

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK
NWAUZOR, FERNANDO AGUIRRE-
URBINA, individually and on behalf of all
those similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

No. 17-cv-05769-RJB

DECLARATION OF JAMAL N.
WHITEHEAD IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, JAMAL N. WHITEHEAD, declare as follows:

1. I am over the age of eighteen, competent to testify in this matter, and do so based on personal knowledge.

2. I attach as Exhibit 1 true and correct copies of excerpts from the deposition of Byron Eagle, taken December 5, 2019. At the time of his deposition, Mr. Eagle was the Chief of secure residential operations for the Washington Department of Corrections.

3. I attach as Exhibit 2 true and correct copies of excerpts from the deposition of Debra Jean Eisen, taken December 13, 2019. At the time of her deposition, Ms. Eisen was the Contracts Administrator for the Washington State Department of Corrections.

1 4. I attach as Exhibit 3 true and correct copies of excerpts from the deposition of
2 David Holt, taken December 17, 2019. At the time of his deposition, Mr. Holt was the CEO of
3 Western State Hospital.

4 5. I attach as Exhibit 4 true and correct copies of excerpts from the deposition of
5 Sean Murphy, taken December 19, 2019. At the time of his deposition, Mr. Murphy was the
6 Assistant Secretary for the Behavioral Health Administration within the Washington
7 Department of Social and Health Services.

8 6. I attach as Exhibit 5 true and correct copies of excerpts from the deposition of
9 Plaintiff Ugochukwu Goodluck Nwauzor, taken June 19, 2018.

10 7. I attach as Exhibit 6 true and correct copies of excerpts from the deposition of
11 Christina Wells, taken December 16, 2019. At the time of her deposition, Ms. Wells was a
12 Residential Habilitation Center Program Manager for the State of Washington.

13 8. I attach as Exhibit 7 a true and correct copy of the 2011 PBNDS Standards,
14 § 4.1 - Food Service.

15 I declare under penalty of perjury under the laws of the United States that the above is
16 true and correct.

17 DATED at Seattle, Washington this 27th day of March, 2020.

18 *s/ Jamal N. Whitehead*
19 _____
JAMAL N. WHITEHEAD

EXHIBIT 1

NWAUZOR vs GEO GROUP
Eagle, Byron - December 05, 2019

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF WASHINGTON

NWAUZOR, et al.,)
)
Petitioners,)
)
v.) No. 3:17-cv-05769-RBJ
)
THE GEO GROUP, INC.,)
)
Respondent.)

Deposition Upon Oral Examination
of
BYRON EAGLE

Taken at 1019 Regents Boulevard
Fircrest, Washington

DATE: Thursday, 5 December 2019

REPORTED BY: Gloria C. Bell, CCR 3261

1 Q. (By Ms. Mell) Showing what's been marked
2 Exhibit 337; do you recognize that document?

3 **A. No, I'm not recalling it.**

4 Q. Are you familiar with the Special Commitment
5 Center detainees demanding minimum wages for the work
6 they're being -- they're performing out at the Special
7 Commitment Center?

8 **A. No.**

9 MS. BRENNEKE: I'm going to object to this
10 line of questioning. It's beyond the scope of the
11 30(b)(6) and it's also past time.

12 MS. MELL: That's fine.

13 EXAMINATION

14 BY MR. MINGAY:

15 Q. Byron, you understand you're still under oath?

16 **A. Yes.**

17 Q. Can you describe what the case managers are at
18 the SCC?

19 **A. They're the therapists.**

20 Q. And if a resident's not provided a -- is not
21 participating in the treatment program are, they still
22 provided a case manager?

23 **A. Yes.**

24 Q. And what does that case manager do?

25 **A. They meet with them once or twice a month, I'm**

1 not sure the exact schedule, and they go over treatment
2 options. They encourage them to participate in treatment
3 and then talk about any other issue that the resident may
4 bring up.

5 Q. Okay. And you had indicated that the case
6 manager also participates in the vocational program with
7 the resident?

8 A. Correct.

9 Q. And are all residences provided with an
10 individualized treatment plan even if they aren't
11 participating in treatment?

12 A. Yes.

13 Q. Okay.

14 MR. MINGAY: I have no further questions.

15 MS. MELL: Okay. I have some follow up.

16 EXAMINATION

17 BY MS. MELL:

18 Q. So is every resident assigned a case manager
19 because they're civilly committed?

20 MS. BRENNEKE: Object to the form.

21 A. So they're assigned a case manager. I'm not
22 sure the relevance if it's civilly committed or detainee.

23 Q. Okay.

24 A. Yeah.

25 Q. They're detained under the civil law not

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify: That the foregoing deposition of the witness named herein was taken stenographically before me and reduced to a typed format under my direction;

That, according to CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition after same was transcribed, unless indicated in the record that the review was waived;

That I am not a relative or employee of any attorney or counsel or participant and that I am not financially or otherwise interested in the action or the outcome herein;

That the witness coming before me was duly sworn or did affirm to tell the truth;

That the deposition as transcribed is a full, true and correct transcript of the testimony, including questions and answers and all objections, motions, and examinations, and said transcript was prepared pursuant to the Washington Administrative Code 308-14-135 preparation guidelines;

That as a matter of firm policy, the stenographic notes of this transcript will be destroyed three years from the date appearing on this transcript, unless notice is received otherwise from any party or counsel on or before said date.



GLORIA C. BELL, CCR
State of Washington CCR #3261

EXHIBIT 2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of)
all those similarly situated,)
)
Plaintiffs/Counter-Defendants.)
)
vs.) NO. 3:17-CV-05769-RJB
)
THE GEO GROUP, Inc.,)
)
Defendant/Counter-Claimant.)

DEPOSITION UPON ORAL EXAMINATION OF DEBRA JEAN EISEN

Friday, December 13, 2019
Tumwater, Washington

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 **A No. If we're talking about Department of Corrections.**

2 Q But we're not, are we? We say state procurement, correct?

3 MS. CHIEN: Object to form.

4 **A Well, my understanding is these matters have to do with the**
5 **Department of Corrections.**

6 Q (By Ms. Mell) Why would you think that? Is there anything
7 in either 18 or 19 that refers to DOC at all?

8 **A No, but let's see. There is the rest of the subpoena, and**
9 **there is reference to GEO Group, and we have issued a**
10 **contract. We did have a contract with GEO Group.**

11 Q What kind of contract did you have with Geo Group?

12 **A For housing of offenders out of state.**

13 Q Okay. Did you have a contract with GEO to house offenders
14 wherever they're housed?

15 **A Out of state.**

16 Q Why was it out of state?

17 **A That was, I guess, where GEO Group was available to house**
18 **overflow offenders.**

19 Q So within the contract that you had with the Geo Group, did
20 that include giving GEO access to the labor of the
21 incarcerated individuals?

22 MS. CHIEN: Object to form.

23 **A Well, there was a provision in the contract regarding if**
24 **offenders -- that offenders could work, yes.**

25 Q (By Ms. Mell) Okay. At subminimum wages?

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 legal answer.

2 **A Also I would like to point out that the Department never**
3 **used the GEO contract.**

4 Q (By Ms. Mell) I don't need that answer. I need the answer
5 to the question.

6 **A Well, your questions to me seem to indicate that we have**
7 **used the contract. The Department never used that**
8 **contract.**

9 Q Okay. So with that caveat, can you answer the question?

10 **A I thought I already did.**

11 Q You didn't finish it. You shifted gears.

12 **A Okay, so -- ask me the question again, please.**

13 Q All right. Is it correct that the State of Washington DOC
14 does not consider GEO's use of detainee labor at subminimum
15 wages pursuant to its contract, if fulfilled, a violation
16 of the Minimum Wage Act?

17 MS. CHIEN: Objection. Calls for a legal
18 question -- a legal answer.

19 **THE WITNESS: May I can answer?**

20 MS. CHIEN: You can answer to the extent you
21 know.

22 **A The extent I know is that the Department is not subject --**
23 **the Department offenders are not subject to the Washington**
24 **State Minimum Wage Act. Therefore, it's irrelevant.**

25 Q (By Ms. Mell) So are there contractors, other than GEO,

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 that the State contracts with to hold its offenders?

2 **A There are no current contracts, no.**

3 Q When was the last time a State of Washington individual in
4 detention or incarceration was held by a private
5 contractor?

6 **A It ended in 2009.**

7 Q So in 2009, what private contractor was holding them?

8 **A It was Corrections Corporation of America.**

9 Q What facility?

10 **A Outside of the state, there are five different states.**

11 Q Do you know what facilities state detainees went to?

12 **A They went to five different facilities, is my
13 understanding, in different states.**

14 Q Yeah, I'm asking which ones.

15 **A What states?**

16 Q No. Which facilities.

17 **A I would not know that.**

18 Q Did they work for CSC?

19 MS. CHIEN: Object to form.

20 **A I do not know that.**

21 Q (By Ms. Mell) Did the State ever send anybody into any of
22 these correctional facilities to see how they operated?

23 MS. CHIEN: Object to form.

24 **A To the best of my knowledge -- this is a previous contract,
25 an expired contract -- the State typically does monitor its**

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 number came from?

2 **A No. That would be CCA's calculation.**

3 Q Why didn't you use the GEO contract? And, obviously, when
4 I say "you," I mean the State.

5 **A The GEO contract was not in effect at that time.**

6 Q When was the GEO contract in effect?

7 **A From approximately May of '15 to August of '18.**

8 Q What did the GEO contract state with respect to detainee
9 work?

10 **A You know, I'm not exactly sure whether it was the same or
11 different.**

12 Q What was the -- well, strike that.

13 When you said that the GEO contract wasn't in effect
14 at that time, did you mean at the time the CCA contract was
15 in effect?

16 **A Um-hmm.**

17 Q Is that a "yes"?

18 **A I thought that was your question.**

19 Q I don't --

20 **A I interpreted your question to mean why didn't you use the
21 GEO contract? Why did you use the CCA contract?**

22 Q Okay.

23 **A So the answer to that would be there was no GEO contract at
24 that time. And I don't know that we would have used GEO
25 rather than CCA. I don't know what decision-making went**

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 **into that process.**

2 Q So to the best of your understanding, the GEO contract took
3 effect after the CCA contract?

4 **A Yes, ended.**

5 Q And the GEO contract was entered into by Department of
6 Corrections for what purpose?

7 **A To house offenders if space was needed. And I believe both**
8 **contractors were the result of public procurements,**
9 **competitive procurements, that were issued to find**
10 **contractors.**

11 Q Through state procurement or through Corrections?

12 **A Through our department.**

13 Q Through Corrections?

14 **A Yes.**

15 Q So what have you done to ascertain whether or not GEO
16 housed any state incarcerants?

17 **A I checked with prisons' administrators, prisons' executive**
18 **staff, to ask for their historical knowledge and the**
19 **contract manager himself.**

20 Q And how long -- who is the contract manager?

21 **A It was Tom Fithian.**

22 Q How long has Tom Fithian worked for prisons?

23 **A Oh, my gosh. Longer than me, and I've been here almost 20**
24 **years, so quite a while.**

25 Q What kind of documents would exist to show payment for

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 incarcerants to GEO?

2 MS. CHIEN: Object to form. Misstates the
3 testimony.

4 **A Well, to my knowledge, there were no payments to GEO. So**
5 **there would be no documents to show payments to GEO.**

6 Q (By Ms. Mell) Did you look to see if there were payment
7 documents to GEO?

8 **A I did not.**

9 Q So what kind of payment documents could we look for to
10 verify whether or not Tom Fithian has a valid historical
11 knowledge of whether or not state incarcerants were held by
12 GEO?

