

ICE/DRO RESIDENTIAL STANDARD

MARRIAGE REQUESTS

I. PURPOSE AND SCOPE. Each marriage request from an ICE/DRO resident receives a case-by-case review, based on internal guidelines for approval of such requests.

II. EXPECTED OUTCOMES. The expected outcomes of this Residential Standard are as follows:

1. Each marriage request from an ICE/DRO resident will receive a case-by-case review.
2. Consistency in decisions to approve or deny a marriage request will be achieved by the application of guidelines.
3. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
4. The standard complies with federal laws and with DHS regulations regarding residents with special needs.

III. DIRECTIVES AFFECTED. None

IV. REFERENCES.

The First Edition National Residential Standards were written using a variety of methodologies including previous and current practices, review and comment from various subject matter experts, review and comment from various government and non-government organizations, and a review of current state codes in Pennsylvania and Texas. Each standard is written in a manner that affords each resident admission and continuous housing to a family residential facility in a dignified and respectful manner.

There are no specific codes, certifications, or accreditations that deal specifically with unique management requirements of families awaiting the outcome of their immigration proceeding in a non-secure custodial environment.

V. EXPECTED PRACTICES

1. Written Policy and Procedures Required

All facilities shall have in place written policy and procedures to enable eligible ICE/DRO residents to marry.

2. Resident Notification

The resident handbook (or equivalent) provided each resident upon admittance shall advise residents of the facility's marriage request procedures.

3. Resident Request to Marry

A resident, or his or her legal representative, may submit the request to marry to the Chief, JFRMU. The request must specifically state:

- a. That the resident is legally eligible to be married
- b. That he or she is mentally competent, as determined by a qualified medical practitioner
- c. That the intended spouse wants to marry the resident, as attested by a written affirmation of intent to marry the resident by the intended spouse, and that affirmation is included as part of the request.

4. Consideration and Approval

JFRMU has complete discretion to approve or deny a marriage request. If the request is denied, ICE/DRO shall notify the resident, in writing, of the reasons for the denial.

5. Guidelines

When a resident requests permission to marry:

- a. The JFRMU shall consider each marriage request on a case-by-case basis.
- b. A resident's request for permission to marry will generally be denied if:
 - 1) The resident is not legally eligible to be married;
 - 2) The resident is not mentally competent, as determined by a qualified medical practitioner;
 - 3) The intended spouse has not affirmed, in writing, his or her intent to marry the resident;
 - 4) The marriage would present a threat to the security or orderly operation of the facility; or
 - 5) There are compelling government interests for denying the request.
- c. Any decision to deny a request and the reason(s) for that decision shall be provided in writing to the resident (and his or her legal representative, if applicable).
- d. When a request is approved, the resident, legal representative, or other individual(s) acting on his or her behalf must make all the marriage arrangements, including, but not limited to:
 - 1) Blood tests
 - 2) Obtaining the marriage license
 - 3) Retaining an official to perform the marriage ceremony

ICE/DRO personnel may not participate in making marriage arrangements.

- e. The facility administrator shall notify the resident of a time and place for the ceremony.

The marriage may have no effect on regular or scheduled processing or action in a

resident's legal case. Specifically, it may neither interrupt, nor stay, any hearing, facility transfer, or removal from the United States.

f. Ordinarily, arrangements made by the resident or persons acting in his or her behalf shall be accommodated, consistent with the security and orderly operation of the facility:

- 1) The ceremony shall take place inside the facility, and the resident may not leave the facility to make arrangements.
- 2) All expenses relating to the marriage shall be borne by the resident or person(s) acting on his or her behalf.
- 3) The ceremony shall be private, with no media publicity, and only essential individuals for the marriage ceremony may attend.

The JFRMU reserves the right of final approval concerning the time, place, and manner of all arrangements.

f. Revocation of Approval

The Chief JFRMU may revoke approval of a marriage under the terms identified in Section E of this standard. The affected resident shall be provided with written notification regarding the reason for revocation. There is no appeal of this decision.

g. Documentation in Residential File

After the marriage ceremony, the facility administrator shall forward original copies of all documentation to the resident's A-file and maintain copies in the facility's Residential File.

Standard Approved:

John P. Torres
Director
Office of Detention and Removal

Date