

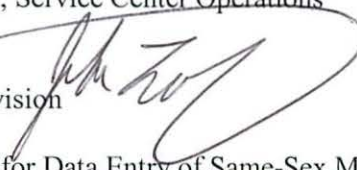


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HQRAIO 120/9.3

Memorandum

TO: Donald Neufeld
Associate Director, Service Center Operations

FROM: John Lafferty
Chief, Asylum Division 

SUBJECT: Interim Procedure for Data Entry of Same-Sex Marriage Asylum Applications (*Form I-589, Application for Asylum and for Withholding of Removal*)

I. Purpose

On June 26, 2013, the Supreme Court in *United States v. Windsor*, 133 S. Ct. 2675, struck down Section 3 of the Defense of Marriage Act, Pub. L. No. 104-199, § 3(a), 110 Stat. 2419 (codified as amended at 1 U.S.C. § 7 (2000)) (DOMA), which had limited the terms “marriage” and “spouse” to opposite-sex marriages for purposes of all federal laws. As a result, USCIS may now interpret “spouse” in section 208 of the INA to include an applicant's same sex spouse. This memorandum provides updated notification and guidance to the USCIS Service Centers on the handling of I-589 applications for asylum involving same-sex marriages. These filings may now be accepted.

II. Background

The Asylum Division case management system, the Refugees, Asylum, and Parole System (RAPS), does not currently allow data entry of same-sex marriages. Users attempting to enter cases involving same-sex marriages will receive an error message. Until the necessary change to RAPS is implemented, same-sex marriage cases will require a manual override that can only be performed on the back end by Asylum Division Headquarters.

III. Field Guidance

This guidance focuses on the USCIS Service Centers’ handling of I-589s filed by same-sex spouses. Effective immediately, Service Centers should accept the asylum applications of same sex spouses and notify the Asylum Division to conduct a manual RAPS override to facilitate the data entry process. Please note these same steps will be required for defensive asylum case entry, for the purposes of initiating security checks, handled by the Nebraska Service Center.

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After a Service Center data enters the principal applicant and any derivative children into RAPS per normal procedures, a manual override to enter the same-sex spouse must be requested.

To request the manual override, send an email to HQ Asylum Division RAPS Program Manager Elizabeth Mura (Elizabeth.E.Mura@uscis.dhs.gov) to request a manual override and indicate/include the following:

- (1) The A# for the principal applicant on the case.
- (2) The A# for the same-sex spouse. (The RAPS Team will data enter all other information regarding the spouse.)
- (3) A PDF copy of page 2 of the Form I-589 with the dependent spouse information.
- (4) The subject line of the message should read: SAME-SEX MARRIAGE RAPS OVERRIDE REQUEST.

Requests for a manual override should be sent to the Asylum Division *as soon as possible* so that the override can be completed and the Service Centers can finish the remainder of their RAPS data entry requirements in time to meet the 21-day benchmark for asylum case entry. Once the manual override is completed, the Asylum Division will notify the Service Center requestor in order for the case to continue normal processing.

The Asylum Division will notify Service Center Operations when the necessary change to RAPS has been successfully completed such that the manual override will no longer be required for data entry of same sex spouses.