13 **A One could look for invoices from GEO and payment from --**
14 **from DOC to GEO during that period of time.**

15 Q But you did not do that work in preparation for this
16 deposition?

17 **A I did not, no. My experience has been that Mr. Fithian's**
18 **knowledge is spot on.**

19 Q And his -- but you don't know how -- do you know whether or
20 not his knowledge would date back to May of 2015?

21 **A Yes, it would.**

22 Q Did he tell you why GEO didn't have any State detainees?

23 **A There was no need for that, for the space, and so none were**
24 **assigned, meaning no incarcerants were sent there. There**
25 **was no need for that space.**

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

1 **A The GEO contract died a natural death.**

2 Q (By Ms. Mell) Does DOC have a housing contract with a
3 private contractor at present?

4 **A No.**

5 Q Has it procured a housing contract with any private
6 corporation since the GEO contract expired?

7 **A No.**

8 Q Does DOC contract with any private corporation to use
9 detainee labor?

10 **A No.**

11 Q Are you aware of detainees or incarcerants under DOC
12 jurisdiction doing subminimum wage work?

13 **A Yes.**

14 Q What do you know about that?

15 **A I know that we have, by RCW, work crew programs that --**
16 **through which offenders do work either in the prisons or in**
17 **the community, and they are paid rates established by the**
18 **Secretary, and they are subminimum rates, which are**
19 **permitted by law. They can only, however, work for other**
20 **governments or public benefit nonprofit corporations.**

21 Q Do you know whether or not the work can be performed for
22 government contractors?

23 **A No. Just governments themselves.**

24 Q Do you know whether or not private contractors for
25 government are extended the same protections as government

NWAUZOR vs GEO GROUP
Debra Eisen, 12/13/2019

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

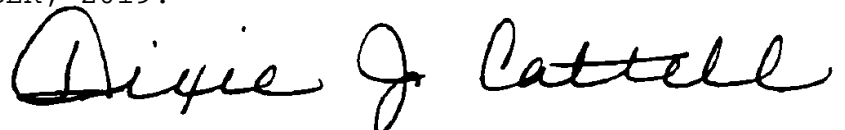
That the foregoing deposition of DEBRA JEAN EISEN was taken before me and completed on the 13th day of December, 2019, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of DEBRA JEAN EISEN and promptly serving the same upon MS. JOAN MELL.

IN WITNESS HEREOF, I have hereunto set my hand this 17th day of DECEMBER, 2019.



Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346

EXHIBIT 3

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of)
all those similarly situated,)
)
Plaintiffs/Counter-Defendants.)
)
vs.) NO. 3:17-CV-05769-RJB
)
THE GEO GROUP, Inc.,)
)
Defendant/Counter-Claimant.)

DEPOSITION UPON ORAL EXAMINATION OF DAVID HOLT

Tuesday, December 17, 2019
Lakewood, Washington

NWAUZOR vs GEO GROUP
David Holt, 12/17/2019

1 that you select to pay detainees derived from?

2 MS. BRENNEKE: Object to the form.

3 **A I do not know.**

4 Q (By Ms. Mell) Do detainees get 7.25 -- is it per hour?

5 **A Correct.**

6 Q And they get 7.25 per hour regardless of the tasks
7 undertaken?

8 **A That's correct.**

9 Q And with respect to the number of hours of work, how many
10 hours do detainees work?

11 **A It depends on the condition of the patient. Let me give
12 you an example. Some of the patients on the wards, they
13 cannot handle more than a half hour or an hour. Other
14 patients, for example, in our Habilitative Mental Health
15 program have a set number of hours per week that they work.**

16 Q What's the most hours any detainee works?

17 MS. BRENNEKE: Object to the form.

18 **A I don't know exactly. We have 260 patients on our
19 vocational rehab payroll that are receiving wages. I would
20 not know on each individual patient how many hours.**

21 Q (By Ms. Mell) What's the longest tasks that's assigned?

22 **A We have -- in our Habilitative Mental Health program, they
23 work daily Monday through Friday. They work two hours in
24 the morning and an hour in the afternoon, three hours per
25 day.**

NWAUZOR vs GEO GROUP
David Holt, 12/17/2019

1 Q And a patient may be kicked out of the vocational rehab
2 program if they refuse to participate at all?

3 MS. BRENNEKE: Object to the form.

4 A Let me clarify your previous question about whether they
5 get kicked out of the program. There is an example for
6 safety, for example, in the kitchen. If a patient cannot
7 handle being around dangerous equipment, et cetera, they
8 may move them into a different job category. They don't
9 get kicked out, but they would be adapted to the individual
10 needs of the patient.

11 Q (By Ms. Mell) Okay. So there's a misbehavior protocol.
12 What about a refusal to work protocol; what happens to
13 those people?

14 MS. BRENNEKE: Object to the form of the
15 question. It misstates prior testimony.

16 A I don't know that answer.

17 Q (By Ms. Mell) Is the participation voluntary?

18 A In the Habilitation Mental Health program it is part of
19 their treatment program, and all patients participate as
20 part of their treatment.

21 Q So they can't refuse to work?

22 A I don't know.

23 Q Why don't you know?

24 MS. BRENNEKE: Object to the form.

25 A I don't work in the program every day, and I would be

NWAUZOR vs GEO GROUP
David Holt, 12/17/2019

1 Q (By Ms. Mell) Do you know whether or not the federal
2 minimum wage varies based on activity?

3 MS. BRENNEKE: Same objection.

4 **A I don't know.**

5 Q (By Ms. Mell) What are patients required to do relative to
6 maintaining their personal grooming as well as the
7 facilities that they need to use to maintain themselves?

8 MS. BRENNEKE: Object to the form. Compound.

9 **A Could you repeat the question?**

10 Q (By Ms. Mell) Do patients have to change their beds?

11 **A Each patient is in a different place as far as their social**
12 **skills, their abilities, their intellectual capability, et**
13 **cetera. So each patient is on a ward where there is a**
14 **treatment team that considers the overall needs and**
15 **abilities of each patient and adapts the treatment plan to**
16 **meet those individual needs. Some patients can make their**
17 **beds; some can't. Some have intellectual capabilities that**
18 **they can't do it. Some have physical disabilities where**
19 **they can't. Some have mental disabilities where they**
20 **can't. They take the patient where they are and create an**
21 **individualized treatment plan to encourage grooming and**
22 **dress and making beds and keeping their personal space**
23 **appropriate and work with them to increase those skill**
24 **levels.**

25 Q So is it correct that there's no expectation by the State

NWAUZOR vs GEO GROUP
David Holt, 12/17/2019

1 question to the extent it calls for a legal conclusion.

2 **A I can't -- I can't state that. That's speculation. I**
3 **don't know.**

4 Q (By Ms. Mell) Do the patient workers work the same as the
5 State workers?

6 MS. BRENNEKE: Object to the form of the
7 question. It's been asked and answered, and it's very
8 vague.

9 **A Could you repeat that again?**

10 Q (By Ms. Mell) Do the patient workers work the same as the
11 State workers?

12 MS. BRENNEKE: Object to the form of the
13 question. It's been asked and answered for an hour-long
14 deposition, and it's very vague.

15 **A They work according to the treatment plan that the**
16 **treatment team works out with them based on their**
17 **individual needs and abilities.**

18 Q (By Ms. Mell) Do you think the patient workers have an
19 employment relationship with Western State?

20 **A They have a --**

21 MS. BRENNEKE: I'm going to object to the extent
22 it calls for a legal conclusion.

23 Go ahead.

24 **A They have a vocational relationship with our hospital that**
25 **helps provide them treatment. We're not about just jobs.**

NWAUZOR vs GEO GROUP
David Holt, 12/17/2019

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

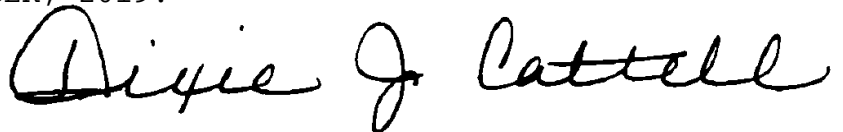
That the foregoing deposition of DAVID HOLT was taken before me and completed on the 17th day of December, 2019, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of DAVID HOLT and promptly serving the same upon MS. JOAN MELL.

IN WITNESS HEREOF, I have hereunto set my hand this 21st day of DECEMBER, 2019.



Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346

EXHIBIT 4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
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vs.) NO. 3:17-CV-05769-RJB
)
THE GEO GROUP, Inc.,)
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Defendant/Counter-Claimant.)

DEPOSITION UPON ORAL EXAMINATION OF SEAN MURPHY

Thursday, December 19, 2019
Tumwater, Washington

NWAUZOR vs GEO GROUP
Sean Murphy, 12/19/2019

1 A So what I can -- what I can tell you about is folks that
2 are at the hospitals, and I can tell you about the folks
3 that are at the Special Commitment Center, and I can tell
4 you that those folks, we are definitely seeking ways to
5 help them be -- to live -- live and lead meaningful lives,
6 and part of that has a vocational component.

7 Q (By Ms. Mell) And those individuals have skills that they
8 come into the facilities with, correct?

9 A There are a variety of skill sets that people come in with
10 based on their -- the challenges that they're in the
11 respective facility for. Many of the folks that we work
12 with are developmentally disabled or have significant
13 impairments due to mental illness, those types of things,
14 and so the skill sets that they have definitely differ from
15 person to person.

16 So one job may very well be that we pay the person
17 to -- and this is an example -- to prepare their own meal
18 in preparation for them trying to live independently as
19 they move out. Someone else we may try and work into a
20 program where they work with wood or crafts or chairs or
21 something like that. All things that are just really
22 designed to try and give them some level of skills,
23 exercise their mind, and it's really individual and
24 dependent on each individual's specific needs.

25 Q So is it correct that the State and, in your case, DSHS,

NWAUZOR vs GEO GROUP
Sean Murphy, 12/19/2019

1 Q Do you have reason to believe that without knowing the
2 specific wage that state minimum wages are higher?

3 **A Again, I don't know what the state minimum wage is.**

4 Q Do you think that the State is paying less than it would
5 have to pay employees hired by the State to do the same
6 work?

7 MS. BRENNEKE: Object to the form of the
8 question. Misstates his prior testimony.

9 **A So the work that's done is individualized for each
10 particular resident or patient, and so the way that I
11 understand our work programs, we wouldn't be paying someone
12 to do that work.**

13 Q (By Ms. Mell) How would the work get done?

14 **A The jobs that we do are jobs that are designed around the
15 patients' needs and not work that's purposeful and
16 necessary and meaningful in the same way. It's not a
17 requirement for operations.**

18 Q So how would the individuals' needs be met by the State
19 while these individuals are in the State custody if the
20 individuals didn't do the work themselves?

21 MS. BRENNEKE: Object to the form.

22 **A The individuals' needs be met? So part of the vocational
23 program is to help support the patients' needs, and to your
24 question, if I understand it correctly, is: How would
25 those needs be met if they weren't doing that work?**

NWAUZOR vs GEO GROUP
Sean Murphy, 12/19/2019

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

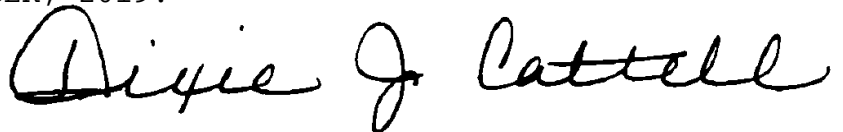
That the foregoing deposition of SEAN MURPHY was taken before me and completed on the 19th day of December, 2019, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the deposition of SEAN MURPHY and promptly serving the same upon MS. JOAN MELL.

IN WITNESS HEREOF, I have hereunto set my hand this 23rd day of DECEMBER, 2019.



Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346

EXHIBIT 5

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THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

CHAO CHEN, individually and)	
on behalf of all those)	No. 3:17-cv-05769-RJB
similarly situated,)	
)	
Plaintiff,)	
)	
v.)	
)	
THE GEO GROUP, INC., a)	
Florida corporation,)	
)	
Defendant.)	

VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF
NWAUZOR UGOCHUKWU
June 19, 2018
Fircrest, Washington

Taken Before:

Laura A. Gjuka, CCR #2057
Certified Shorthand Reporter

1 A No.

2 Q -- while you were at Northwest Detention Center?

3 A No.

4 Q When you were at Northwest Detention Center, did anyone
5 talk to you about being a member of this class action
6 that's being filed against The GEO Group?

7 MR. BERGER: I'm going to object and
8 instruct the witness not to answer to the extent that it
9 calls for attorney-client communications between
10 Goodluck and Ms. Mentor.

11 BY MR. DEACON:

12 Q Right. And I'm talking about when you were at Northwest
13 Detention Center. And I don't want to know about
14 communications with your attorney. What I want to know
15 is did any other detainee or anyone else come to you and
16 talk to you about being involved in this class action
17 lawsuit against the GEO Group while you were still at
18 Northwest Detention Center?

19 A Inside the pod? No.

20 Q Yes. No?

21 well, let -- let me ask you -- I don't want to know
22 any communications you had with your attorney -- when
23 was the first time anybody approached you about
24 participating in this lawsuit?

25 A Participate in this lawsuit?

1 Q Yes.

2 MR. BERGER: Just when.

3 THE WITNESS: When?

4 BY MR. DEACON:

5 Q Yeah, just when.

6 A You know, I have friends who also pass through Northwest
7 Detention Center, some Africans. Whenever we hang
8 around, we always -- you know, discussion about the job
9 we did in Northwest Detention Center. And a lot of them
10 did different job. I know a guy from Ghana, he work in
11 kitchen. And also he know some of his friends from his
12 country. I know him, he live the same -- you know, the
13 same apartment with me. We always discussion about it.

14 And one time I heard it on the news. I heard it on
15 the news, commenting about how GEO use people in the
16 detention. I love listening to the radio. The job they
17 are supposed to call people to do, they use the inmate,
18 you know, in that job, you know.

19 Every time, whenever we -- you know, I hang out with
20 all these friends that come through the same place, you
21 know, went through Northwest Detention Center -- we are
22 not happy because the job we did there, we are supposed
23 to pay more than what we are doing.

24 A lot of them -- I know one guy working in kitchen,
25 he explained a lot of these things, the same work. Most

1 of the people work in the kitchen, work more than one
2 hour. Three hours, two hours, depend. More -- every
3 time more than two hours, three hours in kitchen.

4 But my own, I work one hour plus. Then we feel
5 like -- because -- why we cannot say anything? Because
6 we are afraid in that detention. We are afraid. We are
7 hopeless. We are scared. We don't have any right to
8 say. Why you giving us one dollar?

9 But we have do it. I have to do it so that I will
10 have some money to call my parents. My parents have no
11 more money to send for me. I have to -- they pay me
12 that \$1 to my account, so that I can use it to buy some
13 of the -- some of the -- you know, my need. Commissary,
14 we call it in detention.

15 We can't say anything, but we have to do it to
16 survive. Yeah, been doing it. We did it -- they take
17 advantage of us because they know we cannot say
18 anything. And I have no power to ask them why, because
19 I live with fear in detention.

20 Q Are you done?

21 A Yeah.

22 Q I need to object to your response to my question.

23 My question was: When were you first approached
24 about participating in this litigation?

25 A Okay. Then when I -- when heard what GEO did to

1 Chao Chen? Do you know who Chao Chen is?

2 A (Witness shakes head.)

3 Q The person who first brought this lawsuit, do you know
4 who he is?

5 A Chao Chen?

6 Q Do you know who Chao Chen is?

7 A About this case?

8 Q Yes.

9 A I met my attorney.

10 Q Okay. I'm not asking about meeting your attorney.

11 A Yeah.

12 Q Did you ever meet a detainee or a guy who was a detainee
13 at one time named Chao Chen?

14 A No. This is my first time I've heard that name.

15 Q Okay. Do you know a Fernando Aguirre-Urbina?

16 A That is what I'm telling you, sir. I don't know, this
17 is first time I have heard name.

18 Q All right. How old a man are you? How old are you?

19 A 41.

20 Q 41?

21 A Yeah. Approximately 42.

22 Q You're now 42 or soon to be?

23 A Approximately soon to be 42.

24 Q Oh, soon to be 42. Okay.

25 why did you want to work when you were at Northwest

1 Detention Center?

2 A One --

3 Q why?

4 A -- I have no source of income of getting money, and
5 tried to reach my brother, also get things I want, like
6 commissary. That's why I choose to work.

7 Q Okay. You understand that you were placed at Northwest
8 Detention Center by the United States government while
9 they worked through your asylum?

10 MR. BERGER: Objection, asked and
11 answered.

12 BY MR. DEACON:

13 Q Correct?

14 A I believe.

15 Q Did anyone ever tell you how long it would take for the
16 United States government to go through your asylum case?

17 A (Witness shakes head.)

18 MR. BERGER: I'm going to object to the
19 extent it calls for communications from his attorney.

20 BY MR. DEACON:

21 Q Did you have the same amount of money in your account
22 when you started at Northwest Detention Center as when
23 you left Northwest Detention Center?

24 A Yeah. When I came, I have some money, but I cannot
25 remember.

EXHIBIT 6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of)
all those similarly situated,)
)
Plaintiffs/Counter-Defendants.)
)
vs.) NO. 3:17-CV-05769-RJB
)
THE GEO GROUP, Inc.,)
)
Defendant/Counter-Claimant.)

DEPOSITION UPON ORAL EXAMINATION OF CHRISTINA WELLS

Monday, December 16, 2019
Tumwater, Washington

NWAUZOR vs GEO GROUP
Christina Wells, 12/16/2019

1 there?

2 **A No.**

3 Q When you say they voluntarily asked to be there, have they
4 exercised their own self-determination and asked to live at
5 these residential facilities, or has their personal care
6 guardian made that decision for them?

7 MS. BRENNEKE: Object to the form.

8 **A It depends on the individual.**

9 Q (By Ms. Mell) So there are individuals who can't make an
10 independent living decision on their own, so they defer to
11 their personal guardian?

12 **A Yes.**

13 Q And there are individuals who are court-ordered to be at
14 Fircrest, Rainier, Lakeland Village, or Yakima Valley
15 School?

16 **A No.**

17 Q All of the individuals have, by way of their guardian or
18 themselves, chosen to be there?

19 **A Yes.**

20 Q They can leave at any time?

21 **A Yes.**

22 Q So why are those individuals not paid minimum wage for work
23 they do for the State?

24 MS. BRENNEKE: Object to the form.

25 **A It depends on what job they're doing. And there's an**

NWAUZOR vs GEO GROUP
Christina Wells, 12/16/2019

1 assessment process that's in place to determine what level
2 of ability they have, and then they've gone through the
3 subminimum wage certificate that's required for now, and so
4 we complete our assessment, and it's all part of their
5 treatment plan.

6 Q What do you mean it's part of their treatment plan?

7 A Every individual has a team that gets together and
8 assesses, which includes the client and their guardian.
9 And then they determine what their needs are and what we're
10 going to work on while they're with us and how to help them
11 become more independent so that eventually they can move to
12 a lesser restrictive environment.

13 Q How many people are living in Fircrest?

14 A For the facility as a whole? We have -- so Fircrest is
15 separated into two program area teams. We have a nursing
16 facility team side and an intermediate care facility side.
17 We have about 110 individuals on our nursing facility. We
18 have about 108 on our intermediate care facility side.
19 What does work out? 218.

20 Q What makes a person eligible to stay in the nursing or the
21 intermediate care side of Fircrest?

22 MS. BRENNEKE: Object to the form.

23 A For the intermediate care facility side, they have to meet
24 what is under our Code of Federal Regulations, that they
25 would have to meet a certain set of criteria. They'd have

NWAUZOR vs GEO GROUP
Christina Wells, 12/16/2019

C E R T I F I C A T E

I, DIXIE J. CATTELL, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, do hereby certify:

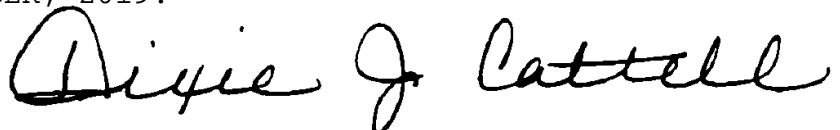
That the foregoing deposition of CHRISTINA WELLS was taken before me and completed on the 16th day of December, 2019, and thereafter transcribed by me by means of computer-aided transcription; that the deposition is a full, true and complete transcript of the testimony of said witness;

That the witness, before examination, was, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

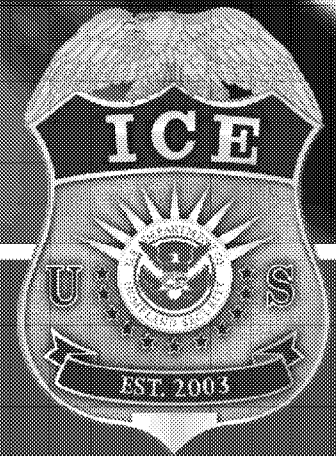
That I am herewith securely sealing the deposition of CHRISTINA WELLS and promptly serving the same upon MS. JOAN MELL.

IN WITNESS HEREOF, I have hereunto set my hand this 18th day of DECEMBER, 2019.



Dixie J. Cattell, RPR, CCR
NCRA Registered Professional Reporter
Washington Certified Court Reporter CSR#2346

EXHIBIT 7



Performance-Based National Detention Standards 2011



U.S. Immigration
and Customs
Enforcement

Preface

In keeping with our commitment to transform the immigration detention system, U.S. Immigration and Customs Enforcement (ICE) has revised its detention standards. These new standards, known as the Performance-Based National Detention Standards 2011 (PBNDS 2011), are an important step in detention reform.

ICE is charged with removing aliens who lack lawful status in the United States and focuses its resources on removing criminals, recent border entrants, immigration fugitives, and recidivists. Detention is an important and necessary part of immigration enforcement. Because ICE exercises significant authority when it detains people, ICE must do so in the most humane manner possible with a focus on providing sound conditions and care. ICE detains people for no purpose other than to secure their presence both for immigration proceedings and their removal, with a special focus on those who represent a risk to public safety, or for whom detention is mandatory by law.

The PBNDS 2011 reflect ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose. The PBNDS 2011 are crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees with no or

limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation.

The PBNDS 2011 are also drafted to include a range of compliance, from minimal to optimal. As such, these standards can be implemented widely, while also forecasting our new direction and laying the groundwork for future changes.

In closing, I would like to thank the ICE employees and stakeholders who provided significant input and dedicated many hours to revising these standards. I appreciate the collaboration and support in this important mission - reforming the immigration detention system to ensure it comports with our national expectations. The PBNDS 2011 are an important step in a multiyear process and I look forward to continued collaboration within ICE, with state and local governments, nongovernmental organizations, Congress, and all of our stakeholders as we move forward in reforming our detention system.

John Morton
Director

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4.1 Food Service

I. Purpose and Scope

This detention standard ensures that detainees are provided a nutritionally balanced diet that is prepared and presented in a sanitary and hygienic food service operation.

This detention standard applies to the following types of facilities housing ICE/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 and CDFs. 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. All detainees shall be provided nutritionally balanced diets that are reviewed at least quarterly by food service personnel and at least annually by a qualified nutritionist or dietitian.
2. Detainees, staff and others shall be protected from harm, and facility order shall be maintained, by the application of sound security practices in all

aspects of food service and dining room operations.

