MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UTD for MAP 111-16(I) -- SROTC Mileage Rate

1. SYNOPSIS: Clarifies the language in JTR, par. 7375-C2c to indicate that automobile mileage should be payable vice MALT.

2. The attached clarifying revision is forwarded for information purposes only. No coordination or comments are required.

3. This revision was initiated by the PDTATAC Staff.

4. These changes are scheduled to appear in the JTR, dated 1 October 2016.

5. This determination is effective when printed in the JTR.

6. Action Officer: Tim Haddix (timothy.g.haddix.civ@mail.mil).

//Approved//

JOEL T. RIDENOUR
Acting Chief, Strategic Planning and Policy Division

Attachment:
Rev 1

Uniformed E-Mail Distribution:
MAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO PPC
JTR REVISIONS

7375-C2:

2. TDY Travel
   a. - b. *****

   *c. Automobile mileage (par. 2600) may be paid before a member departs from the field/at sea training site for the return trip home or to the SROTC unit location (as specified in the order).
The following pages are the same policy preceding this page but showing tracked changes.
MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UTD/CTD for MAP/CAP 142-15(I) -- Move Footnotes in DEPENDENT/IMMEDIATE FAMILY Definition in App A1

1. **SYNOPSIS:** This item moves the footnotes in the definition of DEPENDENT/IMMEDIATE FAMILY MEMBER to the bottom of the definition so the references to the footnotes within the definition accurately apply.

2. The attached revision is forwarded for information purposes only. No coordination or comments are required.

3. This revision was initiated by PDTATAC Staff.

4. These changes are scheduled to appear in the JTR, dated 1 December 2015.

5. This determination is effective when printed in the JTR.

6. Action Officer: Lynn Wawrzyniak (tracie.l.wawrzyniak.civ@mail.mil).

JOEL T. RIDENOUR
Chief, Policy and Regulations Branch

Attachment:
Rev 1

**Uniformed E-Mail Distribution:**
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- P&R Branch
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- GSA-3FT
- GSA-OGP(MTT)
- DTMO
- CBCA Judges
JTR REVISIONS

Effective 10 April 2015

DEPENDENT/IMMEDIATE FAMILY

A. General

1. Dependent and Immediate Family Member. The terms “dependent” and “immediate family” include the following named members of an employee's household at the time the employee reports for duty at a new PDS or performs authorized/approved OCONUS tour RAT or separation travel:

   a. Employee’s spouse. Any individual who is lawfully married (unless legally separated), including an individual married to a person of the same sex who was legally married in a state or other jurisdiction (including a foreign county), that recognizes such marriages, regardless of whether or not the individual’s state of residency recognizes such marriages. The term “spouse” does not include individuals in a formal relationship recognized by a State, which is other than lawful marriage. It also does not include individuals in a marriage in a jurisdiction outside the U.S. that is not recognized as a lawful marriage under U.S. law.;

   b. Employee’s domestic partner;

   c. Children of the employee, of the employee’s spouse, or of the employee’s domestic partner who are unmarried and under age 21 years or who, regardless of age, are physically or mentally incapable of self-support. See item A2 below.

   d. Dependent parents (including step and legally adoptive parents) of the employee, of the employee's spouse, or of the employee's domestic partner. See Footnote 2 below.

   e. Dependent brothers and sisters (including step and legally adoptive brothers and sisters) of the employee, of the employee's spouse, or of the employee’s domestic partner who are unmarried and less than 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. See Footnote 2 below.

FOOTNOTES

1. An employee and spouse at an OCONUS PDS assumed temporary custody of two grandchildren. The grandchildren’s parent was a member on active duty with a DoD Service in Iraq. The member (the parent) executed a special military power of attorney granting guardianship of the children to the children’s grandparent. GSBCA held that the power of attorney did not create a “legal guardianship” as that term is used to define dependent/immediate family members for the purpose of determining eligibility for relocation allowances. Since the term “legal guardianship” is not defined in the JTR, GSBCA turned to AZ state law (the state in which the power of attorney was executed and in which the member resided) for guidance. Under AZ law legal guardianship can be established only by judicial determination and the powers of attorney provided by the member were not sufficient to create guardianship. Since legal guardianship did not exist, the grandchildren could not be the employee’s immediate family members and the employee was not authorized travel and transportation costs and overseas allowances (TQSA) on their behalf. See GSBCA 16337-RELO, 19 April 2004.

