

# 5.8 Telephone Access

## Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard ensures that residents may maintain ties with their families and others in the community, legal representatives, consulates, courts, and government agencies as well as report an allegation of abuse by providing them reasonable and equitable access to telephone services.

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 have reasonable and equitable access to reasonably priced telephone services.
2. Residents with disabilities (such as hearing or speech disabilities) will be granted reasonable accommodations to allow for appropriate telephone services.
3. Residents and their legal counsel will be able to communicate confidentially and effectively with each other.
4. Privacy for resident telephone calls regarding legal matters will be ensured.
5. Telephone access procedures will foster legal access and confidential communications with attorneys.
6. Residents will be able to make free calls to the offices listed in the Direct or Free Calls section in this standard.

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7. Indigent residents (a resident is considered indigent if he/she has fewer than \$15 in his/her account) will be permitted free calls on an as-needed basis to family or other individuals assisting with the resident's immigration proceedings.
8. Resident telephone serviceability will be monitored and documented by ICE staff. Serviceability issues will be reported immediately to the vendor and monitored for timely resolution.
9. Telephones and preprogrammed numbers will be tested weekly.
10. Centers will strive to reduce telephone costs, including through the use of emerging telecommunications and Voice over Internet Protocol technologies.

### Standards Affected

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

### Expected Practices

#### A. Telephones and Telephone Services

##### 1. Number

To ensure sufficient access, each Center will provide at least one operable telephone for every 12 residents.

Centers will be operating at the optimal level when at least one telephone is provided for every eight residents.

##### 2. Cost

Generally, residents or the persons they call will be responsible for the costs of telephone calls; required exceptions are listed below.

Each Center will provide residents with access to reasonably priced telephone services. Contracts for such services will comply with all applicable State and Federal regulations and be based on rates and surcharges comparable to those charged to the general public. Contracts also will provide the broadest range of calling options including, but not limited to, international calling, calling cards, and collect telephone calls, determined by the Center Administrator to be consistent with the requirements of sound Center management.

Centers will post a list of card and calling rates in each living and activity area. Center Administrators are encouraged to explore the use of new technologies that can facilitate the provision of cost-effective means for enhancing residents' ability to communicate by telephone, including, but not limited to, wireless and/or Internet communications.

Residents will be able to receive telephone cards in the mail and during visitation in accordance with the ICE Family Residential Standard on *Correspondence and Other Mail* and the ICE Family Residential Standard on *Visitation*. The Center Administrator may place a reasonable limit on the number of telephone cards an individual resident may receive. Residents are not allowed to sell telephone cards within Centers.

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### 3. Maintenance

Each Center will maintain resident telephones in proper working order. Residents may report out-of-order telephones. Resident complaints about telephone maintenance will be addressed promptly. Designated Center staff will inspect the telephones daily, promptly reporting out-of-order telephones to the repair service so that required repairs are completed quickly. This information will be logged and maintained by each Field Office. Center staff will notify residents and the ICE/Enforcement and Removal Operations (ERO) free legal service providers of procedures for reporting problems with telephones.

ICE/ERO headquarters will maintain and provide Field Offices a list of telephone numbers for consulates and the U.S. Department of Homeland Security (DHS)/Office of the Inspector General (OIG), as determined by ICE. All Field Offices are responsible for ensuring Centers that house ICE residents under their jurisdiction are provided with current Executive Office for Immigration Review (EOIR) *pro bono* legal service information. Supplemental lists maintained by the Field Office are authorized.

### 4. Location

Centers will install telephones in areas that provide privacy, reduced noise levels, and to which residents have unimpeded access. Centers should consider the following when installing telephones:

- Installing privacy panels (side partitions) that extend at least 36 inches to prevent conversations from being overheard; and
- Placing telephones away from televisions or in any area where it can be reasonably expected that excessive noise may interfere with the caller's ability to communicate effectively.

### 5. Monitoring Resident Telephone Services

**Center Staff Requirements.** Center staff members are responsible for ensuring on a daily basis that telephone systems are operational and that the free telephone number list is posted. After ensuring that each telephone has a dial tone, the staff members must be able to demonstrate that an individual has the ability to make calls using the free call platform. Any identified problems must be logged and reported immediately to the appropriate Center and ICE/ERO staff. ICE/ERO staff will review and follow up on problems reported by residents and others.

