



# FROM COUNSEL

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## Army Regulation 608-99: Family Support, Child Custody, and Parentage

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1. **PURPOSE:** To explain Army policy, procedures, and individual responsibilities concerning financial support of military Family members, child custody, and parentage claims.



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2. **FACTS:**

a. **Introduction.** AR 608-99, “Family Support, Child Custody, and Parentage,” (13 November 2020), outlines Army policy on Servicemembers’ Family support obligations.

b. **Servicemember Responsibilities.** Servicemembers shall manage their personal affairs in a manner that does not bring discredit upon themselves or the Army. This responsibility includes: maintaining reasonable contact with Family members so that their needs and welfare do not become official matters of concern for the Army; conducting themselves in an honorable manner with regard to parental responsibilities; providing adequate financial support to Family members; and complying with all court orders.

c. **Commander Responsibilities.** Commanders enforce AR 608-99. Commanders must counsel Servicemembers and take other appropriate actions in response to all child custody, parentage, and support inquiries they receive. This responsibility includes investigating the legitimacy of an allegation, seeking advice from the Staff Judge Advocate, and referring the Servicemember to Legal Assistance for counseling.

d. **General Support Requirements.** Servicemembers who are separated from their spouses shall provide financial support. Support under AR 608-99 begins on the date the couple becomes separated and goes into effect if there is no oral or written agreement or court order addressing support. If there is a written support agreement, court order, or functional equivalent, the Servicemember must provide financial support to his or her dependents as these documents require. Absent a court order or written agreement between the spouses, a Servicemember separated from his or her spouse shall pay them, at a minimum, the BAH RC/T-WITH rate each month. A Servicemember’s support obligation during a period of less than one month will be a prorated daily share of that month’s rate.

If the Servicemember’s spouse is not active duty, then an additional “Enhanced Interim Financial Support” (EIFS) in the amount of 25 percent BAH RC/T-WITH is required. The intention behind the EIFS is to ensure that Family members have access to food and support during the transition, not merely housing. The length of time that EIFS payments are required varies based on the individual Servicemember’s situation. If the Servicemember’s Family resides in a state or territory where a state court has jurisdiction to order support, then it is a one-time payment made along with the first month of AR 608-99 support payments. If there is

no state court with jurisdiction, then the EIFS will begin with the first month of required AR 608-99 support and will continue until the interim support under AR 608-99 is no longer required. The EIFS payments cannot be satisfied by any non-governmental housing expenses covered or any in-kind payments (such as bills paid by the Servicemember on behalf of the Family member), without the express written consent of the supported spouse. Otherwise, if there is no written agreement, the EIFS support must be in the form of monetary payments given to the Family member. (See chart on page 4 for the relevant figures). *This obligation is unrelated to whether the Soldier receives any form of BAH.*

e. Specific Support Requirements.

(1) Court Order: The amount of support required by a court order must be paid.

(2) Written Agreement: The amount of support in a written agreement must be paid.

(3) Oral Agreement: If there is an oral agreement and the parties are following it, no action is required. If a dispute arises, the Servicemember will be advised to provide the agreed upon amount. If the Servicemember refuses to comply, the Servicemember will be required to send the amount of financial support outlined below. Favor written agreements over oral agreements because either party can later deny the validity of an oral agreement.

(4) Single Family unit living on-post (civilian spouse): BAH RC/T-WITH payments are not required, however, EIFS (25% BAH RC/T-WITH) requirements still apply.

(5) Single Family living off-post (civilian spouse): The Servicemember's full amount of BAH RC/T-WITH and any applicable EIFS (25% BAH RC/T-WITH) requirements apply.

(6) Multiple Family units (excluding spouses in the military): Each Family member not living in government housing and who is not covered by a court order or financial support agreement is entitled to a pro-rata share of the Servicemember's BAH RC/T-WITH. The pro-rata share is

$$\text{pro-rata share} = \frac{1}{\text{total number of supported family members}} \times \text{applicable BAH RC/T - WITH rate}$$

determined with the following equation:

(7) Both spouses are in the Armed Forces:

(a) If there are no children of the marriage. No support obligation.

