

GUIDELINES FOR ARMY REGULATION 608-99

(The Soldiers' Family Support Obligation)

WHAT IS AR 608-99?

Army Regulation 608-99 sets forth Army's policy on financial support of family members, paternity, and child custody.

WHAT IS A SOLDIER'S OBLIGATION UNDER THE REGULATION?

Soldiers are required to manage their personal affairs in a manner that does not bring discredit upon themselves or the U.S. Army. This responsibility includes: (1) maintaining reasonable contact with family members so that their financial needs and welfare do not become official matters for the Army; (2) conducting themselves in an honorable manner with regard to parental commitments and responsibilities; (3) providing adequate financial support to family members; and (4) complying with all court orders.

WHO IS RESPONSIBLE FOR ENSURING THAT SOLDIERS ARE INFORMED OF THE ARMY POLICY ON SUPPORT OF FAMILY MEMBERS AND ENFORCING IT?

Commanders are responsible for ensuring that soldiers know about the policy and comply with it.

IF A SOLDIER FAILS TO MEET THE REQUIREMENTS ABOVE, WHAT CAN THE COMMANDER DO?

The commander can consider:

- a) Making it a part of the soldier's permanent record.
- b) Denial of reenlistment.
- c) Punitive or other administrative action including elimination from the service.
- d) A criminal charge under the Uniform Code of Military Justice (UCMJ).

IF THE SOLDIER FAILS TO MEET THE REQUIREMENTS, CAN THE ARMY DEDUCT MONEY FROM THE SOLDIER'S PAY?

No. The Army has no legal authority to deduct money from a soldier's pay without his consent unless garnishment or involuntary allotment has been ordered by a civilian court.

HOW DOES THE COMMANDER DETERMINE ADEQUATE SUPPORT FOR FAMILY MEMBERS?

Where an oral agreement exists and is being followed, the Army will not interfere. If a signed written financial support agreement exists, the amount of financial support specified in such an agreement controls. Finally a valid court order containing a financial support provision prevails over either an oral or written agreement.

IN THE ABSENCE OF A COURT ORDER OR AGREEMENT, HOW IS ADEQUATE SUPPORT FOR FAMILY MEMBERS DETERMINED?

In the absence of a court order or written agreement, and until such an order or agreement is obtained, the Army has established minimum interim support measures for single and multiple family units. This support is payable on the 1st of every month for the previous month. This support must also be pro-rated if the soldier is required to pay support for a partial month. The payment should be made by allotment or direct deposit to ensure it is paid in a timely manner, but it may also be paid by money order or check.

IF I AM THE SPOUSE OF A SOLDIER IN A SINGLE FAMILY UNIT [HUSBAND AND WIFE/HUSBAND, WIFE, AND CHILD(REN)] AND LIVING OFF POST, WHAT IS THE MINIMUM SUPPORT THAT I CAN RECEIVE?

The soldier will provide support of an amount equal to his/her Basic Allowance for Housing (BAH) entitlements at the "with dependents" rate. This rate is the BAH-II rate (Non-Locality BAH), which is a standard rate the Army determines regardless of where the soldier resides. A current BAH-II rate list can be found at http://www.defensetravel.dod.mil/site/pdcFiles.cfm?dir=/Allowances/Non-Locality_BAH/.

WHAT IS THE MINIMUM AMOUNT OF SUPPORT THAT I CAN RECEIVE IF WE LIVE ON POST IN GOVERNMENT HOUSING?

In the absence of a court order, AR 608-99 does not require support to be paid if the family is still in on-post government quarters. This is a change from the prior regulation. Outside of the family support arena, however, if the soldier has debts or other financial obligations for which he is responsible, the Army expects him to uphold those obligations.

WHAT HAPPENS IF THE SUPPORTED FAMILY MEMBERS MOVE OFF POST?

When the supported family members move off post, support will be provided in an amount equal to BAH-II at the "with dependents" rate. This is true even if the quarters were not properly cleared and even if the soldier is not receiving BAH from finance.

IF THE SOLDIER'S RANK INCREASES AND IT RESULTS IN AN INCREASED AMOUNT FOR BAH, WILL I RECEIVE AN INCREASE IN SUPPORT?

Yes. If the BAH entitlements increase so should your payments as long as the soldier has not remarried or become duly obligated to support another family member.

WHEN A SOLDIER HAS SEPARATED AND REMARRIED AND HAS TO SUPPORT MULTIPLE FAMILY UNITS (2 FAMILIES OR SETS OF DEPENDENTS) THAT LIVE OFF POST, HOW IS THE AMOUNT OF SUPPORT DETERMINED?

In multiple support situations, the amount of support due to each supported family member (the pro-rata share) is determined as follows:

$$\text{Amount of Support} = \frac{1}{\text{Total Number of Supported Family Members}} \times \text{Applicable BAH II-WITH Rate (Non-Locality BAH-WITH Rate)}$$

However, the following conditions apply: First, any court-ordered support will be paid as stated. No support is required to be paid for family members currently living in government housing. However, they will be calculated in determining total number of supported family members. Lastly, any remaining family members will receive a pro rata share of the BAH-II amount regardless of the amount of support paid to other family members. Absent a court order, supported family members do not include non-biological dependents, such as stepchildren, unless they are adopted.

IF MY SPOUSE AND I ARE SERVICEMEMBERS, WE HAVE NO CHILDREN TOGETHER, AND THERE IS NOT A COURT ORDER OR SEPARATION AGREEMENT, CAN I GET MINIMUM SUPPORT UNDER THE NEW GUIDELINES?

No. A Soldier is not required to provide financial support to a spouse on active duty in one of the military services. With regard to a Soldier's child or children (from that marriage or a prior marriage), a Soldier will provide financial support in the absence of a written financial support agreement or a court order containing a financial support provision.

IF MY SPOUSE AND I ARE SERVICE MEMBERS, AND MY SPOUSE HAS CUSTODY AND LIVES OFF POST, DOES THE REGULATION REQUIRE ME TO PAY SUPPORT?

Yes. If the Soldier does not have custody of any children, and the children do not reside in government quarters, the Soldier will provide BAH-DIFF to the military member having custody of the child or children.

IF MY SPOUSE AND I ARE SERVICE MEMBERS, AND MY SPOUSE HAS CUSTODY AND LIVE IN GOVERNMENT HOUSING (ON-POST), DOES THE REGULATION REQUIRE ME TO PAY SUPPORT?

No. If the Soldier does not have custody of any children, and the children reside in Government quarters, the Soldier is not required to provide financial support to the military member having custody of the child or children.

CAN THE AMOUNTS OF SUPPORT PROVIDED BY AR 608-99 BE INCREASED?

Yes. Remember these guidelines were established to ensure that some support is received for the family members while you and your spouse obtain separation agreement, court order, or judicial decree stating the proper amount of support to be paid by the soldier. Once an agreement, court order or decree is obtained, it is the controlling document.

ARE IN-KIND PAYMENTS ACCEPTABLE FOR SUPPORT UNDER AR 608-99?

AR 608-99, paragraph 2-9, allows for the soldier to directly pay non-government housing expenses on behalf of family members if the family members are living in that home. Non-Government housing expenses are limited to (1) rent, (2) principal and interest payments due on any outstanding loan secured on the non-Government housing and the real property taxes and property insurance due under an escrow agreement covering the same property, and (3) essential utilities such as gas, electricity, and water. Non-Government housing expenses do NOT include telephone and cable television charges, or any other charges for which the soldier is not legally responsible by reason of contract, lease, or loan agreement. Absent a court order or written agreement to the contrary, the soldier cannot use any other bills or financial obligations, such as a car and insurance, to reduce his support obligation under AR 608-99.

AS A SOLDIER, CAN I BE EXCUSED FROM MY REGULATORY OBLIGATIONS UNDER AR 608-99?

Yes, a battalion commander or a Special Court-Martial Convening Authority (usually your brigade level commander) can excuse a soldier from this support requirement under extremely limited circumstances. Before excusing a soldier from his requirement, the commander's legal advisor must first review the action. Some bases for excusal of a soldier's support requirement may be that (1) the soldier has supported the spouse for 18 months after separation (but note that this provision for excusal does not apply to child support), (2) the income of the spouse exceeds the income of the soldier, (3) the soldier is a victim of substantiated spouse abuse, (4) the spouse is incarcerated, (5) a court issued an order without jurisdiction to do so, (6) a court order does not require financial support, or (7) the child(ren) resides with someone who is not the lawful custodian. Any excusal from support requirements under AR 608-99 does not excuse a soldier from following valid court orders.

WHAT IF I HAVE OTHER QUESTIONS OR SPECIFIC PROBLEMS I WANT HELP IN SOLVING?

Please consult a JAG legal assistance attorney. Your attorney can answer the many questions and help you to make a fair and intelligent decision about your choices, options and alternatives. The Fort Lee Legal Assistance Office stands by to help you in these matters. Our legal assistance office number is (804) 765-1500. Family law matters such as support under AR 608-99 may be seen by appointment or on a walk-in basis. ***Only one of the parties may be seen by our office.***