OREGON YOUTH AUTHORITY

Policy Statement

Part I – Administrative Services

Subject:

Contact with U. S. Immigration and Customs Enforcement (ICE)

Section – Policy Number:	*Supersedes:*	*Effective Date:*	*Date of Last Review/Revision:*
E - Information Management: 6.0	**I-E-6.0 (5/14)** **I-E-6.0 (12/13)**	**09/30/2016**	**None**

Related Standards and References:	▪ ORS 419A.255(3) (Maintenance; disclosure; providing transcript; exceptions to confidentiality) ▪ OAR 416-150 (Interviews with Offenders) ▪ Consular Notification and Access Manual 2016: U.S. Department of State, Bureau of Consular Affairs ▪ American Correctional Association, *Standards for Juvenile Correctional Facilities;* 4-JCF-3A-26 (Detainer) ▪ OYA policy: I-E-2.3 (Requests for Youth Records, and Other Materials) I-E-7.0 (Foreign Nationals and Consular Notification/Contact) II-F-3.6 (Youth Legal Assistance - Facilities) II-F-1.0 (Youth Rights - Facilities) II-F-3.4 (Use of Telephone [Youth]) III-B-4.0 (Youth Rights, Responsibilities and Grievances [Field]) ▪ OYA form: YA 0058 Youth Interview Consent Form YSP 0058 Spanish Translation of YA 0058
Related Procedures:	▪ FAC I-E-6.0 DOC Youth: Contact with ICE; Documenting Foreign National Status

Policy Owner:	**Approved:**
Deputy Director	Fariborz Pakseresht, Director

I. PURPOSE:

This policy establishes how OYA staff communicate with the U. S. Immigration and Customs Enforcement (ICE) regarding youth in OYA custody.

II. POLICY DEFINITIONS:

Adjudicated youth: A person in the legal and physical custody of OYA, either in an OYA facility or placed in the community under supervision.

Consular official or consul: An official of a foreign government accredited by the Department of State and authorized to provide assistance to the foreign

government's citizens in the United States. Different from "counsel," which is an attorney authorized to provide legal advice. Consuls are not authorized to practice law.

DOC youth: A person in the legal custody of the Department of Corrections and the physical custody of OYA in an OYA facility.

Foreign national: A person residing in the United States who is not a citizen of the United States, as determined by appropriate federal executive or judicial branch officials.

ICE: U. S. Immigration and Customs Enforcement.

Immigration detainer: A notice (Form I-247) issued by the U. S. Department of Homeland Security to federal, state and local agencies to inform the agency that the Department of Homeland Security intends to assume custody of an individual in the agency's custody.

Youth: A person in the legal and physical custody of the OYA, either in an OYA facility or placed in the community under supervision; or a person in the legal custody of the Department of Corrections and the physical custody of the OYA in an OYA facility.

III. POLICY:

OYA staff must treat youth equally, regardless of race, ethnicity, religious beliefs, national origin, gender, physical or mental disabilities, sexual orientation or gender identity. OYA provides youth programs and services necessary to promote every youth's personal reformation and development while addressing criminogenic needs and case plan goals. These services are designed to maintain a youth's physical and psychological wellbeing and are equally available to all youth.

OYA staff must **not** disclose or report a youth's suspected or known immigration status to the U. S. Immigration and Customs Enforcement (ICE) or any other agency or person **unless** OYA or DOC has received an immigration detainer from ICE for the youth. At no time may a youth's immigration status or suspected status be used to intimidate, coerce or threaten the youth or the youth's family.

ICE may have its own record about a youth's immigration status obtained prior to the youth's OYA commitment. If contacted by an ICE representative, OYA staff may release information in accordance with OYA policy I-E-2.3 (Requests for Youth Records, and Other Materials). OYA staff must contact ICE when an adjudicated youth with an immigration detainer is near his/her release date. The Department of Corrections (DOC) will make all notifications to ICE regarding DOC youth.

OYA or its staff must not provide legal advice or legal assistance to a youth. A youth who has an immigration or legal concern that requires legal assistance may contact an attorney, or any agency that provides legal services, at the youth's own expense.

Youth who are foreign nationals or claim to be foreign nationals have the right to contact their consular officials by telephone, mail, or in person. OYA provides opportunity for confidential communication between foreign nationals in its custody and consular officials. See OYA policy I-E-7.0 (Foreign Nationals and Consular Notification/Contact).

IV. GENERAL STANDARDS:

A. Communication with ICE

1. Facility youth

   The Facility Services statewide population manager is OYA's primary ICE contact for youth who reside in OYA facilities.

2. Community youth

   The Community Services policy advisor is OYA's primary ICE contact for youth who reside in the community.

3. The Facility Services statewide population manager or the Community Services policy advisor may be contacted regarding ICE-related issues for youth as indicated above.

B. OYA staff must ensure

   OAR 416-150-0040 (Other Interviews) is followed whenever an ICE staff request to interview or visit a youth.

C. The Facility Services statewide population manager must ensure a JJIS population group of "DOC Sensitive Designation," subgroup "ICE Detainer" is entered into JJIS for each DOC youth committed to an OYA facility who has an ICE detainer.

D. Adjudicated youth (not DOC youth) with ICE detainers

1. The field supervisor must contact ICE after a youth's transition multidisciplinary team (MDT) meeting (45 days prior to the youth's release) and provide ICE the following information:

   a) Youth's name and date of birth;

   b) Alien number listed on the youth's immigration detainer;

   c) Copy of the juvenile court commitment order;

   d) Current transition plan, including date and time of planned release; and

   e) Parent or legal guardian's name and contact information (if available).

2. OYA staff must release a youth who has an ICE detainer to ICE staff if ICE staff are present at the facility at the time of the youth's release (specified release date and time).

3. If ICE staff are **not** present at the facility to obtain physical custody of the youth at the time of the youth's release (specified release date and time), OYA staff must release the youth according to the youth's transition plan.

E. DOC youth with ICE detainers

1. Treatment managers must begin finalizing the DOC youth's release plans with the DOC release counselor four months prior to the DOC youth's release date.

   OYA will be notified by DOC when the DOC youth is within 45 days of release into the community. DOC staff will coordinate the DOC youth's release process with ICE.

2. Release day

   a) OYA staff must release a DOC youth who has an ICE detainer to ICE staff at a designated facility on the DOC youth's specified release date.

   b) If ICE staff are **not** present at the designated facility to obtain physical custody of the DOC youth within two hours of the specified release time, OYA staff must contact the DOC release counselor for further instructions.

   c) OYA must not maintain physical custody of DOC youth beyond their scheduled release dates.

V. AGENCYWIDE PROCEDURE REQUIRED: YES

A facilitywide procedure must address the following:

A. Proper JJIS documentation;

B. Communication flow regarding youth ICE interviews, detainers, and releases; and

C. Youth release day procedures.

VI. LOCAL OPERATING PROTOCOL REQUIRED: NO