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Law

FAMILY MEMBER MISCONDUCT PROGRAM

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This instruction implements Air Force Policy Directive 51-10, *Making Military Personnel, Employees, and Dependents Available to Civilian Authorities*. It establishes policies and procedures governing instances of family member misconduct for Spangdahlem Air Base and all its geographically separated units, (including government leased housing located in Speicher, Binsfeld, Herforst and the Eifel West housing area including the French Casern). These aforementioned locations are hereafter referred to as "The Spangdahlem Community". The 52d Mission Support Group Commander (52 MSG/CC) is responsible for ensuring administration of this program. This instruction applies to all Department of Defense (DoD) or affiliated personnel assigned to, attached to, employed by, or under the supervision or control of any organization in the Spangdahlem Community and their family members. This includes those family members eligible to attend Department of Defense Dependent Schools (DoDDS), regardless of their sponsor's affiliation with the DoD. The Family Member Misconduct Program is designed to assist the wing in redirecting family member misconduct, providing appropriate rehabilitative services, and modifying inappropriate behavior for the good of the military community, the organization, the sponsor and family, and the individual. The intent of the Family Member Misconduct Program is to provide an opportunity to rehabilitate family members and divert their energies away from self-destructive, inappropriate activities. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with (IAW) Air Force Manual 37-123, *Management of Records*, and disposed of IAW the Air Force Records Disposition Schedule.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed.

The term *dependent* in the title block and explanation of terms has been changed to reflect *family member*. The definition of a *dependent* has been clarified to distinguish from a *minor dependent*. Referral for Education and Development Intervention Services counseling has been added as a potential administrative

sanction. Other obvious revisions reflect the name change of 52d Support Group (52 SPTG) to 52d Mission Support Group (52 MSG), and the addition of the 52 MSG School Liaison Office (52 MSG/CCL).

1. General: 789

1.1. IAW the Status of Forces Agreement (SOFA), host-nation authorities have criminal jurisdiction over family members. United States authorities have administrative jurisdiction over all family members. Family member misconduct can adversely affect host-nation relations, the family, and the entire military community.

1.2. Policies and procedures governing cases of family member misconduct are necessary to maintain a high quality of life and an acceptable standard of behavior within the Spangdahlem Community. The objectives of rehabilitation and deterrence are to determine the underlying reason for the misconduct, to examine the reason in context of the misconduct, to promote personal acceptance of responsibilities and consequences for actions, and to deter or preclude future misconduct through behavior modification. Documentation of past rehabilitative efforts and the effectiveness of such efforts are vital. Cases of family member misconduct will be dealt with by the 52 MSG Deputy Commander (52 MSG/CD). Repeat and serious offenders may be referred for a Family Member Misconduct Review Hearing as determined by the 52 MSG/CD. When the misconduct is such that the family member becomes an embarrassment to the United States government or a threat to the community, the 52 MSG/CC can recommend early return of dependent (ERD) to the Continental United States and barment from the installation.

2. Explanation of Terms:

2.1. Family Member. Any person whose presence in Germany, in the Spangdahlem Community, or in United States government owned or leased housing is under sponsorship of an individual employed by, affiliated with, or receiving education from the DoD, or otherwise qualified as a family member or legal dependent under the SOFA and applicable implementing agreements.

2.2. Dependent. Any person 18 years and older as defined in paragraph 2.1.

2.3. Minor Dependent. Any person under the age of 18 years as defined in paragraph 2.1.

2.4. Family Member Misconduct. Any behavior that: (a) is contrary to the good order and discipline of the military installation and community, and/or (b) violates host nation laws, DoD instructions, installation directives or policies, or DoDDS instructions and policies. Although dependents are not subject to actions under the Uniform Code of Military Justice, the 52 MSG/CD will consult the Office of the Staff Judge Advocate and determine whether the misconduct is contrary to the good order and discipline of the military installation and community.

2.5. Sponsor. Any person who is assigned to, attached to, employed by, or under the supervision or control of any organization in the Spangdahlem Community. This includes those dependents eligible to attend DoDDS regardless of their sponsor's affiliation with the DoD.

2.6. Barment/Suspended Barment. Prohibit or restrict an individual's physical presence on a military installation or areas under the jurisdiction of such installation (e.g. United States government owned or leased family housing, etc.). Barment is one of the most serious sanctions since it can deny an individual's access to all non-medical activities on an installation. This includes, but is not limited to, the commissary, Army and Air Force Exchange Services (AAFES), Services activities, and DoDDS.

