

## 4.8 Disability Identification, Assessment, and Accommodation

### I. Purpose and Scope

This detention standard requires that facilities housing ICE/ERO detainees act affirmatively to prevent disability discrimination. It outlines the necessary processes to ensure that detainees with a disability will have an equal opportunity to participate in, access, and enjoy the benefits of the facility's programs, services, and activities. Such participation will be accomplished in the least restrictive and most integrated setting possible, through the provision of reasonable accommodations, modifications, and/or auxiliary aids and services, as necessary, and in a facility that is physically accessible.

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"). For purposes of this standard, reasonable accommodations, disability-related modifications, and auxiliary aids and services are collectively referred to as "accommodations" or "reasonable accommodations."

1. In addition to the requirements in this detention standard, the facility shall comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990, as amended (ADA), if applicable, and any other applicable federal, state or local laws or regulations related to nondiscrimination and accommodation for individuals with disabilities.
2. The facility will provide reasonable accommodations to provide detainees with disabilities an equal opportunity to access, participate in, or benefit from the facility's programs, services, and activities.
3. When considering what reasonable accommodations to provide, the facility will engage in an interactive and individualized process that considers the detainee's needs and gives primary consideration to the preferences of the detainee with a disability, as outlined in this standard.
4. The facility shall develop policies or procedures to allow for effective communication with detainees with disabilities – which may include the provision of auxiliary aids and services – during the interactive process as well as within the facility generally.
5. Each facility shall designate at least one staff member to serve as the facility's Disability Compliance Manager. This individual will assist in ensuring compliance with this standard and all applicable federal, state and local laws related to

accommodations for detainees with disabilities.

6. The facility orientation program and the detainee handbook shall notify and inform detainees about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request.
7. Facility staff shall receive training on reasonable accommodations policies and procedures, to include the actions they must take upon identifying a detainee with a disability who may require an accommodation, modification, and/or auxiliary aid or service.
8. The facility shall provide detainees with disabilities who are limited in their English proficiency (LEP) with meaningful access to its programs and activities through language assistance, including bilingual staff or professional interpretation and translation services. Meaningful access to facility programs and activities includes the effective communication of the applicable content and procedures in this standard.
9. The facility shall provide physical access to programs and activities in the least restrictive setting possible, and in the most integrated setting appropriate to the needs of the detainee with a disability. Detainees with disabilities requiring an assistive device, such as a crutch or wheelchair, shall normally be permitted to keep those items with them at all times. Removal of any such devices because of concerns related to safety and security must be based on individualized review and the justification documented. A detainee's disability or need for assistive devices or equipment may not provide the sole basis for the facility's decision to place the detainee apart from the general population.
10. Compliance with the reasonable accommodations policies and procedures articulated in this standard shall be consistently

documented where practicable, as stated in this standard.

11. The facility administrator shall convene a multidisciplinary team to assess the cases of detainees with communication and mobility impairments, detainees whose initial requests for accommodations have been denied, and complex cases. The multidisciplinary team will determine whether the detainee has a disability, whether the detainee requires an accommodation to access the facility's programs and activities, and whether to grant or recommend denying the requested accommodation. Any denial by the multidisciplinary team of a request for accommodation related to a disability must be approved by the facility administrator or assistant facility administrator.
12. The local ICE/ERO Field Office shall be notified no later than 72 hours after the completed review and assessment of any detainee with a communication or mobility impairment. Facilities shall also notify the Field Office within 72 hours of any denial of a detainee's request for a disability-related accommodation.
13. Detainees shall be permitted to raise concerns about disability-related accommodations and/or the accommodations process through the grievance system, as outlined in standard 6.2 "Grievance System." Facilities shall ensure that detainees with disabilities have equal opportunity to access and participate in the grievance system, including by allowing for effective communication, which can include the provision of auxiliary aids and services, throughout the process.

### III. Standards Affected

Not applicable.

