
 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Military Leave</b></p>		<p>NO.</p> <p>2212</p>
			<p>DATE</p> <p>07/17/2019</p>
<p>SUPERSEDES</p> <p>DIR. #2212 Dtd. 01/07/16</p>	<p>DISTRIBUTION</p> <p>A</p>	<p>PAGES</p> <p>PAGE 1 OF 8</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p> <p>See Section II, Directive #2202</p>	<p>APPROVING AUTHORITY</p> 		

**I. PURPOSE:** To set forth the procedure for requesting, approving, and verifying the use of military leave by employees (both uniformed and civilian) of the Department of Corrections and Community Supervision (DOCCS).

**II. LEGAL AUTHORITY**

- Sections 242 and 243 - State Military Law
- Uniformed Services Employment & Reemployment Rights Act of 1994 (USERRA)
- Civil Service Attendance & Leave Manual, Section 21.12
- Civil Service Policy Bulletin 2019-01

**III. MILITARY LEAVE WITH PAY (Section 242)**

- A. Members of the National Guard and the Reserve are authorized 30 calendar days or 22 work days of paid military leave, whichever is greater, per calendar year or any continuous period of ordered military leave which spans more than one year. Leave in excess of this authorized allotment will be either without pay or charged to leave accruals, as requested by the employee.

However, when employees designated as overtime-ineligible have exhausted their military leave with pay entitlement under Section 242 of the State Military Law, they must be granted leave with pay and without charge to leave credits for any period of less than a work week during which they are ordered into temporary military duty.

NOTE: Employees who participated in the NATO Bosnia intervention between June 10, 1996 and June 10, 1997 or Kosovo operations between May 1, 1999 and May 1, 2000 may be eligible for supplemental military leave.

NOTE: Employees called to active duty after September 11, 2001 may be eligible for a ONE TIME ONLY additional allotment of 30 calendar days or 22 work days of paid military leave.

NOTE: Questions on interpretations of military leave allotments should be addressed to the Personnel Office.

- B. Employees are eligible for military leave to attend weekly drills when there is a conflict between their scheduled work hours and the period of military duty (including necessary travel time).

NOTE: Supervisors should note the location of the drill to determine the amount of travel time to be allowed.

- C. With the exception of designated floating holidays, employees on military leave are not eligible to be credited with holiday leave. To earn holiday leave, an employee must either work on the holiday (and have waived pay) or the holiday must fall on the employee's normal pass day which is not part of a period of military leave. The only exception to this rule is a designated floating holiday. Employees on paid military leave may be credited with a floating holiday pursuant to appropriate negotiated union agreements.
- D. Effective April 1, 2019, employees are eligible for paid leave without charge to leave credits for up to five work days annually for using any healthcare related services associated with an illness or injury sustained while in a combat theater or combat zone of operations. This benefit is independent of the 30/22 benefit. Employees must provide documentation that they served in a combat theater or combat zone of operations. Acceptable proof of service includes the employee's DD214, a certificate of release or discharge from active duty, or other Department of Defense document clearly indicating service in a combat theater or combat zone of operations. Additionally, employees must submit medical documentation showing that the employee's absence was for the purpose of receiving healthcare services related to such duty. Combat related healthcare services may include any medical or psychological treatment or testing, hospital services, blood work or other laboratory tests. Medical documentation for these appointments must also conform with Section II-C-3 or 4 of Directive 2202.

**IV. MILITARY LEAVE WITHOUT PAY (Section 243):** All Department employees entering active military duty are entitled, as a matter of right under Military Law, to a leave of absence without pay from their position while engaged in military duty. Members of the National Guard and the Reserve who have exhausted their authorized 30 calendar days or 22 work days of paid military leave may elect to be placed on military leave without pay.

**V. RULES, REGULATIONS, AND GUIDELINES**

- A. All employees, including temporary, provisional, and seasonal employees, are entitled to military leave of absence; however, such leave will not extend beyond the time that their service would normally have been terminated for reasons other than their military duty.
- B. If a probationary employee enters or is called to military duty or training before the expiration of the probationary period, the time absent on such duty or training may be credited as satisfactory service toward completion of the probationary period. Clarification should be obtained through your central Office Personnel Representative.
- C. An employee on military leave without pay does not earn leave credits.

