

STANDARD 5.5

VISITATION

I. POLICY

Facilities holding detainees shall permit authorized persons to visit detainees within security and operational constraints. To maintain detainee morale and family relationships, ICE/ERO encourages visits from family and friends.

Facilities shall allow detainees to meet privately with their current or prospective legal representatives and legal assistants, and also with their consular officials.

In coordination with ICE/ERO, to better inform the public about ICE/ERO detention operations, facilities may permit authorized representatives of the news media and non-governmental organizations access to public information about facility operations; and with appropriate notice, to tour facilities; and, with permission from ICE/ERO and the detainee, to interview individual detainees.

Guidance regarding congressional visits to facilities can be found on ICE's public website: www.ice.gov.

II. STANDARDS AND PROCEDURES

A. General

The facility shall establish written visiting procedures, including a schedule and hours of visitation, taking into account the visitation requirements of family (including minors), friends, legal representatives, and consular officials.

The facility may temporarily restrict visiting when necessary to ensure the security and good order of the facility. Contact visits are encouraged but subject to the facility's detainee population and its physical conditions.

B. Notification

The facility handbook shall include visitation rules and hours. The facility shall also post the rules and hours where detainees can easily see them, including in the housing units.

Each facility shall make the schedule and procedures available to the public, both in written form on the facility's website (if available) and posted in the visitors' waiting area, and telephonically. A live voice or recording shall provide telephone callers the rules and hours for all categories of visitation. The same information will be available in the public visitation room.

C. Visitor Log

The facility shall maintain a log of all general visitors, and a separate log of legal visitors as described below. The visitation logs shall comply with local policy and procedures.

D. Incoming Property and Money for Detainees

The facility shall have written procedures regarding incoming property and money for detainees. The facility shall allow a visitor to leave money for deposit in a detainee's account. The visitor will receive a receipt for all money or property left at the facility unless it is allowed to be given directly to the detainee.

Facilities are encouraged to allow visiting family members to bring detainees items such as legal documents and papers, prescription glasses, religious items and reading materials, and wedding rings.

E. Sanctions for Violation of Visitation Rules

Any violation of the visitation rules may result in disciplinary action against the detainee, including loss of visitation privileges, through the formal disciplinary process.

Contraband introduction or violations may lead to criminal prosecution of the visitor, detainee, or both.

F. Visits by Family and Friends

1. Hours and Time Limits

The facility shall establish a visiting schedule based on the detainee population and the demand for visits. Visits shall be permitted during set hours on Saturdays, Sundays, and holidays. To the extent practicable, the facility shall accommodate the scheduling needs of visitors for whom weekends and holidays pose a hardship. The facility may, for example, authorize special visits for family visitors unable to visit during regular hours.

Detainees will be allowed visits on at least one weekend day. However, to the extent practicable, ICE/ERO encourages the facility to establish visiting hours for each detainee on both days of the weekend, and to try to accommodate visitors who can only visit on a specific weekend day.

The facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions. ICE/ERO encourages more generous limits when possible, especially for family members traveling significant distances to visit. In unforeseen

circumstances, such as the number of visitors exceeding visiting room capacity, the facility may modify visiting periods.

Immediate family members detained at the same facility may visit with each other during normal visiting hours regardless of gender when practicable.

At facilities where there is no provision for contact visits by minors, upon request, ICE/ERO shall arrange for a contact visit by a detainee's children, stepchildren, and foster children within the first 30 days. After that time, upon request, ICE/ERO shall consider a request for transfer, when possible, to a facility that will allow such visitation. Upon request, ICE/ERO shall continue monthly visits, if transfer is not approved, or until an approved transfer can be effected.

2. Visitor Identification and Search

Staff shall verify each visitor's identity (through driver's license, photo identification, etc.) before admitting him or her to the facility. Photo identification must be a valid state or government-issued photo identification. No adult visitor shall be admitted without positive identification.

The facility may require a pat search as well as a visual inspection of purses, briefcases, packages and other containers. Any cancellation of visitation shall conform to facility policy and be documented.

3. Contact Visits

Written procedures shall detail the limits and conditions of contact visits in facilities permitting them.

