



Department of Defense INSTRUCTION

NUMBER 1344.09
December 8, 2008

USD(P&R)

SUBJECT: Indebtedness of Military Personnel

References: See Enclosure 1

1. PURPOSE. This Instruction

- a. Reissues DoD Directive (DoDD) 1344.9 (Reference (a)) as a DoD Instruction in accordance with the guidance in DoD Instruction 5025.01 (Reference (b)) and the authority in DoDD 5124.02 (Reference (c)).
- b. Provides DoD policies and assigns responsibilities governing delinquent indebtedness of members of the Military Services.
- c. Prescribes policy for processing involuntary allotments from the pay of military members to satisfy judgment indebtedness in accordance with Public Law 103-94 (Reference (d)).
- d. Establishes responsibility for procedures implementing Reference (d), the Truth in Lending Act (Reference (e)), and the Fair Debt Collection Practices Act (Reference (f)).

2. APPLICABILITY. This Instruction

- a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").
- b. Does not apply to:
 - (1) Indebtedness of a member of the Military Services to the Federal Government.

(2) Processing of indebtedness claims to enforce judgments against military members for alimony or child support.

(3) Claims by State or municipal governments under the processing guidelines for complaints, including tax collection actions.

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy

a. Members of the Military Services are expected to pay their just financial obligations in a proper and timely manner. A Service member's failure to pay a just financial obligation may result in disciplinary action under the Uniform Code of Military Justice (Reference (g)) or a claim pursuant to Article 139 of Reference (g). Except as stated in this section, and in subparagraphs 4.a(1) and 4.a(2), the DoD Components have no legal authority to require members to pay a private debt or to divert any part of their pay for satisfaction of a private debt.

(1) Legal process instituted in civil courts to enforce judgments against military personnel for the payment of alimony or child support shall be acted on pursuant to sections 651-665 of title 42, United States Code, (Reference (h)) and Volume 7A, Chapter 50, DoD 7000.14-R (Reference (i)).

(2) Involuntary allotments pursuant to Reference (d) shall be established in accordance with this Instruction.

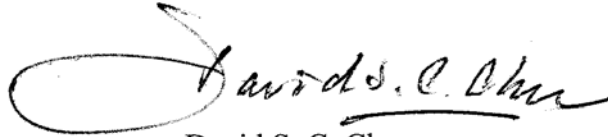
b. Whenever possible, indebtedness disputes should be resolved through amicable means. Claimants may contact military members by having correspondence forwarded through the military locator services for an appropriate fee.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. RELEASABILITY. UNLIMITED. This Instruction is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Instruction is effective immediately.

A handwritten signature in black ink, reading "David S. C. Chu". The signature is written in a cursive style with a large, looping initial "D".

David S. C. Chu
Under Secretary of Defense for
Personnel and Readiness

Enclosures

1. References
 2. Responsibilities
 3. Procedures
- Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 1344.9, "Indebtedness of Military Personnel," October 27, 1994 (hereby canceled)
- (b) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (c) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (d) Public Law 103-94, "Hatch Act Reform Amendments of 1993," October 6, 1993 (5 United States Code § 5520a(k))
- (e) Sections 1601 note, 1601-1614, 1631-1646, 1661-1665a, 1666-1666j, 1667-1667e of title 15, United States Code ("Truth in Lending Act")
- (f) Sections 1601 note, 1692-1692o of title 15, United States Code ("Fair Debt Collection Practices Act")
- (g) Sections 801-940 of title 10, United States Code (Uniform Code of Military Justice, Articles 1-140)
- (h) Sections 651-665 of title 42, United States Code
- (i) DoD 7000.14-R, "DoD Financial management Regulation," Volume 7A, Chapter 50, September 2006
- (j) Sections 501-591 of title 50 Appendix, United States Code (The Servicemembers Civil Relief Act, as amended)
- (k) DoD Directive 5500.7, "Standards of Conduct," August 30, 1993

ENCLOSURE 2

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) shall:

a. In consultation with the Under Secretary of Defense (Comptroller) (USD(C))/Chief Financial Officer (CFO), Department of Defense, establish procedures for processing debt complaints.

b. Have policy oversight on the assistance to be provided by military authorities to creditors of military personnel who have legitimate debt complaints.

2. USD(C)/CFO. The USD(C)/CFO shall:

a. In consultation with the USD(P&R), establish procedures for processing debt complaints, and administer and process involuntary allotments from the pay of members of the Military Services. This includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

b. Ensure that the Director, Defense Finance and Accounting Service (DFAS):

(1) Implements procedures established by the USD(P&R) and USD(C)/CFO.

(2) Considers whether sections 501-591 of title 50 Appendix, United States Code (Reference (j)) has been complied with pursuant to Reference (d) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

(3) Publishes, prints, stocks, redistributes, and revises DoD forms necessary to process involuntary allotments.

3. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall urge military personnel to meet their just financial obligations, since failure to do so damages their credit reputation and affects the public image of all DoD personnel. (See DoDD 5500.7 (Reference (k)).)

4. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments shall:

a. Establish, as necessary, procedures to administer and process involuntary allotments from the pay of members of the Military Services. This includes designating those commanders, or

other officials who may act in the absence of the commander, who shall be responsible for determining whether a member's absence from a judicial proceeding was caused by exigencies of military duty, and establishing appeal procedures regarding such determinations.

b. Require commanders to counsel members to pay their just debts, including complying, as appropriate, with court orders and judgments for the payments of alimony or child support.

c. Emphasize prompt command action to assist with the processing of involuntary allotment applications.

5. CHIEF, OFFICE OF PERSONNEL AND TRAINING, U.S. COAST GUARD. The Chief, Office of Personnel and Training, U.S. Coast Guard, shall:

a. Establish, as necessary, procedures supplemental to those promulgated by the USD(P&R) or USD(C)/CFO to administer and process involuntary allotment from the pay of members of the Military Services; this includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

b. Ensure that the Commanding Officer, Coast Guard Pay and Personal Center:

(1) Implements procedures established by the USD(P&R), USD(C)/CFO, and Chief, Office of Personnel and Training.

(2) Considers whether Reference (j) has been complied with pursuant to Reference (d) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

(3) Acts as the Coast Guard manager for forms necessary to process involuntary allotments.

ENCLOSURE 3

PROCEDURES

1. PROCESSING OF DEBT COMPLAINTS

a. Debt complaints meeting the requirements of this Instruction and procedures established by the USD(P&R), as required by subparagraph 1a of Enclosure 2, shall receive prompt processing assistance from commanders.

b. Assistance in indebtedness matters shall not be extended to those creditors:

(1) Who have not made a bona fide effort to collect the debt directly from the military member;

(2) Whose claims are patently false and misleading; or

(3) Whose claims are obviously exorbitant.

c. Some States have enacted laws prohibiting creditors from contacting a debtor's employer about indebtedness or communicating facts on indebtedness to an employer unless certain conditions are met. The conditions that must be met to remove this prohibition are generally such things as reduction of a debt to judgment or obtaining written permission of the debtor.

(1) At DoD installations in States having such laws, the processing of debt complaints shall not be extended to those creditors who are in violation of the State law. Commanders may advise creditors that this rule has been established because it is the general policy of the Military Services to comply with State law when that law does not infringe upon significant military interests.

(2) The rule in subparagraph 1.c(1) of this Enclosure shall govern even though a creditor is not licensed to do business in the State where the debtor is located. A similar practice shall be started in any State enacting a similar law regarding debt collection.

(3) Pursuant to Reference (f), contact by a debt collector with third parties, such as commanding officers, for aiding debt collection is prohibited without a court order or the debtor's prior consent given directly to the debt collector. Creditors are generally exempt from Reference (f), but only when they collect on their own behalf.

2. PROCESSING OF INVOLUNTARY ALLOTMENTS. Pursuant to Reference (d):

a. In those cases in which the indebtedness of a military member has been reduced to a judgment, an application for an involuntary allotment from the member's pay may be made

under procedures prescribed by the (USD(C)/CFO. Such procedures shall provide the exclusive remedy available.

b. An involuntary allotment from a member's pay shall not be permitted in any indebtedness case in which:

(1) Exigencies of military duty caused the absence of the member from the judicial proceeding at which the judgment was rendered; or

(2) There has not been compliance with the procedural requirements of Reference (j).

GLOSSARY

DEFINITIONS

absence. A member's lack of an "appearance" at any stage of the judicial process, as evidenced by failing to physically attend court proceedings; failing to be represented at court proceedings by counsel of the member's choosing; or failing to timely respond to pleadings, orders, or motions.

court. A court of competent jurisdiction within any State, territory, or possession of the United States.

debt collector. An agency or agent engaged in the collection of debts described under Reference (f).

exigencies of military duty. A military assignment or mission-essential duty that, because of its urgency, importance, duration, location, or isolation, necessitates the absence of a member of the Military Services from appearance at a judicial proceeding or prevents the member from being able to respond to a notice of application for an involuntary allotment. Exigency of military duty is normally presumed during periods of war, national emergency, or when the member is deployed.

judgment. A final judgment must be a valid, enforceable order or decree, by a court from which no appeal may be taken, or from which no appeal has been taken within the time allowed, or from which an appeal has been taken and finally decided. The judgment must award a sum certain amount and specify that the amount is to be paid by an individual who, at the time of application for the involuntary allotment, is a member of the Military Services.

just financial obligation. A legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one reduced to judgment that conforms to Reference (j), if applicable.

member of the Military Services. For the purposes of this Instruction, any member of the Regular Army, Air Force, Navy, Marine Corps, or Coast Guard, and any member of a Reserve Component of the Army, Air Force, Navy, Marine Corps, or Coast Guard (including the Army National Guard of the United States and the Air National Guard of the United States) on active duty pursuant to a call or order for a period in excess of 180 days at the time an application for involuntary allotment is received by the Director, DFAS, or Commanding Officer, Coast Guard Pay and Personnel Center. The following shall not be considered members:

- a. Retired personnel, including those placed on the temporary or permanent disabled retired list; and
- b. Personnel in a prisoner-of-war or missing-in-action status, as determined by the Secretary of the Military Department concerned.