



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES OFFICE
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Family Support

Regulatory Authority. AR 608-99 Family Support, Child Custody, and Parentage, UCMJ Art. 92.

Penalties. Personnel subject to the Uniform Code of Military Justice (UCMJ) who fail to comply with this regulation are subject to punishment under the UCMJ as well as to adverse administrative action and other adverse action. *Paragraphs 2–5 and 2–11 are always fully effective, and a violation is punishable as a violation of a lawful general regulation under UCMJ, Art. 92 even in the absence of a prior complaint from a Family member or counseling by a commander.* These paragraphs and other provisions of this regulation may also be the basis to issue a lawful order to a Soldier. This regulation provides guidance but is not punitive as to Title 32-status members of the Army National Guard.

A Soldier cannot fall into arrears without violating this regulation. Although the collection of arrearages may be enforced in court (if applicable), there is no legal means to collect arrearages based on violations of this regulation. Nevertheless, in all cases, Soldiers should be encouraged, but not ordered, to pay arrearages. Additionally, *a Soldier who falls into arrears may be punished under the provisions of UCMJ, Art. 92 for failing to make the support payment when due.* Punishment in such instances is based on failure to provide financial support when due, not for failure to pay arrearages

Support based on Court Orders and Agreements. If there is a court order or written agreement, and the order or agreement has a provision regarding financial support, the Soldier must provide financial support according to the terms of the order or agreement.

Support based on Army Regulation. In the absence of a court order or agreement containing a support requirement, Soldiers must provide financial support to family members as follows:

- *All Dependents living in private housing* - the Soldier must pay an amount equal to the BAH Reserve Component/Transit¹ (BAH RC/T) WITH DEPENDENT rate without locality adjustment, according to their rank. (formerly known as BAH II).
- *All Dependents living in government housing* - the Soldier is NOT required to provide financial support. *Note that on most installations, on-post housing is considered private housing, where service members pay rent to a private company (such as Campbell Crossing).* In these cases, whether the obligation is being met depends on if the local BAH does/does not exceed the non-locality BAH rate, and if the housing contractor is taking all, or only part, of the service members BAH. This is considered a payment-in-kind. See below.
- *All Dependents residing in different locations* - the Soldier must divide the amount of BAH RC/T WITH DEPENDENT rate equally between the family members, known as their “pro-rata share”.
- If the support obligation begins, or ends, on a day other than the first, or last, of the month, the payment is pro-rated. The amount due per day is calculated by dividing the total amount due by 30, regardless of number of days in the month, and then multiplying that number by days the SM and supported spouse lived apart that month.

¹ This term is still used even though as of January 1998, all housing allowances have been combined into a new term, Basic Allowance for Housing (BAH), which includes BAH and other allowances. Check [2024-Non-Locality-BAH-Rates.pdf \(dod.mil\)](#) for the BAH RC/T rates.

Payment In-Kind. A Soldier may satisfy their support obligation by “payment in-kind.” This means a SM may satisfy their financial support obligation by paying housing costs, limited to rent or mortgage payments, or essential utilities, which is limited to gas, water, and/or electricity. If a Family member resides in non-government (or on-post privatized) housing and the Soldier pays these expenses, there is no requirement to pay additional financial support to the family member by cash, check, or otherwise. This does not apply to the enhanced interim financial support requirement, discussed later in this info paper.

Release from support obligation. Absent an agreement or court order to the contrary, the SM’s battalion commander *MAY* release the Soldier from providing support to his/her family member in the interest of fundamental fairness, *IF* the underlying intent of the regulation would be furthered. Examples are (but not limited to):

- The spouse has a higher income than the Soldier
- The Soldier has been the victim of substantial abuse by the spouse
- The supported Family member is in jail
- Support has already been provided to the spouse for 18 months
- A court has issued an order that does not include any financial support provisions
- The spouse has acted in a manner to unreasonably prolong divorce proceedings.

For child support obligations under this regulation (not a court order), a battalion commander may release a Soldier from the obligation if:

- the Soldier is the lawful custodian of the child, *OR*
- the child is in the custody of another person without the Soldier’s consent, *AND*
- the Soldier is diligently pursuing legal means to obtain physical custody of the child.

In any situation where a Soldier requests relief from their obligation, they must come forward with sufficient information and documents to establish a basis for commander’s action.

No release from support obligation. The Soldier is NOT excused from providing financial support under AR 608-99 to his family member simply because:

- The Soldier does not receive BAH
- The Soldier’s spouse engaged in adultery, abandoned the Soldier, or engaged in other improper or immoral behavior
- The Soldier “cannot afford” the payment
- The Soldier paid other expenses on the family members’ behalf – payment of other expenses (excluding rent or mortgage payments) does not lessen the Soldier’s support obligation UNLESS the family member has agreed, IN WRITING, to accept the payments in lieu of the normal support obligation.

