

5.1 Correspondence and Other Mail

Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard ensures that residents will be able to correspond with their families, the community, legal representatives, government offices, and consular officials in a manner that is consistent with the safe and secure Center operations.

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. Residents will be able to correspond with their families, the community, legal representatives, government offices, and consular officials.
2. Centers will advise residents of correspondence and other mail rules at admission and through the resident handbook and local supplement (as appropriate), provided to each resident.
3. Centers will provide a system for residents to receive and send electronic messages (email).
4. The amount and content of correspondence residents send at their own expense will not be limited, except to protect public safety or safe and secure Center operations.
5. Indigent residents will receive a specified postage allowance to maintain community ties and necessary postage for special correspondence.
6. Residents will have access to general interest publications.

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7. Incoming and outgoing mail, with the exception of special correspondence or legal mail, will be opened in the presence of the resident to inspect for contraband and to intercept cash, checks, and money orders.
8. General correspondence will not be read or rejected, except if needed to maintain safe and secure Center operations; residents will be notified in writing in a language or manner they understand when correspondence is withheld in part or in full.
9. Residents will be permitted to send special correspondence or legal mail to a specified class of persons and organizations. Unless contamination is suspected, staff will open incoming mail from these persons only in the presence of the residents (unless waived).
10. Incoming and outgoing letters will be held for no more than 24 hours and packages no more than 48 hours before distribution, excluding weekends, holidays, or exceptional circumstances.

Standards Affected

This standard replaces the ICE Family Residential Standard on *Correspondence and Other Mail* dated 12/21/2007.

Expected Practices

A. General

Each Center will have written policy and procedures concerning resident correspondence and other mail. This information will be provided at admission and in the resident handbook and local supplement, as appropriate.

Centers will not limit the amount of correspondence residents may send at their own expense, except in matters of public safety and safe and secure Center operations. Centers will not limit residents to postcards and will allow envelope mailings. However, non-correspondence mail (such as packages and publications) may be subject to certain restrictions because of public safety and safe and secure Center operations.

“Special correspondence” is defined as correspondence to or from attorneys and other legal representatives, judges, courts, foreign governments, the President and Vice President of the United States, members of Congress, the Department of Justice (DOJ), U.S. Department of Homeland Security (DHS), the U.S. Public Health Service, outside health care professionals, organizations that accept resident grievances, and news media representatives. Correspondence will be treated as special correspondence only if the title and office of the sender (for incoming correspondence) or addressee (for outgoing correspondence) are identified unambiguously on the envelope, and the envelope is labeled as “SPECIAL CORRESPONDENCE.”

B. Indigent Residents

Ordinarily, a resident is considered “indigent” if he/she has fewer than \$15 in his/her account. Centers will make a timely determination as to whether a resident is indigent.

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Each Center will have written procedures that explain how indigent residents can request postage at government expense. Such procedures also will be posted in the Resident Information Center where all residents can view them.

Indigent residents will be permitted to mail at government expense:

- A reasonable amount of general correspondence mail each week;
- An unlimited amount of correspondence related to a legal matter, including correspondence to a legal representative, free legal service provider, any court, or opposing counsel; or to a consulate, potential legal representative, and any court, as determined by the Center Administrator; and
- Packages containing personal property, when the Center Administrator determines that storage space is limited and that mailing the property is in the government's best interest. See the ICE Family Residential Standard on *Funds and Personal Property* for additional information.

C. Resident Notification

The Center will notify residents of its rules on correspondence and other mail through the resident handbook and local supplement (as appropriate), provided to each resident upon admission. At a minimum, the notification will specify:

- That a resident may send mail, the procedure for sending written or electronic mail, and instructions on how outgoing mail must be addressed;
- That a resident may receive mail, the mailing address of the Center, and instructions on how envelopes will be addressed;
- That general correspondence and other mail addressed to residents will be opened and inspected in the resident's presence, unless waived by the resident or the Center Administrator, in consultation with local ICE/Enforcement and Removal Operations (ERO) staff and the Juvenile and Family Residential Management Unit (JFRMU) Onsite Coordinator, authorizes, for security reasons, inspection without the resident's presence;
- The definition of special correspondence or legal mail, including instructions on the proper labeling as "SPECIAL CORRESPONDENCE" or "LEGAL MAIL" to ensure that it is treated as privileged mail;
- That if not properly labeled, correspondence will not be treated as special correspondence. The notification will state clearly that it is the resident's responsibility to inform senders of the labeling requirement;
- That incoming special correspondence or legal mail may be opened only in the resident's presence (unless waived), and may be inspected for contraband, but not read; outgoing special correspondence or legal mail will not be opened, inspected, or read;
- That packages may neither be sent nor received without advance arrangements approved by the Center Administrator, as well as information regarding how to obtain such approval;

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- A description of mail that may be rejected by the Center (e.g., explosive manufacturing information) and that the resident will not be permitted to keep in his/her possession (e.g., clothing not in accordance with the Center dress code);
- The procedure to obtain writing implements, paper, and envelopes; and
- The procedure for purchasing postage (if any), and the rules for providing indigent and certain other residents free postage.

