

5.4 Marriage Requests

Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard ensures that each marriage request from an ICE/Enforcement and Removal Operations (ERO) resident receives a case-by-case review, based on internal guidelines for approval of such requests.

The guidelines provided in this standard are internal and will not be construed as creating rights for residents or other persons or preventing the Field Office Director (FOD) from exercising discretion in conducting the required case-by-case review.

Various terms used in this standard may be defined in the ICE Family Residential Standard on *Definitions*.

Program Philosophy

The requirements of this standard must be implemented in accordance with the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes*.

A. Language Access and Disability Requirements

Centers will adhere to the language access and disability laws, regulations, responsibilities, requirements, and laws cited in the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes* and the ICE Family Residential Standard on *Disability Identification, Assessment, and Accommodation*. These requirements must be promulgated in all Center policies, practices, and operations and its themes must be fully incorporated into every Center activity. This is of critical importance and will directly impact resident life, health, and safety.

Expected Outcomes

The expected outcomes of this standard are as follows (specific requirements are defined in the Expected Practices section in this standard):

1. Each marriage request from an ICE/ERO resident will be reviewed on a case-by-case basis.
2. Consistency in decisions to approve or deny a marriage request will be achieved by the application of guidelines.
3. Ordinarily, a resident's request for permission to marry will be granted.

Standards Affected

This standard replaces the ICE Family Residential Standard on *Marriage Requests* dated 12/21/2007.

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Expected Practices

A. Written Policy and Procedures Required

All Centers will have in place written policy and procedures to enable eligible ICE/ERO residents to marry.

B. Resident Notification

The resident handbook and local supplement provided to residents upon admission will advise residents of the Center's marriage request procedures.

C. Resident Request to Marry

A resident, or his/her legal representative, must submit to the FOD a written request for permission to marry.

The request must:

- Specifically express that the resident is legally eligible to be married in the State where the resident is being housed;
- Specifically state that the resident is mentally competent; and
- Be accompanied by the intended spouse's written affirmation of his/her intent to marry the resident.

D. Consideration and Approval

The FOD may approve or deny a marriage request. When the request is adjudicated, the FOD will notify the resident in writing within 30 days. If the request is denied, then the notification will provide the reasons for the denial. Written denials will be maintained in the resident's file. A resident's marriage request will be denied if:

- The resident is not legally eligible to be married in the State where the resident is being housed;
- The resident is not mentally competent, as determined by a qualified medical practitioner;
- The intended spouse has not affirmed, in writing, his/her intent to marry the resident;
- The marriage ceremony would present a threat to safe and secure Center operations; or
- A compelling governmental interest exists for denying the request.

Residents may seek legal assistance throughout the marriage application process.

If the request is denied, then the resident may submit an appeal to the FOD.

When a request is approved, the resident, legal representative, or other individual(s) acting on his/her behalf must make all the marriage arrangements, including, but not limited to:

- Taking blood tests;
- Obtaining the marriage license; and
- Retaining an official to perform the marriage ceremony.

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ICE/ERO personnel will not participate in making marriage arrangements nor serve as witnesses in the ceremony.

Staff will notify the resident in a timely manner of a time and place for the ceremony.

E. Guidelines

The marriage may not interrupt regular or scheduled processing or action in a resident's legal case. Specifically, it may neither interrupt nor stay any resident's hearing, transfer a resident to another Center, or remove a resident from the United States.

Transfers will not occur solely to prevent a marriage.

Ordinarily, arrangements made by the resident or persons acting on his/her behalf will be accommodated, consistent with safe and secure Center operations, according to the following stipulations:

- The ceremony will take place inside the Center;
- The resident may not leave the Center to make arrangements;
- All expenses relating to the marriage will be borne by the resident or person(s) acting on his/her behalf; and
- The ceremony will be private with no media publicity. Only individuals essential for the marriage ceremony, such as required witnesses, may attend.

Minors can request to marry in accordance with state law, with parental consent, and in compliance with ICE policy.

The Center Administrator reserves the right of final approval concerning the time, place, and manner of all arrangements.

F. Revocation of Approval

The FOD may revoke approval of a marriage request under the terms identified in the Consideration and Approval section in this standard. The affected resident will be provided with written notification regarding the reason for revocation. In such instances, the resident may file an appeal.

G. Documentation in File

A copy of the resident's marriage request and adjudication will be placed in the residential file. After the marriage ceremony, the Center Administrator will forward copies of the marriage licensing documentation to the respective field office and maintain a copy in the residential file.

References

- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes