



**U.S. ARMY CYBER CENTER OF EXCELLENCE
AND FORT GORDON
OFFICE OF THE STAFF JUDGE ADVOCATE
Legal Assistance Division**



This Information Paper from the Fort Gordon Legal Assistance Division contains general legal information on a topic upon which Legal Assistance Attorneys typically advise. The information provided is general in nature and does not constitute formal, specific legal advice. If you wish to receive legal advice specific to your situation, please consult an attorney.

CYBER ADVOCACY: FAMILY SUPPORT UNDER AR 608-99

Soldiers are responsible for managing their personal affairs in a manner consistent with the Army's values. The Soldier's responsibilities include: (1) maintaining reasonable contact with family members so that their needs and welfare do not become a matter of concern for the Army; (2) conducting themselves in an honorable manner regarding parental and spousal commitments and responsibilities; (3) providing adequate financial support to family members; and (4) complying with any court orders or written financial agreements. In an effort to ensure each Soldier fulfills his or her responsibilities, the Army created Army Regulation (AR) 608-99, Family Support, Child Custody, and Paternity.

When does AR 608-99 apply?

Support under AR 608-99 begins on the date the Soldier becomes separated (in different residences) from his/her family members and goes into effect if there is no oral agreement or written agreement or court order addressing support. It is usually advisable to have a formal, written agreement for support, or a court order instead of an oral agreement because oral agreements are only good if both parties continue to agree on the terms.

How is the amount determined?

Absent an agreement or court order expressly addressing financial support, AR 608-99 requires the Soldier to pay a pro-rata share of the Basic Allowance for Housing-With Dependents (BAH-RC/T-WITH), even if the Soldier is not actually receiving BAH. This amount is the BAH allowance without consideration of the geographic duty location, and the pro-rata share depends on how many family members the Soldier has.

Additionally, absent an agreement or court order for support, as of 13 December 2020, AR 608-99 requires the Soldier to pay Enhanced Interim Financial Support (EIFS) to his/her spouse equal to 25% of the Soldier's BAH-RC/T-WITH. EIFS is an additional monetary payment to the amount in the above paragraph, and cannot be satisfied by "in-kind" payments (such as the Soldier paying for the spouse's rent). Unless granted an exception, the Soldier must pay the extra EIFS amount for at least the first 30 days of separation, and potentially longer depending on whether the spouse has access to a proper U.S. court.

What exceptions or rules may apply under AR 608-99 to eliminate or reduce support?

Under certain circumstances, the amount of support the Soldier is required to pay can be less than the amount established by AR 608-99 or could be waived entirely. Some of the potential scenarios to reduce or eliminate the support obligation include: dual military couples, when non-military family members still reside in on post housing, when the Soldier has paid the required support for 18 months, and when the Soldier is making in-kind payments, such as paying for the family member's rent (note- in-kind payments are not allowable for the EIFS portion of support).

For further exceptions, you are encouraged to read AR 608-99, Chapter 2, Section IV to learn more about the exception and waiver requirements and process.

Can the Chain of Command ever eliminate or reduce the amount owed?

As long as the support is owed under AR 608-99, which means there is no enforceable oral agreement, written agreement, or court order addressing support, the battalion or higher commander **may** reduce or eliminate the amount owed, depending on the circumstances and evidence, and also may reduce or waive the EIFS payment. This power to reduce or eliminate support is largely discretionary, is very fact-specific, and requires a legal review.

When does support end?

If payments have not been excused by a battalion or higher commander, regular AR 608-99 payment obligations end when you have a written agreement for support or a court order for support. EIFS payments also end when you have a written agreement or a court order for support, but may end sooner depending on whether the family member has access to a proper U.S. court.

When and how can I pay?

Support due for the previous month is to be personally delivered no later than the first day of the following month, or, if allowed to be mailed under the circumstances listed in AR 608-99, paragraph 2-9(c), payment must be mailed first-class and postmarked by the 1st of the month. If you separate from your spouse or family members on a day other than the first day of the month, AR 608-99 provides for partial month payments on a pro-rata daily basis, see paragraphs 2-6(f)(4) and 2-8. Payment may be made by allotment, cash, check, money order, electronic fund transfer, allotment, or garnishment. Whichever form of payment is used, make sure you are able to document and track all payments.

What can my Commander do if I don't pay?

Once you have been given an order to pay under AR 608-99, that order is the same as any other order a commander gives you, and has the same set of consequences for not following the order (i.e. counseling, reprimand, Article 15, court martial, etc.).

I am a non-military spouse. How do I request payment under AR 608-99?

Contact the Soldier first to attempt to come to a payment agreement. If that is not successful, and the Soldier refuses to provide adequate support, you should contact the Soldier's Company Commander or First Sergeant to ask them to enforce the payment provisions of AR 608-99.

Additional Information

For additional information, the Fort Gordon Legal Assistance Office is located at 267 Heritage Park Lane, Building 35202, Ft. Gordon, GA. You may call the office at (706) 791-7812 / 7813. Please be advised you must have an appointment to consult with an attorney; however, paralegals are available during normal hours of operation to answer general questions that do not amount to legal advice.