3. Detainees, staff and others shall be protected from injury and illness by adequate food service training and the application of sound safety and sanitation practices in all aspects of food service and dining room operations.
4. Dining room facilities and operating procedures shall provide sufficient space and time for detainees to eat meals in a relatively relaxed, unregimented atmosphere.
5. Food service facilities and equipment shall meet established governmental health and safety codes, as documented in independent, outside sources.
6. Detainees, staff and others shall be protected from health-related harm by advance medical screening and clearance before any detainee is assigned to work in food service operations.
7. Food service areas shall be continuously inspected by food service staff and other assigned personnel on schedules determined by the food service administrator and by applicable policy requirements.
8. Stored food goods shall be maintained in accordance with required conditions and temperatures.
9. Food service personnel shall provide nutritious and appetizing meals. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations. Food service personnel shall accommodate the ethnic and religious diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged.
10. Therapeutic medical diets and supplemental food shall be provided as prescribed by appropriate clinicians.

11. Special diets and ceremonial meals shall be provided for detainees whose religious beliefs require adherence to religious dietary laws.
12. Detainees shall receive a religious or special diet free of any personal cost.
13. Food shall never be used for reward or punishment.
14. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

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 “Food Service” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-*

based Standards for Adult Local Detention Facilities, 4th Edition: 4-ADLF-4A-01 through 4A-18. (Five of those Expected Practices are mandatory for accreditation: 4A-07, 4A-11, 4A-13, 4A-15 and 4A-16.)

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

- “2.7 Key and Lock Control”; and
- “2.14 Tool Control.”

FDA Public Health Services Food Code.

V. Expected Practices

A. Administration

1. Food Service Administrator or Equivalent

The food service program shall be under the direct supervision of an experienced food service administrator (FSA) who is responsible for the following:

- a. Planning, controlling, directing and evaluating food service;
- b. Training and developing cook foremen (CF);
- c. Managing budget resources;
- d. Establishing standards of sanitation, safety and security;
- e. Developing nutritionally adequate menus and evaluating detainee acceptance of them;
- f. Developing specifications for procurement of food, equipment and supplies; and
- g. Establishing a training program that ensures operational efficiency and a high quality food service program.

The food service department shall also be staffed by one or more cook supervisors (CS) and CF, although the organizational structure may differ among facilities, particularly when food service is provided by a food service contractor. Therefore, references to the CS and CF in this detention standard describe

typical duties for those positions, although the functions may be performed by others, depending on the organizational structure.

B. Security

1. Custody and Security

The facility's custody and security policy and procedures shall address the following:

- a. buildings or portions of buildings housing the food service department;
- b. all types of detainee traffic in and out of the department;
- c. detainee behavior;
- d. control of repairs;
- e. control of utensils with a custodial hazard potential (e.g., knives, cleavers, saws, tableware);
- f. official counts and census;
- g. area searches; and
- h. any other matters having a direct or indirect bearing on custody and security.

The facility's training officer shall devise training curricula and provide appropriate training to all food service personnel in detainee custodial issues. Among other topics, this training shall cover ICE/ERO's current detention standards.

2. Knife Control

The knife cabinet must be equipped with an approved locking device. The on-duty CF, under direct supervision of the CS, shall maintain control of the key that locks the cabinet..

Knives must be physically secured to workstations for use outside a secure cutting room. Any detainee using a knife outside a secure area must receive direct staff supervision. Knives shall be inventoried and stored in accordance with standard "2.14 Tool Control."

To be authorized for use in the food service

department, a knife must have a steel tang through which a metal cable can be mounted. The facility's tool control officer is responsible for mounting the cable to the knife through the steel tang.

The FSA/CS shall monitor the condition of knives and other food service utensils, disposing of items not in good working order and ordering replacements. If a knife is misplaced or lost, staff shall immediately notify the FSA and Chief of Security, and shall hold detainees who may have had access to the missing knife in the area until a thorough search is conducted. The responsible CS shall provide the details of the loss in a written report to the Chief of Security.

The knife cabinet shall meet the tool-control standards of the Occupational Safety and Health Administration, as well as any site-specific standards developed by the facility.

3. Key Control

Keys shall be inventoried and stored in accordance with standard "2.7 Key and Lock Control."

The control room officer shall issue keys only in exchange for a name chit from receiving staff. Under no circumstances shall detainees have access to facility keys.

The CS shall return the keys to the control room before going off duty. At no time may anyone carry facility keys outside the facility.

4. Controlled Food Items/Hot Items

All facilities shall have procedures for handling food items that pose a security threat.

a. Yeast and Yeast Products

All yeast must be stored in an area with no detainee access, preferably in a locked metal yeast cabinet for which the food service department has only one key. The locked yeast cabinet shall be maintained in a secure area.

Until the yeast is thoroughly incorporated as an ingredient in a food item being prepared, only

one member of the food service staff, closely supervised, may handle and dispense it.

Staff shall keep a record of the yeast inventory (in pounds and ounces), indicating quantity of receipt and issue, balance on hand and the record-keeper's initials.

b. Other Food Items

Mace, nutmeg, cloves, sugar and alcohol-based flavorings also require special handling and storage.

- 1) The purchase order for any of these items shall specify the special-handling requirements for delivery.
- 2) Staff shall store and inventory these items in a secure area in the food service department.
- 3) Staff shall directly supervise use of these items.

5. Work Area Searches

All facilities must establish daily searches of detainee work areas (e.g., trash) as standard operating procedures, paying particular attention to trash receptacles.

Searches of detainees leaving certain work areas (e.g., bakery, vegetable preparation, dining room, warehouse) are required to reduce the possibility that hot food or contraband can leave the restricted area. Unless otherwise directed by facility policy or special instructions, staff shall prevent detainees from leaving the food service department with any food item.

Food service personnel as well as facility detention staff shall conduct food service area searches.

6. Counts

The FSA shall establish procedures for informing staff of the local counting procedures, and shall establish measures to ensure that the procedures are followed.

Staff must be able to account for detainees at all times.

The counting officer must have a staff observer/backup during each count. Detainees shall be assembled in one section of the dining room and be required to remain seated until their names are called, and shall then move to another section of the dining room.

C. Detainee Workers

1. Detainee Workforce

Detainees may volunteer for work in accordance with standard "5.8 Voluntary Work Program" and must work in accordance with standard "2.2 Custody Classification System."

The number of detainees assigned to the food service department shall be based on a quota developed by the FSA and approved by the facility administrator. The quota shall provide staffing according to actual needs, and shall eliminate any bias toward over- or understaffing.

2. Detainee Job Descriptions

The FSA shall review detainee job descriptions annually to ensure accuracy and specific requirements. Before starting work in the department, the detainee shall sign for receipt of the applicable job description. A copy of the detainee's job description shall remain on file for as long as the detainee remains assigned to the food service department.

3. Detainee Orientation and Training

To ensure a quality food service program and instill good work habits, each CS shall instruct newly assigned detainee workers in the rules and procedures of the food service department. During the orientation and training session(s), the CS shall explain and demonstrate safe work practices and methods and shall identify the safety features of individual products and equipment.

Training shall also include workplace-hazard recognition and deterrence, including the safe handling of hazardous materials. Detainees shall learn

to use and understand protective devices and clothing and to report any malfunctions or other safety-related problems to their supervisors.

The CS must document all training in each detainee's detention file.

4. Detainee Work Hours and Pay

Detainee volunteers shall work and be paid in accordance with standard "5.8 Voluntary Work Program."

5. Meals for Food Service Workers

The FSA shall establish the meal schedules for detainee food service workers.

Detainee workers shall receive the same fare as other detainees. The CS shall not allow detainees to prepare "special" dishes or condiments for their own or other detainees' consumption.

Detainee workers assigned to the staff dining room may be allowed to eat in that area. All others shall eat in the main dining room, or, if the facility has no main dining room, the FSA shall designate an area for workers to eat.

6. Detainee Clothing

Detainees assigned to the food service department shall have a neat and clean appearance.

Unless the facility administrator establishes other policy, the detainee food worker uniform shall consist of the following: white, short-sleeved, summer-type uniform shirts and pants; safety work shoes; and a white paper hat or white cap. White aprons or smocks of either cloth or disposable plastic may be part of the uniform.

- a. Detainees with hair shoulder-length or longer shall be required to wear a hair net under their hats or caps.
- b. Detainees with facial hair shall be required to wear beard guards when working in the food preparation or food serving areas.
- c. Detainees working in the garbage room, dish

machine room, pan-washing area, etc., shall be required to wear rubber or plastic aprons suited to the task and rubber boots, if required, for sanitation or safety.

- d. Detainees working in refrigerated and freezer areas shall be provided appropriately insulated clothing.

7. Use of Tobacco

Tobacco in all its forms is prohibited in the food service department.

D. Food Service Dining Room/Satellite Meals Operations

1. General Policy

Ordinarily detainees shall be served three meals every day, at least two of which shall be hot meals; however, the facility administrator may approve variations in the food service schedule during religious and civic holidays, provided that basic nutritional goals are met. The dining room schedule must allow no more than 14 hours between the evening meal and breakfast.

Clean, potable drinking water must be available.

Meals shall always be prepared, delivered and served under staff (or contractor) supervision.

Meals shall be served in as unregimented a manner as possible. The FSA's table arrangement should facilitate ease of movement and ready supervision. The dining room shall have the capacity to allow each detainee a minimum of 20 minutes dining time for each meal.

2. Display and Service

The following procedures apply to the display, service and transportation of food to main and satellite food service areas:

- a. Before and during the meal, the CS in charge shall inspect the food service line to ensure:
 - 1) all menu items are ready for consumption;

- 2) food is appropriately presented; and
 - 3) sanitary guidelines are observed, with hot foods maintained at a temperature of at least 140 F degrees (120 F degrees in food trays) and foods that require refrigeration maintained at 41 F degrees or below.
- b. Every open food item and beverage shall be protected from contaminants by easily cleaned sneeze-guards, cabinets, display cases or other such equipment.
 - c. Servers must wear food-grade plastic gloves and hair nets whenever there is direct contact with a food or beverage. Servers must use tongs, forks, spoons, ladles or other such utensils to serve any food or beverage. Serving food without use of utensils is strictly prohibited.
 - d. Servers shall use scoops, tongs or other approved utensils when handling or dispensing ice for consumption. The FSA shall consider the practicability of purchasing automatic ice-dispensing equipment.
 - e. Utensils shall be sanitized:
 - 1) as often as necessary to prevent cross-contamination and other food-handling hazards during food preparation and service;
 - 2) after every food preparation/service session; and
 - 3) again, if necessary, immediately before being used.
 - f. Sugar, condiments, seasonings and dressings available for self-service shall be provided in individual packages, closed dispensers, or automated condiment-dispensing systems. Salad dressings may be served in open containers if the serving ladle extends beyond the top edge of the container.
 - g. If the facility does not have sufficient equipment to maintain the minimum or maximum temperature required for food safety, the affected

items (e.g., salad bar staples such as lettuce, meat, eggs, cheese) must be removed and discarded after two hours at room temperature.

Food shall be delivered from one place to another in covered containers. These may be individual containers, such as pots with lids, or larger conveyances that can move objects in bulk, such as enclosed, satellite-meals carts.

In any facility, if food carts are delivered to housing units by detainees, they must be locked unless they are under constant supervision of staff.

All food-safety procedures (e.g., sanitation, safe-handling, storage, etc.) apply without exception to food in transit.

