



U.S. Immigration
and Customs
Enforcement

ICE | ERO

CUSTODY MANAGEMENT

CUSTODY PROGRAMS DIVISION

SPECIAL POPULATIONS AND PROGRAMS UNIT

Religious Practices Accommodations

2020



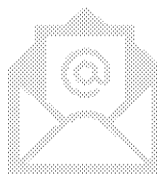
Who am I?:

(b)(6), (b)(7)(C)

– You can contact me with questions



202.732. (b)(6), (b)(7)(C)



(b)(6), (b)(7)(C) y@ice.dhs.gov

or **(b)(7)(E)** @ice.dhs.gov

- ICE ERO National Religious Practices Coordinator.
- Consistent with ICE Detention Standards and applicable federal laws, I provide guidance to ICE field offices and facilities to ensure detainees in custody can practice their religion, and have access to religious services and programming.
- I update the InSight ERO Religious Practice Accommodation Resources Center:





This training will cover:

- Applicable Constitutional protections, Federal law and ICE standards.
- Religious Services Coordination.
- Overview of Religious Accommodations and Services.
- Commonly Raised Questions and Concerns:
Religious Diets, Property, and Worship.



Religious Practices



“Worship, observances, services, meetings, ceremonies, etc., associated with a particular faith; access to religious publications, religious symbolic items, religious counseling and religious study classes; and adherence to dietary rules and restrictions.” – *NDS, PBNDS 2008, PBNDS 2011*



Freedom of Religion is supported by the U.S. Constitution, Case Law, and Federal Statute.

- **The U.S. Constitution** prohibits the making of any law impeding the free exercise of religion.
- **Turner v. Safley**, 482 U.S. 78 (1987) – Leading Supreme Court decision on accommodation of religious practice in jails. Is there a legitimate government interest to justify the denial of religious practice and are there alternative means of exercising this right?
- **Religious Freedom Restoration Act of 1993 (RFRA)** - Prohibits any federal government practice that substantially burdens a person's exercise of religion, unless the government demonstrates that the practice represents the least restrictive means of furthering a compelling government interest.
- **Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)**, 42 U.S.C. § 2000cc-1(a). – “[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution” unless the burden “is in furtherance of a compelling governmental interest” and “is the least restrictive means” of furthering that interest.





Asking the Tough Questions:

- What qualifies as a 'substantial burden'? – Requiring a person to do something against their beliefs? Preventing a person from engaging in beliefs and practices they believe their faith requires?
- Can facilities ever impede the free exercise of religion? Is there a legitimate government interest to justify the denial of religious practice? – Facility Safety, Security, Order, and Control?
- Is there an alternative, less restrictive, means of allowing the detainee to exercise the religious practice or belief?

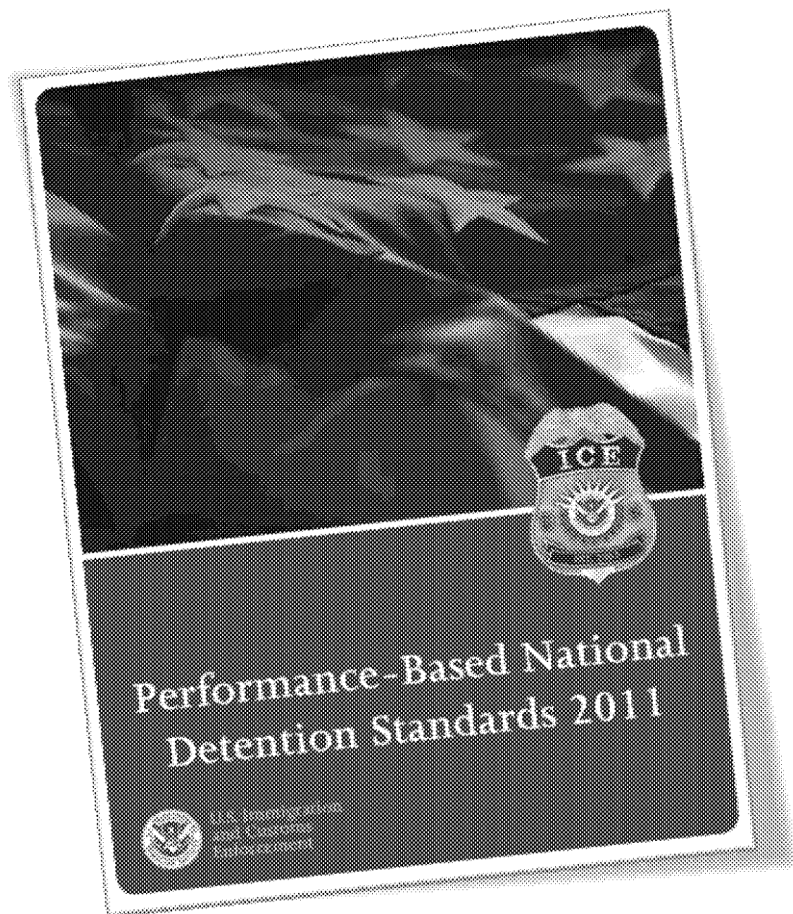
Good practice recommendation –

If you deny a request, articulate and document the reason. Explain how the resident CAN be accommodated. Explore with the chaplain and others what alternative accommodations can be made.