2.7. Family Member Misconduct Review Hearing. A panel (which may consist of one individual) convened at the direction of the 52 MSG/CD to examine matters pertaining to allegations or instances of dependent misconduct. The hearing is administrative in nature, and does not preclude any legal action or prosecution by host nation authorities or disciplinary action by DoDDS. The purpose of the hearing is to determine whether an act of misconduct has occurred based upon presentation of facts and a preponderance of evidence. The hearing panel also recommends rehabilitative and corrective actions. Hearing panel recommendations can include, but are not limited to, revocation or suspension of logistic support privileges, restitution, rehabilitative counseling, community service, barment from the military installation, or recommendation for early return of dependents. The Family Member Misconduct Review Hearing panel will consist of a military lawyer designated by the Installation Staff Judge Advocate and any additional members designated by the 52 MSG/CD.

2.8. Community Service. A supervised work detail designed to benefit the community completed by a minor dependent as a result of misconduct. The work detail may be supervised by the sponsor of the concerned minor dependent, the 52d Security Forces Squadron Base Support Manager (52 SFS/BSM), or someone tasked by the 52 SFS/BSM office.

3. Responsibilities:

3.1. Mission Support Group Commander. The 52 MSG/CC maintains overall responsibility for authorizing administrative sanctions, as necessary, to maintain good order and discipline in the community, based upon recommendations from the 52 MSG/CD, unit commander, Family Member Misconduct Review Hearing or the Base Support Manager. The 52 MSG/CC has delegated the 52 MSG/CD as the point of contact for handling less serious cases of dependent misconduct, allowing for the 52 MSG/CC to act as the appellate authority. On more serious cases involving drugs or violent offenses, the 52 MSG/CC may act as the magistrate with the 52d Fighter Wing Commander (52 FW/CC) as the appellate authority.

3.2. 52 MSG/CD. Acts as advisor to the 52 MSG/CC on all cases involving dependent misconduct, imposes community service or other administrative sanctions to minor dependents, and issues letters of concern to dependents.

3.3. 52 SFS/BSM. Keeps the 52 MSG/CC and 52 MSG/CD informed of family member misconduct-related incidents on a daily basis. Provides guidance and advises all unit commanders on matters concerning administrative actions against family members for serious or chronic misconduct. Prepares case files and background information for dissemination to the Family Member Misconduct Review panel members and follows case until disposition is complete. Monitors attendance records of community service and schedules work details under the community service program.

3.4. Sponsors. Sponsors are accountable for the actions of their dependents, and will provide guidance and ensure appropriate behavior of family members. Sponsors must know the location and activities of minor dependents to ensure appropriate supervision, safety, and wellbeing. Sponsors must also ensure family members know and understand the established standards of conduct in the Spangdahlem community. Sponsors will cooperate with base authorities, DoDDS administrators and faculty, and host-nation officials to maintain the highest possible quality of life in the military community. They will participate in rehabilitative treatment programs and comply with administrative sanctions, as directed.

3.5. Commanders:

3.5.1. The sponsor's commander will be notified of instances of family member misconduct as well as action taken in response to that misconduct through the appropriate first sergeant. Early involvement and co-operation of the sponsor's immediate commander, first sergeant, and supervisor are essential in order to ensure each case is resolved as soon as possible.

3.5.2. Instances where the military sponsor does not respond adequately to his/her family member's misconduct, which fact may become part of the commander's assessment of the individual/case.

3.6. 52d Security Forces. 52 SFS Reports and Analysis (52 SFS/SFAR) will provide 52 SFS/BSM with copies of all family member misconduct cases, Demographic History Reports and prior cases involving dependents. 52 SFS/SFAR will maintain the original signed copies of all family member misconduct resulting in barment or suspended barment actions. They will also maintain all original cases related to family member misconduct.

3.7. DoDDS Officials. The Director, DoDDS-Germany, and other school officials have primary responsibility to deal with routine disciplinary problems that arise at or relate to school or school activities, to include school bus discipline. DoDDS school officials may refer cases of repeated misconduct to 52 SFS/BSM for community service. The 52 SFS/BSM and/or DoDDS officials will coordinate with 52 MSG/CCL, on matters concerning serious infractions or student discipline appeals.

4. Administrative Sanctions:

4.1. German authorities have exclusive criminal jurisdiction over family members and other civilian personnel. The 52 FW/CC, 52 MSG/CC, or 52 MSG/CD may impose a number of administrative sanctions in cases of dependent misconduct.

