

3 FAM 4100 Appendix B OLD 3 FAM 629 EMPLOYEE MARRIAGE EQUIVALENT BONDS, AND COHABITATION

(TL:PER-305; 11-08-1995)

At this time the new material which would be contained in this subchapter have not been cleared for issuance. Accordingly the old 3 FAM version, which is the current version in force is issued as Appendix B to this chapter. It retains its original numbering. The most recent issuance of this material was done under TL:PER-97, dated 6-20-88.

3 FAM 629 EMPLOYEE MARRIAGE EQUIVALENT BONDS, AND COHABITATION

3 FAM 629.1 Applicability

*(TL:PER-97; 6-20-88)
(Uniform State/AID/USIA/USDA/Commerce)*

These regulations apply to all U.S. citizen Foreign Service employees of State, AID, USIA, the Department of Agriculture (USDA), and the Department of Commerce (DOC), and all other Department of State employees and contractor personnel with sensitive duties (see also 3 FAM 160). Additionally, the Arms Control and Disarmament Agency (ACDA) has agreed to abide by these regulations. For changes in employment status see section 3 FAM 121.3-4; for AID, Handbook (HB) 25, chapter 33; for AID contractor personnel, HB 6, Chapter 2 and HB 14.

3 FAM 629.2 Policy Relevant to Foreign Nationals

3 FAM 629.2-1 Reporting Criteria

*(TL:PER-97; 6-20-88)
(Uniform State/AID/USIA/USDA/Commerce)*

a. Applicable employees who intend to marry a foreign national must inform the employing agency in writing at least 120 days prior to the expected date of marriage.

b. Reporting also is required when an employee cohabits, or develops a romantically or sexually intimate and continuing relationship, with a foreign national. Homosexual and heterosexual relations are treated identically for the purposes of these regulations. This requirement is not designed to monitor the lifestyle of employees, or to intrude on private decisions concerning choice of a cohabitant or partner in a relationship; and all reports will be kept confidential in the individual's official security file. Rather, the purpose is to identify situations in which security risks to the person or the Service may exist. In fact, the employee is strongly urged to contact Security early to request the conduct of checks of local records and available U.S. national indices to determine whether the intended cohabitant/partner in a relationship has connections with known elements involved in foreign intelligence collection or international terrorism. In this connection, risks to the person that are identified will be made known to the individual for use as he/she sees fit. Additional guidelines are provided below:

(1) Report any relationship (not only continuing relationships) with a national of a Communist-governed/allied country; such relationships should be reported at the first opportunity (see also 11 FAM 236.3).

(2) Report any cohabitation with a foreign national within one month of the date cohabitation begins. Cohabitation will be defined as living together; that is, sharing a living unit such as a house or apartment on a regular basis for at least the majority of a week, without regard to the nature of any interpersonal relationship or reason for sharing living quarters.

(3) Relationships involving continuing romantic or sexual intimacy without cohabitation are reportable when the employee determines that it is, in fact, a continuing relationship. Employees are not required to report sporadic relationships with non-communist governed/allied country nationals until such time as an employee contemplates marriage, cohabitation or a commitment to a long term relationship. It is recognized that employees must be allowed reasonable discretion in determining when to report such a relationship. However, employees are urged to contact Security early for discreet assistance in ensuring that the intended partner poses no potential threat to the employee personally or to the employee's career and continued security clearance eligibility. Security can also be consulted on the advisable timing of formal reporting, considering such factors as the frequency of contact, exclusive attachment (on the employee's part), or continued romantic or sexual intimacy for an extended period. Nonreporting of a relationship under this section (629.2-1b(3)) will not constitute a security violation or result in disciplinary action, as self-determination is the intent of the criterion. Moreover, security clearance will not be suspended solely because the employee did not report a relationship under this criterion.

c. Employees are responsible for using sound judgment when entering into relationships or cohabitation with foreign nationals, and for seeking security counsel regarding the applicability of the foregoing guidelines. Employees must maintain an awareness of the applicability of security concerns regarding cohabitation or relationships which involve a potential for influence or pressure to act contrary to the national security or foreign relations interests of the United States. Bonds of affection or obligation may result from such cohabitation or relationship, and Security must carefully consider such potential bonds in evaluating the possible impact of information of security concern on the individual's continuing security clearance eligibility. The RSO may seek to discuss a relationship with an employee which is not otherwise required to be reported to the extent that there is a specific security concern on the RSO's part.

