

Office of the Secretary of Defense

§ 54.6

§ 54.1 Purpose.

Under section 65 of title 42, United States Code, this part provides policy on statutorily required child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

§ 54.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and the Military Departments. The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Its provisions cover members of the Military Services on extended active duty. This does not include a member under a call or order to active duty for a period of less than 30 days.

§ 54.3 Definitions.

(a) *Authorized person.* Any agent or attorney of any State having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and the court that has 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 such a child or children.

(c) *Designated official.* The representative of the Military Service concerned who is authorized to receive and to process notices under this part. See § 54.6(f) for a listing of designated officials.

(d) *Notice.* 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 and 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.

§ 54.4 Policy.

The Department of Defense is obligated by 42 U.S.C. 665 to require child, or child and spousal, support allotments from the pay and allowances of a member who has failed to make periodic payments under a support order in a total amount equal to the support payable for 2 months or longer. The member's allotment shall be established by the Secretary of the Military Department concerned, or the Secretary's designee, provided all requirements of this part have been met.

§ 54.5 Responsibilities.

(a) The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall provide guidance, monitor compliance with this part, and have the authority to change or modify the procedures in § 54.6.

(b) The Secretaries of the Military Departments shall comply with this part.

§ 54.6 Procedures.

(a) *Notice to designated official.* (1) An authorized person shall send to the designated official of the member's Military Service a signed notice that includes:

(i) A statement that delinquent support payments equal or exceed the amount of support payable for 2