

STANDARD 6.3

LAW LIBRARIES AND LEGAL MATERIALS

I. POLICY

Facilities shall permit detainees access to a law library, and provide legal materials, facilities, equipment, printing and copying privileges, and the opportunity to prepare legal documents.

II. STANDARDS AND PROCEDURES

A. Law Library

The facility shall provide a law library in a designated room, or if facility design prevents a specific room for a designated law library, a suitable area will be identified. The area or room will have sufficient space and resources to facilitate detainees' legal research and writing.

B. Equipment

The law library shall provide the following to enable detainees to prepare documents and conduct research for legal proceedings:

1. An adequate number of computers for electronic legal research;
2. A printer or the ability to print.
3. A copier or the ability to make copies;
4. Writing implements and paper

The facility shall designate an employee with responsibility to inspect the equipment at least weekly and ensure that it is in good working order, and to stock sufficient supplies.

C. Holdings

ICE/ERO shall provide each facility an electronic version of required ICE/ERO law library reference materials. The facility shall post a list of its holdings in the law library and/or make a list of holding available electronically.

D. Materials from Outside Persons or Organizations

Outside persons and organizations may submit published or unpublished legal material for inclusion in a facility's law library. If the material is in a language other than English, an English translation must be provided.

If the facility receives published and/or unpublished immigration-related material for inclusion in the law library, it must immediately forward the material to ICE/ERO for review and approval.

ICE/ERO, in coordination with the ICE Office of the Principal Legal Advisor, shall review materials and issue an approval or denial generally within 45 days. The submitter will be notified of denials.

E. Updating/Replacing Legal Materials

ICE/ERO will provide updated electronic materials to facilities on a regular basis.

The facility shall designate an employee with responsibility for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly as needed. The facility shall notify the designated contact person at ICE/ERO if anticipated updates are not received. The facility shall update electronic media when it receives new materials.

Damaged materials shall be promptly replaced. The facility may obtain replacements by contacting the designated coordinator at ICE/ERO.

If materials submitted by outside organizations need to be replaced, the facility will contact ICE/ERO to obtain replacements from the submitting organization.

F. Hours of Access

The facility shall devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the designated law library for a minimum of five (5) hours per week during a reasonable time of day. Detainees may not be forced to forgo their minimal recreation time, as provided in Standard 5.2 "Recreation," to use the law library. Detainee requests for additional time in the law library shall be accommodated to the extent possible, consistent with the orderly and secure operation of the facility. Special priority should be given to requests for additional library time when a detainee is facing an imminent court deadline.

G. Requests for Additional Legal Material

Detainees who require additional legal material not available in the law library may request additional information. The facility shall inform ICE/ERO of the request as quickly as possible.

Requests from detainees who are facing imminent deadlines will receive priority. Requests for copies of court decisions will normally be met within three business days, with reasonable time-frames for other requests.

H. Photocopying and Printing Legal Documents

The facility shall ensure that detainees can obtain copies of legal material when such copies are reasonable and necessary for a legal proceeding involving the detainee. This may be accomplished by providing detainees with access to a copier or printer, or by making copies upon request. Detainees may not be charged for copying or printing a reasonable amount of legal material.

The number of copies of documents to be filed with a particular court, combined with the number required for ICE/ERO records and at least one copy for the detainee's personal use will determine the number of photocopies required. Requests for photocopies of legal material may be denied only if:

1. The document(s) might pose a risk to the security and orderly operation of the detention facility;
2. There are other legitimate security reasons;
3. Copying would constitute a violation of any law or regulation; or
4. The request is clearly abusive or excessive.

Staff may not read a document that on its face is clearly related to a legal proceeding involving the detainee.

I. Assistance from Facility Staff and Other Detainees

1. Assistance from Facility Staff

Facility staff shall provide assistance to detainees in accessing legal materials where needed (e.g., orientation to written or electronic media and materials; assistance in accessing related programs, forms and materials).

2. Assistance from Other Detainees and Volunteers

The facility shall permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk. Such assistance is voluntary, and no detainee shall be allowed to charge a fee or accept anything of value for assistance.

Facilities may allow outside volunteers and programs to assist or help detainees access legal materials.

J. Assistance to Detainees with Disabilities, Limited English Proficient (LEP) Detainees, and Illiterate Detainees

Detainees with disabilities, LEP detainees, and illiterate detainees who wish to pursue a legal claim related to their immigration proceedings or detention, and who request assistance or otherwise indicate difficulty accessing or comprehending the legal materials, must be provided assistance beyond access to a set of English-language law books.

The facility shall assist detainees who are illiterate, LEP, or have disabilities in using the law library. Facilities shall establish procedures to meet this requirement, such as:

1. Having the facility's law librarian assist the detainee with legal research;
2. Permitting the detainee to receive assistance from other detainees in using the law library;
3. Assisting the detainee in contacting pro bono legal-assistance organizations from the ICE/ERO-provided list; and
4. In securing interpretation or translation services for an LEP detainee;
5. in the case of detainees with disabilities, consistent with the procedures outlined in Standard 4.7 "Disability Identification, Assessment, and Accommodation," providing reasonable accommodations and/or auxiliary aids and services identified through the facility's reasonable accommodation process.

If such attempts are unsuccessful in providing the detainee sufficient assistance, the facility shall contact ICE/ERO to determine appropriate further action.

K. Personal Legal Materials

The facility shall permit detainees to retain all personal legal material upon admittance to the general population or segregation, unless such material creates a safety, security, and/or sanitation hazard. The facility may require detainees with a large amount of personal legal material to place some of the material in a personal property storage area, with access permitted during designated hours. The facility shall grant requests for access to such stored legal material as soon as possible, but not later than 24 hours after receipt of the detainee request, unless documented security concerns preclude action within this time frame.

L. Law Library Access for Detainees in Special Management Units

Detainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.

Facilities may supervise the library use by a detainee housed in a special management unit as warranted by the individual's behavior and attitude. Detainees segregated for protection may be required to use the law library separately or, if feasible, have legal material brought to them. Violent or uncooperative detainees may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior and attitude warrants resumed access. In some circumstances, legal material may be brought to individuals in disciplinary segregation.

Denial of access to the law library must be supported by compelling security concerns, must be for the shortest period required by security, and must be fully documented in the special management housing logbook. A detainee shall not be denied access to law libraries and legal materials as a disciplinary measure, reprisal, retaliation, or penalty. ICE/ERO must be notified every time access is denied.

M. Envelopes and Stamps for Legal Documents

The facility will provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential legal representative, or any court. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.

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

The facility shall provide assistance to any detainee who requests a notary public, certified mail, or other such services to pursue a legal matter, and if the detainee is unable to meet the need through a family member, friend, or community organization.

O. Retaliation Prohibited

Detainees may not be subjected to reprisals, retaliation, or penalties because of a decision to seek judicial relief on any matter, including:

1. The legality of their confinement;
2. The legality of conditions or treatment while under detention;
3. An issue relating to their immigration proceedings; or
4. Any allegation that the Government is denying rights protected by law.

P. Notice to Detainees

The facility shall provide detainees with the rules and procedures governing access to legal materials, communicating their content in a language or manner the detainee understands. Such rules and procedures shall include the following information:

1. The scheduled hours of access to the law library;
2. The procedure for requesting access to the law library;
3. The procedure for requesting additional time in the law library (beyond the five hours per week minimum);
4. The procedure for requesting legal reference materials not maintained in the law library; and
5. The procedure for notifying the facility about concerns with legal access.