

Department of the Army, DoD

§ 589.2

Minor Children

Unmarried children under 18 years of age who are not on active duty with the Armed Forces.

Nonsupport Complaint

A written or oral complaint by a family member, or a third party acting on behalf of a family member, that alleges one of the following:

- a. Soldier is providing no financial support.
- b. Soldier is providing insufficient financial support.
- c. Soldier is failing to comply with—
 - (1) An oral agreement,
 - (2) A written support agreement, or
 - (3) A court order that sets up a financial support requirement.

Soldier

As used in this regulation, the term soldier includes commissioned officers, warrant officers, and enlisted personnel.

Staff Judge Advocate

The chief legal officer and his or her staff who advise commanders on laws and regulations affecting the command. Includes command judge advocates and post judge advocates, but not legal assistance attorneys or attorneys assigned to the Trial Defense Service.

System of Records

Any record under DA control from which information is retrieved by the name of the individual or by his or her SSN.

Variable Housing Allowance

An amount of money prescribed by law that a soldier receives to defray high housing costs in the continental United States.

Written Support Agreement

Any written agreement between husband and wife in which the amount of periodic financial support to be provided by the soldier spouse has been agreed to by the parties. A written support agreement may be contained in a separation agreement or property settlement agreement. Also, the support agreement may be shown by letters exchanged between the parties in which the amount of support has been agreed to by the parties.

PART 589—COMPLIANCE WITH COURT ORDERS BY PERSONNEL AND COMMAND SPONSORED FAMILY MEMBERS

Sec.

589.1 Definitions.

589.2 Policy.

589.3 Applicability.

589.4 General.

AUTHORITY: Public Law 100.456 and 10 U.S.C., 814.

SOURCE: 55 FR 47042, Nov. 8, 1990, unless otherwise noted.

§ 589.1 Definitions.

(a) *Court*. Any judicial body in the United States with jurisdiction to impose criminal sanctions of a DoD member, employee, or family member.

(b) *DoD Employee*. A civilian employed by a DoD Component, including an individual paid from non-appropriated funds, who is a citizen or national of the United States.

(c) *DoD Member*. An individual who is a member of the Armed Forces on active duty and is under the jurisdiction of the Secretary of a Military Department, regardless whether that individual is assigned to duty outside that Military Department.

§ 589.2 Policy.

(a) This part (chapter) implements procedural guidance in Department of Defense Directive 552 5.9, "Compliance of DoD members, employees, and family members outside the United States with court orders." This guidance applies to all soldiers and Department of the Army and Nonappropriated Fund (NAF) civilian employees serving outside the United States, as well as to their command sponsored family members.

(b) DODD 5525.9 requires DoD cooperation with courts and federal, state, and local officials in enforcing court orders pertaining to military personnel and DoD employees serving outside the United States, as well as their command sponsored family members, who—

(1) Have been charged with or convicted of any felony.

(2) Have been held in contempt of a court for failure to obey a court order, or

(3) Have been ordered to show cause why they should not be held in contempt for failing to obey a court order.

This guidance does not affect the authority of Army officials to cooperate with courts and federal, state, or local officials, such as is currently described

in Army Regulation 27-3, Legal Services, Army Regulation 190-9, Military Absentee and Deserter Apprehension Program, and Army Regulation 608-99, Family Support, Child Custody, and Paternity, in enforcing orders against soldiers and employees in matters not discussed below. The guidance below does not authorize Army personnel to serve or attempt to serve process from U.S. courts on military or DoD employees overseas. (See also AR 27-40, Litigation, paragraph 1-7.)

§ 589.3 Applicability.

This section applies to the following personnel:

(a) Army personnel on active duty or inactive duty for training in overseas areas. This includes the National Guard when federalized.

(b) Department of the Army civilian employees, including Nonappropriated Fund Instrumentalities (NAFI) employees.

(c) Command sponsored family members of Army personnel or Department of the Army civilian employees.

§ 589.4 General.

(a) Courts of federal, state, or local officials desiring to initiate a request for assistance pursuant to this section must forward the request, with appropriate court orders, as follows:

(1) For soldiers and members of their family, to the soldier's unit commander of Office, Deputy Chief of Staff for Personnel (ODCSPER), ATTN: DAPE-MP (703-695-2497); and

(2) For Department of the Army civilian employees and members of their family, to the servicing civilian personnel office for the employee's command, or ODCSPER, ATTN: DAPE-CPL, (703-697-4429).

(3) Nonappropriated Fund (NAF) employees and members of their family, to the servicing civilian personnel office for the employee's command, or ODCSPER, ATTN: CFSC-HR-P (703-325-9461).

(b) Upon receipt of such requests for assistance concerning courts orders described in paragraph (a) of this section and AR 190-9, commanders/supervisors, with the advice of their servicing Judge Advocates and legal advisors,

will take action as appropriate as outlined below:

(1) Determine whether the request is based on an order issued by a court of competent jurisdiction. An "order issued by a court of competent jurisdiction" is an order that appears valid on its face and is signed by a judge.

(2) If the order appears valid on its face and is signed by a judge, attempt to resolve the matter in a timely manner to the satisfaction of the court without the return of, or other action affecting, the soldier, Army civilian employee, or family member. Due regard should be given to mission requirements, applicable international agreements, and ongoing DoD investigations or courts-martial.

(3) If the matter cannot be resolved, afford the subject of the court order a reasonable opportunity to provide evidence of legal efforts to resist the court order or otherwise show legitimate cause for noncompliance. If it is determined that efforts to provide such evidence or to show cause for noncompliance warrant a delay in taking further action, a request for delay, not to exceed 90 days, must be sought from the Secretary of the Army. Such requests, fully setting forth the reasons justifying delay and the estimated delay necessary, will be forwarded within 30 days directly to ODCSPER, ATTN: DAPE-MP (for military personnel and their family members or ODCSPER, ATTN: DAPE-CPL (for Army civilian employees and their family members) or ODCSPER, ATTN: CFSC-HR-P (for NAF employees and their family members). These offices must promptly forward the request for delay to the Assistant Secretary of Army (Manpower and Reserve Affairs) ASA(M&RA), for approval. If a delay is approved, ASA(M&RA) will promptly notify the Assistant Secretary of Defense (Force Management and Personnel) ASD (FM&P), copy furnished General Counsel, Department of Defense (GC, DOD).

(4) If one, the matter cannot be resolved, and two, it appears that noncompliance with the request to return the soldier, or to take other action involving a family member or DA or NAF employee is warranted by all the facts and circumstances of the particular case, and three, the court order does