Look for how you can say "YES." And don't forget to document!



ICE Religious Practice Standards:



“Detainees of different religious beliefs will be provided reasonable and equitable opportunities to participate in the practices of their respective faiths. These opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.” (NDS 2000)

“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 operations of the facility.” (PBNDS 2008 and 2011)

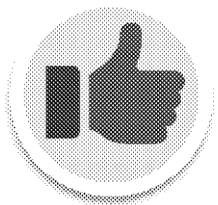


All standards require designation of religious preferences -

“In processing staff shall enter the detainee’s religious designation ... at initial processing” (NDS 2000)

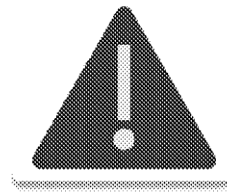
“Each detainee shall designate any or no religious preference during in-processing.” (PBNS 2008)

“Each detainee shall designate any religious preference, or none, during in processing”. (PBNS 2011)



Good Practice Example -

Chaplain maintains a list of the religious designation by individual and pro-actively reaches out to new detainees about their religious needs.



Potential Issue -

A facility has no process for identifying the religious designation of detainees. This may create difficulties with providing religious accommodation.



A number of standards relate to Religious Accommodation **BEYOND** the religious practices standards. You should familiarize yourself with all of them.

- Admission and Release - orientation, handbook, religious preference
- Special Management Units - access to chaplain, religious service providers, and religious materials
- Food Service - religious diets, ceremonial meals schedules, and religious fasts accommodation (Ramadan, Passover, Lent).
- Visitation
- Personal Property



Religious Practice Accommodations

Religious Practice Accommodation involves almost everyone in a facility, including staff working within the following areas:

- Administration and Management
- Admission/Intake and Release
- Special Management Units
- Residential care
- Medical care
- Facility safety and security
- Food Service
- Facility Programming/Recreation
- Visitation and Volunteers
- Managing personal property
- Transfers
- Staff training





National Religious Services Coordination

In order to better assist and provide guidance, ERO/Custody Programs:

- **Tracks** complaints and inquiries, and provides follow-up technical assistance.
- Conducts **site visits** to continuously assess capabilities and gaps, develop responsive strategies, and provide technical assistance and training for facility staff.
- Identifies and develops **religious accommodation resources**.
- Develops **collaborative relationships** with non-government and government stakeholders. Works with stakeholders to expand religious accommodations.
- Advises ERO on **religious accommodation policies**
- **Trains and supports** ICE oversight entities
- Identifies and promotes **good practices**



ICE/ERO HQ Frequently Issues Religious Accommodations Broadcasts to Provide Guidance to Facilities.

For example, ICE/ERO releases broadcasts in advance of major religious holidays/holy days each year, such as:

- Passover
- Ramadan
- Jewish High Holy Days

Additionally, ICE/ERO provides guidance on allowance of candles, specialty food items, religious fasting, and religious fact sheets, etc.



All broadcasts and other resources are available through the internal ICE Custody Programs Resource Center or from the Religious Services Coordination Team at

(b)(7)(E) _____@ice.dhs.gov



- Christianity

- Catholic
- Protestant
- Orthodox
- Evangelical
- Baptist
- Pentecostal
- Jehovah's Witnesses
- Non-denominational
- Other

- Islam
- Judaism
- Buddhism
- Sikhism
- Hinduism

- Rastafari
- Santeria
- Baha'i
- Others

- Most faiths include different denominations, which may have different beliefs and practices from other denominations in the same faith.
- Individuals of one faith or denomination may have different beliefs and practices due to social or cultural norms in their home countries.





The facility administrator designates either a chaplain or religious services coordinator who is responsible for religious programming.

