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U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: All U.S. Immigration and Customs Enforcement Supervisors

FROM: John Morton
Director 

SUBJECT: Romantic or Sexual Relationships between ICE Supervisors and
their Subordinates (Anti-Fraternization Policy)

U.S. Immigration and Customs Enforcement (ICE) is committed to the highest standard of professional conduct and expects all supervisors to adhere to these standards. The purpose of this policy is to promote a positive work environment that is free from the appearance of conflicts of interests associated with romantic or sexual relationships between ICE supervisors and their subordinates. This policy is based upon 5 U.S.C. § 2301 and 5 C.F.R. § 2635.

A "supervisor" means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

Romantic or sexual relationships between ICE supervisors and their subordinate employees, to include those employees who they directly supervise or who fall directly within their chain of command, are contrary to a productive and efficient workplace. Supervisors must avoid the appearance of conflict between their professional responsibilities and any involvement that they may have in romantic or sexual relationships with subordinate employees. In order to avoid complaints of favoritism, loss of objectivity, abuse of authority, sexual harassment, hostile work environment, or gender based discrimination, supervisors should avoid situations that give rise to a conflict of interest or appearance of a conflict of interest. The very nature of these personal relationships in the workplace creates the potential for many foreseeable problems and workplace complications.

If a romantic or sexual relationship between a supervisor and his/her subordinate employee does arise, the supervisor involved must immediately notify his/her supervisor of the relationship. This requirement includes romantic or sexual relationships with anyone who falls within the supervisor's chain of command (first-line subordinate, second-line subordinate, third-line subordinate, etc.).

If an employee is promoted or assigned to a supervisory position, including an acting supervisory position, and is currently involved in a romantic or sexual relationship with a coworker who will

fall under his or her supervision, the employee must provide notification pursuant to this memorandum as soon as practicable.

Under no circumstances may supervisors appoint, employ, promote, advance, or advocate the appointment, employment, promotion, or advancement of an employee with whom they are engaged in a romantic or sexual relationship.

A supervisor's failure to notify his or her direct supervisor of a romantic or sexual relationship with a subordinate employee is actionable misconduct. Disciplinary action will depend on the particular circumstances of each case but may include counseling, reprimand, suspension, or removal.

This policy does not create any reporting requirements for non-supervisory personnel, and ICE will not take any disciplinary action against non-supervisory personnel pursuant to this policy. More specifically, ICE will not discipline non-supervisory personnel for failing to report a romantic or sexual relationship or for failing to report that a supervisor did not disclose such a relationship. However, aside from this limited exception, employees are required to comply with the November 10, 2010 Memorandum For All ICE Employees from Deputy Director Alonzo Peña on reporting misconduct ("Subject: Directing Complaints Appropriately to the Joint Intake Center (JIC), the Office of Professional Responsibility (OPR), the Office of the Inspector General (OIG), or Local Management").

The focus of this policy is on ensuring supervisory conduct does not create an actual or apparent conflict of interest. The Agency will not tolerate any retaliation, discrimination, or harassment of a subordinate employee who has participated in such a relationship with a supervisor.

Upon receiving notification of the relationship, or otherwise becoming aware of the relationship, the supervisor receiving the notice must take immediate steps to ensure that the relationship does not adversely affect the workplace by taking at least one of the following actions:

- 1) Reassignment of the supervisor in the relationship to a position that severs the supervisory relationship over the subordinate; or
- 2) Recusal of the supervisor in the relationship from all official matters affecting, or appearing to affect, the subordinate.

In addition, supervisors in receipt of information regarding a romantic or sexual relationship referenced in this memorandum should not disclose the details or existence of this relationship to others in the workplace, with the exception of those with a need to know for the purposes of taking an appropriate action in response to the information received, as outlined above. Inappropriate disclosure of such information may subject the individual making the disclosure to disciplinary action.

Supervisors are responsible for monitoring all of their employees and must take appropriate, preventive, and corrective measures and, if necessary, disciplinary action, to avoid or address problems that may arise as a result of romantic or sexual relationships within their workplace.

Supervisors should contact their servicing Employee & Labor Relations office for guidance and assistance in handling issues covered by this policy.

The guidance and requirements set forth in this memorandum are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.