

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 1051.2: U.S. Residency Requirement

Issue Date: *November 1, 2021*
Effective Date: *November 5, 2021*
Superseded: Policy Number 1051.1 U.S. Residency Requirement, dated September 13, 2016

Federal Enterprise Architecture Number: 306-112-002b

- 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 United States 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 United States and a requirement the employees commute from a residence located within the United States on days they are scheduled to report for work.
- 2. Policy.** All ICE employees working in duty stations in the United States must maintain a primary residence in the United States. As a federal law enforcement agency whose mission is to protect the nation and uphold public safety by: (1) identifying criminal activities and eliminating vulnerabilities that pose threats to the country and (2) enforcing U.S. immigration and customs laws, it is prudent 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 United States might be unable to enter the country 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 United States. This directive merely prohibits employees from maintaining their primary residence outside the United States 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 United States, as defined in § 3.5 of this Directive.

In certain cases, it may be in the best interest of ICE to permit an employee to maintain a primary residence outside the U.S. border. Therefore, the Deputy Director of ICE may grant exceptions to the requirement. Unless an exception by the Deputy Director of ICE is

granted, employees who do not fully comply with this Directive are subject to disciplinary or adverse action, up to and including dismissal. This Directive does not apply to employees who are assigned to duty stations outside the United States. 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.

2.1. Exceptions. Exceptions may be granted on a case-by-case basis, with the approval of the Deputy Director of ICE. Exceptions must be requested through the chain of command and may be made when it is in the best interests of the agency.

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. Field Responsible Official (FROs). The highest-ranking official in any ICE field location. This includes Special Agents in Charge, Field Office Directors, ICE Attachés, Chief Counsel, and any other officials who have been designated, in writing by the Director.

3.3. 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.

3.4. 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)).

3.5. United States (U.S.). The continental United States, Alaska, Hawaii, and U.S. commonwealths and territories.

3.6. U.S. Residence. A dwelling physically located within the United States, as defined in § 3.5, where the employee resides. A dwelling may include, but is not limited to, second homes, apartments, and vacation homes.

4. Responsibilities.

4.1. The Deputy Director of ICE is responsible for reviewing and approving requests for an exception to this policy.

4.2. FROs are responsible for reviewing and submitting exception requests to the U.S. residency requirement to the Deputy Director of ICE.

4.3. Supervisors are responsible for:

- 1) Maintaining a record of all 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),
- 2) Reviewing and submitting exception requests to the U.S. residency requirement to the FRO; and
- 3) Reporting any employee that does not abide by this Directive to their chain of command for disciplinary action.

4.4. Employees are responsible for:

- 1) Maintaining a primary residence in the United States.
- 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.


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.



Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement