

SOLDIERS' RIGHTS, RESPONSIBILITIES, AND RESTRICTIONS**RIGHTS**

Soldiers have specific rights in regard to personal expression, legal assistance, and civil rights.

Freedom Of Expression

The right of all citizens to express their feelings freely and openly has only those limitations necessary to protect the rights of society. Soldiers have the same basic rights. These rights must, however, be consistent with good order and discipline and national security.

CORRESPONDING WITH A MEMBER OF CONGRESS

Soldiers may write or petition any member of Congress about a complaint. You should not interfere with or try to dissuade a soldier from exercising this right. UCMJ, Article 138 (Chapter 13), protects a soldier's right to complain and request correction of a grievance against his commander.

WRITING FOR PUBLICATION

Generally, soldiers may not write on the following topics without submitting their writing for prior review and approval by the appropriate headquarters:

- National government operations.
- Military matters.
- Foreign policy.

They may write letters to editors and similar articles that constitute personal opinion or knowledge without having them reviewed and approved, even if the topic involves military matters or foreign policy. (See AR 360-5, Chapter 4.) Soldiers may not do personal writing during duty hours or use Army facilities, personnel, or property. (See paragraph 2-4.)

Writing for underground newspapers is not illegal, but it is subject to the same restrictions as other forms of writing. Soldiers may publish these newspapers off post, on their own time, and with their own money. However, soldiers are subject to discipline if the newspaper contains material or words for which the soldier can be prosecuted under federal law.

DEMONSTRATING

Soldiers may participate in demonstrations if they do not-

- Do so during duty hours.
- Soldiers participating during duty hours may be considered AWOL.
- Do so while in uniform.
- Soldiers in uniform can give the appearance that the Army sponsors or approves of the demonstration.
- Do so while on post.
- Do so while in a foreign country.
- Create a breach of law and order such as blocking traffic or assaulting police.
- Do so when violence is likely to result. (See AR 600-20, paragraph 5-3.)

Soldiers who demonstrate in a manner prohibited by AR 600-20 may be subject to disciplinary action.

EXPRESSING OPINIONS ON POLITICAL SUBJECTS

Soldiers do not lose the right to express opinions on all political subjects and candidates. Soldiers may not, however, use "official authority or influence for the purpose of interfering with an election or affecting the course of its outcome" (DOD Directive 1344.10). Therefore, as a commander, you may not campaign among your subordinates for any political party or candidate or distribute any literature published by one.

VOTING

Soldiers retain the right to vote in local and national elections. They may register to vote at their legal or permanent residence. (See AR 60020.)

Some soldiers change their legal residence to the state where they are stationed. (However, by registering to vote where stationed, soldiers might incur local taxes. Any soldier considering registering in the local community should visit a legal assistance officer to discuss possible problems.) When duty requires them to be away, soldiers may vote by absentee ballot. The forms needed to get absentee ballots and other election materials are

generally available in the legal assistance office or from the unit voting officer.

ATTENDING POLITICAL MEETINGS

When not in uniform, soldiers may attend both partisan and nonpartisan political meetings or rallies as spectators. While soldiers may go to these rallies, they may not speak before a partisan political gathering of any kind to promote a partisan political party or candidate. The limitations on soldiers participating in public demonstrations also apply to participating in political meetings. That is, soldiers cannot do so when on duty, while in uniform, while on post, and so forth. Furthermore, soldiers may not attend partisan political events as representatives of the Army, even though they do not actively participate. (See AR 600-20, Appendix B.)

Soldiers may also join political clubs and attend meetings when not in uniform. However, they may not serve in any official capacity (for instance, as officers) or be sponsors of a partisan political club.

Legal Assistance

Through the legal assistance program, the Army provides free legal advice to soldiers and their family members. (See AR 27-3.) In some places, the Army is also operating a court representation program. This program permits legal assistance attorneys to represent soldiers before civilian courts. To qualify for this program, a soldier must be unable to afford civilian counsel. Check with your legal assistance office to find out if this expanded program is available locally.

