

7.4 Resident Transfers

Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard is written to ensure that transfers of residents from one Center to another are accomplished in a manner that ensures the safety and security of the staff, residents, and the public; and that the process relating to the transfer of residents is carried out professionally and responsibly with respect to notifications, resident records, and the protection of resident funds and property. This standard also ensures compliance with the ICE/Enforcement and Removal Operations (ERO) Detainee Transfer Directive.

Various terms used in this standard may be defined in 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. Decisions to transfer residents are made by the Field Office Director (FOD) or his/her designee on the basis of complete and accurate case information and principles set forth in the ICE/ERO Detainee Transfer Directive, other applicable ICE/ERO policies, and any applicable court orders. All resident transfers and transfer determinations will be based on a thorough and systematic review of the most current information available from ICE/ERO.
2. When residents have legal representation, the representative will be notified prior to transfer of the resident. In the case of compelling or unusual circumstances, the legal representative may be notified no later than 24 hours after the transfer. Contacting the legal representative will be the responsibility of ICE/ERO.

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3. The resident will be informed of the transfer orally and in writing in a language or manner that he/she can understand, immediately prior to transport.
4. Transporting staff, as well as sending and receiving Center staff, will have accurate and complete records for each transferred resident.
5. Transfers of residents will be accomplished safely and securely.
6. Residents with special health care considerations will be transferred with appropriate medical and referral information, including appropriate medications to ensure continuity of care. All transfers will take into consideration the medical and mental health care requirements of the resident. Residents who are infected with airborne or other infectious pathogens, or who are displaying signs and symptoms of airborne pathogens, or as medically indicated require isolation, will be assigned to a respiratory isolation unit or other medically appropriate isolation unit, determined by a Center's Clinical Medical Authority (CMA) until such time as the transfer is medically approved for transport. Transporting staff will be instructed in the proper transportation techniques for transporting residents diagnosed with, or suspected of, infectious disease.
7. Transferred resident funds, valuables, and other personal property will be safeguarded and transported in accordance with the ICE Family Residential Standard on *Transportation (by Land)*, the ICE Family Residential Standard on *Admission and Release*, and the ICE Family Residential Standard on *Funds and Personal Property*.

Standards Affected

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

Expected Practices

A. Responsibilities of ICE/ERO

Decisions to transfer residents will be approved by the FOD or his/her designee on the basis of complete and accurate case information and principles set forth in the ICE/ERO Detainee Transfer Directive, other applicable ICE/ERO policies, and any applicable court orders.

Staff will conduct transfers in accordance with the ICE Family Residential Standard on *Transportation (by Land)*. They also must adhere to the ICE Family Residential Standard on *Funds and Personal Property* while conducting transfer details.

Attorney notifications relative to resident transfers are the responsibility of ICE/ERO, which will make attorney notifications in accordance with the ICE/ERO Detainee Transfer Directive and other applicable ICE/ERO policies. Flores Class Members: Consistent with the Flores Settlement Agreement (paragraph 27) "no minor who is represented by counsel shall be transferred without advance notice to such counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived such notice, in which cases notice shall be provided to counsel within

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24 hours following the transfer.” ERO ICE is responsible to provide this notice and to document that notice was given both in the A-file and in EARM. An email notification is preferable with a copy included in the A-file and a similar notation in EARM indicating the email address to which the notice was sent. Staff at the sending Center will ensure that residents scheduled for transfer are not permitted telephone or email access once the resident has been notified of the transfer. Furthermore, staff will ensure that residents scheduled for transfer do not have contact with the general population prior to the transfer.

ICE/ERO will notify residents of their impending transfer after the resident is placed in a suitable location away from the general population and immediately prior to the transfer. ICE/ERO will notify the resident that they are being transferred to another Center, that this is not a transfer for discharge, and that they may place a domestic telephone call, at no expense to the resident, after arrival at the new Center.

