

Press Releases: Senior Administration Officials On Visas for Same-Sex Domestic Partners of G-4 and Diplomatic Visa Holders

Special Briefing

Via Teleconference
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MODERATOR: Thank you and good afternoon, everyone. Thank you for joining us today for this call relating to the eligibility for diplomatic visas for same-sex domestic partners of foreign government officials and international organization personnel traveling to and/or serving in foreign missions or at international organizations in the United States.

For your reference purposes only and not for reporting, as the call is on background, we welcome on the call today [Senior Administration Official One]. We also have [Senior Administration Official Two]. And then finally, we have [Senior Administration Official Three].

So again, this call is on background, and then we're going to turn it over to our senior administration officials, who will open the call with some brief remarks, and then we're going to move on to your questions. So with that, I turn it over to our Senior Administration Official Number One. Thank you.

SENIOR ADMINISTRATION OFFICIAL ONE: Hi. I just would like to start by saying that the department introduced this policy in July of this year. The timing of that was such because the department – this policy was to match the department's own policy with respect to its family members who are serving abroad. And the policy – the purpose of the policy is to promote the equal treatment of all family members and couples, and this decision is in light of the 2015 Supreme Court decision legalizing same-sex marriage. So since 2015, the department announced that it would change its policies to accommodate that Supreme Court decision, and this is part of that policy.

And then roughly there are 105 families that would be impacted total in the U.S., and of those only about 55 are with international organizations. And then just marriage equality is since 2015 the law of the land in the U.S., so this policy is just in furtherance of that. And the – we understand that a lot of other countries don't necessarily view that the same way, so we are

proud of the fact that we're forward-leaning in this policy and are glad that we can implement a policy in furtherance of that. And the department has also been working with foreign governments where same-sex marriage isn't legal to – and like, for example, Israel, where our foreign diplomats – our diplomats serving abroad in Israel are treated the same as opposite-sex spouses. So in the U.S., we would then do the same for those spouses.

And then with respect to IOs, we expect that there – or sorry, international organizations, we expect that there will be lots of questions from that since our policy is slightly different, and we are happy to review any such cases specifically and certainly look forward to doing that and working with them to find a solution.

MODERATOR: Senior Administration Official Number Two.

SENIOR ADMINISTRATION OFFICIAL TWO: Well, I agree with everything my colleague just said. Let me just note also that really the goal of these changes for us is to help codify the concept of derivative status for diplomatic community members in accordance with our own internal State Department policy changes now that Obergefell is the constitutional law of the land. In addition, it's – for us, it's also a matter of ensuring equal treatment for U.S. diplomats overseas, reciprocity in – in sort of visa regimes between the United States and other countries. And that said, we are, of course, happy to talk with any international organization, diplomatic mission that has any concerns about the policy on any individual cases as well.

MODERATOR: And now we'll go to Senior Administration Official Number Three.

SENIOR ADMINISTRATION OFFICIAL THREE: Yes, good afternoon. Just wanted to tell you a little bit about the timeline of our communications with the UN and the foreign missions up here in New York. We've had a dialogue since July on this change to our policy. From the beginning, we've stressed that we'd work closely with the UN and the foreign missions to help people meet these new requirements. I also communicated that if the requirements couldn't be met, that we'd work with individuals on a case-by-case basis to help them to try to legally adjust their status to remain in the United States after the deadline. I'd be happy to answer questions about the process of informing the UN and the foreign missions. Thank you.

MODERATOR: All right, and I think with that we'll now go to our first question.

OPERATOR: And again, if you have a question, please press *1. Going to the line of Matthew Lee, Associated Press. Please, go ahead.

QUESTION: Hi, thanks. I think I get you're – what you're attempting to say here, but don't you think that this is an awfully odd way of promoting equal treatment of all family members and couples?

SENIOR ADMINISTRATION OFFICIAL TWO: Well, U.S. diplomats as of yesterday have to be legally married in order to get the sort of derivative diplomatic

status when they go overseas, so these changes are to mirror what U.S. policy now is.