You should learn to recognize legal problems affecting soldiers and encourage them to seek help from the legal assistance office. All problems, however, are not legal problems, and you must distinguish legal assistance difficulties from situations involving criminal, administrative, financial, and other matters. For example, the finance office handles pay problems, and the adjutant general's office answers promotion questions. Legal aid for military criminal matters, whether involving Article 15 or court-martial, is not part of the legal assistance

program but is provided by the US Army Trial Defense Service.

EMERGENCY SERVICES

Several emergency services are available for soldiers. The Army Emergency Relief (AER) office can provide interest-free loans and, in cases of extreme hardship, free cash grants to soldiers and their family members who are in financial distress.

The Red Cross provides services such as—

- Family and personal counseling.
- Emergency financial assistance.
- Referrals to agencies for help in employment matters, medical care, and children's welfare counseling.
- Emergency communication between soldiers and their families when conventional communication facilities are inadequate.

The Army Community Service Program further helps soldiers and their families by providing information, assistance. When a soldier discusses a problem with a dance in meeting personal and family problems.

Emergency leave and compassionate reassignments are available to soldiers when appropriate. Emergency leave and, in some cases, space-required transportation on military aircraft may be granted in cases of death of an immediate family member or other urgent personal problems. (See AR 630-5, Chapter 6.)

Family emergencies also may trigger a request for a compassionate reassignment. To qualify, a soldier must be able to prove that—

- An unusual problem exists that can be solved only by reassignment and not by leave or correspondence.
- The problem is solvable within a reasonable period (usually one year).
- The problem did not exist or was not foreseeable at the time the soldier last came on active duty.

AR 614-200, Chapter 3, provides other requirements for compassionate reassignment.

In the cases of both emergency leave and compassionate reassignment, the Red Cross can assist you in getting information about conditions at the soldier's home.

LEGAL ASSISTANCE OFFICE SERVICES

Most military installations have legal assistance offices staffed by attorneys who can provide three important services for the command. First, they assist soldiers and family members with personal legal problems. This helps ensure that soldiers are ready to perform their missions without distraction. Second, they form the core of the installation's preventive law program. They help soldiers learn to avoid problems, especially those regarding taxes, personal readiness, and consumer rights. Finally, legal assistance attorneys assist in readiness exercises, helping commanders evaluate their unit's deployment preparedness and developing plans for ensuring that soldiers' legal affairs are in order.

The chain of command and the legal assistance attorney form a team to help soldiers avoid problems, solve problems they cannot avoid, and maintain a high level of morale and readiness. The legal assistance attorney is a resource you can use to help individual soldiers, to present command information classes, and to consult with regarding soldiers' needs to arrange personal affairs to achieve deployment readiness.

When a soldier discusses a problem with a legal assistance attorney, they create an attorney-client relationship. The attorney cannot disclose information from those discussions without the soldier's consent unless extraordinary circumstances exist regarding future violations of criminal law.

The most common services available to soldiers and their family members from the legal assistance office are—

- Wills.
- Powers of attorney.
- Marriage.
- Immigration and naturalization.

Wills. To be valid, a will must comply with specific legal requirements. If a soldier dies without a will, the law of the state where he was domiciled at the time of death will determine who should take his property. The state of domicile is the state in which the soldier is a legal resident and is not necessarily the state where he resided. A will may also nominate guardians of minor children. In addition, a soldier can use a will to designate who should administer the estate. Legal assistance attorneys are available to help soldiers determine if a will should be prepared and to write wills for soldiers and family members.

Powers of attorney. Powers of attorney authorize one person to act on behalf of another. For example, a soldier's spouse may use the soldier's power of attorney to—

- Clear government quarters.
- Ship the family car.
- Cash the soldier's paycheck.

Special powers of attorney are designed to confer limited authority for a short period and do not pose great risk to the person granting the power. On the other hand, general powers of attorney allow the agent to transact any business on behalf of the soldier. They can be dangerous because they confer considerable power, and they are difficult to revoke.