- h. Soiled equipment and utensils must be transported to the appropriate receptacles in closed containers.
- i. A member of the food service staff shall oversee the loading of satellite meal carts. Staff shall inspect all food carts before allowing their removal from the food service area.

3. Dining Room Workers

The CF in charge shall train dining room workers in the requirements of the job, including how to perform specific tasks. A basic task common to all dining room workers is to keep the tables and floors clean during the meal service. Once the meal service is over and the detainees have left the room, the workers can undertake major cleaning tasks.

4. Serving Lines

The serving counter shall be designed and constructed to separate and insulate the hot foods on the one hand and the cold foods on the other. A transparent “sneeze guard” is required.

5. Salad Bars and Hot Bars

Food items at salad bars and hot bars shall be arranged for logical and efficient service. A

transparent “sneeze guard” is required.

6. Beverage Counter/Bar

Self-service beverage-and-ice stations shall be designed for quick and easy access. These stations shall be designed for sanitary and efficient service, including traffic flow.

7. Staff Dining Room

The FSA shall have jurisdiction over the staff dining room. The staff dining room shall offer the same food items as the detainee dining room.

8. Meal tickets

The facility may establish a meal ticket program for employees and guests.

Examples of persons who may receive meals gratis include advisors, guest speakers, technicians/others rendering a service without charge, equipment demonstrators, athletic teams, entertainers, foreign visitors, volunteers and others whose service to the facility is in the best interest of the government.

Individuals receiving government reimbursement for their services (e.g., contract employees, per-diem-status personnel) are ineligible for guest meals provided free of charge.

E. Menu Planning

1. General Policy

The FSA shall base menu selections on the best nutritional program the facility can afford meeting U.S. minimum daily allowances. The ICE/ERO standard menu cycle is 35 days.

The food service program significantly influences morale and attitudes of detainees and staff, and creates a climate for good public relations between the facility and the community.

The overall goal of a quality food service program is to provide nutritious and appetizing meals efficiently and within constraints of the existing budget, personnel resources, equipment and physical layout

of the facility. Nutritional needs are diverse because of differences in age, activity, physical condition, gender, religious preference and medical considerations.

The FSA shall accommodate the ethnic and religious diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged. Institutions geographically near one another shall consider the benefits of coordinating their menus and the cost-reductions to be achieved through joint purchasing.

The FSA is solely responsible for food service program planning and resource allocation and use.

2. Nutritional Analysis

A registered dietitian shall conduct a complete nutritional analysis that meets U.S. Recommended Daily Allowances (RDA), at least yearly, of every master-cycle menu planned by the FSA. The dietitian must certify menus before they are incorporated into the food service program. If necessary, the FSA shall modify the menu in response to the nutritional analysis to ensure nutritional adequacy. In such cases, the menu shall be revised and re-certified by the registered dietitian.

If the master-cycle menus change significantly during the year, the cycle shall be reevaluated to ensure nutritional values are maintained.

F. Food Preparation

1. General Policy

The CS or equivalent is responsible for ensuring that all items on the master-cycle menu are prepared and presented according to approved recipes. This responsibility includes assessing the availability and condition of ingredients required by particular recipes, and communicating supply needs to the FSA. For this reason, the CS shall review upcoming menu items as much in advance as possible.

The CS or equivalent has the authority to change menu items when necessary. Every such change or substitution must be documented and forwarded to the FSA. The CS shall exercise this menu-changing authority as infrequently as possible.

Knowledge of ingredients, quantities and food preparation techniques and procedures is essential for producing quality products.

2. Preparation Guidelines

Food shall be prepared with minimal manual contact. Food service workers shall thoroughly wash fruits and vegetables with fresh water before cooking or serving raw.

A worker shall test-taste with a clean fork or spoon only; using a soiled food preparation utensil is prohibited. Test-tasting utensils, unless disposable, must be washed after every usage. Disposable test-tasting utensils shall be discarded after a single use.

Any food cooked at a lower temperature than provided below constitutes a food safety hazard and shall not be served. Food service staff and detainee workers involved in cooking shall ensure that the following foods are cooked at the required temperatures:

- a. Raw eggs, fish, meat and foods containing these items—145 F degrees or higher
- b. Game animals, comminuted (ground) fish and meats, injected meats and eggs not intended for immediate consumption—155 F degrees or higher
- c. Stuffing containing fish, meat, or poultry—165 F degrees or higher
- d. Roast beef and corned beef—145 F degrees or higher

Potentially hazardous foods that have been cooked and then refrigerated shall be quickly and thoroughly reheated at a minimum of 165 F degrees before being served. Steam tables, warmers and similar hot food holding equipment are prohibited

for the rapid reheating of these foods.

After being reheated at 165 F degrees, the food may be maintained at 140 F degrees on a heated steam line or equivalent warming equipment.

The facility shall obtain pasteurized milk and milk products from approved facilities only. Manufactured milk products shall meet federal standards for quality.

The facility may use reconstituted dry milk and dry milk products for cooking and baking purposes, in instant desserts and in whipped items. If reconstituted in-house, the dry milk and milk products shall be used for cooking purposes only. Powdered milk reconstituted in an approved milk-dispensing machine or “mechanical cow” may be used for drinking purposes. To ensure wholesomeness, an approved laboratory shall test milk produced in the mechanical cow twice monthly for presence of bacteria. The mechanical cow shall be disassembled, cleaned and sanitized before and after each use.

Powdered milkshake or ice cream mix, reconstituted in an approved ice cream machine, may be used. An approved laboratory shall test dairy-based products produced in the machine for the presence of bacteria monthly. The ice cream machine shall be disassembled, cleaned and sanitized before and after each use.

Liquid, frozen and dry eggs and egg products are pasteurized at temperatures high enough to destroy pathogenic organisms that might be present; however, because of the possibility of contamination or recontamination after opening, thawing or reconstitution, these products shall be primarily used in cooking and baking.

Nondairy creaming, whitening or whipping agents may be reconstituted in-house only if immediately stored in sanitized, covered containers not larger than one gallon, and cooled to 41 F degrees or lower within four hours of preparation.

The CF shall use thermometers to ensure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods.

To prevent cross-contamination, separate cutting boards must be used for raw and cooked foods. The cutting boards must be washed, rinsed and sanitized between every use.

The FSA may require use of color-coded cutting boards, which reduce the risk of cross-contamination during food preparation.

3. Food Cooling

Potentially hazardous food must be cooled from 140 to 70 F degrees within two hours of cooking, and from 70 to 41 F degrees or below within four hours. Foods prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna, must be cooled to 41 F degrees within two hours of cooking/preparation.

The food service department can meet time-and-temperature requirements for cooling by using any or all of the following techniques, which expedite cooling:

- a. placing the food in shallow pans;
- b. separating food into smaller or thinner portions;
- c. using rapid cooling equipment;
- d. stirring the food in a container placed in an ice water bath;
- e. using containers that facilitate heat transfer;
- f. adding ice as an ingredient; and/or
- g. using a commercial blast-chiller.

During cooling, the food containers shall be arranged in cooling or cold-holding equipment in a way that maximizes heat transfer through the walls of the containers.

Food protected from overhead contamination shall be left uncovered during the cooling period. If the

risk of overhead contamination exists, the food must be loosely covered to facilitate heat transfer from the surface of the food.

4. Food Thawing

Potentially hazardous food shall be thawed according to one of the following procedures:

- a. under refrigeration that maintains the food at 41 F degrees or below;
- b. submerged in running water;
 - 1) at a water temperature of 70 F degrees or below;
 - 2) with sufficient water velocity to agitate and float off loose particles in an overflow; and
 - 3) for a period that does not allow thawed portions of ready-to-eat or raw animal foods to rise above 41 F degrees; also
 - 4) the allowed periods for thawing include the time the food is exposed to the running water, the time to prepare food for cooking, and/or the time it takes under refrigeration to cool the food to 41 F degrees; or
- c. as part of a cooking process, provided there is continuous cooking throughout the process.

5. Food Protection—General Requirements

Food and ice shall be protected from dust, insects and rodents, unclean utensils and work surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage and other sources of contamination. Protection shall be continuous, whether the food is in storage, in preparation, on display or in transit.

All food storage units must be equipped with accurate easy-to-read thermometers. New heating and/or refrigeration equipment purchases shall include a zone-type thermometer with temperature graduations. Refrigeration equipment shall be designed and operated to maintain a temperature of 41 F degrees or below.

6. Hermetically Sealed Foods

Canned food that has abnormal color, taste or appearance, or which is contained in cans that show abnormalities such as bulging at ends, swelling or leakage, shall not be served. Unsuitable canned food shall be surveyed, reported and destroyed.

7. Potentially Hazardous Foods

Potentially hazardous foods are those foods that provide a good medium for bacteria growth. They include any perishable food that consists in whole or part of milk, milk products, eggs, meat, poultry, fish or shellfish or other high-protein foods.

Potentially hazardous foods shall be prepared with minimal manual contact. Such products shall be prepared from chilled ingredients whenever feasible. The surfaces of equipment, containers, cutting boards and utensils used for preparation and subsequent storage of potentially hazardous food shall be cleaned effectively after each use.

Potentially hazardous food shall be prepared as close to serving time as practicable. Potentially hazardous raw frozen food shall be cooked from the frozen state whenever practical. Tempering shall be accomplished by refrigeration at 40 F degrees or below or, with potable running water, at 70 F degrees or below. The potable water technique may be used only if the product is sealed in its original container. At no time shall potentially hazardous food thaw at room temperature.

All precooked, potentially hazardous, refrigerated or frozen food intended for reheating shall be heated rapidly to a temperature above 165 F degrees.

8. Leftovers

Prepared food items that have not been placed on the serving line may be retained for no more than 24 hours. Leftovers offered for service a second time shall not be retained for later use, but shall be discarded immediately after offering. All leftovers shall be labeled to identify the product, preparation date and time.

G. Religious/Special Diets

1. General Policy

All facilities shall provide detainees requesting a religious diet a 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, by offering a common fare menu. While each request for religious diet accommodation is to be determined on a case-by-case basis, ICE anticipates that facilities will grant these requests unless an articulable reason exists to disqualify someone for religious accommodation or the detainee's practice poses a significant threat to the secure and orderly operation of the facility. Information about the availability of religious and special diets shall be provided to detainees in a language or manner that they can understand.

"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. This diet is designed as the foundation from which modifications can be made to accommodate the religious diets of various faiths.

When considering denying a request by a detainee to participate in the religious diet program, or removal of a detainee from the religious diet program, the facility administrator, or his/her designee, shall consult with the local FOD prior to denying the request or prior to removing a detainee from the program. To participate in the common fare program, a detainee shall initiate an "Authorization for Common Fare Participation" form (Appendix 4.1.A) for consideration by the chaplain (or FSA). On the form, the detainee shall provide a written statement articulating the religious motivation for participation in the common fare program. Oral interpretation or written assistance

shall be provided to illiterate or limited-English proficient detainees as necessary in completing this form. If participation is approved, the chaplain or FSA shall forward a copy of the form for inclusion in the detainee's detention file.

Detainees whose religious beliefs require adherence to particular dietary laws or generally accepted religious guidelines and practices shall be referred to the chaplain. The chaplain shall verify the religious diet requirement by reviewing files and consulting with religious representatives. In the case of an unorthodox request, the chaplain or religious services coordinator is encouraged to consult established clergy contacts in the community to determine whether a request pertaining to a particular faith is appropriate. 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. Response to the request for a religious diet must be provided in a timely manner, and documented. 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.

The chaplain or religious services coordinator and FSA shall issue specific written instructions for the implementation of the diet as soon as practicable and within 10 business days of verification.

Once a religious diet has been approved, the FSA shall issue, in duplicate, a special-diet identification card.

