date is earlier.

The written request must contain the following information:

1. a general description of the intended audience;
2. a syllabus or outline of the presentation;
3. a list of any published or unpublished materials proposed for distribution in accordance with “I. Written Materials” in this standard;
4. an informational poster as described in “E. Detainee Notification and Attendance” of this standard;
5. a statement of the languages in which the presentation will be conducted;
6. the name, date of birth, social security number (or passport number if social security number is not available), profession and specific function of each person requesting permission to enter the facility (including interpreters);
7. certification that each person making the presentation is an attorney, legal representative, legal assistant or interpreter;
8. a proposed date (or range of dates) for the presentation; and
9. a telephone number and contact person.
10. if a party contains more than four persons (including legal assistants and interpreters), a special request must be made as described in “F. Who May Present” of this standard.

In order for a legal assistant or law student to help with the presentation, the supervising attorney must submit a letter in advance of the presentation, as described in “F. Who May Present” of this standard.

In order to distribute written materials, a presenter must apply for approval as described in “I. Written Materials” of this standard.

## B. Request Granted

If the request is granted, the Field Office Director shall notify the facility administrator, who shall telephone the listed contact person to arrange a mutually acceptable date and time for the presentation. Upon request, five days prior to a scheduled legal rights group presentation, ICE/ERO staff shall notify the legal representative contact of the following characteristics of the detainee population:

1. number of immigration detainees in custody at the facility and the number of residential areas (or “pods”) in which they are housed;
2. countries of origin of those detainees; and
3. gender breakdown of immigration detainees.

When presentations are scheduled on short notice, such as in response to an enforcement action, the information above shall be provided in full or partial form as available.

ICE shall accept updated lists of presenters no less than five days prior to the presentation date.

## C. Scheduling Presentations

Presentations must be scheduled during normal visiting hours, excluding weekends and holidays. If feasible, presentations may be conducted daily, immediately before detainees’ first immigration court appearances and/or under other circumstances, such as after an influx of detainees subsequent to an ICE enforcement action or a transfer of detainees from one facility to another. Legal rights group presentations shall be accommodated to the greatest extent possible absent significant logistical or security-related concerns.

To request ICE/ERO permission to conduct additional presentations or for access to a facility on a continuing basis, the requester may include in its initial letter to the Field Office Director the request to make recurring presentations for a set range of dates or an indefinite period.

Facilities are not required to arrange presentations if attorneys or other legal representatives make no requests, or if ICE/ERO does not approve any requests.

## D. Legal Orientation Programs (LOPs)

Though similar to legal rights group presentations, legal orientation programs (LOPs), as carried out by the Department of Justice Executive Office for Immigration Review (EOIR), are distinct, government-sponsored programs and are authorized by congressional appropriation. The specific requirements and procedures outlined in this standard may not apply to LOPs. EOIR carries out LOPs through contracts with non-governmental organizations (NGOs), and in consultation with ICE/ERO. As such, EOIR and ICE/ERO may establish separate program operation plans for an LOP at each detention site.

EOIR LOPs operate in a limited number of ICE/ERO facilities and, subject to available funding, shall be developed and implemented in other facilities as designated by both EOIR and ICE/ERO.

## E. Detainee Notification and Attendance

The requestor must provide a one-page poster (no larger than 8.5 by 11 inches) to inform detainees of the general nature and contents of the presentation, the intended audience and the language(s) in which the presentation shall be conducted. For poster text in languages other than English, an English translation must be provided. The poster shall instruct detainees to contact the housing officer if they wish to attend.

Once approved by an ICE representative, designated facility staff shall prominently display the informational posters provided by the presenter in housing units at least 48 hours before the scheduled presentation, and each housing unit officer shall provide a sign-up sheet at least 48 hours in advance of a presentation for detainees who plan to attend; however, detainees that fail to sign up shall not be

deprived of the opportunity to attend a presentation for that reason.

. Detainees with disabilities, detainees who are LEP, and illiterate detainees shall be notified in a language and manner they understand about such presentations.

The facility administrator may limit the number of detainees attending a single session based on the number of interested detainees or the need to separate groups of detainees for safety and security. Therefore, the presenter must be prepared to conduct several presentations, and shall be advised to contact the facility administrator the day before the presentation to determine the number of sessions that shall be required.

Presentations shall be open to all detainees, regardless of the presenter's intended audience, except when a particular detainee's attendance may pose a security risk. ICE/ERO and /or facility staff shall notify detainees in segregation in advance of legal rights group presentations and provide these detainees an opportunity to attend. If the attendance of a detainee in segregation would pose a security risk, staff shall make arrangements with the presenters to offer a separate presentation and individual consultation to the detainee. Prior to the visit of the presenters, ICE/ERO and/or facility staff shall notify presenters of any detainees in segregation who request an individual presentation and consultation.

## **F. Who May Present**

One or more legal assistants may assist with a presentation if the supervising attorney and/or legal representative:

1. submits a letter identifying his/her legal assistants and affirms that the legal assistant presence is directly related to the presentation; and
2. attends any presentation in which any such assistant participates or prepares a letter identifying the presenter(s) and affirming that the

supervisory relationship directly relates to the presentation.

The facility shall admit properly identified interpreters to assist the presenters in accordance with the standards on "2.4 Facility Security and Control" and "5.7 Visitation." ICE/ERO is not responsible for providing interpreters for presenters.

As a general rule, presentation parties may not exceed four persons, including legal assistants, supervised law students and interpreters; however, a facility may waive this rule upon advance receipt of a written request.

## **G. Entering the Facility**

Facility staff shall require each person seeking entry to present an official form of picture identification (e.g., driver's license or state identification card). Attorneys must also present state-issued bar cards or, in states where these are not available, other proof of bar membership. If such documentation is not readily available to attorneys licensed in a particular state, they must indicate where they are licensed as attorneys and how that may be verified prior to their approval for admittance. Provided the presenter has made a special request, the facility may admit interpreters, supervised law students and legal assistants to assist attorneys and other legal representatives.

The facility may require presenters to arrive at least 30 minutes before the scheduled start of the presentation. A presentation should not be cancelled because presenters arrive late, if the late arrival does not present an issue with maintaining the good order of the facility or security or safety concerns.

After check-in, facility staff shall escort the presenters to the presentation site and shall escort the detainees to that location.

## **H. Presentation Guidelines**

The facility shall select and provide a private environment that is conducive to the presentation

and is consistent with the security and good order of the facility. Once detainees have been assembled, presenters shall ordinarily be granted a minimum of one hour for the presentation and additional time for a question-and-answer session. The facility administrator may extend that time period on a case-by-case basis.

The facility shall require presenters to abide by all rules and regulations applicable to visitors to the facility. Presentations must be conducted in a manner consistent with the security and orderly operation of the facility. Presenters may neither charge any fee nor solicit business for remuneration during any presentation.

At their discretion, ICE/ERO and/or facility staff may observe and monitor presentations, assisted by interpreters as necessary. ICE/ERO and facility personnel shall not interrupt a presentation, except to maintain safety and security, or if the allotted time has expired.

## **I. Written Materials**

If approved in advance by ICE/ERO, presenters may distribute brief written materials that inform detainees of U.S. immigration law and procedure. The request for approval of a presentation must list any published or unpublished materials proposed for distribution, and the requestor must provide a copy of any unpublished material, with a cover page that:

1. identifies the submitter and the preparer of the material;
2. includes the date of preparation; and
3. states clearly that ICE/ERO did not prepare, and is not responsible for, the contents of the material.

If any material is in a language other than English, an English translation must be provided.

Distribution of other than ICE-approved material or material that poses a threat, real or suspected, to the security and good order of the facility, constitutes grounds for discontinuation of presentation

privileges.

The volume of materials to be distributed must be kept to a minimum. If the facility administrator determines they are too voluminous for distribution at the presentation, they may be made available to detainees in the facility's law library.

Presenters shall distribute materials at the presentation to detainees and ICE/ERO and/or facility staff simultaneously. At the request of the presenter and with the requisite approval in accordance with standard "6.3 Law Libraries and Legal Material," copies of presentation materials may be included in the law library.

## **J. Individual Counseling Following a Group Presentation**

Following a group presentation, the facility shall permit presenters to meet with small groups of detainees to discuss their cases as long as meetings do not interfere with facility security and orderly operations.

ICE/ERO and facility staff may not be present during these meetings. Standard "5.7 Visitation" sets forth the rules and procedures for "Visits by Legal Representatives and Legal Assistants."

## **K. Suspension or Termination**

The facility may discontinue or temporarily suspend group presentations by any or all presenters, if:

1. the presentation or presenters pose an unreasonable security risk;
2. the presentation or presenters interfere with the facility's orderly operation;
3. the presentation deviates materially from approved presentation materials or procedures; or
4. the facility is operating under emergency conditions.

The facility administrator shall notify the affected presenters in writing of the reasons for termination

or suspension, and shall send a copy to the respective ICE/ERO Field Office Director.

A presenter may appeal a suspension or termination in writing to the Field Office Director. The Field Office Director shall promptly consider the appeal and consult with the respective ICE Office of Chief Counsel and the facility administrator to determine means of addressing the concerns causing the suspension/termination.

Within 30 days of receiving the appeal, the Field Office Director shall inform the presenter in writing of the decision made on any appeal request, and shall explain the rationale behind the decision and the means, if any, to rectify the situation.

## **L. Electronic Presentations**

ICE/ERO encourages qualified individuals and organizations to submit electronically formatted presentations (e.g., videotape, DVD) on legal rights. ICE/ERO must review and approve these presentation(s) prior to dissemination. If ICE/ERO approves an electronic presentation(s), the originators may provide that presentation to individual detention facilities for viewing by detainees.

### **1. Requesting ICE/ERO Approval**

The requestor must submit the electronic presentation(s), along with a transcript in English and in the language(s) used in the presentation(s), to both the Field Office Director and the respective ICE Office of Chief Counsel. ICE/ERO may object to all or part of the electronic presentation(s) if:

- a. the material may present a threat to the facility's safety, security or good order;
- b. the presentation contains misleading or inaccurate statements of ICE/ERO policy, immigration procedure or law; or

- c. any part is inconsistent with this detention standard.

