

Ask the Lawyer: Marital Separation and Support

By Sharon J. Ackah, JD, MPH
Legal Assistance Attorney, USMA

When “unto death do us part” fails and the termination of a marriage seems the inevitable next step, you must realize that divorce will legally dissolve your marriage but will oftentimes fail to immediately end your financial obligations to your estranged spouse.

Are you contemplating separating from your spouse while initiating divorce proceedings? If so, you should determine whether you are subject to Army Regulation (AR) 608-99, as your support obligation may begin earlier than you anticipate.

Being familiar with the applicable Army Regulations may help you protect your rights and take care of your responsibilities.

Separation & Separation Agreements

When marriages breakdown, some couples consider living separate and apart from each other. Many states actually require a separation period before a divorce can be filed.

If the parties do decide to separate and can come to an understanding around divorce-related issues, a separation agreement should be considered.

A separation agreement is essentially a contract between spouses where both parties agree on things such as living arrangements, child custody and visitation, child support, spousal maintenance or alimony, division of property and payment of outstanding debts.

In New York, the separation agreement becomes legally binding when signed by both parties and notarized.

Unfortunately, if you cannot locate your spouse, or if you are not on speaking terms with your spouse, a separation agreement is unlikely simply because you and your spouse must be able to agree to the terms of a separation agreement.

Support Obligations

In keeping with the Army values, Soldiers are expected to manage their personal affairs with repute. Accordingly, Soldiers are expected to provide adequate financial support to family members unless and until a court issues an order otherwise. This obligation is found in Army Regulation 608-99.

Army Regulation 608-99

AR 608-99 requires that a military member provide support for their dependents, current spouse included, even if the parties are separated

and/or an action for divorce is pending. Exceptions apply for dual military service members.

The Soldier’s commanding officer is the enforcing authority and can take adverse action against a Soldier for not meeting the outlined support obligations.

A commander will usually take action to enforce the regulation when one spouse makes an allegation of “non-support.”

Under specific circumstances, a Battalion Commander may release a Soldier from certain family support requirements. If you believe you have a circumstance warranting release, consult a Legal Assistance Attorney for guidance.

A valid separation agreement or a court order will supersede the support requirements of AR 608-99.

Separation Agreements

Under AR 608-99, if the parties agree on the amount of support to be paid, and a valid written separation agreement reflects the arrangement, it is binding.

Support payments will be based on the agreement and not the pro-rate share calculation specified in AR 608-99.

Court Ordered Support

A divorce court may also award spousal support or maintenance. The award is usually terminated either at a specific date set by the court, when one party dies, or when the person receiving the support remarries.

In determining the amount of maintenance, the court can consider several factors including the length of the marriage; the education, age and health of the spouses; their ability to work; the income of each spouse; where the children will live; and the standard of living during the marriage.

If you have children, child support is also likely. Child support is financial support that the non-custodial parent will provide to the custodial parent for the maintenance of the children.

The court will determine an appropriate child support payment using the state’s child support calculation guidelines, your income, your spouse’s income and the number of children to be supported.

Generally, payment of court ordered maintenance begins following the divorce proceeding.

However, a court may also award temporary maintenance while the divorce is pending if a party asks the court, usually by filing a motion.

Making Support Payments

Failure to meet your support obligation can carry devastating consequences. Therefore, it is critical that you maintain very good financial records.

It is advisable to make payments in a manner that is traceable, such as checks, allotment or electronic funds transfer.

Payments for various expenses of the supported party, such as rent or mortgage, can count toward your obligation.

You should document every payment made to ensure you are abiding by any court orders or support agreement and so that you can prove you are doing what you are supposed to be doing.

If you have questions regarding separation or family support requirements, contact the West Point Legal Assistance Office at 845-938-4541.

Our offices are located in Bldgs. 606 and 626.

Find us and “Like Us” on Facebook at <https://www.facebook.com/USMALegalAssistance>.

