

VOLUNTEER SERVICES

Key Spouse Program - Legal Limits, Use and Access to Government Facilities and Information

This opinion is in response to your questions regarding the legal limits on The Key Spouse Program. By way of background information the Air Force standardized and deployed the Key Spouse program in March 2009. The Key Spouse program was developed as a Quality of Life initiative out of the concern for Air Force Families. The Key Spouse Program is first and foremost a Commander's program. (See the [Commander and First Sergeant Reference Guide](#) for a general overview of the objectives of this program.)

From a legal perspective Key Spouse members are volunteers whose services can be accepted by the DoD Components in accordance with 10 U.S.C. 1588, implemented by DoDI 1100.21, Voluntary Services in the Department of Defense. Certain voluntary services may be accepted in programs providing services to military members and their families IAW AFI 36-3009, Airman and Family Readiness Centers. Volunteer services to support Air Force MWR programs may be accepted IAW guidance found in AFI 34-101, Air Force Morale, Welfare and Recreation Programs and Use Eligibility, para 5.1, Volunteers. Once appointed by the unit commander, Key Spouse volunteers must complete Key Spouse training and sign a DD Form 2793, Volunteer Agreement. Once Key Spouse volunteers complete these requirements, and their services are accepted by the appropriate authority (usually the Installation Commander), they are considered to be federal employees for limited purposes including compensation for work-related injuries, and for purposes relating to tort claims with respect to services they provide that are within the scope of the voluntary services accepted. Under 10 U.S.C. 1588, when they perform official duties as volunteers they receive Federal Tort Claims Act (FTCA) and Federal Employees Compensation Act (FECA) protection.

Key Spouse duties generally include peer-to-peer support to unit families, service as a link between unit leadership and families, providing information and referral assistance to families, troubleshooting issues and reporting back to families and/or the unit team, serving as role model/mentors for unit spouses, and providing feedback regarding family readiness issues and other duties as assigned by the appropriate commander.

Although Key Spouse volunteers are treated as employees for limited purposes in order to accomplish official duties and objectives. Key Spouse (and other volunteers), may not be placed in policy-making positions, nor can they supervise paid employees or military personnel. Key Spouse appointees may not perform inherently governmental functions, nor can they obligate government funds (neither APFs nor NAFs). Supervision is required comparable to compensated employees providing similar services. Volunteers cannot be accountable for the management, quality, financial solvency, and health/safety of an installation program or activity. These limitations apply to all services provided by volunteers including Key Spouse participants. (See the cited references above for more detailed information, limitations, as well as guidance on accepting volunteer services.)

The question often presented concerns use of Government facilities, desk space, computers, email, telephones, smart phones, tablets, supplies, equipment, access to Privacy Act (PII)

protected information, and use of Government vehicles (GOVs). When providing official services Key Spouse volunteers are IAW 10 U.S.C. 1588, considered to be employees of the Federal Government for purposes of the Privacy Act (10 U.S.C. 1588(d)(C)). As a result, they may use and have access to Government facilities, equipment and supplies as needed to accomplish assigned duties. This includes authority to operate GOVs or leased administrative vehicles (if the Key Spouse/volunteer has a valid driver's license), limited to official business only. (See also DoDI 1100.21 and AFI 34-101, referenced above and AFI 24-301, Vehicle Operations.)

You should be aware that DoD 4500.36R, Management, Acquisition, and Use of Motor Vehicles, C2.5.3.2.6.6, provides: "Spouses and dependents are not permitted to operate the vehicles unless they are a licensed uniformed Service member, Federal employee, or authorized contractor hired to drive DoD administrative motor vehicles." In our opinion the restrictions found in DoD 4500.36R referenced above is intended to relate to spouses in their capacity/status as dependents and not when spouses are serving as volunteers whose services to perform official duties has been readily accepted by the appropriate commander or other acceptance authority. Unfortunately at present we have been unable to find clear regulatory guidance in Air Force Instructions that addresses the volunteer operation of GOVs. However, as previously stated we perceive that DoD policy found in DoDI 1100.21, para 5.2.4, clearly authorizes volunteers (if otherwise licensed and qualified) to operate GOVs. Para 5.2.4, also provides: "Volunteers who are assigned to operate administrative vehicles shall be required to complete the same training and screening and maintain the same qualifications as other government employees who drive comparable vehicles." It goes without saying that caution and the exercise of sound judgment should be exercised whenever anyone authorizes the use of GOVs to accomplish official duties. Supervisors of Key Spouse and other volunteers should determine in advance that such usage is absolutely necessary in order to accomplished official duties and assigned tasks before authorizing the use of GOVs.

Access to Privacy Act information (such as duty rosters and deployment lists), is not a prohibited disclosure so long as the disclosure is in connection with the performance of volunteer services as a Key Spouse and the disclosure is to someone with a need to know in order to conduct official duties. The duty and responsibility to safe guard PII and deployment related information regarding installation military personnel cannot be stressed enough. Those involved in Key Spouse programs should be encouraged to contact the installation Staff Judge Advocate office for guidance regarding specific issues related to use of equipment and facilities, and access to PII information, as well as for guidance in general regarding Key Spouse related duties and responsibilities.

