

**VOLUME 7A, CHAPTER 41: “GARNISHMENTS AND OTHER INVOLUNTARY ALLOTMENTS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **February 2015** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
410101 410102	Added “Purpose” and “Authoritative Guidance” paragraphs to the “General” section to comply with current administrative instructions.	Addition
410501	Changed paragraph name to “General.”	Revision
410501.A	Added subparagraph to define the legal statutes for the processing of “Involuntary Allotments of Pay for Debt Collections Other than Child or Spousal Support.”	Addition
Bibliography	Updated statutes and references in the bibliography.	Revision

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## CHAPTER 41

**GARNISHMENTS AND OTHER INVOLUNTARY ALLOTMENTS**

## 4101 GENERAL

**\*410101. Purpose**

This chapter **establishes** policy for garnishments assessed against members, allotments for child and spousal support, levies against member's pay and allowances for child support obligations, and involuntary allotments of pay for debt collections other than child or spousal support.

**\*410102. Authoritative Guidance**

The bibliography at the end of this chapter lists the authoritative references.

## 4102 GARNISHMENT OF PAY FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

## 410201. General

A. The processing of garnishment orders for child support and/or alimony from the pay of individuals receiving remuneration for employment from the United States is governed by Title 42, United States Code (U.S.C.), section **659** and Title 5, Code of Federal Regulations, part **581**. The purpose of this section is to provide information unique to the collection of child support and/or alimony from the pay of active duty members and members of the Reserve Components (RC). The provisions of 42 U.S.C. § 659 and 5 CFR 581 take precedence when in conflict with this chapter.

B. Moneys due from or payable by the United States to active duty members and members of the RC not on active duty are subject to legal process to enforce a legal obligation to pay child support or alimony. Legal process issued by foreign courts may be honored under this authority if issued by a court of competent jurisdiction of a country with which the United States has an agreement, requiring the United States to honor such process. Such an agreement has been reached with the Federal Republic of Germany for cases where active duty members are stationed in the Federal Republic of Germany (see paragraph 410208 for additional information). When the law of the state or foreign nation in which the issuing court is located conflicts with the federal law, the more restrictive law applies.

## 410202. Legal Process Defined

Legal process is any writ, order, summons, or other similar process in the nature of a garnishment action. Legal process may be issued by:

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

B. A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that obligates the United States to honor such process; or

C. An authorized official according to an order of such a court of competent jurisdiction or pursuant to state or local law.

#### 410203. Pay Subject to Garnishment

Except for amounts excluded under paragraph 410204, all moneys due uniformed personnel, regardless of duty status or component, which are considered to be based upon remuneration for employment, are subject to garnishment. The items of pay and bonuses subject to legal process include the following:

A. Basic pay (including Military Service academy cadet, academy officials, and midshipmen pay), but excluding reduction for educational benefits under the Montgomery G.I. Bill (MGIB);

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

C. Incentive pay;

D. Accrued leave payments (basic pay portion only);

E. Readjustment pay;

F. Severance pay (including disability severance pay);

G. Lump-Sum Reserve bonus;

H. Inactive duty training pay; and

I. Separation pay, Voluntary Separation Incentive (VSI), Special Separation Benefit (SSB), Reservists' Special Separation Pay, and Reservists' Involuntary Separation Pay.

#### 410204. Pay and Allowances Not Subject to Garnishment

The following items of pay and allowances are not subject to legal process:

A. Basic allowance for subsistence;

B. Basic allowance for housing;

- C. Family separation allowance;
  - D. Station allowances;
  - E. Clothing allowances-enlisted;
  - F. Uniform allowances-officers;
  - G. Personal money allowance;
  - H. Discharge gratuity;
  - I. Position Pay (Navy only);
  - J. Reserve Officer Training Corps subsistence allowance;
  - K. Death gratuity;
  - L. Allowance for recruiting expenses;
  - M. Travel and transportation allowances; and
  - N. Armed Forces Health Professions Scholarship Program monthly stipend.
410205. Disposable Earnings

Disposable earnings are a member's gross pay subject to garnishment less deductions for the following items, which are not subject to legal process:

A. Amounts withheld in payment of debts owed to the United States, except that an indebtedness based on a levy for income tax under 26 U.S.C. § [6331](#) will not be excluded in complying with legal process for the support of minor children if the legal process was entered prior to the date of the levy;

B. Regular Federal income tax withholding (FITW) and State income tax withholding (SITW):

1. When required or authorized by law; or
2. When amounts withheld are not greater than would be the case if the individual claimed all dependents to which he/she were entitled.

