

# ICE/DRO DETENTION STANDARD

## MARRIAGE REQUESTS

**I. PURPOSE AND SCOPE.** This Detention Standard ensures that each marriage request from an ICE/DRO detainee receives a case-by-case review, based on internal guidelines for approval of such requests.

The guidelines provided in this Detention Standard are internal and shall not be construed as creating rights for detainees or other persons or preventing the facility administrator from exercising discretion in conducting the required case-by-case review.

It applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

***Procedures in italics are specifically required for SPCs and CDFs.*** IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate “Definitions” Standard.

**II. EXPECTED OUTCOMES.** The expected outcomes of this Detention Standard are:

1. Each marriage request from an ICE/DRO detainee 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. Ordinarily, a detainee’s request for permission to marry will be granted.

**III. DIRECTIVES AFFECTED.** This Detention Standard replaces **Marriage Requests** dated 2/11/2002.

**IV. REFERENCES.** None

### **V. EXPECTED PRACTICES**

#### **A. Written Policy and Procedures Required**

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

#### **B. Detainee Notification**

The National Detainee Handbook and local facility supplement provided each detainee upon admittance shall advise detainees of the facility’s marriage request procedures.

### C. Detainee Request to Marry

A detainee, or his or her legal representative, may submit the request for permission to marry to the facility administrator or Field Office Director in writing.

- The request must specifically address:
  - That the detainee is legally eligible to be married in the state where the detainee is being held;
- The request must be accompanied by the intended spouse's written affirmation of intent to marry the detainee.

### D. Consideration and Approval

#### 1. SPCs and CDFs

*The facility administrator may approve or deny a marriage request, using the **Guidelines** that follow. Approval or denial of all marriage requests should be reviewed by the FOD or designee.*

- *Any facility administrator's decision to deny a marriage request shall be forwarded to the respective Assistant Field Office Director for review.*
- *The Field Office Director (or designee), after whatever consultations he or she believes are advisable, may uphold or reverse the facility administrator's denial.*
- *The detainees may seek legal assistance throughout the marriage application process.*

#### 2. IGSA's

The facility administrator shall notify and consult the respective Assistant Field Office Director, who shall use the **Guidelines** that follow to approve or deny the request.

- If the request is approved, the marriage ceremony shall take place at the facility. If necessary under some extraordinary circumstances, ICE/DRO may assume temporary custody of the detainee for the marriage ceremony.
- If the request is denied, ICE/DRO shall notify the detainee, in writing, of the reasons for the denial within 30 days from the date of the request...

### E. Guidelines. When a detainee requests permission to marry:

1. The facility administrator or Field Office Director shall consider each marriage request on a case-by-case basis.
2. A detainee's request for permission to marry will generally be denied if:
  - The detainee is not legally eligible to be married;
  - The detainee is not mentally competent, as determined by a qualified medical practitioner;
  - The intended spouse has not affirmed, in writing, his or her intent to marry the detainee;

- The marriage would present a threat to the security or orderly operation of the facility; or
  - There are compelling government interests for denying the request.
  - If the request is denied, the detainee may file an appeal to the FOD.
3. When a request is approved, the detainee, legal representative, or other individual(s) acting on his or her behalf must make all the marriage arrangements, including, but not limited to:
- Blood tests,
  - Obtaining the marriage license, and
  - Retaining an official to perform the marriage ceremony.

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

4. The facility administrator or designated Field Office staff shall notify the detainee in a timely manner of a time and place for the ceremony.

The marriage may have no effect on regular or scheduled processing or action in a detainee's legal case. Specifically, it may neither interrupt nor stay any hearing, transfer to another facility or removal from the United States.

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

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

The facility administrator or Field Office Director reserves the right of final approval concerning the time, place, and manner of all arrangements.

#### **F. Revocation of Approval**

The Assistant Field Office Director may revoke approval of a marriage request for good cause in writing to the detainee. In those instances, the detainee may file an appeal.

**G. Documentation in Detention File**

Once the marriage has taken place, the facility administrator shall forward original copies of all documentation to the detainee's A-file and maintain copies in the facility's Detention File.

**Standard Approved:**

**James T. Hayes, Jr. /s/**

**12/5/2008**

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**James T. Hayes, Jr.**  
**Director**  
**Office of Detention and Removal Operations**

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**Date**