### **2. Detainee Viewing of Approved Electronic Presentations**

The facility shall provide regularly scheduled and announced opportunities for detainees to view or listen to electronic presentation(s). At a minimum, the presentation shall be made available to the general population once a week. The facility shall also provide detainees in administrative or disciplinary segregation for more than one week at least one opportunity to view pre-approved presentation(s) during their placement in segregation, unless precluded by security concerns regarding a particular detainee.

The facility may also make such electronic presentations available in the law library, if accessible through computer (e.g. DVD format), for detainee viewing.

Each facility shall present only ICE/ERO-approved electronic presentations on detainee legal rights. If it is not technically feasible to show such pre-approved electronic presentations, the facility shall contact ICE/ERO for equipment options.

The facility shall maintain electronically-formatted presentations and equipment in good condition. However, in the event that electronic copies of the presentation(s) are stolen, destroyed or otherwise become unusable, the facility shall promptly request that ICE/ERO obtain replacement copies of the presentation(s) from the originator. The facility shall check the operability of the presentation once a week at minimum.

An electronic presentation shall not be considered a replacement or substitute for an in-person or live presentation, when available.



# 7.1 Detention Files

## I. Purpose and Scope

This detention standard contributes to efficient and responsible facility management by maintaining, for each detainee booked into a facility for more than 24 hours, a file of all significant information about that detainee. This standard also addresses security for electronic files.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

## II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. A detention file shall be maintained on each detainee admitted to a detention facility for more than 24 hours.
2. Each detention file shall include all documents, forms and other information specified herein.
3. The security and confidentiality of each detention file and its contents shall be maintained.

4. Staff shall have access to detention files as needed for official purposes only.
5. Information from a detention file shall be released to an outside third party only with the detainee’s signed release-of-information consent form, consistent with the resources and security of the facility. Any release of information shall be in accordance with applicable federal and state regulations.
6. Electronic record-keeping systems and data shall be protected from unauthorized access.
7. Field Offices shall maintain detention files for a minimum of 18 months after release of the detainee, for auditing purposes.
8. Closed detention files shall be properly archived.

## III. Standards Affected

This detention standard replaces “Detention Files” dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-7D-19, 7D-20, 7D-21. 7D-22.

Privacy Policy Guidance Memorandum Number 2007-1 “DHS Privacy Policy Regarding Collection, Use, Retention and Dissemination of Information on Non-U.S. Persons” from the DHS chief privacy officer (1/19/2007).

ICE/ERO *Performance-based National Detention Standards 2011*: “2.5 Funds and Personal Property.”

## V. Expected Practices

### A. Creation of a Detainee Detention File

When a detainee is admitted to a facility, staff shall create a detainee detention file as part of admissions processing.

1. For every new arrival whose stay shall exceed 24 hours, a designated officer shall create a detainee detention file.
2. The officer completing the admissions portion of the detention file shall note that the file has been activated. The note may take the form of a generic statement in the acknowledgment form described below in this standard.
3. The facility administrator shall develop procedures to ensure the admissions processing unit always has on hand all necessary supplies and that equipment is maintained in good working order, including photocopier(s) and paper. The equipment shall have the capacity to handle the volume of work generated.
4. The facility shall always have on hand a paper shredder where defective and/or extra photocopies not placed in the detainee's detention file should be shredded, or a locked paper bin in which such defective and/or extra photocopies that are not placed in the detention file should be placed to be shredded or otherwise destroyed.

## B. Required Contents of File

1. The detainee detention file shall contain either originals or copies of all forms and other documents generated during the admissions process. Defective or extra copies shall be disposed of properly. If necessary, the detention file may include copies of material contained in the detainee's A-File.

The file shall, at a minimum, contain the following documentation:

- a. I-385, Alien Booking Record, with one or more original photograph(s) attached;
- b. Classification Work Sheet;
- c. Personal Property Inventory Sheet;
- d. Housing Identification Card;

- e. G-589, Property Receipt or facility equivalent; and
- f. I-77, Baggage Check(s).

The file shall also contain the following original documents, if used in the facility:

- g. acknowledgment form, documenting receipt of handbook, orientation, locker key, etc.;
  - h. work assignment sheet;
  - i. identifying marks form; and
  - j. original detainee summary form.
2. The detainee's detention file shall also contain documents generated during the detainee's time in the facility.

## C. Additions to File

During the course of the detainee's stay at the facility, staff shall add documents associated with normal operations to the detainee's detention file. Such documentation may include, but is not limited to, the following:

1. special requests;
2. any G-589s or facility equivalent, or I-77s closed-out during the detainee's stay;
3. disciplinary forms;
4. grievances, except medical grievances which are maintained in the medical file, complaints and their disposition;
5. all forms associated with disciplinary or administrative segregation;
6. strip search forms;
7. other documents, as needed, e.g., staff reports about the detainee's behavior, attitude, commendations; and
8. any privacy waivers, including release-of-information consent forms.

## D. Location of Files

Detainee detention files shall be located and maintained in a secured area.

1. Active detainee detention files shall be maintained in the admissions processing area, unless the facility administrator designates another area;
2. The cabinet containing the files does not need to be securable if located in a controlled access area; however, if the cabinet is located in a congested work area or in a high traffic area, it must be locked;
3. The Chief of Security or equivalent shall determine the key distribution for file cabinets that lock; and
4. Archived files shall be placed in storage boxes, with the dates covered clearly marked (e.g., from [mm/dd/yy] to [mm/dd/yy]). The facility administrator shall designate a restricted access storage space.

## E. Archiving Files

Each detention file shall remain active during the detainee's stay at a facility, and shall be closed and archived upon the detainee's transfer, release or removal. When requested, IGSA facilities shall make inactive detention files available to ICE/ERO personnel.

1. Upon the detainee's release from the facility, staff shall add final documents to the file before closing and archiving the file and after inserting the following:
  - a. copies of completed release documents;
  - b. the original closed-out receipts for property and valuables; and
  - c. the original I-385 and other documentation.
2. The officer closing the detention file shall make a notation (on the acknowledgement form, if applicable) that the file is complete and ready for archiving.
3. The closed detention file shall not be transferred

with the detainee to another facility. However, staff may forward copies of file documents at the request of supervisory personnel at the receiving facility or office. When forwarding requested documents, staff at the sending office shall update the archived file, noting the document request and the name and title of the requester.

4. The archival and disposal of files must be done in accordance with agency policies and regulations.

## F. Access to File

1. Detention file contents are subject to the same Privacy Act regulations as A-file contents. Unless release of information is required by statute or regulation, a detainee must sign a release-of-information consent form prior to the release of any information, and a copy of the form shall be maintained in the detainee's detention file. This information contained in the form shall be explained to the detainee in a language or manner which he/she understands.

The Privacy Act of 1974 provides statutory privacy rights to U.S. citizens and Legal Permanent Residents (LPRs), but the law does not cover aliens who are not legal permanent residents. As a matter of policy, however, DHS treats any personally identifiable information (PII) that is collected, used, maintained or disseminated in a DHS records system as being subject to the Privacy Act regardless of whether the information pertains to a U.S. citizen, LPR or alien. Treating such records systems as covered by the Privacy Act establishes efficient and uniform business practices for handling PII without necessitating maintenance of two parallel records systems.

2. Appropriate staff or other law enforcement agencies with ICE approval may have access to the detention file for official purposes.
3. Staff shall accommodate all requests for detainee detention files from other departments that

require the material for official purposes, such as disciplinary hearings. A representative of the department requesting the file is responsible for obtaining the file, logging it out and ensuring its return. Unless the Chief of Security or equivalent determines otherwise, each borrowed file must be returned by the end of the administrative workday.

At a minimum, a logbook entry recording the file's removal from the cabinet shall include the following information:

- a. the detainee's name and A-File number;
  - b. date and time removed;
  - c. reason for removal;
  - d. signature of person removing the file, including title and department;
  - e. date and time returned; and
  - f. signature of person returning the file.
4. Upon request by the detainee, the detention file shall be provided to the detainee or his/her designated attorney of record.

## G. Electronic Files

Electronic record-keeping systems and data shall be protected from unauthorized access. All electronic data on individual detainees is subject to the same

Privacy Act regulations as the contents of traditional paper detention files and A-files.

Unless release of information is required by statute or regulation, a detainee must sign a release-of-information consent form prior to the release of any information, and a copy of the form shall be maintained in the detainee's detention file.

## H. Field Office Responsibilities

Field Offices shall maintain files as needed to carry out their responsibilities, and shall retain all inactive files for a minimum of 18 months for auditing purposes. Generally, such records contain information about more than one detainee, and are most easily retrieved by process or subject, rather than by individual detainee.

For some purposes, records are most easily retrieved by the detainee's name. While some such material may duplicate materials maintained in the facility detention files, there is no intention to create a duplicate file for IGSA contract facilities.

Some detention standards require that copies of certain documents on individual detainees be sent to Field Offices. Especially where approval of the Field Office Director or designee is required, records of correspondence and approvals or denials are to be maintained in the A-file.

## 7.2 Interviews and Tours

### I. Purpose and Scope

This detention standard ensures that the public and the media are informed of events within the facility's areas of responsibility through interviews and tours.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard "7.5 Definitions."

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in "V. Expected Practices").

1. The public and the media shall be informed of operations and events within the facility's areas of responsibility.
2. The privacy of detainees and staff, including the right of a detainee to not be photographed or recorded, shall be protected.

### III. Standards Affected

This detention standard replaces provisions on media visits and tours that were removed from the

detention standard on "Visitation" dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ADLF-7D-21, 7F-01.

## V. Expected Practices

### A. News Media Interviews and Tours

#### 1. General

ICE/ERO supports the provision of public access to non-classified, non-sensitive and non-confidential information about its operations in the interest of transparency. Access will not be denied based on the political or editorial viewpoint of the requestor.

ICE/ERO also has a responsibility to protect the privacy and other rights of detainees, including the right of a detainee to not be photographed or recorded.