Marriage. Legal assistance attorneys can also help guide clients on legal aspects of family issues. For nonlegal aspects, referral to a chaplain, a counselor, or an Army community services representative may be appropriate, and you should consider recommending that soldiers seek assistance from these sources.

When a marriage cannot be saved, however, legal assistance attorneys can provide guidance on obtaining a separation or divorce. In addition, they can help in paternity matters, adoptions, family support issues, and name changes.

Immigration and naturalization. US immigration and naturalization laws have special provisions for soldiers who are aliens to acquire

American citizenship, and AR 608-3 discusses them. An alien who has served honorably in the US armed forces can acquire US citizenship without satisfying the normal residence, physical presence, and waiting period requirements.

Commanders at all levels must ensure that all aliens on active duty are aware of this law and are offered help in applying for US citizenship. Legal assistance attorneys can help with problems such as—

- Alien registration.
- Reentry permits.
- Naturalization of a surviving spouse.
- Citizenship of children born abroad.
- Provisions to be made for alien fiances.

THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

Congress passed the Soldiers' and Sailors' Civil Relief Act (SSCRA) in 1940 to protect military members fighting in World War II. It permits members who are unable to appear in court due to their military duties to postpone proceedings until they can. To grant such a delay, many courts require the member must have made a diligent effort to appear and must request a delay for the shortest reasonable amount of time in order to obtain leave and be present. Although attending court proceedings is often quite difficult in time of war, it typically is not difficult to obtain leave to attend these proceedings during peacetime. Thus, courts may be reluctant to grant long delays, and they are unlikely to grant delays at all solely for the soldier's personal convenience.

The SSCRA can also provide some protection regarding loan interest rates and repayment of debts. However, this protection applies only if the debt arose before the soldier entered active duty and if the difference between his prior civilian income and his military pay has substantially harmed his financial position.

One of the most common misconceptions about the SSCRA is that it gives a soldier the right to end a lease any time he or she changes duty

stations. The SSCRA gives soldiers the right to terminate only those leases they signed before entering active duty. Even then, soldiers must take specific steps to end leases. When a soldier signs a lease after entry onto active duty, the specific provisions of the lease, and, in some cases, state law, will control whether and how the lease can be terminated. The SSCRA does not require that termination provisions be included in a lease; instead, the soldier must ensure an appropriate termination provision is in the lease. Therefore, soldiers should have a legal assistance attorney review their leases before they sign them.

Although the SSCRA does not excuse soldiers from paying rent, it does afford some relief if military service makes payment difficult. Soldiers threatened with eviction for failure to pay rent should see a legal assistance attorney.

Civil Rights

Congress has passed civil rights laws prohibiting discrimination against soldiers. One law grants all persons equal access to theaters, restaurants, motels, hotels, and similar facilities. Under this law, businesses cannot refuse to serve soldiers because of their race, color, religion, or national origin.

Other federal laws prohibit discrimination in the sale or rental of housing. These laws cover discrimination on the basis of race, color, religion, national origin, handicap, and sex. You should familiarize yourself and your soldiers with these laws.

PUBLIC ACCOMMODATIONS

The Civil Rights Act of 1964 outlaws discrimination in places of public accommodation. As defined in this statute, places of public accommodation include—

- Hotels.
- Motels.
- Other overnight lodging facilities.
- Restaurants.
- Cafeterias.

- Lunch counters.
- Snack bars.
- Movie theaters.
- Sports arenas.
- Other places of public entertainment.

The statute prohibits managers or owners of such businesses from discriminating on racial, religious, color, or ethnic grounds (42 USC 2000a). This statute does not prohibit sex discrimination, but such discrimination violates Army policy AR 600-20.

You must advise your soldiers of their rights under this statute and AR 600-20. You should also tell minority group soldiers that off-post businesses that can be categorized as places of public accommodation cannot legally discriminate against them. The legal assistance office and the appropriate equal opportunity office can counsel soldiers in this regard.