### IV. References

*ICE/ERO Performance-Based National Detention*

*Standards 2011:*

- “1.3 Transportation (by Land)”;
- “2.1 Admission and Release”;
- “2.2 Custody Classification System”;
- “2.6 Hold Rooms in Detention Facilities”;
- “2.11 Sexual Abuse and Assault Prevention and Intervention”;
- “2.13 Staff-Detainee Communication”;
- “3.1 Disciplinary System”;
- “4.3 Medical Care”;
- “4.5 Personal Hygiene”;
- “5.2 Trips for Non-Medical Emergencies”;
- “5.4 Recreation”;
- “5.5 Religious Practices”;
- “5.6 Telephone Access”;
- “5.8 Voluntary Work Program”;
- “6.2 Grievance System”; and
- “7.3 Staff Training.”

Title II of the Americans with Disabilities Act of 1990, as amended, and its implementing regulation at 28 C.F.R. Part 35.

The Architectural Barriers Act of 1968, as amended.

Section 504 of the Rehabilitation Act of 1973, and DHS implementing regulation at 6 C.F.R. Part 15.

DHS Directive 065-01, “Nondiscrimination for Individuals with Disabilities in DHS-conducted Programs and Activities (Non-Employment)” (Sept. 25, 2013).

ICE Directive “Assessment and Accommodations for Detainees with Disabilities” (December 15, 2016).

ICE Policy No. 11065.1, “Review of the Use of Segregation for ICE Detainees” (Sept. 4, 2013).

## V. Expected Practices

### A. Definitions

#### 1. Disability

For purposes of these detention standards, the term “disability” means either of the below:

- a. a physical or mental impairment that substantially limits one or more of an individual’s major life activities; or
- b. a record of such a physical or mental impairment.

“Major life activities” are basic activities that a detainee without a disability in the general population can perform with little or no difficulty, including, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity can also include the operation of major bodily functions, like the immune, endocrine, and neurological systems; normal cell growth; digestion, respiration, and circulation; and the operations of the bowel, bladder, and brain.

#### 2. Communication Impairments

Detainees with “communication impairments” include detainees with physical, hearing, vision, and speech impairments (e.g., detainees who have hearing loss or are deaf; blind; have visual impairments; or nonverbal).

#### 3. Mobility Impairments

Detainees with “mobility impairments” include detainees with physical impairments who require a wheelchair, crutches, prosthesis, cane, or other mobility device, or other assistance.

#### 4. Programs, Services, or Activities

For purposes of these standards, the “programs,” “services,” “benefits,” and/or “activities” of a

detention facility include all aspects of the facility's operations that involve detainees. These include, but are not limited to, housing placements, medical care, safety and security protocols, food services, correspondence, visitation, grievance systems, transfers, and detainee programming and scheduled activities such as law and leisure libraries, religious services, educational or vocational classes, work programs, and recreation.

### **5. Auxiliary Aids or Services**

“Auxiliary aids or services” are services or devices that allow for effective communication by affording individuals with impaired vision, hearing, speaking, sensory, and manual skills an equal opportunity to participate in, and enjoy the benefits of, programs and activities. Such aids or services include interpreters, written materials, note-takers, video remote interpreting services, or other effective methods of making aurally delivered materials available to detainees with hearing impairments; readers, taped texts, materials or displays in Braille, secondary auditory programs, or other effective methods of making visually delivered materials available to detainees with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions.

### **6. Reasonable Accommodations**

For purposes of these standards, “reasonable accommodation” means any change or adjustment in detention facility operations, any modification to detention facility policy, practice, or procedure, or any provision of an aid or service that permits a detainee with a disability to participate in the facility's programs, services, activities, or requirements, or to enjoy the benefits and privileges of detention programs equal to those enjoyed by detainees without disabilities. Examples of “reasonable accommodations” include, but are not limited to, proper medication and medical treatment; accessible housing, toilet, and shower facilities; devices like bed transfer, accessible beds or

shower chairs, hearing aids, or canes; and assistance with toileting and hygiene.

When considering requests for reasonable accommodations or modifications, the facility shall engage in an interactive and individualized process as outlined in section F below.

For the purposes of this standard, and particularly section F below, reasonable accommodations, disability-related modifications, and auxiliary aids and services are collectively referred to as “accommodations” or “reasonable accommodations.”

## **B. Written Policy and Procedures, and Compliance Manager**

### **1. Reasonable Accommodation Policy**

The facility shall develop written policy and procedures, including reasonable timelines, for reviewing detainees' requests for accommodations related to a disability and for providing accommodations (including interim accommodations), modifications, and reassessments. These policies and procedures shall be consistent with the processes outlined in this standard.

