

**Practice Note:**  
***Family Care Plans in a People First Army***  
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*Transitioning to a People First Army requires a different view on Family Care Plans. The Army Family Care Plan should help support Soldiers with their household responsibilities while conducting their daily operations with their units.<sup>1</sup>*

***Introduction***

All too often Family Care Plans (FCPs) are an afterthought, hastily pushed through to meet a deadline. In a “People First” Army, leaders must embrace FCPs as an opportunity to converse with their Soldiers and build trust as leaders support their troops in taking care of what matters most—their Families.<sup>2</sup> FCPs may cause concern for some Soldiers as failure to maintain an FCP can serve as grounds for separation.<sup>3</sup> However, commanders have the power to reframe this document so that Soldiers and units can appreciate it for what it is – a way to ensure the best possible care for dependents when Soldiers are unavailable due to mission requirements. This practice note aims to help commanders and their Judge Advocates (JAs) appreciate the FCP as a communication and planning tool that can reinforce the “People First” initiative at the lowest levels.

***Purpose***

Per regulation, the purpose of the Family Care Plan is “to ensure Family members are properly and adequately cared for when a Soldier is deployed, on TDY, or otherwise not available due to military requirements.”<sup>4</sup> Army Directive (AD) 2022-06 elaborates further, stating that “FCPs support the commander’s ability to oversee mission, readiness, and deployability. These plans consider the unique challenges faced by Regular Army (RA) and Reserve Component (RC) Soldiers who are single parents or in dual-military Service member relationships.”<sup>5</sup> Thus, at the outset FCPs are identified as a commander’s tool, but one that

acknowledges the effect of family structure on the Service member's quick-response capability.

### ***Potential Issues***

As a commander's tool, the FCP allows the commander to plan around Soldier limitations and provides the Soldier peace of mind to concentrate on work. But this is only the case when the FCP is used properly. Because there are a lot of nuances involved, it is easy for FCPs to be mismanaged at the lower level, resulting in disgruntled Soldiers. As leaders in a "People First" Army, leaders should seek to use FCPs as an opportunity to open lines of communication with their troops instead of treating FCPs as another check-the-block requirement. Below are potential areas of confusion that commanders and their JAs should be aware of.

### ***Activation for Short-Term Duties***

Per AD 2022-06, commanders cannot require Soldiers to utilize their long-term guardianship provisions in order for them to fill routine, short-term military duties that occur outside of normal duty hours (ex. charge of quarters or staff duty.)<sup>6</sup> If a Soldier with a FCP must fill a duty requirement that is either outside of duty hours or a significant change to their duty hours, then the commander should provide three weeks advance notice. Otherwise, the commander will be unable to take adverse action against the Soldier for any resulting disobedience.<sup>7</sup>

This does not mean that FCP Soldiers can never perform their share of after-hours duties. It simply means that the command must plan the Soldier's participation at least three weeks in advance to give the Soldier adequate time to arrange for childcare. And if, for whatever reason, the Soldier's short-term guardianship provisions fall through (e.g., local

babysitter, family friend, etc.), the Soldier cannot be forced to utilize their long-term guardianship provisions (e.g., send dependents to live with grandmother) to meet any short-term, unforeseen, or routine military duties requiring the Soldier to schedule childcare.

### ***Activation for Long-Term Duties***

#### *Training and Similar Duties*

Per AD 2022-06, commanders cannot require Soldiers to activate their long-term guardianship provisions without first providing *at least six weeks written notice*.<sup>8</sup> This requirement applies to circumstances such as “routine TDY, school attendance, multi-day exercises, or similar duty that involves *travel or extended periods of absence from the home outside of normal duty hours*.”<sup>9</sup> So, for example, a commander cannot require a Soldier from Fort Belvoir, Virginia to attend the Sabalauski Air Assault School at Fort Campbell, Kentucky without six weeks written notice, if attendance would require the Soldier to activate the long-term guardianship provisions of their FCP. However, a Soldier stationed at Fort Campbell could be required to attend Air Assault School without six weeks’ notice, assuming that the hours of school attendance do not vary significantly from their normal duty hours.<sup>10</sup>

