



**Legal Information Paper  
Office of the Staff Judge Advocate  
19th ESC and Area IV**



**FAMILY SUPPORT INFORMATION**

Camp Henry Legal Assistance  
Building 1805, 763-4423

Do you have dependents who are not currently living with you? Do any of your Soldiers? If so, you should know the requirements of Army Regulation 608-99. This paper is intended to give you some background information to prepare you for your meeting with the legal assistance attorney. Please read this carefully in its entirety.

**WHAT IS ARMY REGULATION 608-99?**

AR 608-99 is the Army's guidance on how Soldiers should financially support their families when they are geographically separated. AR 608-99 applies to Active Army Soldiers and those Army Reserves and National Guard Soldiers on active duty orders for more than 30 days. It applies if one or more spouse is a U.S. Army Soldier, there is no court order addressing family support, and there is no agreement between the Soldier and his or her spouse regarding family support.

**HOW DO I KNOW IF I HAVE TO PAY?**

If you fall under one of the categories of Service Members in the above paragraph, and you live separately from your dependents, you have to pay family support to them under this Regulation.

**HOW MUCH SHOULD I PAY?**

AR 608-99 sets out a specific calculation for the monthly payment a Service Member will owe to his or her dependents based on rank and the number of dependents. JAG Legal Assistance Attorneys will assist you in this calculation to make sure you're in compliance.

**HOW CAN I PAY?**

AR 608-99 does not require a certain method of payment to the dependent family member(s). Soldiers may submit in-kind payment in the form of paying rent, mortgage, and essential utilities on the private residence where the family members live. If these payments amount to less than the Regulation's calculation, the Soldier must pay the difference. If they amount to more than the Regulation requires, the Soldier does not get any credit going forward. Other in-kind support is permissible where there is written approval from the supported family member.

**WHY SHOULD I PAY?**

A Soldier cannot fall into arrears in making support payments without violating AR 608-99. Any Soldier who misses payments may be punished under Article 92 of the UCMJ or face adverse administrative action. Make an appointment with a JAG Legal Assistance Attorney to make sure you're not falling into noncompliance.

### **DOES IT MATTER IF...**

Under the Regulation, the calculation of family support is NOT generally affected by allegations (or proof) of adultery or certain other spousal misconduct. It also does not matter whether or not the Service Member is actually receiving BAH. Likewise, the calculation is not affected if you are legally separated or in the process of divorcing, unless you have a separation agreement or final divorce decree containing a family support provision.

### **WHAT IF MY KIDS LIVE SEPARATELY FROM MY SPOUSE?**

You still have to support your dependents under the Regulation. The Regulation takes into account a variety of family unit situations and living arrangements, and different scenarios can mean different amounts of family support. JAG Legal Assistance Attorneys can help you determine what amount is required for your family's situation under the Regulation.

### **WHAT IF MY SPOUSE ISN'T PAYING?**

Spouses may contact the Soldier's Command if the Soldier is not providing support in compliance with AR 608-99. This complaint triggers mandatory Command involvement. Commanders must respond to complaints of nonsupport by conducting a Commander's Inquiry. Commanders are responsible for ensuring that Soldiers comply with the Regulation but may not order Soldiers to pay any arrearages (retrospective payment). If Commanders find that the Soldier is not complying with AR 608-99, they must order prospective compliance and ensure a written counseling reflects the actions to be taken. Commanders have discretion to consider evidence the Soldier presents in his or her defense.

### **SEPARATION AGREEMENTS:**

A separation agreement is a contract signed by both spouses to set the terms for the legal separation. One of these terms can be family support. These terms often become the basis of the divorce decree as well. Separation agreements are not always required by state courts, but they can be an important document to decide how a couple can move forward as they pursue divorce. If you have a valid Separation Agreement that includes a provision for family support, this provision will control and you will not be held to the calculation of support in AR 608-99.

### **DO JAG LEGAL ASSISTANCE ATTORNEYS DRAFT SEPARATION AGREEMENTS?**

The Camp Henry Legal Assistance Office will draft most separation agreements, unless they are complicated or the couple is unable to agree on the terms. You can pick up a separation agreement worksheet at the Camp Henry Legal Assistance Office.

### **QUESTIONS?**

Contact the Camp Henry Legal Assistance Office by calling (315) 763-4423 to make an appointment with a Legal Assistance Attorney.