This diet-identification card shall contain the following information:

- a. detainee name and A-number;*
- b. type of religious diet prescribed;*
- c. expiration date, within 90 days; and*

d. signature of the FSA.

The FSA shall contact the appropriate individual or department to obtain a photo of the detainee, and shall attach the photo to the identification card. The FSA shall ensure that the food service department receives one copy of the special-diet identification card. The second identification card shall be issued to the detainee who, at every meal, must present the card to the CS on duty. The second copy of the consultation sheet shall be filed in the detainee's detention file.

Any time a detainee on a religious diet refuses a meal and/or accepts the regular mainline meal in place of the religious meal, the cook on duty shall notify the FSA in writing.

2. Standard Common Fare Menu (Religious Diet)

Common fare is intended to accommodate detainees whose religious dietary needs cannot be met on the mainline. The common fare menu is based on a 14-day cycle, with special menus for the ten federal holidays. The menus must be certified as exceeding minimum daily nutritional requirements and meeting RDAs. Beverages shall be selected from the regular menu.

3. Changes to the standard Common Fare Menu

Modifications to the standard common fare menu may be made at the local level for various reasons. For example, seasonal variations affect the availability of fresh produce in different locations, making menu modifications inevitable. Modifications may also be made to meet the requirements of various faith groups (e.g., for the inclusion of kosher and/or halal flesh-food options).

With the facility administrator's concurrence, the FSA may make temporary, nutritionally equal substitutions for fresh seasonal produce that violates no religious dietary requirements. The chaplain or local religious representatives shall be consulted if technical questions arise. The Chaplain shall escort other clergy to the common fare preparation area for

frequent, random monitoring of compliance with religious dietary requirements.

4. Hot Entree Availability

To the extent practicable, a hot flesh-food entree shall be available to accommodate detainees' religious dietary needs. Hot entrees shall be offered daily and shall be purchased, prepared and served in a manner that does not violate the religious requirements of any faith group.

5. Kosher Requirements

With the exception of fresh fruits and vegetables, the facility's kosher-food frozen entrees shall be purchased precooked in a sealed container, heated and served hot. Other 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 kosher tray.

6. Plates and Utensils

Kosher trays shall be served with disposable plates and utensils, except when a supply of reusable plates and utensils has been set aside for kosher-food service only. Separate cutting boards, knives, food scoops, food inserts and other such tools, appliances and utensils shall be used to prepare kosher-foods, and shall be identified accordingly. Meat and dairy food items and the service utensils used with each group shall be stored in areas separate from each other. A separate dishpan shall be provided for cleaning these items, if a separate or three-compartment sink is not available.

7. Religious Requirements

If a facility has a no-pork menu, in order to alleviate any confusion for those who observe no-pork diets for religious reasons, the above information, within "Section G," shall be included in the facility's handbook and the facility orientation. If the facility has a chaplain, he/she shall also be made aware of

the policy.

8. Nutritional Requirements

Common fare menus shall meet RDAs. A detainee who chooses the common fare menu shall select beverages only from the regular menu.

9. Instant Food and Beverages

The food service shall provide a hot-water urn for reconstituting instant beverages and foods for use by detainees.

10. Plates and Utensils

Common Fare meals shall be served with disposable plates and utensils, except when a supply of reusable plates and utensils has been set aside for common fare service only. Separate cutting boards, knives, food scoops, food inserts and other such tools, appliances and utensils shall be used to prepare common fare foods, and shall be identified accordingly. Meat and dairy food items and the preparation and service utensils used with each group shall be stored in areas separate from each other. A separate dishpan shall be provided for cleaning these items, if a separate or three-compartment sink is not available.

The chaplain shall escort other clergy to the common fare preparation area for frequent, random monitoring of compliance with religious dietary requirements.

11. Application and Removal

The facility administrator, in consultation with the chaplain, shall be the approving official for a detainee's removal from the common fare program. The facility administrator or chaplain is required to consult with the local 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.

Food service staff shall refer to the daily roster to identify detainees in the common fare program. Staff shall not use this information to disparage a detainee's religion or religious views or to attempt to dissuade him/her from participating in the program.

- a. The FSA shall monitor the food selections of all detainees participating in the common fare program to ensure the legitimacy of their participation.
- b. Staff shall train and supervise all detainees with common fare assignments.
- c. A detainee's temporary adoption of a medically prescribed diet or placement in a Special Management Unit (SMU) shall not affect his/her access to common fare meals. However, if a prescribed medical diet conflicts with the common fare diet, the medical diet takes precedence.
- d. A detainee who has been approved for a common fare menu must notify the chaplain, in writing, if he/she wishes to withdraw from the religious diet. Oral interpretation or written assistance shall be provided to illiterate or limited-English proficient detainees as necessary in providing written notice of withdrawal from a religious diet.

The Chaplain may recommend withdrawal from a religious diet if the detainee is documented as being in violation of the terms of the religious diet program to which the detainee has agreed in writing. If a detainee refuses five consecutive common fare meals, the chaplain may recommend in writing that the facility administrator remove the detainee from the program. Detainees participating in the common fare program may also consume items for sale through the facility's commissary program without risk of being removed from the

program, as long as such purchases are consistent with the common fare program. However, purchase of foods items inconsistent with the common fare program may be grounds for removal from the program.

To preserve the integrity and orderly operation of the religious diet program and to prevent fraud, detainees who withdraw or are removed may not be immediately re-established back into the program.

The process of re-approving a religious diet for a detainee who voluntarily withdraws or who is removed ordinarily may take up to ten days. However, repeated withdrawals, voluntary or otherwise, may result in a waiting period of up to one month before the re-approval request is decided. The decision to remove and/or reinstate a detainee rests with the facility administrator, in consultation with the chaplain and/or local religious representatives, if necessary.

12. Annual Ceremonial Meals

The chaplain, in consultation with local religious leaders as necessary, shall develop the ceremonial meal schedule for the subsequent calendar year and shall provide this schedule to the facility administrator. The schedule shall include the date, religious group, estimated number of participants and special foods required. Ceremonial and commemorative meals shall be served in the food service facility, unless otherwise approved by the facility administrator.

The food service department shall be the only source of procurement for food items. To maintain equity in menu design, all meals shall be limited to food items on the facility's master-cycle menu. To facilitate food preparation, consultations between the FSA and local religious representative(s) concerning appropriate menus shall occur six to eight weeks in advance of the scheduled observance. The religious provider may, through the food service department, procure the ritual observance food items (in minimal quantities). Such items shall not generally constitute

the main entree for the ceremonial meal.

13. Religious Fasts and Seasonal Observances

The common fare program shall accommodate detainees abstaining from particular foods or fasting for religious purposes at prescribed times of year, including, but not limited to:

a. Ramadan

During Ramadan, Muslims participating in the fast shall receive the approved meals after sundown for consumption in the food service department or SMU.

During the December fast, vegetarian or hot fish dishes shall replace meat entrees. Fasters shall receive both noon and evening meals after sundown.

Detainees not participating in the common fare program, but electing to observe Ramadan or the December fast shall be served the main meal after sundown. If the main menu does not meet religious requirements, the detainee may participate in the common fare program during the period in question.

Each facility may provide a bag breakfast or allow detainees to go to the food service department for breakfast before dawn. Bag breakfasts shall contain nonperishable items such as ultra-high pasteurized milk, fresh fruit, peanut butter, dry cereal, etc. The menu for the common fare program cannot be used for a bag breakfast.

b. Passover

The facility shall have the standard Kosher-for-Passover foods available for Jewish detainees during the eight-day holiday. The food service department shall be prepared to provide Passover meals to new arrivals.

All Jewish detainees observing Passover shall be served the same Kosher-for-Passover meals, whether or not they are participating in the common fare program.

c. Lent

During the Christian season of Lent, a meatless meal (lunch and dinner) shall be served on the food service line on Fridays and on Ash Wednesday.

14. Common Fare Recordkeeping and Costs

The FSA shall estimate quarterly costs for the common fare program and include this figure in the quarterly budget. The FSA shall maintain a record of the actual costs of both edible and non-edible items.

H. Medical Diets

1. Therapeutic Diets

Detainees with certain conditions—chronic or temporary; medical, dental, and/or psychological—shall be prescribed special diets as appropriate.

Special (therapeutic) diets shall be authorized by the clinical director (CD) on Form IHSC-819, or equivalent, detainee special need(s). The form shall specify the type of therapeutic diets to be prescribed and, if necessary, renewed, in 90-day increments. Once prescribed, the diet shall be made available to the detainee by the next business day.

The cook on duty shall notify the FSA and/or CS in writing any time a detainee on a therapeutic diet refuses the special meal or accepts the regular meal from the main food service line.

2. Snacks or Supplemental Meals

The physician may order snacks or supplemental meals for such reasons as:

- a. insulin-dependent diabetes;
- b. a need to increase protein or calories for pregnancy, cancer, AIDS, etc.; and/or
- c. a need to take prescribed medication with food.

I. Specialized Food Service Programs

1. Satellite Meals

“Satellite meals” refers to food prepared in one

location for consumption elsewhere (e.g., general housing units, the SMU, remote housing areas, etc.).

The sanitary standards required in the food service department, from preparation to actual delivery, also apply to satellite meals. Satellite meals and microwave instructions (if applicable) shall be posted where satellite meals are served.

Foods shall be kept sufficiently hot or cold to arrest or destroy the growth of infectious organisms. The FSA shall ensure that staff members understand the special handling required with potentially hazardous foods, such as meat, cream or egg dishes. Staff must understand the critical importance of time and temperature in delivering safe food.

To prevent bacteria growth, food must be prepared and held at the proper temperatures until served. Satellite tray meals must be delivered and served within two hours of food being plated.

Foods in the potentially hazardous category shall remain under refrigeration until cooking time and, after cooking, maintained at or above 140 F degrees. Hot foods must be placed in a heated serving line during tray assembly. Thermal bags and carts, refrigerated carts, thermal compartment trays, etc., shall be used for satellite meals.

Outside foods prepared in bulk for transportation to a remote housing unit or other location shall be transported in thermal containers that maintain cold items at temperatures below 41 F degrees and/or hot items at temperatures above 140 F degrees, excluding items served within the two-hour window for meal service.

2. Weekend and Holiday Meal Schedule

When weekend and/or holiday meal schedules differ from the weekday schedule, detainees in the SMU shall receive a continental breakfast or regular breakfast items. Brunch service shall conform to the breakfast meal pattern, and dinner service to the noon or evening meal pattern.

3. Selection of Menu Courses

Care must be taken to ensure that culturally diverse meals are provided in such portions as to be nutritionally adequate.

4. Segregation Unit Food Rations

Food items in excess of the normal prescribed ration shall not be given to detainees in segregation units as a reward for good behavior, nor shall food rations be reduced or changed or otherwise used as a disciplinary tool.

5. Segregation Unit Sack Lunches

Detainees in segregation units shall receive sack meals only with the facility administrator's written authorization. The medical department shall be consulted when necessary.

6. Sack Meals

All meals shall be served from established menus in the dining room or housing units. In some circumstances, detainees may be provided sack meals.

Sack meals shall be provided for detainees being transported from the facility, detainees arriving or departing between scheduled meal hours, and detainees in the SMU, as provided above.

a. Quality

Sack meals shall be of the same nutritional quality as other meals prepared by the food service.

b. Preparation

Members of the food service staff shall prepare sack meals for detainees who are being transported to/from other locations by bus or air service. While detainee volunteers assigned to the food service department shall not be involved in preparing meals for transportation, they may prepare sack meals for on-site consumption.

