

## OVERVIEW OF NONSUPPORT

### INTERIM FAMILY SUPPORT GUIDELINES AR 08 99 COMMANDER'S GUIDE IN HANDLING CASES OF NONSUPPORT OVERVIEW OF NONSUPPORT

The Inspector General's role in resolving cases relating to the nonsupport of dependents is sometimes misunderstood by members of the chain of command and family members requesting assistance. Resolution of cases involving nonsupport and indebtedness is a command responsibility. Inspectors General process requests for assistance in matters of nonsupport as follows.

A family member goes to the Inspector General and requests assistance. The Inspector General confirms that the family member has attempted to contact the sponsor's commander. If the family member has not contacted the commander, the Inspector General will provide the commander's address and phone number. The Inspector General may also assist the family member in drafting a memo to the commander, or direct them to legal assistance, which will also assist in drafting a memo.

If the spouse has contacted the commander and has not received a response (14 days after receipt), or the response is not in accordance with AR 608-99, the appropriate Inspector General Office will open an Inspector General Action Request. A commander's inquiry will be requested to determine why the requirements of AR 608-99 have not been met. While conducting any inquiries regarding nonsupport issues, commanders are reminded that paragraphs 2-5 and 2-9 are punitive.

### INTERIM FAMILY SUPPORT GUIDELINES

We continue to get questions regarding how to calculate interim family support in accordance with AR 608-99, minus a divorce decree, since the Leave and Earning Statement no longer lists Basic Allowance for Quarters (BAQ). AR 608-99 continues to establish interim family support guidelines when there is neither an agreement between the parties nor a court order for support.

Additionally, Department of the Army Message, Subject: Interim Family Support Guidelines, dated 131228Z Jan 98, establishes how to calculate the interim support requirement. This message further states that the confusion is caused because Basic Allowance for Quarters (BAQ) is no longer listed on the LES. However, the BAQ amount is still available and remains the basis for calculating interim support amounts under AR 608-99. The former BAQ is now Basic Allowance for Housing II and the most current BAH II rates can be found at <http://www.defensetravel.dod.mil/site/bah.cfm>. Finance related issues in general can be found on the DFAS web page. -

#### AR 608-99

This regulation can be obtained from US Army Publications and Printing Command, at <http://www.apd.army.mil>. The newest update to this regulation, addressing the new BAH terminology and simplifying the process for commanders, will be published soon.

#### Commander's guide in handling cases of non-support

**PURPOSE:** To assist the commander in completing a commander's inquiry into an allegation of nonsupport violations. This guide is a recommended procedure extracted from AR 608-99, Family Support, Child Custody and Paternity, dated 1 November 1994. As per AR 608-99, commanders are responsible for thoroughly and expeditiously investigating claims of nonsupport against soldiers in their

command. Commanders can get a copy of AR 608-99 on the Internet at <http://www.apd.army.mil/>

**STEP ONE:** Contact the IG point of contact (POC) to review the requirements, suspense and any additional background information. If an extension is required, contact the action officer listed as the POC on the request for commander's inquiry.

**Note:** Commanders failing to provide a response by the suspense date may be in a violation of AR 608-99, Paragraph 3-5a. The Battalion/Squadron commander will be notified of company commanders who fail to provide a timely response. The Battalion/Squadron commanders must also be informed of any allegation of repeated or continuing violations of AR 608-99 as stated in Paragraph 1-4f(5)(b). For example, a soldier who seeks to take advantage of a PCS move or change of command to stop support payments, in order to avoid those payments until the new chain of command becomes aware of the problem, could be considered a repeat offender.

**STEP TWO:** Determine the soldier's financial support obligation.

- a. Read the soldier his/her rights and complete a DA Form 3881, Rights Warning Procedure/Wavier Certificate. (See AR 608-99, paragraph 3-3.) If the soldier invokes his/her ART 31 rights, all questioning of the soldier must stop.
- b. Determine whether the soldier has:
- c. A financial support agreement. (See AR 608-99, paragraph 2-3.)
- d. A court order. (See AR 608-99, paragraph, 2-4 and 2-11b(1)&(2).)
- e. If the commander finds that there is no support agreement or support order as stated above, the support provisions of AR 608-99, paragraph 2-6, apply.
- f. If the soldier states that no financial obligation or support requirements exist, ensure all provided documents have been reviewed by SJA to relieve the soldier from financial obligation. If the soldier is receiving BAH at the "With Dependent" rate, you should verify what BAH rate the soldier is entitled to receive.
- g. If it is unclear whether the soldier has a financial obligation IAW AR 608-99, the commander should contact the Administrative Law Section of the SJA Office (526-1758) and get a legal opinion.
- h. If the soldier admits that he/she has a financial obligation, determine the source of the financial support obligation and verify proof of payment. The following are valid proofs of payment:
  - 1) Money Order receipts with proof of payment or command verification of receipt of payment by the spouse/recipient.
  - 2) Verification of support payment by allotment.
  - 3) Canceled checks with recipient's endorsement on the check.
  - 4) Other monetary payment methods with command verification of receipt of payment. The command will provide details on the verification of payment when responding to the Office of the Inspector General.