Soldiers may file complaints of discrimination with the appropriate equal opportunity advisor. Such complaints will be fully investigated. If they seem to be justified, the equal opportunity advisor will refer them to the appropriate Armed Forces Disciplinary Control Board according to AR 190-24. This board will consider imposing an off-limits sanction against the offending business. Installation commanders will use the procedures in AR 19024 for imposing off-limits sanctions.

FAIR HOUSING

The Civil Rights Act of 1968, as amended, bans discrimination in the sale or rental of homes on the basis of race, color, religion, national origin, handicap, or sex. Since 1988, the Fair Housing Act has forbidden housing discrimination against families with children. This law applies to soldiers who live off post as much as it does to other citizens, and the Army has assumed responsibility for helping soldiers exercise these rights.

You should ensure that your soldiers understand that discrimination in the sale or rental of housing is illegal and that the Army is available to help whenever their rights are violated. The

attorney general of the United States and the Department of Housing and Urban Development have the responsibility to assist soldiers whose rights under this act have been violated. Each installation must have a local office where soldiers may file complaints of housing discrimination. The Army will investigate the complaints and forward them, if appropriate, to the attorney general or the Department of Housing and Urban Development for action.

Complaints will also be acted on within the Army in accordance with AR 210-50. When discrimination is confirmed, the installation commander must impose restrictive sanctions on the housing involved for at least 180 days.

You should become familiar with AR 210-50 and make sure your soldiers know that the installation housing referral office will help in cases of discrimination off post. If you keep yourself and your soldiers informed and display genuine concern for off-post housing problems, you will be able to prevent unrest and promote the Army policy of equal opportunity in off-post housing. You should also inform your troops of the Army policy forbidding soldiers to rent quarters that are under restrictive sanctions (AR 210-50).

EQUAL OPPORTUNITY

AR 600-20 establishes Army policy as providing equal opportunity and treatment for soldiers regardless of race, color, sex, religion, age, or national origin. Commanders at all levels must be personally, directly, and continuously involved in correcting discrimination and ensuring equal opportunity for all soldiers.

You can minimize discrimination within your command only if you emphasize this policy. Soldiers with all backgrounds must realize that you will not tolerate discrimination. In addition, you should inform your soldiers of the Army's policy to help them exercise their guaranteed rights. You should encourage them to discuss freely any grievances involving any type of discrimination. You should make every effort to counsel soldiers and direct them to a person or

office on post that can help resolve their problems, for example—

- The office of the inspector general.
- The housing referral office.
- The equal opportunity office.

As the number of women in the armed forces has increased, so has sexual harassment. Sexual harassment is a form of discrimination and is prohibited. It ranges from seemingly innocent-but unwelcome and offensive-sexual jokes to threats of adverse action by superiors unless subordinates submit to sexual advances. Soldiers and civilian employees who engage in or condone sexual harassment are subject to administrative discipline. Soldiers are also subject to punishment under the UCMJ. Sexual harassment often results in lawsuits. Victims of sexual harassment frequently sue superiors who know of a problem and fail to correct or prevent it.

You must be constantly alert for discrimination in any form and take immediate action to stop it. You must also realize that soldiers always have the right to file complaints when they feel they are victims of discrimination. You should make sure that all soldiers know of their right to complain and also know that they cannot be disciplined for exercising that right. Only when soldiers know that they have the right to make their grievances known without fear of reprisal is unit harmony possible.

You are also responsible for training your unit in the policies and activities supporting equal opportunity. You should ensure that soldiers are familiar with racial, ethnic, cultural, and gender-related differences so that they can appreciate these differences as positive aspects of American life. Although minimum equal-opportunity training in the unit is specified by major commands, active involvement of all unit members as participants in unit equal-opportunity sessions should be your goal.