A designated member of the transportation by land or plane crew shall pick up all sack meals prepared for detainee transportation from the food service department. Before departing, this crew member shall inspect the sacks for:

- 1) quality of contents;
- 2) proper wrapping; and
- 3) correct individual counts.

c. Contents

For any detainee who shall be transported by the ICE Air Operations (IAO), the sack lunch must comply with IAO criteria. Otherwise, the following requirements are applicable:

Each sack shall contain at least two sandwiches, of which at least one shall be meat (non-pork). Commercial bread or rolls may be preferable because they include preservatives. To ensure freshness, fresh, facility-made bread may be used only if made on the day of lunch preparation. Sandwiches shall be individually wrapped or bagged in a secure fashion to prevent the food from spoiling. Meats, cheeses, etc., shall be freshly sliced the day of sandwich preparation. Leftover cooked meats shall not be used after 24 hours.

In addition, each sack shall include:

- 1) one piece of fresh fruit, or properly packaged canned fruit (or paper cup with lid), complete with a plastic spoon;
- 2) one ration of a dessert item, like cookies, doughnuts and fruit bars; and
- 3) such extras as:
 - a) properly packaged fresh vegetables, like celery sticks and carrot sticks; or
 - b) commercially packaged “snack foods,” such as peanut butter crackers, cheese crackers and individual bags of potato chips.

These items enhance the overall acceptance of the lunches.

Extremely perishable items such as fruit pie, cream pie and other items made with milk, cream or other dairy ingredients shall be excluded.

d. Packaging

Whenever possible, the food service department shall pack sack meals intended for bus or air service in disposable “snack boxes” that are designed for proper placement of contents and to afford maximum protection during handling, packaging and transporting.

If necessary, paper bags may be used.

These lunches shall be stored in a secured, refrigerated area until pickup.

J. Safety and Sanitation

1. General Policy

All food service employees are responsible for maintaining a high level of sanitation in the food service department. An effective food sanitation program prevents health problems, creates a positive environment and encourages a feeling of pride and cooperation among detainees.

Food service staff shall teach detainee workers personal cleanliness and hygiene; sanitary methods of preparing, storing and serving food; and the sanitary operation, care and maintenance of equipment, including automatic dishwashers and pot and pan washers.

2. Personal Hygiene of Staff and Detainees

- a. All food service personnel shall wear clean garments, maintain a high level of personal cleanliness and practice good hygiene at all times. They shall wash hands thoroughly with soap or detergent before starting work and as often as necessary during the shift to remove soil or other contaminants.
- b. Staff and detainees shall not resume work after visiting the toilet facility without first washing their hands with soap or detergent. The FSA shall post signs to this effect.
- c. Neither staff nor detainees shall use tobacco in a food service work area. If they use tobacco in a smoking-permitted area, they shall wash their hands before resuming work.

- d. All staff and detainees working in the food preparation and service area(s) shall use effective hair restraints. Personnel with hair that cannot be adequately restrained shall be prohibited from food service operations. Head coverings, gloves and beard guards are encouraged, but not required, when staff members are distributing covered serving trays.
- e. Detainee food service workers shall be provided with and required to use clean white uniforms while working in a food preparation area or on the serving line.
- f. All food service personnel working in the food service department shall be provided with and required to use approved rubber-soled safety shoes.
- g. To prevent cross-contamination, staff and detainees who prepare or serve food shall not be assigned to clean latrines, garbage cans, sewers, drains or grease traps, or other such duties, during the period of food preparation.
- h. Only authorized food service personnel shall be tasked with preparing and serving food.
- i. Authorization is based on approval from the facility's health services department.
- j. Only authorized personnel shall be allowed in the food preparation, storage or utensil-cleaning areas of the food service area.

3. Medical Examination

The facility administrator shall document that food service personnel have received a pre-employment medical examination to identify communicable diseases that may contraindicate food service work.

The medical department shall document detainees' clearance for food service work prior to their assuming food service duties. The food service department shall refer to the medical department detainees that have been absent from work for reasons of communicable illness, for a determination

of medical clearance prior to resuming food service work.

4. Daily Health Checks

The CF or detention staff assigned to food service shall inspect all detainee food service workers on a daily basis at the start of each work period. Detainees who exhibit signs of illness, skin disease, diarrhea (admitted or suspected) or infected cuts or boils shall be removed from the work assignment and immediately referred to health services for determination of fitness for duty. The detainees shall return to work only after the FSA has received written clearance from health services staff.

5. Environmental Sanitation and Safety

All facilities shall meet the following environmental standards:

- a. Facilities must be clean and well-lit, and must display orderly work and storage areas.
- b. Overhead pipes must be removed or covered to eliminate the food-safety hazard posed by leaking or dusty pipes.
- c. Walls, floors and ceilings in all areas must be cleaned routinely.
- d. Facilities must employ ventilation hoods to prevent grease buildup and wall/ceiling condensation that can drip into food or onto food contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement.
- e. The area underneath sprinkler deflectors must have at least an 18-inch clearance.
- f. Facilities must possess hazard-free storage areas:
 - 1) Bags, containers, bundles, etc., shall be stored in tiers and stacked, blocked, interlocked and limited in height for stability and security against sliding or collapsing.
 - 2) No flammable material, loose cords, debris or other obvious hazards may be present.

- 3) No pests or infestations may be present.
- g. Aisles and passageways shall be kept clear and in good repair, with no obstruction that may create a hazard or hamper egress.
- h. To prevent cross-contamination, kitchenware and food-contact surfaces shall be washed, rinsed and sanitized after each use and after any interruption of operations during which contamination may occur.
- i. Facilities must possess a ready supply of hot water (105-120 F degrees).
- j. Garbage and other trash shall be collected and removed as often as possible. Garbage/refuse containers shall have sufficient capacity for the volume and shall be kept covered, insect- and rodent-proof and frequently cleaned. The facility shall comply with all applicable regulations (local, state and federal) on refuse handling and disposal and standard "1.2 Environmental Health and Safety."
- k. The premises shall be maintained in a condition that prevents the feeding or nesting of insects and rodents. Outside openings shall be protected by tight-fitting screens, windows, controlled air curtains and self-closing doors.

6. Equipment Sanitation

Information about the operation, cleaning and care of equipment shall be obtained from manufacturers or local distributors. A file of such reference material shall be maintained in the food service department and used in developing equipment cleaning procedures for training. Sanitation shall be a primary consideration in the purchase and placement of equipment.

Equipment shall be installed for ease of cleaning, including the removal of soil, food materials and other debris that collects between pieces of equipment or between the equipment and walls or floor. Older facilities that may not have the advantage of the latest designs and equipment can

meet sanitation standards through careful planning, training and supervision.

The FSA shall develop a schedule for the routine cleaning of equipment.

7. Equipment and Utensils

- a. Information
All food service equipment and utensils shall meet the National Sanitation Foundation International (NSF) standards or equivalent standards of other agencies.
- b. Materials
- 1) Materials used in the construction or repair of multi-use equipment and utensils shall:
 - a) be non-toxic, non-corrosive, non-absorbent, durable under normal use, smooth and easily cleaned;
 - b) impart no odors, colors or tastes; and
 - c) retain their original properties under repeated use, creating no risk of food-adulteration as they deteriorate.
 - 2) Paint is prohibited on any surface that may come into contact with food.
 - 3) Milk-dispensing tubes shall be cut diagonally about two inches from the cutoff valve. Bulk milk dispensers shall be equipped with thermometers.
- c. Design and Fabrication
- 1) All food service equipment and utensils (including plastic ware) shall be designed and fabricated for durability under normal use.
 - a) Such equipment shall be readily accessible, easily cleaned and resistant to denting, buckling, pitting, chipping and cracking.
 - 2) Equipment surfaces not intended for contact with food, but located in places exposed to splatters, spills, etc., require frequent cleaning. Therefore, they shall be reasonably smooth,

washable, free of unnecessary ridges, ledges, projections and crevices. Upkeep of equipment surfaces shall contribute to cleanliness and sanitation.

d. Installation

- 1) Equipment shall be installed in accordance with the manufacturer's instructions and good engineering practices.
- 2) Installers shall allow enough space between pieces of equipment and between equipment and walls to facilitate routine cleaning. Adjacent pieces may be butted together if the gap between them is sealed.

e. General Cleaning Procedures

- 1) Moist cloths for wiping food spills on kitchenware and food-contact surfaces on equipment shall be clean, rinsed frequently in sanitizing solution and used solely for wiping food spills. These cloths shall soak in the sanitizing solution between uses.
- 2) Moist cloths used for non-food-contact surfaces like counters, dining table tops and shelves shall be cleaned, rinsed and stored in the same way as the moist cloths used on food-contact surfaces. They shall be used on non-food-contact surfaces only.
- 3) Detergents and sanitizers must have Food and Drug Administration approval for food service uses.

f. Manual Cleaning and Sanitizing

- 1) A sink with at least three labeled compartments is required for manually washing, rinsing and sanitizing utensils and equipment. Each compartment shall have the capacity to accommodate the items to be cleaned. Each shall be supplied with hot and cold water.
- 2) Drain-boards and/or easily movable dish-tables shall be provided for utensils and equipment

both before and after cleaning.

- 3) Equipment and utensils shall be pre-flushed, pre-scraped and, when necessary, pre-soaked to remove gross food particles. A fourth sink compartment with a garbage-disposal is useful for these purposes and shall be included in plans for facilities being built or renovated.
- 4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, the following procedures apply to cleaning equipment and utensils:
 - a) Wash in the first sink compartment, using a hot detergent solution changed frequently to keep it free from soil and grease.
 - b) Rinse in or under hot water in the second compartment, changing the rinse water frequently. This compartment shall be kept empty, and a sprayer shall be used for rinsing to prevent rinse water from becoming soapy or contaminated.
 - c) Sanitize in the third compartment using one of the following methods:
 - i. Immerse for at least 30 seconds in clean water at a constant temperature of 171 F degrees that is maintained with a heating device and frequently checked with a thermometer. Use dish baskets to immerse items completely.
 - ii. Immerse for at least 60 seconds in a sanitizing solution containing at least 50 parts per million (ppm) chlorine at a temperature of at least 75 F degrees.
 - iii. Immerse for at least 60 seconds in a sanitizing solution containing at least 12.5 ppm iodine, with a pH not higher than 5.0 and a temperature of at least 75 F degrees.
 - iv. Immerse in a sanitizing solution containing an equivalent sanitizing

chemical at strengths recommended by the U.S. Public Health Service.

- v. Periodically check and adjust as necessary the chemical concentrations in a sanitizing solution, using a test kit.
- vi. Air dry utensils and equipment after sanitizing.
- vii. Steam clean oversized equipment, provided the steam can be confined to the piece of equipment. Alternatively, rinse, spray or swab with a chemical sanitizing solution mixed to at least twice the strength required for immersion sanitizing.

g. Mechanical Cleaning and Sanitizing

Spray or immersion dishwashers or devices, including automatic dispensers for detergents, wetting agents and liquid sanitizer, shall be maintained in good repair. Utensils and equipment placed in the machine must be exposed to all cycles.

1) The pressure of the final rinse water must be between 15 and 25 pounds per square inch (psi) in the water line immediately adjacent to the final-rinse control valve.

2) Machine- or water line-mounted thermometers must be installed to check water temperature in each dishwasher tank, including the final rinse water.

Baffles, curtains, etc., must be used to prevent wash water from entering the rinse water tank(s) and time conveyors to ensure adequate exposure during each cycle.

Equipment and utensils must be placed on conveyors or in racks, trays and baskets to expose all food-contact surfaces to detergent, washing and rinsing without obstruction and to facilitate free draining.