QUESTION: Yeah, but that's not – but the thing is, is that other countries aren't governed by U.S. law, and so I'm not sure I get the reciprocity argument here when the foreign diplomats are subject to the laws of their own country, not of the United States.

SENIOR ADMINISTRATION OFFICIAL TWO: Well, there's a tiered process. So if the foreign diplomat is coming to the United States to serve in a diplomatic mission here in Washington, they would – they would have – if same-sex marriage is legal in that host country, then they would have to be married to get the diplomatic visa derivative status for their partner. If they're from a country that does not recognize same-sex marriage, then we will put processes in place to create a process so that they could still – the partner could still get derivative status in the United States. So the policy recognizes that not all countries have the same policy as we do, that they don't all recognize same-sex marriage legal as we do, as long as those countries act in a reciprocal fashion towards us and our diplomats.

MODERATOR: Next question, please.

OPERATOR: Going to the line of Barbara Usher, BBC. Please, go ahead.

QUESTION: Thank you. Just a – sort of a question from the human rights side of it, following up on what Matt said. So fair enough, as long as the same-sex marriage is illegal in a country, but you'll still make exceptions if there can be reciprocity. Even if that is the case, there are some countries where that wouldn't be and where same-sex marriage is not only illegal but could face punishments of jail and other punishments. And to register a marriage, let's say these diplomats go somewhere else to do so, then sort of outs them as well and makes them more public. So I know that this is a parity thing, but was there any discussion or consideration of the fact that there isn't parity with regards to the marriage choices of same-sex couples?

And then the second question is with regards to those with international organizations, are you saying that those who are in the country will also be able to get exceptions? Because according to the notes I've seen, they are treated quite differently from the diplomats. Thank you.

SENIOR ADMINISTRATION OFFICIAL TWO: On the first question, yes, we are absolutely concerned about human rights implications, about safety of same-sex couples, given laws in their home countries. I would note though that in all of these cases under our current regulations the derivatives are receiving visas in their passport now. This does not change that. It just changes the definition. So somebody today is getting a visa in their passport as the derivative of a diplomat in their passport, and it says that they are the derivative of the principal applicant in their passport today.

With regard to G-4s, as I noted at the top, we are happy to talk to diplomatic missions, international organizations, about individual cases that they have concerns about and try to find a solution.

MODERATOR: All right, thank you. Next question, please.

OPERATOR: Going to the line of Carol Morello, *Washington Post*. Please, go ahead.

QUESTION: Hi, thanks for doing that. Could you be a little clearer about what's in their passport today and what will be in? Is there anything where they have to identify, not just saying derivatives, but a spouse with the spouse's name so that perhaps an immigration officer when they return home could notice it?

And also, former Secretary Kerry ordered embassies around the world to send back annual reports to pressure the host governments to accept same-sex spouses of U.S. diplomats and to report back annually to him on the progress. Is Secretary Pompeo maintaining that? Thank you.

SENIOR ADMINISTRATION OFFICIAL TWO: Let me go ahead and take the first part regarding the actual visa. The visa is the same. The visa will say and says now the principal applicant's name and that the holder is that – implying that the person whose passport it is with the visa in it with their own name, the annotation reads “principal applicant” and then the name. That is what is currently done and is what will be done. The change is what we accept at a mission abroad to define the familial relationship upon which the derivative status is based. So with Obergefell, the legalization of same-sex marriage in the United States, this is what we ask of our own diplomats to get their spouses into the diplomatic visa process to go overseas, and that's what we will then ask from the foreign spouses as well.

MODERATOR: Carol, on the second question – I mean, [Senior Administration Official One] do you want to answer that or we can take that as well?

SENIOR ADMINISTRATION OFFICIAL ONE: I cannot. I won't answer that.

MODERATOR: Carol, we'll have an answer for you on that. I think it would give you a full answer. We'll go to the next question now.

OPERATOR: Okay. Going to Hayes Brown, BuzzFeed News. Please, go ahead.