3 FAM 629.2–2 Reporting Procedures

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

a. An employee assigned abroad must report to the principal agency representative at the duty post, as soon as the above criteria become applicable, to permit the earliest conduct of appropriate checks enabling the foreign affairs agencies to determine the extent to which significant security issues may exist.

b. For an applicable employee assigned in the United States, the report must be submitted to the appropriate employing agency/office (see section 3 FAM 629.2–3).

c. Employees (including contract employees) to whom the above criteria apply but who have not previously reported the marriage, relationship, or cohabitation will report at the first opportunity via the same channels and forms provided in this regulation.

d. (State only) Contractor employees will submit notice through appropriate post/bureau contracting officials for review/counseling, and submission of security background documents to DS/PI/EV to initiate required investigation. Contracting officials at post should also contact both the post Administrative or Personnel Officer and Regional Security Officer for assistance in processing such cases and counseling employees. (End State only.)

3 FAM 629.2–3 Offices of Primary Responsibility

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

References to employing agencies or offices, for reporting purposes or for particular responsibilities, will refer to the following:

a. Department of State – refer to PER/ER/CSD for Foreign Service; PER/CCA/ER for Civil Service; DS/PI/DIS for requesting investigations; DS/PI/EV for security evaluations; and the responsible Bureau Executive Director for contractor employees.

b. United States Information Agency – refer to the Director, Office of Security (M/S) who will advise the Director, Office of Personnel (M/P or VOA/P) of the results of the investigation. The head of the overseas establishment will provide overseas employee with the appropriate forms to be completed and counsel employee after the investigation is completed.

c. Agency for International Development – reports regarding intent or marriage to a foreign national refer to M/PM/FSP, MIPM/EPM, or IG/EMS, as appropriate; for contractor personnel, refer to M/SER/PPE; reports regarding equivalent bonds and cohabitation, refer to IG/SEC.

d. Arms Control and Disarmament Agency – refer to the Director, Office of Security.

e. Department of Agriculture – refer to Director, Personnel Division, Foreign Agricultural Service, or refer to Director, Human Resources Division, Animal and Plant Health Inspection Service, as appropriate.

f. Department of Commerce – refer to Director, Office of Foreign Service Personnel.

3 FAM 629.2–4 Initial Counseling

(TL:PER-97; 6-20-88)

(STATE/AID/ACDA/USDA/Commerce/Treasury only)

Immediately upon receipt of the required report, the designated career development officer or other appropriate official in the employing agency (see section 3 FAM 629.2–3, if the employee is currently in the United States, will interview and counsel the employee on points listed in paragraphs a through e below.

Outside the United States, the counseling will be by a counselor of the embassy (or higher authority) or the principal officer at a constituent post for State; for AID, by the principal officer at post; and for the Department of Agriculture, by the post Administrative Counselor/Officer (or higher authority).