A deduction for additional FITW is authorized when the individual presents evidence of a tax obligation which supports the additional withholding;

C. Federal Insurance Contribution Act (FICA) tax;

- D. Armed Services Retirement Home;
- E. Servicemember's Group Life Insurance premiums;
- F. Retired Serviceman's Family Protection Plan premiums;
- G. Survivor Benefit Plan premiums;
- H. Thrift Savings Plan contributions; and
- I. Other amounts required by law to be deducted (e.g., fines and forfeitures ordered by a court-martial or a commanding officer).

410206. Maximum Amount of Pay Subject to Garnishment

Unless a lower maximum garnishment limitation is provided by applicable State or local law, the maximum part of disposable earnings for any pay period which is subject to legal process will not exceed:

- A. Fifty percent of disposable earnings if the member concerned asserts by affidavit or other acceptable evidence that he or she is providing over half of the support for a spouse or dependent child (other than a spouse or dependent child with respect to whose support the legal process is issued);
- B. Sixty percent if the member concerned is not supporting a spouse or dependent child; or
- C. If it appears from the face of the legal process that the member is in arrears for a period which is 12 weeks prior to the beginning of that pay period, then the maximum percentage under subparagraph 410206.A, is 55 percent and under subparagraph 410206.B, is 65 percent.

410207. Allotments to Be Discontinued

A. The following allotments are subject to legal process. When possible, allow the member to determine which allotments are to be stopped. If the member refuses or is unable to advise which allotment should be stopped to permit compliance with the legal process, then the allotments will be involuntarily stopped in the following order:

1. Combined Federal Campaign (CFC) - Charity Drive;
2. US Savings Bond;
3. Financial organizations;
4. [MGIB](#) contributions;

5. Repay loans to Service Relief Agencies and Red Cross;
6. Payment to dependents/relatives;
7. Emergency payment to dependents;
8. Repay home loans;
9. Insurance-commercial life, health, and dental insurance;
10. Navy-Mutual Aid Insurance; and
11. United States Government Insurance.

B. The allotments of pay for the repayment of indebtedness to the United States and repayment of delinquent federal taxes are not subject to legal process and should not be stopped.

410208. Agents Designated to Accept Legal Process

A. The Director, Garnishment Operations, or designated representatives, are responsible for receiving and processing all legal processes concerning active duty members and members of the RC not on active duty. Any legal process for the purpose of enforcing an obligation to pay child support and/or alimony served on Department of Defense (DoD) entities, other than those served in accordance with subparagraph 410208.B, will be forwarded to the following designated address for processing.

Director, Garnishment Operations  
DFAS Cleveland  
PO Box 998002  
Cleveland, OH 44199-8002

B. In the case of active duty members stationed in the Federal Republic of Germany, all legal processes issued by German courts are to be served in the manner prescribed by German law to the appropriate liaison agency listed for such members.

1. Army, Navy and Marine Corps  
Office of the Judge Advocate  
HQ USAREUR  
Postfach 42 02 24  
65103 Wiesbaden



2. Air Force  
HQ USAFE/JAIS  
Gegaude 527  
Ramstein-Flugplatz  
66877 Ramstein-Miesenbach

Legal processes issued by German courts, and received by the liaison agencies listed in paragraph 410208.B, will be reviewed to determine whether they comply with applicable German law. In addition, the liaison agencies will determine whether the member was served notice and certification of service issued in accordance with the provisions of Article 32(1)(a) of the German Supplementary Agreement in the prior German court proceeding which resulted in an order creating the member's obligation to pay child support or alimony. Once the appropriate liaison agency listed in paragraph 410208.B determines that legal process issued by a German court is legally sufficient and in compliance with the notice provisions of Article 32(1)(a), the legal process will be implemented or forwarded to the appropriate official designated in subparagraphs 410208.A for appropriate processing. The legal process terminates when the active member is no longer stationed in the Federal Republic of Germany, or if the liaison agencies receive a termination order.

#### 410209. Implementing Legal Process

Once a legal process has been served in the United States, the designated agent indicated in subparagraph 410208.A, will take, or initiate the following actions:

A. Review the legal process to determine whether it is regular on its face, appears to conform to the laws of the jurisdiction from which it was issued, was issued to enforce a member's legal obligation to provide child support and/or alimony, and contains sufficient information to accurately identify the member;

B. Notify the member within 15 calendar days after valid service of legal process. The written notification will explain the potential effect of the legal process on the member's pay, including allotments, and advise the member that the member has the burden of raising any available defenses, such as lack of personal jurisdiction or failure to comply with the Servicemembers Civil Relief Act, in the appropriate court. A copy of the legal process will be included with the written notice. The notice will be sent to the member's address of record in the military pay system. Where the designated agent has the capability to make notification through electronic means, such as E-mail, the notice will be made using those electronic means;