Soldiers who believe that they are being discriminated against may file complaints at any time against the offices or soldiers who have

treated them unfairly. They may file complaints through normal command channels or directly to the local inspector general. They may also follow the procedures in UCMJ, Article 138, when appropriate. When you receive a complaint, you should get all the facts and take corrective measures immediately.

RESPONSIBILITIES

In addition to the rights discussed above, soldiers also have many responsibilities, including paying taxes and registering their motor vehicles.

Paying Taxes

INCOME TAXES

Soldiers, like everyone else, must file a federal income tax return every year. Those serving overseas on 15 April receive an automatic extension to 15 June. They will have to pay interest, however, on any amount not paid by April 15.

Several provisions in the tax code offer favorable treatment for soldiers. For example, most taxpayers have two years from the sale of a home to buy and occupy a new home to escape tax liability. Soldiers serving on active duty, however, are allowed up to four years after the sale of a home in which to buy and occupy a new one, and soldiers serving overseas may have up to eight years. No tax will be due on the gain from the sale of a home if a soldier meets these time limitations. Soldiers also do not have to meet the usual rules for claiming a deduction for moving expenses. Most taxpayers must meet a length-of-employment test and move a certain distance from an old job to a new job. Soldiers may, however, deduct all unreimbursed moving expenses as long as they incurred them in a permanent change of station (PCS).

Soldiers must include bonuses, base pay, and special pay on their federal income tax returns. They may exclude from their taxable income—

- Basic allowance for quarters (BAQ).
- Subsistence allowances.

- Uniform allowances.
- Several special items of compensation.

A special provision of the tax code may also preclude taxation of pay that enlisted soldiers receive while serving in a combat zone. Commissioned officers may exclude up to \$500 per month. Soldiers may receive help in preparing their federal income tax returns from unit tax assistants (UTAs).

A soldier must comply with the income tax laws of his or her home state, or state of domicile. Regardless of whether the home state taxes the soldier's income, the soldier need not pay taxes on military pay to the duty state, or state of station, if it is different from the home state. Soldiers must, however, pay taxes on nonmilitary income to both the home state and the state in which they earn the income. A soldier's nonmilitary spouse may have to pay income taxes to both the home state and the duty state.

PERSONAL PROPERTY TAXES

A soldier must pay personal property taxes on his or her solely owned property only to the home state. Property that the soldier and his or her spouse jointly own may be fully taxed by both the home state and the duty state; however, many states grant credit for personal property taxes paid to other states. A nonmilitary spouse's solely owned property can be taxed only in the state where it is located. Real property is taxed by the state in which the property is located, regardless of whether the owner is a soldier or a civilian.

Registering Motor Vehicles

Soldiers who have registered or licensed solely owned motor vehicles in their home states need not register the vehicles in their duty states. A soldier cannot avoid, however, registering in the duty state based on registration in a third state that is neither the home state nor the duty state. Soldiers may be required to comply with the safety inspection and emission control laws of the state where the car is registered, the state in which the car is located, or both.

RESTRICTIONS

In addition to rights and responsibilities, soldiers are limited by specific restrictions on their activities.

Soliciting

Soldiers must observe the following restrictions in regard to sales and other monetary solicitations.

SELLING TO SOLDIERS ON POST

All solicitors who sell goods, commodities, or services on post must have the installation commander's permission. Before granting approval, the commander determines if the solicitors work for reputable companies and if they or their companies have made any fraudulent or deceptive sales. The commander does not recommend the product or service; he simply allows solicitors to sell to those interested.

Once on post, solicitors must follow the guidelines in AR 210—7 and local directives. These regulations outline when and where they can solicit. They cannot visit soldiers in basic training or on duty; they must contact soldiers on an individual basis and by appointment only; and they may not solicit mass or captive audiences.

You should control solicitation of young, inexperienced soldiers in low pay grades and encourage soldiers to seek legal advice before making substantial loan or credit commitments. You should also ensure that soldiers know when the goods being sold are available in the PX, library, or craft shop.