QUESTION: Hi, guys. Thanks for doing this call. So my question is so this all – so I've seen it reported that for diplomats currently in the country, they will just be able to go to their local city hall or whatever, and under the laws of the U.S., get married and be able to update their visa that way. But what about – (a) is that correct? And (b) for incoming diplomats who were hoping to be able to bring in their significant others, what about them, on the off chance that they – without this diplomatic visa attached to them, they wouldn't be able to get a visa to the United States?

SENIOR ADMINISTRATION OFFICIAL TWO: So for the first part of your question, the answer is yes. Foreign diplomats in the United States can get married in the United States and that is perfectly accessible. The second part of your question, we began informing foreign governments about this in July.

OPERATOR: Okay. Next we're going to the line of Kylie Atwood, CBS News.

MODERATOR: Actually, hold on one second. Wait.

OPERATOR: I'm sorry.

QUESTION: Are you coming to me, or –

MODERATOR: Yeah, we'll go ahead with Kylie. We'll follow up with Hayes a little – okay. Go ahead, Kylie.

QUESTION: Okay. Just a quick question. Given that you know that 105 families are going to be impacted and 55 of them are with international organizations, do you have a guesstimate for the number of those families that do come from countries where same-sex marriage is illegal?

SENIOR ADMINISTRATION OFFICIAL TWO: I don't, but I will defer to my colleagues at the other organizations if they have specific information.

SENIOR ADMINISTRATION OFFICIAL ONE: Specifically, it is – it's not at all the majority. It's actually very few; the number's small. But I won't guess specifics.

MODERATOR: We'll take the next question.

OPERATOR: Okay. Next we're going to the line of Jennifer Hansler, CNN. Please, go ahead.

QUESTION: Hi, guys. Thanks for doing this. So a follow-up on Kylie's question: Did you seek input from any of the diplomats who are going to be affected under this change before you announced it?

SENIOR ADMINISTRATION OFFICIAL TWO: Well, as noted, we began discussions with the international organizations and diplomatic missions in July.

MODERATOR: Take the next question please.

OPERATOR: Going to the line of Michael Lavers, *Washington Blade*. Please, go ahead.

QUESTION: Hi. Thank you so much for this call. I wanted to ask about the criticism that has been coming in from LGBTI groups regarding this policy taking effect. The Human Rights Campaign, for example, has described it as quote "unconscionable" end-quote and it's a needless attack on some LGBTQ diplomats from around the world, noting that many countries don't recognize same-sex marriage. And former UN Ambassador Samantha Power is among others who have very strongly criticized this new policy. Does the – does anybody have any comment on that, and have LGBTI groups been consulted on this policy change? Thank you.

SENIOR ADMINISTRATION OFFICIAL TWO: Well, this is certainly not an attack. It was not meant as an attack; it is not meant to be punitive. It is a recognition and a codification of the fact that same-sex marriage is legal in the United States. It is a codification of policies on derivative status for diplomatic missions to bring those policies in accordance with the long

planned policy changes in the Department of State for our own diplomats.

MODERATOR: Go on to the next question please.

OPERATOR: Going to the line of Conor Finnegan, ABC News. Please, go ahead.

QUESTION: Hey. Also just wanted to follow up on Kylie's question. You said the majority of countries – I'm sorry, the majority of incoming diplomats will not be affected, but the majority of countries do not have same-sex marriage. So I'm just wondering how those two things can both be true. And then second, there has been no special envoy, special LGBT envoy. Has that office been shut down?

SENIOR ADMINISTRATION OFFICIAL ONE: I can speak to the first question. Specifically, I can say that those same-sex couples, same-sex domestic partners that are in the United States, according to our records, most are just from countries where same-sex marriage is legal.

SENIOR ADMINISTRATION OFFICIAL TWO: Sure. Also let me just note that I think we say that most won't be affected, because most countries grant reciprocity to U.S. same-sex domestic couples. So in those countries where same-sex marriage is not legal but the host country affords our diplomatic community members privileges and immunities when they go to those countries, we will work with the members of their diplomatic staffs to bring their same-sex domestic partners to the United States.

MODERATOR: Go on to the next question, please.

OPERATOR: Okay. Going to the line of Leila Fadel, NPR. Please, go ahead.

QUESTION: I just wanted to double check on diplomats who get married in the U.S. That's only recognized if their home countries then recognize U.S. couples?