ICE/ERO will ensure that the Resident Transfer Notification (Appendix 7.4.A: Resident Transfer Notification) is completed and signed by both the resident and a witnessing staff member. The notification will take place in a language or manner that the resident understands. The completed form will be given to the resident and a copy will be placed into the resident’s alien file (A-file).

Staff will ensure that all resident funds, valuables, and property are returned to the resident and properly documented prior to departure.

Processing supervisors will ensure that transporting staff are advised of any precautions provided by ICE/ERO, the Center CMA, or Center staff regarding any special considerations relative to residents to be transported.

Transporting staff will read their instructions and discuss contingency plans with a supervisor and/or respective Field Office before departure.

Prior to transferring residents, ICE/ERO should review all cases to make sure the transfer is necessary. Residents should not be considered for transfer if: they have immediate family in the area of responsibility; there is an attorney of record (Form G-28 on file) pending or currently in proceedings with the Executive Office for Immigration Review (EOIR); and/or they have been granted a bond or have been scheduled for a bond hearing. Before a transfer is made where any of these factors exist, the transfer must be approved at the Assistant FOD level or higher.

A transfer may be deemed necessary by the FOD or his/her designee for any of the following reasons: to provide appropriate medical care; to fulfill an approved transfer request by the resident; and/or for the safety and security of the resident, other residents, Center personnel, or ICE staff, or at the discretion of the agency.

Orantes Class Members. ICE is prohibited from transferring Salvadoran class members who are not represented by counsel from the district of their immigration arrest for at least seven days, to afford them the opportunity to secure counsel. The only exception to this rule applies to Salvadorans who are not eligible to apply for asylum such as individuals with final orders of removal or reinstatement of prior removal orders.

Flores Class Members: Consistent with the Flores Settlement Agreement (paragraph 27) “no minor who is represented by counsel shall be transferred without advance notice to such

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counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived such notice, in which cases notice shall be provided to counsel within 24 hours following the transfer.” ICE/ERO is responsible to provide this notice and to document that notice was given both in the A-file and in EARM. An email notification is preferable with a copy included in the A-file and a similar notation in EARM indicating the email address to which the notice was sent.

B. Responsibilities of the Sending Center—Notifications

1. Communications with Receiving Center

ICE/ERO will not conduct a resident transfer unless a Form G-391 has been properly issued. ICE/ERO will ensure that: Forms G-391 (“Official Detail”) and I-216 (“Record of Persons and Property Transfer”) are completed; Form G-391 is properly signed and clearly indicates the names of the residents, the place or places they are to be escorted, and that all the relevant forms have been prepared and properly authorized with appropriate signatures; and said forms accompany the transfer. If the Center Administrator or his/her designee believes that a scheduled transfer of a resident should not take place, then the Center Administrator will notify ICE/ERO prior to the transfer.

2. Resident/Attorney Notification

Immediately prior to transfer, the sending Center will ensure that the resident and attorney of record is informed, in a language or manner he/she can understand, that he/she is being transferred to another Center and is not being removed (if applicable).

The sending Center will ensure that specific plans and time schedules are not discussed with residents and that following notification, the resident:

- Is not permitted to make or receive any telephone calls until the resident reaches the destination Center; and
- Does not have contact with any resident in the general population until the resident reaches the destination Center.

At the time of the transfer, the sending Center will provide the resident, in writing, the name, address, and telephone number of the Center to which he/she is being transferred, using the Appendix 7.4.A: Resident Transfer Notification Form.

- When residents have legal representation, the representative will be notified prior to transfer of the resident. In the case of compelling or unusual circumstances, the legal representative may be notified no later than 24 hours after the transfer. Contacting the legal representative will be the responsibility of ICE/ERO.

Notification to the attorney should include reason for transfer, name, location, and telephone number of the new facility. Notification should be done as soon as practical but no later than 24 hours after the transfer.

The sending Center will ensure that the resident acknowledges, in writing, that:

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- He/she has received the transfer destination information;
- It is his/her responsibility to notify family members if so desired, upon admission into the receiving Center; and
- He/she may place a domestic telephone call, at no expense to the resident, upon admission into the receiving Center.