C. Within 30 calendar days of effective service, or such longer period as may be allowed by applicable State law:

1. Determine the amount of the member's disposable earnings;
2. Where required, file an answer to the legal process with the court in which the proceeding was brought and answer any interrogatories regarding the pay and

allowances due the member. The designated agent may use its standard answer form for this purpose; and

3. Pay the amount due pursuant to legal process. Governmental agencies, including DoD agencies, are not required to vary their pay or disbursing cycles to comply with legal process;

D. If the designated official is served with legal process concerning more than one legal obligation owed by the same member, then the legal obligations will be satisfied from the available funds in the following order of priority:

1. Legal process to enforce current support will have priority over legal process to enforce support arrearages;

2. Legal process to enforce current child support will have priority over legal process to enforce current alimony;

3. Legal process to enforce a child support and/or alimony obligation will have priority over involuntary allotments of pay to enforce commercial debts (see section 4105); and

4. If the legal process is to enforce more than one child support obligation, and there are not enough funds available to fully satisfy all legal processes served, then the available funds will be allocated among the obligations in proportion to the amounts of current child support due. All other obligations will be satisfied on a first-come, first-served basis; and

E. Where notice is received that the member has appealed either the legal process or the underlying alimony and/or child support order, payments of money subject to the legal process will be suspended (continue to be withheld), and will be retained by the Government until Defense Finance and Accounting Service (DFAS) is ordered by a court, or other authority, to resume payments or otherwise disburse the suspended amounts. Pending the outcome of the appeal, payments will comply with the applicable laws of the jurisdiction where the appeal is filed.

#### 410210. Indemnification

A. Neither the DoD, nor any officer or employee, will be liable for any payment made from moneys due from, or payable by, the DoD to any individual pursuant to legal process regular on its face, if such payment is made in accordance with 42 U.S.C. § 659, 5 CFR 581, and this section.

B. Neither the United States, nor any disbursing officer or any governmental entity, will be liable under this part to pay monetary damages for failure to comply with a legal process.

## 4103 STATUTORY ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT

## 410301. General

A. The processing of statutory allotments for child support and/or alimony from the pay of active duty military members is governed by 42 U.S.C. § [665](#) and 32 CFR [54](#). These authorities take precedence when in conflict with this section.

B. Upon proper notification from an authorized person, DFAS will start a statutory child or child and spousal support allotment from the pay and allowances of a member on extended active duty when the member has failed to make periodic payments, under a support order, in an amount equal to the support payable for 2 months or longer.

## 410302. Definitions

The following definitions apply to this section.

A. Authorized Person. Any agent or attorney of any state having in effect a plan approved under 42 U.S.C. § 651 et seq., who has the duty or authority to seek recovery of any amounts owed by a member as child or child and spousal support; and the court that has the 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 the child or children.

C. Designated Official. The designated official is the DFAS Site Director or designee authorized to receive and to process notices under this chapter. The DFAS designated official and address is:

Director, Garnishment Operations  
DFAS Cleveland  
PO Box 998002  
Cleveland, OH 44199-8002

D. Notice. A notice is 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 or 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 transfer 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.

410303. Disposable Earning

A. Include the following items in computing the disposable earnings for members assigned within the continental United States:

1. Basic pay (including Military Service academy cadet and midshipmen pay);
  2. Basic allowance for housing for members with dependents, and for members without dependents in the grade of E-7 or higher;
  3. Basic allowance for subsistence for commissioned and warrant officers;
  4. Career sea pay;
  5. Diving pay;
  6. Flying pay (all crew members);
  7. Proficiency pay or special duty assignment pay;
  8. Special pay for medical, dental, optometry, and veterinary officers;
- and
9. Submarine pay.

B. Include the following additional items in computing the disposable earnings for members assigned outside the continental United States:

1. Family [Separation Allowance - Restricted](#);
2. Hardship duty pay – location;
3. Special pay for duty subject to hostile fire and imminent danger (applies only to members permanently assigned in a designated area);
4. Special pay for overseas extensions;

5. Overseas housing allowance; and
6. Cost-of-living allowance.

C. After including the items in subparagraphs 410303.A and B, subtract the following items to compute the final disposable earnings value:

1. Amounts the member owes the United States;
2. Deductions for the Armed Forces Retirement Home;
3. Fines and forfeitures;
4. Federal and state employment and income taxes to the extent that the amount deducted is consistent with the member's tax liability;
5. Deductions for Servicemembers' Group Life Insurance;
6. Advances of pay the member received before the date the designated official received notice of the support allotment; (In computing future advance pay requests, deduct the amount of the allotment required by law. See Chapter 32, Table 32-1.)
7. Amount of salary offset for travel charge card debt; and
8. Other amounts required by law to be deducted.