By regulating interviews in the detention setting, the facility administrator ensures the secure, orderly and safe operation of the facility. Interviews by reporters, other news media representatives, non-governmental organizations, academics and parties not included in other visitation categories in standard "5.7

Visitation" shall be permitted access to facilities only by special arrangement and with prior approval of the respective ICE/ERO Field Office Director. ICE may designate Public Affairs Officers (PAO) to serve in Field Offices as liaisons with media representatives for some or all requests and communications covered by this standard.

#### 2. Media Representatives

The term "media representative" is intended to refer to persons whose principal employment is to gather, document or report news for any of the following entities:

- a. a newspaper that circulates among the general

public and publishes news of a general interest (e.g., political, religious, commercial or social affairs):

- b. a news magazine with a national circulation sold to the general public by newsstands and mail subscriptions;
- c. a national or international news service;
- d. a radio or television news program of a station licensed by the Federal Communications Commission (FCC); or
- e. other representatives or entities that gather information in accordance with the definition of “representative of the news media” contained in the Freedom of Information Act (5 U.S.C. § 552(a)(4)(A)(ii)) as amended by section 3 of P.L. 110-175.

In addition to those persons listed above, such representatives may include, but are not limited to, individuals reporting for certain electronic media outlets, online media publications and other media freelance journalists or bloggers.

### **3. Media Visits and Tours**

Media representatives may request advance appointments to tour those facilities, according to the following stipulations.

- a. To tour an SPC or CDF, visitors will contact the Field Office Director or the Assistant Field Office Director assigned to the facility. The Chief of Security shall be responsible for implementing the necessary security procedures.
- b. To tour an IGSA facility, visitors will contact the Field Office Director responsible for that area of responsibility, who will in turn notify the facility. Local facilities’ policies and procedures shall govern.

Visitors will abide by the policies and procedures of the facility being visited or toured. Visitors must obtain advance permission from the facility administrator and Field Office Director before taking

photographs in or of any facility. Detainees have the right not to be photographed (still, movie or video), and not to have their voices recorded by the media. Thus, the facility administrator shall advise both visitors and detainees that use of any detainee’s name, identifiable photo or recorded voice requires that individual’s prior permission. Such permission will be recorded by the visitor’s completion of a signed release from the detainee before photographing or recording the detainee’s voice. The original form shall be filed in the detainee’s A-file with a copy placed in the facility’s detention file.

If the presence of video, film or audio equipment or related personnel poses a threat to the safety or security of the facility, its staff or its detainees, the Field Office Director may limit or prohibit such access. Prior to the tour, the Field Office Director shall explain the terms and guidelines of the tour to the visitors.

During and after an emergency, or when indications exist that extra security measures may be needed due to a possible disturbance in the facility, the Field Office Director may suspend visits for an appropriate period.

### **4. Personal Interviews**

A media representative or member of the public, including non-governmental organizations and academics, planning to conduct a personal interview at a facility shall submit a written request to the responsible Field Office Director, preferably 48 hours prior to, and no less than 24 hours prior to, the time slot requested. The Field Office Director may waive the 24-hour rule if convinced of the need for urgency.

Through facility staff, the Field Office Director shall inform the detainee of the interview request. Before the Field Office Director considers the interview request, the detainee must then indicate his/her willingness to be interviewed by signing a consent form. The original written consent shall be filed in the detainee’s A-file, and a copy shall be placed in the

facility's detention file.

"Appendix 7.2.A: Detainee Interview Release Form" provides a sample news interview authorization form that may be used. The original of the form shall be filed in the detainee's A-file with a copy in the facility's detention file. Detainees should not be pressured or coerced out of granting the interview request, nor should the facility in any way retaliate against a detainee for lawful communication with a member of the media or a member of the public.

ICE/ERO shall normally act in writing within 48 hours of the written request. Possible reasons for disapproval may include, but are not limited to, the following situations.

- a. The news media representative or news organization he/she represents or the visitor does not agree to the conditions established by this policy or has previously failed to abide by them.
- b. The Field Office Director finds it probable that the proposed interview may endanger the health or safety of the interviewer, cause serious unrest within the facility or disturb the orderly and secure operation of the facility.
- c. The detainee is involved in a pending court action and the court with jurisdiction over the matter has issued a gag rule or the Field Office Director, after consultation with the respective ICE Office of Chief Counsel, thinks the proposed interview could affect the outcome of the court case.

If the requesting party believes the request was unfairly or erroneously denied, the requesting party may contact ICE/ERO headquarters.

Interviews shall take place during normal business hours in a location determined by the facility administrator. The facility administrator shall provide a location conducive to the interviewing activity, consistent with the safety, security and good order of the facility. The Field Office Director may limit the number of interviews with a particular detainee to a reasonable number per month. Further,

if interviews are imposing a serious strain on staff or facility resources, the Field Office Director may restrict the time allotted for interviews.

For facility safety and security, ICE/ERO reserves the right to monitor, but not participate in, detainee interviews.

A media representative interested in touring the facility and photographing or recording any other detainees in conjunction with an individual interview must follow all applicable requirements and procedures, and shall indicate this interest at the time of his/her request for an interview.

## 5. Press Pools

A press pool may be established when the PAO, Field Office Director and facility administrator determine that the volume of interview requests warrants such action.

In such an event, the Field Office Director shall notify all media representatives with pending or requested interviews, tours or visits that, effective immediately and until further notice, all media representatives must comply with the press pool guidelines established by the Field Office Director.

All material generated from such a press pool must be made available to all news media, without right of first publication or broadcast.

The press pool shall comprise one member each from the following groups:

- a. a television outlet (for video);
- b. a radio network outlet;
- c. a print outlet; and
- d. a still photographer.

Each group shall choose its representative for the press pool. The Field Office Director shall, upon request, provide the media information about a detainee, provided such information is a matter of public record and not protected by privacy laws, Department of Homeland Security policy, or



ICE/ERO policy. Security and safety concerns for staff and detainees require that specific removal-related data remain confidential.

## **6. Special Conditions for Media Representatives**

To be approved to interview or visit a detainee or tour an ICE facility, the media representative must certify that he/she is familiar with and accepts the rules and regulations governing media conduct. He/she must at all times comply with those rules and regulations.

Media representatives shall collect information only from a primary source(s), and shall neither solicit nor use personal information from one detainee about another who is unwilling to be interviewed.

A media request may not delay or otherwise interfere with the admission, in-processing, or departure of any detainee. Routine processing of ICE detainees shall take precedence over media interviews.

## **B. Non-Governmental Organization (NGO) and Other Agency Stakeholder Facility Tours, Visitation, or Tours with Visitation**

ICE detention facilities will maintain an open and transparent approach to immigration detention through managed access of stakeholders participating in approved tours, visits, or tours with visitation. All tours and visits requests shall be governed by this standard and other applicable ICE policies or procedures on NGO and/or stakeholder access to detention facilities.

All requests by NGOs and other stakeholders (which include, but are not limited to, community service organizations, intergovernmental entities, faith-based organizations, members of academia, and legal groups (e.g., pro bono legal service provider groups)) for tours, visits, or tours with visits must be submitted in writing to the local ICE/ERO Field Office supervising the facility or the ICE Office of

State, Local and Tribal Coordination (OSLTC). Tour requests should not be directed to the facility.

All requests shall be forwarded to the Field Office for review. When deciding whether to approve or deny the request, the Field Office Director, or his or her designee, will take into consideration safety and security, and the availability of personnel to staff the tour, visitation, or tour with visitation. All tour or visit participants will be expected to submit personal information required by applicable ICE policies, so the Field Office can perform background checks as necessary.

When requesting visitation or a tour with visitation, stakeholders may pre-identify any detainee with whom they may wish to speak by providing ICE with a list of specific detainees in advance. Stakeholders are not required to pre-identify a detainee(s) with whom they may wish to meet during their tour and/or visit. In order to meet with detainees who have not been pre-identified, stakeholders shall provide to ICE a sign-up sheet.

All stakeholders shall provide ICE a completed tour/visitation notification flyer and a signed ICE Stakeholder Visitor Code of Conduct.

If the tour/visit is approved, the facility shall post both the ICE sign-up sheet and the ICE stakeholder tour/visit notification flyer at least 48 hours in advance of the tour or visitation in appropriate locations (e.g., message boards, housing areas). The facility staff may also make appropriate oral announcements to detainees about the upcoming tour/visit (e.g., announcement during meal times). The facility staff is not required to inform a detainee's attorney that a stakeholder will tour/visit the facility or for overseeing the content of the consent form or ensuring that the detainee and the stakeholder have completed it.

On the day of the visitation, the facility staff shall give the NGO or stakeholder access to pre-identified detainees and/or to detainees who have signed up in advance to speak with the stakeholder. The facility

staff shall arrange for the visitation to occur in a pre-determined common area or space.

The facility staff may maintain a physical presence in the meeting room to maintain safety and security.

To ensure security and avoid any disruptions in daily operations, all NGOs and other stakeholders touring and/or conducting visitation with detainees shall maintain proper and appropriate decorum, adhere to applicable ICE and facility standards, and may be asked to sign a code of conduct form.

This Standard does not apply to (1) Legal Orientation Program or Know Your Rights presentation providers; (2) law firms, organizations, or sole attorney practitioner providing or seeking to provide legal representation; and (3) health care practitioners with a request from a detainee's counsel to conduct an examination relevant to the detainee's case.

- **Appendix 7.2.A: Detainee Interview Release Form (English)**
- **Appendix 7.2.B: Detainee Interview Release Form (Spanish)**

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**DETAINEE INTERVIEW RELEASE FORM**

Use this form to document news media interview requests of aliens in ICE custody

**Part 1. Alien & News Media Information**

Date: \_\_\_\_\_

Detainee's name and A-number: \_\_\_\_\_

Name of facility where alien is detained: \_\_\_\_\_

Name of news media representative: \_\_\_\_\_

Name of media organization represented: \_\_\_\_\_

Address of media organization represented: \_\_\_\_\_

**Instruction: Fill out either Part 2 or 3. Not both.**

Complete Part 2a and 2b if  
providing consent to be  
interviewed.

**Part 2.a. Consent to be  
interviewed**

I, the ICE detainee named above, do hereby freely give permission to the news media representative named above to interview me on or about (date) \_\_\_\_\_.

