



CALIFORNIA MILITARY DEPARTMENT INSTRUCTION

NGCA-JSD-MP
DISTRIBUTION: TA

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LEAVE USAGE WHILE ON EMERGENCY STATE ACTIVE DUTY (ESAD)

References: See [Enclosure C](#).

1. Purpose. To provide instructions on the use of leave while performing ESAD.
2. Superseded/Canceled. None.
3. Applicability. This instruction applies to all California National Guard (CNG) Title 5 Federal employees that have military or state membership with CNG and Title 32 Federal Technicians, hereafter defined as “employee(s).”
4. Policy. Employees placed on ESAD orders must be in a leave status from their federal position. Employees will document their absence by submitting leave to their supervisor in the Automated Time Attendance and Production System (ATAAPS). Use OPM Form 71 when ATAAPS is unavailable. See Enclosure A for applicable types of leaves while on ESAD orders.
5. Releasability. This issuance is approved for public release; distribution is unlimited.
6. Effective Date. This instruction is effective upon publication.
7. Responsibilities. Point of contact for ATAAPS is your local Customer Service Representative (CSR). The point of contact for this instruction is Employee Benefits Section, ng.ca.caarng.list.j1-hro-benefits@mail.mil, (916) 854-3350.

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Enclosures:

[A – Leave Instructions while on ESAD](#)

[B – Frequently Asked Questions: Law Enforcement Leave](#)

[C – References](#)

ENCLOSURE A
LEAVE INSTRUCTIONS WHILE ON ESAD

1. Use of Military Leave (LM), Administrative Leave (LN), or Leave With Out Pay – Military (KG) to perform ESAD is prohibited. Employees must enter into a valid leave status while on ESAD orders. No leave status is required when the employee is supporting the ESAD operation on non-workdays. Valid leave categories while performing ESAD are as follows:

a. Annual Leave (LA), Restored Annual Leave (LR), Advanced Annual Leave (LB), Compensatory Time (CT), Travel Compensatory Time (CF), and Time Off Award (LY). Employees in these leave categories will receive their full civilian payment plus their ESAD payment.

b. Leave without Pay (LWOP) – Personal (KA). Employees choosing to take Leave without Pay – Personal while on ESAD orders will only receive their ESAD payment. Employees on ESAD orders for more than 30 days must complete and submit an LWOP Personal checklist through their local Human Resources Remote (HR Remote) or contact Human Resources Office Employee Benefits.

c. Law Enforcement Leave (LL). Law Enforcement Leave under 5 U.S.C. 6323 (b) states that permanent and indefinite employees are entitled to 176 hours (22 workdays) per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a) (13) of Title 10, United States Code. The following guidelines apply when using Law Enforcement Leave:

(1) Law Enforcement Leave does not authorize employees to retain both their military and civilian pay (double dip) for the additional 176 hours (22 workdays) of military leave. Under the offset rule, the employee's civilian pay is reduced by the amount of pay received by the employee for military service while in Law Enforcement Leave status. In other words, full military pay is received, but the offset rules require a crediting of the military pay against civilian pay, thus, reducing the employee's civilian pay. Dual compensation is not authorized. Temporary NTE employees are not eligible for Law Enforcement Leave.

(2) Contact your local CSR (Timekeeper) for requesting procedures when requesting Law Enforcement Leave as required by USPFO (Army) or Wing Comptroller (Air). See Enclosures B, for frequently asked Law Enforcement Leave questions.

ENCLOSURE B
FREQUENTLY ASKED QUESTIONS: LAW ENFORCEMENT LEAVE

1. How is Law Enforcement Leave processed?

Answer: Contact your local CSR (Timekeeper) for instructions on how to code your timecard within ATAAPS. The CSR can perform a pay comparison pre-screening of employees interested in using Law Enforcement Leave. This is done using pay rates and hypothetical period of duty on the "Law Enforcement Leave Offset Worksheet" and provides the employee important decision making information regarding whether Law Enforcement Leave is their best option.

2. What are the basic pay rules when using Law Enforcement Leave?

Answer: Rule #1 – If the ESAD pay is greater than the civilian pay, then the total civilian pay gross is collected (Only if LL was coded previously). Rule #2 – If the ESAD pay is less than the civilian pay, then only the difference between the two is paid to the employee.

3. How is the Law Enforcement Leave debt paid?

Answer: If it was determined you accrued a debt by using Law Enforcement Leave, repayment is due in full. The 15 percent of disposable pay rule does not apply. Once the Law Enforcement Leave offset debt is established in DCPS, collection begins within the next Pay Period (PP). DCPS will collect the total amount. If the employee's biweekly pay does not have sufficient funds, DCPS will continue to collect from the subsequent PPs until the Law Enforcement Leave offset debt collection is complete.

4. How are my taxes effected?

Answer: Law Enforcement Leave indebtedness paid in full by the last full pay period ending of the calendar year will result in DCPS automatically adjusting the tax liability. However, only a partial adjustment will occur if the indebtedness is not 100% satisfied prior to tax year-end closeout. Any incomplete indebtedness is considered taxable income and subject to the repayment of all federal and state taxes withheld. Employees must recover those taxes paid during their personal IRS tax filing in the tax year the indebtedness is satisfied.

ENCLOSURE C
REFERENCES

1. Title 5 United States Code (USC), Section 6323(a) (b), Military leave; Reserves and National Guardsmen.
2. Title 5 United States Code (USC), Section 5519, Crediting Amounts Received for Certain Reserve or National Guard Service.
3. Title 10 United States Code (USC), Section 331, 332, 333, Federal Aid for State Governments.
4. Title 10 United States Code (USC), Section 12406, National Guard in Federal Service: Call.
5. DoD 7000.14R, Department of Defense (DoD), Financial Management Regulation (FMR), Volume 8, Civilian Pay Policy and Procedures, Aug 99 (changes through Jun 16).
6. DCPS-UM02, DCPS Payroll Office User Manual.