

ICE/DRO RESIDENTIAL STANDARD

LAW LIBRARIES AND LEGAL MATERIAL

I. PURPOSE AND SCOPE. Residents will have access to courts, counsel, and legal materials.

II. EXPECTED OUTCOMES. The expected outcomes of this Residential Standard are:

1. Resident rights will be protected.
2. Residents will have access to courts and counsel.
3. Residents will be able to confidentially correspond with attorneys and/or the attorneys' authorized representatives.
4. Residents will have access to a law library, legal materials, and equipment to facilitate the preparation of documents.
5. Residents who are illiterate, non-English-speaking, or indigent will receive appropriate special assistance.
6. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
7. The standard complies with federal laws and with DHS regulations regarding residents with special needs.

III. DIRECTIVES AFFECTED. None

IV. REFERENCES

The First Edition National Residential Standards were written using a variety of methodologies including previous and current practices, review and comment from various subject matter experts, review and comment from various government and non-government organizations, and a review of current state codes in Pennsylvania and Texas. Each standard is written in a manner that affords each resident admission and continuous housing to a family residential facility in a dignified and respectful manner.

There are no specific codes, certifications, or accreditations that deal specifically with unique management requirements of families awaiting the outcome of their immigration proceeding in a non-secure custodial environment.

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

Residential Standard on “**Correspondence and Other Mail**,” in regard to correspondence with attorneys and other legal representatives, judges, courts, embassies, and consulates.

Residential Standard on “**Telephone Access**,” in regard to phone calls to legal representatives or to obtain legal representation.

Residential Standard on **“Visitation,”** in regard to visits from attorneys, other legal representatives, and legal assistants.

Residential Management (Access times and parental supervision)

V. EXPECTED PRACTICES

1. Law Library

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

2. Supervision

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

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

3. Hours of Access

Each facility administrator shall devise a flexible schedule that:

- a. Permits all residents to use the law library on a regular basis.
- b. Enables the maximum use possible, without interfering with the orderly operation of the facility. Generally, law library hours of operation are to be scheduled between 8:00 a.m. and 8:00 p.m. daily.
- c. Establishes the maximum number of residents permitted to use the law library simultaneously.

Each resident shall be permitted to use the law library as needed, but no less than ten hours per week. Staff shall accommodate resident requests for additional law library time to the extent that is consistent with the needs of the residents and orderly operation of the facility, with priority given to requests from a resident with an impending court deadline.

4. Equipment

Each facility administrator shall designate an employee to inspect the equipment at least weekly, to ensure that it is in good working order, and to stock sufficient supplies.

In order to prepare documents for legal proceedings, the law library shall provide the following for residents’ use:

- Typewriters, with replacement typewriter ribbon and correction tape
- Computers and printers
- A copier.
- Writing implements

- Writing tablets
- Non-toxic correction fluid

5. Maintaining Up-to-Date Legal Materials

a. ICE/DRO Headquarters Coordinator

At ICE/DRO Headquarters, **JFRMU** is designated as the coordinator to assist facilities and Field Offices in maintaining up-to-date law library materials.

b. Updating and Replacing Legal Materials

Each facility administrator shall designate an employee to be responsible for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly, when needed.

1). Materials for Law Libraries (*Attachment A*)

Each law library shall contain the materials listed in ***Attachment A*** (except any materials subsequently no longer published).

JFRMU shall request that the ICE Office of the Principle Legal Advisor (OPLA) review and update the contents of ***Attachment A*** at least annually. JFRMU shall add information to libraries on significant statutory and regulatory changes regarding detention and removal of aliens, in a timely manner, and provide copies to all facilities.

ICE/DRO shall arrange a subscription to the updating service, if available, for each publication on the list.

2). Sources for Publications

a). List of Publishers (*Attachment B*)

Information regarding updating of materials can be obtained directly from the publishers listed in ***Attachment B***. The ICE Law Librarian can also provide updating information.

If anticipated updates are not received or if subscriptions lapse, the facility administrator (or designee) shall seek assistance from JFRMU.

When a facility receives replacement supplements or other materials, it shall dispose of the outdated ones.

Damaged or stolen materials shall be promptly replaced. In addition to its own inspections, the facility shall encourage residents to report missing or damaged materials. The facility may obtain replacements by contacting JFRMU.

If materials from outside organizations need to be replaced, the facility shall contact ICE/DRO to obtain replacements from the submitting organization.

b). Electronic media i.e. Lexis/Nexus CD-ROM

A facility will provide publications listed in **Attachment A** on CD-ROM if available in that format, or if not, with printed publications.

The facility administrator must certify to JFRMU that the facility provides residents sufficient:

- Operable computers and printers
- Photocopiers
- Supplies for both
- Residents shall be provided with the opportunity to save their work on a disk.