3) The following temperatures must be

maintained for hot-water sanitizing:

- a) Single-tank, stationary rack, dual-temperature machine: wash temperature of 150 F degrees; final rinse, 180 F degrees.
- b) Single-tank, stationary rack, single-temperature machine: wash and rinse temperature of 165 F degrees.
- c) Multi tank, conveyor machine: wash temperature of 150 F degrees; pumped rinse, 160 F degrees; final rinse, 180 F degrees.
- d) Single-tank, pot/pan/utensil washer (stationary or moving rack): wash temperature of 140 F degrees; final rinse, 180 F degrees.
 - i. When using a chemical spray in a single-tank, stationary rack, glass-washer, maintain a wash temperature of at least 120 F degrees, unless otherwise specified by the manufacturer.
 - ii. Air-dry all equipment and utensils after sanitizing, by means of drain boards, mobile dish tables and/ or carts.

h. Equipment and Utensil Storage. Eating utensils shall be picked up by their bases or handles only. Utensils shall be stored in perforated pans only.

Glasses, tumblers and cups shall be inverted before storing. Other tableware and utensils may be either covered or inverted.

8. Storage of Clothing and Personal Belongings

Clothes and other personal belongings (e.g., jackets, shoes) shall be stored in designated areas, apart from:

- a. areas for the preparation, storage and serving of food; and
- b. areas for the washing and storing of utensils.

The FSA shall identify space for storing detainee belongings.

9. Lavatories

Adequate and conveniently located toilet facilities shall be provided for all food service staff and detainee workers.

- a. Toilet fixtures shall be of sanitary design and readily cleaned.
- b. Toilet rooms and fixtures shall be kept clean and in good repair.
- c. Signs shall be prominently displayed.
- d. Lavatories shall have readily available hot and cold water.
- e. Soap or detergent and paper towels or a hand-drying device providing heated air, shall be available at all times in each lavatory.
- f. Waste receptacles shall be conveniently placed near the hand-washing facilities.

10. Pest Control

Good sanitation practices are essential to an effective pest control program. The FSA is responsible for pest control in the food service department, including contracting the services of an outside exterminator as necessary.

To protect against insects and other pests, air curtains or comparable devices shall be used on outside doors where food is prepared, stored or served.

11. Hazardous Materials

Only those toxic and caustic materials required for sanitary maintenance of the facility, equipment and utensils shall be used in the food service department.

- a. All food service staff shall know where and how much toxic, flammable or caustic material is on hand, and shall be aware that their use must be controlled and accounted for daily.
- b. Detainee-type combination locks shall not be used to secure such material.
- c. All containers of toxic, flammable or caustic

materials shall be prominently and distinctively labeled for easy content identification.

- d. All toxic, flammable and caustic materials shall be segregated from food products and stored in a locked and labeled cabinet or room.
- e. Cleaning and sanitizing compounds shall be stored apart from food products.
- f. Toxic, flammable and caustic materials shall not be used in a manner that may contaminate food, equipment or utensils or may pose a hazard to personnel or detainees working with or consuming food service products.
- g. A system for intermediate storage of received hazardous substances shall secure the materials from time of receipt to time of issue.

The FSA shall obtain and file for reference Material Safety Data Sheets (MSDSs) on all flammable, toxic and caustic substances used in the facility as required by standard "1.2 Environmental Health and Safety."

12. General Safety Guidelines

- a. Extension cords shall be UL-listed and UL-labeled and may not be used in tandem.
- b. All steam lines within seven feet of the floor or working surface, and with which a worker may come in contact, shall be insulated or covered with a heat-resistant material or otherwise be guarded from contact. Inaccessible steam lines, guarded by location, need not be protected from contact.
- c. Machines shall be guarded in compliance with OSHA standards:
 - 1) Fans within seven feet of the floor or work surface shall have blade guard openings no larger than two inches.
 - 2) Protective eye and face equipment shall be used, as appropriate, to avert risk of injury. Dangerous areas presenting such risks shall be conspicuously marked with eye-hazard

warning signs.

- 3) Safety shoes shall be worn in FSA-designated foot hazard areas.
 - 4) Meat saws, slicers and grinders shall be equipped with anti-restart devices.
 - 5) The maintenance manager shall provide ground fault protection wherever needed in the food service department, and shall document this protection for the FSA.
- d. Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment and materials attached to walls or ceilings shall be maintained in good repair.
 - e. Lights in food production areas, utensil and equipment washing areas, and other areas displaying or storing food, equipment, or utensils shall be equipped with protective shielding.
 - f. An approved, fixed fire-suppression system shall be installed in ventilation hoods over all grills, deep fryers and open flame devices. A qualified contractor shall inspect the system every six months. The fire-suppression system shall be equipped with a locally audible alarm and connected to the control room's annunciator panel.
 - g. Hood systems shall be cleaned after each use to prevent grease build-up, which constitutes a fire risk. All deep fryers and grills shall be equipped with automatic fuel or energy shut-off controls.

13. Mandatory Inspection

The facility administrator shall implement written procedures requiring the food service administrator or designee to conduct the weekly inspections of all food service areas, including dining, storage, equipment and food-preparation areas.

All of the food service department equipment (e.g., ranges, ovens, refrigerators, mixers, dishwashers, garbage disposal) require frequent inspection to ensure their sanitary and operable condition. Staff

shall check refrigerator and water temperatures daily and record the results. The FSA or designee shall verify and document requirements of food and equipment temperatures.

The FSA or CS shall inspect food service areas at least weekly.

An independent, external inspector shall conduct annual inspections to ensure that the food service facilities and equipment meet governmental health and safety codes.

Personnel inspecting the food service department shall note any recommended corrective actions in a written report to the facility administrator. The facility administrator shall establish the date by which identified problems shall be corrected.

Checks of equipment temperatures shall follow this schedule:

- a. dishwashers: every meal;
- b. pot and pan washers: daily, if water in the third compartment of a three-compartment sink is used for sanitation and the required minimum temperature is 180 F degrees; and
- c. refrigeration/freezer equipment (walk-in units): site-specific schedule, established by the FSA.

All temperature-check documentation shall be filed and accessible.

The FSA shall develop a cleaning schedule for each food service area and post it for easy reference. All areas (e.g., walls, windows, vent hoods) and equipment (e.g., chairs, tables, fryers, ovens) shall be grouped by frequency of cleaning (e.g., after every use, daily, weekly, monthly, semiannually or annually).

K. Food Storage, Receiving and Inventory

1. General Policy

Since control and location of subsistence supplies are site-specific, each FSA shall establish procedures for storing, receiving and inventorying food.

On the purchase request for potentially dangerous items (e.g., knives, mace, yeast, nutmeg, cloves and other items considered contraband if found in a detainee's possession), the FSA shall mark them "hot," signaling the need for special handling.

2. Receiving

The first step in receiving food is matching incoming items with the invoice, purchase order and control specifications. Weekly deliveries of fresh produce, meats and other perishable items shall be inspected for freshness, quality and general appearance. Staff shall supplement their inspections of perishables with random checks of weight, count, size, etc.

Receiving staff shall examine deliveries promptly to determine acceptability both for quantity and quality, consistent with the contract. If immediate examination is not practical upon delivery because inspection shall involve time-consuming tests, the vendor shall receive a receipt confirming delivery of a particular number/gross weight of containers in good condition (or, if not, noting exceptions).

3. Food Receipt and Storage

The following procedures apply when receiving or storing food:

- a. Inspect the incoming shipment for damage, contamination and pest infestation. Rats, mice or insects may be hiding in the middle of a pallet.
- b. Promptly remove damaged pallets and broken containers of food. Separate damaged food containers from other food and store separately for disposal. Take special care in handling flour, cereal, nuts, sugar, chocolate and other such products highly susceptible to contamination.
- c. Upon finding that an incoming food shipment has been contaminated, contact the FSA/CS for instructions on the next course of action.
- d. Store all food item products at least six inches from the floor and sufficiently far from walls to facilitate pest-control measures. A painted line

may guide pallet placement. Wooden pallets may be used to store canned goods and other non-absorbent containers, but not to store dairy products or fresh produce.

- e. Store perishables at 35-40 F degrees to prevent spoilage and other bacterial action, and maintain frozen foods at or below zero degrees.
- f. Prevent cross-contamination by storing foods requiring washing or cooking separately from those that do not.
- g. For rapid cooling, use shallow pans (depth not to exceed four inches). Cover or otherwise shield refrigerated food from contamination.
- h. Do not store food in locker rooms, toilet rooms, dressing rooms, garbage rooms or mechanical rooms, or under sewer lines, potentially leaking water lines, open stairwells or other sources of contamination.

4. Inventory

Determining inventory levels and properly receiving, storing and issuing goods are critical to controlling costs and maintaining quality. While the FSA shall base inventory levels on facility needs, each facility shall always stock a 15-day food supply at a minimum.

Procedures for checking the quality and quantity of food and other supplies and their distribution to the point of use shall comply with industry-established policies and financial management practices.

Food service inventory represents significant financial resources converted into goods in the form of food, supplies and equipment. All food service personnel must be aware of the value of the inventory and of his/her responsibility for the security of these goods upon receipt.

The master-cycle menus offer guidance to managers planning inventory levels.

Inventory levels shall be established, monitored and periodically adjusted to correct excesses or shortages.

5. Stock Rotation

Each facility shall establish a written stock rotation schedule.

6. Perpetual Inventory

“Perpetual Inventory” is the process of recording all food service purchases and food distribution. Although details may vary, the information recorded always includes the quantity on hand, quantity received, quantity issued and unit cost for each food and supply item.

Perpetual inventory records are important because they provide the FSA with up-to-date information on product usage, and act as a guide for further purchases.

For accurate accounting of all food and supplies, a perpetual inventory record is insufficient. An official inventory of stores on hand must be conducted annually.

All food service departments shall complete a physical inventory of the warehouse quarterly.

7. The Dry Storeroom

Proper care and control of the dry storeroom involves the following:

- a. keeping the storeroom dry and cool (45-80 F degrees) to prevent swelling of canned goods and general spoilage;

- b. sealing or otherwise making impenetrable all wall, ceiling and floor openings to prevent entry of dirt, water, pests, etc.;
- c. vigilant housekeeping to keep the room clean and free from rodents and vermin (a drain for flushing is desirable); and
- d. securing the storeroom under lock and key to prevent pilferage—the FSA is responsible for key distribution.

8. Refrigerators

Butter, milk, eggs and cream shall be separated from foods having strong odors. Eggs shall not be subjected to freezing temperatures.

Refrigeration units shall be kept under lock and key when not in use. Walk-in boxes shall be equipped with safety locks that require no more than 15 pounds of pressure to open easily from the inside. If latches and locks are incorporated in the door’s design and operation, the interior release mechanism must open the door with the same amount of pressure even when locks or bars are in place.

Whether new or used, the inside lever of a hasp-type lock must be able to disengage locking devices and provide egress. The FSA, along with the Safety Manager, shall review the walk-in freezer(s) and refrigerator(s) to ensure that they operate properly.

Appendix 4.1.A: Authorization for Common Fare Participation

Name of detainee:

_____ A-number: _____

I hereby request authorization to participate in the Common Fare Program. I agree to comply with the program requirements. I understand that if I am observed consuming mainline foods or violating other program requirements, I may be removed from program participation and will not be eligible for immediate reinstatement. Repeated program violations may result in removal from the program for up to one year. I further understand that the same conditions for reinstatement may apply if I voluntarily withdraw from the program for any reason.

I understand that I must have a recorded religious preference in order to be eligible for the program and that I must provide a written reason for requesting to participate in the religious diet program.

Religious preference: _____

Specific reason for wanting to participate in the Common Fare Religious Diet Program:

Signature of detainee:

_____ A-number: _____

Date: _____

Signature of Chaplain:

Date: _____

Record Copy—Detainee Detention File; Copy - Chaplaincy File; Copy—Detainee