## B. Monitoring of Resident Telephone Calls

Generally, resident calls will not be monitored. In certain limited or exceptional circumstances, telephone calls may be monitored to ensure the safety and security of staff, residents, and the Center. Each Center will have a written policy on the monitoring of resident telephone calls.

Telephone calls will not be monitored without the express written permission of the respective Field Office Director (FOD) and the concurrence of the Juvenile and Family Residential Management Unit (JFRMU) Chief. Absent a court order, resident telephone calls to a court or a legal representative will not be monitored aurally. Centers will provide monitoring information in the

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resident handbook and local supplement, as appropriate, and post the information in the telephone areas.

If telephone calls are monitored, then the Center will:

- Include a recorded message on its telephone system stating that all telephone calls are subject to monitoring;
- Notify residents in the resident handbook and local supplement provided upon admission as described in the ICE Family Residential Standard on *Admission and Release*; and
- At each monitored telephone, place a notice that states the following:
  - That resident calls are subject to monitoring; and
  - The procedure for obtaining an unmonitored call to a court, a legal representative, or for the purposes of obtaining legal representation.

ICE/ERO and the Center will coordinate in posting the notice in Spanish and in the prominent languages of most residents with limited English proficiency (LEP), where practicable.

A resident's call to a court, a legal representative, DHS/OIG, DHS Civil Rights and Civil Liberties, or for the purposes of obtaining legal representation may not be monitored electronically without a court order.

### C. Monitoring Resident Telephone Services

FODs will ensure that all telephones for resident use are tested at least weekly.

Staff will report any telephone serviceability problem within 24 hours to the appropriate ICE point of contact.

Staff will document each serviceability test on a form that has been provided by ERO, and each Field Office will maintain those forms, organized by month, for three years.

### D. Resident Notification

Each Center will provide telephone access rules in writing to each resident upon admission and will post these rules where residents may see them easily. Centers will post these rules where practicable in Spanish and in the prominent language of most residents with LEP.

Telephone access hours also will be posted. Updated telephone and consulate lists will be posted in resident living and activity areas. Translation and interpretation services will be provided as needed.

### E. Resident Access

Each Center Administrator will establish and oversee rules and procedures that provide residents reasonable and equitable access to telephones 24 hours a day. Telephones will be located in parts of the Center that are accessible to residents. Telephone access hours will be posted near the telephones.

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Each Center will provide residents access to international telephone service.

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

### 1. Availability

When required by the volume of resident telephone demand, 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 institution of an advanced sign-up system.

### 2. Emergencies

Telephone privileges may be suspended entirely during an emergency, but only with the authorization of the Center Administrator or designee and only for the briefest period necessary under the circumstances. If suspension of telephone access exceeds 12 hours, then Centers must notify ICE/ERO.

## F. Direct or Free Calls

Each Center will permit residents to make direct or free calls to the offices and individuals listed below. The JFRMU Onsite Coordinator will ensure that all information is kept current and is provided to each Center. This information will be posted in the living and activity area and the telephone area(s). A Center may place reasonable restrictions on the hours, frequency, and duration of such direct and/or free calls, but may not limit a resident's attempt to obtain legal representation. Full telephone access will be granted for a resident to contact the following:

- The EOIR including local immigration court;
- The Board of Immigration Appeals;
- Federal and State courts with jurisdiction over the particular Center, or where the resident is or may become involved in a legal proceeding;
- Consular officials;
- DHS/OIG;
- U.S. Citizenship and Immigration Services;
- The American Bar Association;
- *Pro bono* legal representatives who appear on a list supplied by EOIR serving the particular Center;
- DHS Joint Intake Center (JIC);
- ICE Office of Professional Responsibility (OPR);
- ICE Detention Reporting and Information Line;
- All legal representatives, when the purpose is to obtain legal representation;
- A resident's legal representative for any consultation related to expedited removal;

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- Legal service providers or organizations listed on the ICE/ERO free legal service provider list;
- United Nations High Commissioner for Refugees, from asylum-seekers and Stateless individuals;
- Federal, State, or local government offices to obtain documents relevant to his/her immigration case; or
- Immediate family or others for residents in personal or family emergencies or who otherwise demonstrate a compelling need (to be interpreted liberally).

Residents also will be allowed to make one telephone call within two hours of arrival for which they will not be charged.