410304. Notice to Designated Official

A. An authorized person will send to the designated official a signed notice that includes:

1. 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 established;
2. A certified copy of the support order. If the support order, on its face, appears to conform to the laws of the jurisdiction from which it was issued, then the designated official will not be required to ascertain whether the authority that issued the order had obtained personal jurisdiction over the member;
3. The amount of the monthly support payment. Such amount may include arrearages, if a support order specifies the payment of such arrearages. The notice will indicate how much of the amount payable will be applied toward liquidation of the arrearages;
4. A statement that delinquent support payments are more than 12 weeks in arrears, if appropriate;

5. The following information that identifies the member:
  - a. Full name;
  - b. Social security number; and
  - c. Military Service of the member;
6. The full name and address of the allottee. The allottee will be an authorized person, or designee, or the recipient named in the support order;
7. Any limitations on the duration of the support allotment; and
8. A certification that the official sending the notice is an authorized person.

B. The notice will be sent by mail or delivered in person to the designated official. The designated official will note the date and time of receipt on the notice.

C. The notice is effective when it is received in the office of the designated official.

#### 410305. Notice to Member and Member's Commanding Officer

A. Upon receipt of a notice of delinquent support payments, together with all required supplementary documents and information, the designated official will review the notice in order to identify the member from whom moneys are due and payable.

B. If the notice does not sufficiently identify the member, or if the member identified in the notice is not currently entitled to receive military pay, then the notice will be returned directly to the authorized person with an explanation of the reason for its return.

C. In cases where the designated official is able to identify the member, then as soon as possible, but not later than 15 calendar days after the date of receipt of the notice, the designated official will send to the member, at his or her duty station, a copy of the notice and other legal documentation served on the designated official, along with a letter informing the member of the following:

1. That notice has been received from an authorized person;
2. That the maximum limitations provided in 15 U.S.C. [§ 1673](#), "Restrictions on Garnishments" apply, and a request that the member submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;
3. That the member may submit supporting affidavits or other documentation as evidence that the information contained in the notice is in error;

4. 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;

5. 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;

6. That a consultation with a judge advocate or legal officer will be provided by the Military Department concerned, if possible, and that the member should immediately contact the nearest legal services office; and

7. The date that the allotment is scheduled to begin.

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

E. The member's commanding officer, or designee, will 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.

F. 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, then the designated official will consider the member's response. The designated official will return to the authorized person, without action, the notice for a statutory support allotment together with the member's affidavit and other documentation, if the member submits substantial proof of error, such as:

1. The support payments are not delinquent; or

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

#### 410306. Payments

A. The designated official will establish a statutory allotment in an amount necessary to comply with the support order and to liquidate arrearages, if provided by a support order by the first end-of-month payday after the designated official is notified that the member has consulted with a judge advocate or legal official, 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 notice to the member. However, the military pay offices will not be required to vary their normal pay and disbursement cycles to comply with notice under this section.

B. The maximum amount to be allotted under this section, together with any other moneys withheld for support from the member, will not exceed:

1. 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 will be sent to the authorized person, together with notification that the member's support claim will be honored. If the authorized person contests the support claim, then that person may refer the matter to the appropriate court or other authority for resolution;

2. 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; or

3. Regardless of the limitations in subparagraph 410306.B.1 and 2, an additional 5 percent of the member's disposable earnings will be withheld when the notice states that the total amount of the member's support payments is 12 or more weeks in arrears.

C. If several notices are sent with respect to the same member, then payments will be satisfied on a first-come, first-served basis within the amount limitations in subparagraph 410306.B.

D. Payment of statutory allotments will be enforced over other voluntary deductions and allotments when the member's gross pay and allowances are not sufficient to permit all authorized deductions and collections. The member will be allowed to choose which discretionary allotments to cancel. If the member refuses or is unable to advise which allotments to cancel, then voluntary allotments will be cancelled in the following order:

1. CFC allotment;
2. Savings Bond allotment;
3. Discretionary allotment payable to a financial organization for deposit to the member's account (includes allotments payable to a mutual fund or investment firm and allotments to pay for personal or car loans);
4. MGIB contributions;
5. Allotment to repay loans to Military Service relief agencies and the American Red Cross; and
6. Discretionary allotments in the following order:
  - a. Payments to dependents/relatives;
  - b. Emergency payment to dependents;



- c. Repayment of home loans and payment of rent;
- d. Commercial life, health, and dental insurance;
- e. Navy Mutual Aid Insurance; and
- f. United States Government Insurance.

E. The authorized person or allottee will 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 will 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.

F. A statutory allotment established under section 4103 will be adjusted or discontinued upon notice from the authorized person.

410307. Indemnification

Neither the DoD, nor any of its officers or employees, will be liable for any payment made from moneys due from, or payable by, the DoD to any individual pursuant to notice regular on its face, if such payment is made in accordance with 42 U.S.C. § 659, 32 C.F.R. Part 54, and this section.

