

ICE/DRO DETENTION STANDARD

LEGAL RIGHTS GROUP PRESENTATIONS

I. PURPOSE AND SCOPE. This Detention Standard protects detainees' rights by providing for detainee 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/DRO encourages such presentations and 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 ICE/DRO detainees:

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

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

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

1. Detainees will have access to available group presentations on United States immigration law and procedures.
2. Persons and organizations requesting to make such group presentations will be able to obtain clear information about how to request such visits and how to conduct them.
3. Facility security and good order will be maintained.
4. Detainees shall not be subject to reprisals, retaliation, or penalties for attending legal rights group presentations.
5. Detainees will be able to communicate and correspond with representatives from the legal groups who make presentations at the facilities.
6. Detainees will have access to information and materials provided by legal groups. Organizations will be permitted to distribute information in response to specific legal inquiries.
7. Foreign nationals will have access to the diplomatic representative of their country of origin.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Group Presentations on Legal Rights** dated (9/12/2008).

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 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/DRO Field Office Director and include a copy of the request addressed to the respective ICE Chief Counsel.

Requests must be submitted to ICE/DRO at least thirty (30) days in advance of the proposed presentation. The ICE/DRO Field Office Director may allow a presentation to take place on shorter notice at his or her discretion, or when circumstances arise compelling presentations on shorter notice. ICE/DRO will notify the approved presenter ten days in advance of the scheduled presentation.

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 section G of this Standard;
4. An informational poster as described in Section V.C 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 Section V.D of this standard.
11. 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 Section V.D of this standard.
12. In order to distribute written materials, a presenter must apply for approval as described in Section V.G 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.

C. Additional or Continuing Presentations. To request ICE/DRO permission to conduct additional presentations or for access to a facility on a continuing basis, the requestor must submit a letter to the Field Officer Director that refers to any previously approved materials used by the requestor, notes any proposed changes in the content or personnel, and identifies the proposed dates or continuing period. Ordinarily, any presenter who is granted recurring access must notify ICE/DRO at least 30 days in advance (unless the FOD approves a shorter timeframe) and of any subsequent proposed changes in writing. The Field Office Director will determine whether additional time is required for review and final disposition.

D. Request Denied. If the request is denied, after consultation with the respective Chief Counsel, the Field Officer Director shall provide the requestor a written explanation and submit a copy to the Detention Standard Compliance Unit within the Detention Management Division of ICE/DRO Headquarters.

E. Scheduling Presentations

Presentations must be scheduled during normal visiting hours, excluding weekends and holidays. The Field Office Director may consider requests for presentations outside of normally authorized hours on a case by case basis. If feasible, they may be conducted daily, immediately before detainees' first Immigration Court appearances.

Facilities are not required to arrange presentations if attorneys or other legal representatives make no requests or if ICE/DRO does not approve any requests.

- 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. Authorized by Congressional appropriation, the specific requirements and procedures outlined in this standard do not necessarily apply to LOPs. EOIR carries out LOPs through, contracts with non-governmental organizations (NGOs) and in consultation with, ICE/DRO. As such, EOIR and ICE/DRO may establish separate program operation plans for an LOP at each detention site

EOIR LOPs have been operating in a limited number of ICE/DRO facilities and, subject to available funding, will be developed and implemented in other facilities as designated by both EOIR and ICE/DRO.

F. 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 it will be conducted.

The poster should instruct detainees to contact the housing officer if they wish to sign up to attend. For poster text in languages other than English, an English translation

must be provided.

An ICE/DRO representative shall review the poster within three business days of submission to ensure it meets the above requirements and that posting it will not endanger the security or orderly operation of the facility. ICE/DRO shall contact the person listed in the request if additional information is required.

If ICE/DRO finds the poster objectionable, the respective ICE Chief Counsel shall inform the contact person of the objections. ICE/DRO shall make a good faith effort to work with the requestor to develop mutually acceptable materials.

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 make available a sign-up sheet at least 48 hours in advance of a presentation for detainees who plan to attend.

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 should be advised to contact the facility administrator the day before the presentation to determine the number of sessions that will be required.

Presentations are open to all detainees, regardless of the presenter's intended audience, except when a particular detainee's attendance would pose a security risk. If a detainee in segregation cannot attend for this reason, designated facility staff shall make alternative arrangements, if the detainee or the presenter so request.

G. Who May Present

One or more legal assistants may help with a presentation if the supervising attorney/legal representative:

- Submits a letter identifying his/her legal assistants and affirms that the legal assistant presence is directly related to the presentation, and
- 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.

ICE/DRO is not responsible for providing interpreters for presenters. The facility shall admit properly identified interpreters to assist the presenters, in accordance with the Detention Standards on **Facility Security and Control** and **Visitation**.

As a general rule, presentation parties may not exceed four persons (including legal assistants and interpreters); however, a facility may waive this rule upon advance receipt of a written request.

H. Entering the Facility

Facility staff shall require each person seeking entry to present an official form of picture identification (such as a 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 and legal assistants to assist attorneys and other legal representatives.