Detainee's signature: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Title: \_\_\_\_\_

**Part 2.b. Consent or  
Refusal of Photographs  
and Audio Recordings**  
(check only one and  
complete)

I, the ICE detainee named above, (check one):

☐ give permission ☐ refuse permission for the news media

representative named above to make recordings of my voice during this interview and to take photographs of me (still or video).

Detainee's signature: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Title: \_\_\_\_\_

Complete Part 3 only if  
refusing to provide  
consent to be interviewed.

**Part 3. Refusal of  
Interview**

I, the ICE detainee named above, refuse to grant permission for the news media representative named above to interview me.

Detainee's signature: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Title: \_\_\_\_\_

**Part 4. Notice and Disclaimer**

The use and dissemination of a detainee name, image, statements, or voice recordings by a news media organization requires written permission. Media representatives must obtain a signed release from the detainee before interviewing, photographing, or recording him or her. This document only addresses whether a detainee will permit a media representative to enter an ICE facility to conduct an interview. This form does not provide authorization for a news media representative to further use and/or disseminate any information obtained during an interview. ICE does not control the content or use of any interview statements, images, or recordings obtained by a news media representative. Any agreement regarding use and dissemination of statements or records derived from an interview falls solely within the purview of the detainee and the respective news media representative.

DEPARTMENT OF HOMELAND SECURITY  
DEPARTAMENTO DE SEGURIDAD NACIONAL  
U.S. Immigration and Customs Enforcement  
Servicio de Inmigración y Control de Aduanas de EE.UU.

**FORMULARIO DE AUTORIZACIÓN PARA ENTREVISTAR A UN DETENIDO**

Utilice este formulario para documentar las solicitudes de los medios de comunicación  
para entrevistar a los extranjeros en custodia del ICE

**Parte 1. Información del extranjero y del medio de comunicación**

Fecha: \_\_\_\_\_

Nombre del detenido y número de extranjero (A-number): \_\_\_\_\_

Nombre del centro donde está detenido el extranjero: \_\_\_\_\_

Nombre del representante del medio de comunicación: \_\_\_\_\_

Nombre del medio de comunicación representado: \_\_\_\_\_

Dirección del medio de comunicación representado: \_\_\_\_\_

**Instrucciones: Llene la Parte 2 o la Parte 3, no ambas.**

Complete las Partes 2a y 2b si usted da su consentimiento para ser entrevistado.

**Parte 2.a. Consentimiento para ser entrevistado**

Yo, el detenido en el ICE nombrado arriba, por la presente doy todo mi consentimiento al representante del medio de comunicación nombrado arriba para que me entreviste en o alrededor del (fecha) \_\_\_\_\_.

Firma del detenido: \_\_\_\_\_

Firma del testigo: \_\_\_\_\_

Cargo: \_\_\_\_\_

**Parte 2.b. Consentir o negarse a ser fotografiado o grabado en audio** (marque solo una casilla y complete)

Yo, el detenido en el ICE nombrado arriba, (marque una casilla):

☐ doy permiso, ☐ no doy permiso,

para que el representante del medio de comunicación nombrado arriba grabe mi voz durante esta entrevista y me tome fotografías (fijas o en video).

Firma del detenido: \_\_\_\_\_

Firma del testigo: \_\_\_\_\_

Cargo: \_\_\_\_\_

Complete la Parte 3 sólo si usted se niega a dar su consentimiento para ser entrevistado.

**Parte 3. Negación de la entrevista**

Yo, el detenido en el ICE nombrado arriba, no doy permiso para que el representante del medio de comunicación nombrado arriba me entreviste.

Firma del detenido: \_\_\_\_\_

Firma del testigo: \_\_\_\_\_

Cargo: \_\_\_\_\_

**Parte 4. Aviso y descargo de responsabilidad**

El uso y difusión del nombre, imagen, declaraciones o grabaciones de la voz de un detenido por parte de un medio de comunicación, requiere de un permiso por escrito. Los representantes de los medios de comunicación deben obtener una autorización firmada por el detenido antes de entrevistarle, fotografiarle o grabarle. Este documento solamente indica si un detenido permitirá que un representante de un medio de comunicación entre a las instalaciones del ICE para realizar una entrevista. Este formulario no proporciona una autorización para que un representante de un medio de comunicación utilice y/o difunda posteriormente cualquier información obtenida durante la entrevista. El ICE no controla el contenido o uso de ninguna declaración, imágenes o grabaciones obtenidas por un representante de un medio de comunicación durante la entrevista. Cualquier convenio sobre el uso y la difusión de las declaraciones o grabaciones obtenidas en una entrevista recae únicamente dentro del ámbito del detenido y del representante del medio de comunicación respectivo.

## 7.3 Staff Training

### I. Purpose and Scope

This detention standard ensures that facility staff, contractors and volunteers are competent in their assigned duties by requiring that they receive initial and ongoing training.

Other detention standards may include additional training requirements specific to each standard.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Before assuming duties, each new employee, contractor, or volunteer will be provided an orientation to the facility and the ICE/ERO detention standards.
2. All part-time staff and contract personnel shall receive formal orientation training appropriate to their assignments. Any part-time, volunteer, or

contract personnel working more than twenty hours per week shall receive training appropriate to their position and commensurate with their full-time colleagues.

3. Training for staff, contractors, and volunteers will be provided by instructors who are qualified to conduct such training.
4. Staff and contractors who have minimal detainee contact (such as clerical and other support staff) will receive initial and annual training commensurate with their responsibilities.
5. Professional, support, and health care staff and contractors who have regular or daily contact with detainees, or who have significant responsibility involving detainees, will receive initial and annual training commensurate with their position.
6. Security staff and contractors will receive initial and annual training commensurate with their position.
7. Facility management and supervisory staff and contractors will receive initial and annual training commensurate with their position.
8. Personnel and contractors assigned to any type of emergency response unit or team will receive initial and annual training commensurate with these responsibilities including annual refresher courses or emergency procedures and protocols.
9. Personnel and contractors authorized to use firearms will receive appropriate training before being assigned to a post involving their use and will demonstrate competency in firearms use at least annually.
10. Personnel and contractors authorized to use chemical agents and electronic control devices will receive thorough training in their use and in the treatment of individuals exposed to a chemical agent.
11. Security staff and contractors will be trained in

self-defense and use-of-force procedures to include confrontation avoidance and emergency protocols.

12. New staff, contractors, and volunteers will acknowledge in writing that they have reviewed facility work rules, ethics, regulations, conditions of employment, and related documents, and a copy of the signed acknowledgement will be maintained in each person's personnel file.

### III. Standards Affected

This detention standard replaces "Staff Training" dated 12/2/2008.

### IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-7B-05 through 7B-17, 7C-01, 7C-03.

ICE/ERO *Performance-based National Detention Standards 2011*: "7.2 Interviews and Tours."

### V. Expected Practices

#### A. Overview of Training

The facility administrator shall ensure that the facility conducts appropriate orientation, initial training and annual training for all staff, contractors and volunteers, consistent with this standard and with appropriate assessment measures.

The facility administrator shall contact the local ICE/ERO Field Offices for access to relevant DHS training resources, such as DHS Office for Civil Rights and Civil Liberties training modules.

The amount and content of training shall be consistent with the duties and function of each individual and the degree of direct supervision that individual shall receive.

The facility administrator shall assign at least one qualified individual, with specialized training for the

position, to coordinate and oversee the staff development and training program. At minimum, training personnel shall complete a 40-hour training-for-trainers course.

The training coordinator shall develop and document a facility training plan that is reviewed and approved annually by the facility administrator and reviewable by ICE/ERO. The facility administrator shall ensure that:

1. training is conducted by trainers certified in the subject matter—this is particularly important in life-safety subject areas such as firearms, chemical agents, self-defense, force and restraints, emergency response, first aid and CPR;
2. each trainee shall be required to pass a written or practical examination to ensure the subject matter has been mastered—this is particularly important in life-safety subject areas such as firearms, chemical agents, self-defense, force and restraints, emergency response, first aid and CPR, and in areas of ethical conduct;
3. the formal training received by each trainee shall be fully documented in permanent training records; and
4. formal certificates of completion shall be issued and kept in the appropriate facility files.

#### B. Initial Orientation

Each new employee, contractor, and volunteer shall be provided training prior to assuming duties. While tailored specifically for staff, contractors, and volunteers, the orientation programs shall include, at a minimum:

1. ICE/ERO detention standards
2. cultural and language issues, including requirements related to limited English proficient detainees
3. requirements related to detainees with disabilities and special needs detainees



4. code of ethics
5. drug-free workplace
6. emergency plans and procedures
7. signs of suicide risk, suicide precautions, prevention, and intervention
8. use of force
9. key and lock control
10. tour of the facility
11. staff rules and regulations
12. sexual abuse/sexual misconduct awareness and reporting
13. hostage situations and staff conduct if taken hostage

### C. Initial and Annual Training

Each new employee, contractor, and volunteer shall be provided initial and annual training appropriate to their assignments. While tailored specifically for staff, contractors, and volunteers, the training programs shall include, at a minimum:

1. Employees and contractors who have minimal detainee contact and no significant responsibilities involving detainees:
  - a. ICE/ERO detention standards update
  - b. cultural and language issues including requirements related to limited English proficient detainees
  - c. requirements related to detainees with disabilities and special needs detainees
  - d. code of ethics
  - e. staff rules and regulations
  - f. key and lock control
  - g. signs of suicide risk, suicide precautions, prevention, and intervention
  - h. drug-free workplace

- i. health- related emergencies
- j. emergency plans and procedures
- k. sexual abuse and sexual misconduct awareness
- l. hostage situations and staff conduct if taken hostage
2. Professional and support employees, including contractors, who have regular or daily detainee contact:
  - a. ICE/ERO detention standards
  - b. cultural and language issues including requirements related to limited English proficient detainees
  - c. requirements related to detainees with disabilities and special needs detainees
  - d. security procedures and regulations
  - e. sexual harassment and sexual misconduct awareness (including the contents of standard “2.11 Sexual Abuse and Assault Prevention and Intervention”)
  - f. appropriate conduct with detainees
  - g. code of ethics
  - h. health-related emergencies
  - i. drug-free workplace
  - j. supervision of detainees
  - k. signs of hunger strike
  - l. signs of suicide risk, suicide precautions, prevention, and intervention
  - m. use-of-force regulations
  - n. hostage situations and staff conduct if taken hostage
  - o. report writing
  - p. detainee rules and regulations
  - q. key and lock control
  - r. rights and responsibilities of detainees

- s. safety procedures
- t. emergency plan and procedures
- u. interpersonal relations
- v. communication skills
- w. cardiopulmonary resuscitation (CPR)/First aid
- x. counseling techniques

3. Full-time health care employees and contractors

In addition to the training areas above, the health-care employee training program shall include instruction in the following:

- a. medical grievance procedures and protocols
- b. emergency medical procedures
- c. occupational exposure
- d. personal protective equipment
- e. bio-hazardous waste disposal
- f. overview of the detention operations

4. Security personnel

In addition to the training areas above, instruction for security personnel shall include:

- a. Searches of detainees, housing units, and work areas
  - b. Self-defense techniques
  - c. Use-of-force regulations and tactics
5. Situation Response Teams (SRTs)

Members of SRTs shall receive specialized training before undertaking their assignments.