The counseling officer will, at the time of this discussion, supply the employee with the necessary forms to be transmitted to Washington. The points to be covered, as applicable, are:

a. The effect the marriage/relationship/cohabitation might have on the employee's career or future assignments in the Service/Department.

b. Employee's continued effectiveness in representing the United States.

c. Problems that might arise with regard to the employee's continued access to classified material.

d. Continued employment of the employee if the spouse/ intended spouse, cohabitant or partner in the relationship, is employed by a foreign government or an instrumentality of a foreign government.

e. For Foreign Service personnel, a medical examination and clearance of the spouse and any other acquired legal dependents as defined in section 3 FAM 681.6a is required in accordance with 3 FAM 684.2. Results of a physical examination must be submitted in the English language, through the counseling officer, to M/MED within 90 days of a marriage for review and determination of medical clearance level and eligibility for medical coverage. All costs relating to such examination will be paid by the U.S. Government because a medical clearance determination must be made on each eligible Foreign Service dependent. Report(s) must be sent in a sealed envelope marked "Medically Privileged, ATTENTION: Medical Director, Department of State."

(End STATE/AID/ACDA/USDA/Commerce/Treasury only)

f. Provided below for counseling purposes are relevant security policy and guidelines used in evaluating whether continued security clearance is clearly consistent with the interests of national security. Except for criteria specifically stated as policy, these factors are weighed in the context of all available information to arrive at nonarbitrary decisions consistent with the best interests of the national security and the efficiency of the service:

(1) It is the policy of the applicable foreign affairs agencies that reportable relationships, under the circumstances detailed below, will preclude continued security clearance for access up to and including Top Secret information, and assignment to sensitive duties/posts which relate to the nationality of the intended spouse, cohabitant, or partner in a relationship. Under the circumstances described below, security clearance will be suspended pending completion of full investigation and evaluation of the foreign national and any areas indicating a potential for vulnerability or conflict—of—interest with regard to the security clearance of the employee/contractor. Under such circumstances, the employee/contractor must be immediately reassigned to duties of low sensitivity, pending final decision on continued eligibility for security clearance (see section 3 FAM 629.2–7).

(a) National of Communist–governed/allied countries.

(b) Foreign national employed by a national security–sensitive agency (Foreign military, intelligence, or diplomatic service agencies; or under contract to such agencies or to Communist–governed/allied countries).

(2) Except for circumstances involving the specific policy outlined above, the development of a close relationship with a foreign national does not immediately preclude security clearance and assignment eligibility for sensitive positions/posts.

(a) Security clearance may be suspended, and reassignment to duties of low sensitivity may be required, pending final determination, if the information available indicates reason for doubt that continued clearance is clearly consistent with the interests of national security. Should it be impossible to conduct sufficient investigation to confidently make such a determination, the foreign affairs agency may require reassignment to the United States for up to two years, even if security clearance is not suspended or reduced. Such action may be required to permit the agency an adequate period for investigation and evaluation of the foreign national spouse/fiance(e)/cohabitant/partner in a relationship in a setting that permits meaningful investigation (normally within the U.S.).

(b) General criteria that will be considered as positive or negative factors bearing on employee's/applicant's security clearance, or on eligibility for assignment/continued assignment to specific sensitive duties/posts are provided below. These factors will not generally be sufficient individually to be decisive regarding the issue of the employee's continued security clearance eligibility, but will be evaluated in the context of all other factors and available information.

SECURITY CRITERIA REGARDING COHABITATION OR OTHER RELATIONSHIPS WITH FOREIGN NATIONALS

Favorable Criteria.

Fiance(e)/spouse/partner/cohabitant:

Is national of U.S. ally

Is employee of U.S. Government/business

Is former/present resident of U.S.

Has relatives in U.S. (or similar ties)

Intends to become naturalized as soon as possible

Intends to formally renounce non–U.S. ties

Unfavorable Criteria.

Fiance(e)/spouse/partner/cohabitant:

Is national of criteria country, and:

— Former military/diplomatic/intelligence service (or other Government/Opposition party) employee;

— Present or former member of Communist Party;

- Relatives work for Government in native country;
- Close relatives remain in native country;
- Maintains frequent/close ties with relatives/friends;
- No intention to become naturalized and/or maintains criteria country citizenship.