### **2. Disability Compliance Manager**

The facility shall designate a Disability Compliance Manager to assist facility personnel in ensuring compliance with this standard and all applicable federal, state, and local laws related to accommodation of detainees with disabilities. The Disability Compliance Manager may be the Health Services Administrator, a member of the medical staff, or anyone with relevant knowledge, education, and/or experience.

## **C. Identification**

A detainee may identify him- or herself as having a disability and/or request a reasonable accommodation at any point during detention. Detainees may submit a formal or informal (i.e., verbal or written) request for accommodations or

assistance. Requests should be reviewed in context, and do not need to include the words “disability” or “accommodation” to be considered a request for accommodations. The facility shall also consider information submitted by a third party, such as an attorney, family member, or other detainee identifying a detainee with a disability or a detainee’s need for an accommodation.

Further, it is incumbent upon facility staff to identify detainees with impairments that are open, obvious, and apparent. Identification of detainees with potential disabilities (i.e., impairments that are open, obvious, and apparent) may occur through medical or intake screenings, or through direct observation. Staff should be particularly vigilant for impairments that affect a detainee’s mobility or ability to communicate. Upon identifying a detainee with a potential disability, the facility shall review the need for any necessary accommodations pursuant to Section F below.

The processes described in this standard apply to any detainee who has requested an accommodation or auxiliary aid or service, or who has otherwise been identified as potentially needing an accommodation.

## **D. Physical Accessibility and Most Integrated Setting Possible**

### **1. Physical Accessibility**

The facility shall comply with all applicable federal, state, and local laws and regulations related to the accessibility of safe and appropriate housing for detainees with disabilities.

The facility will ensure that detainees with disabilities are able to physically access its programs, services, and activities. This includes, for example, ensuring detainees with disabilities can access telephones, as well as toileting and bathing facilities.

### **2. Most Integrated Setting**

Every detainee with a disability will be housed in a space that affords him or her safe, appropriate living

conditions. Detainees with disabilities should be provided access to the facility’s programs and services in the least restrictive setting possible and the most integrated setting appropriate to the needs of the detainee with a disability.

Detainees with disabilities shall generally be permitted to keep assistive devices (including such aids as canes and crutches) with them at all times, including in general population. Placement apart from the general population due to security concerns related to the use of any such item must be based on individualized review, and the justification for the placement must be documented, whether the detainee is placed in an SMU, medical clinic, or elsewhere. The justification shall set forth the individualized assessment of the safety or security concern created by the assistive device that could not be eliminated or mitigated by modification of policies or procedures.

A detainee’s disability or need for accommodations may not provide the sole basis for a decision to place the detainee in an SMU. An individualized assessment must be made in each case, and the justification for the placement documented.

## **E. Effective Communication**

Throughout the facility’s programs and activities, including at all stages of the reasonable accommodation process, the facility must take appropriate steps to allow for effective communication with detainees with disabilities to afford them an equal opportunity to participate in, and enjoy the benefits of, the facility’s programs and activities. Steps to ensure effective communication may include the provision and use of auxiliary aids or services for detainees with vision, hearing, sensory, speech, and manual impairments, as needed. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual detainee, the nature, length, and complexity of the

communication involved, and the context in which the communication is taking place. In determining what types of auxiliary aids or services are necessary, the facility shall give primary consideration to the request of the detainee with a disability.

Use of other detainees to interpret or facilitate communication with a detainee with a disability may only occur in emergencies.

## **F. Reasonable Accommodations Process**

The facility's process to appropriately accommodate a detainee with a disability will differ depending on the nature of the impairment or disability being addressed. However, in certain cases, the facility administrator or his or her designee shall automatically convene a multidisciplinary team, as described in section 4 below.

### **1. Immediate Accommodations**

The facility shall provide detainees with disabilities with necessary accommodations in an expeditious manner. In many situations, the facility will be able to immediately grant a detainee's request for an accommodation. Where a request for accommodation is immediately granted and provided, and the accommodation fully addresses the detainee's ability to access the facility's programs and activities, the facility's response will not ordinarily involve referral to a multidisciplinary team.