SENIOR ADMINISTRATION OFFICIAL TWO: No, if they can get married in the United States and then that would regularize their status as a derivative of the principal applicant, the diplomat stationed in the United States.

MODERATOR: Okay. We'll go on to the next question, please.

OPERATOR: Going to the line of Mary Emily O'Hara, Conde Nast. Please, go ahead.

QUESTION: Hi. Thank you for holding this call. Can everyone hear me?

MODERATOR: Yes, we can hear you.

QUESTION: Okay. Just making sure. I'm having phone issues. Yes, I have two questions. The first is would this only apply to State Department and United Nations diplomats and officials, or could other officials from various agencies be impacted as well? That's my first question. The second question is: When you say that you create a process for the partners to get diplomatic status if they can't get married for some reason, are you saying that the

State Department is essentially giving jobs to the partners – to the same-sex partners of these officials? Like do they get some sort of official posting or title? And those are my two questions. Thank you.

SENIOR ADMINISTRATION OFFICIAL TWO: Let me take your second question first. No, what I'm describing is that if a diplomat in a foreign country where same-sex marriage is not legal has a domestic partner and that country recognizes the rights and privileges of our diplomatic same-sex partners in that country, then we have a process in place to ensure that we can still grant, in a reciprocal fashion, that visa to the domestic partner. So that's all it is. It's about the diplomatic derivative visa. And as far as the first part of your question, I mean we're speaking specifically here about all various types of foreign government and designated international organization visas.

MODERATOR: Thank you. We'll go on to the next question.

OPERATOR: Thank you. Going to the line of Tamsin McMahon, *Globe and Mail*. Please, go ahead.

QUESTION: Hi. Thanks very much for organizing this call. I wanted to clarify what is considered to be legally married for foreign diplomats and employees of international organizations. For instance, I guess whether you're talking about same-sex or opposite-sex couples, are common law marriages recognized as well? And does the U.S. recognize common law marriages among its own Foreign Service? Thank you.

SENIOR ADMINISTRATION OFFICIAL TWO: Okay. Well, the standard here that we use – again, going back to the concept of reciprocity – is what we would use for our own employees within the State Department. So we're talking about legal marriage or a legal union that's equal to marriage in all respects would be the language that we use.

MODERATOR: Go on to the next question, please.

OPERATOR: Going to the line of Shaun Tandon, AFP. Please, go ahead.

QUESTION: Yeah, hi. Thanks for doing this call. I wanted to just see if you could clarify what the policy was before this. Specifically, did you actually – were same-sex spouses – sorry, same-sex partners – were they allowed to have – to come to the United States, to have visas without proof of marriage? And if so what was the – what are the reasons for changing this now?

SENIOR ADMINISTRATION OFFICIAL TWO: So the reason for the change is the Obergefell decision in the Supreme Court in 2015 legalized same-sex marriage in the United States. The reason the change is happening at this moment is because our own internal State Department regulations for how we deal with State Department employees going overseas has now changed to codify the legality and constitutionality of same-sex marriage in the United States. So that is the reason for the change.

MODERATOR: Okay. And we'll go on to one last question.

OPERATOR: And this question is going to the line of Michelle Kosinski, CNN. Please, go ahead.

QUESTION: Hi. You talk about the purpose of this being parity, because this is what's required of U.S. diplomats. But because this is a special case – gay marriage is illegal in some places, it can be a cause for discrimination and this could cause hardships for some as well as a whole other process for some people who want to be – who still want to come here – why is parity necessary? Why?

SENIOR ADMINISTRATION OFFICIAL TWO: Well, we want to ensure equal treatment and reciprocity for our same-sex couple diplomats overseas, first of all. Second, we are concerned about human rights violations. We are concerned about people's lives, which is why, as I've described, we have a process in place for diplomatic members who are being posted to the United States who come from countries where same-sex marriage is not legal.

MODERATOR: All right. And I think with that, we'll wrap up the call today. We thank everyone for joining us. Again, this call was on background, and the officials are Administration Official One, Two, and Three. Thank you so much for joining us.

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