6. Personnel authorized to use firearms

Personnel authorized to use firearms will receive training covering use, safety, and care of firearms and constraints on their use before being assigned to a post involving their possible use.

All personnel authorized to use firearms must demonstrate competency in their use at least annually.

## D. Continued Education and Professional Development

Employees should be encouraged to continue their education and professional development.

## 7.4 Detainee Transfers

### I. Purpose and Scope

This detention standard is written to ensure that transfers of detainees from one facility to another are accomplished in a manner that ensures the safety and security of the staff, detainees, and the public; and that the process relating to transfers of detainees is carried out professionally and responsibly with respect to notifications, detainee records, and the protection of detainee funds and property.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Decisions to transfer detainees are made by the Field Office Director or his/her designee on the basis of complete and accurate case information and principles set forth in the ICE/ERO Detainee Transfers Directive and other applicable ICE/ERO policies. All detainee transfers and transfer determinations shall be based on a thorough and systematic review of the most current information available by ICE/ERO.
2. The legal representative-of-record shall be notified as soon as practicable, but no later than 24 hours after the detainee is transferred, in accordance with sound security practices. Contacting the legal representative-of-record will be the responsibility of ICE/ERO.
3. The detainee shall be informed of the transfer orally and in writing in a language or manner that he/she can understand, immediately prior to transport.
4. Transportation staff, as well as sending and receiving facility staff, shall have accurate and

complete records for each transferred detainee.

5. Transfers of detainees shall be accomplished safely and securely.
6. Detainees shall be transferred with appropriate medication(s) and medical and referral information to ensure continuity of care with the receiving facility’s medical services.
7. Transferred detainee funds, valuables and other personal property shall be safeguarded and transported in compliance with standards “1.3 Transportation (by Land),” “2.1 Admission and Release” and “2.5 Funds and Personal Property.”
8. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces “Transfer of

Detainees” dated 12-2-2008

## IV. References

American Correctional Association 4th Edition,  
Standards for Adult Detention Facilities: 4-ALDF-2A-  
23, 1B-06, 4C-05, 4C-40, 4D-27, 6A-07, 7D-19,  
7D-20.

National Commission on Correctional Health Care,  
*Standards for Health Services in Jails (2014)*

ICE/ERO *Performance-based National Detention  
Standards 2011*:

- “1.3 Transportation (by Land)”;
- “2.1 Admission and Release”;
- “2.5 Funds and Personal Property”;
- “4.3 Medical Care”; and
- “4.4 Medical Care (Women).”

ICE/ERO Detainee Transfers Directive

## V. Expected Practices

### A. Responsibilities of ICE/ERO

1. Decisions to transfer detainees are made by the Field Office Director or his or her designee on the basis of complete and accurate case information and principles set forth in the ICE/ERO Detainee Transfers Directive and other applicable ICE/ERO policies.
2. Attorney notifications relative to detainee transfers are the responsibility of ICE/ERO, which will make attorney notifications in accordance with the ICE Detainee Transfers Directive and other applicable ICE/ERO policies. The legal representative-of-record shall be notified as soon as practicable, but no later than 24 hours after the detainee is transferred, in accordance with sound security practices. Contacting the legal representative-of-record will be the responsibility of ICE/ERO.

### B. Responsibilities of the Sending Facility – Notifications

#### 1. Communications with ICE

A detainee may not be transferred from any facility without the appropriate I-203 (Notice to Detain or Release) or I-216 (Record of Person and Property Transfer) that authorizes the detail. If the facility administrator or his or her designee believes that a scheduled transfer of a detainee should not take place, the facility administrator shall notify ICE/ERO prior to the transfer.

#### 2. Detainee Notification

Immediately prior to transfer, the sending facility shall ensure that the detainee is informed, in a language or manner he or she can understand, that he or she is being transferred to another facility and is not being removed (if applicable).

- a. The sending facility shall ensure that specific plans and time schedules are not discussed with detainees and that following notification, the detainee:
  - 1) is not permitted to make or receive any telephone calls until the detainee reaches the destination facility; and
  - 2) does not have contact with any detainee in the general population until the detainee reaches the destination facility.
- b. At the time of the transfer, the sending facility shall provide the detainee, in writing, the name, address, and telephone number of the facility to which he or she is being transferred, using the attached Detainee Transfer Notification Form.
- c. The sending facility shall ensure that the detainee acknowledges, in writing, that:
  - 1) he or she has received the transfer destination information;
  - 2) it is his or her responsibility to notify

family members if so desired, upon admission into the receiving facility; and

- 3) he or she may place a domestic phone call, at no expense to the detainee, upon admission into the receiving facility.

- d. The sending facility will place a copy of the Detainee Transfer Notification Form in the detainee's detention file.

### 3. Notification to the Health Care Provider

Upon receipt of an authorization to transfer a detainee from ICE/ERO, the sending facility staff shall notify the facility health care provider so that the health care provider can prepare a medical transfer summary sheet and the detainee's full medical records to accompany the transfer. The facility health care provider shall be notified sufficiently in advance of the transfer that medical staff may determine and provide for any associated medical needs.

### 4. Preparation for Transfer, Notification to Escorting Officers

- a. The sending facility shall ensure that a properly executed I-203 or I-216 accompanies the transfer.
- b. The sending facility shall ensure that escorting officers are advised of any security considerations relative to detainees to be transported so that escorting officers can take necessary precautions.

In SPCs, CDFs, and IGSAs with a sufficient ICE/ERO onsite presence, the authorized ICE official shall check records and ascertain if the detainee has a criminal history, is dangerous or has an escape record. Any information of an adverse nature shall be clearly indicated on the G-391 and the escorting officers shall be warned to take the necessary precautions.

### 5. Food and Water during Transfer

Food and water shall be provided in accordance

with the detention standard on transportation by land. The sending facility is responsible for the preparation and delivery of proper meals prior to departure.

## C. Responsibilities of the Health Care Provider at the Sending Facility

### 1. Transfer of the Detainee's Medical Information

When a detainee is transferred to another detention facility, the sending facility shall ensure that a Medical Transfer Summary accompanies the detainee.

### 2. Medical Transfer Summary

- a. The sending facility's medical staff shall prepare a Medical Transfer Summary that must accompany the detainee. The Medical Transfer Summary shall include, at a minimum, the following items:
  - 1) patient identification;
  - 2) tuberculosis (TB) screening results (including results date) and current TB status if TB disease is suspected or confirmed;
  - 3) current mental, dental, and physical health status, including all significant health issues, and highlighting any potential unstable issues or conditions which require urgent follow-up;
  - 4) current medications, with instructions for dose, frequency, etc., with specific instructions for medications that must be administered en route;
  - 5) any past hospitalizations or major surgical procedures;
  - 6) recent test results, as appropriate;
  - 7) known allergies;
  - 8) any pending medical or mental health evaluations, tests, procedures, or treatments

for a serious medical condition scheduled for the detainee at the sending facility. In the case of patients with communicable disease and/or other serious medical needs, detainees being released from ICE custody are given a list of community resources, at a minimum;

9) copies of any relevant documents as appropriate; and

10) the name and contact information of the transferring medical official.

The IHSC Form 849 or equivalent, or the Medical Transfer Summary attached as Appendix 4.3.C, which mirrors IHSC Form 849, may be used by facilities to ensure compliance with these standards.

### 3. Notification of Medical/Psychiatric Alerts or Holds

Upon receiving notification that a detainee is to be transferred, appropriate medical staff at the sending facility shall notify the facility administrator of any medical/psychiatric alerts or holds that have been assigned to the detainee, as reflected in the detainee's medical records. The facility administrator shall be responsible for providing notice to ICE/ERO of any medical/psychiatric alerts or holds placed on a detainee that is to be transferred.

### 4. Medical Holds

If a detainee has been placed in a medical hold status, the detainee must be evaluated and cleared by a licensed independent practitioner (LIP) prior to transfer. If the evaluation indicates that transfer is medically appropriate but that health concerns associated with the transfer remain, medical staff at the sending facility shall notify ICE and shall provide ICE requested information and other assistance, to the extent practicable, to enable ICE to make appropriate transfer determinations.

### 5. Medical Escort

The CMA or designee must inform the facility administrator in writing if the detainee's medical or psychiatric condition requires a medical escort during transfer.

### 6. Medications

a. Prior to transfer, medical staff shall provide the transporting officers instructions and, if applicable, medication(s) for the detainee's care in transit.

b. Medical staff shall ensure that the detainee is transferred with, at a minimum, seven (7) days' worth of prescription medications (for TB medications, up to 15 days' supply, and for HIV/AIDS medication a 30 day supply) to guarantee the continuity of care throughout the transfer and subsequent intake process.

c. Medication shall be:

- 1) placed in a property envelope labeled with the detainee's name and A-number and appropriate administration instructions;
- 2) accompany the transfer; and
- 3) if unused, turned over to the receiving medical personnel.