Access to Air Force Information Systems (IS) is usually necessary in order for Key Spouse to accomplish official duties. AFMAN 33-282, Computer Security, para 4.2, includes Key Spouse as authorized users of Air Force IS. The appointing commander for Key Spouse participants should indicate that Key Spouse volunteers require and should be granted access to DoD computer systems/networks that includes the issuance of a network email account in order to perform Key Spouse volunteer duties. As a prerequisite to being given an email account and access to DoD computer systems, Key Spouse volunteers must complete training similar to requirements imposed on military, civilian personnel, contractors, and other individuals who

seek access to Air Force IS. Accordingly, Information Assurance (IA) training, PII and other required training must be accomplished prior to being granted access to Air Force IS. AFI 36-3009, para 3.8.4.3, places responsibility with Airmen and Family Readiness Centers (A&FRC's) to provide Key Spouse training on a quarterly basis or as requested by the installation leadership. A&FRC personnel should be able to advise and assist Key Spouse and all other volunteers regarding training requirements related to the performance of official duties. AFI 34-101, 5.3, Training and Management, provides that MWR activities train volunteers to adequately handle the responsibilities assigned to them.

After completion of all training requirements, Key Spouse and other volunteers should apply to receive a Volunteer (Network Access) Card called a Volunteer Logical Access Credential (VoLAC). A pilot program called the Logical Access Credentials for DoD Volunteers (Pilot Program) was begun in 2008. Although the attached Memorandum indicates the pilot program was for three years, the VoLAC (Pilot) Program remains in effect. (Insert Memo link) Accordingly, the VoLAC is considered a permanent part of the DoD Identity Credential program. Until additional DoD policy guidance is published the authority found in the 2008 referenced Memo is controlling and remains in effect.

Assistance in applying for the VoLAC should be obtained from the A&FRC. As a dependent of a military member, Key Spouse members should already be enrolled in the Defense Enrollment Eligibility Reporting System (DEERS), however, DEERS enrollment does not automatically include VoLAC access for spouses. Accordingly, Key Spouse and other volunteers should apply for VoLAC in order to be granted access to DoD unclassified networks (.mil email account), in order to be able to perform and accomplish official duties. A VoLAC gives volunteer Key Spouse network access only. Key Spouse will need to continue to use their Government issued Identification Card (ID) in order to obtain access to Air Force installations, the BX, Commissary, and Air Force MWR programs and facilities, etc. The following link provides a Power Point overview of the VoLAC program that may be helpful in understanding the VoLAC process as well as the requirements that Key Spouses and other volunteers may encounter as they seek to obtain VoLAC access to Air Force IS. (VoLAC PowerPoint link)

Key Spouse Program participants often find themselves involved in fundraising activities to support various installation programs and events to benefit our Airmen, family members and others involved in the installation military community. AFI 36-3106, Fundraising Within the Air Force, provides that the Installation Commander is the approval authority for all fundraising activities on Air Force installations. AFI 34-223, Private Organization (PO) Program, should also be consulted for guidance and limitations imposed on PO fundraising activities/events that may be conducted on Air Force installations. We envision that most Installation Commander approved fundraising activities/events that would involve Key Spouse volunteers are those that are conducted primarily on the installation for the benefit and support of organizations composed primarily of Air Force employees or their dependents when fundraising among their own members or dependents. (See AFI 34-3106, Table 1, Rule 3 & 4, and Notes 2, 3, and 4.) Official endorsement is authorized for fundraising related to internal programs on the installation that involves primarily DoD/Air Force employees and their families whereby the fundraising also benefits DoD/Air Force employees and their families.

Key Spouse participants and all Government employees should exercise extra caution if any fundraising is to be conducted off the installation or in support of an off-base fundraising campaign. If this is the case then those involved must not act or appear to act in any official capacity for the Air Force or the respective installation. The Joint Ethics Regulation (JER) 5500.7-R, para 3-210 a, provides that DoD employees (that would include Key Spouse participants if acting on behalf of the installation), shall not officially endorse or appear to endorse membership drives or fundraising for any non-Federal entity except for the organizations which are specifically listed in 3-210.a. Those organizations generally include the Combined Federal Campaign (CFC), Air Force Assistance Fund organizations, Air Force Village, Air Force Aid Society, the General and Mrs. Curtis E. Lemay Foundation, and disaster relief campaigns approved by the Office of Personnel Management (OPM). Key Spouses should exercise particular caution when they are acting on behalf of a private organization (such as a spouses' club) to make it clear to all involved that they are not acting in their official Key Spouse capacity during specified activities. Key Spouse should be encouraged to consult with the installation Staff Judge Advocate Office for guidance and advice regarding limitations on fundraising/soliciting for donations and especially if the fundraising activity is to take place off the installation in the local community or if support is for private organizations or other non-federal entities.

Hopefully the guidance provided herein addresses and helps to resolve some of the more common questions that usually confront new Key Spouse volunteers. However, this opinion is not intended to replace legal research that may be needed to address a specific issue or concern that may be presented at your installation. Keep in mind that the Key Spouse program has support from the Chief of Staff down to unit commanders at the installation level. Accordingly, as members of the Air Force legal community it is in everyone's best interest to provide timely and professional assistance and advice when questions arise regarding Key Spouse and related volunteer issues. Key Spouse is an official Air Force program whose volunteers freely provide their time, talents and service in support of Commander initiatives and installation programs that are designed to improve the quality of life for all members of the Air Force family as well as to enhance mission readiness and reinforce a sense of Air Force community. Legal support to this important Commander's program can help keep things on track. Working with commanders and Key Spouse in a timely and professional manner to help resolve related program issues can also be anticipated to help enhance the relationship between the installation legal team and the entire Air Force installation community.