

# ICE/DRO RESIDENTIAL STANDARD

## TRANSFER OF RESIDENTS

**I. PURPOSE AND SCOPE.** Transfers of residents from one facility to another are responsibly managed in regard to notifications, resident records, safety and security and protection of resident funds and personal property.

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

1. Decisions to transfer residents will be made by authorized officials on the basis of complete and accurate case information.
2. The legal representative-of-record will be properly notified that a resident is being transferred, in accordance with sound security practices.
3. The resident will be properly notified, orally and in writing, when he or she is being transferred to another facility, in accordance with sound security practices.
4. Transportation and receiving facility staff will have accurate and complete records on each transferred resident.
5. Transfer of residents will be accomplished safely and securely, particularly those with special health care concerns.
6. Transferred residents funds, valuables, and other personal property will be safeguarded.
7. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
8. 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 Detention Facilities: 4-ALDF-2A-23, 1B-06, 4C-05, 4C-40, 4D-27, 6A-07, 7D-19, 7D-20.

Flores v. Reno

## V. EXPECTED PRACTICES

### 1. Types of Transfers

ICE/DRO transfers residents from one facility to another for a variety of reasons. The transfer of a resident may never be based solely on residents' reporting of wrongdoing or alleging misconduct by or against staff members.

In deciding whether to transfer a resident, ICE/DRO will consider whether the resident is represented before the immigration court. In such cases, ICE/DRO shall consider alternatives to transfer, especially when the attorney is located within reasonable driving distance of the Residential facility and where immigration court proceedings are ongoing.

**a. Medical.** The Division of Immigration Health Services (DIHS) may recommend that a resident in need of specialized or long-term medical care be transferred to a facility that can meet those needs. The DIHS Medical Director or designee must approve transfers for medical reasons in advance. Medical transfers shall be coordinated through the local ICE/DRO office of jurisdiction using established procedures.

**b. Change of Venue.** A resident may be transferred from one jurisdiction to another to accommodate a change in venue by the Executive Office of Immigration Review.

**Security.** A resident may be transferred to a higher-level facility, ordinarily because of circumstances that cannot adequately be controlled. Such security reasons might include, for example:

- When the resident becomes a threat to the security of the facility;
- When the resident is violent or has caused a major disturbance or is threatening to cause one; or
- When a resident's behavior or other circumstances are a threat to the safety of staff or other residents.
- When a resident no longer meets the minimum qualifications for placement in a residential family center

**c. Other Needs of ICE/DRO or a Particular Resident.** Residents may be transferred to another facility for various reasons, such as to eliminate overcrowding or to meet a particular resident's special needs.

### 2. Notification Procedure

ICE/DRO shall make all necessary notifications when a resident is transferred.

When residents are being transported by Justice Prisoner Alien Transportation System (JPATS), ICE/DRO shall adhere to JPATS protocols.

#### **a. Attorney**

When a resident is represented by legal counsel, and a form G-28 has been properly executed and filed, the resident's Deportation Staff shall:

- Notify the representative of record that the resident is being transferred and include the reason for the transfer and the name, location, and telephone number of the new facility.
- Document the notification:
  - In the resident's A file, if available, or work file, and
  - The "comments" screen in DACS.

For security purposes, the attorney shall not be notified of the transfer until the resident is en route to the new Residential location, and the notification shall not include specific travel details (day of travel, mode of travel, etc.). In all cases notification will be made within 24 hours of the transfer.

When there are special security concerns, the Deportation Staff may delay the notification, but only for the period of time justified by those concerns.

#### **b. Family**

It is the responsibility of the attorney of record or the resident to notify any family members.

#### **c. Resident**

The resident shall not be informed of the transfer until immediately prior to leaving the facility, at which time he or she shall be notified that he or she is being moved to a new facility within the United States and not being deported. Reasonable efforts should be made to advise the resident in a language the resident understands.

For security purposes, specific plans and time schedules shall never be discussed with the resident.

Following notification, the resident shall normally not be permitted to make or receive any telephone calls or have contact with any resident in the general population until the resident reaches the destination facility.

