

may contact the employer if he or she has a written and signed consent from the soldier, or a court order permitting contact. The written consent must include the debt collector's name. It is illegal for debt collectors to use another name when collecting debts.

(2) Debt collectors who have obtained the needed written consent or court order and who have followed § 513.4 will have their debt complaints processed.

(3) Creditors who collect only on their own behalf are exempt from the Act.

(h) *Individual repayment plan of the Bankruptcy Act.* Chapter XIII of the Bankruptcy Act (11 U.S.C. 1301, et seq.) provides for the protection and relief of individuals with a regular income. It also sets rules for paying debts under the supervision of U.S. Federal District Courts. Care must be taken not to confuse "bankruptcy" and "individual repayment plans" in order not to infringe on the rights of the soldier.

(i) *Locator service.* (1) Installations will honor requests for central locator service by a banking office (AR 210-135) or credit union (AR 210-24) located on a military installation. This service will be free when banking offices and credit unions cite AR 37-60. This service will be used to locate persons for settling accounts, checks that did not clear, and delinquent loans. The U.S. Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249-1016, will assist these banking offices and credit unions to locate soldiers who cannot be located locally.

(2) Current military addresses for all soldiers may be obtained by writing the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249-5301. All requests must include the soldier's full name, rank, and social security number (SSN). They should include the date and place of birth if the SSN is not known. A check or money order for \$3.50 payable to the Treasurer of the United States must be enclosed with each request. (See AR 37-60.)

(3) A debt collector should not write to the U.S. Army Enlisted Records and Evaluation Center (USAEREC) if he or she knows the soldier is represented by a civilian lawyer or military legal

counsel. However, the debt collector may write to USAEREC if he or she—

(i) Does not know or cannot easily find out the name and address of the lawyer or legal counsel.

(ii) Does not receive a response from the lawyer or legal counsel.

(4) If a debt collector writes to USAEREC, a postcard cannot be used. Also, the request cannot state that the locator service is being sought in order to collect a debt. These actions would violate the Fair Debt Collection Practices Act (§ 513.1(g)).

[51 FR 7269, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986, as amended at 51 FR 17961, May 16, 1986]

§ 513.2 Administrative procedures for processing complaints.

(a) *Commander's actions.* Upon receipt of a debt complaint, the commander will—

(1) Review the case to ensure that the terms of this regulation have been met.

(2) Consult the SJA if needed.

(3) Take the following actions:

(i) If any of the terms of § 513.4(c) have not been met by the creditor, return the complaint. Tell the writer that no action will be taken until those terms are met.

(ii) Upon receipt of subsequent inquiries from USACFSC, Members of Congress, or any other source, inform the writer that—

(A) The creditor has been told that his or her request lacked data or documentation.

(B) The commander regrets that he or she cannot process the complaint until the creditor supplies the necessary data.

(C) A reply previously has been made to the creditor. Enclose a copy of the reply.

(iii) If the creditor refuses or repeatedly fails to comply with any of these requirements, refer the complete case through channels to the Commander, USACFSC, ATTN: DACF-IS-PA, ALEX VA 22231-0522. If it is believed the creditor's debt processing privileges should be revoked, include a recommendation stating the reasons.

(iv) If the soldier was not given full disclosure information when the debt was incurred, refer him or her to the SJA office. The SJA office will advise if the soldier has a right to file suit

against the creditor. The soldier may be entitled to twice the amount of the finance charge, for a minimum of \$100 up to a maximum of \$1,000, plus court costs and lawyer fees. This does not apply to debts incurred before 30 June 1969.

(v) If in doubt as to the legality of the contract, consult the SJA. This action is to ensure that the contract terms do not violate Federal and State laws.

(vi) Accept as valid proof, claims based on court judgments, orders, or decrees.

(vii) If the debt or the amount of the debt is disputed or denied by the soldier, reply directly to the creditor. Tell him or her that Army policy requires that disputed debts be settled by civil courts. Do not, in the reply, try to judge or settle any disputed debts, or admit or deny the validity of the claim.

(viii) If the creditor has met all the requirements discussed in §513.4, interview the soldier.

(A) Ensure that the soldier is properly advised of his or her rights under the Privacy Act of 1974. DA Form 4817-R (Consent/Nonconsent To Disclose Personal Information) will be completed.

(B) Notify the soldier of the debt complaint.

(C) Explain that the Army requires that soldiers pay their debts promptly. Failure to do so damages credit reputations and affects the Army's public image. Also, explain that the willful failure to resolve unpaid debts may result in administrative or punitive actions as described in §513.3.

(D) Tell the soldier of his or her legal rights and duties. If appropriate, advise the soldier of his or her rights under article 31, UCMJ. Also, inform the soldier that counseling service is available under the Legal Assistance Program (AR 27-3).

(E) Review all available facts including the soldier's defenses, rights, and counterclaims.

