



Cognitive Impairments and Effective Communication

ERO and Facility Obligations- Disability Accommodations

ERO personnel and facilities have obligations under federal law to allow for effective communication with individuals with disabilities. Per the ERO Directive 1107.1 Assessment and Accommodations for Detainees with Disabilities, facilities notify ERO in writing of any detainee identified as having a communication impairment (among other notification requirements).

In addition to hearing and visual impairments (i.e., hard of hearing or deaf), some communication impairments are a result of cognitive impairments. For example, cognitive impairments may be a result of traumatic brain injuries, mental illness, developmental or intellectual impairments, or certain medical situations. ERO and facilities are obligated to undergo an individualized interactive process with the detainee to assist with effective communication during interactions, including the detention and removal processes.

Note: Effective communication is separate from competency evaluations, which is not addressed here.

Assessing Effective Communication

While each situation is unique and individualized, assessing a few key areas can assist with ensuring facility and ERO personnel are able to communicate effectively with some of the most important aspects within ICE ERO and facility interactions. Below are sample questions for assessing effective communication with individuals with communication impairments. Does the individual/detainee understand:

- That s/he is in ICE custody and in a detention environment?
- What to do in a facility emergency?
- How to ask for assistance in a medical emergency or if other important assistance is needed?
- How to file a grievance?
- How to communicate with ICE personnel?
- How to request medical attention?
- How to communicate with medical personnel?
- How to contact individuals (such as friends, family, attorney, etc.) outside of the facility?
- Key aspects of the ERO/facility handbook and facility programs and services?
- Key aspects of the rules within the detention environment?
- Other key information for safety and security purposes?

Reasonable Accommodations

With each of these situations, through an interactive process, facility, medical and/or ERO personnel can determine what adjustments or modifications to usual practices, procedures, or communications can be made to assist with effective communications. Accommodations are individualized to the person and his or her unique situation. A few examples of these accommodations may be:

- Simplifying instructions and information
- Explaining processes and information in alternative ways, such as reading the information to the individual
- Arranging assistance from others in the event of an emergency
- Documenting the use of any accommodations so that other facility and medical personnel use the same accommodations – especially during shift-change and in the event the detainee is transferred to another facility
- Additional assistance from mental health staff to explain processes and instructions
- Repeating key information about what the individual needs to know to remain safe in the detention environment
- Developing an individualized method (e.g., the detainee pointing to the phone, the detainee saying the word “phone,” etc.) for the detainee to indicate that s/he wishes to contact his/her family, friends, attorney, etc., wishes to seek medical attention (e.g., the detainee saying the word “sick” or “doctor,” etc.)
- Modifying/simplifying procedures for filing a grievance/requesting assistance
- Continually checking and confirming understanding
- Use of Communication Boards

Throughout the process, it is important to interact with the individual and confirm understanding and also ask what assistance s/he needs to understand and communicate while in custody.