Method of payment. Cash, check, money order, electronic fund transfer, voluntary allotment, or garnishment will satisfy the support obligation. The Soldier should keep records of all payments. The best method of payment is by voluntary allotment through DFAS; cash payments are HIGHLY discouraged due to the absence of proof.

Timing of payment. If there is a court order or agreement, support is due on the date indicated in the order or agreement. If there is no such order or agreement, payment must be made by the first day of the month following the month for which the support payment is designated. For example, the support payment for the month of June must be personally delivered or mailed by the first of July. If approved in writing by the supported spouse, the SM may pay bi-monthly.

Enhanced Interim Financial Support (EIFS). EIFS is a one-time payment designed to provide for sustenance and additional necessary expenses that initially arise when the Soldier and spouse separate, or when the time to obtain a court order is prolonged because of a lack of access to appropriate courts of competent jurisdiction. EIFS payments will not be made to spouses who are service members of any component while serving on active duty.

In most cases, when a Soldier who separates from their spouse, the Soldier is only required to make a one-time payment in the amount of 25% of their BAH RC/T WITH amount in addition to their pro-rated share of the BAH RC/T WITH amount for the first month of physical separation. In some cases, inability to gain access to a court may require a Soldier to pay additional EIFS payments.

EXAMPLE – A Soldier in the paygrade of E-1 and their spouse decide to seek a divorce. The spouse departs the marital residence in Campbell Crossing on the 15th of the month. At the time of departure, the Soldier is required to pay the spouse a one-time amount of \$188.02 (EIFS) **PLUS** the pro-rated amount of the monthly support obligation of \$752.10. Each subsequent month that the two are separated, the Soldier must only pay the BAH RC/T WITH amount.

If the Soldier fails to pay the EIFS amount at the time the spouse departs the marital home, their command can require them to pay once/if they are made aware of the deficiency (i.e. this payment **IS** retroactive whereas traditionally any missed monthly payments made IAW AR 608-99 are not). If the supported spouse is living abroad and unable to access a court with jurisdiction to order financial support, the EIFS payments must continue along with the traditionally monthly payment until such time as the spouse can access a court. *Soldiers may not satisfy EIFS requirements by directly paying non-government housing expenses on behalf of spouses or by any other in-kind financial support without the written approval of the supported spouse.*

The spouse may elect, in writing, to receive two proportional payments over two months, or one lump sum payment on the first of the month for the previous month.

What to do if the Soldier fails to provide required support. Complaints about a Soldier's failure to provide the required support should be referred to the Soldier's company commander. The Soldier's commander may order the Soldier to comply with his support obligation and may pursue punitive or adverse administrative actions against the Soldier.

Frequently Asked Questions.

What if my spouse makes more money than I do?

If there is a court order or agreement, you must still pay support according to the order or agreement. Absent such an agreement, you may ask your battalion commander (in certain circumstances) to exempt you from the support obligation. However, you still have an obligation to provide support to your children.

What if I have other family members to support?

If you have a legal obligation to provide support to other individuals, you are required to divide the applicable BAH RC/T rate equally among them. For example, if you have two family members living with you and one living apart from you, you must provide the family member living apart with one-third of the applicable BAH RC/T rate.

I live in Government Quarters (such as the barracks) and I don't receive full BAH; do I still have to pay?

Yes, the applicable BAH RC/T rate is the minimum amount you must pay, regardless of whether you receive BAH or not if your family members reside off-post.

Do I still have to pay support after I'm divorced?

Absent a continuing court order, you do not have to provide financial support to your ex-spouse. You do, however, still have an obligation to provide support to your children.

What if I pay bills equal to the amount of BAH instead?

Soldiers can get credit for payment of their spouse's non-governmental housing expenses e.g. rent or mortgage payments, and/or gas, water, and electricity, up to the amount required by this regulation. Any amount paid over does not result in a credit which could be applied to future months. (See "Payment-in-Kind" paragraph above).

Do I still have to pay support if both my spouse and I are on active duty?

If there is a court order or agreement, you must still pay support according to the order or agreement. Absent such an agreement, neither Soldier is required to provide financial support to the other. However, the Soldier still has an obligation to provide support to his/her children.

What if I refuse to pay my spouse and/or family members the amount required by AR 608-99?

AR 608-99 is a punitive regulation. Soldiers who fail to comply with the regulation are subject to punishment under the UCMJ (violation of a lawful general regulation under Article 92; violation of a lawful order from a commissioned officer or noncommissioned officer under Articles 90, 91, or 92), as well as to adverse administrative actions, including a discharge.

More Information. If you have any questions concerning these matters, please come to the Client Services Office (Building 2765) 2765 Tennessee Avenue, Fort Campbell, KY 42223. Office hours are Monday, Tuesday, Wednesday from 0900 to 1600 hours, on Thursday from 1300-1600, or on Friday 0900 to 1500 (we close for lunch every day from 1145-1300).