A facility may only adopt a policy permitting strip searches after all contact visits in the absence of reasonable suspicion if detainees have the right to choose non-contact visitation instead. Detainees must be fully informed of that option and the policy generally in a language or manner they understand. The facility must document all strip searches that are performed based on such policy.

4. Visits for Administrative and Disciplinary Segregation Detainees

A detainee shall ordinarily retain visiting privileges while in administrative or disciplinary segregation. In a facility that allows contact visits, segregated detainees may use the visiting room during normal visiting hours.

Under no circumstances are detainees to participate in general visitation while in restraints. If the detainee's behavior warrants restraints, the visit will not be granted.

G. Visits by Legal Representatives and Legal Assistants

1. General

During legal visitation, each detainee may meet privately with current or prospective legal representatives and their legal assistants.

2. Hours

The facility shall permit legal visitation seven days a week, including holidays. It shall permit legal visits for a minimum of eight hours per day on regular business days, and a minimum of four hours per day on weekends and holidays.

The facility shall provide notification of the rules and hours for legal visitation and post the rules prominently in the visiting room. On regular business days, legal visitations may proceed through a scheduled meal period. In such cases, the detainee shall receive a tray or sack meal after the visit.

3. Persons Allowed to Visit

Subject to the restrictions stated below, individuals in the following categories may visit detainees to discuss legal matters:

a. Attorneys and Other Legal Representatives

An attorney is any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under an order of any court suspending, enjoining, restraining, disbaring or otherwise restricting him or her in the practice of law.

A legal representative is an attorney or other person representing another in a matter of law, including law students or law graduates not yet admitted to the bar under certain conditions; Executive Office for Immigration Review accredited representatives; and accredited officials and attorneys licensed outside the United States. *See* 8 C.F.R. § 292.1 for more detailed definitions of these terms.

b. Legal Assistants

Upon presentation of a letter of authorization from the legal representative under whose supervision he or she is working, an unaccompanied legal assistant may meet with a detainee during legal visitation hours. The letter shall state that the named legal assistant is working on behalf of the supervising legal representative for purposes of meeting with the detainee(s).

c. Translators and Interpreters

The facility shall permit translators and interpreters to accompany legal representatives and legal assistants on legal visits. Translators and interpreters shall undergo the regular security clearance process.

d. Messengers

The facility shall permit messengers (who are not legal representatives or legal assistants) to deliver documents to and from the facility, but not to visit detainees.

4. Identification of Legal Representatives and Assistants

Prior to each visit, all legal representatives and assistants shall be required to provide appropriate identification, such as a bar card from any state, a document demonstrating partial or full accreditation from the U.S. Department of Justice (DOJ) Executive Office for Immigration Review (EOIR), or a letter of authorization from the legal representative or attorney under whose supervision the individual is working as detailed above.

If such documentation is not readily available to attorneys licensed in a particular state, they will be required to indicate where they are licensed as an attorney and how that fact may be verified.

Legal representatives and legal assistants shall not be asked to state the legal subject matter of the meeting.

A legal representative or legal assistant shall be subject to a search of his or her person and belongings for the purpose of ascertaining the presence of contraband at any time.

5. Identification of Detainee to Be Visited

The facility shall not require legal service providers to submit a detainee's A-number as a condition of visiting. The facility shall make a good-faith effort to locate a detainee if provided with other information about the detainee.

6. Call-Ahead Inquiries

Each facility shall establish a written procedure to allow legal service providers and legal assistants to telephone the facility in advance of a visit to determine whether a particular individual is detained in that facility.

7. Pre-Representational and Other Legal Meetings

During the regular hours for legal visitation, the facility shall permit detainees to meet with prospective and current legal representatives and legal assistants.

Legal service providers need not complete a Form G-28 (stating that they are the legal representatives of the detainee) to meet with a detainee.

8. Private Meeting Room and Interruption for Head Counts

Visits between legal service providers (or legal assistants) and an individual detainee are confidential and shall not be subject to auditory supervision. Private consultation rooms shall be available for such meetings.

Facility staff may terminate attorney visits to maintain security. Routine official counts shall not terminate attorney visits.

