

DMNA Regulation Number 600-8-4

State Human Resources Management

STATE ACTIVE DUTY LINE OF DUTY PROCEDURES



**Division of Military and Naval Affairs
330 Old Niskayuna Road
Latham New York 12110-3514**

**30 November 2007
Unclassified**

Summary of Change

DMNA Regulation Number 600-8-4, 30 November 2007, Human Resources Management – State Active Duty Line of Duty Procedures

This is a new regulation.

- **Summary.** This regulation establishes administrative procedures required by State Human Resources Management (MNHS) and is published to assist Joint Task Force (JTF)/Major Commands (MACOM)/Air Wing Commanders and designated command and control headquarters elements in obtaining medical care for injured/ill personnel, while in a State Active Duty (SAD) status, and processing line of duty (LOD) investigations.

- **Applicability.** This regulation applies to all New York Army National Guard (NYARNG), New York Air National Guard (NYANG), New York Guard (NYG) and New York Naval Militia (NYNM) forces mobilized for aid to civil authority operations (State Active Duty). Hereafter referred to as “military forces” or “components.”

STATE OF NEW YORK
DIVISION OF MILITARY AND NAVAL AFFAIRS
330 Old Niskayuna Road
Latham, New York 12110-3514

DMNA Regulation
Number 600-8-4

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CHAPTER 1

INTRODUCTION

1-1. Purpose. This regulation establishes administrative procedures required by MNHS and is published to assist Joint Task Force (JTF)/Major Commands (MACOMS)/Air Wing Commanders and designated command and control headquarters elements in obtaining medical care for injured/ill personnel in SAD status, and processing LOD investigations.

1-2. References.

a. Army Regulation 600-8-4, Line of Duty Policy, Procedures and Investigations (AR 600-8-4)

b. Air Force Instruction 36-2910, Line of Duty (Misconduct) Determination (AFI 36-2910)

c. Army Regulation 40-501, Standards of Medical Fitness (AR 40-501)

d. Air Force Instruction 48-123, Medical Examinations and Standards (AFI 48-123)

e. DMNA Regulation 10-1, New York Naval Militia General Regulations (DMNA 10-1)

f. New York Guard Directive 1308, Weight Standard (NYGD 1308)

1-3. Responsibility.

a. **Command.** It is a command responsibility to ensure all Service Members are “fit for duty.” Command is also responsible to provide prompt medical care to a Service Member in need of such care and to complete and forward the appropriate line of duty (LOD) investigation (e.g. administrative, informal or formal), as well as the appropriate follow up healthcare forms if requested by the treating physician. Each level of command is responsible for reviewing the LOD packet for complete and accurate reporting of the incident. Payment of medical care is not guaranteed unless the proper LOD process is followed and subsequently approved and paid by the New York State Division of Military and Naval Affairs (DMNA).

b. Service Member. It is each individual's responsibility to make known his/her current medical status upon mobilization that may impact adversely on the mission. The Service Member will immediately notify command of the need for medical care as a result of injury/illness or disease incurred in SAD status. It is the Service Member's responsibility to provide command with all documentation needed for completion of the LOD.

c. State Human Resources Management (MNHS). LODs and medical claims will be forwarded through command channels to MNHS. MNHS is responsible for processing and coordinating payment with DMNA Budget and Finance Directorate (MNBF) for LOD claims.

d. Director of Joint Staff (DJS). Final approving authority on all LOD Investigations.

CHAPTER 2

RESPONSIBILITY FOR PRESCREENING AND CERTIFICATION OF PHYSICAL CONDITION

2-1. Prescreening and Certification of Physical Condition.

a. Unit/taskforce commanders are responsible for individual or group inspection of all personnel under their jurisdiction immediately upon their reporting for SAD. Any Service Member exhibiting signs of an obvious medical, mental or physical condition that is likely to interfere with or be aggravated by performance of normal duties will be excused from SAD. Any Service Member who fails to disclose information regarding an existing medical, mental or physical condition that may interfere with or be aggravated by performance of normal duties and is injured or becomes ill because of the pre-existing condition will be financially responsible for any bills incurred. See Figure 2-1, page 2-5 (Service Member's Statement). The forms will be retained at unit/taskforce level until the conclusion of the SAD period or, if a LOD investigation is pending, a copy of this form should be included with other specified documentation to complete the LOD packet.

b. Unit/taskforce commanders will screen Service Members to ensure they are not flagged for unfavorable actions. Unfavorable actions are the same as those that prohibit the issuance of Federal orders (medical, Army Physical Fitness Test, pending legal actions, drug abuse, etc.). Prior to any Service Member being placed on SAD, the unit/taskforce commander must ensure that individuals meet the medical standards prescribed in Chapter 3 as applicable in AR 40-501 or Chapter 7 of AFI 48-123, or Chapter 5 of DMNA 10-1 and NYGD 1308, as appropriate. Proof of compliance may be requested upon submission of a LOD investigation. Non-compliance may result in a LOD investigation determination of "not in line of duty" being made and may not be covered.

