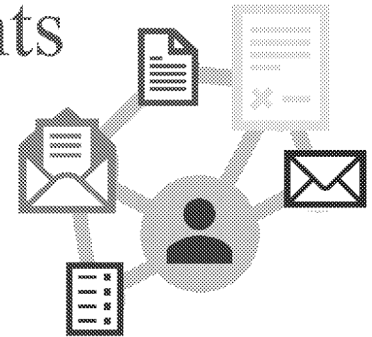




Electronic Exchange of Documents

U.S. Immigration and Customs Enforcement (ICE) detention standards require that each facility's written legal visitation procedures provide for a method of exchange of documents between detainees and legal representatives, even when contact rooms are unavailable. Though not specific to electronic means, some ICE Field offices have instituted policies and procedures that facilitate the exchange of legal documents, to include obtaining signatures, via electronic means (e.g., fax or email). This method is a best practice consistent with the intent of the ICE detention standards and is effective in ensuring the exchange of legal documents during infectious outbreaks, such as COVID-19.



Relevant Detention Standards

Legal Mail

(PBNDS 2011 5.1; PBNDS 2008 5.26; NDS 2019 5.1)



INCOMING:

- Shall only be opened in the detainee's presence.
- Can be inspected by staff for contraband and to ensure enclosures are legal mail but cannot be read or copied.
- Detainee must sign a logbook to verify it was opened in their presence.
- Shall be distributed to detainees within 24 hours (one business day) of receipt by the facility.



OUTGOING:

- Shall not be opened, read, or copied by staff.
- Can be inspected by staff for contraband and to ensure enclosures are legal mail.
- Shall be delivered to the postal service no later than the day after it is received by facility staff or placed by the detainee in a designated mail depository, excluding weekends and holidays.

Legal Visitation

(PBNDS 2011 5.7; PBNDS 2008 5.32; NDS 2019 5.5)

- Documents and materials provided to a detainee during legal visitation may be inspected but not read.
- Detainees may retain legal material received for their personal use.
- Facility's written legal visitation procedures must provide for exchange of documents between detainee and legal representatives, even when contact rooms are unavailable.

Best Practices

- Use dedicated fax line(s), with limited staff access, to help ensure confidentiality of communications.
- Help ensure that documents are not lost or commingled and are kept private by using envelopes for each detainee.
- Inspect but do not read all incoming and outgoing fax/email documents (consistent with ICE detention standards).
- Maintain a logbook of faxes received and sent; have detainees sign for incoming faxes when delivered.
- Institute a maximum 24-hour turnaround time (excluding weekends and holidays) on fax requests or delivery of faxed documents (consistent with ICE detention standards).
- Develop a procedure for accommodating urgent requests.
- Post the procedures for sending and receiving faxes on the facility page on [ICE.gov](https://www.ice.dhs.gov).