**VI. USE OF LEAVE:** In order to be approved to use military leave, the employee must submit both authorization for military duty and proof (verification/documentation) of military service. The authorization for military duty consists of military orders, an annual schedule of military training, or a memorandum from the employee's Company Commander stating that the employee will be performing ordered military duty or military training. This authorization should be submitted to the employee's Supervisor as far in advance of the duty as possible, ideally four weeks in advance, however, an employee cannot be required to submit such documentation in advance of military leave, nor can the lack of such documentation prior to the military duty be used as a basis to disapprove an employee's request for military leave.

Circumstances that preclude the employee from submitting authorization in advance does not relieve the employee from the obligation to submit authorization as soon as it is available.

As proof of military service, the employee must submit a copy of their Leave and Earnings Statement (LES) or other payroll record which details the period of time the employee was paid for military duty. For extended periods of military duty, the employee must submit ongoing payroll documentation in a timely manner. Such documentation must not be altered by the employee.

- A. The entire authorized amount of paid military leave must be used before military leave without pay or the use of accrued vacation, personal leave, or holiday leaves may be granted.
- B. Paid military leave is chargeable on either a calendar day or work day basis, depending on which results in a greater benefit to the employee at the end of the calendar year or during any continuous period of ordered military leave. Accordingly, the Timekeeping Unit or the Payroll Office shall maintain two cumulative records of absences for all ordered military service, for each employee, on both a work day and calendar day basis throughout the calendar year.

Absences for ordered military duty shall be charged as paid military leave until the employee has reached both 30 calendar days or 22 work days. Once the maximum in both categories is reached and no additional benefit is available, subsequent absences shall be either without pay or charged to accrued vacation, personal leave, or holiday leave as requested by the employee; such requests may not be denied.

- C. Rest and travel time: In addition to the time of actual military duty, an employee whose period of military service is less than 31 days shall be afforded, as military leave, eight hours before and after such duty for rest and a reasonable allowance for travel time.
- D. Paid military leave shall be calculated as follows:
  - 1. Work days: The amount of military leave with pay allowed for each absence is the number of days on military duty, plus rest and travel time, when the employee was scheduled to work.
  - 2. Calendar days: The amount of military leave with pay allowed for each absence should be the number of consecutive calendar days covered by the military orders, beginning with the first day that coincides with the employee's scheduled work day and counted continuously to the last date of the military orders, including rest and travel time both before and/or after military duty. Note that they are counted to the last day of the military orders, plus rest and travel time, whether this date falls on the employee's normal pass days or not.
  - 3. The following are examples to be used as a guide when calculating paid military leave in both work days and calendar days:

Employee A works Monday through Friday with Saturday and Sunday as normal pass days. Employee B works Sunday through Thursday with Friday and Saturday as normal pass days.

    - a. Example 1: Each employee produces military orders that commence on Saturday and terminate on Friday two weeks hence;

Employee A would be credited with 12 calendar days and 10 work days of military leave, and employee B would be credited with 13 calendar days and 10 work days of military leave.

- b. Example 2: Each employee produces military orders that commence on Friday and terminate on Thursday two weeks hence;

Employee A would be credited with 14 calendar days and 10 work days of military leave, and employee B would be credited with 12 calendar days and 10 work days of military leave.

- c. Example 3: Each employee produces military orders that commence on Thursday and terminate on Wednesday two weeks hence;

Employee A and employee B are both credited with 14 calendar days and 10 work days of military leave.

4. It is important to note that once the calendar days military leave calculation begins, it is counted consecutively until the termination date on the military orders, plus rest and travel time, when the employee is available to return to work. Whether the military leave ends on what would be the employee's normal pass day or not has no effect on this calculation.

For additional examples of such calculations, refer to pp 3-5 of Section 21.12 of the State Attendance Rules.

