

# INS DETENTION STANDARD

## MARRIAGE REQUESTS

### **I** **POLICY**

All marriage requests from INS detainees receive a case-by-case review.

### **II.** **APPLICABILITY**

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

### **III.** **STANDARDS AND PROCEDURES**

#### **A.** **Guidelines**

All facilities shall have in place policy and procedures to enable eligible INS detainees to marry.

When a detainee in an IGSA facility submits a marriage request, INS shall be notified and consulted regarding approval or denial. In such a case, INS shall use the guidelines in paragraph III.A.3, below and the decision shall not be delegated below the level of the Assistant District Director for Detention and Removal (ADD/DDP). Where necessary, INS shall assume temporary custody of a detainee to allow a marriage. If the request is denied, INS shall notify the detainee, in writing, of the reasons for the denial.

In SPCs/CDFs, the OIC may approve a marriage request. The ADD/DRO must review any marriage requests denied by the OIC. The ADD/DRO may uphold or reverse the OIC's denial.

The following guidelines apply when a detainee requests permission to marry:

1. The ADD/DRO or the OIC shall consider detainee marriage requests on a case-by-case basis.
2. A detainee's request for permission to marry will be granted unless:
  - a. He/she is not legally eligible to be married;
  - b. He/she is not mentally competent, as determined by a qualified medical practitioner;
  - c. The intended spouse has not affirmed, in writing, his/her intent to marry the detainee;
  - d. The marriage would present a threat to the security or orderly operation of the SPC/CDF; or
  - e. Compelling government interests exist for denying the request. For example, INS will generally deny a marriage request if a final order of exclusion, deportation, or removal has been served and performance of the marriage ceremony would require postponement of the detainee's physical removal from the United States. (Compelling interests could also include the fact that a newly arrived detainee, or one in exclusion proceedings, has limited constitutional rights.) "Compelling interests" ordinarily do not include administrative inconvenience or the possibility that the marriage may allow the detainee to pursue a new avenue of relief from deportation. An OIC uncertain about "compelling interests" in a given case should consult the District Counsel.
3. The request for permission to marry must be submitted to the ADD/DRO or the OIC, in writing, by the detainee or his/her legal representative. All requests must specifically address items 2, a through c, above, and be accompanied by the intended spouse's written affirmation of intent to marry.
4. The ADD/DRO or the OIC's decision to deny a request and the reason(s) for the decision shall be provided in writing to the detainee and his/her legal representative, if applicable. A copy of the written denial will be sent to appropriate INS headquarters divisions, through appropriate channels.
5. When a request is approved, the detainee, legal representative, or other individual(s) acting on his/her behalf must make all arrangements for the marriage. Arrangements include, but are not limited to, taking a blood test, obtaining a marriage license, and retaining an official to perform the marriage ceremony. INS personnel shall not participate in making marriage arrangements.

6. The ADD/DRO or the OIC shall provide the detainee with a time and place during which he/she may make marriage arrangements. Arrangements made by the detainee or persons acting in his/her behalf shall be accommodated, consistent with the security and orderly operation of the facility. The ADD/DRO or the OIC reserves the right of final approval concerning the time, place, and manner of all arrangements.
7. A detainee will not be allowed to leave the facility for the purpose of making marriage arrangements.
8. The detainee or person(s) acting on his/her behalf shall bear all expenses relating to the marriage.
9. The marriage will take place inside the facility.
10. Only individuals essential for the marriage ceremony may attend.
11. Marriage ceremonies will be private, with no media publicity.
12. The ADD/DDP may revoke approval of a marriage request for good cause, in writing.
13. A marriage request will have no effect on regular or scheduled processing or action in a detainee's legal case. That is, the marriage request will neither interrupt nor stay any hearing, transfer to another facility, or removal from the United States.

The foregoing are internal guidelines for detention facilities. They are not to be construed as creating rights for detainees or other persons, and they do not prevent the OIC from exercising discretion in conducting his/her case-by-case review.


**B. Detainee Notification**

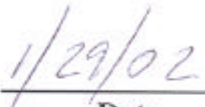
The facility shall provide each detainee, upon admittance, a copy of the detainee handbook or equivalent. Among other things, the handbook will advise detainees of the facility's marriage request procedures.

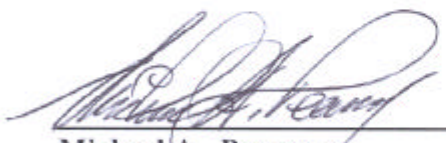
**IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED:**

N/A

**Approval of Standard**

  
\_\_\_\_\_  
**Michael D. Cronin**  
Acting Executive Associate Commissioner  
Office of Programs

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
**Michael A. Pearson**  
Executive Associate Commissioner  
Office of Field Operations

  
\_\_\_\_\_  
Date

**U.S. Immigration and Naturalization Service  
NATIONAL DETENTION STANDARDS  
MONITORING INSTRUMENT**

**Policy:** All detainee marriage requests will receive case-by-case consideration from INS management.

<b>MARRIAGE REQUESTS</b>			
<b>Components</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
1. Does the OIC or ADD consider detainee marriage requests on a case-by-case basis?			
2. Is the OIC or highest-ranking INS official on-site the only officer authorized to approve a request to marry?			
3. Of the marriage requests received during the past two months, how many (what percent) were approved?			
4. Does the ADD review every marriage request rejected by the OIC? a. If yes, in accordance with a written procedure? b. Documented? c. Approximately how often does the ADD overturn the OIC's decision?			
5. Is it standard practice to require a written request for permission to marry?			
6. Does the written request include a signed statement or comparable documentation from the intended spouse, confirming marital intent?			
7. Does the OIC or ADD provide a written copy of his/her decision to the detainee and his/her legal representative?			
8. If permission is denied, does the OIC or ADD state the basis for his/her decision?			
9. Do INS personnel participate in making marriage arrangements for the detainee?			
10. Does the OIC provide the detainee with a place and time to make wedding arrangements?			
11. Does the detainee handbook (or equivalent) explain the marriage request process?			

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**MARRIAGE REQUESTS**

**Verification Sources:**

**The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:**

<b>SOURCE</b>	<b>TIME</b>	<b>DATE</b>	<b>LOCATION</b>
A. Detainee handbook			
B. Detainee housing-unit inspection			
C. A-files/Detention files			
D. Facility's written policy and procedures			
E. Detainee and staff interviews			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

**Remarks:** *(Record significant facts, observations, other sources used, etc.)*

\_\_\_\_\_  
Auditor's Signature

\_\_\_\_\_  
Date