

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

**DEPARTMENT OF THE AIR FORCE
INSTRUCTION 36-3112**

6 MAY 2024

Personnel



***IMMIGRATION REQUIREMENTS
UPON MARRIAGE IN OVERSEAS
COMMANDS***

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements Department of the Air Force Policy Directive (DAFPD) 36-31, *Personal Affairs*, paragraph 2.2.. It provides counseling and procedural guidance for commanders. This publication applies to the Regular Air Force, the Air Force Reserve, the Air National Guard, and the United States Space Force. In collaboration with the Chief of Air Force Reserve (AF/RE), Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff, Manpower, Personnel and Services (AF/A1), and the Deputy Chief of Space Operations for Human Capital (SF/S1) develops personnel policy for marriage in overseas commands. This publication may be supplemented at any level, but all supplements that directly implement this publication must be routed to the office of primary responsibility (OPR) for coordination, and all MAJCOM-level supplements must be approved by the Human Resource Management Strategic Board (HSB) prior to certification and approval. The authorities to waive wing, unit, delta or garrison level requirements in this publication are identified with a Tier (T-0, T-1, T-2, T-3) number following the compliance statement. See Department of the Air Force Manual (DAFMAN) 90-161, *Publishing Processes and Procedures*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication office of primary responsibility for non-tiered compliance items. Refer recommended changes and questions about this publication to the office of primary responsibility using the Department of the Air Force (DAF) Form 847, *Recommendation for Change of Publication*; route DAF Forms 847 from the field through the appropriate functional chain of command. Ensure all records generated as a result of processes prescribed in this publication adhere to Air Force Instruction 33-322, *Records Management and Information Governance Program*, and are disposed in accordance with the Air Force Records

Disposition Schedule, which is located in the Air Force Records Information Management System. This instruction is subject to the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act of 1996. Refer to [Attachment 1](#) for a glossary of references and supporting information.

SUMMARY OF CHANGES

This instruction has been revised to incorporate United States Space Force applicability.

1. Purpose. Provide members stationed overseas, when marrying citizens of other countries, guidance on the restrictions of the United States (US) immigration laws.

2. Statutory Authority. The admission of noncitizens into the United States is governed by the Immigration and Nationality Act (Title 8, United States Code (USC), Sections (§) 1101, *Definitions*, et seq.).

2.1. The Immigration and Nationality Act is interpreted and implemented through Title 8 of the Code of Federal Regulations (CFRs). Since 24 December 1952, the effective date of the Immigration and Nationality Act, these policies and procedures continue to change. In general, the exacting standards heretofore determining admissibility are continued, but additional categories of potential immigrants have been granted consideration.

2.2. Title 8 USC (§) 1184(d), *Admission of Nonimmigrants*, allows for the non-immigrant status for the foreign fiancé or fiancée of a US citizen who seeks to enter the US to conclude a valid marriage in the US within the 90 days after entry.

3. Roles and Responsibilities.

3.1. Major commands, field commands, field operating agencies, and direct reporting units will:

3.1.1. Monitor and guide subordinate units.

3.1.2. Submit supplement requests to this instruction to Air Force Services Resourcing and Requirements Division (AF/AISR). Refer to [Attachment 3](#) for optional administrative procedures for command instruction.

3.2. The installation commander will: Ensure appropriate installation agencies and services are available to counsel members on the restrictions of the US immigration laws when marrying citizens of other countries and the US immigration requirements for noncitizen spouses, fiancés, children, stepchildren, or adopted children.

3.3. The Unit Commander (or Air Force equivalent in a Joint Command) will ensure members are:

3.3.1. Counseled on important considerations for marrying citizens of other countries (Refer to [Attachment 2](#)).

3.3.2. Advised that marriage by itself is not grounds for retention in the overseas command beyond the applicant's date eligible to return from overseas, nor is it grounds for retention in the Department of the Air Force beyond expiration of term of service. It does not, however, preclude the individual's voluntary extension of overseas tour or term of service under other policies governing such extensions.

3.3.3. Advised that travel in connection with leave to and from the United States or to and from the overseas command where the marriage is to take place is the responsibility of the individual service member and will be at no expense to the government. However, members on active duty on ordinary leave may be eligible for space-available transportation on Department of Defense (DoD) owned or controlled aircraft in accordance with DoD Instruction (DoDI) 4515.13, *Air Transportation Eligibility*.

3.3.4. Granted leave, consistent with operation and military requirements, to return to the United States to marry a noncitizen fiancé or fiancée.