Facility staff shall not be present in the confidential area during the attorney-detainee meeting unless the attorney requests the presence of an officer. However, staff may observe such meetings visually through a window or camera to the extent necessary to maintain security, as long as the staff member cannot overhear the conversation.

On occasion, a situation may arise where private conference rooms are in use and the attorney wishes to meet in a regular or alternate visiting room. Such requests should be accommodated to the extent practicable, and such meetings should be afforded the greatest degree of privacy possible under the circumstances.

9. Materials Provided to Detainees by Legal Representatives

The facility's written legal visitation procedures must provide for the exchange of documents between detainee and legal representative (or legal assistant) even when contact visitation rooms are unavailable.

Documents or other written material provided to a detainee during a visit with a legal representative shall be inspected, but not read. Detainees are entitled to retain legal material received for their personal use. Quantities of blank forms or self-help legal material in excess of that required for personal use may be held for the detainee in their property. The detainee will be permitted access to these documents utilizing the established avenues of communication.

10. Detainee Search

Generally, unless there is specific and articulable suspicion that contraband has been transferred to a detainee, detainees shall not be subjected to a strip search after a visit

by a consular representative, an attorney, a legal assistant working under the supervision of an attorney, or an accredited representative.

However, if standard operating procedures require strip searches after every contact visit with a legal representative, the facility must provide an option for non-contact visits with legal representatives in an environment that allows confidentiality. In that case, the facility will establish a mechanism for the detainee and his or her representative to exchange documents.

11. Legal Visitation for Detainees in Administrative and Disciplinary Segregation

Detainees in either administrative or disciplinary segregation shall be allowed legal visitation. If the facility administrator considers special security measures necessary, he or she will notify legal service providers of the security concerns prior to the meeting.

12. Group Legal Meetings

Upon the request of a legal service provider (or assistant), the facility may permit a confidential meeting (with no officer present) involving the requester and two or more detainees. This may be for various purposes: pre-representational, representational, removal-related, etc. The facility should grant such requests to the greatest extent practicable, i.e., if it has the physical capacity; if the meeting would not unduly interfere with security and good order, etc.

See also Standard 6.4 “Legal Rights Group Presentations.”

13. Pro Bono List and Detainee Sign-Up

ICE/ERO shall provide the facility with the official list of pro bono legal services providers on a regular basis. The facility shall post the current list in detainee housing units and other appropriate areas. Any legal organization or individual on the current list may write the facility to request the posting and/or general circulation of a sign-up sheet. The facility will then notify detainees of the sign-up sheet’s availability in a language or manner that they understand and, according to established procedures, ensure coordination with the pro bono organization.

14. Legal Visitation Log

A separate log shall record all legal visitors, including those denied access to the detainee. The log shall include the reason(s) for denying access.

15. Availability of Legal Visitation Policy

The facility’s written legal visitation policy shall be available upon request.

H. Consultation Visits for Detainees Subject to Expedited Removal

1. General

A detainee subject to expedited removal who has been referred to an Asylum Officer is entitled by statute and regulation to consult with any persons of the detainee's choosing, both prior to the interview and while the Asylum Officer's decision is under review.

Because expedited removal procedures occur within short timeframes, each facility shall develop procedures that liberally allow the opportunity for consultation visitation in accordance with this standard.

2. Method of Consultation

The facility shall facilitate consultation visitation, both by telephone and face-to-face.

3. Persons Allowed to Visit for Consultation Purposes

Detainees subject to expedited removal may consult whomever they choose, in person or by phone, at any time, during the first 48 hours at the facility. Consultants might include, but are not limited to, attorneys and other legal representatives, prospective legal representatives, legal assistants, staff members of non-governmental organizations (NGOs), and friends and family.

All consultation visitors are subject to the same identification and security screening procedures as general visitors. If documented security concerns preclude an in-person visit with a particular individual, the facility shall arrange for consultation by telephone. If security reasons also preclude consultation by telephone, the facility shall immediately inform ICE/ERO.

4. Privacy

Consultation visits, in person or by telephone, receive the same privacy as communications between legal representatives and detainees.

