

## CHAPTER 2

LEAVES OF ABSENCE FOR MILITARY DUTY  
FOR AND BY MEMBERS OF THE  
NATIONAL GUARD

## Authority

N.J.S.A. 38A:3-6(a) and (o); 38A:4-4(a) and (b).

## Source and Effective Date

R.1990 d.309, effective May 17, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 2, Leaves of Absence for Military Duty for and by Members of the National Guard, expires on May 17, 1995.

## Chapter Historical Note

Chapter 2, Leaves of Absence for Military Duty for and by Members of the National Guard, was originally adopted as R.1985 d.242, effective May 20, 1985. See: 17 N.J.R. 646(a), 17 N.J.R. 1267(a). Pursuant to Executive Order No. 66(1978), Chapter 2 was readopted as R.1990 d.309, effective May 17, 1990. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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OF MILITARY AND VETERAN'S AFFAIRS FORM  
33)

## SUBCHAPTER 1. GENERAL PROVISIONS

## 5A:2-1.1 Scope

This chapter is applicable to members of the New Jersey National Guard only.

Amended by R.1990 d.309, effective June 18, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).  
Specified "New Jersey" National Guard.

## 5A:2-1.2 Purpose

(a) The State of New Jersey is committed to the accomplishment of the Federal mission of furnishing trained National Guard units and individuals as an integral part of the first line of defense of this Nation in accordance with Federal and State law.

(b) The purpose of this chapter is to establish policies and procedures to implement the provisions of N.J.S.A. 38A:1-1 *et seq.* governing the issuance of orders and the granting of leaves of absence for military duty for employees of the private sector and public officials and employees, including those of the State of New Jersey, and of any county, school district, municipality, board, commission, or authority, who are members of the New Jersey National Guard.

(c) The President of the United States, through the respective military service secretaries, and the Governor, through the Adjutant General, New Jersey Department of Military and Veterans' Affairs (NJDMVA), as defined in N.J.S.A. 38A, are the proponents for the issuance of military orders for the New Jersey National Guard (NJNG) and its members, who enlist, are mobilized, attend military schools, conferences, training exercises, or perform any other duty ordered by the President or the Governor.

(d) The New Jersey Department of Military and Veterans' Affairs, must, by law, adhere and conform to State and Federal law and the regulations, forms, precedence, and usages of the United States Department of Defense, the Departments of the Army or the Air Force, and the National Guard Bureau concerning training requirements and other military duty.

Amended by R.1990 d.309, effective June 18, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).  
Department title changed.

## 5A:2-1.3 Public and private employers

Every public and private employer is obligated to release a member of the New Jersey National Guard who has been ordered to military duty, through either the New Jersey Department of Military and Veterans' Affairs or the service secretaries of the United States Department of Defense. Military duty may be voluntary or involuntary and includes Initial Active Duty Training, Active Duty in State service, Active Duty in Federal service, Inactive Duty Training, and all forms of Active Duty for Training. Employers must grant excused absences from work for military duty without regard to shift or weekend work policies. The rescheduling of work to make up work lost is at the discretion of the employer. Failure to release an employee who has been so ordered may subject the employer to criminal prosecution or other penalties.

Amended by R.1990 d.309, effective June 18, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).  
Department title changed.

## SUBCHAPTER 2. NEW JERSEY PUBLIC OFFICIALS AND EMPLOYEES

### 5A:2-2.1 General policy

(a) The New Jersey Department of Military and Veterans' Affairs recognizes that the calling of members of the National Guard to military service should not arbitrarily interfere with the operation of other New Jersey State, county or municipal agencies, be detrimental to the public interest, or permit salary payment to New Jersey public officials or employees for leaves of absence for military duty which are not authorized by State or Federal law.

(b) It is therefore the policy of the New Jersey Department of Military and Veterans' Affairs that New Jersey public officials and employees, who are members of the New Jersey National Guard, must obtain the written endorsement of their agency's appointing authority, as defined in N.J.A.C. 4A:1-1.3, for a leave of absence for military duty prior to the issuance of military orders by the New Jersey Department of Military and Veterans' Affairs. The requirement to obtain a written endorsement does not apply to Initial Active Duty for Training (IADT), Inactive Duty Training (IDT), Federal Mobilization, Active Duty (AD), or other duty ordered by the Governor.

Amended by R.1990 d.309, effective June 18, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).  
Department title changed.

### 5A:2-2.2 Procedures for requesting orders

(a) Public officials and employees will initiate an appropriate request for orders through military channels. The request for orders will specify the type of military duty to be performed, the necessity for such duty, the name or title of the employing agency, whether or not there will be a conflict with work requirements as a result of the performance of the proposed military duty requested, and whether military leave will or will not be requested of the public employer.