### **2. Medical and Mental Health Treatment**

Many detainees with disabilities will receive medical and/or mental health treatment from the facility's clinical medical authority. Where a detainee with a disability is fully able to access the facility's programs and activities through the provision of appropriate medical or mental health treatment, further interactive process may not be necessary. However, where the provision of accommodations depends on medical expenditures requiring ICE authorization, the facility shall consider whether there are any interim accommodations that would

afford the detainee access to its programs and activities pending ICE authorization (for example, providing a wheelchair as an interim accommodation to allow for mobility while a prosthesis is repaired), and shall provide to the detainee any such interim accommodations it identifies.

### **3. Detainees with Cognitive, Intellectual, or Developmental Disabilities**

Referral to the multidisciplinary team may be appropriate for detainees who are identified as having a cognitive, intellectual, or developmental disability, including a traumatic brain injury. Such detainees may face difficulties navigating the detention environment, including disciplinary, grievance, and other processes. Additionally, such detainees may not understand the process for requesting an accommodation or be aware of limitations on their access to facility programs. Facility staff should not require the detainee's participation in the assessment process, and should be sensitive to the fact that some detainees in this category may not perceive themselves as having a disability. However, facility staff should provide appropriate assistance to a detainee with a cognitive, intellectual, or developmental disability, even if not explicitly requested (for example, reading and explaining a form to a detainee with limited cognitive abilities). Pursuant to Standard 4.3 "Medical Care," the facility is also required to report the identification of detainees with certain cognitive, intellectual, or developmental disabilities to the ICE/ERO Field Office.

### **4. Multidisciplinary Team**

Requests or referrals that require an evaluation by a multidisciplinary team include (1) detainees with mobility impairments; (2) detainees with communication impairments; (3) detainees whose initial requests for accommodations or assistance have been denied; (4) detainees who have filed

grievances about the accommodation of their disabilities or impairments; (5) detainees whose requests are complex or best addressed by staff from more than one discipline (e.g., security, programming, medical, or mental health, etc.); and (6) detainees whose cases are otherwise determined by facility staff to be appropriate for referral to the team.

The multidisciplinary team will include a healthcare professional and any additional facility staff with requisite knowledge of and/or responsibility for compliance with disability policies and procedures. The team may consist of two or more staff and may have different members at different times, depending on the detainee or request for accommodations under review. When appropriate, the multidisciplinary team shall consult with ICE/ERO to obtain guidance, information, and/or resources for providing accommodations.

The team is encouraged to consult with local and community resources that may have subject matter expertise on the provision of accommodations, modifications, and services. This consultation may include training, information on the availability of accommodations and services, and best practices. However, all external communications regarding individual detainees are subject to applicable privacy limitations and protections and must be conducted in a manner consistent with the Privacy Act.

#### a. Interaction with the Detainee

Given the importance of considering information from the detainee, the multidisciplinary team shall make a good faith attempt to interview the detainee and determine the nature of the detainee's disability, any difficulties the detainee experiences in accessing the facility or its programs or services, and the detainee's specific requests or needs for accommodation, if any. The multidisciplinary team will respect any detainee's decision to decline to participate in the accommodation process, including the invitation

to interview with the multidisciplinary team. If a detainee declines such an invitation, the multidisciplinary team will document this declination.

#### b. Multidisciplinary Team Determinations

The multidisciplinary team will determine whether the detainee has a disability, whether the detainee requires an accommodation to meaningfully access the facility's programs and activities, and whether to grant or recommend denying the requested accommodation (if any) or propose an alternate, equally effective accommodation. The multidisciplinary team will issue a written decision, including the documentation outlined below, within 5 working days of the request or referral.

If there is a delay in determining whether to approve an accommodation request or in providing the detainee with an approved accommodation, the multidisciplinary team shall consider whether there are any interim accommodations that would afford the detainee access to its programs and activities pending the final disposition of the request or the provision of approved accommodations. The facility shall provide to the detainee any such interim accommodations it identifies.

Where the multidisciplinary team approves a request for an accommodation, but the recommended accommodation requires approval from ICE (i.e., expenditures on medical treatment, medication, and durable medical equipment that require IHSC authorization), the team will inform the detainee of the decision and the status of the request with ICE and shall consider whether to provide an interim accommodation. The facility shall provide to the detainee any such interim accommodations it identifies.