4104 LEVY ON PAY AND ALLOWANCES FOR ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

410401. Authority

The Secretary of the Treasury, upon receiving the certification of the Secretary of Health and Human Services, will assess and collect the amount certified as unpaid child support in the same manner as if the amount were a delinquent federal tax, the collection of which would be jeopardized by delay. (See Chapter 44, paragraphs 440301 and 440304.)

410402. Satisfaction of Levy

When the Secretary of the Treasury issues a notice of levy, satisfy the levy in the manner prescribed in Chapter 44, paragraph 440304. However, in the case of a first assessment against an active duty, retired (including members of the Fleet Reserve and Marine Corps Fleet Reserve), or Reserve member for unpaid child support, satisfaction of the levy will be stayed for a period of 60 days immediately following notice and demand. If a portion of such member's pay is being withheld in garnishment or attachment pursuant to a judgment entered by a court of competent jurisdiction for the support of minor children, then the amount of pay withheld is exempt from the levy.

4105 INVOLUNTARY ALLOTMENT OF PAY FOR DEBT COLLECTION OTHER THAN CHILD OR SPOUSAL SUPPORT

\*410501. General

\* A. The processing of Involuntary Allotments of Pay for Debt Collection Other than Child or Spousal Support is governed by 5 U.S.C. § [5520a\(k\)](#), 32 CFR [112](#), and 32 CFR [113](#). These authorities take precedence when in conflict with this section.

B. Moneys due from, or payable by, the United States to an active duty member are subject to involuntary allotment to satisfy a judgment for a debt for other than child or spousal support owed to a third party and issued by a court of competent jurisdiction within any state, territory, or possession of the United States.

410502. Definitions

The following definitions apply to section 4105:

A. Designated Agent. The agent responsible for receiving and processing the involuntary allotment application for active duty members;

B. Active Duty Member. A regular member or any member of a RC 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 DFAS, excluding members in a prisoner of war or missing in action status and retired members;

C. Exigency 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; and

D. Final Judgment. A valid, enforceable order or decree, issued 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.

410503. References

The following source directives contain detail on entitlements, policies, and procedures for allotments for commercial debts:

A. Army: [Army Regulation 37-104-4](#), Military Pay and Allowances Policy and Procedures-Active Component;

B. Air Force: Air Force Instruction [36-2906](#), Personnel Personal Financial Responsibility; and

C. Marine Corps: Headquarters Marine Corps - Personnel & Readiness (Resources, Fiscal and Finance) [7220.31S](#), Automated Pay Systems Manual.

410504. Involuntary Allotment Application

A. Designated Agent. The designated agent is responsible for receiving and processing the involuntary allotment application concerning active duty members. The member may contact the designated agent at the following address:

Garnishment Operations  
DFAS Cleveland  
P.O. Box 998002  
Cleveland, OH 44199-8002  
Telephone 1-888-332-7411

B. Creditor's Application. The creditor initiates the Involuntary Allotment process by mailing a completed application package, which includes the original and three copies of the "Involuntary Allotment Application," Department of Defense (DD) Form [2653](#), and a certified copy of the final judgment to the designated agent named in subparagraph 410504.A. The imaging date of the documents is used as the date of service.

C. Review of Application

1. The designated agent will first identify the pertinent member, and determine whether the member has any funds available for the involuntary allotment. If the designated agent is unable to identify the member, then the designated agent will return the application package directly to the applicant with an explanation of the deficiency.

2. If the member does not have funds available, then the designated agent will stop any further legal processing, and notify the creditor in writing of the reason why no funds are available, and that the creditor must re-serve the involuntary allotment application at a later date. The reasons that no funds are available may include the following:

a. The member has separated from military service and is no longer receiving military pay;

b. Involuntary allotments are honored on a first-come, first-served basis. If the designated agent is already implementing a previously-served involuntary allotment against the member's pay, then no funds will be available until the previous involuntary allotment amount is satisfied; or

c. If the member's pay is subject to a previously-served garnishment or statutory allotment for spousal or child support, and the amount of the spousal or

child support deduction exceeds the maximum amount of pay subject to involuntary allotment (see subparagraph 410508.D.2), then no funds will be available for the involuntary allotment until the child support deduction is reduced to an amount that is less than the maximum amount of pay subject to involuntary allotment.

3. If the member has funds available for the involuntary allotment, then the designated agent will conduct a legal review of the application to ensure that it complies with the requirements of 32 CFR [112](#) and [113](#), to include compliance with the Servicemembers Civil Relief Act in the judicial proceeding resulting in the final judgment, and determining that the member's pay could be garnished under applicable state law.