(b) If the Servicemembers do not have custody of any children, and the children do not reside in government quarters, the Servicemember will provide BAH-DIFF to the spouse having custody of the child or children.

(c) If the Servicemember does not have custody of any children, and the children reside in government quarters, the Servicemember is not required to provide financial support to the spouse having custody of the children.

(c) If custody of the children is split between the two parents. Neither parent owes a support obligation to the other.

f. Parentage Requirements. Servicemembers must comply with the support provisions of court orders that determine they are the legal parent of a child. If the court order establishing parentage is silent as to support, a Servicemember is still obligated to comply with the support requirements of AR 608-99. If there is no court order identifying a Servicemember as the legal parent of a child, the Servicemember has no obligation under AR 608-99 to provide support to such child. A Servicemember who admits parentage and agrees to provide financial support may, under certain circumstances, obtain BAH-DIFF.

g. Child Custody and Visitation Requirements. Servicemembers must comply with all court orders and state laws regarding child custody and visitation, regardless of child age.

h. Penalties for Noncompliance. This regulation is punitive. A Soldier may be punished under the UCMJ or through adverse administrative action for violating: child custody court orders, written financial support agreements, support court orders, or support obligations under AR 608-99. Commanders will take appropriate actions against Servicemembers who fail to comply with this regulation, including but not limited to: counseling, admonition, memorandum of reprimand, barring Servicemember reenlistment, administrative separation from the Service, nonjudicial punishment under the UCMJ, Art. 15, or court-martial.

i. Release from Specific Regulatory Requirements.

(1) Battalion commanders may release Servicemembers from the regulatory requirements of AR 608-99 (BAH RC/T-WITH and EIFS payments) under extremely limited circumstances. Before excusing a Servicemember from these requirements, the commander's legal advisor must review the action. Some bases for excusal of support requirements may include (1) the Servicemember has supported the spouse for 18 months after separation, (2) the income of the spouse exceeds the income of the Servicemember, (3) the Servicemember is a victim of substantiated spousal abuse, (4) the supported Family member is in jail, (5) a court with jurisdiction to order financial support has issued one or more orders, and none require financial support, (6) the spouse has acted in a manner to cause divorce proceedings to be unreasonably prolonged. These situations do not relieve the Servicemember from the responsibility of providing financial support to a dependent child.

(2) Battalion commanders may release Servicemembers from the regulatory requirement to provide financial support to a child if all of the following criteria are met (1) the Soldier is the lawful custodian of the child, (2) the child, without the Soldier's consent, is in the custody of another person who is not the lawful custodian of the child, and (3) the Soldier is diligently pursuing legal means to obtain physical custody of the child.

(3) Battalion commanders may also release Servicemembers from the EIFS requirement, and still mandate the remaining AR 608-99 support payments, when all of the following conditions are met: (1) The Servicemember and spouse have lived apart for 30 days and the spouse resides outside the jurisdiction of any state court with jurisdiction to order support, (2) the Servicemember has made at least one month's worth of EIFS payment, and (3) the spouse is a citizen of the host nation or it is otherwise appropriate for a host nation court of competent jurisdiction to order spousal support. This last criterion requires a spouse to have more of a connection to the host-nation than merely being present on orders.

j. What is BAH RC/T? BAH Reserve Component/Transit is often referred to as "non-locality BAH" and was formerly referred to as BAH-II. BAH RC/T is the equivalent of the former Basic Allowance for Quarters. It does not vary by geographic location.

i. What is BAH-DIFF? BAH-DIFF is the difference between BAH RC/T-WITH and BAH RC/T-WITHOUT for a Soldier's pay grade. Servicemembers who live in government housing and pay child support are eligible for BAH-DIFF. A member is not entitled to BAH-DIFF if the monthly rate of that child support is less than the BAH-DIFF.

