



THE JBSA JURIST

VOLUME 4 ISSUE 10

OCTOBER 2018

NEWSFLASH: Major Changes in Air Force Rules on Support to Dependents

For decades, the Air Force required members to simply "provide adequate financial support" to their dependents while separated or in the process of divorce. But "adequate" was not defined. That led to many disagreements and placed commanders in the difficult position of defining what adequate support was in each case.

On 30 July 2018, AFI 36-2906, *Personal Financial Responsibility*, was revised with major changes to the support required for dependents. The amount of support is now based on the member's Non-Locality Basic Allowance for Housing -- *and arrives at a specific dollar amount!* See the following page for details. A military member failing to provide the required financial support to dependents is subject to administrative discipline, non-judicial punishment, and prosecution under the Uniform Code of Military Justice.

Fundraising During the Combined Federal Campaign

CFC Overview The Combined Federal Campaign (CFC) kicked off this month, and is set to run through mid-January 2019.

The CFC is an excellent opportunity to donate to thousands of charities from international organizations to local groups that benefit our JBSA community. It's also one of only two fundraisers that can be held in the workplace and on duty time. (The other is the Air Force Assistance Fund, typically held in March of each year.)

Restrictions During CFC The Office of Personnel Management changed the CFC rules dramatically in 2017. While you may have seen bake sales, "fun runs", and other fundraisers for the CFC in the past, the *OPM rules now prohibit such special event fundraisers* in support of the CFC.

Also, AFI 36-3101, *Fundraising within the Air Force*, promotes the CFC by greatly limiting other fundraisers during the federal campaign season.

For example, Table 1, Rule 5 of the instruction prohibits all off-base organizations from holding any fundraising events on base throughout the CFC season.

JBSA-Approved Private Organizations May Fundraise Table 1, Rule 4 of the instruction authorizes approval of solicitations for "local internal programs". Note 2 of the table defines these as "solicitations conducted by organizations that are directed exclusively at their members."

Note 4 of the table gives some practical examples of "local internal programs": "Examples include (but are not limited to) spouses' clubs, organization booster clubs, base-charted scouting organizations, Company Grade Officers' Association, Non-Commissioned Officers' Association, and so on."

Further Restrictions Are Possible It's important to note that leadership can restrict fundraising within a unit. A commander, for example, could ban all fundraising within her unit during CFC. So, if you're considering a fundraiser within CFC, check first to see if your unit leadership has such a complete ban in place.

Learning More If your leadership doesn't have such a ban, the JBSA Private Organization Coordinator, Ms. Lois York (lois.york@us.af.mil, and her primary legal advisor, Mr. Brad Mitchell (bradley.w.mitchell2.civ@mail.mil), are glad to discuss potential fundraisers with you to determine if they may be held within CFC. Such fundraisers will still need to go through the formal approval process, but we want you to know early on if a particular fundraiser is not allowed during CFC.

2018 Non-Locality BAH Rates Effective 1 January 2018	
Pay Grade	With Dependents
O-10	\$2,050.80
O-9	\$2,050.80
O-8	\$2,050.80
O-7	\$2,050.80
O-6	\$1,845.90
O-5	\$1,779.60
O-4	\$1,568.40
O-3	\$1,297.80
O-2	\$1,107.60
O-1	\$991.20
O3E	\$1,395.00
O2E	\$1,258.80
O1E	\$1,163.40
E-9	\$1,332.30
E-8	\$1,228.80
E-7	\$1,140.30
E-6	\$1,053.60
E-5	\$948.30
E-4	\$824.10
E-3	\$766.20
E-2	\$730.50
E-1	\$730.50

Active Duty Air Force members are responsible to support their dependents. This is true even when a couple is separated or divorcing.

Amount of Support AFI 36-2906, *Personal Financial Responsibility*, sets the default amount of support as the **With Dependents** rate of **Non-Locality BAH** for the member's rank. (San Antonio cost of living means that most members actual Basic Allowance for Housing is roughly 50% higher than the non-locality rate.)

This default governs in the absence of a court order or written support agreement. If a member wants to pay less or a dependent wants more, they can agree -- or ask a court to order a different amount.

Exceptions A commander can relieve the member of supporting their spouse in very limited circumstances:

- Both spouses are active duty military.
- The spouse's income is greater than the member's military pay.
- The member is the victim of substantiated abuse by the dependent spouse.
- The dependent is in jail.
- The couple has been separated for 18 months and the member has supported the spouse for those 18 months.
- The dependents continue to live in base housing. The member continues to pay their BAH as rent for the government family housing unit, so they receive complete credit for support.

These exceptions have specific requirements, so commanders, members, and dependents will need to review the circumstances of each case and should consult a local legal office.

And note that a court order or written agreement will also trump these exceptions. In other words, the member must follow the order or agreement -- even if one of the instruction's exceptions would otherwise release them from their basic obligation to support their dependents.

Pro-Rata Shares If the children will be staying with the military member -- or if the member has support obligations to children from another relationship -- they are still obligated to support their spouse until the divorce is final. In such a case, though, the spouse receives a *pro-rata* share of the Non-Locality BAH With Dependents.

For example, a military member is divorcing and will have primary custody of the couple's two children. If the member's Non-Locality BAH With Dependents is \$900 per month, that is divided to three shares -- one share of the spouse, and one share for each child. The member keeps the two children's shares since he'll be caring for the children. He needs to provide the third share -- \$300 -- to his spouse until his support obligation is terminated.

Wills and Estates

Many people feel uncomfortable thinking about what will happen when they pass away. However, a thoughtfully considered and drafted will and estate plan can save your heirs money, time, and undue heartache and headache. Legal Assistance attorneys are prepared to assist you by drafting a will and other estate planning documents. If you do not currently have a will, there are a few things you need to consider before talking to an attorney about an estate plan or will. Before speaking to a legal assistance attorney or private attorney concerning a will, it is important to decide the following: to whom do I wish my possessions to pass; who will be my executor; is my executor willing to do the task; and is there anything I can do to prevent an asset from passing through my estate?

