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to alter the form of Government of the United States by unconstitutional means.

(2) During or in connection with the furtherance of political activities, private employment or commercial interests, when an inference of official sponsorship for the activity or interest could be drawn.

(3) Except when authorized by competent Service authority, when participating in activities such as public speeches, interviews, picket lines, marches, rallies or any public demonstrations (including those pertaining to civil rights), which may imply Service Sanction of the cause for which the demonstration or activity is conducted.

(4) When wearing of the uniform would tend to bring discredit upon the Armed Forces.

(5) When specifically prohibited by regulations of the department concerned.

(b) *Former members of the Armed Forces.* (1) Unless qualified under another provision of this part or under the provisions of 10 U.S.C. 772, former members who served honorably during a declared or undeclared war and whose most recent service was terminated under honorable conditions may wear the uniform in the highest grade held during such war service only upon the following occasions and in the course of travel incidents thereto:

(i) Military funerals, memorial services, weddings, and inaugurals.

(ii) Parades on national or State holidays; or other parades or ceremonies of a patriotic character in which any active or reserve U.S. military unit is taking part.

(2) Wearing of the uniform or any part thereof at any other time or for any other purpose is prohibited.

(c) *Medal of Honor holders.* Persons who have been awarded the Medal of Honor may wear the uniform at their pleasure except under the circumstances set forth in paragraph (a) of this section.

[35 FR 1236, Jan. 30, 1970]

PART 54—ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT

Sec.
54.1 Purpose.
54.2 Applicability and scope.
54.3 Definitions.
54.4 Policy.
54.5 Responsibilities.
54.6 Procedures.

AUTHORITY: 15 U.S.C. 1673, 37 U.S.C. 101, 42 U.S.C. 665.

SOURCE: 51 FR 23755, July 1, 1986, unless otherwise noted.

§54.1 Purpose.

Under section 65 of title 42, United States Code, this part provides policy on statutorily required child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

§54.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and the Military Departments. The term ''Military Services,'' as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Its provisions cover members of the Military Services on extended active duty. This does not include a member under a call or order to active duty for a period of less than 30 days.

§54.3 Definitions.

(a) *Authorized person.* Any agent or attorney of any State having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651–664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and the court that has authority to issue an order against a member for the support and maintenance of a child or any agent of such court.

(b) *Child support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with State or local law. This

includes, but is not limited to, payments to provide for health care, education, recreation, and clothing or to meet other specific needs of such a child or children.

(c) *Designated official.* The representative of the Military Service concerned who is authorized to receive and to process notices under this part. See § 54.6(f) for a listing of designed officials.

(d) *Notice.* A court order, letter, or similar documentation issued by an authorized person providing notification that a member has failed to make periodic support payments under a support order.

(e) *Spousal support.* Periodic payments for the support and maintenance of a spouse or former spouse, in accordance with State and local law. It includes, but is not limited to, separate maintenance, alimony while litigation continues, and maintenance. Spousal support does not include any payment for tranfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(f) *Support order.* Any order providing for child or child and spousal support issued by a Court of competent jurisdiction within any State, territory, or possession of the United States, including Indian tribal courts, or in accordance with administrative procedures established under State law that affords substantial due process and is subject to judicial review.

§ 54.4 Policy.

The Department of Defense is obligated by 42 U.S.C. 665 to require child, or child and spousal, support allotments from the pay and allowances of a member who has failed to make periodic payments under a support order in a total amount equal to the support payable for 2 months or longer. The member's allotment shall be established by the Secretary of the Military Department concerned, or the Secretary's designee, provided all requirements of this part have been met.

§ 54.5 Responsibilities.

(a) The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall provide guidance, monitor compliance with this part, and have the authority to change or modify the procedures in § 54.6.

(b) The Secretaries of the Military Departments shall comply with this part.

§ 54.6 Procedures.

(a) *Notice to designated official.* (1) An authorized person shall send to the designated official of the member's Military Service a signed notice that includes:

(i) A statement that delinquent support payments equal or exceed the amount of support payable for 2 months under a support order, and a request that an allotment be initiated pursuant to 42 U.S.C. 665.

(ii) A certified copy of the support order.

(iii) The amount of the monthly support payment. Such amount may include arrearages, if a support order specifies the payment of such arrearages. The notice shall indicate how much of the amount payable shall be applied toward liquidation of the arrearages.

(iv) A statement that delinquent support payments are more than 12 weeks in arrears, if appropriate.

(v) Sufficient information identifying the member to enable processing by the designated official. The following information is requested:

(A) Full name;

(B) Social Security Number;

(C) Military Service (Army, Navy, Air Force, or Marine Corps).