3.3.5. Issued Department of Defense Form 1278, *Certificate of Overseas Assignment to Support Application to File Petition for Naturalization* (DD Form 1278) in accordance with “DoDI 5500.14, *Naturalization of Aliens Serving in the Armed Forces of the United States and of Alien Spouses and/or Alien Adopted Children of Military and Civilian Personnel Ordered Overseas*”. Enclosure 2, E2.3.

3.4. The member’s servicing Military Personnel Section will:

3.4.1. Refer members to the United States Citizenship and Immigration Services website for information on applying for a foreign spouse’s green card and to the DoD Foreign Clearance Guide and the US Department of State website for information on obtaining a passport and visa.

3.4.2. Assist members in securing visa and other entrance documentation, including forwarding Form I-130, *Petition for Noncitizen Relative*.

3.4.3. Refer members to the legal office for any questions regarding the United States Immigrations laws and restrictions.

3.4.4. Refer members to Department of the Air Force Instruction (DAFI) 36-3026V1, *Identification Cards for Members of The Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel* for questions regarding Defense Enrollment Eligibility Reporting System eligibility.

3.4.5. Brief member on housing allowance in overseas area when acquiring a spouse. Also, brief member on housing allowance if noncitizen spouse is not permitted to travel to next permanent duty station due to Visa or Passport complications.

4. Marriage Between U.S. Citizens and Certain Noncitizens. Service members marrying U.S. citizens overseas do not create an immigration issue for either individual. Furthermore, U.S. citizen service members marrying a lawful permanent resident living outside the U.S. will not likely create an immigration issue for either individual. Spouses must meet the basic eligibility requirements to qualify as a dependent family member for the Defense Enrollment Eligibility Reporting System. **(T-0)** Refer to DAFI 36-3026V1.

5. Marriage Between Noncitizens. A marriage between two noncitizens will not exempt the noncitizen spouse from the numerical limitations for immigrants (8 USC § 1151, *Worldwide Level of Immigration*). Nevertheless, a lawful permanent resident may petition for second preference classification for his or her noncitizen spouse (8 USC § 1153, *Allocation of Immigrant Visas*). Members considering such a marriage are strongly advised to consult with their local legal office.

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Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

8 USC, *Aliens and Nationality*

8 USC § 1101, *Definitions*

8 USC § 1151, *Worldwide Level of Immigration*

8 USC § 1153, *Allocation of Immigrant Visas*

8 USC § 1182, *Inadmissible Aliens*

8 USC § 1184, *Admission of Nonimmigrants*

DoDI 4515.13, *Air Transportation Eligibility*, 22 January 2016

DoDI 5500.14, *Naturalization of Aliens Serving in the Armed Forces of the United States and of Alien Spouses and/or Alien Adopted Children of Military and Civilian Personnel Ordered Overseas*, 4 January 2006

DAFPD 36-31, *Personal Affairs*, 19 December 2022

DAFI 36-3026V1, *Identification Cards for Members of The Uniformed Services, Their Eligible Family Members, And Other Eligible Personnel*, 1 June 2023

AFI 33-322, *Records Management and Information Governance Program*, 23 March 2020

DAFMAN 90-161, *Publishing Processes and Procedures*, 18 October 2023

Prescribed Forms

None

Adopted Forms

DoD Form 1278, *Certificate of Overseas Assignment to Support Application to File Petition for Naturalization*

DAF Form 847, *Recommendation for Change of Publication*

Form I-130, *Petition for Noncitizen Relative*

Abbreviations and Acronyms

AFI—Air Force Instruction

CFR—Code of Federal Regulations

DAF—Department of the Air Force

DAFI—Department of the Air Force Instruction

DAFMAN—Department of the Air Force Manual

DAFPD—Department of the Air Force Policy Directive

DoD—Department of Defense

DoDI—Department of the Air Force Instruction

HSB—Human Resource Management Strategic Board

OPR—Office of Primary Responsibility

US—United States

USC—United States Code

Office Symbols

AF/A1—Deputy Chief of Staff, Manpower, Personnel and Services

AF/A1S—Air Force Services

AF/A1SR—Air Force Services Resourcing and Requirements Division

AF/RE—Chief of Air Force Reserve

NGB/CF—Director of the Air National Guard

SAF/MR—Assistant Secretary of the Air Force (Manpower and Reserve Affairs)

SF/S1—Deputy Chief of Space Operations for Human Capital

Terms

Permanent Residence Alien—An alien admitted into the United States under an immigration visa for permanent residence; or an alien, who, after admission without an immigrant visa, has had his or her status adjusted as an alien lawfully admitted for permanent residence.

