



MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge Advocate
Headquarters, Fort Carson
Keeping You Informed On Personal Legal Affairs

SUPPORT REQUIREMENTS AND ARMY REGULATION 608-99

Consider these questions and answers to help you determine your rights and responsibilities regarding financial support, in accordance with Army policy.

Q: WHAT IS ARMY REGULATION (AR) 608-99?

A: AR 608-99 sets forth Army's policy on financial support of family members, paternity, and child custody. This recently revised regulation includes changes, which became effective on 29 November 2003.

Q: WHAT IS THE SOLDIER'S RESPONSIBILITY UNDER THE REGULATION?

A: 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 of concern 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.

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

A: Commanders are responsible for ensuring that Soldiers understand the policy and are in compliance.

Q: IF A SOLDIER FAILS TO MEET THE REGULATION'S REQUIREMENTS, WHAT CAN THE COMMANDER DO?

A: Personnel subject to the UCMJ who fail to comply with AR 608-99 are subject to punishment under the UCMJ as well as to adverse administrative action and other authorized adverse actions.

Q: IF THE SOLDIER FAILS TO PAY IN ACCORDANCE WITH THE REGULATION, CAN THE ARMY DEDUCT MONEY FROM THE SOLDIER'S PAY?

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

Q: HOW DOES THE COMMANDER DETERMINE ADEQUATE SUPPORT FOR FAMILY MEMBERS?

A: 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.

Q: WHEN DOES AR 608-99 REQUIRE A SOLDIER TO MAKE FINANCIAL SUPPORT PAYMENTS?

A: The regulation's requirement applies in the absence of a financial support agreement or a court order containing a financial support provision. The financial support requirements apply until either: (1) a financial support agreement is signed; or (2) a court order containing a financial support provision is issued.

Q: CAN I WITHHOLD PAYMENTS IF THE REGULATION REQUIRES ME TO PROVIDE FINANCIAL SUPPORT PAYMENTS, BUT I AM NOT RECEIVING BAH?

A: No. A Soldier's obligation to provide financial support to family members under the regulation is not contingent upon whether the Soldier is entitled to, or receiving, any form of BAH. The actual receipt or nonreceipt of BAH-WITH, BAH-WITHOUT, or BAH-DIFF has no relationship to the obligation.

MOUNTAIN POST LEGAL BRIEF is one of a series of informative handouts from the Fort Carson Legal Assistance Division containing general information on topics that legal assistance attorneys frequently advise on. Information provided is general in nature and does not constitute legal advice. Consult an attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Legal Assistance Division at 719-526-5572.

Q: 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?

A: The Soldier will provide financial support in an amount equal to the Soldier's BAH II-WITH to the family unit.

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

A: While the Soldier's family members are residing in Government family housing, the Soldier is not required to provide additional financial support. When the supported family member(s) move(s) out of Government family housing, the Soldier will provide BAH II-WITH.

Q: 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 DOES THE ARMY DETERMINE WHAT SUPPORT THE SOLDIER OWES?

A: In multiple support situations, the amount of support due to each supported family member is determined as follows:

$$\text{Amount of Support} = \frac{\text{BAH II-WITH}}{\text{Total Number of Supported Family Members}}$$

However, the following conditions apply. Family members covered by court orders will be provided financial support in accordance with those court orders. Similarly, family members covered by financial support agreements will be provided financial support according to those agreements. Family members residing in Government family housing who are not covered by either a court order or a financial support agreement will not be provided additional financial support. Each family member not residing in Government family housing and who is not covered by a court order or a financial support agreement will be provided an in accordance with the formula above.

Q: IF MY SPOUSE AND I ARE SERVICE MEMBERS AND THERE IS NO WRITTEN FINANCIAL SUPPORT AGREEMENT OR COURT ORDERED FINANCIAL SUPPORT, CAN I GET MINIMUM SUPPORT UNDER THE NEW GUIDELINES?

A: 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.

Q: 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?

A: 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.

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

A: 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.

Q: CAN THE AMOUNT OF SUPPORT REQUIRED BY AR 608-99 CHANGE?

A: Yes. Rates of BAH are typically adjusted annually, at the beginning of the year. Additionally, if a Soldier making payments pursuant to the regulation gets promoted or demoted, his or her BAH entitlement changes.

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

A: Contact the Fort Carson Legal Assistance Division to arrange for a consultation with a legal assistance attorney.

Consultation with Army attorneys is free to eligible clients. If you have questions or need help with legal problems, call the Fort Carson Legal Assistance Office at 526-5572/5573 or come by the office (Building 6285) Monday through Thursday from 0900 to 1700 hours.