3. Direct all questions regarding AR 608-99 and family support to the Legal Assistance Office at (785) 239-3117. This fact sheet is not intended to give legal advice on your specific case. It is only a general reference for Army family support requirements.

## 2024 Non-Locality BAH Rates

*Effective 1 January 2024*

Pay Grade	Partial	BAH RC/T*		Differential*
		Without Dependents	With Dependents	
O-10	\$ 50.70	\$ 2,244.90	\$ 2,762.40	\$ 429.30
O-9	\$ 50.70	\$ 2,244.90	\$ 2,762.40	\$ 429.30
O-8	\$ 50.70	\$ 2,244.90	\$ 2,762.40	\$ 429.30
O-7	\$ 50.70	\$ 2,244.90	\$ 2,762.40	\$ 429.30
O-6	\$ 39.60	\$ 2,058.60	\$ 2,486.40	\$ 364.80
O-5	\$ 33.00	\$ 1,982.40	\$ 2,396.70	\$ 352.50
O-4	\$ 26.70	\$ 1,836.60	\$ 2,112.30	\$ 235.20
O-3	\$ 22.20	\$ 1,473.00	\$ 1,747.80	\$ 234.90
O-2	\$ 17.70	\$ 1,166.70	\$ 1,491.30	\$ 276.90
O-1	\$ 13.20	\$ 1,001.70	\$ 1,335.00	\$ 299.10
O3E	\$ 22.20	\$ 1,589.70	\$ 1,878.30	\$ 245.40
O2E	\$ 17.70	\$ 1,351.80	\$ 1,695.30	\$ 293.70
O1E	\$ 13.20	\$ 1,175.70	\$ 1,566.90	\$ 344.70
W-5	\$ 25.20	\$ 1,866.90	\$ 2,040.00	\$ 146.70
W-4	\$ 25.20	\$ 1,657.50	\$ 1,870.20	\$ 180.90
W-3	\$ 20.70	\$ 1,393.50	\$ 1,714.20	\$ 272.40
W-2	\$ 15.90	\$ 1,236.90	\$ 1,575.00	\$ 288.00
W-1	\$ 13.80	\$ 1,037.10	\$ 1,363.50	\$ 279.00
E-9	\$ 18.60	\$ 1,360.50	\$ 1,794.60	\$ 368.10
E-8	\$ 15.30	\$ 1,250.70	\$ 1,655.10	\$ 345.00
E-7	\$ 12.00	\$ 1,152.00	\$ 1,535.70	\$ 399.30
E-6	\$ 9.90	\$ 1,064.70	\$ 1,419.30	\$ 386.40
E-5	\$ 8.70	\$ 958.20	\$ 1,277.40	\$ 328.50
E-4	\$ 8.10	\$ 833.40	\$ 1,110.00	\$ 283.80
E-3	\$ 7.80	\$ 774.30	\$ 1,032.00	\$ 232.80
E-2	\$ 7.20	\$ 738.60	\$ 983.70	\$ 311.10
E-1	\$ 6.90	\$ 738.60	\$ 983.70	\$ 368.10

\*BAH RC/Transit rates are adjusted by the average change in housing costs; BAH-DIFF rates are adjusted by the amount of the basic pay raise. BAH Partial rates are constant.

Last Update:  
September 2024  
LT Gabrielle Cox

**FROM COUNSEL** is distributed by the Fort Riley Office of the Staff Judge Advocate, Legal Assistance Office, located in BLDG 216, Clausen Hall. Consult an attorney for specific legal advice for your particular situation. Our office hours are: 0800-1600, Mon-Thur, and 0800-1500 on Fri. Please call 239-3117 for an appointment. See <http://www.riley.army.mil/Units/Staff/StaffJudgeAdvocate/LegalAssistance.aspx>