

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Policy Number 1051.1: U.S. Residency Requirement

Issue Date: September 13, 2016
Effective Date: September 13, 2016
Superseded: This Directive establishes the U.S. Immigration and Customs Enforcement (ICE) U.S. Residency Requirement.

Federal Enterprise Architecture Number: 306 112 002a

- 1. Purpose/Background.** Cases where an ICE employee resides in a bordering nation but commutes to work across the U.S. border to his or her duty station inside the U.S. could be problematic. For example, delays or problems at the border crossing or crisis situations in the country of residence could restrict an employee's access to his or her ICE office and thus diminish ICE's operational effectiveness and compromise its mission. This Directive responds to that vulnerability by establishing a primary U.S. residency requirement for ICE employees who work in the U.S. and a requirement the employees commute from a residence located within the U.S. on days they are scheduled to report for work.
- 2. Policy.** All ICE employees working in duty stations in the U.S. must maintain a primary residence in the U.S. As a federal law enforcement agency whose mission is to protect the U.S. and uphold public safety by identifying criminal activities and eliminating vulnerabilities that pose threats to the country and to enforce U.S. immigration and customs laws, it is a prudent necessity that those who work for ICE reside within U.S. borders. In the event of an emergency causing a border closing, ICE employees living outside the U.S. might be unable to enter the U.S. and thus unable to contribute to the national security, law enforcement, or mission support duties to which they are assigned. Additionally, employees who maintain their primary residence in another country may give the appearance of a conflict of interest between their official duties and the interests of the country in which they reside. This Directive does not restrict in any way employees' rights to own second homes, vacation homes, apartments, boats, etc., outside the U.S. This directive merely prohibits employees from maintaining their primary residence outside the U.S. or from commuting from foreign locations to their U.S. duty station. On days employees are scheduled to report for work, they must not initiate their commute from a residence located outside the U.S., as defined in § 3.4 of this Directive.

Employees who do not fully comply with this Directive are subject to disciplinary action, up to and including dismissal. This Directive does not apply to employees who are assigned to duty stations outside the U.S. This Directive applies to all full-time employees and to part-time employees who report to a U.S.-based ICE duty station on a

regular basis. This Directive does not apply to those part-time employees, consultants, or contractors who periodically report to an ICE location.

3. Definitions.

- 3.1. **Employee.** An individual, as defined in Title 5, United States Code (U.S.C.) § 2105, who is engaged in the performance of a function for the Federal Government under authority of law or an Executive Act, excluding contract personnel.
- 3.2. **Primary Residency.** The location from which the individual is based, as identified by legal registration or documentation such as a driver's license, paying state or local taxes, or voter registration.
- 3.3. **Supervisor.** An employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, address their grievance, or 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. (5 U.S.C. § 7103(a)(10).)
- 3.4. **United States (U.S.).** The continental United States, Alaska, Hawaii, and U.S. commonwealths and territories.
- 3.5. **U.S. Residence.** A dwelling physically located within the U.S., as defined in § 3.4, where the employee resides. A dwelling may include, but is not limited to, second homes, apartments, and vacation homes.

4. Responsibilities.

4.1. Employees are responsible for:

- 1) Maintaining a primary residence in the U.S.;
- 2) Providing accurate and current information regarding their local, temporary, and primary residence in ICE personnel files and databases and to their supervisor(s). Employees must update files and databases within 14 days of relocating to a new residence; and
- 3) Fulfilling all requirements of this Directive.

4.2. Supervisors are responsible for:

- 1) Maintaining a record of all of their direct-report employees' current contact information (local, temporary, and permanent addresses, personal home telephone numbers, ICE cell phone numbers, personal cell phone numbers, and emergency point(s) of contact), and

2) Reporting any employee that does not abide by this Directive to their chain of command for disciplinary action.

5. **Recordkeeping.** None

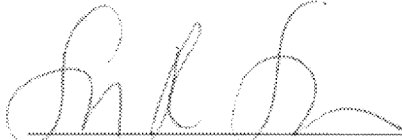
6. **Authorities/References.**

6.1. Title 5, U.S.C. § 301, Departmental regulations.

6.2. DHS Delegation Order # 0160.1, Delegation to Department of Homeland Security Organizational Elements, March 3, 2004.

7. **Attachments.** None

8. **No Private Right Statement.** These guidelines and priorities 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.



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