## D. Responsibilities of the Sending Facility Relative to Detainees' Property Prior to Transport

Before transferring a detainee, the sending facility's processing staff shall ensure that all funds and small valuables are properly documented on the G-589 and I-77 or equivalent.

### 1. Funds and Small Valuables

Before transfer, the sending facility shall return all funds and small valuables to the detainee and close out all Forms G-589 (or local IGSA funds and valuables receipts) in accordance with the Detention Standard on Funds and Personal Property.

During transport, a detainee shall ordinarily have the following items in his or her possession; however, items that might present a security risk or are particularly bulky may be transported separately in the vehicles' storage area. Personal items include:

- Cash
- All legal material
- Small valuables such as jewelry
- Address books, phone lists, correspondence
- Dentures, prescription glasses
- Small religious items
- Photos
- Similar small personal property items.

The receiving facility shall create a new G-589 (or local IGSA funds and valuables receipt) during admissions in-processing in accordance with the Detention Standard on Funds and Personal Property.

## 2. Large Valuables, Excess Luggage, and Other Bulky Items

Detainee access to large items of personal property during transport is prohibited; however, ordinarily, all items stored at the sending facility shall accompany the transferee to the receiving SPC, CDF or, in most cases, the receiving IGSA facility.

If the property accompanies the detainee, in accordance with the Detention Standard on "Funds and Personal Property":

- a. The sending facility shall close out all Forms G-589 (or local IGSA property receipt forms), and
- b. The receiving facility shall create a new G-589 and I-77 (or local IGSA property receipt forms) during admissions in-processing.

If the receiving facility does not accept excess, oversized or bulky belongings (including, but not limited to, suitcases, cartons, televisions, etc.), the sending facility shall:

- a. Arrange to store the property elsewhere; or process the excess property in accordance with ERO standard operating procedures.
- b. If the detainee refuses to provide an appropriate mailing address, or is financially able but unwilling to pay for shipping, notify ICE/ERO. ICE/ERO may dispose of the property after providing the detainee written notice in accordance with the ICE/ERO standard operating procedures.
- c. If the detainee cannot provide an appropriate address because one does not exist, the detainee shall keep the property receipts for the stored items, and the facility shall store the property and notify the receiving facility in writing that the transferring facility requires notice, before the detainee's release or further transfer, to ensure the detainee receives the stored property.

## E. Responsibilities of the Transporting Officer

1. The transporting officer may not transport a detainee without the required documents, including:
  - a. the Medical Transfer Summary; and
  - b. a properly executed Form I-203 or I-216, or equivalent form.
2. The transporting officer shall review the information for completeness and to make sure that he or she has the supplies required to provide any in-transit care that is indicated.
3. Any transportation officer who reviews the Medical Transfer Summary shall protect the privacy of the detainee's medical information to the greatest extent possible, and may not share



medical information unless necessary to safely fulfill transportation responsibilities.

4. The Transporting Officer is responsible for delivering the Medical Transfer Summary to personnel at the receiving facility and shall advise them of any medications provided to the detainee in transit.
5. The receiving facility must report any exceptions to the ICE/ERO Field Office and the Deputy Assistant Director, Detention Management Division.

## **F. Post Transfer Activities**

1. After admission into the receiving facility or Field Office, all detainees must be offered the opportunity to make one domestic three-minute phone call at no cost to the detainee.
2. The responsible processing supervisor or his/her designee shall ensure that the detainee is informed promptly that he or she may notify interested persons of the transfer. The offer to make a domestic call, as referenced above, will be documented and signed by processing staff and by the detainee. A copy of the documentation verifying that a detainee was offered a three-minute phone call will be filed in the detainee's detention folder.

DEPARTMENT OF HOMELAND SECURITY  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DETAINEE TRANSFER NOTIFICATION

DETAINEE NAME \_\_\_\_\_ A# \_\_\_\_\_

NATIONALITY \_\_\_\_\_

TRANSFER DESTINATION

NAME OF NEW FACILITY \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

I hereby acknowledge that I have received the transfer destination information. I have also been notified that it is my responsibility to notify family members, if I so desire, and that I will be provided with one free phone call when I arrive at my destination.

DETAINEE SIGNATURE \_\_\_\_\_ A# \_\_\_\_\_ DATE \_\_\_\_\_

OFFICER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## 7.5 Definitions

### A-File, Alien File

The legal file maintained by DHS for each detainee. Contents include but are not limited to the detainee's identification documents (passport, driver's license, other identification cards, etc.), photographs, immigration history, prior criminal record if any, and all documents and transactions relating to the detainee's immigration case.

### ACA

American Correctional Association.

### Administrative Health Authority

The administrative authority is responsible for all access to care, personnel, equipment and fiscal resources to support the delivery of health care services.

### Administrative Segregation

A non-punitive form of separation from the general population used for administrative reasons. Administrative segregation is available only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility, as determined by a facility administrator or supervisor. Administrative segregation may be available, among other reasons, for detainees awaiting investigations or hearings for violations of facility rules, detainees scheduled for release, removal, or transfer within 24 hours, and, under more limited circumstances, detainees who require protective custody or separation from the general population for medical reasons.

### Admission/Admissions Process

In-processing of newly arrived detainees, which includes an orientation to the policies, programs, rules and procedures of the facility. Classification, assignment of living quarters, various inspections, medical screening and safeguarding of funds,

valuables and other personal property is completed during this process.

### Ambulatory Restraints

"Soft" or "hard" equipment used to restrict a detainee's movement but leaving him or her able to eat, drink or attend to basic bodily functions without staff intervention.

### Ammunition Control Officer (ACO)

An individual who has been designated in writing as the officer responsible for the physical and administrative control of ammunition in the authorizing official's area of accountability.

### Auxiliary Aids and Services

Services or devices that allow for effective communication by affording individuals with impaired vision, hearing, speaking, sensory, and manual skills an equal opportunity to participate in, and enjoy the benefits of, programs and activities. Such aids or services include interpreters, written materials, note-takers, video remote interpreting services, or other effective methods of making aurally delivered materials available to detainees with hearing impairments; readers, taped texts, materials or displays in Braille, secondary auditory programs, or other effective methods of making visually delivered materials available to detainees with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions.

### Body-cavity Search

The visual inspection or physical probing of body openings (anus, vagina, ears, nose, mouth, etc) where weapons, drugs, or other contraband could be secreted. This is the most intrusive means of searching an individual, reserved for instances where other search techniques have been considered but rejected as ineffective under the particular circumstances of the case. Body-cavity search procedures govern physical probes, but not visual inspections.

For example, the procedures would not be appropriate for a visual inspection of the inside of the mouth, nose, or ears, unless contraband is found during the course of that inspection. Body-cavity procedures apply whenever contraband is found, because retrieving/seizing the item will involve physical entry into or probing within the cavity (in this example, the mouth, nose, or ear).

#### Caustic

Capable of burning, corroding, eroding or destroying by chemical action.

#### Census Check

See Informal Count.

#### Chain of Command

Order of authority (rank); executive, senior management, senior staff, etc. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. The on-site order of authority at a detention facility descends from the facility administrator to assistant or associate facility administrators to department heads to shift supervisors and other supervisors. Similarly, the ICE/ERO chain-of-command at a detention facility descends from the officer-in-charge (OIC) to the associate OIC to the chief detention enforcement officer/Chief of Security, detention operations supervisor, etc.

#### Chemical

A substance with a distinct molecular composition produced by or used in a chemical process.

#### Chief of Security

A generic term for the department head in charge of a detention facility's security employees and operations. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. Ordinarily, a Chief of Security (chief detention enforcement agent, captain, etc.) is organizationally directly under an assistant or associate facility administrator.

#### Chronic disease

An illness or condition that affects an individual's well being for an extended interval, usually at least six months, and generally is not curable but can be managed to provide optimum functioning within any limitations the condition imposes on the individual.

#### Chronic disease program (care clinic)

Incorporates a treatment plan and regular clinic visits. The clinician monitors the patient's progress during clinic visits and, when necessary changes the treatment. The program also includes patient education for symptom management.

#### Class R (Restricted) Tools

Devices to which detainees are forbidden access except in the presence and constant supervision of staff for reasons of safety or security. Class R includes devices that can be used to manufacture or serve as weapons capable of doing serious bodily harm or structural damage to the facility. All portable power tools and accessories are in this category. Class R also includes ladders and other such items that are not inherently dangerous but could prove useful in unauthorized activities, such as escape attempts.

#### Classification

A process used to make housing and program assignments by assessing detainees on the basis of objective information about past behavior, criminal records, special needs, etc.

#### Clinical Director (CD)

A designated individual licensed to practice medicine and provide health services with final responsibility for decisions related to medical judgments. A CD and CMA are equivalent positions.

#### Clinical Medical Authority (CMA)

The medical authority is responsible for the delivery of all health care services to the detainee population. These services include, but are not limited to, medical, nursing, dental, mental health and nutritional services. A CD and CMA are equivalent positions.

#### Combustible Liquid

A substance with a flash point at or above 100° Fahrenheit.

#### Commissary

An area or system where detainees may purchase approved items.

#### Contact Visit

A meeting between detainee and another person authorized to take place in an area free of obstacles or barriers that prevent physical contact.

#### Container

Any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or other vessel holding a hazardous chemical; does not include pipes or piping systems.

#### Contraband

Any unauthorized item in the facility: illegal, prohibited by facility rules, or otherwise posing a threat to the security or orderly operation of the facility. This includes unauthorized funds.

#### Contract Detention Facility (CDF)

A facility that provides detention services under a competitively bid contract awarded by the ICE.

#### Contractor

A person who or entity that provides services on a recurring basis pursuant to a contractual agreement with the agency or facility.

#### Control Office

An officer who directs security activities from the Control Center.

#### Count Slip

Documentation of the number of detainees confirmed present during a population count in a specific area, signed by the officers involved in the count.

#### Correspondence

Letters, postcards and other forms of written material not classified as packages or publications. Large envelopes containing papers qualify as correspondence, but boxes, sacks and other shipping cartons do not. Books, magazines, newspapers and other incoming printed matter are not “correspondence.”