Where the multidisciplinary team approves a request for accommodations, and can

immediately provide the necessary accommodation, that decision will be the final facility determination, and the team will follow the notification procedures outlined below and implement the approved accommodations as quickly as possible.

c. Final Review of Any Denial by Facility Administrator or Assistant Facility Administrator

Any denial by the multidisciplinary team of a request for accommodation related to a disability must be approved by the facility administrator or assistant facility administrator. Such denials include all cases in which the multidisciplinary team determines that accommodations, including all requested accommodations, should be denied; or that alternate unrequested accommodation(s) should be provided. The facility administrator shall complete his or her review of the multidisciplinary team's decision within 3 working days of the team decision.

d. Detainee Notification

The facility will provide the detainee with written notification of the final decision on his or her request for accommodation, regardless of whether an accommodation was granted or denied, and regardless of whether the accommodation requires further approval by ICE. Notification that an approved accommodation request has been granted or submitted to ICE will be provided at the conclusion of the multidisciplinary team review. Notification of a denied accommodation, or provision of an alternate, unrequested accommodation, will be provided only after review and concurrence by the facility administrator or assistant facility administrator, and will include a justification for the denial. Notification shall be provided in a language or manner the detainee can understand.

e. Staff Notification

Where an accommodation is granted, facility policy or procedures will ensure that all relevant facility staff, including facility security staff, receive timely notification and, as needed, instructions for successful implementation of the accommodation. These procedures will also account for any applicable privacy and confidentiality considerations.

f. Initial and Periodic Reassessments

An initial re-assessment of approved accommodations must be completed within 30 days of the original assessment by the multidisciplinary team. All reassessments shall include a good faith attempt to interview the detainee regarding the current accommodations provided and the need, if any, for changes to the detainee's accommodation plan.

Subsequent periodic reassessments of approved accommodations shall take place at a minimum every 90 days thereafter, unless requested sooner by the detainee. Such reassessments should evaluate the efficacy of the accommodation(s) provided, the continued need for accommodation and whether alternate accommodation(s) would be more effective or appropriate. Initial and periodic reassessments shall be documented in the detainee's medical and/or facility file.

g. Documentation

After the facility has completed its review of a detainee with a disability or of a request for an accommodation, facility staff shall place written documentation of the following in the detainee's medical and/or detention file, as appropriate:

- 1) date of the initial assessment interview with the detainee with a potential disability, along with the name(s) and title(s) of any/all facility staff in attendance;
- 2) summary of the detainee's request, if any, including any specific accommodations requested, and any information or

observations related to the detainee's disability;

- 3) finding on whether the detainee has a disability and how the disability or impairment limits the detainee's ability to access programs or activities within the detention setting;
- 4) the facility's final decision on any requested accommodations;
- 5) provision of any aids or services to the detainee, including the specific type(s) of accommodation provided and/or steps taken by the facility, and the implementation date(s);
- 6) a copy of any written notification provided to the detainee, including the justification in the case of a denial; and
- 7) the results and date(s) of any reassessment(s), if applicable, including reasons for any decisions made.

## G. Denial of an Accommodation

Permissible reasons for the facility to deny an accommodation to a detainee who has been determined to have a disability include: (1) the detainee is not denied access to the facility's programs or activities because of a disability; (2) there is not a nexus between the disability and the requested accommodation; (3) the requested accommodation would fundamentally alter the nature of the program, service, or activity; (4) the requested accommodation would result in an undue financial and administrative burden; or (5) the detainee poses a direct threat to staff or other detainees.

Both "fundamental alteration" and "undue financial and administrative burden" are generally high standards that are difficult to meet. Further, if a particular accommodation would result in an undue financial and administrative burden or fundamental

alteration, the facility must take any other action that would not result in such an undue burden or fundamental alteration but would nevertheless ensure that, to the maximum extent possible, detainees with a disability receive the benefits and services of the program or activity. Similarly, determinations that individuals pose a "direct threat" are generally very rare, and require a careful, individualized assessment as described below.