5. Hours

Consultation visitation shall be allowed during legal visitation hours and during general visitation hours. However, the facility may ensure confidentiality during legal visitation hours only.

If necessary to meet demand, the facility will increase consultation visiting hours.

6. Duration of Consultation Period

As stated above, the consultation visitation period begins before any interview with an Asylum Officer and continues while the Asylum Officer's determination undergoes review by the Supervisory Asylum Officer or Immigration Judge.

The consultation visitation period ends with the issuance of a Notice to Appear, and the detainee's placement in removal proceedings before an Immigration Judge. However, the detainee retains legal and other visitation privileges, in accordance with this detention standard.

7. Admittance for Asylum Officer Interview

Detainees subject to Expedited Removal may bring and consult advisors during the Asylum Officer interview. The presence of persons to consult is also allowed during the Immigration Judge's review of a negative credible fear determination, at the judge's discretion.

8. Log

The legal visitation log shall record consultation visits.

9. Form G-28

Visitors are not required to file a Form G-28 as a condition of participating in a consultation visit or providing consultation during an Asylum Officer interview or Immigration Judge review of a negative credible fear determination. This applies even if the visitor is an attorney or legal representative.

I. Consular Protection

In accordance with the Vienna Convention on Consular Relations of 1963 and 8 C.F.R. § 236.1(e), detainees must be advised of their right to consular access, and the ICE/ERO must facilitate this access. ICE/ERO policy and practice require that detention facilities provide all detained individuals with notice of their rights to contact their consular representative(s) and receive visits from their consular officer(s). Additional information about consular notification and access is available online at <http://travel.state.gov/CNA>.

The facility shall ensure that all detainees are notified of and afforded the right to contact and receive visits from their consular officers. Such notifications shall be provided in a language or manner the detainees understand. The same hours, privacy, and other conditions that govern legal visitation apply to consular visitation. Consular visits may be permitted at additional times outside normal visitation hours with the facility's prior authorization. To conduct such visits, consular officers must present identification issued by the U.S. Department of State.

J. Non-Government Organization Visitation with Detainees and Tours of Facilities

All requests by NGOs and other organizations for tours and/or visits must be submitted in writing to ICE/ERO. The request will state the exact reason for the visit and issues to be discussed. When deciding whether to approve or deny the request, ICE/ERO will take into consideration facility safety and security, and the availability of personnel to staff the tour, visitation, or tour with visitation. Access will not be denied based on the political or editorial viewpoint of the requestor.

If approved by ICE/ERO, the facility should accommodate requests in a timely manner. Tours will be scheduled at the convenience of the facility so as not to disrupt normal operations and will comply with facility security requirements.

All participants in tours or detainee visitation must provide personal information to facilitate a mandatory background check, allowing sufficient time for completion prior to entry to the facility.

K. Visits from Representatives of Community Service Organizations

The facility, in coordination with ICE/ERO, may approve visits to one or more detainees by representatives of community service organizations, including civic, religious, cultural, therapeutic, and other groups. Visiting procedures shall conform with the facility's visitor policy.

L. News Media Interviews of Detainees

1. General

ICE/ERO supports public access to non-classified and non-confidential information about its operations in the interest of an informed public and an accountable government.

Visits must be coordinated with ICE/ERO. Interviews by reporters, academics conducting research, and others not included in other visitation categories must be approved by ICE/ERO.

2. Detention Facility Visits/Tours

Media representatives may tour facilities that house detainees for the purpose of preparing reports about the facilities. Facility tours shall be approved by ICE/ERO and the facility. When deciding whether to approve or deny the request, ICE/ERO will take into consideration safety and security, and the availability of personnel to staff the tour or provide security for the interview. ICE/ERO and the facility will coordinate on final approvals. Access will not be denied based on the political or editorial viewpoint of the requestor.

Following ICE/ERO approval, media representatives shall make advance appointments with the facility for visits/tours.

News organizations interested in detainee issues shall abide by the policies and procedures of the facility being visited or toured.

