

## 5.5 Religious Practices

### I. Purpose and Scope

This detention standard ensures that detainees of different religious beliefs are provided reasonable and equitable opportunities to participate in the practices of their respective faiths, constrained only by concerns about safety, security and the orderly operation of the facility.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

*Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities.* Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (\*\*) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

### II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”):

1. Detainees shall have regular opportunities to participate in practices of their religious faiths, limited only by a documented threat to the safety of persons involved in such activity itself or disruption of order in the facility;
2. All religions represented in a detainee population shall have equal status without discrimination based on any detainee’s race, ethnicity, religion, national origin, gender, sexual orientation or disability;
3. Each facility’s religious program shall be planned, administered and coordinated in an organized and orderly manner;
4. Adequate space, equipment and staff (including security and clerical) shall be provided for in order to conduct and administer religious programs;
5. The chaplain or religious services coordinator will make documented efforts to recruit external clergy or religious service providers to provide services to adherents of faith traditions not directly represented by chaplaincy or religious services provider staff. Detainees are encouraged to provide information about local religious providers;
6. Each facility’s religious program shall be augmented and enhanced by community clergy, contractors, volunteers and groups who provide individual and group assembly religious services and

counseling;

7. Detainees in Special Management Units (SMUs) and hospital units shall have access to religious activities and practices to the extent compatible with security and medical requirements;
8. Special diets shall be provided for detainees whose religious beliefs require adherence to religious dietary laws; and
9. Detainees shall be provided information about religious programs at the facility, including how to contact the chaplain or religious services coordinator, how to request visits or services by other religious services providers, how to request religious diets and how to access religious property and headwear as part of the facility's admission and orientation program in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

### III. Standards Affected

This detention standard replaces "Religious Practices" dated 12/2/2008.

## IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-17, 5C-18, 5C-19, 5C-20, 5C-21, 5C-22, 5C-23, 5C-24, 2A-66, 4A-10, 6B-02, 6B-05, 7B-03, 7F-04.

ICE/ERO *Performance-based National Detention Standards 2011*:

- "4.1 Food Service"; and
- "5.7 Visitation."

The Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb et seq.

Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc et seq.

## V. Expected Practices

### A. Religious Opportunities and Limitations

1. Detainees shall have opportunities to engage in practices of their religious faith consistent with safety, security and the orderly operation of the facility. Religious practices to be accommodated are not limited to practices that are compulsory, central or essential to a particular faith tradition, but cover all sincerely held religious beliefs. Attendance at all religious activities is voluntary.

Efforts shall be made to allow for religious practice in a manner that does not adversely affect detainees not participating in the practice. Detainees cannot be required to participate in or attend a religious activity in order to

receive a service of the facility or participate in other, non-religious activities. Chaplains, religious services coordinators and volunteers shall not provide unsolicited religious services or counseling to detainees.

2. Religious activities shall be open to the entire detainee population, without discrimination based on a detainee's race, ethnicity, religion, national origin, gender, sexual orientation or disability.

Accommodations shall be provided to detainees who have limited English Proficiency, or who are deaf or hard of hearing, to ensure their access to services should they wish to participate.

3. When necessary for the security or the orderly operation of the facility, the facility administrator may discontinue a religious activity or practice or limit participation to a reasonable number of detainees or to members of a particular religious group after consulting with the chaplain or religious services coordinator. Facility records shall reflect the limitation or discontinuance of a religious practice, as well as the reason for such limitation or discontinuance.
4. Ordinarily, when the nature of the activity or practice (e.g., fasts, ceremonial meals, headwear requirements, work proscriptions) indicates a need for such a limitation, only those detainees whose files reflect the pertinent religious preference shall be included.
5. When a detainee submits a request concerning the reason for denial of access

to religious activities, facilities or meals, a copy of the request and response to the request shall be placed in the detention file.

## **B. Religious Preferences**

Each detainee shall designate any religious preference, or none, during in processing. Staff, contractors and volunteers may not disparage the religious beliefs of a detainee, nor coerce or harass a detainee to change religious affiliation.

A detainee may request to change his/her religious preference designation at any time by notifying the chaplain, religious services coordinator or other designated individual in writing, and the change shall be effected in a timely fashion.

In the interest of maintaining the security and orderly running of the facility and to prevent abuse or disrespect by detainees of religious practice or observance, the chaplain or religious services coordinator shall monitor patterns of changes in declarations of religious preference.

In determining whether to allow a detainee to participate in specific religious activities, staff may refer to the initial religious preference information and any subsequent changes in the detainee's religious designation. Detainees whose files show "No Preference" may be restricted from participation in those activities deemed appropriate for members only.