### 1. Fundamental Alteration

A "fundamental alteration" to a facility's programs, services, or activities is a change that is so significant that it alters the essential nature of the program, service, or activity offered. Whether a change constitutes a fundamental alteration is a determination that must be made on a case-by-case basis, and that must consider the unique characteristics of each facility and each detainee with a disability.

### 2. Undue Financial and Administrative Burden

An "undue financial and administrative burden" is a significant difficulty or expense related to a facility's operations, programs, or activities. In evaluating whether a particular accommodation would result in an undue burden, the facility must consider all resources available for use in the funding and operation of the conducted program or activity *as a whole*.

### 3. Direct Threat

The facility may justify the denial of an accommodation to a detainee with a disability on the basis of the detainee posing a direct threat to staff or other detainees only if providing the accommodation would unavoidably exacerbate the threat. The determination that a detainee with a disability poses such a direct threat to staff or other detainees must be reached through an individualized assessment by a multidisciplinary team. The assessment must rely on reasonable judgment and current medical evidence, or the best available

objective evidence, to determine the nature, duration, and severity of the risk, and whether any modifications of policies, practices, or procedures can mitigate or eliminate the risk. Detainees who are found to pose a direct threat are nevertheless entitled to auxiliary aids or services to allow for effective communication.

## H. External Notifications

### 1. Notification of a Detainee with a Communication or Mobility Impairment

The facility shall notify the Field Office Director as soon as practicable, but no later than 72 hours, after the multidisciplinary team has completed its review of the needs of any detainee with a communication or mobility impairment. This notification must include, at a minimum,

- a. the nature of the detainee's disability or impairment;
- b. the accommodation requested by the detainee; and
- c. the facility's plan to accommodate the detainee.

### 2. Notification of Facility Denials and Provision of Alternative Accommodations

The facility shall notify the Field Office Director in writing within 72 hours of any final denial by the facility administrator or assistant facility administrator of any accommodations request reviewed by the multidisciplinary team. This notification must include, at a minimum,

- a. the nature of the detainee's disability;
- b. the accommodation requested by the detainee;
- c. the reason for denial; and
- d. any steps the facility has taken to address the detainee's needs.

ICE may review the facility's denial of a request for an accommodation. The facility shall provide additional information as needed to further ICE's

review, and shall cooperate with ICE on any additional steps that may be necessary.

## I. Staff Training

Training on the facility's Disability and Reasonable Accommodations procedures shall be provided to employees, volunteers, and contract personnel, and shall also be included in annual refresher training thereafter. New facility staff, including contractors and volunteers, shall receive this training as part of the Initial Orientation training required by Standard 7.3. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's disability accommodations policy.

"Appendix 4.8.A: Resources" following this standard lists resources available from the U.S. Department of Justice and organizations that may be useful in developing a training program, and/or for direct use in training.

## J. Detainee Orientation

The facility orientation program required by standard 2.1, "Admission and Release," and the detainee handbook required by standard 6.1, "Detainee Handbook," shall notify and inform detainees about the facility's disability accommodations policy, including their right to request reasonable accommodations and how to make such a request. The facility will post other documents for detainee awareness in detainee living areas and in the medical unit, as requested by the local ICE/ERO Field Office.

## Appendix 4.8.A: Resources

*Note: This appendix is not, and should not be interpreted as, legal advice. This appendix is intended only as a reference. The materials referenced herein are non-exhaustive, and facilities are responsible for determining whether and how any additional laws apply.*

### Applicable Federal Laws and Regulations

**Section 504 of the Rehabilitation Act of 1973**, as amended, 29 U.S.C. § 794 (Section 504)

- Section 504 prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. Section 504 requires that no individual with a disability may be denied the opportunity to participate in a program, service, or activity solely by reason of a disability. The facility is required to provide reasonable modifications to provide individuals with disabilities with an equal opportunity to access, participate in, or benefit from the facility's programs, services, and activities. When considering what reasonable modifications to provide, the facility will engage in an interactive and individualized process that considers the individual's needs and gives primary consideration to the preferences of the individual with a disability.
- DHS' Section 504 implementing regulations: 6 C.F.R. Part 15
- Link to DHS' Section 504 regulations: <https://www.gpo.gov/fdsys/pkg/CFR-2004-title6-vol1/pdf/CFR-2004-title6-vol1-part15.pdf>

**Architectural Barriers Act of 1968**, 42 U.S.C. §§ 4151 *et seq.* (ABA)

- The ABA requires that buildings and facilities that are designed, constructed, or altered with

Federal funds, or leased by a Federal agency, comply with Federal standards for physical accessibility. ABA requirements are limited to architectural standards in new and altered buildings and in newly leased facilities. They do not address the activities conducted in those buildings and facilities.