(vi) The full name and address of the allottee. The allottee shall be an authorized person, the authorized person's designee, or the recipient named in the support order.

(vii) Any limitations on the duration of the support allotment.

(viii) A certificate that the official sending the notice is an authorized person.

(2) The notice shall be sent by mail or delivered in person to the appropriate designated official of the Military Service. The designated official

shall note the date and time of receipt on the notice.

(3) The notice is effective when it is received in the office of the designated official.

(4) When the notice does not sufficiently identify the member, it shall be returned directly to the authorized person with an explanation of the deficiency. However, before the notice is returned, if there is sufficient time, an attempt shall be made to inform the authorized person who sent the notice that it will not be honored unless adequate information is supplied.

(5) Upon receipt of effective notice of delinquent support payments, together with all required supplementary documents and information, the designated official shall identify the member from whom moneys are due and payable. Under § 54.6(d), the allotment shall be established in the amount necessary to comply with the support order and to liquidate arrearages if provided by a support order when the maximum amount to be allotted under this provision, together with any other moneys withheld for support from the member, does not exceed:

(i) Fifty percent of the member's disposable earnings for any month in which the member asserts by affidavit or other acceptable evidence that he or she is supporting a spouse, dependent child, or both, other than a party in the support order. When the member submits evidence, copies shall be sent to the authorized person, together with notification that the member's support claim shall be honored. If the support claim is contested by the authorized person, that authorized person may refer this matter to the appropriate court or other authority for resolution.

(ii) Sixty percent of the member's disposable earnings for any month in which the member fails to assert by affidavit or other acceptable evidence that he or she is supporting a spouse, dependent child, or both.

(iii) Regardless of the limitations above, an additional 5 percent of the member's disposable earnings shall be withheld when the notice states that the total amount of the member's support payments is 12 or more weeks in arrears.

(b) *Disposable Earnings.* (1) In determining disposable earnings for a member assigned within the contiguous United States, include the following payments. For definitions of these items, see DoD 5000.12–M.

(i) Basic pay (including Military Service academy cadet and midshipman pay).

(ii) Basic allowance for quarters for members with dependents, and for members without dependents in grade E–7 or higher.

(iii) Basic allowance for subsistence for commissioned and warrant officers.

(iv) Special pay for physicians, dentists, optometrists, and veterinarians.

(v) Submarine pay.

(vi) Flying pay (all crew members).

(vii) Diving pay.

(viii) Proficiency pay or special duty assignment pay.

(ix) Career sea pay.

(2) To determine disposable earnings for a member assigned outside of the contiguous United States, the following shall supplement the payments listed in paragraph (b)(1) of this section:

(i) Foreign duty pay.

(ii) Special pay for duty subject to hostile fire (applies only to members permanently assigned in a designated area).

(iii) Family separation allowances (only under certain type-II conditions).

(iv) Special pay for overseas extensions

(c) Calculations of disposable earnings shall exclude:

(1) Amounts owed by the member to the United States.

(2) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home.

(3) Fines and forfeitures ordered by a court-martial or by a commanding officer.

(4) Federal and State employment and income taxes withheld to the extent that the amount deducted is consistent with the member's tax liability.

(5) Deductions for the Servicemen's Group Life Insurance coverage.

(6) Advances of pay received by the member before receipt of notice (see paragraph (c)(1) of this section) that may be due and payable by the member

at some future date. Requests for advances received after notice for a statutorily required support allotment shall be reduced by the amount of the statutorily required support allotment.

(7) Other amounts required by law to be deducted.

(d) Notice to member and member's Commanding Officer.

(1) As soon as possible, but not later than 15 calendar days after the date of receipt of notice, the designated official shall send to the member, at his or her duty station, written notice:

(i) That notice has been received from an authorized person, including a copy of the documents submitted.

(ii) Of the maximum limitations provided in 15 U.S.C. 1673, with a request that the member submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation.

(iii) That the member may submit supporting affidavits or other documentation as evidence that the information contained in the notice is in error.

(iv) That by submitting supporting affidavits or other necessary documentation, the member consents to the disclosure of such information to the party requesting the support allotment.

(v) Of the amount or percentage that will be deducted if the member fails to submit the documentation necessary to enable the designated official to respond to the notice within the prescribed time limits.

(vi) That a consultation with a judge advocate or legal officer will be provided by the Military Service, if possible, and that the member should immediately contact the nearest legal services office.

(vii) Of the date that the allotment is scheduled to begin.

(2) The designated official shall notify the member's commanding officer, or designee, of the need for consultation between the member and a judge advocate or legal officer. The designated official shall provide the member's commanding officer, or designee, with a copy of the notice and other legal documentation served on the designated official.