### 1. Time Requirements

Staff will allow residents to make such calls as soon as possible after submission of requests, factoring in the urgency stated by the resident. Access will be granted within 8 business hours and will not exceed 24 hours of the request. Staff must document and report to ICE/ERO any incident of delay beyond eight waking hours.

### 2. Indigent Residents

Ordinarily, a resident is considered indigent if he/she has fewer than \$15 in his/her account. A Center will make a timely effort to determine indigence.

Indigent residents are afforded the same telephone access and privileges as other residents. Each Center will enable all residents to make calls to the ICE/ERO-provided list of free legal service providers and consulates at no charge to the resident or the receiving party. The indigent resident may request a call to immediate family or others in personal or family emergencies or on an as-needed basis.

In addition to the calls listed in the Direct or Free Telephone Calls section in this standard, indigent residents will be provided the following free telephone calls:

- One telephone call per week to immediate family;
- Telephone calls resulting from an emergency telephone message received;
- Upon request, telephone calls to established legal representatives; and
- For *pro se* indigent residents, telephone calls on an as-needed basis to family and other individuals assisting with the resident's immigration proceedings.

### 3. Telephone System Limitations

If the limitations of an existing telephone system preclude meeting these requirements, then the Center Administrator must notify ICE/ERO so that a means of telephone access may be provided.

Centers will require telephone service providers to program and keep current the telephone system.

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### G. Legal Calls

#### 1. Restrictions

A Center may neither restrict the number of calls a resident places to his/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, then they will be no shorter than 20 minutes, and the resident will be allowed to continue the call at the first available opportunity, if desired. When legal telephone calls are restricted, the JFRMU Onsite Coordinator will be notified.

A Center 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 attempt to obtain legal representation.

#### 2. Privacy

For resident telephone calls regarding legal matters, each Center will 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 telephone calls made in reference to legal matters.

If residents have difficulty in making a confidential call, then they should contact a Center supervisor or ICE/ERO.

The Center will inform residents to contact a staff member if they have difficulty making a confidential call relating to a legal proceeding. If notified of such a difficulty, the staff member will 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 36 inches to prevent conversations from being overheard;
- Telephones placed where conversations may not be overheard readily by others;
- Office telephones on which residents may be permitted to make such calls; and
- Supervision of residents within eyeshot, but out of earshot.

### H. Telephone Access for Residents with Disabilities

The Center will provide a Telecommunications Device for the Deaf (TDD) device or Accessible Telephone (telephones equipped with volume control and telephones that are hearing-aid compatible for residents who are deaf or hard of hearing). Residents who are deaf or hard of hearing will be provided access to the TDD on the same terms as hearing residents are provided access to telephones. Except to the extent that there are time limitations, residents using the TDD will be granted additional time as needed.

Consistent with safe and secure Center operations and in accordance with the Family Residential Standard on *Disability Identification, Assessment, and Accommodation*, the Center may allow for use of other equipment such as video relay, video phones, and Internet video calls (e.g., Skype) for

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residents who are deaf or hard of hearing. Centers will permit residents with disabilities the opportunity to submit requests for the auxiliary aid of their preference.

Accommodations also will be made for residents with other disabilities.

### I. Inter-center Telephone Calls

Upon a resident's request, Center staff will make special arrangements to permit the resident to speak by telephone with an immediate family member detained in another Center. Immediate family members include spouses, common-law spouses, parents, stepparents, foster parents, brothers, sisters, biological or adopted children, and stepchildren.

Reasonable limitations may be placed on the frequency and duration of such calls. Residents will be allowed a minimum of 1 call every 14 days. Center staff will liberally grant such requests to discuss legal matters and will afford the resident privacy to the extent practicable, while maintaining adequate security.

### J. Incoming Calls

The Center will take and deliver telephone messages to residents within four hours of receipt.

When Center staff receives an emergency call or call related to a legal matter, the caller's name and telephone number will be obtained and promptly given to the resident as soon as possible but not to exceed two hours. The resident will be permitted to return this call promptly. The Center will enable indigent residents to make a free return emergency call.

## References

- ICE Family Residential Standard on Admission and Release
- ICE Family Residential Standard on Correspondence and Other Mail
- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes
- ICE Family Residential Standard on Visitation
- ICE Family Residential Standard on Disability Identification, Assessment, and Accommodation