WHAT ASSETS PASS THROUGH A DECEDENT'S (recently dead person's) ESTATE

All real property and tangible personal property you own will become your estate when you die. Generally, life insurance, payable-on-death accounts (namely investment accounts), and checking accounts that are jointly owned do not pass as part of the estate. In certain circumstances, real estate will pass outside of the estate. We will talk about that a little later. Just because real estate passes outside of your estate does not mean a creditor can't touch it—they can.

Before speaking to an attorney, take an inventory of your estate and answer these questions: is there a beneficiary listed on all of my life insurance policies; is there a beneficiary listed on all my investment accounts; are all of my bank accounts jointly owned; is my real estate jointly owned? If there are no listed living beneficiaries on life insurance policies or investment accounts, those assets will revert to your estate when you die. This means that the estate will have to be probated before those assets can go to your heirs. As for real estate, there are several ways it can be titled that will keep it out of probate. Joint-tenancy with survivorship, "Ladybird" deeds, and Transfer-on-Death deeds are just a few. Your local military legal assistance office may not be able to draft these documents as they are part of fairly advanced estate plans.

WHO WILL BE MY EXECUTOR

You will need to decide who you wish to execute your final wishes. It is extremely important that the person selected is willing and able to complete this task. Do not assume that your spouse will automatically be your executor. If you want your spouse to be your executor you must name them in your will. Additionally, it is best to designate alternates. One axiom in the estate planning world is that "a will shall not fail for want of an executor." This means that if the will does not designate an executor the probate court will appoint one. This will invariably lead to family squabbles and hurt feelings.

Also, it is highly inadvisable to appoint co-executors. Both co-executors will have to appear in court, sign documents, be consulted on all decisions effecting the estate and generally not be able to do anything without consulting the other. Though this might not lead to squabbles and hurt feelings it will, at the very least, lead to headaches and lost time.

On a related note, by drafting a will, you can declare that the executor will serve without a bond and will not have to file an inventory. This will save money and a massive amount of time.

WHO WILL GET MY STUFF

Finally, you must decide to whom bequests will go. For example, if you want your car to go to a certain person then you need to make that decision before speaking to an attorney. In a lot of cases, it is best to have a list of all your possession that you want to go to specific people or places. You do not have to list everything that you own but you must list everything that you want an heir to inherit outright. Personal property memorandums (letters filled out after you sign your will and are attached to it) are not recognized in Texas. This means that if you want to make sure that your middle child gets your 1970 Pontiac GTO you must say so in your will.

When making these decisions, consider the nature of the asset being bequeathed, the ability of the individual to receive the bequest, and the manner in which the bequest will be made. In order to receive property, an individual must be the age of majority. Consider how you wish assets to be transferred to minors upon your death. This can be done with trust or as part of the estate with the executor acting as trustee. The same applies to heirs who are mentally incompetent. A handicapped individual can still inherit, but they may not be able to inherit directly. If they do inherit directly, it may jeopardize certain benefits they receive.

If you have any questions or would like to schedule a legal assistance appointment, please contact any of our locations!

AREA DEFENSE COUNSEL

ADCs are experienced judge advocates outside the local chain of command to allow Airmen completely confidential legal advice for criminal and adverse matters.

Ft Sam Houston: DSN 471-9679

Lackland: DSN 473-2924/2926

Randolph: DSN 487-2274

SPECIAL VICTIMS' COUNSEL

SVCs are experienced, independent judge advocates who provide confidential legal advice to victims of sexual assault. They serve both restricted and unrestricted reporters, help victims understand their legal rights, and explain how the legal process works for processing sex assault claims.

JBSA (LAK, FSH, RND): DSN 473-4748

**PREPARE FOR YOUR
LEGAL ASSISTANCE APPOINTMENT**

LOG ONTO: <https://aflegalassistance.law.af.mil>

Wills & Power of Attorney Powers of Attorney

1. Click on tab "Legal Worksheets"
2. Complete worksheet for documents you wish to have created
3. Save your ticket number, then call the Legal Office for an appointment!
4. Please complete survey online

Legal Assistance

1. Click on tab "Legal Information"
2. If the information you are looking for is not listed, call the Legal Office for an appointment!
3. Please complete online survey!

**TO SCHEDULE AN APPOINTMENT CALL
ONE OF THE OFFICES BELOW**

JBSA-Ft Sam Houston

502 FSG/JA
2422 Stanley Road

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Tues 0800-1000 All eligible clients
Thurs 0800-1000 Active Duty only

Notary and Powers of Attorney

Mon-Thurs 0730-1630
Fri 0730-1200

**DSN 420-0169
Comm: 210-808-0169
Tax Center: 210-295-1040**

JBSA-Randolph

502 SFLSG/JA
1 Washington Circle, Bldg 100

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Tues 0900-1000 All eligible clients
Thurs 0900-1000 Active Duty only

Notary and Powers of Attorney

Mon-Fri 0800-1500

**DSN 487-6781
Comm: 210-652-6781
Tax Center: 210-652-1040**

JBSA-Lackland

502 ISG/JA
1701 Kenly Ave, Suite 134

*Legal Assistance Primarily by
Appointment*

Walk-in Hours

Wed 0830-0930 All eligible clients

Notary and Powers of Attorney

Mon, Tues, Thurs, Fri 0830-1530
Wed 0830-1230

**DSN 473-3362
Comm: 210-671-3362
Tax Center: 210-671-1001**



WISDOM - VALOR - JUSTICE