

ARMY FAMILY SUPPORT GUIDELINES

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Paraglide readers no doubt are aware the military branches require servicemembers to support their families. Army Regulation 608-99 specifies support obligations in great detail. Such support is due whether or not soldier and spouse intend to divorce. Geographic separation for any reason triggers the Army's support policy.

As an initial matter, the Army defers to the civilian court system. If a court order addresses the soldier's support obligation as to any dependent, then the Army will require the soldier to obey the court order. A supported spouse may notify the issuing court if a soldier does not follow the order. The court may find the soldier in contempt and may require him or her to pay fines or serve confinement. The court, through DFAS, may also garnish a soldier's pay or establish an involuntary allotment. Spouses may also contact the soldier's commander who will order the soldier to comply.

Similarly, if the soldier and spouse have a written agreement between themselves covering support, the Army requires the soldier to comply with the agreement. Spouses can enforce this agreement by suing the soldier for breach of contract. Again, spouses may reach out to the soldier's command, thereby exposing the soldier to adverse action.

In most cases, soldiers and spouses do not have a written agreement or governing court order when they find themselves geographically separated. Nonetheless, the Army requires soldiers to provide financial support to non-co-located dependents (typically, spouse and minor children) who do not reside in military housing. The soldier's total obligation for all dependents, which increases with rank, is BAH-II (BAH RC/T) at the with dependents rate. This is NOT the same BAH amount which appears on the soldier's Leave and Earning Statement; BAH-II is the average of all BAH with dependents rates throughout the country and does not change by location. To calculate support for multiple households, soldiers should divide the BAH-II with dependents rate by the total number of dependents, whether or not living in military housing, and whether or not covered by an agreement or court order. This will calculate the support due for each dependent. For example, the support amount for an E-5 is \$812.10 per month. If he or she had two children from a previous marriage, plus a current spouse and one child living separately from him or her, each of the four dependents would be entitled to \$203 per month. Payments for minor children must be paid to an adult member of the household. Payment is due on the first of the month to cover the preceding month and can be satisfied by money, or by paying the rent/mortgage or essential utilities.

For dual military couples, the rules are the same for court orders and agreements. In the absence of an agreement or court order, soldiers must pay BAH-DIFF to an active duty spouse ONLY if the active duty spouse lives in non-military housing with the soldier's child or children and no children reside with the soldier. Otherwise, the active duty spouse's own benefits suffice.

As with agreements and court orders, commanders will order soldiers to comply with BAH-II / BAH-DIFF obligations and will consider adverse action against defaulting soldiers. Spouses are not able to recover past-due payments, however, and cannot garnish the soldier's pay.

There are numerous details left untreated above, to include waivers from support obligations, how to develop an agreement or get a court order, other branches' policies, and many more. Soldiers and dependents should consult a legal assistance attorney to learn how to address their own individual situations.

If you have questions, please contact the XVIII Airborne Corps and Fort Bragg Legal Assistance Office at 910-396-0396 or 6113. The office is located on the first floor of the soldier support center in Wing D. The Legal Assistance Office is open Monday, Tuesday, and Friday from 0900-1630, on Wednesday from 1300-1630, and on Thursday from 0730-1630. All family law issues, including child custody and support are handled on Thursdays only. For more information please visit our website at <http://www.bragg.army.mil/DIRECTORATES/OSJA/Pages/LegalAssistance.aspx>.