4.2. When selecting appropriate administrative sanctions, the following principles will apply:

4.2.1. Misconduct should be evaluated in terms of the individual's prior record, the seriousness of the misconduct, the presence or absence of parental guidance and discipline, the availability of community agencies to support any corrective action, and sanctions used in like cases.

4.2.2. The selected sanctions should bear some relationship to the misconduct. For example, a privately owned vehicle (POV) operator's license may be suspended or revoked for misconduct involving the use of a motor vehicle. Such a sanction should ordinarily not be used for abuse of an AAFES privilege, unless the use of the POV is related to that violation.

4.3. The following are examples of administrative sanctions. The list is not all-inclusive and any number of sanctions may be used in any case.

4.3.1. The sponsor may be counseled about the conduct of his or her family member.

4.3.2. A letter may be issued by the 52 MSG/CC or 52 MSG/CD to the family member's sponsor, requiring that the sponsor reply in writing through his/her commander informing them of the steps taken to preclude future misconduct.

4.3.3. A curfew may be imposed on the family member for a specified period of time.

4.3.4. A minor dependent may be required to perform community service where as a family member may receive a letter of concern.

4.3.5. The family member may be denied permission to use various base facilities; e.g., Brick House, Collocated Club, Recreation Center, Youth Activities, gym, bowling alley, base exchange, commissary, etc.

4.3.6. The family member's POV license may be suspended or revoked or the family member may be declared ineligible for a license.

4.3.7. The family members may be required to receive an evaluation by Family Advocacy, Education and Development Intervention Services, Adolescent Substance Abuse Counseling Service, or any other base agency designated by the 52 FW/CC, 52 MSG/CC or 52 MSG/CD. Should a family members choose not to participate in counseling sessions, they may subject themselves to more serious administrative actions.

4.3.8. A minor dependent may be referred for a Family Member Misconduct Review Hearing. This hearing will review the case and make a recommendation to the 52 MSG/CC or the 52 MSG/CD.

4.3.9. A minor dependent's movements on the installation may be restricted to only when accompanied by a his or her parent or sponsor.

4.3.10. A family member may be barred from the installation. This is normally reserved for serious or repeat misconduct.

4.3.11. Measures pertaining to returning dependents to the continental United States include:

4.3.11.1. The sponsor can be encouraged to request early return of his/her dependents to the continental United States. This action will be taken when the family member's presence in Germany is prejudicial to good order and discipline or is embarrassing to the United States government. The early return will be considered to be in the best interests of the United States government.

4.3.11.2. Requests for curtailment of the sponsor's overseas tour may be made when the sponsor does not cooperate to make expeditious arrangements for early return of dependents. Justification includes, but is not limited to, the failure of rehabilitative measures or unusual hardship on the family through separation of one or more of its members from the sponsor. Such action will be considered to be in the best interest of the United States government.

4.3.11.3. If there has been a violation of host-nation law, host-nation authorities must agree to the ERD of a concerned family member prior to any action being initiated by the military. Coordination will be effected through the 52 FW Staff Judge Advocate (52 FW/SJA).

5. Procedures:

5.1. Serious family member misconduct incidents will normally be reported to the applicable law enforcement agencies. School, transportation, or youth activities officials may handle minor incidents. In any case the 52 FW/BSM should be contacted to verify if any prior incidents are on file.

5.2. Upon completion of investigation by a law enforcement agency, the agency will forward a written report to the 52 SFS/BSM who will forward recommendations to 52 MSG/CD for action. The 52 MSG/CD will determine the action to be taken. In cases involving serious or frequent misconduct, the 52 FW/CC, 52 MSG/CC, or 52 MSG/CD may recommend a Family Member Misconduct Review Hearing be convened to review the case and make recommendations.

5.3. Whenever an administrative sanction is imposed on a family member, the sponsor's immediate commander or first sergeant will be notified, as well as other officials or agencies necessary to make the sanctions effective.

6. Appeal:

6.1. The sponsor and family member may appeal an imposed administrative sanction to the 52 MSG/CC.

6.2. Upon receipt of an appeal, the 52 MSG/CC may direct such additional investigation as considered appropriate, or affirm, modify, suspend, or revoke any administrative sanction that has been imposed, with or without further hearing. In situations where the final approval authority is the 52 FW/CC, the 52 MSG/CC will forward recommendations through the 52 FW/SJA to affirm, modify, suspend, or revoke any administrative sanction.

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Commander