2. Generally, individuals are the employee’s dependents if they receive at least 51% of their support from the employee/employee's spouse; however, this percentage of support criterion must not be the decisive factor in all cases. These individuals also may be dependents for the purpose of this definition if they are members of the employee's household and, in addition to their own income, receive support (less than 51%) from the employee/employee's spouse without which they would be unable to maintain a reasonable standard of living.

2. Children. The term “children” includes:
a. Natural offspring;

b. Stepchildren;

c. Adopted children;

d. Grandchildren,

e. Legal minor wards or other dependent children who are under legal guardianship of the employee/employee’s spouse.

f. A child born and moved after the employee’s effective date of transfer because of advance stage of pregnancy, or other reasons acceptable to the DoD component concerned (e.g., awaiting school year completion by other children). See 50 Comp. Gen. 220 (1970), and 66 Comp. Gen. 497 (1987). See Footnote 1 below.

B. Common Law Marriage. For the purpose of allowances authorized in these regulations, determination of an employee’s spouse when a “common law marriage” is involved is addressed in several GSBCA and Comptroller General decisions. Some quotes from those decisions are as follows:

1. GSBCA quotes "Issues of marital status are determined by state law and the relationship of spouse exists if common law marriage is recognized by the law of the state in which the parties entered into such a marriage".

2. "Issues of marital status are determined by state law", James H. Perdue, GSBCA 14122-RELO, 16 March 1998. Some states recognize common law marriage as "[a] marriage that takes legal effect, without license or ceremony, when a couple live together . . ., intend to be married, and hold themselves out to others as a married couple. "Black's Law Dictionary 986 (7th ed. 1999)".

3. As we recognized in James H. Perdue, the burden of proof is on the claimant to establish the common law marriage. See GSBCA 14122-RELO, 16 March 1998, and GSBCA 15207-RELO, 19 May 2000. State law determines issues of marital status, and the relationship of spouse exists if common law marriage is recognized under the law of the state in which the parties entered into such a marriage. The following Comptroller General decisions address specific circumstances: B-260688, 23 October 1995; B-247541, 19 June 1992; B-212900, 15 November 1983; B-191316, 27 September 1978; B-191316, 6 April 1978; B-186179, 30 June 1976.

4. The validity of a common law marriage is determined by the law of the place in which it was contracted, and if valid there, it will be valid elsewhere, in the absence of contravention of positive law, or consideration of policy to the contrary. B-186179, 30 June 1976; B-191316, 27 September 1978.

5. Once the employee has submitted evidence in support of the common law marriage, it should be submitted to the appropriate Agency legal counsel for assistance in determining whether or not the putative spouse qualifies as a spouse under the specific state and/or Federal law. PDTATA does not adjudicate these cases.

C. Missing Persons Act. A dependent, ICW the Missing Persons Act, is defined in par. 7825-A3 for transportation eligibility.

D. Emergency Leave Travel. See par. 7025-D.


**FOOTNOTES**

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grandchildren’s parent was a member on active duty with a DoD Service in Iraq. The member (the parent) executed a special military power of attorney granting guardianship of the children to the children’s grandparent. GSBCA held that the power of attorney did not create a “legal guardianship” as that term is used to define dependent/immediate family members for the purpose of determining eligibility for relocation allowances. Since the term “legal guardianship” is not defined in the JTR, GSBCA turned to AZ state law (the state in which the power of attorney was executed and in which the member resided) for guidance. Under AZ law legal guardianship can be established only by judicial determination and the powers of attorney provided by the member were not sufficient to create guardianship. Since legal guardianship did not exist, the grandchildren could not be the employee’s immediate family members and the employee was not authorized travel and transportation costs and overseas allowances (TQSA) on their behalf. See GSBCA 16337-RELO, 19 April 2004.

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