Is national of non-criteria country, and:

- Employee of military/diplomatic/intelligence service, or other Government/Opposition party position;

- Employee of criteria country Government/contractor;

- Maintains ties to criteria country or Communist Party (personal or family ties);

Maintains frequent/close ties with relatives/friends in native country;

- No intention to become naturalized and/or maintains native citizenship;

- Relatives employed by native Government (especially military/diplomatic/intelligence services).

Noncooperation with investigation, or cannot be adequately investigated to enable a security risk/clearance determination.

3 FAM 629.2–5 Reporting Procedure

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

Upon receipt of the forms listed below, the employee must immediately complete them and transmit them promptly (normally within 5 days) to the employing agency/office (see section 629.2–3). Employees counseled under the provisions of section 629.2–4 will forward the forms through the counseling officer.

a. Report of proposed relationship (see applicable criteria in section 3 FAM 629.2–1).

b. Memorandum of Conversation. A memorandum prepared by the counseling officer summarizing the discussion between that officer and the employee. The memorandum should indicate that all matters outlined in section 3 FAM 629.2–4 were discussed, if applicable, and made known to the employee. (Not applicable to USIA.)

c. Security Forms

(1) OF–174 completed by the foreign national spouse, fiance(e), cohabitant, or partner in the relationship, excluding photograph.

(2) Brief biographic sketch concerning the foreign national spouse/fiance(e)/cohabitant/partner in the relationship, and family, together with a complete list of relatives (that is, parents, stepparents, grandparents, children, brothers, sisters, aunts, uncles), and former spouses or dependents, giving the full name, relationship, citizenship, and residence (city and country) of each.

(3) A certified copy of divorce decree or other evidence of termination of any former marriage of employee or the foreign national spouse/fiance(e)/cohabitant/partner in the relationship.

(Copies of these forms, or documents, are given to the regional or post security officer in order that the officer may immediately conduct the local security investigation, for PRIORITY submission to DS/DSS.)

d. Medical Forms (for Foreign Service only). The report(s) of medical examination for the spouse and any other acquired legal dependents must be in the English language, and are forwarded in a sealed envelope marked "Medically Privileged, ATTENTION: Medical Director, Department of State." The envelope should also contain a memorandum identifying the full name and date of birth of the employee the individual married.

3 FAM 629.2–6 Washington Action on Receipt of Report

a. All required forms are forwarded IMMEDIATELY to the agency's security office for the scheduling of an appropriate security investigation.

b. As soon as possible, the agency's security office will determine the effect the marriage/cohabitation/relationship would have on the employee's security clearance. This security determination will be provided to the appropriate employing agency/office (see section 3 FAM 629.2–3) for preparation of a report to the principal agency representative at the employee's post of assignment.

c. This report will contain definitive instructions on the action the principal representative is to take, based on the points in section 3 FAM 629.2–4 and relevant issues of the case. For employees in the United States, the office preparing the report has action.

3 FAM 629.2–7 Final Counseling

(TL:PER–97; 6–20–88)
(Uniform State/AID/USIA/USDA/Commerce)

Upon receipt of the report specified in section 3 FAM 629.2–6, the counseling officer will meet with, and advise the employee of the effect the marriage/relationship may have on continued service. Notice and appeal procedures of 3 FAM 160 will be used in the event revocation or reduction of clearance is proposed.

3 FAM 629.2–8 After Marriage

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

a. Within 30 days after the marriage, the employee must submit to the appropriate agency official a revised Residence and Dependency Report (OF–126 for State, Agriculture, Commerce, and USIA; for AID, form AID 490–2, see HB 32, Supp IB).

b. The appropriate agency official advises the employee of the opportunity to enroll or change enrollment in the Health Benefits program and provides assistance in completing necessary forms.