The sending Center will place a copy of the “Resident Transfer Notification” form, or its equivalent, in the resident’s file.

ICE/ERO should update and document the resident’s A-file accordingly.

3. Notification to the Health Services Administrator (HSA)

Upon receipt of an authorization to transfer a resident from ICE/ERO, the sending Center staff will notify the Center HSA so that he/she can prepare a medical transfer summary sheet and any other needed medical documentation or actions as listed in the ICE Family Residential Standard on *Health Care*. The Center’s HSA will notify the Center Administrator and ICE/ERO when a resident’s physical or mental condition requires clearance by the Center’s health care provider prior to transfer, or medical escort and specialized care (e.g., dialysis) during or immediately following transfer.

4. Preparation for Transfer and Notification to Escorting Staff Members

The sending Center will ensure that a properly executed Form I-203 or I-216 accompanies the transfer.

The sending Center will ensure that escorting staff members are advised of any security considerations relative to residents being transported so that escorting staff members can take necessary precautions.

5. Food and Water during Transfer

Food and water will be provided in accordance with the ICE Family Residential Standard on *Transportation (by Land)* and the ICE Family Residential Standard on *Food Service*. The sending Center is responsible for the preparation and delivery of proper meals prior to departure.

C. Responsibilities of the HSA at the Sending Center

1. Transfer of the Resident’s Medical Record

When a resident is transferred within the ICE Health Service Corps (IHSC) system, ICE/ERO will ensure that the resident’s full medical record, if it is sent, includes Form IHSC-849 (“Medical/Mental Health Transfer Summary”), which should be placed in a sealed envelope or other container labeled with the resident’s name and alien number (A-number) and marked “MEDICAL CONFIDENTIAL.”

When a resident is transferred to a Center, the sending Center will ensure that the Transfer Summary accompanies the resident. Upon request of the receiving Center, the sending Center will transmit a copy of the resident’s full medical/dental record within 10 business days or sooner if the receiving Center determines the resident has a medically urgent matter.

Upon arrival at the receiving Center, transporting staff will deliver any medications to the receiving Center’s medical personnel.

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2. Medical/Mental Health Transfer Summary

The sending Center's medical staff will prepare a Form IHSC-849 that must accompany the resident. The summary form will include:

- Tuberculosis (TB) clearance, including Purified Protein Derivative (PPD) with the test dates, and chest X-ray results if the resident has received a positive PPD reading;
- Current mental and physical health status, including all significant health issues;
- Current medications, with specific instructions for medications that must be administered en route;
- Any pending medical or mental health evaluations, tests, procedures, or treatments for a serious medical condition scheduled for the resident at the sending Center; and
- The name and contact information of the transferring medical official.

3. Notification of Medical/Psychiatric Alerts or Holds

Upon receiving notification that a resident is to be transferred, appropriate medical staff at the sending Center will notify the Center Administrator of any medical/psychiatric alerts or holds that have been assigned to the resident, as reflected in the resident's medical records. The Center Administrator will be responsible for providing notice to ICE/ERO of any medical/psychiatric alerts or holds placed on a resident that is to be transferred.

4. Medical Holds

If a resident has been placed in a medical hold status, then the resident must be evaluated and cleared by a licensed independent practitioner prior to transfer. If the evaluation indicates that transfer is medically appropriate but that health concerns associated with the transfer remain, then medical staff at the sending Center will notify ICE and will provide requested information and other assistance, to the extent practicable, to enable ICE to make appropriate transfer determinations.

5. Medical Escort

The CMA or designee must inform the Center Administrator in writing if the resident's medical or psychiatric condition requires a medical escort during transfer.

6. Medications

Prior to transfer, medical staff will provide the transporting staff members instructions and, if applicable, medications for the resident's care in transit.

Medical staff will ensure that the resident is transferred with, at a minimum, 7 days' worth of prescription medications (for TB medications, up to 15 days' supply) to guarantee the continuity of care throughout the transfer and subsequent intake process.