## **C. Chaplains or Other Religious Services Coordinators**

The facility administrator shall designate a

staff member, contractor or volunteer to manage and coordinate religious activities for detainees. Ordinarily, that person shall be the facility chaplain, who shall, in cooperation with the facility administrator and staff, plan, direct and supervise all aspects of the religious program, including approval and training of both lay and clergy volunteers from faiths represented in the detainee population. The facility administrator shall provide non-detainee clerical staff support for confidential materials.

The chaplain or other religious services coordinator, regardless of his/her specific religious affiliation, shall have basic knowledge of different religions and shall ensure equal status and protection for all religions.

The chaplain or other religious services coordinator shall have physical access to all areas of the facility to serve detainees.

A chaplain shall have a minimum qualification of clinical pastoral education or specialized training, and endorsement by the appropriate religious-certifying body. In lieu of these, the facility administrator may accept adequate documentation of recognized religious or ministerial position in the faith community.

The chaplain shall be available to provide pastoral care and counseling to detainees who request it, both through group programs and individual services. Detainees who belong to a religious faith different from that of the chaplain or religious services provider staff may, if they prefer, have access to

pastoral care and counseling from external clergy and religious service providers. The chaplain may, for the purpose of informed decision-making, ask a detainee to explain special or unfamiliar requests.

If the facility has a religious services coordinator rather than a chaplain, the coordinator shall have the necessary training to connect detainees with a broad range of religious services and be prepared to arrange religious services for multiple faith traditions and connect incoming detainees with resources and services specific to the detainee's particular faith.

The term "individual services" includes counseling services provided to individual detainees or members of their families in personal crisis and family emergency situations.

#### **D. Schedules and Facilities**

All facilities shall designate adequate space for religious activities.

This designated space must be sufficient to accommodate the needs of all religious groups in the detainee population fairly and equitably and the general area shall include office space for the chaplain, storage space for items used in religious programs, and proximity to lavatory facilities for staff and volunteers.

Religious service areas shall be maintained in a neutral fashion suitable for use by various faith groups.

The chaplain or religious services coordinator shall schedule and direct the facility's religious activities, and current

program schedules shall be posted on all unit and detainee bulletin boards in languages understood by a majority of detainees.

When scheduling approved religious activities, chaplains or religious services coordinator must consider both the availability of staff supervision and the need to allot time and space equitably among different groups. The chaplain or religious services coordinator shall not ordinarily schedule religious services to conflict with meal times.

If outdoor recreation is available at the facility, detainees shall have opportunities for outside worship, prayer and meditation, which shall be provided in a manner that does not conflict with meal times.

#### **E. Contractors and Volunteers**

All facilities shall have procedures so that clergy, contractors, volunteers and community groups may provide individual and group assembly religious services and counseling that augment and enhance the religious program. When recruiting citizen volunteers, the chaplain or religious services coordinator and other staff shall be cognizant of the need for representation from all cultural and socioeconomic parts of the community. Each facility shall provide security, including staff escorts, to allow such individuals and groups facility access for sanctioned religious activities.

The chaplain or religious services coordinator may contract with representatives of faith groups in the community to provide specific religious services that he/she cannot personally

deliver, and may secure the assistance and services of volunteers.

“Representatives of faith groups” includes both clergy and spiritual advisors. All contractual representatives of detainee faith groups shall be afforded the same status and treatment to assist detainees in observing their religious beliefs, unless the security and orderly operation of the facility warrant otherwise.

Standard “5.7 Visitation” details requirements that must be met for a volunteer to be approved to visit with and/or provide religious activities for detainees, including advance notice, identification, a background check, an orientation to the facility and a written agreement to comply with applicable rules and procedures. Visits from religious personnel shall not count against a detainee’s visitor quota. Provided they meet established security requirements for entrance into the facility, religious services providers’ interpreters shall be allowed to accompany the religious services provider within the facility.

The facility administrator or designee (ordinarily the chaplain) may require a recognized representative of a faith group to verify the religious credentials of contractors or volunteers prior to approving their entry into the facility.

Detainees who are members of faiths not represented by clergy may conduct their own services, provided these do not interfere with facility operations.

#### **F. Pastoral Visits**

If requested by a detainee, the chaplain or religious services coordinator or designee shall facilitate arrangements for pastoral visits by a clergyperson or representative of the detainee's faith.

The chaplain or religious services coordinator may request documentation of the person's religious credentials, as well as a criminal background check.

Pastoral visits shall ordinarily take place in a private visiting room during regular visiting hours. Accommodation may be made in the legal visitation area when available.

### **G. Detainees in Special Management (SMU) and Hospital Units**

Detainees in an SMU (e.g., administrative, disciplinary or protective custody) or hospital unit shall be permitted to participate in religious practices, consistent with the safety, security and orderly operation of the facility.

