

2.2 Contraband

Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard protects residents and staff and enhances safe and secure Center operations by identifying, detecting, controlling, and properly disposing of contraband.

Various terms used in this standard may be defined in the ICE Family Residential Standard on *Definitions*.

Program Philosophy

The requirements of this standard must be implemented in accordance with the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes*.

A. Language Access and Disability Requirements

Centers will adhere to the language access and disability laws, regulations, responsibilities, requirements, and laws cited in the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes* and the ICE Family Residential Standard on *Disability Identification, Assessment, and Accommodation*. These requirements must be promulgated in all Center policies, practices, and operations and its themes must be fully incorporated into every Center activity. This is of critical importance and will directly impact resident life, health, and safety.

Expected Outcomes

The expected outcomes of this standard are as follows (specific requirements are defined in the Expected Practices section in this standard):

1. Contraband will be identified, detected, controlled, and disposed of properly based on established procedures.
2. Resident personal property that would be considered contraband within the Center will be mailed to a third party or stored until the resident's discharge, unless that property is illegal to possess or constitutes a threat to safety or security. Contraband that is considered illegal or a threat to the safety and security of the Center will be disposed of accordingly.
3. Contraband that may be evidence in connection with a violation of a criminal statute will be preserved, inventoried, controlled, and stored with a documented chain of custody.

Standards Affected

This standard replaces the ICE Family Residential Standard on *Contraband* dated 12/21/2007.

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Expected Practices

A. “Hard” and “Soft” Contraband

Contraband is anything residents are not authorized to have in their possession.

A resident found in possession of hard contraband could face corrective action or criminal prosecution. Hard contraband includes, but is not limited to, any item that:

- Is inherently dangerous; or
- May otherwise interfere with safe and secure Center operations.

Examples of hard contraband include:

- Ammunition or explosives;
- Combustible or flammable liquids;
- Hazardous or poisonous chemicals and gases;
- Weapons;
- Intoxicants;
- Currency (where prohibited); and
- Narcotics and other controlled substances not dispensed or approved by the medical unit, not used as prescribed, or in the possession of a resident other than the person for whom it was prescribed.

Staff will consult the Center pharmacist or other health services staff members when uncertain about whether a prescribed medication represents contraband.

Upon arrival, medicine the resident brings into the Center will be forwarded to the Center medical staff for disposition as specified under the ICE Family Residential Standard on *Health Care*. Only replacement medication duly approved by the Center medical staff will be dispensed to the resident.

Soft contraband includes, but is not limited to, “nuisance” items that do not pose a direct and immediate threat to safety or security, but that have the potential to create dangerous or unsanitary conditions in the Center (e.g., excess papers that create a fire hazard, inappropriate written materials, food items that are spoiled or retained beyond the point of safe consumption).

If excessive authorized legal materials create a fire hazard, then the Center will provide an alternate storage area accessible to the resident.

B. Procedures for Handling Contraband

All Centers will have written policies and procedures for handling contraband, including the seizure of contraband, disputed ownership, resident or government property defined as contraband, and the preservation, inventory, and storage of contraband as evidence of a crime.

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1. Contraband Seizures

Staff will seize contraband:

- Found in the physical possession or living and activity area of a resident (including a resident awaiting repatriation);
- Found in common areas;
- Found in incoming or outgoing mail;
- Discovered during admission in-processing; and
- Found in transport vehicles.

Exceptions may occur only upon written authorization of the Center Administrator.

2. Religious Items

The Center Administrator will consult the Center's religious authority before confiscating a religious item that is deemed "soft" contraband (see also the ICE Family Residential Standard on *Religious Practices*).

3. Disputed Ownership

When a resident's claimed ownership of potential contraband material is in question, staff will:

- Inventory and store the items pending verification of ownership; and
- Provide the resident with a copy of the inventory as soon as practicable and place a second copy in the resident's file. The resident will have seven days following receipt of the inventory to prove ownership of the listed items.

When the resident establishes ownership, Centers will process the contraband, provide the resident a receipt, and place a copy of the receipt in the resident's file.