Dependent—An employee's spouse; children who are unmarried and under age 21 years or who, regardless of age, are physically or mentally incapable of self-support; dependent parents, including step and legally adoptive parents of the employee's spouse; and dependent brothers and sisters, including step and legally adoptive brothers and sisters of the employee's spouse who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support.

Prenuptial Agreement—An agreement made by a couple before they marry concerning the ownership of their respective assets should the marriage fail.

Attachment 2

PROBLEMS TO BE CONSIDERED

A2.1. Mental and physical health of the noncitizen spouse, as well as character, morals, and political beliefs and affiliations, are matters of primary importance since individuals in certain categories may be inadmissible to the United States for permanent residence. Contact your local legal office for advice. As of the time of this publication, a list of conditions that can result in inadmissibility can be found in 8 USC § 1182, *Inadmissible Aliens*.

A2.2. In addition to the high standards required of the noncitizen, the United States citizen also must present satisfactory evidence of ability to prevent the spouse from becoming a public charge. Another important subject for consideration is the large number of enlisted personnel of pay grade E-1 to the grade of E-4 with less than 2 years of service who have no occupational backgrounds or histories of past earnings to establish their ability to support a family. Consideration must be given also to the health of the United States citizen. For example, the presence of active tuberculosis would not only impair his or her ability to support the family, but would endanger the health of the noncitizen spouse, thus jeopardizing admissibility.

A2.3. An adverse effect on a military sponsor's career can often result from marriage to a noncitizen when the sponsor occupies a sensitive position requiring access to classified defense information or cryptographic matter. This aspect should be closely examined through consultation with the unit commander or security manager. The military member should also consider possible reclassification action that could occur and its resultant impact on his or her career aspirations.

Attachment 3

OPTIONAL ADMINISTRATIVE PROCEDURES FOR COMMAND/FIELD SUPPLEMENTS

A3.1. Department of the Air Force members will be strongly encouraged to seek premarital counseling and legal advice through the local legal office (See paragraph **A3.2** and **A3.3** below). Members will be encouraged to seek classes to ease integration into the United States through the Military and Family Readiness Center or the local equivalent. If an applicant desires a wedding to be performed by a military chaplain, that chaplain may require additional religion-based counseling. A civil ceremony may be required by laws of the country and should be performed prior to the chaplain's ceremony. Only certain types of ceremonies are acceptable to the United States Citizenship and Immigration Services. More information can be obtained from www.USCIS.gov within the United States Citizenship and Immigration Services Policy manual, Volume 12, Part G.

A3.2. The service member should ensure that an official record of his or her marriage (whether to a noncitizen or a United States citizen) is made with the proper local civil authority immediately after marriage has been accomplished.

A3.3. Marriage counseling. Service members should be advised of the marriage counseling resources available, including pastoral counseling by a military chaplain, who can discuss spiritual and religious matters, adjustments which may be required as a result of language and environmental background differences and the moral and financial obligations of marriage and family life.

A3.4. *Legal advice.*

A3.4.1. In most cases before marriage, only the service member is entitled to legal advice. The service member is entitled to a private and confidential meeting with an attorney, separate from his/her potential spouse. Members may waive this confidentiality.

A3.4.2. A member should seek legal assistance, requesting legal counseling on the ramifications of marriage and marriage to a noncitizen spouse, including, but not limited to, the following matters:

A3.4.2.1. A briefing on the requirements of the immigration and naturalization laws of the United States as they pertain to marriage.

A3.4.2.2. The legal ramifications of marriage and divorce in the current country and the eventual state of residence.

A3.4.2.3. Without a prenuptial agreement, the expected division of property and child custody in case of divorce or separation based on the laws of the current country and eventual state of residence.

A3.4.2.4. The legal claims the potential spouse could have on the service members retirement benefits.

A3.4.2.5. The legal requirements of supporting dependents.

A3.4.2.6. If either party was previously married, this issue should be discussed with the legal assistance officer to advise whether the divorce or annulment will likely be recognized under U.S. law.

A3.5. *Submission of petition to classify status of noncitizen relative for issuance of immigration visa.* The service member should be made aware of the importance of filing a petition as soon as possible because obstacles such as missing documents or the need for additional information could cause delays in the issuance of the visas and may result in the departure of the service member from the overseas command without his or her noncitizen dependents. Submission of a petition may be required immediately following the marriage ceremony, when appropriate. A suspense file may be maintained by the servicing Military Personnel Section (or equivalent) until the visa is granted.