

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

AIR FORCE INSTRUCTION 36-2609

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Services

***MARRIAGE IN OVERSEAS
COMMANDS***

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements Air Force Policy Directive 36-31, *Personal Affairs*, Paragraph 2.2. It provides counseling and procedural guidance for commanders of members stationed overseas regarding restrictions in the United States immigration laws when marrying citizens of other countries and advising on US immigration requirements for alien spouses, fiancés, children, stepchildren, or adopted children. This publication applies to all Regular Air Force members, members of the Air Force Reserve Command and members of the Air National Guard. In collaboration with the Chief of Air Force Reserve (AF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff, Manpower, Personnel and Services (AF/A1) develops personnel policy for marriage in overseas commands. This publication may be supplemented at any level, but all Supplements must be routed to the Office of Primary Responsibility for this publication for coordination prior to certification and approval. The authorities to waive Wing/unit level requirements in this publication are identified with a Tier (T-0, T-1, T-2, T-3) number following the compliance statement. See Air Force Instruction 33-360, *Publications and Forms Management*, 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 Air Force Form 847, *Recommendation for Change of Publication*; route Air Force Forms 847 from the field through the appropriate functional chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule 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 document has been substantially revised and must be completely reviewed. This document has been revised to incorporate Tier compliance statements as well as removing the requirement for Air Force personnel to obtain written authorization from the senior overseas area commander prior to marrying a foreign national who is not a legal resident of the United States. Other administrative corrections were made to add clarity as appropriate.

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

2. Statutory Authority. The admission to the United States of aliens is governed by the Immigration and Nationality Act (Title 8, United States Code, Sections 1101, et seq.).

2.1. Titles 8 and 22 of the Code of Federal Regulations contain the immigration and nationality regulations. Since 24 December 1952, the effective date of the Immigration and Nationality Act, certain policies and procedures have been changed. In general, the exacting standards heretofore determining admissibility are continued, but additional categories of potential immigrants have been granted consideration.

2.2. Title 8 United States Code 1184[d] amended the Immigration and Nationality Act to provide non-immigrant status for the alien fiancé or fiancée of a United States citizen who seeks to enter the United States to conclude a valid marriage in the United States within the 90 days after entry.

3. Roles and Responsibilities.

3.1. Major 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 AF/A1SR (Refer to Attachment 5 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 United States immigration laws when marrying citizens of other countries and the US immigration requirements for alien spouses, fiancés, children, stepchildren, or adopted children. **(T-2)**

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

3.3.1. Counseled on important considerations for marrying citizens of other countries (Refer to Attachment 2). **(T-3)**

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 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. (T-3)

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 owned or controlled aircraft in accordance with Department of Defense Instruction 4515.13, *Air Transportation Eligibility*. (T-3)

3.3.4. Granted leave, consistent with operation and military requirements, to return to the United States to marry an alien fiancé or fiancée. (T-3)

3.3.5. Issued DD Form 1278 in accordance with DODD 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. (T-0)

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

3.4.1. Refer members to the United States Immigration, Foreign Clearance Guide, and to the Department of State website for information on applying for a green card and obtaining a passport and visa for a foreign spouse. (T-3)

3.4.2. Assist members in securing visa and other entrance documentation, including forwarding Form I-130, *Petition for Alien Relative*. (T-3)

3.4.3. Refer members to the legal office for any questions regarding the United States Immigrations laws and restrictions. (T-3)

3.4.4. Refer members to Air Force Instruction 36-3026 Inter-service Publication Volume 1, *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. (T-3)

4. Marriage Between U.S. Citizens and Certain Aliens. Admissibility to the United States is not an issue in marriages between United States citizens overseas or between United States citizens and aliens who have been admitted to the United States for permanent residence or have been granted immigrant status. Spouses must meet the basic eligibility requirements to qualify as a dependent family member for the Defense Enrollment Eligibility Reporting System. Refer to Air Force Instruction 36-3026 Volume 1. (T-0)

5. Marriage Between Aliens. A marriage between two aliens will not exempt the alien spouse from the numerical limitations for immigrants (8 United States Code 1151). Nevertheless, a lawful permanent resident may petition for second preference classification for his or her alien spouse (8 United States Code 1153). 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

Air Force Publication Directive 36-31, *Personal Affairs*, 2 April 2012

Air Force Instruction 33-360, *Publications and Forms Management*, 1 December 2015

Air Force Manual 33-363, *Management of Records*, 1 March 2008

Title 8, United States Code, 1101, *Immigration and Nationality Act*

Title 8, United States Code, 1182, *Inadmissible Aliens*

Title 8, United States Code, 1184d, *Admission of Nonimmigrants*

Title 8, United States Code, 1151, *Worldwide Level of Immigration*

Title 8, United States Code, 1153, *Allocation of Immigrant Visas*

Title 8, Code of Federal Regulations, *Aliens and Nationality*

Title 22, Code of Federal Regulations, *Foreign Relations*

Department of Defense Instruction 4515.13, *Air Transportation Eligibility*, 9 February 2018

Department of Defense Instruction 4400-14, *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

Air Force Instruction 36-3026, Inter-service Publication Volume 1, *Identification Cards For Members Of The Uniformed Services, Their Eligible Family Members, And Other Eligible Personnel*, 4 August 2017

Adopted Forms

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

Air Force Form 847, *Recommendation for Change of Publication*

Form I-130, *Petition for Alien Relative*

Attachment 2

Problems to be considered. The admissibility of alien spouses and children merits serious consideration by the parties to the marriage and the Air Force, because such marriages are normally planned in anticipation of eventual residence in the United States. Thorough study of all aspects of the problem by the individual prior to marriage, together with guidance from the appropriate military commanders, can minimize, if not eliminate, the prospect of broken homes by divorce, abandonment, or desertion. This could result if alien spouses failed to qualify for admission to the United States because the individuals concerned were not aware of the requirements for entry prior to marriage.

A2.1. Mental and physical health of the alien 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 Title 8, United States Code 1182.

A2.2. In addition to the high standards required of the alien, 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. (The presence of active tuberculosis, for example, would not only impair his or her ability to support the family, but would endanger the health of the alien spouse, thus jeopardizing admissibility.)

A2.3. An adverse effect on a military sponsor's career can often result from marriage to an alien 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

A3. Optional Administrative Procedures for Command/Field Supplements. The administrative procedures outlined in the following paragraphs are *optional* and are intended only as a guide if this publication is supplemented.

A3.1. Air Force members will be strongly encouraged to seek premarital legal advice through the local legal office (See paragraph A3.3 below). Members will be encouraged to seek classes to ease integration into the United States through the Airman 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 an alien 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. Counseling by a legal assistance officer should include a briefing on the requirements of the immigration and naturalization laws of the United States, and the legal responsibilities of supporting dependents. Where either party was previously married and divorce or annulment is involved, the legal assistance officer may advise whether, in his or her opinion, that party is legally free to marry

A3.4. *Legal advice.*

A3.4.1. In most cases 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. Counseling by a legal assistance officer may include:

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. Where either party was previously married and divorce or annulment is involved, the legal assistance officer may advise whether that party is legally free to marry.

A3.5. *Submission of petition to classify status of alien 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 alien 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.