4. When the designated agent receives an application package based upon a final judgment, which on its face, appears to conform to the laws of the jurisdiction from which it was issued, the designated agent will not be required to ascertain whether the court that issued the judgment had obtained personal jurisdiction over the member.

5. If the designated agent rejects the creditor's application after the legal review, then the designated agent will provide the creditor with a written notice of any deficiencies.

#### 410505. Notice to Member and Member's Commanding Officer

##### A. Notice Package

1. The designated agent will send a notification letter, along with a copy of the application package and a DD Form [2654](#), "Involuntary Allotment Notice and Processing," to the pertinent member, and two copies to the member's commanding officer, in care of the member's unit address of record in the military pay system.

2. The notice letter to the member and the member's commanding officer will state that the involuntary allotment will be established against the member's pay if a response is not received within 90 calendar days from the original date of mailing, unless the member has been granted an extension to respond (see subparagraph 410506.A.2).

3. The DD Form 2654 itself provides step-by-step instructions for completing the form and returning it to the designated agent. Paragraph 410506 is a summary of the response process.

B. Final Notification Letter. If the designated agent has not received a response to the Notice Package within 60 days of the date the package was mailed, then the designated agent will send a letter to the member and the member's commanding officer stating that if no response is received or request for extension granted within 90 calendar days from the original date the notice package was mailed, then the involuntary allotment will be established against the member's pay.

410506. Response by Member and Member's Commanding Officer to Notice of Involuntary Allotment

A. Commanding Officer's Initial Actions

1. Upon receipt of the notice and accompanying documentation, the commander will determine whether the member is assigned to the commander's unit and available to respond to the involuntary allotment application.

2. If the member is temporarily unavailable to respond, then the member's commanding officer may grant a reasonable extension of time for the member's response. The commanding officer will notify the designated agent, by completing Section II of DD Form 2654 and returning a copy of the form to the designated agent, that the member has been granted an extension of time to respond, the date the response is due, and the reason(s) for the extension. The commanding officer should provide appropriate documentation supporting the determination. In the absence of any additional correspondence from the member's commanding officer, the involuntary allotment application may be automatically processed within 15 calendar days after the date a response was due, including any approved extension response date.

3. If the member is available for counseling, within 5 days of receipt of the application package and DD Form 2654, then the commanding officer will notify the member of the application, provide the member with a copy of the entire application package, and counsel the member using and completing Section III of DD Form 2654. The commanding officer's counsel will include notifying the member that he or she has 15 calendar days from receipt of the commanding officer's notice to complete Section IV of DD Form 2654 and return it to the commanding officer.

B. Member's Response

1. After receiving the commanding officer's notification, the member completes Section IV of DD Form 2654. In Section IV, the member may acknowledge either that the applicant's judgment is valid and consent to the establishment of an involuntary allotment, or contest the involuntary allotment by asserting any of the following defenses, which the member must support with appropriate evidence:

a. That the member's rights under the Servicemembers Civil Relief Act were not complied with during the judicial proceeding upon which the application is based;

b. That exigencies of military duty caused the member's absence from appearance in a judicial proceeding forming the basis for the judgment upon which the application is sought;

c. That information contained in the application is false or erroneous in material part;

d. That the judgment has been fully satisfied, superseded, or set aside;

e. That the judgment has been materially amended, or partially satisfied; or

f. That there is a legal impediment to the establishment of the involuntary allotment. For example, the judgment debt has been discharged in bankruptcy, or the automatic stay of enforcement of debts applies because the member has filed for bankruptcy protection, or that the applicant is not the judgment creditor or a proper successor in interest to the creditor.

2. After completing Section IV, the member returns the DD Form 2654 to his or her commanding officer.

C. Commanding Officer's Completion and Return of DD Form 2654

1. The member's commanding officer completes Section V of DD Form 2654 and returns it to the designated agent, along with any supporting evidence provided by the member. In Section V, the commanding officer indicates one of the following:

a. The member refused to respond by the authorized suspense date, and the form is returned without Section IV being completed by the member; or

b. The member has completed Section IV, and the form is returned for appropriate action.

2. If the member has asserted an "exigencies of military duty" defense in Section IV of the DD Form 2654, then the commanding officer must determine whether the member has validly asserted this defense, and note his or her determination in Section V of the form.

3. If the commanding officer supports the member's "exigencies of military duty" defense, then the commanding officer must provide the title and address of an appeal authority in Section V in case the applicant wishes to appeal the commanding officer's determination. The appeal authority is the commander immediately superior to the commanding officer who made the determination. If the commanding officer does not designate an appeal authority, then the designated agent will return the DD Form 2654 to the commanding officer with instructions that this information must be provided in order to complete the form and support the member's "exigencies" defense.