At the time of the transfer, ICE/DRO shall provide the resident, in writing, the name, address and telephone number of the facility to which he or she is being transferred, using the attached **Resident Transfer Notification** form. Staff shall place a copy of the form in the resident's Residential File. The resident shall also be advised that it is his or her responsibility to notify family members, if so desired.

#### **d. Unaccompanied Juveniles and Accompanied Juveniles**

Since special notification procedures may apply if the resident is under 18 years old, the Deportation Staff shall coordinate proposed transfers with the juvenile coordinator for the respective ICE/DRO Field Office.

Generally, minors who are part of a family unit shall be transported with at least one parent. Any exception must be noted and approved by ICE prior to performing any transport of an accompanied minor.

### 3. Request for Bed/Designation

Field Offices that routinely transfer cases between each other shall:

- Establish a means of communication so that “receiving” Field Offices provide “sending” Field Offices **daily** information regarding available bed space.
- Provide the names and contact numbers of staff responsible for handling transfers.

While Field Offices are encouraged to communicate directly regarding available housing space, the headquarters Detention Management Division is available to assist a Field Office that has unsuccessfully attempted to locate space.

Field Offices seeking bed space in other Field Office jurisdictions should phone the request (or e-mail with a follow-up phone call) with sufficient details of the case to the designated Field Office contact.

Once an office has **preliminarily** agreed to accept a case from another office, the following procedures apply:

#### **a. Requesting Office Sends (via Fax) Form I-216 to the Receiving Field Office**

The requesting office shall ensure all Form I-216 boxes are completed.

- Complete information must be provided on criminal or aggravated felon status, including any medical/mental problems, security risks, etc.
- If there are medical/mental problems or medications, either the JPATS Form USM-553 or an I-794 (In-Processing Health Screening Form) must accompany the I-216 as an attachment.
- Security concerns must be outlined in detail on a separate page and be attached to the I-216.
- If there is any question about whether a resident is a juvenile, a copy of the age verification documentation must be attached.

No other forms are acceptable for recording the persons and property transferred.

If a facility in the receiving jurisdiction requires that its medical unit review medical histories prior to acceptance, a method of providing that information to the facility must be arranged between the two Field Offices.

#### **b. Receiving Office Confirms Acceptance of the Case**

The receiving Field Office shall review the I-216 to insure each case is consistent with what was previously discussed and e-mailed. If there are any issues that were not previously relayed to the receiving Field Office, the receiving Field Office shall notify the sending Field Office that it may decline the transfer unless those issues are resolved.

Once the receiving Field Office has finally accepted the transfer, the sending Field Office shall provide via telephone or e-mail a mutually agreeable estimated time of arrival.

The sending Field Office **may not substitute** any resident on the I-216 without prior approval of the receiving Field Office.

#### **4. Preparation and Transfer of Records**

Sending facility staff shall complete the attached **Resident Transfer Checklist** to insure all procedures are completed.

- The sending facility staff shall place a copy of the Checklist in the resident's A file or work folder.
- The records must accompany the resident to the receiving facility.
- If any procedure cannot be completed prior to transfer, the resident may be transferred only if the authorized receiving Field Office official has expressly waived that procedure, and the sending facility staff shall note any such waivers on the checklist.

##### **a. Alien File**

Prior to transfer, the A file shall be obtained and put in good order:

- Any needed file consolidations shall be done.
- Any necessary file jacket repairs shall be done.
- All documents and forms shall be attached on the proper side of the A file.

If the sending Field Office is unable to obtain the A file, that resident may not be transferred unless the receiving Field Office, before the transfer takes place, accepts a proper work folder that includes, at a minimum:

- Certified copies of convictions,
- Printouts of the Central Index System (CIS), Deportable Alien Control System (DACS), and the FBI's National Crime Information Center (NCIC) database,
- Copies of the EOIR's record of proceedings, and
- New photographs and fingerprints.

If applicable, copies of the following should also be included:

- Non-Immigrant Information System (NIIS),
- Computer Linked Application Information Management System (CLAIMS),
- National Automated Immigration Lookout System (NAILS),
- Reengineered Naturalization Application Casework System (RNACS),
- Refugee Asylum Processing System (RAPS), and
- Any other documents requested by the receiving Field Office which can be reasonably obtained.