#### *Emergencies and Activation of Forces*

The six weeks written notice requirement does not apply when the Soldier is called upon for “military operations or missions assigned because of national emergency or activation of forces on prepare to deploy orders or similar orders.”<sup>11</sup> This can be the case for Soldiers assigned to immediate response forces and crisis response forces as well. Commanders and Soldiers assigned to these rapidly deployable forces should take extra care in routinely certifying and maintaining their FCPs as required by the regulation.<sup>12</sup>

### ***Unforeseen Parenting Requirements***

In cases where the Soldier's normal childcare plans fall through (e.g., child illness, unscheduled daycare closure, etc.), AD 2022-06 encourages commanders to allow their Soldiers "maximum flexibility to personally attend to short-term, unforeseen parenting requirements, even when doing so would interfere with military duties."<sup>13</sup> This policy, consistent with the "People First" initiative, recognizes the limited benefit of military childcare – namely, the reality of limited capacity and staffing shortages which fail to meet the increasing demand for childcare.<sup>14</sup> The directive even prohibits commanders from charging Soldiers ordinary leave when the Soldier is staying local to care for their children and "training and operational requirements allow the Soldier's absence."<sup>15</sup> Judge advocates can support this initiative, when necessary, by reminding their commanders that the policy in this area is intentionally permissive in an effort to retain our Soldiers and the Families that support them.

### ***Elderly and Disabled Dependents***

Sometimes, Army Families include not only dependent children, but dependent adults as well. While the majority of language surrounding FCPs involves minor dependent children, FCPs broadly apply to dependents "unable to care for themselves in the absence of the Soldier."<sup>16</sup> While the need for adult care may not be as ubiquitous as the need for childcare, it should be taken every bit as seriously. Given the regulation's clear indications that FCPs apply equally to childcare emergencies and to adults "unable to care for themselves in the absence of the Soldier," JAs should be prepared to advise their commanders accordingly to avoid allegations of discrimination.

## ***Separation***

While commanders are encouraged to work with Soldiers to the maximum extent possible, it is ultimately the Soldier's responsibility to implement their FCP and ensure their Family is taken care of. If a Soldier's FCP is patently unworkable, and their parental or adult caretaking obligations interfere with their military duties, then the regulation requires the commander to counsel the Soldiers on voluntary and involuntary separation procedures.<sup>17</sup>

Before initiating involuntary separation, AD 2022-06 requires commanders to provide Soldiers the opportunity to overcome any deficiencies in their FCP after the Soldier has been "adequately counseled."<sup>18</sup> This includes considering counseling options, rehabilitative options, and even intra-post transfers before initiating separation.<sup>19</sup> Therefore, JAs should remind their commanders that while the regulation's mandatory counseling provisions may seem onerous, it is in the best interests of the Soldier and the Army to counsel Soldiers in accordance with the provided timelines so the command has all options available if separation becomes mandatory.

## ***Conclusion***

Taking care of our Soldiers and the Families that support them is increasingly important in a "People First" Army, where the Army aims to retain Soldiers by retaining their Families. Commanders should not underestimate the critical role they play in their routine interactions, to include implementation of FCP policies and procedures. JAs must be prepared to assist and educate their commanders in this endeavor.