(3) The Military Services shall provide the member with the following:

(i) When possible, an in-person consultation with a judge advocate or legal officer of the Military Service concerned, to discuss the legal and other factors, involved in the member's support obligation and failure to make payment.

(ii) Copies any other documents submitted with the notice.

(4) The member's commanding officer, or designee, shall confirm in writing to the designated official within 30 days of notice that the member received a consultation concerning the member's support obligation and the consequences of failure to make payments, or when appropriate, of the inability to arrange such consultation and the status of continuing efforts to fulfill the consultation requirement.

(5) If, within 30 days of the date of the notice, the member has furnished the designated official affidavits or other documentation showing the information in the notice to be in error, the designated official shall consider the member's response. The designated official may return to the authorized person, without action, the notice for a statutorily required support allotment together with the member's affidavit and other documentation, if the member submits substantial proof of error, such as:

(i) The support payments are not delinquent.

(ii) The underlying support order in the notice has been amended, superseded, or set aside.

(e) *Payments.* (1) Except as provided in paragraph (e)(3) the Secretary of the Military Department concerned, or designee, shall make the support allotment by the first end-of-month payday after the designated official is notified that the member has had a consultation with a judge advocate or legal officer, or that a consultation was not possible, but not later than the first end-of-month payday after 30 days have elapsed from the date of the notice to the member. The Military Services will not be required to vary their normal military allotment payment cycle to comply with the notice.

(2) If several notices are sent with respect to the same member, payments

shall be satisfied on a first-come, first-served basis within the amount limitations in paragraph (a)(5) of this section.

(3) When the member identified in the notice is found not to be entitled to money due from or payable by the Military Service, the designated official shall return the notice to the authorized person and shall advise him or her that no money is due from or payable by the Military Service to the named individual. When it appears that amounts are exhausted temporarily or otherwise unavailable, the authorized person shall be told why, and for how long, any money is unavailable, if known. If the member separates from active duty, the authorized person shall be informed that the allotment is discontinued.

(4) Payment of statutorily required allotments shall be enforced over other voluntary deductions and allotments when the gross amount of pay and allowances is not sufficient to permit all authorized deductions and collections.

(5) The authorized person or allottee shall notify the designated official promptly if the operative court order upon which the allotment is based is vacated, modified, or set aside. The designated official shall also be notified of any events affecting the allottee's eligibility to receive the allotment, such as the former spouse's remarriage, if a part of the payment is for spousal support, and notice of a change in eligibility for child support payments under circumstances of death, emancipation, adoption, or attainment of majority of a child whose support is provided through the allotment.

(6) An allotment established under this Directive shall be adjusted or discontinued upon notice from the authorized person.

(7) Neither the Department of Defense, nor any officer or employee thereof, shall be liable for any payment made from moneys due from, or payable by, the Department of Defense to any individual pursuant to notice regular on its face, if such payment is made in accordance with this part. If a designated official receives notices based on a support order which, on its face, appears to conform to the laws of the jurisdiction from which it was issued, the designated official shall not be required to ascertain whether the authority that issued the order had obtained personal jurisdiction over the member.

(f) *List of designated officials.*

Army—Commander, U.S. Army Finance and Accounting Center, ATTN: FINCL–G, Indianapolis, IN 46249–0160, (317) 542–2155.

Navy—Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199, (216) 522–5301.

Air Force—Commander, Air Force Accounting and Finance Center, ATTN: JA, Denver, CO 80279, (303) 370–7524.

Marine Corps—Commanding Officer, Marine Corps Finance Center (Code AA), Kansas City, MO 64197, (816) 926–7103.

PART 55—PHYSICAL EXAMINATIONS AND ANNUAL CERTIFICATES OF PHYSICAL CONDITION

Sec.
55.1 Purpose.
55.2 Applicability.
55.3 Policy.

AUTHORITY: 10 U.S.C. 1004(a).

SOURCE: 25 FR 14357, Dec. 31, 1960, unless otherwise noted.

§55.1 Purpose.

To establish a uniform policy relating to physical examinations and certificates of physical condition for reservists (other than retired reservists) when not on active duty.

§55.2 Applicability.

This part applies to all Military Departments in the administration of members of reserve components.

§55.3 Policy.

(a) Each member of the Ready Reserve who is not on active duty shall be examined as to his physical fitness at least once every four years, or more often as the Secretary concerned considers necessary, and shall execute and submit annually a certificate of physical condition.

(b) Each member of the Standby Reserve in an active status, or on an inactive status list, shall execute and submit annually a certificate of physical condition.

(c) Members of the Standby Reserve may be examined as to their physical