(F) Urge the soldier to seek budget counseling and consumer protection advice, if proper. These services may be obtained from on-post credit unions, Army Community Service Program Counselors (AR 608-1), or through fi-

nancial management seminars or workshops.

(G) Help the soldier in settling or in liquidating the debt. Give the soldier a copy of DA Pam 360-520 if proper. Answer any questions that he or she might have.

(H) Have the soldier sign a statement allowing or forbidding release of information to the claimant (DA Form 4817-R). AR 340-17 and AR 340-21, paragraph 3-3 govern this.

(I) Ask the soldier about his or her intentions. Give the soldier the chance to furnish a voluntarily signed statement admitting or denying the complaint or declining to do either.

(ix) Advise the claimant promptly that the soldier has been told of the complaint.

(x) Summarize the soldier's intentions if the soldier allows release of the information.

(xi) If proper, advise the claimant that indebtedness disputes must be resolved in a civil court of competent jurisdiction.

(xii) Ask the claimant to write, if necessary, directly to the soldier or his or her commander.

(xiii) Retain the statement allowing or forbidding release of information to the claimant with the case file for future reference. (See §513.3)

(xiv) Monitor actions closely to ensure promises made to claimants are being met.

(xv) Consider administrative or punitive action, if proper (See §§513.1(e)(7) and 513.3.)

(xvi) Inform the first level field grade commander of instances of soldiers' repeated failure to pay their debts. Also, point out actions taken or contemplated to correct the situation.

(b) *Procedures for routing debt complaints.* (1) Send debt complaints through proper channels to the soldier's commander for action.

(2) If the soldier is a patient attached to a medical holding detachment (MHD), the complaint will be sent there for action. The commander of the MHD will take action per this regulation.

(3) The command receiving the complaint will acknowledge the letter and tell the writer of the referral. DA Form

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209 (Delay, Referral, or Follow-Up Notice) may be used for this purpose.

(4) All correspondence to the President, received from outside of DOD, will be processed per AR 1-9.

(5) Send complaints to the soldier's new duty station if the soldier has been reassigned. Advise the claimant of the soldier's reporting date and the unit address to which correspondence should be sent.

(6) See § 513.5 for procedures governing processing of claims for non-active duty or discharged personnel.

(c) *Processing debt complaints based on dishonored checks.* (1) Writing checks against an account with no or not enough funds is a serious matter. It may be a misdemeanor or a felony. This depends on the amount of the check and the laws or statutes of the jurisdiction where the check is presented for payment. The soldier is responsible for making sure that money is in his or her bank account to cover checks written on that account. Writing bad checks may result in disciplinary or administrative action. Whether or not such action is taken, a dishonored check for not enough funds remains proof of an indebtedness except as provided in § 513.1(e)(8).

(2) Commanders must answer all check complaints, other than those discussed in § 513.2(c)(3), even if such complaints concerns checks errors caused by oversight or negligence. (AR 210-60 outlines ways for handling dishonored checks written on Army installations and in Army facilities.)

(3) Checks made good within 5 days of notice do not require any action if the complaint is based on—

(i) Bank or Government error.

(ii) Failure to date the check.

(iii) Inconsistent or not legible amounts shown on the check.

(iv) Lack of legible signature.

(4) Bad checks written by family members are not processed under this regulation except in the following instance. The SJA finds that these checks stand for debts for which the soldier may be held personally liable under Federal or State laws (for example, checks written for necessities such as rent, utilities, or food).

(d) *Inquiries from USACFSC or DA officials.* The commander must—

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(1) Give USACFSC or DA officials complete data on all inquiries.

(2) Seek the advice of the SJA before replying to a court order if necessary.

(3) State "not applicable" to items that do not apply.

(4) If applicable, advise USACFSC or DA officials—

(i) Whether the soldier acknowledges the debt.

(ii) Of the corrective action taken (to include the amounts and dates payments will be made).

(iii) Of the method of payment (for example, personal check).

(iv) Whether the soldier allowed or forbade release of the information given. (See DA Form 4817-R.)

(v) Whether the soldier is following the terms of a court order.

(vi) Whether the soldier's actions follow Army policy as stated in this regulation.

(vii) In the reply, include your name, unit address, and your automatic voice network (AUTOVON) number. If no AUTOVON Number is available, include a commercial or other number where the unit can be reached.

(5) Return to USACFSC or DA officials inquiries received after the soldier has been transferred. Include a copy of his or her permanent change of station orders.

[51 FR 7270, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986]

§ 513.3 Administrative and punitive actions.

(a) *Considerations.* Commanders will not tolerate irresponsibility, neglect, dishonesty, or evasiveness. Failure to pay debts promptly and honorably may require disciplinary or administrative action. If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider—

(1) Making it a matter of permanent record (§ 513.3(b)).

(2) Denial of reenlistment (enlisted members) (AR 601-280).

(3) Administrative separation from the Service (AR 635-100 or AR 635-200).

(4) Punishment under the UCMJ. (See § 513.1(e)(7).)