(b) Unit commanders must obtain from the New Jersey public official or employee's appointing authority, a completed Notice of Leave of Absence for Military Duty, NJDMAVA Form 33, (see Appendix A) prior to the issuance of orders and the commencement of military duty to be performed by the New Jersey public official or employee. NJDMAVA Form 33 is not required for duty exempted in N.J.A.C. 5A:2-2.1(b).

(c) If the public official or employee's appointing authority declines to indorse a leave of absence for military duty, the employer must provide supporting reasons and return the NJDMAVA Form 33 to the unit commander not later than the date specified on the form. Failure of the appointing authority to return the NJDMAVA Form 33 will not prevent the issuance of military orders. The unit commander will forward the completed NJDMAVA Form 33, or the file copy indicating the failure of the appointing authority to return the original form, through military channels for review by the Adjutant General, New Jersey Department of Military and Veterans' Affairs. All requests will be reviewed on a case-by-case basis to determine the impact upon the mission readiness and capability of the unit concerned.

(d) Orders for military duty to be performed by a New Jersey public official or employee will not be issued pursuant to (a) above by any headquarters without the prior written approval of the Adjutant General contained on the NJDMAVA Form 33.

(e) To insure that appointing authorities have verification that the military duty to be performed by a public official or employee meets the mandatory criteria for military leave with pay, orders and NJDMAVA Form 33 will contain statements identifying the military duty in accordance with N.J.A.C. 5A:2-2.3(b).

(f) The Adjutant General, New Jersey Department of Military and Veterans' Affairs may, in his discretion, make a final determination to approve, modify, or disapprove any duty specified in the NJDMAVA Form 33 and will notify the appointing authority directly by providing a completed copy of that form.

Amended by R.1990 d.309, effective June 18, 1990.  
See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).  
Department title changed.

### 5A:2-2.3 Military leave

(a) Military Leave is authorized in accordance with N.J.S.A. 38A:4-4 and N.J.A.C. 4A:6-1.11, for all public officials and employees including those of the State of New Jersey, and of any county, school district, municipality, board, commission or authority, who are members of the New Jersey National Guard.

(b) Pursuant to N.J.S.A. 38A:4-4 and N.J.A.C. 4A:6-1.10(b), the following Active Duty and Active Duty for Training in State service are mandatory and require that leaves of absence be granted to New Jersey public officials and employees without loss of pay or time, not to exceed 90 days in the aggregate in any one year, and shall be in addition to the regular vacation allowed such officials and employees.

1. Active Duty (AD), pursuant to N.J.S.A. 38A:1-1(i), is a period of full-time duty in the active State military service other than Active Duty for Training (ADT).

2. Active Duty for Training (ADT), pursuant to N.J.S.A. 38A:1-1(j), is a period of full-time duty in the active State military service for training purposes other than Active Duty (AD). It includes the following types of duty:

i. Annual Training: A period of training duty for members of the National Guard required by Title 10 USC to be performed each training year (usually between October 1 and September 30). It may be accomplished at posts, bases, camps, stations, or at such other places as may be appropriate for gaining or sustaining unit skills. Annual Training may be conducted at any period during the year as authorized by the appropriate commanders and state authorities and approved by Chief, National Guard Bureau. Annual Training may be performed during one consecutive period or on a year-round basis.

ii. Commissioned Officer Basic and Advanced Branch Training Not Available By Correspondence Course: Courses required to qualify officers for retention in the military service. Such courses provide in-depth technical training in the branch to which assigned. Such courses are required in accordance with National Guard Regulation 600-100 and Air National Guard Regulation 36-02.

iii. Duty Military Occupational Specialty (DMOS) or Duty Air Force Specialty Code (DAFSC) Qualification Courses Not Available By Correspondence Course: Courses required to qualify individuals enlisted to accomplish the technical aspects of their assigned duty, when such qualification is not available through correspondence courses or on the job training in accordance with United States Army Regulation 611-201 and United States Air Force Regulations 36-1 & 39-1.

iv. New Jersey Military Academy Faculty and Staff Support: Duty required to support the academic programs that train, qualify, and produce officers and non-commissioned officers of the New Jersey National Guard. States are required by National Guard Regulation 351-5 to provide resources to operate local schools.

v. Training or Other Specified Duty Required to Meet Federal Unit Mission Readiness Standards: Duty required by Title 32 USC in exercises, drills, or evaluation designed to test or demonstrate individual or unit readiness. Such duty is directed by the various major commands of the United States Army or the United States Air Force.

vi. Professional Development Training Not Available by Correspondence Course Required to Meet Federal or State Promotion or Retention Standards: Training required by National Guard Regulation 350-1 and Air National Guard Regulation 50-01 to maintain proficiency or required level of professional development. Such training qualifies individuals in specialty

areas directly related to duty assignments, type of unit or specific individual or unit mission requirements.

vii. Duty Or Other Training Required By Higher Federal Headquarters For the Administration and Management Of The National Guard (NGR 350-1) (ANGR 50-01): Duty or other training scheduled on an irregular or non-recurring basis by higher Federal Military Headquarters for Adjutants General or their designees to facilitate the administration and management of the National Guard.