*NOTE: AR 608-99, para 5-3 states that commanders will also ensure that voluntary allotment forms are promptly processed. Commanders can work through their Finance chain in order to check the status of allotments.*

**STEP THREE:** Direct compliance by counseling the soldier in writing. Below are some examples of counseling forms for non-support with a court order and non-support without a court order.

**Counseling Form for non-support with court order:** Non Support with Court Order

**Counseling Form for non-support without court order:** Nonsupport without court order

Confirm to the soldier that a financial obligation to provide support exists.

- a. Determine the appropriate form and timing of financial payments IAW AR 608-99, paragraph 2-7.
  - b. Determine whether the soldier is in compliance with the support requirements.
- 1) Compliance. Verify that all appropriate documentation that the soldier provides is IAW AR 608-99. If the soldier is in compliance, the commander will respond back to the IG with this determination and all pertinent documentation.
  - 2) Noncompliance. For noncompliance, the provisions listed at paragraph 3-10 (Enforcement) apply. Action should be taken to bring the soldier into compliance with AR 608-99. If the soldier is not in compliance, the commander will respond back to the IG with a complete summary of the soldier's failure to comply with AR 608-99, as well as what actions will be taken to bring the soldier into compliance.

**Note:** Sometimes the IG receives an excuse from the command that the soldier does not have any money to pay the support or the soldier is not drawing BAH and therefore is not required to pay support. These responses are not acceptable. The soldier should make his or her support payment a priority above all other financial obligations. The soldier could be directed to AER for a loan if he/she does not have enough money to provide support. This is very important, as in many cases there are children involved and the spouse has no money for their basic needs. In some cases the spouse moves out of quarters and the soldier's BAH does not start, because the soldier has remained in quarters. This does not preclude the soldier from providing support at the BAH "With Dependents" rate (AR 608-99, para 1-7b).

Counsel the soldier in writing on what his/her support obligation is under AR 608-99. Here are a few things to include as a part of the counseling:

- 1) Inform the soldier that he/she has a legal obligation to support his/her family members, and may seek legal assistance through the SJA office.
- 2) Inform the soldier that he/she has not fulfilled his/her obligation and is in violation of Army Regulation 608-99. Explain what corrective action is necessary to be in compliance with AR 608-99.
- 3) Explain accepted forms and timing of payments, IAW AR 608-99, paragraph 2-7.
- 4) Give him/her an order to comply with the provisions of AR 608-99. Provide a suspense date (use good judgment when assigning – not too long nor too short) for compliance to the soldier and request written proof of compliance. (See paragraph 3-6b(3)(a)1.)
- 5) Inform the soldier of the actions available to the command when dealing with violations of the regulation. Listed are some actions available to the commander:
  - a) Counseling
  - b) Letter of Reprimand or Admonition
  - c) Bar to Reenlistment
  - d) Note: A soldier cannot fall into arrears without violating AR 608-99. (See AR 608-99, paragraph 2-5c for the details on arrears.)

**STEP FOUR:** Verify compliance. The commander must verify that the soldier initiates appropriate financial support. If the soldier chooses to start an allotment, the commander is responsible for ensuring the soldier makes interim payments until the allotment is in effect. Proof of this initial payment should be

included in the response to the Office of the Inspector General. Call the IG POC to review steps two and three, evidence actions, results, and supporting documents.

**STEP FIVE:** Respond to the IG's request for Commander's Inquiry:

- a. Provide a written response to the Office of the Inspector General. See AR 608-99, Chapter 3, for assistance in formulating the response. Also include a statement as to whether the allegation of non-support is either substantiated or not substantiated.
- b. Provide copies of supporting documents to show compliance or corrective action taken IAW the provisions of AR 608-99.
- c. In accordance with AR 608-99, paragraph 3-6b(1)(b), commanders should notify the appropriate Finance Office for BAH recoupement action against a soldier who is drawing BAH, but is not in compliance and chooses not to pay arrearages. The Finance Office may then ensure that the appropriate BAH is returned to the government.

**STEP SIX:** Hand carry your completed inquiry to the IG office. If hand carried by a courier, ensure the packet is in a sealed envelope. Note: All IG documents (i.e., the original request from the IG for a commander's inquiry) are to be returned to the IG Office. Do not retain any copies of IG correspondence!

**STEP SEVEN:** Continue to monitor the support requirements of the soldier in the future months.