The rules notification will be posted in each living and activity area.

D. Mail Processing

Resident correspondence and other mail will be delivered to the resident and to the postal service on regular schedules.

Incoming correspondence will be distributed to residents within 24 hours (one business day) of receipt by the Center.

Outgoing correspondence will be delivered to the postal service no later than the day after it is received by Center staff or placed by the resident in a designated mail depository, excluding weekends and holidays.

An exception may be made for correspondence or other mail that requires special handling for security purposes. For example, in exceptional circumstances, special correspondence may be held for 48 hours, to verify the status of the addressee or sender.

As a routine matter, incoming mail will be distributed to residents on the day received by the Center. Incoming priority, overnight, and certified mail and deliveries from a private package delivery service, etc., will be recorded with resident signatures in a logbook maintained by the Center.

E. Packages

Each Center will implement policies and procedures concerning resident packages.

Residents will not be allowed to receive or send packages without advance arrangements approved by the Center Administrator. The resident will pay postage for packages and oversized or overweight mail.

F. Inspection of Incoming Correspondence and Other Mail

1. General Correspondence and Other Mail

All Centers will implement inspection procedures for all incoming general correspondence and other mail (including packages and publications) for contraband.

Staff will open and inspect incoming general correspondence and other mail (including packages and publications) in the presence of the resident unless waived by the resident or otherwise authorized by the Center Administrator. Incoming general correspondence may be read to the extent necessary to maintain safe and secure Center operations, as authorized by the Center Administrator, in consultation with the JFRMU Onsite Coordinator.

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Inspection generally is for the purpose of detecting contraband. Reading mail and email, which requires approval of the Center Administrator, may be done at random. Mail and email also may be read when a specific security concern arises with respect to an individual resident, including, but not limited to, obtaining information such as plans to commit illegal acts and plans to violate Center rules.

2. Special Correspondence or Legal Mail

Residents' written communications to or from any of the following will be labeled "special correspondence" or "legal mail":

- Private attorneys and other legal representatives;
- Government attorneys;
- Judges and courts;
- Embassies and consulates;
- The President and Vice President of the United States;
- Members of Congress;
- DOJ (including the DOJ Office of the Inspector General [OIG]);
- DHS (including ICE, ICE Health Services Corps, ERO, the DHS Office for Civil Rights and Civil Liberties, and the DHS/OIG);
- Outside health care professionals;
- Administrators of grievance systems; and
- Representatives of the news media.

Correspondence will be treated as special correspondence or legal mail only if the title and office of the sender (for incoming correspondence) or addressee (for outgoing correspondence) are identified unambiguously on the envelope, and the envelope is labeled "SPECIAL CORRESPONDENCE" or "LEGAL MAIL."

All Centers will implement procedures for inspecting for contraband and, in the presence of the resident, all special correspondence or legal mail. Residents will sign a logbook upon receipt of special correspondence and/or legal mail to verify that the special correspondence or legal mail was opened in their presence.

Staff will neither read nor copy special correspondence or legal mail. The inspection will be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

G. Inspection of Outgoing Correspondence and Other Mail

1. General Correspondence and Other Mail

Outgoing general correspondence and other mail may be inspected or read if:

- The addressee is another resident; or

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- There is evidence the item might present a threat to safe and secure Center operations, endanger the recipient or the public, or facilitate criminal activity.

The resident must be present when the correspondence or other mail, including packages, is inspected, unless otherwise authorized by the Center Administrator.

2. Special Correspondence or Legal Mail

Centers will implement procedures for inspecting outgoing special correspondence for contraband in the presence of the resident. Staff will neither read nor copy outgoing special correspondence or legal mail. The inspection will be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence or legal mail.

Staff will treat outgoing correspondence as special correspondence or legal mail only if the name, title, and office of the recipient are identified clearly on the envelope and the envelope is labeled "SPECIAL CORRESPONDENCE" or "LEGAL MAIL."

H. Rejection of Incoming and Outgoing Mail

All Centers will implement policies and procedures addressing acceptable and non-acceptable mail. Residents may receive as correspondence any material reasonably necessary for the resident to present his/her legal claim, in accordance with this standard. Correspondence and publications may be rejected in accordance with the ICE Family Residential Standard on *Contraband*.

