

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

AGOH-HRO

29 March 2005

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: 44 Days of Military Leave

1. Previously, the Judge Advocate General, National Guard Bureau, issued an opinion on granting 44 days military leave during war or national emergency stating that the national emergency declared by the President on 14 Sep 2001 prohibited the use of the 44 days military leave (Title 5, United States Code, Section 6323) entitlement.
2. Recently, Section 523 of the National Defense Authorization Act of FY 05 amended the law to enable the performance of 44 days military leave during a war or national emergency declared by the President or Congress. This is a significant change for the National Guard. This amendment removed the restriction on the use of 44 days military leave.
3. National Guard technicians supporting overseas (OCONUS) missions in a **non-combat area** are frequently placed on active duty. Available military leave (15 days), annual leave and compensatory time off is often insufficient to cover many of these absences. Ohio National Guard technicians are entitled to an additional 44 days military leave as follows.
 - a. The active duty must be **without military pay** (orders must state WITHOUT PAY) under Title 10, section 12301(b) or 12301 (d). A technician may elect to use their accrued 15 days military leave, annual leave, compensatory time, and/or leave without pay (LWOP) and receive full military pay **OR** elect to use 44 days military leave and receive **ONLY** technician pay.
 - b. The 44 days military leave is in addition to the 15 days (120 hours with a maximum carryover of 240 hours) military leave accrued each fiscal year (October).
 - c. The 44 days military leave is available on a calendar year basis (no carryover).
 - d. The active duty is for participation in operations **outside the United States**, its territories and possessions (such as Partnership, Ukraine, AEF, Team Spirit).
 - e. Technicians must request this leave. Regardless of leave election, the technician is on active duty orders and is entitled to per diem and travel allowances.
 - f. There is no charge to the 44 days military leave on non-workdays or holidays.
 - g. Technicians utilizing the 44 days military leave are considered to be in active duty status. If injured during deployment, the technician is ineligible for workers' compensation.

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- h. Technicians utilizing the 44 days military leave are not entitled to earn compensatory time.
 - i. The Time and Attendance leave code for utilizing the 44 days military leave is "LL"
(specify in remarks "44 days military leave entitlement).
4. If you have any questions, contact LtCol John Kirkpatrick at DSN: 346-7057 or commercial 614-336-7057.

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E. DEAN BOLING
Deputy Director for Resources &
Chief Human Resource Officer

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