

RELIGION

Referral of Complaint – Basic Allowance for Subsistence (BAS) “To Mess Separately”

The issue presented concerns the rights of an enlisted member, a practicing Muslim who is subject to dietary restrictions that are applicable to all members of that faith, to request approval to receive BAS under authority “to mess separately.”

DoD 7000.14-R, *Department of Defense Financial Management Regulation (DoD FMR)*, Vol 2 provides guidance to the Services on how to budget for subsistence of enlisted personnel when they are authorized to mess separately. Volume 2, however, does not provide guidance as to when separate messing is appropriate. DoD FMR Vol 7A, para 250205, subparagraph B refers to AFMAN 65-116, Vol 2, Chapter 6 Section 6b, for Air Force-specific guidance related to Enlisted BAS. AFMAN 65-116, Vol 2, *Defense Joint Military Pay System (DJMS) Unit Procedures Excluding FSO*, para 6.8.8.1, states that enlisted members may receive BAS without meal deductions only when they are not furnished government meals or when granted permission to mess separately. AFMAN 65-116, Vol 2, explains that members should complete and submit AF Form 220, *Request, Authorization, and Pay Order Basic Allowance for Subsistence (BAS)*, to request authority/approval from the commander to receive the full amount of authorized BAS, i.e., mess separately.

DoDI 1300.17, *Accommodation of Religious Practices Within the Military Services*, Enclosure, Procedures, para 4.b, provides, “Religious beliefs shall be included as a factor for consideration when granting separate rations.” DoDI 1300.17, 4.b, Policy, provides: “In accordance with section 533(a)(1) of Public Law 112-239, as amended, unless it would have an adverse impact on military readiness, unit cohesion and good order and discipline, the Military Departments will accommodate individuals expressions of sincerely held beliefs (conscious, moral principles, or religious beliefs) of Service members in accordance with the policies and procedures in this instruction. This does not preclude disciplinary or administrative action for conduct by a Service member requesting religious accommodations that is proscribed by Chapter 47 of Title 10, the Uniform Code of Military Justice, including actions and speech that threaten good order and discipline.” Para 4.e. provides this clear DoD Policy: “Requests for religious accommodation will be resolved in a timely manner and will be approved when accommodation would not adversely affect mission accomplishment, including military readiness, unit cohesion, good order, discipline, health and safety, or any other military requirement.”

Accordingly, it is our opinion that requests for approval for separate rations (full BAS) based on religious beliefs is clearly established as a basis for consideration for approval by the installation commander or other appropriate approval authority. Compliance with DoD policy would appear to result in approval for most of these requests unless it can somehow be determined that approval would adversely affect mission accomplishment, readiness and unit cohesion.

It is for the commander/approval authority concerned to exercise sound judgment and consider all of the facts and circumstances presented before making a decision to approve or disapprove requests of this nature. As in most cases of this nature, consultation with the installation legal office is recommend before the commander/approval authority takes action regarding questionable cases.

OpJAGAF 2015/10 30 September 2015

This opinion supersedes OpJAGAF 2000/1, 4 January 2000.