Religious programming includes:

- Recruiting community faith representatives for visitation and religious services.
- Training of religious volunteers.
- Coordinating religious services and posting the schedule.
- Assisting with religious designation changes and monitoring patterns in changes of designations.
- Providing pastoral care and counseling (chaplain), including for detainees in special management and hospital units.
- Researching and providing information to staff about new or unusual religious practices.
- Assisting with facility policies and schedules to accommodate religious holy days and religious meals.
- Procuring (either through donation or purchasing) religious items needed for religious worship, such as religious texts, prayer rugs, rosaries, headwear, etc.



Religious Services Coordination: *Religious Services Coordinators and Chaplains*

A Religious Services Coordinator (RSC) is typically a facility staff member who is assigned religious programming coordination responsibilities, among other duties. While the position of RSC is not referenced in the NDS, it is generally acceptable in lieu of a facility chaplain.

The Religious Services 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. (PBNDS 2011)

A Chaplain may also be a staff member or contract staff. The chaplain is also available to provide pastoral counseling to detainees who request it.

Per NDS 2000, the responsibilities of the chaplain include, but are not limited to:

- Receiving and documenting detainees' religious preferences.
- Managing religious services in the facility.
- Providing pastoral care and counseling to detainees.
- Arranging visits of external clergy and religious service providers.
- Arranging accommodations for holy days/holidays.

Key principle

Chaplains may be an adherent of a particular religion, but are generic in their role in the facility. They are responsible for assisting with the religious practices of all detainees, regardless of their religion.



Guidance on how to manage:

- Requests and changes to religious meal accommodations
- Access to religious items
- Special accommodations around holy days/holidays.
- Augmenting the facility's religious programming

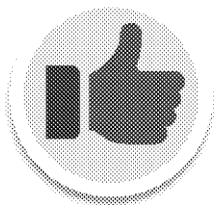


The most common complaint related to religious accommodations*

Food - Religious Diets

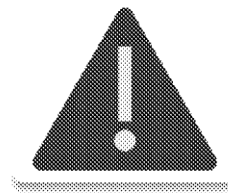
Similar language appears in all ICE detention standards:

“The INS requires all facilities to provide detainees requesting a religious diet reasonable and equitable opportunity to observe their religious dietary practice within the constraints of budget limitations and the security and orderly running of the facility through a common fare menu. The detainee will provide a written statement articulating the religious motivation for participation in the common fare program.” (NDS 2000)



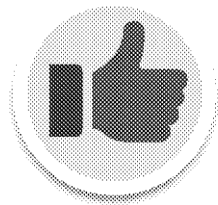
Good Practice Example -

- Chaplain maintains a religious diet/meal roster.
- The facility orders and serves prepackaged Kosher *and* Halal meals.



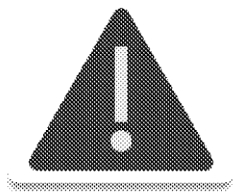
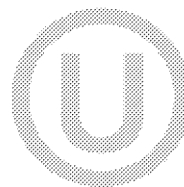
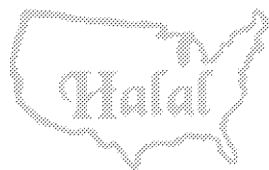
Potential Issue -

The facility does not make religious diets/meals available equally to members of different faiths. For example, offers a Kosher meal option, but not a Halal meal option, and doesn't allow Muslim detainees to choose the Kosher meal.



Promising Practice Example-

Chaplain assists with religious diet designations and coordinates with Food Services for religious diets and holiday celebrations. Assists with ordering obligatory religious foods.



Potential Issues-

Relying only on the chaplain or visiting religious leader for deciding who receives a religious diet and discounting a potential sincerely held belief.



The NDS 2000:

“To the extent practicable, a hot entree shall be available to accommodate detainees’ religious dietary needs, e.g., kosher and/or halal products. Hot entrees shall be offered three times a week and shall be purchased precooked, heated in their sealed containers, and served hot. Other cooking is not permitted in the common-fare program.”

“With the exception of fresh fruits and vegetables, the facility's kosher-food purchases shall be fully prepared, ready-to-use, and bearing the symbol of a recognized kosher certification agency. Any item containing pork or a pork product is prohibited. Only bread and margarine labeled "pareve" or "parve" shall be purchased for the common fare tray.”



Standard 4.1, part V.G, “Religious/Special Diets”

- Evaluation of a request for religious diet **must**
 - Start with the assumption that the request is a legitimate exercise of religious belief and practice
- Evaluation of a request for religious diet **may not**
 - Involve “lengthy questionnaires”
 - Involve “numerous interviews”
- Responses to requests **must be documented**
- Specific instructions for implementation of diet still must be provided within 10 business days of approval

For unorthodox requests, facilities should consult with outside, relevant clergy whenever possible.



