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to you by:

5 USC § 5703

The Department of Defense
Joint Travel Regulations

DoDD 4500.56

DoDI 4515.13

DoD Financial
Management Regulation

AFI 24-602, Volume 1

AFI 65-103

*To include Space Force

ETHICS FLASH**Fiscal, Ethics, and Administrative Law Division
(SAF/GCA)****A Trip Through the Travel Regulations
Spouse and Non-Government Civilian Travel****I'm Going TDY and My Spouse Wants to Travel, too.**

And...we're back! We are closing out the year with Part II of our travel tips. In our last Ethics Flash, we provided guidance on travel in and around your local permanent duty station. For this edition, you'll learn the ins and outs of spouse travel and non-government civilians (NGCs). Wait, aren't spouses NGCs? Thanks for asking! Yes, they are; however, the applicable rules are different for spouses than a consultant, expert, or a volunteer.

The laws for spouse travel are both statutory and regulatory, depending on whether a spouse is traveling via military aircraft (MILAIR) or commercial air.

Whether the government will pay —also known as non-reimbursable travel — depends on the type of event and the nature of a spouse's role at the event.

For NGCs, the rules for traveling at government expense are also statutory and regulatory. Whether the government will pay for travel depends on whether the travel is in Government service. We are going to break this Ethics Flash up into two parts. First, we will cover spouse travel and then NGCs. Please note, Department of Defense (DoD) contractors are not contemplated in this Ethics Flash. When a question arises regarding funding or otherwise

approving contractor travel, you should always look to the contract and consult the contracting officer before taking any action.

Buckle up (pun intended) because this Ethics Flash will be a bit longer than normal. So, let's not waste any more time (or space!) and jump right in!

**Spouses Travel — To Pay or Not to Pay?**

Spouse travel is highly visible and subject to close scrutiny. It's also been the topic of a number of DoD Inspector General investigations. The general rule is that spouses will not travel at government expense with a DoD sponsor on official business (TDY). There are different standards for approving travel on MILAIR or commercial air.

Non-reimbursable (the government funds) travel on MILAIR is permitted when a spouse travels to attend a function in which the DoD Sponsor is participating in their official capacity and the spouse is to address those present or otherwise play an active and

visible role. Non-reimbursable travel is also permitted when a spouse travels to attend a function (with or without the DoD Sponsor) when (1) attended by spouses of community leaders, government officials, foreign dignitaries, or foreign military officers with whom the Sponsor is meeting in their official capacity; or, (2) where a substantial portion of those present are military families or where the focus is on matters of particular concern to military families.

This seems pretty straightforward but can be difficult to navigate. What determines an active visible role? Requesters and re-

viewers should look to the agenda of events. A robust agenda separate from the DoD Sponsor goes a long way to supporting a request for non-reimbursable travel on MILAIR.

The Joint Travel Regulations (JTR) covers spouse travel on commercial air. There are several areas that address spouse travel (e.g. house-hunting travel) but we are going to focus on invitational travel authorizations (ITA). The guidance is pretty simple: spouse travel may be approved when the spouse is "legitimately performing a direct service for the Government."

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While a well-prepared package can lead to success, there are no guarantees that a request for funded spouse travel will be approved.

“When lapses occur, they have the potential to erode public confidence in our leadership and in our system for the enforcement of our highest ethical standards.”

-Former Secretary of Defense Leon Panetta



Among his lavish expenses? He approved his spouse to use MILAIR for personal travel.

Spouses Travel – To Pay or Not to Pay, cont.

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Okay, so maybe not that simple. What does legitimately performing a direct service to the government mean? AFI 24-602, Volume I provides several scenarios. For example, spouse travel to attend a leadership orientation course hosted at a Major Command (MAJCOM) or Numbered Air Force (NAF) may be approved by the respective travel approval authority. Travel for a MAJCOM or NAF Commander’s spouse may be approved for visits to MAJCOM or NAF bases. Such travel should be limited to host wing/bases subordinate to the MAJCOM or NAF, and where

possible, planners and travelers are to involve more than one base/location per trip.

The AFI also provides guidance on ceremonies and events. Generally, spouses may not be issued ITAs to attend a change of command ceremony, retirement or promotion ceremony, or funerals or dignified transfers. There are exceptions, such as if the spouse has an official role. You must look carefully at the role before determining whether an ITA is appropriate. The AFI also lists the spouse travel approving authorities. Keep in mind that the AFI defers to the JTR. So, if the JTR sets a higher approval level, the JTR controls.

The Secretary of the Air Force recently determined specific events involved the legitimate performance of a direct service supporting the issuance of an ITA. These events are: (1) Senior Leadership Orientation Course; (2) Wing and Group Commander Course; (3) Squadron Commander Courses operated by MAJCOMs; (4) Command Chief Master Sergeant Course; (5) Chief Master Sergeant Course; (6) General Officer Transition Assistance Program; and (7) General Officer Executive Health Program. Of course, any travel approval is subject to the approval of available funding from the appropriate approval authority.

