

## **Extending Benefits to Same-Sex Spouses of Soldiers (03DEC14)**

Soldiers and commanders will treat all married Soldiers equally. Each Soldier is responsible for updating his/her personnel record with the appropriate spouse information. Where applicable, each Soldier is responsible for enrolling eligible spouses and dependents in applicable Army programs (i.e., married Army couples program, exceptional family member program, etc).

### **Administrative Absence to Obtain a Legal Marriage**

Commanders or designees exercising authority to approve leave may authorize an administrative absence, nonchargeable as leave, for eligible Soldiers to travel to a nearby jurisdiction to obtain a legal marriage. Eligible Soldiers are those who are part of a couple who desire to get married and are assigned to a duty station located more than 100 miles from a U.S. state, the District of Columbia, or other jurisdiction that allows the couple to marry. The authorized administrative absence may be up to 7 days for those stationed in the continental U.S. (CONUS) and up to 10 days for those stationed outside CONUS (OCONUS). The duration of the authorized administrative absence will be based on the travel time to the nearest state or jurisdiction that allows the marriage, and the possible waiting period required by the law in that jurisdiction before a marriage license may be issued or before the marriage may be performed. The commander or designee should approve the minimum number of non-chargeable days required to obtain the marriage certificate.

This administrative absence may be combined with chargeable leave for the convenience of the Soldier.

The Soldier requesting the administrative absence is responsible for providing the commander or designee with all supporting documentation necessary for determining the appropriate number of administrative absence days for travel/marriage. At a minimum, this documentation must include confirmation that the desired jurisdiction allows the marriage, as well as details regarding possible waiting periods.

Upon return from the authorized absence, the Soldier must provide his/her command a copy of the marriage certificate. If the Soldier fails to provide this certificate, the commander or designee will normally direct that the absence be converted to chargeable leave. Commanders retain discretion not to charge a Soldier leave where the circumstances indicate a valid attempt to get married that was unsuccessful.

Commanders or designees should consider the operational military requirements of the unit and the requesting Soldier's responsibilities to those requirements when choosing whether to grant an administrative absence to obtain a legal marriage.

The following statement must be included in Block 17 (remarks) on the DA Form 31 (Request and Authority for Leave) for Soldiers requesting administrative absence to obtain a legal marriage. "I am requesting administrative absence to travel to a state or jurisdiction where marriage is legal in order to get married. I understand that the administrative absence to obtain a legal marriage is authorized only once during my military career. Failure to provide proof of marriage or a valid attempt to obtain the marriage within 5 days upon my return may result in the entire period being charged as annual leave.

\_\_\_\_\_ (Soldier's initials)."

Soldiers who were required to travel more than 100 miles from the current duty location in order to have a legal marriage performed and were charged annual leave on or after 13 Aug 13, may request restoration of up to 7 days of annual leave (for Soldiers assigned in CONUS) and up to 10 days (for Soldiers assigned OCONUS). The Soldier must provide a Leave and Earnings Statement documenting ordinary leave charged and proof of marriage to the supporting S1. The S1 will submit a transmittal through the supporting finance office requesting adjustment of leave records.

All DA Forms 31 generated as a result of administrative absence to obtain a legal marriage, and the resulting marriage certificate, will be web uploaded to iPERMS for filing in the Army military human resource record.

### **ID Cards: Same-Sex Spouses are Eligible to Receive ID Cards**

Adding a same-sex spouse to the Defense Eligibility Enrollment System (DEERS) will follow the same procedures as adding an opposite-sex spouse.

The marriage certificate is the required document that must be presented for proof of eligibility for DEERS benefits and entitlements. Marriage certificates from a county within a state that does not expressly prohibit same-sex marriages will be processed as a valid document. DEERS verifying officials should consult with their servicing legal office, as well as the DCS, G-1, to ensure that enrollment actions are legally accurate and consistent across the Army.

For same-sex couples married before or on 26 Jun 13, the effective date of spousal benefits and entitlements is 26 Jun 13.

For same-sex couples married after 26 Jun 13, the effective date of spousal benefits and entitlements is the date of marriage.

### **OCONUS Assignment Considerations for Soldiers in Same-Sex Marriages**

The Army assigns Soldiers based upon the needs of the Army, professional development, and specific criteria established by senior leaders.

### **Status of Forces Agreements (SOFA) and Command Sponsorship**

In most cases, same-sex spouses are required to obtain SOFA status in order to maintain a legal status in the host nation during the sponsor's tour. Some host nation laws may dictate a SOFA that does not recognize a same-sex spouse as an authorized dependent. Command sponsorship that violates an applicable SOFA will not be approved.

Same-sex Soldiers serving overseas. If a Soldier is contemplating a same-sex marriage, he/she should contact his/her installation legal office or military personnel division for information regarding how the host nation laws and applicable SOFA could impact the command sponsorship of their prospective spouse.

The respective Army service component command will:

\*Review applicable host nation laws and agreements in coordination with their respective legal offices and Department of State representatives to determine if it is appropriate to approve command sponsorship to Soldiers in a same-sex marriage.

\*Update respective newcomer information on websites to explain host nation laws and customs with regard to same-sex relationships and behavior.

The servicing military personnel office will provide information to same-sex spouses who are on assignment instructions to an overseas location on host nation customs with regard to same-sex relationships and behavior.

IAW AR 614-30, paragraph 4-3, a Soldier who elects to serve an accompanied tour, but whose family members do not travel overseas at government expense or become command sponsored, may request that the overseas command convert the accompanied tour to an unaccompanied tour. The request must be made within 12 months of the Soldier's arrival in a long tour area, or within six months of arrival in a short tour area. For requests submitted and approved after the time-limit restrictions, tours will be prorated according to AR 614-30, table 4-2, rule 3.

The Soldier may follow applicable policies in AR 614-100, AR 614-200 and AR 614-30 to request a deletion or a compassionate reassignment if circumstances warrant.

Married Army couples program: in order to account for possible country restrictions regarding same-sex relationships, HRC assignment managers will consult the HRC judge advocate office when assigning both members of a same-sex married Army couple to the same overseas location.

## **SOFA Identification and Command Sponsorship for Same-Sex Married Couples Country Information**

### **Germany**

SOFA identification and command sponsorship cannot be provided for same-sex married couples assigned to Germany at this time. U.S. Forces are waiting for the Department of Defense and the Department of State to decide on the issue of reciprocity with Germany.

### **Italy**

SOFA identification and command sponsorship for same-sex spouses assigned to Italy can now be granted. Normal procedures apply. A "missione" visa is required and must be obtained before entering Italy. Personnel who fail to obtain the "missione" visa prior to arrival must depart Italy at their own expense to obtain the necessary visa.

### **Belgium**

SOFA identification and command sponsorship for same-sex spouses/domestic partners assigned to Belgium can now be granted. Domestic partners must have their relationship established by a government recognized entity. Domestic partnerships created by self-certification do not qualify. Only spouses are authorized a Department of Defense dependent Identification Card.

### **The Netherlands**

SOFA identification and command sponsorship cannot be provided for same-sex married couples assigned to the Netherlands at this time. U.S. Forces are waiting for the Dutch Government to respond to our request for them to recognize SOFA dependent status for the same-sex spouses of U.S. DoD personnel assigned for duty in the Netherlands.