response after the due date identified in Section I of DD Form 2654, the commander must immediately notify the designated DFAS official of the delay, the date for an expected response, and the reason for the delay by completing Section II of DD Form 2654 and forwarding a copy of Sections I and II to DFAS). Additionally, that requests for extensions of time based on the need for legal assistance shall be denied to members who fail to exercise due diligence in seeking such assistance.

(G) That if the member contests the involuntary allotment on the grounds that exigencies of military duty caused the absence of the member from the judicial proceeding at which the judgment was rendered, then the member's commander shall review and make the final determination on this contention, and notify the designated DFAS official of the commander's decision by completing Section V of DD Form 2654 and forwarding the form to DFAS.

(1) In determining whether exigencies of military duty caused the absence of the member, the commander at the level designated by the Service concerned shall consider the definition of "exigencies of military duty" (as defined in 32 CFR part 112.3(d)).

(2) Additionally, consideration shall be given to whether the commander at the time determined the military duties in question to be of such paramount importance that they prevented making the member available to attend the judicial proceedings, or rendered the member unable to timely respond to process, motions, pleadings, or orders of the court.

(H) That if the member contests the involuntary allotment on any basis other than exigencies of military duty, the application package and DD Form 2654 shall be returned to the commander who shall forward it to the designated DFAS official for appropriate action.

(I) That if the member fails to respond to the commander within the time allowed under § 113.6(b)(2)(iii)(B), the commander shall notify the designated DFAS official of the member's failure to respond by completing Section V of DD Form 2654, and forwarding the form to DFAS.

(iv) After counseling the member in accordance with $\S 113.6(b)(2)(iii)(A)-(I)$, the commander shall:

(A) Date and sign Section III of DD Form 2654.

(B) Obtain the member's acknowledgment of counseling by having the member sign the appropriate space on Section III of DD Form 2654.

(C) Determine if the member consents to the involuntary allotment or needs

the time authorized under this part to review the application package and take appropriate action. If the member consents to the involuntary allotment, the commander shall direct the member to appropriately complete Section IV of DD Form 2654. The commander must then complete the appropriate item in Section V and promptly forward the completed DD Form 2654 to the designated DFAS official.

(D) Complete the appropriate items in Section V of DD Form 2654 when the member fails to respond within the time authorized for a response, or asserts that exigencies of military duty caused the absence of the member from an appearance in the judicial proceeding upon which the Involuntary Allotment Application is sought.

(1) In determining whether exigencies of military duty caused the absence of the member, the commander, at the level designated by the Service concerned, shall consider the definition of "exigencies of military duty" (as defined in 32 CFR part 112.3(d)), the evidence provided by the member, any other reasonably available evidence (e.g., a copy of the member's personnel record), and whether the commander at the time determined the military duties in question to be of such paramount importance that they prevented making the member available to attend the judicial proceedings, or rendered the member unable to timely respond to process, motions, pleadings, or orders of the court.

(2) The evidentiary standard for a commander to determine whether existences of military duty caused the absence of the member from an appearance in the judicial proceeding upon which the Involuntary Allotment Application is sought is a "preponderance of the evidence" (as defined in § 113.3(d) of this part).

(3) If the commander has made a determination on exigencies of military duty, the commander must insert in Section V of DD Form 2654, the title and address of the appeal authority.

(E) Promptly following the date the member's response is due to the commander as determined by § 113.6(b)(2)(iii)(B), ensure that the DD Form 2654 is appropriately completed and mail the form, along with any response received from the member, to DFAS.

(F) Provide the member a copy of the completed DD Form 2654 within 5 days of mailing to the designated DFAS official.

(v) Upon receipt of DD Form 2654 and any additional evidence submitted by the member, the designated DFAS official shall conduct a review of the entire application package, DD Form 2654, and any evidence submitted by the member, to determine whether the application for an involuntary allotment should be approved and established.

(A) In those cases where the member's commander has completed Section V of DD Form 2654, and determined that exigencies of military duty caused the absence of the member from an appearance in a judicial proceeding upon which the involuntary allotment application is sought, the designated DFAS official shall deny the involuntary allotment application and provide the applicant written notice of the denial and the reason therefor. The designated DFAS official shall also advise the applicant that:

(1) The responsibility for determining whether exigencies of military duty existed belonged to the member's commander and the Military Department concerned.

(2) The commander's decision may be appealed within 60 days of the date DFAS mailed the notice of the decision to the applicant.

(3) An Appeal must be submitted to the appeal authority at the address provided by DFAS (as found in Section V of the DD Form 2654) in their written notice of denial, and that an appeal submitted to an appeal authority and address different from the one provided by DFAS may be returned without action.

(4) An appeal must be submitted in writing and contain sufficient evidence to overcome the presumption that the commander's exigency determination was correct.

(5) The appellate authority shall decide an appeal within 30 days of its receipt and promptly notify the applicant in writing of the decision. The 30 day decision period may be extended during times of deployment, war, national emergency, or other similar situations.

(6) If an appeal is successful, the applicant must submit a written request, along with a copy of the appellate authority's decision, to DFAS within 15 days of receipt of the appellate authority's decision.

(B) Upon receiving written notice that an applicant has successfully appealed a commander's determination on exigencies of military duty that resulted in denial of an involuntary allotment application, DFAS shall review the application in accordance with § 113.6(b)(2)(v)(C), and determine whether the involuntary allotment should be approved and initiated.

(C) In all cases, other than as described in $\S113.6(b)(2)(v)(A)$, the designated DFAS official shall deny an