The A file or proper work folder shall include copies of the following, properly executed, documents, and fastened to the top right side of the file:

- I-216 (appropriate copies of I-77 and G-589 attached)
- USM-553 or local transfer summary form
- Original or photocopy of I-203/203A
- Checklist for Resident Transfer (an attachment to this Residential Standard)
- Age verification documents (if applicable)
- A 3.5" disk with all previous Post Order Custody Reviews (POCRs) and travel document requests in a property envelope fastened to the file.
- Classification Sheet

Ordinarily, the A file or proper work folder must accompany the transfer.

- Under certain circumstances the receiving Field Office may request that the A file or work folder be mailed by overnight express to a particular location.
- If requested, the sending Field Office shall mail it no later than the business day following the transfer.

Any significant delays in the arrival time of the residents or their files should be communicated to the receiving Field Office as soon as possible.

#### **b. Charging Documents/Record of Proceeding**

Before the transfer, all charging documents shall be issued and signed by the individual with signatory authority for the sending Field Office.

If applicable, prior to transfer, all charging documents shall be served on the resident, including, but not limited to:

- Notice to Appear (I-862),
- Warrant of Arrest (I-200),
- Warrant of Removal (I-205),
- Notification of Custody Decision (I-286), and
- Notice of Rights (I-826).

Originals and/or copies shall be included, indicating proper service, in the A file or work folder.

Copies shall be provided the resident, who should be encouraged to keep them on his or her person, unless this would present a security problem.

#### **c. Fingerprint Cards**

The sending Field Office shall take three (plus R-84) sets of fingerprints (Note: Fingerprints are to be taken in accordance with ICE policy):

- The cards shall be signed by both the alien and the official taking the prints.
- The cards shall be completely filled out except for the address block requesting a disposition from the FBI.

- The completed cards shall be left in the A file for the receiving Field Office to fill in the response address block and submit to the FBI and Biometrics Support Center (when appropriate), unless the resident is a Room-and-Board case.
- For a Room-and-Board case, the sending Field Office may submit the prints to the FBI and Biometrics Support Center.
- One fingerprint card should remain in the A file at all times.

**d. Photographs**

The sending Field Office shall take four (1 sheet of 4) new, standard booking-size photographs and include any photos not needed for the transfer in the file.

**e. Medical Procedures and Information Required for Transfer**

**1). Notification of Transfers, Releases, and Removals**

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. In particular, the facility health care provider shall ensure that no resident is transferred without a sufficient supply of medication to facilitate the transfer process. Residents shall have available a minimum of three days medication on any transfer between facilities.

**2). Transfer of Health Records**

When a resident is transferred within the Detention Immigration Health Service (DIHS) system:

- A Transfer Summary and the resident's official health records shall accompany the resident.
- The official health records shall be placed in a sealed envelope or other container labeled with the resident's name and A-number and marked "MEDICAL CONFIDENTIAL."
- Non-medical staff is not permitted to read the official health record.

When a resident is transferred to a Residential facility, only the Transfer Summary shall accompany the resident.

**3). Transfer Summary**

**(a). Preparation**

The sending facility's medical staff shall prepare a Transfer Summary that must accompany the transferee. Either the USM 553 Form or a facility-specific form may be used, provided it shows:

- TB clearance, including PPD and Chest x-ray results, with the test dates;

- Current mental and physical health status, including all significant health issues;
- Current medications, with specific instructions for medications that must be administered en route; and
- The name and contact information of the transferring medical official.

**(b). Use During Transport**

Transportation staff may not transport a resident without the required Transfer Summary, which is essential for resident safety while in transit.

The transferring staff shall review the information for completeness and to ensure he or she has the supplies required to provide any in-transit care that is indicated.

Medical information is on a **need-to-know** basis.

- Staff who review the transfer summary shall protect the privacy of the resident's medical information to the greatest extent possible.
- Medical information may not be shared with other residents or even with other staff unless it is needed to fulfill transportation responsibilities safely.

The section on **Confidentiality and Release of Medical Records** in the Residential Standard on **Medical Care** provides additional detail.

The transferring staff is responsible for delivering the Transfer Summary materials to medical personnel at the receiving facility.

