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32 CFR Ch. V (7-1-09 Edition)

(4) After delivery of correspondence, the responsible official will advise the complainant or claimant—

(i) Of the date and method of delivery.

(ii) That the military department does not control the personal affairs of nonactive duty personnel. These personnel usually are in a civilian status and are not subject to military discipline. Therefore, the matter has been left to the person's discretion.

(iii) Of the person's mailing address only if the conditions in § 584.6(c) are met.

(b) *Procedures governing discharged personnel.* Nonsupport complaints or paternity claims against persons who have been discharged from the Service will be sent to RCPAC. These persons do not hold any military status whatsoever. Commander, RCPAC will return the correspondence and all accompanying documentation and advise the complainant or claimant—

(1) That the person is no longer a member of the Army or the Reserve Components.

(2) Of the date of discharge.

(3) That the Army no longer has control or authority over the discharged member. Therefore, the Army can take no further action in the matter.

(4) Of the person's mailing address only if the conditions in § 584.6(c) are met.

(c) *Conditions for disclosing mailing address.* Nonactive duty and discharged personnel's mailing addresses will not be disclosed except for one of the following reasons:

(1) The person consents in writing to the release of his or her address.

(2) The complainant or claimant sends a court order directing the release of the address.

(3) Any other reason that does not constitute a violation of the Privacy Act of 1974.

(d) *Retired personnel.* (1) Court orders for garnishment or attachment of pay of retired persons will be sent to USAFAC.

(2) The complainant or claimant will be advised that correspondence may be sent to the retired member as follows:

(i) Place correspondence in a stamped envelope with retired member's name typed or printed on the envelope.

(ii) Place stamped envelope in a second envelope and send to the Commander, RCPAC, ATTN: DARC-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(3) Commander, RCPAC will send the correspondence to the retired member but cannot release the address under the provisions of the Privacy Act of 1974.

§ 584.7 Basic allowance for quarters.

(a) *Eligibility.* (1) Soldiers entitled to basic pay, who have family members, are entitled to BAQ at the rates prescribed for soldiers "with dependents" under certain conditions. The Department of Defense Military Pay and Allowances Entitlements Manual (DODPM) governs entitlements. (See DODPM, part 3, chap 2.)

(2) Soldiers may receive BAQ at the "with dependents" rate as long as they pay at least the difference between BAQ at the with- and without-dependents rate each month in support of their families. (See DODPM, part 3.) This is so even if a divorce decree or court order is silent on support or releases the soldier from the responsibility of supporting the family. (See § 584.2(f)(2).) Normally, a soldier is not entitled to BAQ on behalf of a former spouse or stepchildren after the divorce. BAQ at the "with dependents" rate is not authorized when the soldier or the supported family is residing in Government family quarters. Also, if two soldier member-parents are supporting the same child, only one soldier member is entitled to BAQ at the "with dependents" rate.

(b) *False claims.* BAQ at the "with dependents" rate is not payable to soldier who are not supporting their families. Cases involving alleged failure or refusal of soldiers to pay at least the difference between BAQ at the with- and without-dependents rate for the support of family members will be referred to the proper FAO after investigation. Nonsupport of family members for whom BAQ is claimed may result in—

(1) Collection of BAQ received but not given to the family members.

(2) Stoppage of BAQ at the "with dependents" rate.

(3) Punitive or administrative action against a soldier for—

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(i) Violating the minimum support requirements of this regulation.

(ii) Submitting a fraudulent claim for BAQ based on false information.

(c) *Forfeiture of BAQ.* Forfeiture of the “with dependents” portion of BAQ does not relieve the soldier of the obligation to support family members as set up in this regulation.

(d) BAQ entitlements versus Army minimum support requirements Terms for entitlements to BAQ are set forth in DODPM, part 3, chapter 2. Except as provided in this regulation, BAQ entitlements have no relationship to Army minimum support requirements.

§ 584.8 Garnishment.

(a) *General.* (1) Pub. L. 93-647 (42 U.S.C. 659) permits garnishment, attachment, or assignment of Federal wages and retirement payments to enforce court-ordered child support and alimony obligations that are in arrears. It includes foreign court orders when—

(i) Required by treaty or international agreement. (A soldier is subject to garnishment for child support issued by the FRG only while physically stationed in Germany.)

(ii) Recognized by a court of competent jurisdiction. Applicable State laws govern legal procedures to be used by complainants. Jurisdictional or procedural challenges to garnishment actions remain the responsibility of individual members.

(2) In the absence of State law more favorable to the soldier, 15 U.S.C. 1673 limits the amount of pay that can be garnished as follows:

(i) Fifty percent of disposable pay when a soldier is supporting a spouse or dependent child who is not the subject of the support order. (See § 584.8(a)(3) for an explanation of disposable pay.)

(ii) Sixty percent of disposable pay when a soldier is not supporting such spouse or dependent child.

(iii) An additional 5 percent in each of the above cases if payments are more than 12 weeks overdue.

(3) The items of pay listed in § 584.8(a)(3)(i) are subject to garnishment except for amounts deducted for the items listed in § 584.8(a)(3)(ii).

(i) Items of pay and bonus subject to garnishment.

(A) Basic pay.

(B) Special pay (including enlistment and reenlistment bonuses).

(C) Incentive pay.

(D) Inactive duty training pay.

(E) Academy officials pay (except personal money allowances).

(F) Accrued leave payments (basic pay portion only).

(G) Retired and retainer pay.

(H) Lump-sum Reserve bonus.

(I) Separation payments (readjustment pay and severance pay).

(ii) Deductions not subject to garnishment.

(A) Federal income tax withholding.

(B) State income tax withholding.

(C) Servicemen's Group Life Insurance.

(D) Social Security taxes (Federal Insurance Contributions Act).

(E) United States Soldier's and Airmen's Home.

(F) Survivor Benefit Plan.

(G) Retired Servicemen's Family Protection Plan.

(H) Indebtedness to the United States and delinquent Federal taxes.

(I) Fines and forfeitures ordered by a court-martial or commander.

(b) *USAFAC procedures.* The USAFAC will process most garnishment orders. Unless the order is contrary to Federal law or the laws of the jurisdiction from which it was issued, the soldier's pay will be garnished per the court order. Garnishment orders will be sent by certified or registered mail to the Commander, USAFAC, ATTN: FINCL-G, Indianapolis, IN 46249-0160. However, all legal process issued by German courts will be processed under DODPM, section 70710, when the soldier is stationed in the FRG. The documents must expressly state they pertain to child support or alimony. Also, the name and social security number (SSN) of the soldier must be included. The submission of a divorce decree or support order alone is not enough, as a garnishment order is required.

§ 584.9 Involuntary allotments.

(a) *General.* Pub. L. 97-248 (42 U.S.C. 665) permits involuntary allotments from pay and allowances of soldiers on