Standard 4.1, V.G. Religious/Special Diets (continued)

- *FOD must be consulted **before either***
 - Denying a request for a religious diet or
 - Removing someone from a religious diet program
- Denial or removal from a religious diet program **must be approved** by the facility administrator
- Denial or removal from a religious diet program **must be documented**, with
 - Date of denial/removal
 - Reason for denial/removal
 - Date of FOD approval



ERO Bulletin 14-ERO-001

Supplemental Guidance - April 1, 2014

Field Office Director consultation prior to denying any request for a religious diet.

“The chaplain or other worship leader is required to consult with the local Field Office Director (FOD) prior to denying any request for a religious diet. In addition, once a detainee has been approved for a religious diet program, he or she may not be removed from the program without prior consultation with and concurrence from the FOD.”

“Denial or removal from a religious diet must be documented with the date and reason, and must be approved by the facility administrator. The documentation should also include the date of FOD concurrence.”



ERO Bulletin 14-ERO-001

Supplemental Guidance - April 1, 2014

Request for Religious Diet-

“Upon receiving a request for a religious diet accommodation, the chaplain or food service administrator should jointly verify the religious diet requirement and issue written instructions to implement the diet as soon as practicable, but within 10 business days of verification that the detainee’s religious beliefs are sincerely held. Absent an articulable reason to deny the request, the presumption must be that the detainee’s request constitutes a legitimate exercise of religious belief and practice.”

Unorthodox Requests-

“Facilities may employ different mechanisms to determine if a detainee’s request should be granted, however, the determination may not impose a substantial burden on a detainee’s religious exercise or necessitate lengthy questionnaires or numerous interviews.”



Recall the Tough Questions:

What qualifies as a 'substantial burden'? Can facilities ever impede the free exercise of religion? Is there an alternative, less restrictive, means of allowing the detainee to exercise the religious practice or belief?

Recommended Promising Practice:

- Find a way to say YES.
- Determine how the facility CAN accommodate.
- Document steps taken.

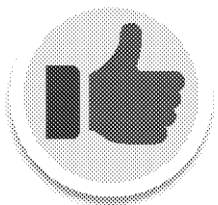
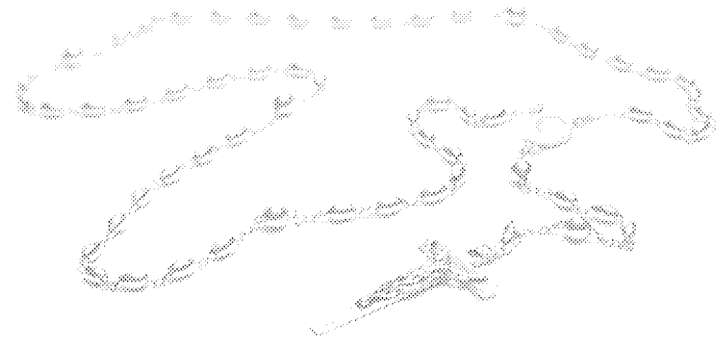


Religious Property and Headgear

Per the NDS 2000:

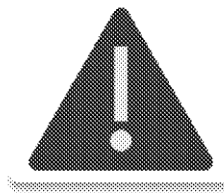
“Detainees shall have access to personal religious property, consistent with facility security.”

“Religious headwear, notably kufis, yarmulkes, turbans, crowns, and headbands, as well as scarves and head wraps for orthodox Muslim and Jewish women, is permitted in all areas of the facility, subject to the normal considerations of security and good order, including inspection by staff.”



Good Practice Examples-

- The facility chaplain is included in new staff orientation and discusses the standards related to religious headgear.
- Facility staff order Muslim prayer mats or ensure the facility distributes extra towels for daily prayer.



Potential Issues-

- A facility does not allow rosaries for security reasons, but does not provide an alternative accommodation.
- A facility has many Bibles for use, but no religious materials for other faith groups.



NDS 2000:

"A policy consistent with maintaining safety, security and the orderly operation of the facility shall be in place to facilitate the observance of important "holy days."

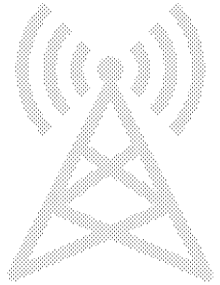
"The Chaplain will work with requesting detainees to accommodate a proper observance of the holy day."

Just a few religious holy days/holidays that a facility will have to accommodate:

- Christmas
- Lent
- Passover
- Chanukah
- Ramadan
- Rosh Hashanah
- Yom Kippur

Each holy day/holiday brings its own unique challenges, including, but not limited to, detainees who will fast, request specialty worship items or specific foods, need extra time to worship, and be prohibited from travelling.





