FORT SAM HOUSTON LEGAL ASSISTANCE OFFICE
FINANCIAL SUPPORT OF FAMILY MEMBERS

Soldiers are expected to provide adequate and continuous support to their family members. Army Regulation 608-99, "Family Support, Child Custody, and Paternity", sets out the Army's policy regarding support and the procedures to follow when support is not being paid. **The regulation defines family members as:**

1. A Soldier's present spouse. (A former spouse is not a family member.)
2. A Soldier's minor child(ren) from the present marriage.
3. A Soldier's child(ren) by any former marriage if the Soldier has a current obligation to provide support to that child. This may include children legally adopted by the Soldier. (A family member does not include the child of a Soldier who has been legally adopted by another person.)
4. Minor children born out of wedlock to: (1) A female Soldier (2) A male Soldier if evidenced by a court order, or the functional equivalent of a court order, identifying the Soldier as the father or if the Soldier is providing support to the child under the terms of this regulation.
5. Any other person (for example, parent, stepchild for whom the Soldier has a legal obligation to provide financial support under the applicable law. This includes court orders directing the Soldier to provide financial support to a child 18 years of age or older or to some other person. It does not include financial support voluntarily provided to a child 18 years of age or older or to some other person.

Soldiers are required to manage their personal affairs in a manner that does not bring discredit upon himself/herself or the Army. That responsibility includes providing adequate support to family members. The regulatory guidelines are set forth below.

Oral Support Agreements

It is not the Army's policy to get involved in disputes over the terms or enforcement of oral financial support agreements. Where an oral agreement exists and is being followed, the Army will not interfere. When a dispute arises, the Army will require compliance only with the provisions of the support regulation.

Written Support Agreements

If the parties have a signed written financial support agreement, then the amount of support specified in the agreement controls. If a written agreement is silent on the amount of financial support, the provisions of the support regulation apply (in the absence of a court order or subsequent agreement to the contrary). Help may be sought from the Soldier's commander if the Soldier is not complying with the agreement.

Court Orders

Soldiers will comply with the financial support provisions of all court orders. A Soldier may be ordered to comply with the court order if he or she is not complying with its requirements. Again, help should be sought from the Soldier's commander. A court order supersedes all previous written or oral agreements and can only be modified by a court. The amount of support set out in the court order is what the Soldier pays; a Soldier does not pay both the amount of his/her BAH II and the amount set out in the court order.

Minimum Support Requirements

The regulatory support requirements apply in the absence of a written financial support agreement or court order containing a financial support provision. The requirements are set out in paragraph 2-6 of AR 608-99. When family members are not living in government quarters the Soldier will provide support in the amount of BAH II at the with dependents rate for his/her rank. An increase in rank requires that support be increased to match the new BAH II at the with dependents rate. Dependents residing in on post housing are not entitled to receive any additional support. Soldiers pay support even if they are not receiving any BAH. A battalion commander has the authority to release a Soldier from the regulatory requirements in very limited circumstances.

Multiple Family Units

The rules become more complicated when the Soldier has multiple family units (for example, children from a previous marriage and a wife and children from present marriage). Family members covered by a court order will be paid support in accordance with the court order. Family members covered by a written support agreement will be paid in accordance with the written agreement. Finally, family members who are not living in government quarters will each be paid a pro rata share of the BAH II at the "with dependents" rate.

For example, if Private Snuffy has two children from a previous marriage that he is paying court ordered support and two children from his current marriage (no court ordered support yet), you must divide the BAH II at the with dependents rate for Private Snuffy's rank by five (total number of family members, which also includes his current wife) to get the amount of support that each family member should receive. If the first two children receive court ordered support,

they will continue to receive support. The remaining three family members will, in effect, get 3/5ths of Private Snuffy's BAH II at the with dependents rate.

When Both Spouses Are In The Military

In the absence of a written support agreement or a court order containing a financial support provision, a Soldier is not required to provide support to a spouse on active duty.

How to Seek Enforcement of Support Obligations

The ultimate responsibility to ensure that a Soldier is complying with his or her support obligations falls on the Soldier's chain of command. Only the commander can order a Soldier to comply with the regulation and pay the support that is owed. For this reason, you need to contact the Soldier's chain of command if there is a problem with support payments. The Soldier's company commander is the place to start. You can call the commander, visit the commander in person or write a letter. When making a complaint, be as specific as possible so the commander has enough information to start his/her investigation. Commanders must investigate and respond in writing to each complaint.

If you are dissatisfied with the commander's response or the Soldier continues to disregard his or her obligations, the matter may be brought to the next higher commander in the chain of command. Raising issues up the chain of command is often very successful. A complaint may also be filed with the Inspector General's Office. The IG is the Army's "watchdog". Their job is to ensure Soldiers and commanders comply with Army regulations. The IG can contact the chain of command and ensure the provisions of the support regulation are being followed. Each Army installation has an IG office. A Soldier cannot be forced to pay support; however, he or she can be punished for failing to pay support. A commander may consider:

1. Making it a part of the Soldier's permanent record.
2. Denial of reenlistment.
3. Punitive or other administrative action including elimination from the service.
4. A criminal charge under the Uniform Code of Military Justice (UCMJ).

The Army cannot take money from the Soldier's pay unless garnishment or an involuntary allotment has been ordered from a civilian court.

All States have agencies to help custodial parents collect child support. In addition to the Army options outlined above, you may wish to contact a state child support enforcement agency. You may contact the Texas Attorney General or any local Child Support Enforcement Field Office (San Antonio Branch 1-800-687-8288) to report non-payment of court ordered support.

If you have additional questions or need legal help, please contact the Legal Assistance office at 210-221-2282.

2006 BAH-II

Grade	BAH-II with Dependent Rate
O-10	1429.20
O-9	1429.20
O-8	1429.20
O-7	1429.20
O-6	1286.70
O-5	1240.20
O-4	1093.20
O-3	904.50
O-2	771.90
O-1	690.90
O-3E	972.30
O-2E	877.20
O-1E	810.90
W-5	1055.70
W-4	967.50
W-3	887.10
W-2	815.10
W-1	705.30
E-9	928.50
E-8	856.50
E-7	795.00
E-6	734.40
E-5	660.90
E-4	574.20
E-3	534.30
E-2	509.40
E-1 >4	509.40
E-1 <4	509.40