



STAFF JUDGE ADVOCATE OFFICE (JAG)

MISSION

The office of the Staff Judge Advocate provides legal assistance to New York National Guard Soldiers/Airmen and women, their qualified dependants and retirees in accordance with applicable Army and Air Force legal assistance regulations, Federal and State laws.

LEGAL ASSISTANCE

New York National Guard Judge Advocates provide limited legal assistance to its National Guard Soldiers/Airmen and women via:

- **Pre-Mob Legal Planning:** Legal assistance provided, during IDT weekends and annual training, to prepare members for mobilization and deployment that includes preparing wills, power of attorney, performing notarizations, briefing and counseling.
- **Deployment and Post deployment Legal Assistance:** Legal assistance provided to deployed/demobilized members and their dependents, which includes preparing wills and power of attorney, performing notarizations, assisting with SSCRA and USERRA issues, and general legal counseling.
- **Trial Defense Services:** Legal counsel available to members facing Military Justice, non-judicial or other adverse military administrative actions.
- **Military Justice Assistance:** Guidance available to commanders concerning judicial and non-judicial military justice issues.

LIMITATIONS

New York National Guard Judge Advocates cannot represent Soldiers/Airmen and women in civilian courts on non-military issues or actions. Nor, can they draft real estate documents, divorce or separation agreements, or tax returns. However, as most are civilian attorneys, they may answer general legal questions, render general advice and make referrals.



LEGAL BRIEFING

SERVICEMEMBER'S CIVIL RELIEF ACT

1. 6% Cap on the interest rates of loans for length of deployment(mortgages only-deployment plus one year).
2. Cannot be evicted without a court order.
3. Courts must grant 90 day stay for civil court actions, including child custody cases. Additional delays can be granted.
4. Courts cannot enter default judgment in civil actions due to your failure to appear in court, if failure was due to military service.
5. Residential property leases can be canceled with any mobilization orders lasting 90 days or more.
6. Property owned by a active duty service member cannot be foreclosed, sold, or seized without a court order on pre-service mortgage obligations.
7. Phone contracts can be canceled for any mobilization orders lasting 90 days or more.

UNPAID LEAVE FOR FAMILY MEMBERS

1. New York State Labor Law Section 202-i

A. Coverage:

1. Employers with more than 20 employees—including state, local governments, school districts, corporations and individuals
2. Employee works more than 20hrs per week
3. Spouses only of deployed National Guard or Reserve members
4. Deployed Service Member must be in combat theater or combat zone

B. Unpaid Leave up to 10 days while deployed Service Member is on leave from combat theater or combat zone

C. No retaliation by employer against employee who requests or obtains leave of absence

2. Federal Family Medical Leave Act (29 CFR 825 and 29 USC 2654)

A. Coverage:

1. Employers (federal, state, local governments, school districts and private sector) with more than 50 employees
2. Employee must have worked more than 1,250 hrs within the previous 12 months
3. Spouse, son, daughter or parent of activated National Guard or Reserve Member covered
4. Leave is unpaid

B. Types of event/situations (“Qualifying Exigencies”) covered:

1. Yellow Ribbon Events—before, during or after the deployment(up to 90 days post deployment)
2. Welcoming Home events

3. Five days of leave while Service Member is on R/R leave during deployment
4. Making and updating financial and legal arrangements
5. To care for Service Member who was seriously injured in the LOD/AD and is unable to perform military duties (26 weeks within 12 month period)
6. Non-medical related cap: 12 weeks in a 12 month period

C. Enforcement USDOL—Wage and Hour Division

D. Employee notice to Employer—30 days advance notice or as soon as practicable

E. More info: www.wagehour.dol.gov

INTEREST CAP SUMMARY

- For obligations secured by a mortgage, the duration of the 6% cap is now extended to one year
- For all other interest obligations, the 6% cap ends at REFRAD.
- You must continue to pay bills and financial obligations. Military service is not an excuse not to pay bills including child/spousal support.

CONTACT INFO

The office of the Staff Judge Advocate can be reached at

- Phone: (518) 786-4541
- Mail: MNLA, 330 Old Niskayuna Road, Latham NY 12110.