The facility shall advise both media representatives and detainees that use of any detainee's name, identifiable photo, or recorded voice requires his or her prior permission. Such notice to detainees shall be provided in a language or manner that they understand. Media representatives shall obtain a signed release from the detainee before photographing or recording his or her voice and the facility shall retain the signed release(s) in the detainee's detention file or retrievable electronic record.

Detainees have the right not to be photographed (still, movie, or video), and not to have their voices recorded by the media. If the presence of video, film, or audio equipment or personnel would likely cause a disruption within the facility, the facility may limit or prohibit such equipment or personnel. For example, ICE/ERO might limit the equipment to hand-held cameras or recorders.

3. Personal Interviews

A media representative planning to conduct a personal interview at a facility shall submit a written request to ICE/ERO, preferably 48 hours and no less than 24 hours prior to the time slot requested. ICE/ERO may waive the 24-hour rule if convinced of the need for urgency.

ICE/ERO will inform the detainee of the interview request; the detainee must indicate his or her willingness to be interviewed by signing a consent form before ICE/ERO begins to consider the request. The signed consent form shall be retained in the detainee's detention file or retrievable electronic record.

Interviews will take place during normal business hours in a location determined by the facility. The facility will provide a location conducive to the interviewing activity, consistent with security and good order. ICE/ERO may limit the number of interviews with a particular detainee to a reasonable number per month. Further, if interviews are imposing a serious strain on staff or facility resources, ICE/ERO may restrict the time allotted to interviews.

ICE/ERO reserves the right to monitor and/or supervise, but not participate in, detainee interviews.

A media representative interested in touring the facility and photographing or recording other detainees in conjunction with an individual interview must follow all applicable facility procedures.

4. Press Pools

When ICE/ERO and the facility determine the volume of interview requests warrants such action, a press pool may be established. All material generated from such a press pool shall be available to all news media, without right of first publication or broadcast.

The facility will notify all media representatives with pending interviews, tours/visits, or requests that, effective immediately and until further notice, all media representatives must comply with the press pool guidelines established by ICE/ERO.

ICE/ERO will, upon request, provide the media information about a detainee provided it is a matter of public record and not protected by privacy laws or ICE/ERO policy. Security and safety concerns for staff and detainee(s) require that removal-related data remain confidential.

5. Special Conditions

The media representative shall certify that he or she is familiar with, and accepts, the rules and regulations governing media conduct during facility interviews and visits.

Media representatives must comply with the facility's rules and regulations. The routine processing of detainees shall take precedence over media interviews. A media request shall not delay or otherwise interfere with the in-processing or departure of any detainee.

M. Other Special Visits

1. Law Enforcement Officials' Visits

Facility visitation procedures shall address law enforcement officials requesting interviews with detainees.

2. Visitation by Former Detainees or Aliens in Proceedings

Former ICE/ERO detainees, individuals with criminal records, and individuals in removal proceedings shall not be automatically excluded from visiting. Individuals in any of these categories must notify the facility before registering for visitation privileges. The facility shall weigh the nature and extent of an individual's criminal record and/or prior conduct against the benefits of visitation in determining visitation privileges.

3. Business Visitors

A detainee shall not actively engage in business or professional interests or activities. A detainee engaged in a business or profession prior to detention should assign

authority for its daily operation to a person in the community. However, in the event that a detainee must make a decision that will substantially affect the assets or prospects of a business, the facility may permit a special visit.

4. Examinations by Independent Medical Service Providers and Experts

A medical and/or psychological examination by a practitioner or expert not associated with ICE/ERO or the facility can provide a detainee with information useful in legal or administrative proceedings. Therefore, ICE/ERO will generally approve examinations for such purposes, if the requested examination would not present an unreasonable security risk.

If a detainee seeks an independent medical or physical examination, he or she (or the legal representative) shall submit a written request to ICE/ERO. The request must provide the reason(s) for requesting such an examination.

The facility shall provide a location for an independent examination approved by ICE/ERO, but will not provide medical equipment or supplies. Neither ICE/ERO nor the facility shall assume the costs of the examination, which shall be at the detainee's expense. The examination will be arranged and conducted in a manner consistent with security and good order. ICE/ERO will advise the requester, in writing, of any reasons for denying a request.