Appendix A – Situations Triggering the FCP Requirement<sup>20</sup>

<b>Description</b>	<b>Complications</b>
Pregnant Soldier	<p>Who:</p> <ul style="list-style-type: none"> <li>(a) has no spouse;</li> <li>(b) is divorced, widowed, or separated;</li> <li>(c) is not residing with their spouse; or</li> <li>(d) is married to another RA or USAR Service member of any Service</li> </ul>
Unmarried Soldier / Soldier Residing Apart from Spouse	<p>With either:</p> <ul style="list-style-type: none"> <li>(a) full or joint custody + physical custody Family member under 18; or</li> <li>(b) adult Family member incapable of self-care regardless of age</li> </ul>
Divorced Soldier with Visitation Rights	<p>Visitation rights must be by a court decree that allows Family members to be solely in the member's care in excess of 30 consecutive days</p>
Soldier with Spouse Incapable of Self-Care	<p>Spouse must be incapable of self-care or otherwise physically, mentally, or emotionally disabled as to require special care or assistance</p>
Dual-Military Soldier with Dependents	<p>Soldier must be half of a dual-military couple of the RA or USAR of any Service with either:</p> <ul style="list-style-type: none"> <li>(a) full or joint legal custody of a Family member under 19; or</li> <li>(b) an adult Family member incapable of self-care regardless of age.</li> </ul>

Appendix B – Required Forms<sup>21</sup>

Form Name	Description
*DA Form 5304	Family Care Plan Counseling Checklist
DA Form 5305	Family Care Plan
DA Form 5841 (or equivalent delegation of legal control)	Power of Attorney
DA Form 5840	Certificate of Acceptance as Guardian or Escort
DD Form 1172-2	Application for Identification Card/DEERS Enrollment for each Family member
DD Form 2558 (or other proof of financial support arrangements)	Authorization to Start, Stop, or Change an Allotment (for active duty or retired personnel, unsigned until deployment)
Letter of Instruction to the guardian/escort	Provides the guardian/escort with detailed instructions for the care of the entrusted Family member(s).
DA Form 7666	Parental Consent, if appropriate (Required only as necessary to provide evidence of consent to the FCP from all parties with a legal interest in the custody of the child)

**\*Note on DA Form 5304:** While not a required document, DA Form 5304 helpfully breaks down the regulation into a checklist that alerts Soldiers and Commanders to the requirements that may apply to their unique Family situations. By definition, the FCP is a comprehensive document that includes “the legal, medical, logistical, educational, monetary, and religious arrangements for care of the servicemember’s dependent Family members.”<sup>22</sup> Each of these arrangements has specific regulatory requirements designed to ensure their adequate provision.

Appendix C – Command Responsibilities

<b>Responsibility</b>	<b>Trigger</b>
Conduct or arrange for FCP counseling and require an FCP be completed, regardless of rank <sup>23</sup>	When any of the conditions in AR 600-20, para. 5-3b. apply (as outlined in Appendix A of this practice note); para. 5-3f. provides additional counseling requirements for pregnant Soldiers, who must be counseled as soon as pregnancy is identified but NLT 90 days before their due date using DA Form 5304.
Approve DA Form 5305 <sup>24</sup>	This responsibility cannot be delegated. Commander should disapprove DA Form 5305 if it does not include the required attachments unless extenuating circumstances exist.  Soldier is considered nondeployable until a FCP is validated and approved.
Ensure all required documents are in order <sup>25</sup>	Commander must be satisfied that the FCP meets requirements and appears to be workable and durable.
Counsel Soldiers (regardless of rank) on voluntary and involuntary separation <sup>26</sup>	Whenever parenthood interferes with military responsibilities.  Consider initiating a bar to reenlistment against Soldiers who fail to properly manage Family affairs or fail to provide or maintain adequate FCPs.
Identify those members whose FCP may be at risk for failure <sup>27</sup>	The commander or authorized representative will use DA Form 7667 (Family Care Plan Preliminary Screening) for such identification.
Test the validity and durability of the FCP <sup>28</sup>	Prior to final approval or recertification. Testing must include contacting the designated guardian(s) prior to final approval or recertification.
Review copies of all child custody orders or marital separation agreements currently in effect <sup>29</sup>	As applicable to ensure the FCP is not inconsistent with any applicable legal documents.
Ensure parental consent has been obtained pursuant to DA Form 7666 <sup>30</sup>	As applicable or, in the alternative, ensure prof of notice and/or reasonable efforts have been made to obtain consent to the FCP from all parties having a legal interest in the custody and care of the minor child.
Authorize leave IAW AR 600-8-10 for deployed Soldier <sup>31</sup>	When appropriate, a commander may authorize leave for a deployed Soldier to return home when circumstances beyond the Soldier’s control preclude the designated guardian from exercising responsibilities.



