

DCM's Role: Couples Divorcing at Post

As the Director General wrote in an ALDAC (7/11/07-096211 UNCLASS), "The stress and logistical difficulties are exacerbated when marital difficulties occur while an employee is posted abroad." The DCM plays a critical role in dealing with couples who are divorcing at post and s/he should be aware of both FAM guidelines and other considerations. Post Management has the following responsibilities:

- Ensuring that both the employee and spouse have and understand the information provided below.
- Advising employees that they are expected to behave honorably and to provide means for the departing spouse (or family) to sustain him/herself.
- Intervening (3 FAM 1812.3-2) as the Family Advocacy Officer if there is any suspicion of physical violence.

Advance Travel Orders:

Financed by U.S. Government (14 FAM 532.3): When a permanent marital separation or divorce is intended, return travel of an employee's spouse may be authorized to the employee's service separation address in the United States. (See 14 FAM 511.3) even before the employee's eligibility to travel occurs. Travel to a location other than the separation address would be on a cost-construct basis. Usually, a separation agreement should exist. However, in the absence of such an agreement, the chief of mission or head of agency may determine that advance travel is warranted and s/he may initiate authorization action. The reasons for authorizing advance travel for the spouse should be summarized in writing and retained at post in accordance with 5 FAH-4 (Records Management Handbook.) Before any obligation of US funds is incurred, the employee shall execute a repayment agreement. (14 FAM 532.3-4)

Return travel of an employee's spouse may also be included in the first travel authorization issued to the employee authorizing travel of the family after an agreement to separate or divorce is reached (14 FAM 532.8-b). Before any expenses are incurred for return travel of the spouse, s/he must certify her/his understanding that travel back to the same post at USG expense will not be authorized. (14 FAM 532.8-d)

Financed by the Employee (14 FAM 532.4): The employee may arrange for advance travel of the divorcing spouse, paying the cost initially and claiming reimbursement after the employee has reached the eligibility date for travel and has been issued travel authorization that covers the entire family. Even if, because of divorce or annulment, the spouse and/or minor children have ceased to be EFMs by the time the employee becomes eligible to travel, s/he may still be reimbursed. (14 FAM 532.4-b)

Advance Shipment of Household Effects (HHE)-(14 FAM 618.1-c): The advance shipment of household effects from post may be authorized to the employee's separation address in connection with separation or divorce only if a legal property settlement exists or the employee otherwise agrees in writing and identifies those items that are to be shipped as the property of the spouse. If the HHE is shipped to a location other than the separation address, it would be done on a cost-construct basis. (A POV cannot be shipped under this authority at all.) When a divorcing spouse's goods are being sent back to the US, the employee is not obliged to sign a repayment agreement because the employee's next HHE shipment will be reduced by the amount that the divorcing spouse sent out when s/he left post. NOTE: Property that leaves post as an advance shipment cannot be placed in storage. It goes directly to the separation address or to another location on a cost-construct basis.

Removal of Goods in Storage: If the divorcing spouse has goods which are stored under the name of the employee, the latter must indicate clearly what goods the divorcing spouse is entitled to take out. These goods will be shipped to the separation address of the employee or to another location on a cost-construct basis.

Required Documentation:

- Statement of Mutual Consent:*** to be signed before advance travel orders are issued. It states that one partner is not deserting or abandoning the other.
- Authorization to Receive Goods Shipped from Post,*** which will allow the spouse to receive HHE.
- Legal Property Settlement or list prepared by employee:*** saying specifically what the spouse may remove from storage.
- Joint Property Statement:*** This will allow the spouse access to goods in storage.

Other considerations:

- Legal advice:*** State views divorce as a civil matter that requires the advice and services of an attorney licensed in the state where the divorce will be filed. FLO has lists of lawyers and guidance on finding lawyers. In a divorce, the divorcing couple should not retain the same lawyer.
- Spouse's diplomatic passport:*** As long as the couple has not yet divorced and the spouse is on the employee's travel orders for the post to which the employee is assigned, the spouse is entitled to hold a diplomatic passport.
- Separate Maintenance Allowance:*** The separating spouse is not eligible for SMA.
- Foreign-Born Spouse:*** This person has the same rights as a U.S.-born spouse.
- Curtailment:*** Post management can curtail the employee's assignment if the image of the mission is at stake, if there is suspected abuse, or if by curtailing, the couple is more likely to reach a settlement. (3 FAM 2443)
- Service of papers:*** A Foreign Service employee may not use an assignment abroad or diplomatic status to avoid service of papers.
- Separate Housing at Post:*** When a permanent marital separation or divorce is intended, post may provide separate housing for the spouse, if available. The separate residence would provide time for the spouse to prepare for departure and would allow children to finish a school semester. However, there are no regulations that require this accommodation.

Please feel free to contact FLO with any questions regarding divorce and also encourage employees and spouses to call or email FLO.

Family Liaison Office
Crisis Management and Support Office
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