Detainees in an SMU or hospital unit shall have regular access to the chaplain or other religious services provider staff. The chaplain or other religious services provider staff shall provide pastoral care in SMUs and hospital units weekly at minimum.

Detainees of any faith tradition may ordinarily have access to official representatives of their faith groups while housed in SMUs or hospital units, by requesting such visits through the chaplain or other religious service coordinator. Requests shall be accommodated consistent with the terms of the representative's contract and the security and orderly

operation of the facility.

If the representative of the faith group is a volunteer, he/she shall at all times be escorted in an SMU.

### **H. Introduction of New or Unfamiliar Religious Components**

If a detainee requests the introduction of a new or unfamiliar religious practice, the chaplain or religious services coordinator may ask the detainee to provide additional information to use in deciding whether to include the practice.

Detainees may make a request for the introduction of a new component to the Religious Services program (e.g., schedule, meeting time and space, religious items and attire) to the chaplain or religious services coordinator. The chaplain or religious services coordinator may ask the detainee to provide additional information to use in deciding whether to include the practice. Ordinarily, the process shall require up to 30 business days for completion.

The chaplain or religious services coordinator shall research the request and make recommendations to the facility administrator, who shall add his/her own recommendations and forward them to the respective Field Office Director for approval. Such decisions are subject to the facility's requirement to maintain a safe, secure and orderly facility, and the availability of staff for supervision. The Field Office Director shall forward the final decision to the facility administrator, and the chaplain or religious services coordinator shall communicate the decision to the detainee.

## I. Religious Holy Days

Each facility shall have in place written policy and procedures to facilitate detainee observance of important holy days, consistent with the safety, security and orderly operation of the facility, and the chaplain or religious services coordinator shall work with detainees to accommodate proper observances.

The facility administrator shall facilitate the observance of important religious holy days that involve special fasts, dietary regulations, worship or work proscriptio. When the facility administrator, chaplain or religious services provider is unfamiliar with the requested observance, the facility administrator may direct the chaplain or religious services coordinator to consult with community representatives of the detainee's faith group and other appropriate sources.

## J. Religious Property and Personal Care

Each facility administrator shall allow detainees to have access to personal religious property, consistent with the safety, security and orderly operation of the facility. If necessary, the religious significance of such items shall be verified by the chaplain prior to facility administrator approval. The facility administrator may also direct the chaplain or religious services coordinator to obtain information and advice from representatives of the detainee's faith group or other appropriate sources, about the religious significance of the items.

Detainee religious property includes, but is not limited to, holy books, rosaries and prayer beads, oils, prayer rugs, prayer rocks,

phylacteries, medicine pouches and religious medallions. Such items are part of a detainee's personal property and are subject to normal considerations of safety, security and orderly operation of the facility.

As is consistent with the safety, security and orderly operation of the facility, the facility administrator shall ordinarily allow a detainee to wear or use personal religious items during religious services, ceremonies and meetings in the chapel, and may, upon request of a detainee, allow a detainee to wear or use certain religious items throughout the facility.

Items of religious wearing apparel include, but are not limited to:

1. prayer shawls and robes;
2. kurda or ribbon shirts;
3. medals and pendants;
4. beads; and
5. various types of headwear.

"Appendix 5.5.A: Religious Headwear, Garments and Other Religious Property" provides examples of acceptable religious headwear, garments and other religious property. There may be circumstances in which it is not advisable to permit the use of these items in a facility. Nothing in these guidelines is intended to prevent facilities from making individualized decisions based on the need to maintain good order and the safety of detainees and staff. Any denial and the reason for it shall be documented and placed in the alien's detention file.

Religious headwear, notably kufis,

yarmulkes, turbans, crowns and headbands, as well as scarves and head wraps for Orthodox Christian, Muslim and Jewish women are permitted in all areas of the facility, subject to the normal considerations of the safety, security and orderly operation of the facility, including inspection by staff. Religious headwear and other religious property shall be handled with respect at all times, including during the in-take process.

Consistent with safety, security and the orderly operation of the facility, the facility shall not cut or shave religiously significant hair.

A detainee who wishes to have religious books, magazines or periodicals must comply with the facility's general rules for ordering, purchasing, retaining and accumulating personal property. Religious literature is permitted in accordance with the procedures governing incoming publications.

Distribution to detainees of religious literature purchased by or donated to ICE/ERO is contingent upon approval from the chaplain or religious services coordinator.

## **K. Dietary Requirements**

When a detainee's religion requires special food services, daily or during certain holy days or periods that involve fasting, restricted diets, etc., staff shall make all reasonable efforts to accommodate those requirements (e.g., by modifying the detainee's menus to exclude certain foods or food combinations or providing the detainee's meals at unusual hours).