USMA Graduates Haver, Griest are first females to earn Ranger Tabs

Staff Reports

Much of the history we teach was made by people we taught ...

On Aug. 21, Capt. Kristen Griest, USMA Class of 2011, and 1st Lt. Shaye Haver, USMA Class of 2012, became the first female graduates of Ranger School at Fort Benning, Georgia.

“I speak for the entire West Point Garrison and Community when I say that we’re very proud of Capt. Griest and 1st Lt. Haver on graduating from Ranger School,” U.S. Military Academy Superintendent Lt. Gen. Robert L. Caslen Jr., said. “Throughout our history, West Point graduates have been trailblazers throughout our Army and beyond, and our female graduates are certainly no exception. Capt. Griest and 1st Lt. Haver epitomize the resiliency and mental toughness—attributes that we develop at West Point—required to succeed as U.S. Army Rangers.”

Ranger School instills the Ranger Creed’s values of not quitting, teamwork, flexibility and leadership through difficult standards based training. Ranger School is the Army’s premier small unit tactics and leadership school and falls under the Airborne and Ranger Training Brigade, the Maneuver Center of Excellence and the Training and Doctrine Command. Students who meet the standards of the course earn the Ranger Tab and serve in a variety of units across the Army.

Griest, from Orange, Connecticut, and Haver, from Copperas Cove, Texas, graduated along with 94 men Aug. 21.

“I couldn’t be more proud and humbled by the experience,” Haver said.

Ranger School is 62 days from start to finish, unless you are recycled during one of the three phases: Benning, Mountain and Swamp. Statistics show from the U.S. Army Maneuver Center of Excellence website that from FY10-14, 42 percent of those who attended the Ranger School graduated and 34 percent of those who graduated recycled at least one phase.

Griest admitted that she felt some added pressure as a female Soldier to succeed, but felt much encouragement from several of her peers that helped her look toward the future.

“I was thinking of future generations of women,” Griest said, “so I had that pressure on myself.”

They both started the course in April, each having failed two previous attempts. However, out of the 19 women who began the program, Griest and Haver were the only ones to finish.

(Editor’s note: The story above was a compilation of three different sources, including the West Point Facebook site.)



Capt. Kristen Griest



1st Lt. Shaye Haver

POINTER VIEW

The Army civilian enterprise newspaper, the Pointer View, is an authorized publication for members of the Department of Defense. Contents of the Pointer View are not necessarily the official views of, or endorsed by, the U.S. Government, the Department of the Army or West Point.

The Pointer View © is an unofficial publication authorized by AR 360-1. The editorial content of the Pointer View is the responsibility of the West Point Public Affairs Office, Bldg. 600, West Point, New York 10996, (845) 938-2015.

The Pointer View is printed weekly by the Times Herald-Record, a private firm in no way connected with the Department of the Army, under exclusive contract with West Point. The Times Herald-Record is responsible for all commercial advertising.

Printed weekly by the

TIMES HERALD-RECORD

40 Mulberry Street, Middletown, NY 10940

To subscribe to the Pointer View or if you have delivery problems, call 845-346-3214.

Lt. Gen. Robert L. Caslen, Jr.
Superintendent
Lt. Col. Christopher G. Kasker
Public Affairs Officer

Eric S. Bartel
PV Managing Editor, 938-2015
Kathy Eastwood
PV Staff Writer, 938-3684

The appearance of advertising in this publication, including inserts or supplements, does not constitute endorsement of the products or services advertised by the U.S. Army or the Times Herald-Record.

Everything advertised in this publication shall be made available for purchase, use, or patronage without regard to race, color, religion, sex, national origin, age, marital status, physical handicap, political affiliation, or any other nonmerit factor of the purchaser, user, or patron.

A confirmed violation or rejection of this policy of equal opportunity by an advertiser will result in the refusal to print advertising from that source.

UNITED STATES MILITARY ACADEMY
WEST POINT