## VII. VERIFICATION/DOCUMENTATION

- A. All members of the National Guard or the Reserve must verify their actual attendance and completion of ordered military duty by submitting copies of military orders and pay vouchers within one week of their receipt. The Leave and Earnings Statement (LES) is an appropriate pay document for verifying attendance at military drills (see Attachment A).
- B. Failure to furnish verification of attendance within a reasonable time period upon return from military leave will result in the initiation of an investigation. (The Department realizes that the time period it takes for an employee to receive a military pay voucher is not within the control of the employee. Since it can take six to eight weeks to receive documentation from the military, it is incumbent upon the Supervisor to ensure the employee provide appropriate documentation within one week of its receipt from the military.)
1. If the member claims to have attended military duty but failed to submit verification/documentation, he or she shall be given a direct order to submit verification/documentation in writing. [Form 2212B](#), Memorandum "Mandatory Documentation for Military Leave," is an example of such written order. If verification/documentation is not submitted after elapse of a reasonable period of time for receipt of the LES, the absence shall be charged as unauthorized leave without pay and appropriate administrative action taken.
  2. If the member failed to attend military duty after time off was granted, failed to report for duty, and failed to notify the facility so that the absence would be noted, disciplinary action will be initiated.

- C. Alternative documentation of military leave may be accepted if the employee can clearly demonstrate that the LES cannot be obtained. Alternative documentation must be on military company letterhead, signed by the Company Commander or appropriate designee, and provide sufficient detail with respect to the time and location of the military leave. Questionable situations with regard to military leave documentation should be referred to the Central Office Personnel Bureau.

## VIII. PROCEDURE:

### A. Military Leave With Pay

#### 1. Member of the Service

- a. Submit request for military leave of absence via [Form #1031](#), "Time Off Request," and one copy of standard military orders to the Attendance Control Officer/Supervisor four weeks prior to commencement of leave or as soon as called for military duty.

For military drills, submit training schedule and indicate on the request for military leave of absence ([Form #1031](#)) the actual hours of the drill (broad time frames such as 0001 to 2400 hours are not acceptable), e.g., January 24, 2013 12:00 p.m. - 4:00 p.m. - drill.

- b. Notify the Attendance Control Officer/Supervisor immediately if the drill is canceled after request for military leave of absence was submitted, and report for regular scheduled tour of duty.
- c. Submit verification/documentation (appropriate pay documents) of attendance to the Attendance Control Officer/Supervisor within one week of receipt.
- d. Notify the Attendance Control Officer/Supervisor, upon return to duty, of failure to attend military duty for which leave was requested/granted (if warranted).

#### 2. Attendance Control Officer/Supervisor

- a. Approve request for military leave of absence ([Form #1031](#)).
- b. Retain all papers until member furnishes required verification/documentation of attendance.
- c. Forward verification/documentation of attendance:
- (1) In facilities, to the Deputy Superintendent for Administration. (Forward verification/documentation to the facility's Timekeeping Unit.)
  - (2) In Central Office, to the Attendance Control Officer. (Forward verification/documentation to the Timekeeping Unit.)
  - (3) In Community Supervision Regional Offices, to the Regional Administrative Assistant. (Forward verification/documentation to the Region's Central Office Personnel Representative who will review and forward to the Central Office Timekeeping Unit.)

#### 3. Timekeeping Unit/Payroll Office

- a. Although LATS counts the military benefit, it is suggested that you maintain a cumulative record of absences for all ordered military service on timekeeping for both a work day and calendar day basis for each calendar year. [Form #2212C](#), "Military Leave Worksheet," is a worksheet where such information can be tracked.

- b. Post each day that is inclusive of the orders as military leave, including RDOs, beginning with the first work day. LATS counts the 22 work days vs. the 30 calendar days and determines which benefit is better and will alert you when you have exceeded that amount.
  - c. File original copies of request for military leave of absence ([Form #1031](#)), military orders, verification/documentation of attendance, and worksheet in member's Timekeeping/Military folder.
- B. Military Leave-Use of Accrued Vacation, Personal, or Holiday Leave, or Leave Without Pay
  - 1. Member of the Service
    - a. Submit request for military leave of absence, via [Form #1031](#), and one copy of standard military orders to the Attendance Control Officer/Supervisor when using vacation leave, personal leave, or holiday leave.
    - b. Account for each day of the military leave by indicating day(s) scheduled to work and regular day(s) off on request for military leave of absence ([Form #1031](#)).
    - c. Submit verification/documentation of attendance (appropriate pay documents) to the Attendance Control Officer/Supervisor within one week of receipt.
  - 2. Attendance Control Officer/Supervisor
    - a. Confirm that member has used all authorized paid military leave.
    - b. Forward request for military leave of absence ([Form #1031](#)):
      - (1) In facilities, to the Deputy Superintendent for Administration. (Forward verification/documentation to the facility's Timekeeping Unit.)
      - (2) In Central Office, to the Attendance Control Officer. (Forward verification/documentation to the Timekeeping Unit.)
      - (3) In Community Supervision Regional Offices, to the Regional Administrative Assistant. (Forward verification/documentation to the Region's Central Office Personnel Representative who will review and forward to the Timekeeping Unit.)
    - c. Forward verification/documentation of attendance as directed above.
  - 3. Timekeeping Unit/Payroll Office
    - a. Except in a case of military leave without pay, deduct military duty time from accrued vacation leave, personal leave, or holiday accruals.