Since the privilege of soliciting on post can be revoked because of improper conductor violation of Army regulations, any incidents or disreputable trade practices should be reported, through channels, to the installation commander for appropriate action.

SELLING TO OTHER SOLDIERS

Soldiers on active duty may not engage in personal commercial solicitation and sales to other soldiers who are junior in pay grade. (See AR 600-50, paragraph 2-lj.) This applies to activities on or off post, in or out of uniform, and on or off duty. Soldiers may not solicit or sell life or

automobile insurance, stocks, mutual funds, real estate, or any other goods, commodities, or services to other soldiers who are junior in pay grade or to anyone on an installation. (See AR 210-10, paragraph 5-5.)

A soldier may, however, sell personal property or a privately owned dwelling. Although a soldier may sell something to a subordinate on a onetime, personal basis, a superior should consider the wisdom of doing so. Such sales can lead to hard feelings and may diminish the quality of leadership.

SOLICITING GIFTS

Soldiers may not ask for contributions from other DOD personnel to buy a gift for a superior. Nor may they accept gifts from DOD subordinates. (See AR 600-50, paragraph 2-3.) However, a soldier may give a gift of nominal value or collect voluntary, minimal donations for such a gift for special occasions such as marriage, reassignment, retirement, or illness. (See AR 600-50, paragraph 2-3.)

Gifts of nominal value are sentimental and not to exceed \$200. Examples of such gifts include plaques, trophies, pen and pencil sets, or other items of remembrance. These gift restrictions also apply to solicitations on behalf of a superior's family members.

Working During Off-Duty Hours

Off-duty employment is allowed if it does not—

- Interfere with official duties. For example, a soldier who works late at a civilian job and reports for duty so tired that he cannot perform well has a job that interferes with official duty. In such a case, you may order the soldier to quit the off-duty job.
- Bring discredit upon the Army, for example, moonlighting for a disreputable business.
- Violate basic ethical considerations.

(See AR 600-50, paragraph 2-6a.)

Soldiers may not accept work for a civilian employer involved in a strike. However, soldiers

already on the payroll before the strike begins may generally continue if such employment otherwise conforms with the provisions of AR 600-50. During a strike, soldiers may not accept employment at the strike's location.

Soldiers must obtain your written permission to work for nonappropriated fund activities on the installation. Commissioned and warrant officers may work off-duty for nonappropriated fund activities on the installation only when such work is done on a fee basis and does not involve an employer-employee relationship. Acceptable activities include officiating at sports events and conducting educational, religious, recreational, or entertainment activities.

Political Campaigning

Soldiers may generally take no active part in partisan political management, any phase of campaigns, or conventions. Nor may they solicit contributions, canvass for votes, write political articles, or perform any duties for a partisan political committee. (See AR 600-20, Appendix B.)

While soldiers may not take part in organized political campaigns, they may contribute in other ways. They may make financial contributions to a political party or committee as long as they do not contribute to another soldier or federal employee. They may sign petitions for issues or candidates provided they do so as individuals and not as members of the Army. Soldiers may also display political stickers, but not large political banners or signs, on their private automobiles. (See AR 600-20, Appendix B.)

Holding Office

Soldiers may not campaign as partisan candidates for nomination or as partisan nominees for civil office. However, the installation commander may permit a soldier on active duty for training who is serving on active duty for less than 30 days to file for nomination or candidacy as required by law. The filing must not interfere with the soldier's official military duties. However, the soldier may not become a nonpartisan candidate for any full-time civil office while

servicing an initial tour of extended active duty or other obligated tour.

A reserve officer or enlisted soldier elected to a full-time civil office or to any civil office as a partisan candidate may be separated from the service unless serving an initial tour of extended

active duty or other obligated tour. (See AR 600-20, paragraph 5-3). A soldier may serve in a local part-time nonpartisan civil office, such as chairman of a parent-teacher association, provided the job does not interfere with military duties, and he has prior approval from the installation commander.