Centers will deny claims:

- Arising from the unauthorized use of government property; and
- For any item acquired, without authorization, from another resident.

When ownership is disputed, staff will attempt to resolve the ownership dispute. However, if ownership cannot be established, then Centers will hold the item for 120 days before considering its destruction, to afford residents ample opportunity to obtain verification of ownership and/or appeal the decision in accordance with the ICE Family Residential Standard on *Grievance System*.

4. Resident Property Defined as Contraband

Staff will seize all hard and soft contraband. In the event that the contraband is not illegal to possess under criminal statutes and would not otherwise pose a threat to security, staff will inventory and provide a receipt for the property. At the resident's request, the staff will mail the property to a third party, or store it with the resident's other stored personal property, in accordance with the ICE Family Residential Standard on *Funds and Personal Property*. If no storage is available and the resident chooses not to provide an appropriate mailing address within 30 days or is financially able but unwilling to pay the postage, then the Center Administrator, after ICE/Enforcement and

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Removal Operations concurrence and after providing the resident with written notice of the intent to destroy the property along with information on how to retain the property in question, may dispose of the perishable property in accordance with the Contraband Destruction section in this standard.

5. Criminal Evidence

Contraband that may be evidence in connection with a violation of a criminal statute will be preserved, inventoried, controlled, and stored with a documented chain of custody, and reported to the appropriate law enforcement authority for action and possible seizure, destruction, or disposition.

6. Government Property

Contraband that is government property will be retained as evidence for possible corrective action or criminal prosecution; after which, as appropriate, it may be:

- Returned to the issuing authority;
- Returned to normal stock for reissue; or
- Destroyed, with the approval of the Center Administrator.

C. Contraband Destruction

The Center Administrator will establish a procedure for the destruction of contraband items other than perishable property.

Contraband may be destroyed when no longer needed for corrective action or criminal prosecution. It also may be kept for official use, such as use as a training tool, if secured with limited access when not in use.

Staff will inventory and receipt hard contraband and it may be destroyed when no longer needed for corrective action or criminal prosecution. The ICE Family Residential Standard on *Grievance System* does apply to instances of hard contraband destruction.

Staff will inventory and receipt soft contraband and it may be mailed to a third party where appropriate, or stored with the resident's other unauthorized property, in accordance with the ICE Family Residential Standard on *Funds and Personal Property*. If no storage is available for the contraband, and the resident chooses not to provide an appropriate mailing address or is financially able but unwilling to pay the postage, then Centers will destroy perishable contraband. Centers will provide the resident with written notice of the intent to destroy the property and how to prevent that outcome.

Staff will determine whether an item will be destroyed.

Once it is determined whether an item will be destroyed, staff will send the Center Administrator a memorandum, through official channels, describing what is to be destroyed and the rationale for destruction.

The Center Administrator will require that an item of questionable ownership be held for 120 days before its destruction can be considered, to afford the resident ample opportunity to obtain proof of

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ownership and appeal the decision in accordance with the ICE Family Residential Standard on *Grievance System*.

When corrective action is appropriate, the Center Administrator will defer his/her decision about the property until the disciplinary case, including any appeals, is resolved.

The staff member who physically destroys the property and at least one official observer will attest, in writing, to having witnessed the property's destruction.

A copy of the property disposal record will be given to the resident, and another copy will be placed in the resident's file.

D. Canine Units

Canine units will not be utilized in a residential program. Canine units will not be maintained at or near Residential Centers.

E. Notice to Residents

Centers will provide information on contraband to residents through the resident handbook and local supplement, and Center orientation, in a language or manner that they understand relative to:

- The Center's rules and procedures governing contraband; and
- Applicability of the ICE Family Residential Standard on *Funds and Personal Property* as it relates to contraband.

References

- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Funds and Personal Property
- ICE Family Residential Standard on Grievance System
- ICE Family Residential Standard on Health Care
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes
- ICE Family Residential Standard on Religious Practices
- ICE Family Residential Standard on Resident Handbook