NOTE: Do not charge time for member's regular days off.
    - b. File original copies of request for military leave of absence ([Form #1031](#)), military orders, and verification/documentation of attendance in member's Timekeeping/Military folder.

- C. Upon Return from Ordered Military Duty: Deputy Superintendent for Administration/Personnel in facilities; Assistant Director of Personnel in Central Office; Regional Director in Community Supervision Regional Offices: As prescribed in the Office of the State Comptroller [Payroll Bulletin #1299](#), provide a copy of [Form #2212D](#), "Receiving Retirement Service Credit for Military Service," on appropriate letter head, instructing the employee to forward a copy of their military discharge papers to the New York State and Local Retirement System in order to ensure that the employee receives the proper retirement service credit for the period of ordered military duty.



DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT																														
ID	NAME (LAST, FIRST, MI)		SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED																				
	DOE., JOHN	E	123-45-6789	E5	881104	10	000508	AF	4042	1-30 Sep 99																				
ENTITLEMENTS			DEDUCTIONS			ALLOTMENTS			SUMMARY																					
	TYPE	AMOUNT	TYPE	AMOUNT	TYPE	AMOUNT																								
A	BAS PAY	1746.30	FEDERAL TAXES	146.87	DISCRETIONARY ALT	150.00				+AMT FWD	.00																			
B	BAS	225.00	FICA-SOC SECURITY	108.27	DISCRETIONARY ALT	105.00				+TOT ENT	2,755.54																			
C	BAH	784.24	FICA-MEDICARE	25.32	DISCRETIONARY ALT	55.00				-TOT DED	1,468.95																			
D			STATE TAXES	37.32						-TOT ALMT	310.00																			
E			SGLI FOR 200,000	16.00						+NET AMT	976.59																			
F			AFRH	.50						-CR FWD	.00																			
G			REPAY ADVANCE	158.08																										
H			MID MONTH-PAY	976.59																										
I																														
J																														
K																														
L																														
M																														
N																														
O																														
TOTAL		2755.54	1468.95		310.00																									
LEAVE	BF BAL	34.5	ERMD	30.0	USED	6	CR BAL	58.5	ETS BAL	107.0	LV LOST	.0	LV PAID	.0	USE/LOSE	.0	FED TAXES	.0	WAGE PERIOD	1746.30	WAGE YTD	15,716.70	M/S	M	EX	01	ADD'L TAX	.00	TAX YTD	1,321.83
FICA TAXES	WAGE PERIOD	1746.30	SOC WAGE YTD	15,716.70	SOC TAX YTD	974.43	MED WAGE YTD	15,716.70	MED TAX YTD	227.88	STATE TAXES	CA	1746.30	WAGE PERIOD	15,716.70	WAGE YTD	15,716.70	M/S	S	EX	00	TAX YTD	335.88							
PAY DATA	BAQ TYPE	W/DEP	BAQ DEPN	CHILD	VHA ZIP	94535	RENT AMT	850.00	SHARE	0	STAT	R	JFTR	DEPN	2	2D JFTR	BAS TYPE	REGULAR	CHARITY YTD	.00	TPC	PACIDN								

REMARKS: YTD ENTITLE 24,822.36 YTD DEDUCT 4,115.08

REPAY ADVANCE DEBT BAL \$632.40 BAH BASED ON W/DEP, ZIP 94535

BANK SERVICE BANK OF AMERICA

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