Package Preparation is the Key to Success

It may seem obvious, but we cannot stress enough that a request for spouse travel must be supported by strong reasoning. The package should include strong, robust agendas for the spouse. It should be as independent from the DoD Sponsor as possible even though allowances for overlap will be made – such as joint military family meet and greets. List the individuals the spouse will be meeting along with a sound and legitimate reason for

the meetings. The question that must be answered is why the spouse needs to be at a particular event to support an Air Force mission or requirement. It is only in extremely rare circumstances that a spouse will be provided government funded travel for a passive role. If a spouse is also requesting per diem and other expenses, you will need a separate, strong justification for such payments.

Remember, spouse travel is

highly visible and subject to close scrutiny. While a well-prepared package can lead to success, there are no guarantees that a request for funded spouse travel will be approved. Even if the requirements are met, appearances must still be considered. DoD Sponsors and approving authorities must ask whether they should even if the law says they can.

How Spouse Travel Can Go Wrong

Receiving authorization to travel is important, especially when traveling by MILAIR. Occasionally, DoD Sponsors may think there’s plenty of space so what does it matter? Well, it does. In response to anonymous complaints, the DoD IG launched two investigations into several allegations of ethical violations by two four-stars. Among the complaints were allegations of improper spouse travel. Specifically, both four-star officers were accused of

allowing their spouses to travel on MILAIR without proper justification, without reimbursement to the Government, for personal travel, and on some occasions, the spouse received per diem and other expenses.

In both cases, the DoD IG substantiated the allegations regarding spouse travel. In the reports, the DoD IG stated that the evidence supported the finding that the four-stars violated the JTR and MILAIR regulations and

Departmental policy memos. Specifically, the IG found that MILAIR was used on a number of occasions for personal travel. Further, this travel included the spouse and an additional family member, both of whom did not reimburse the Government.

While one report was more egregious than the other, both officers lost their careers. One lost a star and the other lost the recommendation to lead his Service and retired earlier than planned.

The Non-Government Traveler

Let's just cut to the chase. Yes, there are circumstances that allow non-government civilians to travel at government expense. 5 USC § 5703 is the statutory authority allowing funding of travel. It states that "[a]n employee serving intermittently in the Government service as an expert or consultant...or serving without pay or at \$1 a year, may be allowed travel or transportation expenses....while away from [their] home or regular place of business and at the place of employment or service." The JTR, the DoD Financial Management Regulation (FMR), and AFI 65-103 also provide guidance.

The statute requires more than just a showing that the Government derives some sort of benefit from the individual. These individuals must be providing a direct service to the Government. For example, a college or university faculty member requested to perform travel for consultation on the recruitment of college students to Government service. Or, an individual called as a witness in adverse administrative proceedings whether on behalf of the Government or of a service member or civilian employee. It includes a witness before a military court-martial or preliminary hear-

ing. It also includes travel expenses to a private individual for a pre-employment interview with the DoD. The JTR has a number of other examples, with specific sections for certain types of individuals (e.g., courts-martial travel).

Travel under this authority requires an ITA. As a reminder, this guidance is not meant to address DoD contractor travel at Government expense. Please contact your contracting officer if there is a question on whether the Government should fund or otherwise approve contractor travel.

"An action may be legally permissible but neither advisable nor wise."

- Former Secretary of Defense Leon Panetta

What to Expect in our Next Issue

We hope you find this overview on spouse and non-government civilian travel helpful. As always, please reach out to your local travel approving official or ethics counselor for guidance on your specific travel needs. While the examples here are helpful, they don't always apply to every situation.

A special thank you to Mr. Warner Meadows for sharing his legal expertise in all things travel. We would also like to thank SAF/

FM for reviewing this Ethics Flash to ensure its was consistent with the JTR. Of course, this Ethics Flash would not be possible without Mr. Sean Dalton from SAF/GCA for once again loaning the Ethics Team his editing prowess.

Next up in our Travel series is guidance on official travel on temporary duty orders. Specifically, we are going to discuss travel to official government events including changes of command, retirement ceremonies, and training

events.

If you have any official travel to official government events questions you would like to see addressed, send us an e-mail to our [workflow](#). The full address is on the first page!



And that's a Wrap on 2022!

We couldn't leave such a large blank space and not take advantage of providing more information! Although, at first we thought about putting a picture of your SAF/GCA Ethics Team but no.....resources are far more valuable!

'Tis the season and DoD's Standards of Conduct Office (SOCO) recently released their holiday guidance. Visit their site at dodsoco.ogc.osd.mil. Click on the Ethics Topics drop-down

menu and then click on Gifts. You'll find it under the Handouts section of the page. SAF/GCA also published their 2022 holiday guidance. This was sent out to subscribers of our Ethics listserv. Speaking of – if you're interested in receiving helpful ethics updates, join our listserv. Just send an e-mail to our workflow requesting to be added and we'll take care of the rest.

Last, we really weren't joking about wanting your suggestions

for future newsletters. We received some great suggestions you will see in upcoming Ethics Flash-es. So, keep sending us your ideas! We hope everyone has a safe and wonderful holiday season. Until next year!



UPCOMING IMPORTANT DATES TO REMEMBER

- ✓ January 1st –Marks the beginning of confidential and public financial disclosure reporting period.
- ✓ January 3rd –First work-day of the 2023 Financial Disclosure Filing Season
- ✓ January 13th – Input to OGE's Annual Agency Ethics Program Questionnaire Due to SAF/GCA
- ✓ February 15 – OGE Form 450s Due Today
- ✓ May 15 – OGE Form 278s Due Today