#### Criminal Alien

A foreign national convicted of one or more crimes.

#### Dedicated IGSA Facility (Dedicated IGSA)

An IGSA facility that solely houses ICE detainees. Also see “IGSA FACILITY” and “INTERGOVERNMENTAL SERVICE AGREEMENT.”

#### Detainee Handbook

The policies and procedures governing detainee life in the facility: daily operations, rules of conduct, sanctions for rule violations, recreation and other programs, services, etc.; defined in writing and provided to each detainee upon admission to the facility.

#### Detention File

Contents include receipts for funds, valuables and other personal property; documentation of disciplinary action; reports on detainee behavior; detainee’s written requests, complaints and other communications; official responses to detainee communications; records from Special Management Unit, etc.

#### Dietician

A professional trained in foods and the management of diets (dietetics) who is credentialed by the Commission on Dietetic Registration of the

American Dietetic Association, or who has the documented equivalent in education, training, or experience, with evidence of relevant continuing education.

#### Disability

An individual with a disability is an individual who has a physical or mental impairment that substantially limits one or more major life activities, or an individual who has a history or record of such an impairment. “Major life activities” are basic activities that a detainee without a disability in the general population can perform with little or no difficulty, including, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity can also include the operation of major bodily functions, like the immune, endocrine, and neurological systems; normal cell growth; digestion, respiration, and circulation; and the operations of the bowel, bladder, and brain.

#### Disciplinary Hearing

Non-judicial administrative procedure to determine whether substantial evidence supports finding a detainee guilty of a rule violation.

#### Disciplinary Committee

One or more impartial staff members who conduct and/or oversee a disciplinary hearing. A lower-level committee (Unit Disciplinary Committee) investigates a formal Incident Report and may impose minor sanctions or refer the matter to a higher-level disciplinary committee. A higher-level committee (Institution Disciplinary Panel) conducts formal hearings on Incident Reports referred from the lower level committee and may impose higher level sanctions for higher level prohibited acts. Also see Institution Disciplinary Panel.

#### Disciplinary Segregation

A punitive form of separation from the general population used for disciplinary reasons. Disciplinary segregation is available only after a finding by a disciplinary hearing panel that the detainee is guilty of a serious prohibited act or rule violation.

#### Dry Cell

A cell or room without running water where a detainee can be closely observed by staff until the detainee has voided or passed contraband or until sufficient time has elapsed to preclude the possibility that the detainee is concealing contraband. Dry cells may be used when there is reasonable suspicion that a detainee has ingested contraband or concealed contraband in a body cavity.

#### Emergency Changes

Measures immediately necessary to maintain security or to protect the health and safety of staff and detainees.

#### Exigent Circumstances

Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility or a threat to the safety or security of any person.

#### Exposure/Exposed

Subjected or potentially subjected to a hazardous substance by any means (inhalation, ingestion, skin contact, absorption, etc.)

#### Face-to-photo Count

A process that verifies identity of each detainee by comparing every person present with the photographic likeness on his/her housing card.

#### Facility Administrator

A generic term for the chief executive officer of a detention facility. The formal title may vary

(warden, Officer In Charge, sheriff, jail administrator, etc.).

#### Field Office Directory (FOD)

Individual with chief responsibility for facilities in his assigned geographic area.

#### Firearms Control Officer (FCO)

Individual designated responsible for the physical and administrative control of all firearms under the jurisdiction of the authorizing official.

#### Flammability Hazard

Has a flash point below 200 degrees Fahrenheit, closed cup, or is subject to spontaneous heating.

#### Flammable Liquid

A substance with a flash point below 100 degrees Fahrenheit (37.8 Centigrade).

#### Flash Point

The minimum temperature at which the vapor of a combustible liquid can form an ignitable mixture with air.

#### Food Service Administrator (FSA)

The official responsible for planning, controlling, directing and evaluating Food Service Department operations.

#### Formal Count

When the detainee population is assembled at specific times for attendance check, conducted in accordance with written procedures.

#### Four/Five-point Restraint

A restraint system that confines an individual to a bed or bunk in either a supine or prone position. Ordered by the facility administrator when a detainee's unacceptable behavior appears likely to continue risking injury to self or others.

#### Funds

Cash, checks, money orders and other negotiable instruments.

#### Gender nonconforming

Having an appearance or manner that does not conform to traditional societal gender expectations.

#### General Correspondence

All correspondence other than "special correspondence."

#### General Population

Detainees whose housing and activities are not specially restricted. The term is ordinarily used to differentiate detainees in the "general population" from those in Special Housing Units.

#### Grievance

A complaint based on a circumstance or incident perceived as unjust.

#### Hard Contraband

Any item that poses a serious threat to the life, safety or security of the facility detainees or staff.

#### Health Assessment

The process whereby an individual's health status is evaluated. This process will address the patient's physical, dental and mental health appropriate to the patient's condition and will include, as determined by the health care provider, questioning the patient about symptoms, a physical examination appropriate to the complaint and, as appropriate, review of screening information, collection of additional information relating to mental, dental and medical health issues, immunization histories, laboratory and diagnostic tests, other examinations, review of results, initiation of therapy and development of a treatment plan.

#### Health Authority



The health services administrator (HSA), clinical director (CD), or agency responsible for the provision of health care services at a facility or system of facilities. The responsible physician may be the health authority. Health authority may also be referred to as the medical department.

#### Health Care Practitioner

Defined as an individual who is licensed, certified, or credentialed by a state, territory or other appropriate body to provide health care services within the scope and skills of the respective health care profession.

#### Health Hazard

Includes carcinogens, toxic agents, reproductive toxins, irritants, corrosives, sanitizers, hepatotoxins, nephrotoxins, neurotoxins and other agents that act on the hemopoietic system or damage the lungs, skin, eyes, or mucous membranes.

#### Health Screening

A system for preliminary screening of the physical and mental condition of individual detainees upon arrival at the facility; conducted by health care personnel or by a specially health trained officer. The combination of structured inquiry and observation is designed to obtain immediate treatment for new arrivals who are in need of emergency health care, identify and meet ongoing current health needs, and isolate those with communicable diseases.

#### Hold Room

A secure area used for temporary confinement of detainees before in-processing, institutional appointments (court, medical), release, transfer to another facility, or deportation-related transportation.

#### Hunger Strike

A voluntary fast undertaken as a means of protest or manipulation. Whether or not a detainee actually declares that he or she is on a hunger strike, staff are required to refer any detainee who is observed to not

have eaten for 72 hours for medical evaluation and monitoring.

#### IGSA Facility (IGSA)

A state or local government facility used by ERO through an Intergovernmental Service Agreement. Also see “INTERGOVERNMENTAL SERVICE AGREEMENT.”

#### Illegal Contraband

Any item prohibited by law, the possession of which constitutes grounds for felony or misdemeanor charges.

#### Indigent

Without funds, or with only nominal funds. Ordinarily, a detainee is considered “indigent” if he or she has less than \$15.00 in his or her account.

#### Informal grievance

An oral complaint or concern received from a detainee. Informal grievances may be handled at the lowest level in the organization possible to effectively resolve the complaint with no written response.

#### Informal Count

Population count conducted according to no fixed schedule, when detainees are working, engaged in other programs, or involved in recreational activities. Unless a detainee is missing, these counts are not reported; also called “census check” or “irregular count.”

#### Informal Resolution

Brings closure to a complaint or issue of concern to a detainee, satisfactory to the detainee and staff member involved; does not require filing of a written grievance.

#### Informed Consent

An agreement by a patient to a treatment, examination, or procedure after the patient receives

the material facts about the nature, consequences, and risks of the proposed treatment, examination or procedure; the alternatives to it; and the prognosis if the proposed action is not undertaken.

#### In-processing

Administrative processing of a detainee arriving at a detention facility (See “Admissions”).

#### Institution Disciplinary Panel (IDP)

Review board responsible for conducting disciplinary hearings and imposing sanctions for cases of detainee misconduct referred for disposition following the hearing. The IDP usually comprises a hearing officer and representatives of different departments in the facility.

#### Intergovernmental Service Agreement

A cooperative agreement between ICE and any state, territory or political subdivision for the construction, renovation or acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services. ICE may enter into an IGSA with any such unit of government guaranteeing to provide bed space for ICE detainees, and to provide the clothing, medical care, food and drink, security and other services specified in the ICE/ERO detention standards; facilities providing such services are referred to as “IGSA facilities.”

#### Intersex

Having sexual or reproductive anatomy or chromosomal pattern that does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

#### Investigating Officer

An individual of supervisory or higher rank who conducts an investigation of alleged misconduct and was not involved in the incident; usually a supervisory detention enforcement officer or shift supervisor.

#### Irregular Count

See Informal Count.

#### Juvenile

Any person under the age of 18.

#### Least Intrusive

In the context of a search, terminology used to refer to alternative means of finding contraband, such as questions, metal detectors, pat down searches and boss chairs, prior to conducting a strip search.

#### Legal Assistant

An individual (other than an interpreter) who, working under the direction and supervision of an attorney or other legal representative, assists with group presentations and in representing individual detainees. Legal assistants may interview detainees, assist detainees in completing forms and deliver papers to detainees without the supervisory attorney being present.

#### Legal Correspondence

See “special correspondence.”

#### Legal File

See A-File.

#### Legal Representative

An attorney or other person representing another in a matter of law, including law students, law graduates not yet admitted to the bar; “reputable individuals”; accredited representatives; accredited officials and attorneys outside the United States (see 8 CFR § 292.1, “Representation and Appearances”).

#### Leisure-time Activities

Activities which are designed to provide detainees with recreational opportunities both inside and outside the living area, e.g., soccer, basketball, chess, checkers, television.

#### Life-sustaining Procedure (Life Support)

A medical intervention or procedure that uses artificial means to sustain a vital function.

### Limited English Proficiency (LEP)

A person who does not speak English as his or her primary language and who has a limited ability to read, speak, write, or understand English. LEP individuals may be competent in English for certain types of communication (e.g. speaking or understanding), but still be LEP for other purposes (e.g. reading or writing).

