

# ICE/DRO RESIDENTIAL STANDARD

## TELEPHONE ACCESS

I. **PURPOSE AND SCOPE.** Residents may, through the reasonable and equitable access to telephone services, maintain ties with their families and others in the community.

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

1. Residents will have reasonable and equitable access to reasonably-priced telephone services.
2. Residents with hearing or speech disabilities will be provided reasonable accommodations.
3. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
4. 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-65, 2A-66, 5B-11, 5B-12, 6a-02, 6A-09.

ICE/DRO Residential Standard on "**Staff-Detention Communication**," in regard to monitoring and documenting telephone serviceability.

### V. EXPECTED PRACTICES

#### 1. Telephones and Telephone Services

##### a. Number

To ensure sufficient access, each facility shall provide at least one telephone for every 16 residents.

#### **b. Costs**

Generally, residents or the persons they call are responsible for the costs of telephone calls; however, there are exceptions as required below.

Each facility shall ensure that residents have access to telephone services at a cost that mirrors community standards. Contracts for such services shall comply with all applicable state and federal regulations, and shall be based on rates and surcharges commensurate with those charged to the general public. Any deviations shall reflect actual costs associated with the provision of services in a residential setting. Contracts shall also provide the broadest range of calling options that are determined by the facility administrator to be consistent with the requirements of sound residential facility management.

#### **c. Special Services**

Accommodations shall be made for residents with hearing or speech disabilities, or residents who wish to communicate with such persons. Such accommodations may include, for example, telephones with volume controls, TDD (Telecommunications Device for the Deaf) or comparable equipment. These services shall be provided to ensure these residents are provided effective access.

#### **d. Maintenance**

Each facility shall maintain resident telephones in proper working order. Designated facility staff shall inspect the telephones daily, promptly report out-of-order telephones to the repair service, and ensure that required repairs are completed quickly.

### **2. Monitoring of Resident Telephone Calls**

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

- Notify residents in the resident handbook or equivalent, provided upon admission.
- At each monitored telephone, place a notice that states:
  - That resident calls are subject to monitoring.
  - The procedure for obtaining an unmonitored call to a court or legal representative, or for the purposes of obtaining legal representation.

Absent a court order, a resident's call to a court or a legal representative or for the purposes of obtaining legal representation may not be aurally monitored.

### **3. Resident Notification**

Each facility shall provide telephone access rules in writing to each resident upon admission, and also shall post these rules where residents can easily see them.

### **4. Resident Access**

Each facility administrator shall establish and oversee rules and procedures that provide residents reasonable and equitable access to telephones during established facility

“waking hours” (which exclude the hours between lights-out and morning resumption of scheduled activities).

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

a. **Availability.** When required by resident telephone use demands, rules and procedures may include, but are not limited to, reasonable limitations on the duration and the number of calls per resident, the use of predetermined time-blocks, and advance sign-up.

b. **Emergencies.** 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.

## 5. Direct or Free Calls

In addition to the requirements above, each facility shall permit residents to make **direct or free** calls to the offices and individuals listed below. Current telephone numbers for the following will be posted in all housing areas and/or by public access telephones. 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 resident’s attempting to obtain legal representation.

- The local immigration court and the Board of Immigration Appeals
- Federal and state courts where the resident is in, or may become involved in, a legal proceeding
- Consular officials
- Office of the Inspector General of the U.S. Department of Homeland Security at: (800) 323-8603
- The United Nations High Commissioner for Refugees
- Legal representatives, to obtain legal representation, or for consultation, when a resident is subject to Expedited Removal. Any facility restrictions on other direct or free calls must not unduly limit a resident’s attempt to obtain legal representation.
- A government office, to obtain documents relevant to his or her immigration case
- Immediate family or others, for residents in personal or family emergencies, or who otherwise demonstrate a compelling need (to be interpreted liberally)

### a. Request Forms

Where access to free telephone calls is limited by technology, residents may complete request forms to make direct or free calls. Facility staff shall assist them as needed, especially illiterate or non-English speaking residents. All requests for assistance shall be reviewed and responded to within one calendar day. All denials shall be documented and a copy forwarded to the resident and ICE/JFRMU for

review.

**b. Time Requirements**

Staff shall allow residents to make such calls as soon as possible after the requests, factoring in the urgency stated by the resident. Access shall always be granted within 24 hours of the request, but ordinarily, within 8 facility-established "waking hours."

Staff must document and report to ICE/DRO any incident of delay beyond eight "waking hours."

**c. Indigent Residents**

A facility may not require indigent residents to pay for the types of calls listed above if they are local calls, nor for non-local calls if there is a compelling need. Each facility shall enable all residents to make calls to the ICE/DRO-provided list of free legal service providers and consulates at no charge to the resident or the receiving party.

**6. Legal Calls**

**a. Restrictions**

A facility may neither restrict the number of calls a resident places to his or 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 less than 20 minutes, and the resident shall be allowed to continue the call at the first available opportunity, if desired.

Any facility restrictions on other direct or free calls must not unreasonably limit a resident's attempt to obtain legal representation.

**b. Privacy**

For resident telephone calls regarding legal matters, each facility shall ensure privacy by providing a reasonable number of telephones on which residents can make such calls without being overheard by staff or other residents. Absent a court order, staff may not monitor those calls.

The facility shall inform residents to contact staff if they have difficulty making a confidential call relating to a legal proceeding. If so notified, the staff shall take measures to ensure that the call can be made confidentially.

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

- Telephones with privacy panels (side partitions) that extend at least 18 inches to prevent conversations from being overheard;
- Telephones placed where conversations may not be readily overheard by others, or;
- Office telephones on which residents may be permitted to make such calls.

Telephones shall not be placed near television sets or in any area where it can be reasonably expected that excessive noise may interfere with the caller ability to communicate privately.

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

Upon a resident's request, facility staff shall make special arrangements to permit the resident 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, and biological or adopted children.

Reasonable limitations may be placed on the frequency and duration of such calls.

Facility staff shall liberally grant such requests when they involve discussion of legal matters, and shall afford the resident privacy to the extent practical.

### **8. Incoming Calls**

Facility staff shall take and deliver **emergency** telephone messages to residents as promptly as possible.

When a call concerns an **emergency**, facility staff shall:

- Record the caller's name and telephone number.
- Deliver the message to the resident as soon as possible.
- Permit the resident to return the call as soon as reasonably possible, within the constraints of security and safety.
- If the resident is indigent, enable him or her to make a free return call.

**Standard Approved:**

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

**DEC 21 2007**  
\_\_\_\_\_  
**Date**