(c) Pursuant to N.J.S.A. 38A:4-4 and N.J.A.C. 4A:6-1.10(b), all other duty ordered by the Governor is mandatory and requires that leaves of absence be granted to New Jersey public officials and employees without loss of pay or time and shall be in addition to regular vacation allowed such officials and employees.

(d) Military leaves of absence with pay are not authorized for New Jersey public officials and employees for periods of Initial Active Duty for Training (IADT), Inactive Duty Training (IDT), or any other military duty not specified in (b) and (c) above.

Amended by R.1990 d.309, effective June 18, 1990.

See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a).

Corrected internal cites.

#### 5A:2-2.4 Military orders for New Jersey public officials and employees

(a) The New Jersey Department of Military and Veterans' Affairs and Army and Air National Guard Administrative Headquarters will issue military orders to authorize the following duty by New Jersey public officials and employees:

1. Active Duty (AD);
2. Active Duty for Training (ADT);
3. Annual Training (AT);
4. Initial Active Duty for Training (IADT);
5. Other duty ordered by the Governor.

(b) Military orders will contain as a minimum the following information:

1. Order Number;
2. Name of Service Member;
3. Social security account number, rank, unit of assignment, location of assigned unit, home address, and other information pertaining to the individual;
4. Type Duty (ADT, AT, FTTD etc.);
5. Assigned to (training duty station);
6. Reporting time;
7. Period of training (number of days);

8. A statement identifying training to be mandatory or non-mandatory citing N.J.A.C. 5A:2-2.3(b).

(c) Subordinate headquarters of the New Jersey Department of Military and Veterans' Affairs are also authorized to issue unit orders, in either order or training schedule format, which require attendance at Inactive Duty Training (IDT) for specified periods of Unit Training Assemblies (UTA).

Amended by R.1990 d.309, effective June 18, 1990. See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a). Department title changed.

APPENDIX A: Notice of Leave of Absence for Military Duty (New Jersey Department of Military and Veterans' Affairs Form 33)

Date

SUBJECT: Notice of Leave of Absence for Military Duty Appointing Authority (as defined in N.J.A.C. 4A:1-1.3)

1. The individual listed below, an employee of your agency, is required to perform military duty for time and purpose indicated below in connection with his or her assignment as a member of the New Jersey Army/Air National Guard.

Name and Rank \_\_\_\_\_
Period of Duty \_\_\_\_\_
Possible Alternate Periods of Duty \_\_\_\_\_
Location \_\_\_\_\_
Purpose \_\_\_\_\_
Authority \_\_\_\_\_
(Cite a specific portion of N.J.A.C. 5A:2-2.3(b)2)

2. The New Jersey Department of Military and Veterans' Affairs recognizes that the calling of members of the National Guard to military service should not arbitrarily interfere with the operation of other New Jersey State, county or municipal agencies, be detrimental to the public interest, or permit salary payment to New Jersey public officials or employees for leaves of absence for military duty which are not authorized by State or Federal law. It is therefore the policy of the New Jersey Department of Military and Veterans' Affairs that New Jersey public officials and employees, who are members of the New Jersey National Guard, must obtain the written indorsement of their agency's appointing authority, as defined in N.J.A.C. 4A:1-1.3, for a leave of absence for military duty prior to the issuance of military orders by the New Jersey Department of Military and Veterans' Affairs.

3. It is requested that you provide your indorsement and/or comments regarding this leave of absence in the space provided below and return this form directly to this headquarters in the envelope provided not later than \_\_\_\_\_. In some cases, it may be necessary to postpone this duty to another time period due to circumstances beyond our control. Should this occur, the New Jersey Department of Military and Veterans' Affairs will notify you of the date change.

4. You will receive a completed copy of this form by return mail indicating the final action taken by the Adjutant General regarding the issuance of the orders for military duty. Your cooperation in this matter is appreciated.

Signature

Title

Unit

Date

Indorsement and/or comment

Signature

Typed Name

Title

TO: Appointing Authority

SUBJ: Final Action of the Adjutant General, NJDMAVA

Issuance of orders is
\_\_\_ Approved If approval of the issuance of orders is contrary to the appointing authority's comments or indorsement, the Adjutant General will notify the appointing authority of an opportunity to further discuss the matter.
\_\_\_ Approved for alternate dates as follows:
\_\_\_ Disapproved By:
The Adjutant General
New Jersey Department of
Military and Veterans' Affairs

Amended by R.1990 d.309, effective June 18, 1990. See: 22 N.J.R. 1185(b), 22 N.J.R. 1935(a). Department title changed.