A detainee who wants to participate in the

religious diet ("common fare") program may initiate the "Authorization for Common Fare Participation" form that is attached to standard "4.1 Food Service." That standard also details the circumstances under which a detainee may be removed from a special religious diet because he/she has failed to observe those dietary restrictions.

"Common fare" refers to a no-flesh protein option provided whenever an entrée containing flesh is offered as part of a meal. Likewise, a "common fare" meal offers vegetables, starches and other foods that are not seasoned with flesh. The diet is designed as the foundation from which modifications can be made to accommodate the religious diets of various faiths. Modifications to the standard common fare menu may be made to meet the requirements of various faith groups (e.g. for the inclusion of kosher and/or halal flesh-food options).

When there is any question about whether a requested diet is nutritious or may pose a threat to health, the chaplain or religious services coordinator shall consult with the medical department.

## **L. Religious Fasts**

The chaplain or religious services coordinator shall develop the religious fast schedule for the calendar year and shall provide it to the facility administrator or designee. There are generally two different types of fasts: a public fast and a private or personal fast.

When detainees observe a public fast that is mandated by law or custom for all the faith adherents (e.g., Ramadan, Lent, Yom Kippur), the facility shall provide a meal



nutritionally equivalent to the meal(s) missed. Public fasts usually begin and end at specific times.

When a detainee fasts for personal religious reasons, no special accommodations need to be made for the meal(s) missed. Requests for meals after a personal fast shall be determined by the facility administrator on a case-by case basis.

### **M. Work Assignments**

Detainees who have voluntary work assignments shall not be compelled to work on their religious holy days.

### **N. Religious Use of Wine**

Religious use of wine by clergy members is generally permitted when mandated by the particular faith and pursuant to strict controls and supervision, to include the following provisions:

1. Only a small amount of wine for clergy members and that which is necessary to perform religious ceremonies or services shall be permitted in the facility.
2. All wine brought into the facility shall be secured in an appropriate area by staff prior to the religious ceremony or service for which the wine is needed.
3. Following the religious ceremony or service, unused portions of wine shall be immediately discarded, stored in a secure area, or removed from the facility.

### **O. Death or Serious Illness of Family Members**

The facility administrator will establish procedures to involve the chaplain or religious services coordinator in notifying detainees of serious illness or death of their family members.

## Appendix 5.5.A: Religious Headwear, Garments and Other Religious Property

The following are examples of generally acceptable religious headwear, garments and other religious property/articles of faith. There may be circumstances in which it is not advisable to permit the use of these items in a facility. Nothing in these guidelines is intended to prevent facilities from making individualized decisions based on the need to maintain good order and the safety of detainees and staff. Any denial of accommodation and the reason for it shall be documented and placed in the alien's detention file.

### A. Religious Headwear

Examples of religious headwear include:

- yarmulke (Jewish)
- kufi (Muslim)
- hijab (Muslim; worn by women)
- crown (Rastafarian)
- turban (Sikh)

Facilities may restrict the color, size or other features of religious headwear, as necessary to maintain the safety, security and the orderly operation of the facility. Where facilities restrict the color, size, or other features of religious headwear, and the detainee's personal religious headwear does not conform to the standard, the facility must ensure that detainees are provided conforming religious headwear for free or at a de minimis cost. The chaplain or

religious services coordinator, in consultation with community representatives of the detainee's faith group and other appropriate sources, when necessary, shall ensure that the facility restrictions on color, size, or other features of religious headwear are appropriate and meet the needs of the respective faith traditions.

### B. Religious Garments

Examples of religious attire and garments include but are not limited to:

- Scarves and headwraps (hijabs) (Jewish, Muslim, Rastafarian, Orthodox Christian; worn by women). These may be black, white or off-white.
- Jumper dresses may be worn by women who wear loose-fitting clothing for the sake of modesty as consistent with their religious beliefs.
- Kachhehra (soldier's shorts) (Sikh men)
- Prayer shawls and robes
- Kurda or ribbon shirts during ceremonial use

### C. Religious Property and Articles of Faith

Examples of religious property and articles of faith include but are not limited to:

- Holy books: Examples include but are not limited to: the Bible (Christian); the Koran (Muslim); and the Torah (Jewish). Holy books are permitted in accordance with the facility's general rules relating to retention of personal property and incoming publications, such as types of binding permitted.

- Kara (steel bracelet) (Sikh) may be permitted during meal times and under other limited circumstances depending on the size, weight and appearance of the Kara and in light of security considerations. For example, a plain, light-weight and non-decorative Kara is generally appropriate for low and medium security detainees.
- Rosaries and prayer beads.
- Oils.
- Prayer rugs.
- Prayer rocks.
- Phylacteries.
- Religious medallions and pendants.