

# **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.