- Implementing Regulations: 41 CFR Subpart 101-19.6
- Link to the ABA: <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards>

### U.S. Department of Homeland Security (DHS) Resources

#### **Directive No. 065-01: Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment)**

- This Directive establishes the DHS policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504.  
[https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access\\_0\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access_0_1.pdf)

#### **Directive 065-01-001: Instruction on Nondiscrimination for Individuals with a Disability in DHS-Conducted Programs and Activities (Non-Employment)**

- This Instruction implements the DHS Directive 065-01, Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment).  
[https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities\\_03-07-15.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities_03-07-15.pdf)

#### **A Guide to Interacting with People who Have Disabilities:**

- The DHS Office for Civil Rights and Civil Liberties developed this Guide to assist DHS personnel, contractors, and grantees in their interactions with people who have disabilities. Under Section 504, DHS has a legal obligation to ensure nondiscrimination in the employment of people with disabilities as well as by providing program access, physical access, effective communication, and reasonable accommodation to people with disabilities encountered and served by DHS programs and activities. Examples of these interactions include detainees with disabilities who are in ICE custody awaiting a hearing or removal; this also includes individuals with disabilities who are members of the public, a family member, friend and/or attorney of a detainee who seek to access ICE programs, services and activities. Ensuring nondiscrimination often begins by practicing effective methods for interaction, such as treating individuals with respect and using appropriate language. This Guide offers a summary of disability myths and facts, guidance on appropriate language, and tips for successfully interacting with people who have disabilities. It is intended as a general overview of the topic and does not supplant any specific policies and procedures used by the DHS Components.

[https://www.dhs.gov/sites/default/files/publications/guide-interacting-with-people-who-have-disabilities\\_09-26-13.pdf](https://www.dhs.gov/sites/default/files/publications/guide-interacting-with-people-who-have-disabilities_09-26-13.pdf)

### **Other Federal Government Resources**

**Disability.gov:** [www.disability.gov](http://www.disability.gov)

- Disability.gov is the U.S. federal government website for comprehensive information about disability-related programs, services, policies, laws and regulations nationwide. The site links to thousands of resources from many different federal government agencies, as well as state and local governments and nonprofit organizations across the country. New resources are frequently

added to Disability.gov's 10 main subject areas: Benefits, Civil Rights, Community Life, Education, Emergency Preparedness, Employment, Health, Housing, Technology and Transportation.

**U.S. Department of Justice, Disability Rights Section:**  
[www.ada.gov](http://www.ada.gov)

- ADA.gov is a website operated by the Disability Rights Section in the Civil Rights Division of the U.S. Department of Justice (DOJ) to continuously provide new and updated information and guidance on the Americans with Disabilities Act (ADA) and its requirements. DOJ also operates a toll-free information line for those seeking to comply with the ADA: (800) 514-0301 for voice calls; or (800) 514-0383 for TTY. [Note: The ADA does not apply to ICE's detention programs and activities. However, ada.gov provides helpful disability-related technical assistance materials on various subjects.]

**The U.S. Access Board:** [www.access-board.gov](http://www.access-board.gov)

- The U.S. Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology. The Board develops and maintains design criteria for the built environment, transit vehicles, telecommunications equipment, medical diagnostic equipment, and information technology. The Board also provides technical assistance and training on these requirements and on accessible design and continues to enforce accessibility standards that cover federally funded facilities. The Board's Section 508 Standards apply to electronic and information technology procured by the federal government, including computer hardware and software, websites, phone systems, and

copiers. They were issued under section 508 of the Rehabilitation Act which requires access for both members of the public and federal employees to such technologies when

developed, procured, maintained, or used by federal agencies. The Board operates a toll-free-line: (800) 872-2253 or TTY (800) 993-2822.