**4). Medical/Psychiatric Alert**

Medical staff shall notify the facility administrator when they determine that a resident's medical or psychiatric condition requires:

- (a). Clearance by the medical staff prior to transfer, or
- (b). Medical escort during transfer.

**5). Medications**

Prior to transfer, medical personnel shall provide the transporting staff instructions and, if applicable, medication(s) for the resident's care in transit.

Medications shall:

- (a). Be placed in a property envelope with the resident's name and A number on it,
- (b). Accompany the transfer, and
- (c). If unused, be turned over to a staff at the receiving Field Office.



**f. Other Transfer Paperwork**

A properly executed I-203/I-203A, G-391 and I-216 shall accompany the transfer.

The I-203 shall:

- 1) Include the resident's Residential category,
- 2) Indicate if the resident has a history of violence at the family facility, is an escape risk or has special medical problems that may require attention during the transfer.
- 3) Be annotated if the resident is on prescription medication.
- 4) Indicate the time of arrival as estimated by the sending Field Office.

The receiving Field Office may request that copies of the I-203/I-203A be faxed directly from the sending Field Office to the receiving facility.

**g. G-391, "Official Detail"**

A resident may not be removed from any facility, including Field Office Residential areas, without a Form G-391 that authorizes the movement.

- 1) The G-391 must be properly signed and shall clearly indicate the name of the resident(s), the place or places to be escorted, the purpose of the trip and other information necessary to efficiently carry out the detail.
- 2) Facilities may use a local form as long as the form provides the required information.

*The Supervisory Immigration Enforcement Agent (SIEA) or Detention Operations Supervisor (DOS) shall check records and ascertain if the alien has a criminal history, is dangerous, or has an escape record or medical condition. Any information of an adverse nature shall be clearly indicated on the G-391, and the escorting staff shall be warned to institute the necessary precautions.*

*Before beginning the detail, the escort and transportation staff shall read their instructions and clearly understand the purpose for which the resident is being removed from the facility. The staff shall also discuss emergency and alternate plans with the SIEA and/or DOS beforehand.*

All completed G-391s shall be filed in order by month and the forms for the previous month shall be readily available for review. All G-391s shall be retained for at least three years.

**h. Room-and-Board Cases**

Unless the receiving and sending Field Offices agree to reduced or modify documentation requirements for a Room-and-Board Case accepted for short-term staging only, a complete work folder shall accompany or be sent in advance, including:

- 1) Items listed above under **Alien File**, attached to the right side of the folder.
- 2) 4 new photographs,
- 3) 3 fingerprints cards (plus R-84)

- 4) Entire record of proceeding with all pertinent case documentation.
- 5) Interviews by the receiving Field Office under the Post Order Custody Review (POCR) process on a computer disk attached to the file.

## 5. Property

### a. Funds and Small Valuables

Before transfer the sending facility shall return all funds and small valuables to the resident and close out all forms G-589 (or local facility funds and valuables receipts) in accordance with the Residential Standard on **Funds and Personal Property**.

During transport, residents 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 vehicle's storage area.

- 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 facility funds and valuables receipt) during admissions in-processing in accordance with the Residential Standard on **Funds and Personal Property**.

### b. Large Valuables, Excess Luggage, and Other Bulky Items

Resident 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 facility.

If the property accompanies the resident, in accordance with the Residential Standard on **Funds and Personal Property**:

- 1) The sending facility shall close out all forms G-589 (or local FACILITY property receipt forms), and
- 2) The receiving facility shall create a new G-589 and I-77 (or local FACILITY property receipt forms) during admissions in-processing.

If the facility does not accept excess, oversized, or bulky belongings (including, but not limited to, suitcases, cartons, televisions, etc.), the sending facility shall:

- 3) Arrange to store the property elsewhere, or
- 4) Process the excess property in accordance with the Residential Standard on **Funds and Personal Property**. Under those procedures, the facility

may send excess property to an address of the resident's choosing; however, the resident may not be asked for that address information until he or she has been notified of the impending transfer. The sending facility shall make shipping arrangements and, if the resident cannot afford postage, pay for shipping.