410507. Review of Completed DD Form 2654 and Supporting Documentation

A. Member did not complete Section IV of DD Form 2654. If the member refused to complete Section IV of the DD Form 2654, then the designated agent will honor the

application and implement deductions against the member's pay to satisfy the judgment against the member.

B. Member completes Section IV of DD Form 2654

1. If the member completes Section IV of DD Form 2654 and has asserted the "exigencies" defense, and the member's commanding officer has confirmed the "exigencies" defense and provided an appeal authority in Section V of the form, then the designated agent will reject the involuntary allotment application, and provide the applicant with written notice advising the applicant of the following:

- a. The reason for rejecting the application;
- b. The name and address of the appeal authority;
- c. The applicant has 60 days from the date of the designated agent's notice to appeal the commanding officer's "exigencies" determination to the appeal authority;
- d. The appeal must be in writing and contain sufficient evidence to overcome the presumption that the commander's exigency determination was correct;
- e. The appeal authority will decide an appeal within 30 days of its receipt, and promptly notify the applicant of the decision. The 30-day decision period may be extended in times of deployment, war, national emergency or other similar situations;
- f. If the appeal is successful, then the applicant must submit a written request along with a copy of the appeal authority's decision to the designated agent within 15 days of receipt of the decision; and
- g. Upon receiving notice of the successful appeal, the designated agent will continue the review of the application package and DD Form 2654.

2. If the member has completed Section IV of the DD Form, and has not asserted the "exigencies" defense, or has asserted it but the member's commanding officer did not confirm it, or if the applicant has successfully appealed an "exigencies" determination, then the designated agent will determine whether the member has successfully asserted any other defenses against the involuntary allotment.

a. If the designated agent determines that the member has successfully asserted one or more defenses against the involuntary allotment application, then the designated agent will reject the application, and notify the applicant in writing of the reason(s) for the rejection.

b. If the designated agent determines that the member has not successfully asserted any defenses against the involuntary allotment, then the designated agent will implement deductions against the member's pay to satisfy the judgment against the member.

410508. Pay Subject to Involuntary Allotment

A. Types of Pay Subject to Involuntary Allotment. Only the following types of pay are subject to the involuntary allotment process:

1. Basic pay (excluding the reduction for education benefits under the MGIB;
2. Special pay, to include:
  - a. Health care professionals (Including optometrists, dental officers, psychologists, nonphysician health care providers, registered nurses, nurse anesthetists, nurse corps officers, and medical officers);
  - b. Veterinarians;
  - c. Diving duty;
  - d. Foreign duty;
  - e. Career sea pay;
  - f. Responsibility pay;
  - g. International military headquarters;
  - h. Proficiency pay and special duty assignment pay for enlisted members;
  - i. Reenlistment bonus;
  - j. Enlistment bonus;
  - k. Prior service enlistment bonus;
  - l. Hostile fire or imminent danger pay;
  - m. Nuclear-qualified officers extending period of active duty;
  - n. Nuclear-trained and qualified enlisted members;
  - o. Nuclear career accession bonus;



- locations;
- active duty;
- p. Nuclear career annual incentive bonus;
  - q. Enlisted members extending duty at designated overseas
  - r. Foreign language proficiency pay;
  - s. Officers in critical acquisition positions extending period of
  - t. Multi Year Special Pay;
  - u. Aviation Retention Bonus;
  - v. Continuation Pay for Engineering & Scientific Career; and
  - w. Selective Reenlistment Bonus;
- 3. Incentive pay, including:
    - a. Hazardous duty;
    - b. Aviation career; and
    - c. Submarine duty;
  - 4. Accrued leave payments (basic pay portion only);
  - 5. Readjustment pay; and
  - 6. Severance pay, including disability severance pay.

B. Pay and Allowances Not Subject to Involuntary Allotment. Separation pay, VSI and SSB are not subject to the involuntary allotment. In addition, allowances paid under U.S.C. Titles 10 and 37, and other reimbursements for expenses incurred in connection with duty in the Military Service or allowances in lieu thereof, are not subject to the involuntary allotment.

C. Other Amounts Not Subject to Involuntary Allotment. After computing the pay subject to involuntary allotment, the following items must be deducted to compute the amount of disposable pay subject to involuntary allotment:

- 1. Federal and state income tax withholding (amount is limited to that which is necessary to fulfill the member's tax liability);
- 2. FICA tax;

3. Armed Forces Retirement Home;
  4. Servicemember's Group Life Insurance;
  5. Indebtedness to the United States (including tax levies);
  6. Fines and forfeitures ordered by a court-martial or a commanding officer; and
7. Amounts otherwise required by law to be deducted from a member's pay (except payments for garnishments for child support, alimony or mandatory allotments for child or spousal support).