Medication will be:

- Placed in a property envelope labeled with the resident's name and A-number and appropriate administration instructions;
- Included in the transfer; and

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- If unused, turned over to the receiving medical personnel.

D. Responsibilities of the Sending Center Relative to Residents' Property Prior to Transport

Before transferring a resident, the sending Center's processing staff will ensure that all funds and small valuables are properly documented on Forms G-589 and I-77.

1. Funds and Small Valuables

Before transfer, the sending Center will return all funds and small valuables to the resident and close out all G-589 forms in accordance with the ICE Family Residential Standard on *Funds and Personal Property*.

During transport, a resident ordinarily will have the following items in his/her possession (items that might present a security risk or are particularly bulky may be transported separately in the vehicle's storage area):

- Cash;
- All legal material;
- Small valuables such as jewelry;
- Address books, telephone lists;
- Correspondence;
- Dentures and prescription or reading glasses;
- Small religious items;
- Photos;
- Toys, games, and/or children's books; and
- Similar small personal property items.

The receiving Center will create a new G-589 form during admissions in-processing in accordance with the ICE Family Residential Standard on *Funds and Personal Property*.

2. Large Valuables, Excess Luggage, and Other Bulky Items

Resident access to large items of personal property during transport is prohibited; however, ordinarily, all items stored at the sending Center will accompany the transferee to the receiving Center.

In accordance with the ICE Family Residential Standard on *Funds and Personal Property*, if the property accompanies the resident, then:

- The sending Center will close out all G-589 forms; and
- The receiving Center will create new G-589 and I-77 forms during admissions in-processing.

If the receiving Center does not accept excess, oversized, or bulky belongings (including, but not limited to, suitcases, cartons, televisions, etc.), then the sending Center will arrange to store the

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property elsewhere, or process the excess property in accordance with ICE/ERO standard operating procedures.

If the adult resident is unable to provide an appropriate mailing address or is financially able but unwilling to pay for shipping, then ICE/ERO may dispose of the property after providing the resident written notice in accordance with ICE/ERO standard operating procedures.

If the resident cannot provide an appropriate address because one does not exist, then the resident will keep the property receipts for the stored items, and the sending Center will store the property and notify the receiving Center in writing that the sending Center requires notice before the resident's discharge or further transfer, to ensure the resident receives the stored property.

E. Responsibilities of the Transporting Staff Member

The transporting staff member may not transport a resident without the required documents, including:

- The Medical/Mental Health Transfer Summary; and
- A properly executed Form I-203 or I-216.

The transporting staff member will review the information for completeness and to make sure that he/she has the supplies required to provide any in-transit care that is indicated.

Any transporting staff member who reviews the Medical/Mental Health Transfer Summary will protect the privacy of the resident's medical information to the greatest extent possible and may not share medical information unless necessary to fulfill transportation responsibilities safely.

The transporting staff member is responsible for delivering the Medical/Mental Health Transfer Summary to staff at the receiving Center and will advise them of any medications provided to the resident in transit.

The receiving Center must report any exceptions to the ICE/ERO Field Office.

F. Post-transfer Activities

After admission into the receiving Center or Field Office, all residents must be offered the opportunity to make one domestic telephone call, for at least 3 minutes in length at no cost to the resident.

The responsible processing supervisor or his/her designee will ensure that the resident is informed promptly that he/she may notify interested persons of the transfer. The offer to make a domestic call, as referenced above, will be documented and signed by processing staff and by the resident. A copy of the documentation verifying that a resident was offered a 3-minute telephone call will be filed in the resident's file.

References

- ICE Family Residential Standard on Admission and Release

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- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Food Service
- ICE Family Residential Standard on Funds and Personal Property
- ICE Family Residential Standard on Health Care
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes
- ICE Family Residential Standard on Transportation (by Land)
- Detainee Transfer Directive issued January 4, 2012
- National Commission on Correctional Health Care, Standards for Health Services in Jails