- a) If the resident refuses to provide an appropriate mailing address, or is financially able but unwilling to pay for shipping, the facility administrator may dispose of the property, after providing the resident written notice, in accordance with the Residential Standard on **Contraband**.
- b) If the resident's cannot provide an appropriate address because one does not exist:
  - (1). The transferee shall keep the property receipts for the stored items, and
  - (2). The facility shall store the property and notify the receiving facility, in writing, that it requires notice before the resident's release or transfer to ensure the resident receives the stored property.

## **6. Miscellaneous**

### **a. Resident Phone Calls**

Upon arrival at the final transfer destination, an indigent resident shall be permitted a minimum of one domestic phone call at the Government's expense, ordinarily using a PCS Emergency Card or government phone line. Where a PCS Emergency card is not available, the Field Office shall make arrangements for such phone calls.

Non-indigent residents may make phone calls at their own expense in accordance with the Residential Standard on **Telephone Access**.

### **b. DACS**

The sending Field Office shall:

- Ensure that all screens in DACS are completely updated and accurate, and
- Immediately make the appropriate database transfers (DACS/DETS/CIS).

Once the resident reaches his or her destination, the receiving Field Office "accepts" the transfer.

### **c. Food Service During Transfer**

Food shall be provided in accordance with the Residential Standard on **Transportation (By Land)**. The sending Field Office or facility is responsible for the preparation and delivery of proper meals prior to departure.

## **7. Accountability for Documentation When Resident Is Transported**

To ensure that the facility that is to receive a resident also receives the files and other documentation required herein, the Residential Standard on **Transportation (By Land)** prohibits the transportation of a resident without that documentation.

- a. Transportation staff **may not** accept a resident without the required documents.
- b. The receiving facility **may** refuse to accept a resident without the required documents.
- c. The receiving facility **must** report any exceptions to the Field Office and the Deputy Assistant Director, Detention Management Division.

**Standard Approved:**



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**John P. Torres**  
**Director**  
**Office of Detention and Removal**

DEC 21 2007

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**Date**

**DEPARTMENT OF HOMELAND SECURITY  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

**RESIDENT TRANSFER NOTIFICATION**

**RESIDENT 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.**

**RESIDENT SIGNATURE** \_\_\_\_\_ **A#** \_\_\_\_\_ **DATE** \_\_\_\_\_

**STAFF SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

## CHECKLIST FOR RESIDENT TRANSFER

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Name A-Number

Resident transferred from \_\_\_\_\_ to \_\_\_\_\_ on \_\_\_\_\_

Office 3-Letter Codes Date

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- \_\_\_\_\_ Resident's attorney notified
- \_\_\_\_\_ Resident's Transfer Notification form completed
- \_\_\_\_\_ I-216 faxed to receiving district
- \_\_\_\_\_ USM-553 or local transfer summary attached
- \_\_\_\_\_ Age verification documentation attached
- \_\_\_\_\_ POCR / Security risk attachment

- A File       Work Folder

The following items have been attached to the right side of the file:

- \_\_\_\_\_ I-216
- \_\_\_\_\_ I-77
- \_\_\_\_\_ G-589
- \_\_\_\_\_ USM-553 or local transfer summary form
- \_\_\_\_\_ Photocopy of I-203/I203A
- \_\_\_\_\_ Property form
- \_\_\_\_\_ Age verification document
- \_\_\_\_\_ I-259 and/or manifest
- \_\_\_\_\_ POCR / Travel document request computer disk envelope
- \_\_\_\_\_ Fingerprints and photographs
- \_\_\_\_\_ All charging documents have been served on the alien and copies provided to them
- \_\_\_\_\_ Name and telephone number of the point of contact for conviction records

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Name and telephone number of court clerk's office point of contact for conviction records

- \_\_\_\_\_ All DACS screen are accurate and complete
- \_\_\_\_\_ Case transferred in DACS/DETS
- \_\_\_\_\_ If the transfer is taking place during a mealtime, food service arrangements have been made
- \_\_\_\_\_ File accompanying transfer
- \_\_\_\_\_ File will be federal expressed to receiving district within one business day
- \_\_\_\_\_ If the resident is on medication, medications will accompany transfer

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The above-named staff from the receiving district waived parts of this transfer document as circled above.

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Printed name and signature of staff responsible for compliance with requirements for Transfer of Residents.