D. Maximum Amount of Pay Subject to Involuntary Allotment

1. The involuntary allotment will not exceed the lesser of 25 percent of a member's pay subject to involuntary allotment or the maximum percentage of pay subject to garnishment proceedings under the applicable state law.

2. If the member's pay is subject to a garnishment or statutory allotment for spousal or child support, in addition to the involuntary allotment application, then the combined amounts deducted from the member's pay will not exceed the lesser of 25 percent of a member's pay subject to involuntary allotment or the maximum percentage of pay subject to garnishment proceedings under the applicable state law. If the maximum percentage allowed for involuntary allotments would be exceeded by both deductions, then garnishments and statutory allotments for spousal and child support take priority over the involuntary allotment.

E. Voluntary Allotments to be Discontinued. Payment of an involuntary allotment will be enforced over other voluntary deductions and allotments when the member's net pay is not sufficient to permit all authorized deductions and collections. If necessary, voluntary allotments will be cancelled in the following order:

1. CFC;
2. Savings bonds;
3. Payment to a financial organization for deposit to the member's account (includes allotments payable to a mutual fund or investment firm and allotments to pay for personal or car loans);
4. MGIB Program contributions;
5. Repay loans to Military Service relief agencies and the American Red Cross; and

6. Discretionary allotments in the following order:
  - a. Payments to dependents/relatives;
  - b. Emergency payment to dependents;
  - c. Repayment of home loans and payment of rent;
  - d. Commercial life, health, and dental insurance;
  - e. Navy Mutual Aid Insurance; and
  - f. United States Government Insurance.

#### 410509. Starting Involuntary Allotment Payments

A. The designated agent will begin involuntary allotment payments within 30 days after the designated agent has approved the application package. The designated agent will not be required to vary the normal military pay and disbursement cycles to comply with the application package.

B. Payment of involuntary allotments will be enforced over other voluntary deductions and allotments when the member's net pay is not sufficient to permit all authorized deductions and collections. The member will be allowed to choose which discretionary allotments to cancel. If the member refuses or is unable to advise which allotments to cancel, then allotments will be cancelled in accordance with subparagraph 410508.E.

#### 410510. Stopping Involuntary Allotment Payments

A. Involuntary allotment payments will continue until the amount specified in the judgment is collected, including interest as annotated by the applicant in Section I of DD Form 2653, "Involuntary Allotment Application."

B. The designated agent will stop involuntary allotment payments prior to satisfying the judgment amount if one of the following conditions applies:

1. The member separates from active duty at which time the applicant will be informed that the allotment is discontinued because the member is no longer receiving military pay;

2. The applicant notifies the designated agent that the operative court order upon which the allotment is based has been vacated, modified, or set aside, or the designated agent is notified of an event affecting the applicant's eligibility to receive the allotment; or

3. The applicant requests that the involuntary allotment be discontinued.

C. The applicant will refund directly to the member any amounts overpaid within 30 days of discovery or notice of overpayment.

410511. Final Interest

A. Within 30 days following collection of the amount of the judgment, including interest annotated in Section I of the DD Form 2653, the applicant may submit one final statement showing any unpaid balance due to interest that accrued during the payment period.

B. The final statement must be accompanied by a statement of account showing how the remaining interest was calculated.

410512. Indemnification

Neither the DoD, nor any officer or employee thereof, will be liable for failure to make payment or for any payment made from monies due from, or payable by, the Military Services to any individual pursuant to an application package that is regular on its face, if such payment is made in accordance with this section and 32 CFR 112 and 113.

## \*BIBLIOGRAPHY

**CHAPTER 41: GARNISHMENTS AND OTHER INVOLUNTARY ALLOTMENTS****4102- GARNISHMENT OF PAY FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS**

410201	42 U.S.C. § 659 5 CFR 581
* 410204.I	5 CFR 581.104(h)(2)(i)
410205	26 U.S.C. § 6331
410209	5 CFR 581.302 5 CFR 581.305(f)
410210	42 U.S.C. § 659

**4103- STATUTORY ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT**

410301	42 U.S.C. § 665 32 CFR 54
410302	32 CFR 54.3
410303	32 CFR 54.6(b)
410305	15 U.S.C. § 1673 32 CFR 54.6
410307	42 U.S.C. § 659
410309.C.3	5 CFR 581.305(f)

**4104- LEVY ON PAY AND ALLOWANCES FOR ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS**

410401	26 U.S.C. § 6305
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**4105- INVOLUNTARY ALLOTMENT OF PAY FOR DEBT COLLECTION OTHER THAN CHILD AND OR SPOUSAL SUPPORT**

410501	5 U.S.C. § 5520a(k) 32 CFR 112 and 113
* 410508	32 CFR 113.3
410508.C.7	42 U.S.C. § 659 42 U.S.C. § 665