Residents have a reasonable right to privacy which shall include receiving and sending uncensored mail unless there is a reasonable belief that the mail contains contraband. Incoming and outgoing general correspondence and other mail may be rejected to ensure safe and secure Center operations; to protect the public; or to deter criminal activity.

When incoming or outgoing mail is confiscated or withheld (in whole or in part), the resident will be notified and given a receipt.

Packages received that do not conform to the Center's package procedures will be rejected.

The Center Administrator ordinarily will consult a religious authority before confiscation of a religious item that constitutes "soft" contraband.

Correspondence and publications that may be rejected include, but are not limited to, the following:

- Material depicting activities that present a significant risk of physical violence or group disruption (e.g., material with subjects of self-defense or survival, weaponry, armaments, explosives, or incendiary devices); however, note that newspaper articles that depict or describe violence in a resident's country of origin may be relevant to a resident's legal case and should not be considered contraband automatically;
- Information regarding plans to commit illegal activities, or plans to violate ICE/ERO rules or Center guidelines;
- Information regarding the production of drugs or alcohol;
- Sexually explicit material that is obscene or indecent in nature;

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- Threats, extortion, obscenity, or gratuitous profanity;
- Cryptographic or other surreptitious code that may be used as a form of communication; or
- Other contraband (any package received without the Center Administrator's prior authorization is considered contraband).

Both sender and addressee will be provided written notice, signed by the Center Administrator, with explanation when the Center rejects incoming or outgoing mail. Rejected mail will be considered contraband and handled as detailed in the next section of this standard.

A resident may appeal rejection of correspondence through the resident grievance process.

I. Contraband Recording and Handling

When a staff member finds an item that must be removed from a resident's mail, he/she will make a written record that includes:

- The resident's name and alien number;
- The name of the sender and recipient;
- A description of the contraband in question;
- A description of the action taken and the reason for it;
- The disposition of the item and the date of disposition; and
- The staff member's signature.

Prohibited items discovered in the mail will be handled as follows:

- A receipt will be issued to the resident for all cash, which will be safeguarded and credited to the resident's account in accordance with the ICE Family Residential Standard on *Funds and Personal Property*;
- Original identity documents (e.g., passports, birth certificates) will be placed in the resident's alien file; upon request, the resident will be provided with a copy of the document that is certified by an ICE/ERO staff member to be a true and correct copy;
- Other prohibited items found in the mail will be handled in accordance with ICE Family Residential Standard on *Contraband*; however, at the discretion of the Center Administrator, soft contraband may be returned to the sender; and
- The Center Administrator will ensure that Center records of the discovery and disposition of contraband are accurate and current.

J. Postage Costs

The Center will not limit the amount of correspondence residents may send at their own expense, except to protect public safety or safe and secure Center operations.

The Center will provide a postage allowance at government expense under two circumstances:

- To indigent residents only; or

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- To all residents, if the Center does not have a system for residents to purchase stamps.

Free postage generally is limited to letters weighing one ounce or less, with exceptions allowed for special correspondence; however, in compelling circumstances, the Center also may provide free postage for general correspondence and other mail.

K. Writing Implements, Paper, and Envelopes

The Center will provide writing paper, writing implements, and standard-sized envelopes at no cost to residents. Special-sized envelopes may be provided to residents at their cost.

L. Correspondence with Representative of the News Media

A resident may use special correspondence to communicate with representatives of the news media.

A resident may not receive compensation or anything of value for correspondence with news media. A resident may not act as a reporter.

Representatives of the news media may initiate correspondence with a resident; however, such correspondence will be treated as special correspondence only if the envelope is addressed properly with the name, title, and office of the media representative and is clearly labeled "SPECIAL CORRESPONDENCE."

M. Electronic Mail (email) and other Electronic Correspondence

When timely communication through postal mail is not possible, the Center Administrator may in his/her discretion allow for a reasonable amount of communication by means of a facsimile device between the resident and his/her designated legal representatives.

Additionally, Centers will provide access to an Internet connection that residents may use to send and receive email, use instant messaging, and send and receive PDFs and/or other scanned documents that are sent electronically.

Centers will implement filters to block inappropriate websites.

Residents will be notified if email or other electronic correspondence will be monitored.

N. Notaries, Certified Mail, and Miscellaneous Needs Associated With Legal Matters

If an indigent resident without legal representation requests certain services in connection with a legal matter, such as notary public or certified mail, then the Center will provide notary public and certified mail services as needed. Indigent residents will be provided these services free of charge. Centers will not deny any request without prior authorization from the JFRMU Onsite Coordinator.

If it is unclear whether the requested service is necessary in pursuit of a legal matter, then the Office of the Principal Legal Advisor will be consulted.

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References

- ICE Family Residential Standard on Contraband
- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Funds and Personal Property
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes
- ICE Family Residential Standard on Resident Handbook