### Mail Inspection

Examination of incoming and outgoing letters, packages, etc., for contraband, including cash, checks and money orders.

### Master Count

Total number of detainees housed at a facility.

### Material Safety Data Sheet (MSDS)

Basic information about a hazardous chemical, prepared and issued by the manufacturer, in accordance with Occupational Safety and Health Administration regulations (see 29 CFR 1910.1200; see also OSHA Form 174); among other things, specifies precautions for normal use, handling, storage, disposal and spill cleanup.

### Medical Classification System

A system by which a detainee's medical and mental health conditions and needs are assessed to allow for appropriate placement in a facility with the resources necessary to provide appropriate level of care to meet those needs.

### Medical Discharge Plan

The discharge plan includes: admission diagnosis; discharge diagnosis; brief medical history including the chief complaint and any essential physical findings discovered; all diagnostic test (e.g., x-rays, lab results, ECG's, etc) results; list of any medications prescribed; a brief summary of care provided, the detainee's response to treatment, medical complications encountered, any outside health care referrals that may have interrupted the infirmity

period or that be pending; and continuity of care plan.

### Medical Personnel

Includes all qualified health care professionals as well as administrative and support staff (e.g. health record administrators, laboratory technicians, nursing and medical assistants, clerical workers).

### Mental Health Provider

Psychiatrist, clinical or counseling psychologist, physician, psychiatric nurse, clinical social worker or any other mental health professional who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients. .

### Messenger

A person (neither a legal representative nor a legal assistant) whose purpose is to deliver or convey documents, forms, etc., to and from the detainee; not afforded the visitation privileges of legal representatives and legal assistants.

### Minor

A juvenile; a person under the age of 18.

### Mogul keys

Key and knob operated deadlocking latch/ deadbolt for use in detention institutions as well as commercial, government and industrial buildings for utmost physical security. The large-scale design accommodates an oversized latch and deadbolt plus mogul key cylinder. These institutional grade construction features and tamper resistant fittings afford exceptional structural strength to impede forced and surreptitious entry.

### National Commission on Correctional Health Care (NCCHC)

Establishes the standards for health service in correctional facilities on which accreditation is based.

National Fire Protection Association

Principal source of fire protection standards and codes.

NCCHC

National Commission on Correctional Health care.

Non-Contact Visit

Visitation with a barrier preventing physical contact between the detainee and his or her visitors.

Non-dedicated IGSA Facility (Non-dedicated IGSA)

An IGSA facility that houses ICE detainees as well as other inmate populations in a shared use facility. Also see “IGSA FACILITY” and “INTERGOVERNMENTAL SERVICE AGREEMENT.”

Non-Medical Emergency Escorted Trip

Authorized detainee visit to a critically ill member of his/her immediate family, or to attend the funeral of a member of his/her immediate family. “Immediate family” member refers to a parent (including stepparent and foster parent), child, spouse, sister, or brother of the detainee.

Non-merit Factor

Any characteristic or factor immaterial to a detainee’s mental or physical ability to perform a given assignment.

Non-security Key

A key which if duplicated by unauthorized persons and/or lost, would not constitute an emergency requiring urgent action; not critical to facility safety and security.

Out Count

Detainees temporarily away from the facility, but accounted for by the facility and included in the master count.

Paracentric Keys

Keys designed to open a paracentric lock. It is distinguishable by the contorted shape of its blade, which protrudes past the center vertical line of the key barrel. Instead of the wards on the outer face of the lock simply protruding into the shape of the key along the spine, the wards protrude into the shape of the key along the entire width of the key, including along the length of the teeth.

Pat-down Search

A sliding or patting of the hands over the clothed body of a detainee by staff to determine whether the individual possesses contraband.

Physical Examination

A thorough evaluation of an individual’s physical condition and medical history conducted by or under the supervision of a licensed medical professional acting within the scope of his or her practice.

Plan of Action

Describes steps the facility will take to convert a condition that has caused a determination of noncompliance with a standard.

Post Orders

Written orders that specify the duties of each position, hour-by-hour, and the procedures the post officer will follow in carrying out those duties.

Progressive Restraints

Control the detainee in the least restrictive manner required, until and unless the detainee’s behavior warrants stronger and more secure means of inhibiting movement.

Protective Custody (PC)

Administrative segregation for the detainee’s own safety.

Qualified health care professionals

Include physicians, physicians assistants, nurses, nurse practitioners, dentists, mental health professionals and others who by virtue of their education, credentials and experience are permitted by law and within their scope of practice to evaluate and care for patients.

#### Reasonable Accommodations

Any change or adjustment in detention facility operations, any modification to detention facility policy, practice, or procedure, or any provision of an aid or service that permits a detainee with a disability to participate in the facility's programs, services, activities, or requirements, or to enjoy the benefits and privileges of detention programs equal to those enjoyed by detainees without disabilities. Examples of "reasonable accommodations" include, but are not limited to, proper medication and medical treatment; accessible housing, toilet, and shower facilities; devices like bed transfer, accessible beds or shower chairs, hearing aids, or canes; and assistance with toileting and hygiene. In these standards, reasonable accommodations, disability-related modifications, and auxiliary aids and services are collectively referred to as "accommodations" or "reasonable accommodations."

#### Reasonable Suspicion

Not intuition, but specific, articulable facts that would cause a reasonable law enforcement officer to suspect that a particular person is concealing a weapon, contraband, or evidence of a crime.

#### Religious Practices

Worship, observances, services, meetings, ceremonies, etc., associated with a particular faith; access to religious publications, religious symbolic items, religious counseling and religious study classes; and adherence to dietary rules and restrictions.

#### Sally Port

An enclosure situated in the perimeter wall or fence surrounding the facility, containing double gates or

doors, of which one cannot open until the other has closed, to prevent a breach in the perimeter security; handles pedestrian and/or vehicular traffic.

#### Sanitation

The creation and maintenance of hygienic conditions; in the context of food, involves handling, preparing, and storing items in a clean environment, eliminating sources of contamination.

#### Satellite Feeding

Food served and consumed in a location other than where prepared.

#### Security Key

A key which if duplicated by unauthorized persons and/or lost, would jeopardize life, safety, property or security, or would facilitate escape.

#### Segregation

Confinement in an individual cell isolated from the general population; for administrative, disciplinary, or protective reasons.

#### Service Processing Center (SPC)

A detention facility the primary operator and controlling party of which is ICE.

#### Shift Supervisor

A generic term for the detention security supervisor in charge of operations during a shift. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. Ordinarily, a shift supervisor (detention operations supervisor, lieutenant, etc.) is, organizationally, directly under the Chief of Security (chief detention enforcement agent, captain, etc.).

#### Soft Contraband

Any unauthorized item that does not constitute hard contraband, i.e., does not pose a serious threat to human safety or facility security; includes that

quantity of an item possessed in an amount exceeding the established limit.

#### Special Correspondence or Legal Mail

Detainees' written communications to or from any of the following:

- a. private attorneys and other legal representatives;
- b. government attorneys;
- c. judges and courts;
- d. embassies and consulates;
- e. the president and vice president of the United States;
- f. members of Congress;
- g. the Department of Justice (including the DOJ Office of the Inspector General);
- h. the Department of Homeland Security (including U.S. Immigration and Customs Enforcement, ICE Health Services Corps, the Office of Enforcement and Removal Operations, the DHS Office for Civil Rights and Civil Liberties, and the DHS Office of the Inspector General);
- i. outside health care professionals;
- j. administrators of grievance systems; and
- k. representatives of the news media.

#### Special Management Unit (SMU)

A housing unit for detainees in administrative or disciplinary segregation.

#### Special Needs Detainee

A detainee whose mental and/or physical condition requires different accommodations or arrangements than a detainee who does not have special needs would receive. Special needs detainees include, but are not limited to, those detainees who are chronically ill or infirm, those with disabilities, and those who are addicted to or in withdrawal from drug or alcohol.

#### Special Vulnerabilities

Detainees with special vulnerabilities include those who are elderly, pregnant, or nursing; those with serious physical or mental illness, or other disability; those who would be susceptible to harm in general population due in part to their sexual orientation or gender identity; and those who have been victims of sexual assault, torture, trafficking, or abuse.

#### Strip Search

A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

#### Terminally Ill Detainee

A detainee whose physical condition has deteriorated to the point where the prognosis is less than a year to live.

#### TJC

The Joint Commission [formerly the Joint Commission on Accreditation of Health care Organizations (JCAHO)]

An independent, not-for-profit organization that evaluates and accredits more than 15,000 health care organizations and programs in the United States. TJC is the Nation's predominant standards-setting and accrediting body in health care.

#### Toxic

Poisonous; capable of causing injury or death.

#### Trained Investigators

A person who has been trained in investigative techniques to include interview techniques for victims and proper procedures for collecting and storing evidence.

#### Training

An organized, planned and evaluated activity designed to achieve specific learning objectives and

enhance personnel performance. Training may occur on site, at an academy or training center, an institution of higher learning, professional meetings, or through contract service or closely supervised on-the-job training. Training programs usually include requirements for completion, attendance records and certification of completion. Meetings of professional associations are considered training where there is clear evidence of the direct bearing on job performance. In all cases, the activity must be part of an overall training program.

#### Training Coordinator

A person responsible for ensuring all training requirements are met and documented. This person will often develop and conduct training.

#### Transgender

A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

#### Unencumbered Space

Open, usable space measuring at least seven feet in at least one dimension, free of plumbing fixtures, desk, locker, bed and other furniture and fixtures (measured in operational position).

#### Unauthorized Funds

Negotiable instruments (checks, money orders, etc.) or cash in a detainee's possession exceeding the facility-established limit.

#### Unauthorized Property

Not inherently illegal, but against the facility's written rules.

#### Unit Disciplinary Committee

See Disciplinary Committee.

#### Volunteer

An individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency or facility.

#### Volunteer Group

Individuals who collectively donate time and effort to enhance the activities and programs offered to detainees; selected on basis of personal qualities and skills (recreation, counseling, education, religion, etc.).

#### Work Assignment

Carpentry, plumbing, food service and other operational activities included in the facility's Voluntary Work Program, for which a detainee may volunteer.