SPCs/CDFs shall require presenters to arrive at least 30 minutes before the scheduled start unless otherwise arranged with ICE/DRO and/or facility staff.

After check-in, facility staff shall escort the presenters to the presentation site and escort the detainees to that location.

I. Presentation Guidelines

The facility shall select and provide an environment that is conducive to the presentation and is consistent with security and good order. Once the detainees have been assembled, the presenters ordinarily will have one hour for the presentation and additional time for a question-and-answer session; however, 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 during any presentation.

At their discretion, ICE/DRO and/or facility staff may observe and monitor presentations, assisted by interpreters as necessary. ICE/DRO and facility personnel will not interrupt a presentation, except for security purposes or if the allotted time has expired.

J. Written Materials

If approved in advance by ICE/DRO, 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/DRO 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.

ICE/DRO may object to materials in whole or in part, if they:

- Pose a threat to the security or good order of the facility, or
- Contain misleading or inaccurate statements of immigration law, procedure, or ICE/DRO policy.

ICE/DRO representatives shall consult with their respective Chief Counsel to determine if the material is acceptable and inform the contact person of any ICE/DRO objections. ICE/DRO will make a good faith effort to work with the requestor to develop mutually acceptable materials.

Distribution of unapproved materials 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.

When distributing materials, presenters shall distribute them to detainees and ICE/DRO and/or facility staff at the same time. At the request of the presenter, the presenter may provide copies of his or her materials for inclusion in the law library.

K. 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/DRO and facility staff shall not be present during these meetings. The Detention Standard on **Visitation** sets forth the rules and procedures for **Visits by Legal Representatives and Legal Assistants**.

L. Suspension or Termination

The facility may discontinue or temporarily suspend group presentations by any or all presenters, if they:

1. Pose an unreasonable security risk;
2. Interfere substantially with the facility's orderly operation;
3. Deviate materially from approved presentation material, procedures or presenters; or if
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 send a copy to the respective ICE/DRO Field Office Director, who shall in turn forward a copy to the respective Chief Counsel and the Detention Standard Compliance Unit in the Detention Management Division of ICE/DRO Headquarters.

A presenter may appeal a suspension or termination to the Field Office Director in writing. The Field Office Director shall promptly consider the appeal and consult with the respective Chief Counsel and the facility administrator to determine a means of addressing the concerns causing the suspension/termination.

The Field Office Director shall inform the presenter, in writing, of the decision made on any appeal request, explain the rationale behind the decision, and the means, if any, to rectify the situation.

M. Electronic Presentations

ICE/DRO encourages qualified individuals and organizations to submit electronically formatted presentations (i.e., videotape, DVD, etc.) on legal rights. ICE/DRO must review and approve these presentation(s). If ICE/DRO approves an electronic presentation(s), the originators may provide it to individual detention facilities for viewing by detainees.

1. Requesting ICE/DRO 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 to the respective Chief Counsel. The electronic presentation(s) must clearly identify the originator and must clearly state that ICE/DRO did not prepare the presentation(s) and is not responsible for the contents.

ICE/DRO may object to all or part of the electronic presentation(s) if:

- The material would present a threat to the security or good order of a facility;
- It contains misleading or inaccurate statements of ICE/DRO policy, immigration procedure, or law; or
- Any part is inconsistent with this Detention Standard.

Within 45 days of receipt, the Field Office Director, in writing, shall notify the originator of his or her decision. If there is an objection to the contents of the presentation(s), ICE/DRO and the originator will attempt in good faith to reach an agreement to develop a mutually acceptable presentation(s).

If agreement cannot be reached at the Field Office level, the originator may raise the issues in dispute to the Detention Standard Compliance Unit in the Detention Management Division of ICE/DRO Headquarters.

Once ICE/DRO has accepted an electronic presentation(s), the originator may modify or revise it at any time by submitting a new presentation(s) and transcripts. If ICE/DRO believes that aspects of the presentation(s) have become dated or inaccurate, ICE/DRO may discontinue showing the presentation(s) and promptly send written notice to the originator.

2. Detainee Viewing of Approved Electronic Presentations

The facility shall provide regularly scheduled and announced opportunities for detainees in the general population to view or listen to the electronic presentation(s). At a minimum, the presentation should be made available to the general population once a week. The facility shall also provide detainees in administrative or disciplinary segregation with at least one opportunity to view pre-approved presentation(s), unless precluded by security concerns regarding a particular detainee.

Each facility shall present only ICE/DRO-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/DRO for equipment options.

The facility shall maintain electronically-formatted presentations and equipment in good condition. However, in the event that electronic media copies of the

presentation(s) are stolen, destroyed, or otherwise becomes unusable, the facility shall promptly request that ICE/DRO obtain replacement copies of the presentation(s) from the originator. The facility shall check the operability of the presentation at least once a week.

N. Material for Nationwide Presentation

Written and electronic material intended for nationwide presentation may be sent to the Detention Standards Compliance Unit in the Detention Management Division of ICE/DRO Headquarters. Once approved, the material may be used in any facility housing ICE/DRO detainees.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date