**Note:** Upon assumption of command, the commander should codify their FCP policy in writing and designate a representative<sup>32</sup> to conduct counseling and maintain accountability of those in the formation requiring an FCP.

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<sup>1</sup> Robert Perez, The Army Family Care Plan: What Leaders Should Know, LEADERSHIP BROWN BAG <https://leadershipbrownbag.com/the-army-family-care-plan-what-leaders-should-know/> (3 October 2021).

<sup>2</sup> See, Gen. James C. McConville, People First: Insights from the Army’s Chief of Staff, U.S. ARMY, [https://www.army.mil/article/243026/people\\_first\\_insights\\_from\\_the\\_armys\\_chief\\_of\\_staff](https://www.army.mil/article/243026/people_first_insights_from_the_armys_chief_of_staff) (16 February 2021).

<sup>3</sup> AR 600-20, para. 5-3.d.- 5-3.e.

<sup>4</sup> *Id.*, para. 5-3.a.(1)

<sup>5</sup> A U.S. DEP’T OF ARMY, DIR. 2022-06, PARENTHOOD, PREGNANCY, AND POSTPARTUM para. 4.i. (19 Apr. 2022) [hereinafter AD 2022-06].

<sup>6</sup> *Id.*, para. 4.i.(1).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, para. 4.i.(2). [Emphasis added.]

<sup>9</sup> *Id.* [Emphasis added.]

<sup>10</sup> See, *id.*, para. 4.i.(1). The command would still be required to provide three weeks’ notice to allow the Soldier to make short-term childcare plans for the events occurring outside of normal duty hours, such as the qualifying twelve-mile ruck march that begins prior to PT hours. *Id.*

<sup>11</sup> *Id.*, para. 4.i.(2).

<sup>12</sup> AR 600-20, para. 5-3.g.(7).

<sup>13</sup> AD 2022-06, para. 4.i.(3).

<sup>14</sup> Maj. Erin Williams, Caring for Children and Retaining Families: The Gaps in Military Childcare, MODERN WAR INSTITUTE, <https://mwi.westpoint.edu/caring-for-children-and-retaining-families-the-gaps-in-military-child-care/> (26 May 2022).

<sup>15</sup> AD 2022-06, para. 4.i.(3).

<sup>16</sup> AR 600-20, para. 5-3.a.(1).

<sup>17</sup> *Id.*, para. 5-3.d.-5-3.e.

<sup>18</sup> AD 2022-06, para. 4.i.(4).

<sup>19</sup> *Id.*

<sup>20</sup> AR 600-20, para. 5-3.b.

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<sup>21</sup> *Id.*, para. 5-3.a.(2)- 5-3.a.(3).

<sup>22</sup> AD 2022-06, Enclosure 2: Definitions, citing DoD Instruction 1243.19. [Emphasis added.]

<sup>23</sup> AR 600-20, para. 5-3.b.

<sup>24</sup> *Id.*, para. 5-3.g.(2).

<sup>25</sup> *Id.*, para. 5-3.g.(4).

<sup>26</sup> *Id.*, para. 5-3.d.- 5-3.e.

<sup>27</sup> *Id.*, para. 5-3.g.(1).

<sup>28</sup> *Id.*, para. 5-3.g.(7).

<sup>29</sup> *Id.*, para. 5-3.g.(14).

<sup>30</sup> *Id.*, para. 5-3.g.(15).

<sup>31</sup> *Id.*, para. 5-3.g.(10).

<sup>32</sup> *Id.*, para. 5-3.g.(1).