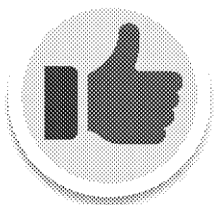
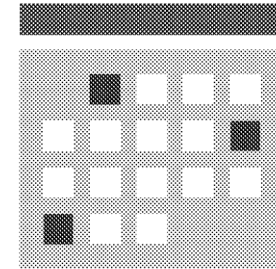
ICE/ERO Bulletins and Broadcasts and Religious Accommodation Issues

- Ramadan Medical Needs Memo (June 2013)
 - *Reminds medical administrators that Muslim detainees may abstain from food, water, and medications from sunrise to sunset.*
 - *Stresses importance of working with each patient individually to ensure medical concerns are appropriately accommodated.*
- Religious Accommodation for Use of Candles (December 2019)
 - *The use of candles for religious reasons may be permitted for the purpose of accommodating religious practices when mandated by the particular faith, subject to facility controls and supervision.*



Religious Services Programming

The standards require a designated space for religious activities and posting religious services schedules in languages understood by a majority of detainees and in housing units.



Promising Practices

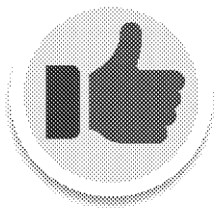
- A separate Religious Services Program Handbook educates new residents about religious programming at the facility and how to make requests.
- A facility has a chapel with a schedule for individual prayer and group services covering multiple faiths.



Visiting Clergy and Volunteers

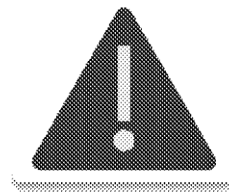
Religious leaders and volunteers are a valuable resource.

- They can lead religious worship, such as Catholic Mass and Communion, Islamic Jummah Friday Prayers, and Jewish Sabbath observance.
- They can provide donations, including religious texts and prayer items such as rosaries, prayer rugs, and Jewish Tefillins.
- They can provide guidance to facilities on how to accommodate religious requests.



Good Practice Examples-

- Outreach to local Imam to lead Friday prayer.
- “Clergy night” inviting local religious leaders to learn about religious programming and needs at the facility.
- Weekly inter-faith community pastoral visitation groups.



Potential Issue-

A facility recruits a “non-denominational” minister to hold services for all the Christians. No other Christian service is held in the facility, and there are no outreach efforts to other Christian groups.



Benefits of Religious Practice Accommodation

Consider-

- Religion and faith are central aspects of many of the cultures from which detainees come.
- Culturally speaking, religion can play a central role in coping with challenges and is often preferred to professional mental health assistance. Religious practice can provide individuals:

Sense of control
Protection
Hope
Meaning and Comfort

Research Note- Using immigrant data from the United States, Australia, and Western Europe, a researcher looked at the relationship between immigrant religious involvement and emotional well-being. Results demonstrated that regular religious participation is associated with better emotional/mental health outcomes. Phillip Connor, "*Balm for the Soul: Immigrant Religious and Emotional Well-Being*," *International Migration* 50, n. 2 (2012):130-157.

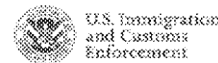


The ICE ERO Religious Accommodation Reference Manual Has Loads of Valuable Information and Promising Practices.



RELIGIOUS PRACTICES ACCOMMODATIONS

REFERENCE MANUAL



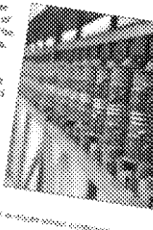
BUDDHISM

Promising Practices and Resources

- Practices are in place at the ICE ERO to provide services, including...
- List of Buddhist resources to help ICE EROs provide services, including...

Overview

Buddhism is the third largest religion in the United States...

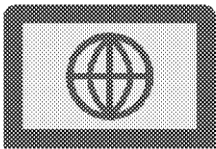


...of the Buddhist community...

- There are several differences between the various schools of Buddhism...
- A common form of prayer, chant, and music that is observed on the anniversary of the birth of the Buddha...
- The Five Precepts...
- Following the Four Noble Truths and arrival in the attainment of Nirvana...



You can access the ICE ERO Religious Accommodation Reference Manual and other information at the ICE inSight ERO Religious Practice Accommodation Resource Center (RPA RC):



<https://insight.ice.dhs.gov/ero/custody/Pages/rparc.aspx>

Or request an PDF copy by emailing:

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[@ice.dhs.gov](mailto:(b)(7)(E)@ice.dhs.gov)



The National Religious
Services Coordination Team
is available to assist with religious
accommodation questions!