Where the Lexis/Nexus CD-ROM is not available or the other conditions for resident access and use are insufficient, the materials listed in **Attachment A** are required to be available in printed form in the facility law library.

6. 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.

Published/Unpublished Material

If a facility receives such material, the ICE facility administrator shall forward it to JFRMU for review. If materials related to immigration law or procedures are declined, JFRMU shall notify in writing the submitter of the reasons.

Unpublished material must have a cover page that:

- a. Identifies the submitter and the preparer of the material.
- b. States clearly that ICE/DRO did not prepare and is not responsible for the contents.
- c. Provides the date of preparation.

ICE/DRO shall expeditiously make its decision, ordinarily within 45 days. ICE/DRO may object in whole or in part to materials that may pose a threat to the security or good order of the facility, or that misstate immigration law, policies, or procedures. JFRMU shall consult with the OPLA and other appropriate ICE/DRO and facility staff to determine whether to approve the materials.

If approved, JFRMU shall notify the facility administrator and the submitter.

If not approved in all or part, JFRMU shall inform the submitter in writing of the reasons.

7. Requests for Additional Legal Material

Residents 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 ICE facility administrator of the request as soon as possible.

The ICE facility administrator, with the assistance of the respective ICE Chief Counsel, shall respond to all requests. Requests from residents who are facing imminent deadlines shall receive priority. Requests for copies of court decisions shall normally be available within three business days.

8. Photocopying Legal Documents

The facility shall ensure that residents can obtain photocopies of legal material, when such copies are reasonable and necessary for his or her legal proceeding. This may be accomplished by providing residents with access to a copier.

The number of copies of documents to be filed with a particular court, combined with the number required for ICE/DRO records and at least one copy for the resident's personal use will determine the total number of photocopies required.

Requests for photocopies of legal material may be denied only if:

- a. The document might pose a risk to the security and orderly operation of the residential facility;
- b. There are other legitimate security reasons;
- c. Copying would constitute a violation of any law or regulation; or
- d. The request is clearly abusive or excessive.

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 related to a resident's ongoing legal proceeding.

9. Assistance from Other Residents

The facility shall permit residents to assist other residents in researching and preparing legal documents upon request, except when such assistance poses a risk. Such assistance is voluntary, and no resident shall be allowed to charge a fee or accept anything of value for assistance.

The facility administrator may not pay compensation to a resident for researching or preparing legal documents.

10. Assistance to Illiterate and Non-English Speaking Residents

Unrepresented illiterate or non-English speaking residents who request assistance in their immigration or detention proceedings, and who indicate difficulty in preparing and filing legal materials, must be provided with assistance as outlined below.

- a. Helping the resident obtain assistance in using the law library and drafting legal documents from residents with appropriate language and reading-writing abilities.
- b. Assisting in contacting *pro bono* legal-assistance organizations from the ICE/DRO-provided list.

If such attempts are unsuccessful in providing the resident sufficient assistance, the facility shall notify JFRMU, ICE/DRO Field Office, and ICE Chief Counsel.

11. Personal Legal Materials

For a resident with a large amount of personal legal material, the facility:

- a. May place a portion of it in their personal property storage., The resident is permitted access during designated hours.
- b. Shall grant requests for access as soon as feasible, but not later than 24 hours after receipt of a request.

12. Envelopes and Stamps for Indigent Residents

The facility shall provide indigent residents with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, a potential legal representative, or any court.

13. Notaries, Certified Mail, and Miscellaneous Needs Associated With Legal Matters

The facility shall provide assistance to any unrepresented resident who requests a notary public, certified mail, or similar services to pursue a legal matter, if the resident 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 Chief Counsel should be consulted.

14. Notice to Residents

The resident handbook (or equivalent) shall provide residents with the rules and procedures governing access to legal materials, including the following information:

- a. That a law library is available for resident use.
- b. The scheduled hours of access to the law library.
- c. The procedure for requesting additional time in the law library (beyond the 5-hour per week minimum).
- d. The procedure for requesting legal reference materials not maintained in the law library.
- e. The procedure for notifying a designated employee that library material is missing or damaged.

These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.

15. Retaliation Prohibited

Staff shall not permit a resident to be subjected to reprisals, retaliation, or penalties because of his or her decision to seek judicial relief on **any** matter, including, (but not limited to:

- a. The legality of his or her confinement;
- b. The legality of conditions or treatment while under detention;
- c. Any issue relating to his or her immigration proceedings; or
- d. Any allegation that the Government is denying rights protected by law.

Standard Approved:

John P. Torres
Director
Office of Detention and Removal

Date