3 FAM 629.2–9 After Naturalization

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

a. There is no requirement that a foreign-born spouse become naturalized. If the spouse chooses to do so under the expeditious naturalization program, a minimum of 90 days advance notice must be given to the employing agency/office (see section 3 FAM 629.2–3), which will provide the necessary forms and processing information. Eligibility under the expeditious naturalization program requires that the employee either (1) be scheduled for an overseas assignment which will last a minimum of one full year after the date of naturalization, or (2) if expeditious naturalization is to be accomplished during home leave (and return to the same post), R&R, or annual leave travel in the U.S., the employee must have at least one full year remaining to the overseas tour of duty after the date of naturalization. The naturalization hearing will only be scheduled within the 60-day period immediately preceding the spouse's travel to the post of assignment. The spouses of employees who are returning to the U.S. for a domestic assignment are not eligible for the expeditious naturalization program until a new overseas assignment is received. Spouses residing in the U.S. for three years or more under immigrant status, are eligible for regular naturalization processing at the completion of that period. The above requirements may not be waived.

b. Within 30 days of a spouse's naturalization, the employee must submit a revised Residence and Dependency Report (see 3 FAM 629.2–8).

3 FAM 629.2–10 Medical Clearance

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

A MEDICAL EXAMINATION IS NOT REQUIRED FOR THE INTENDED SPOUSE PRIOR TO MARRIAGE. However, the medical examination must be completed and the results forwarded to M/MED CLEARANCES within 90 days after the marriage takes place in order to determine the newly acquired dependent's medical clearance status and confirm eligibility for benefits under the Department's Medical and Health Program.

3 FAM 629.3 Policy Relevant to US Citizens

(TL:PER–97; 6–20–88)

(Uniform State/AID/USIA/USDA/Commerce)

a. Within 30 days after marriage to a U.S. citizen, a Foreign Service employee of the participating agencies, or other Department of State employee in a sensitive position, wherever assigned, shall submit to the appropriate agency official the following forms or documents:

(1) Residence and Dependency Report (see 3 FAM 629.2–8).

(2) SF–86, Questionnaire for Sensitive Positions, or other appropriate personnel security questionnaires in use by the participating Federal agencies, must be completed in duplicate, with the following items completed or otherwise included on the forms or documents: (The original of the personnel security questionnaire will be transmitted to the employing agency's security office. The duplicate, which is to be filed in the employee's official personnel folder, is sent to the appropriate employing agency/office (see section 3 FAM 629.2–3).)

(a) Date and place of marriage; name and address of employer of spouse, as well as any previous U.S. Government employment; and the serial number and social security number of a spouse who is in the Armed Forces.

(b) List for spouse and self all relatives (that is, parents, stepparents, grandparents, children, brothers, sisters, aunts, uncles), former spouses or dependents, who reside abroad, including those temporarily in the United States. Also, list all names by which the spouse has been known; full name, date and place of birth, and address of any former spouse.

(c) Include in the Continuation space, if this information is not otherwise requested, answers to the following questions:

— Are you now involved in any litigation or separation agreement? If “Yes”, give details.

— Do you know of any prospective litigation in which you may be involved? If “Yes”, give details.

— Have you been divorced? If “Yes”, give court, location, decree and date final decree granted.

— Does your present financial position permit discharge of all current debts? If “No”, give details.

— Are you involved in a dispute with tax authorities which has not yet been settled? If “Yes”, give details.

(3) A certified copy of a divorce decree or other evidence of termination of any former marriage of employee or spouse. This information is forwarded with original of SF-86 to employing agency’s security office (for AID, to M/PM/FSP, M/PM/SPM, or IG/EMS, as appropriate).

b. Report(s) of medical examination for the spouse and any other acquired legal dependents are forwarded in a sealed envelope marked “Medically Privileged, Attention: Medical Director, Department of State.” The “Purpose of Examination:” on the medical examination report should be filled in “New dependent of _____” and should include full name and date of birth of employee concerned. These reports must be submitted within 90 days after the marriage (see 3 FAM 684.6-2, 3 FAM 684.7-3).

c. The appropriate agency official advises the employee of the opportunity to enroll or change enrollment in the Health Benefits program and provides assistance in completing necessary forms.