2-2. Medical Treatment.

a. New York State is responsible for all immediate care and aftercare for injuries, illnesses and diseases occurring while on SAD, except for injuries, illnesses and diseases due to a member's own misconduct, fault or negligence. The State can not pay for a pre-existing condition (unless clearly aggravated by service) to include prescription refills, routine physicals, routine vision care, eyeglass frames and lenses or dental care (unless the dental injury is clearly caused by traumatic force). Under New York State Military Law, section 216, subdivision 3b, if a member's injury status is in question, or if there is a disagreement as to whether a Service Member can return to duty, The Adjutant General may appoint a medical examiner or a board of three officers (at least one of which must be a medical officer) to evaluate the member and make a determination for fitness for duty. The medical examiner may be a civilian. In addition, the medical examiner must not be the initial examining officer of the Service Member.

b. The respective unit/task force commander will make the location of aid stations and hospital facilities known to all personnel. It is a command responsibility that required medical care is available to the Service Member without delay. Commanders must continually be aware of the general physical, health and mental conditions of Service Members in their command.

c. Treatment beyond the capabilities of the command will be accomplished at the nearest civilian medical treatment facility. Use of military and federal medical treatment facilities (MTF), other than Veterans' Affairs Hospitals, is not authorized for SAD personnel except for life threatening situations. Commanders will ensure that these facilities are advised: that SAD personnel are seeking treatment for a work-related injury, that the billing rates will be the same as those promulgated by the New York State Insurance Fund and to send all bills to MNHS on the proper form (UB-92 Insurance Form or HCFA-1500 Form), which must include a billing address.

d. Prior authorization must be obtained through command channels from MNHS in coordination with MNBF through JFHQ-NY/JOC for all follow-up care, to include medical procedures beyond basic office evaluation (i.e., the initial civilian health care visit where costs are incurred) and surgeries. MNHS requires completion of an approved LOD for authorization of follow-up healthcare. MNHS will coordinate and consult with the New York State Insurance Fund (NYSIF) on follow-up care.

Note: To ensure payment for follow-up health care, the Service Member must obtain LOD approval and follow-up authorization from MNHS in coordination with MNBF. Service Members, who attend a follow-up appointment without prior authorization may risk non-payment of services by DMNA.

e. In an emergency, unit/task force commanders may authorize hospitalization or medical treatment for a Service Member without prior approval of this headquarters. In such instances, details of the case, the Notice of Emergency Treatment (NET) together with a request for hospitalization or medical care, will be submitted through the task force or JFHQ-JOC to MNHS.

f. If a Service Member has been hospitalized during a portion of the SAD period, or is still hospitalized at the close of the SAD period, the investigating officer will procure a clinical summary for the period up to the time of submitting the duty status report. This summary will indicate the number of days hospitalized, diagnosis, results of x-rays and all other tests and treatment given, together with an accounting of the expense incurred.

2-3. Prescription Medication.

a. Procurement requisition (DMNA Form 40-E-R) agreements may be used for obtaining prescription medications for service members injured or ill in the LOD while on SAD. Refills of medications that were prescribed prior to SAD are not authorized.

b. Requests for filling prescriptions must be approved by MNHS in coordination with MNBF prior to the prescription being filled. Payment for prescription medication is not guaranteed unless the proper LOD process is followed with subsequent review and approval by MNHS and MNBF. Any prescriptions filled without prior approval will initially be the Service Member's financial responsibility subsequent to an official determination of "in the line of duty." If a "not in the line of duty" determination is made, the Service Member will not be reimbursed for cost associated with this injury/illness or disease.

c. A letter signed by the commander must accompany the DMNA Form 40-E-R along with copies of the prescriptions, a Statement of Medical Examination and Duty Status (DA Form 2173) and the complete LOD packet. The LOD packet must clearly and concisely support the need for the prescription.

2-4. Physical Training (PT) Injuries. PT must be performed in accordance with proponent service regulations for injuries incurred to be considered covered injuries. Team sports must be properly supervised and facilitated. Injuries caused by unsupervised or unfacilitated team sports may be considered "not in line of duty" and the Service Member may be responsible for costs incurred.

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SERVICE MEMBER'S STATEMENT

1. I have reviewed my current DD Form 93, Record of Emergency Data. The information contained thereon is to be effective while I am on state active duty and is to be used to administer benefits and protections that apply while I am in the active service with the State of New York.

2. To the best of my knowledge, I have no medical condition that may interfere with or be aggravated by the performance of my normal duty requirements.

Circle appropriate answer:

Are you currently under the care of a physician or medical professional? **Yes** or **No**

If "**Yes**," what are you under care for and how long have you been under care?

Do you currently have medical/dental problems? **Yes** or **No**

If "**Yes**," what are your symptoms and have you sought medical attention?

Have you had any medical or dental problems in the past year? **Yes** or **No**

If "**Yes**," what were they?

Are you currently taking medication? **Yes** or **No**

If "**Yes**," what medication are you taking and for what conditions?

Are you currently or have you in the past received a U.S. Veteran's Affairs disability, Worker's Compensation or other type of compensation for health or physical reasons? **Yes** or **No**

If "**Yes**," explain: _____

Signature: _____ Date: _____

(Type/Print)
Name/Rank: _____ SSN: _____

Figure 2-1. Service Member's Statement

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CHAPTER 3

NOTICES OF EMERGENCY

3-1. Initial Notice.

a. All casualties resulting from SAD will be reported using the casualty-reporting format. See Figure 3-1, page 3-7, Notice of Emergency Medical Treatment (NET).

b. Units will report all injuries incurred by Service Members while on SAD through command channels to the JTF/MACOM/Air Wing, even if a LOD investigation is not required. The JTF/MACOM/Air Wing will immediately report all injuries that require hospitalization to DMNA. All other injuries and updates to previously reported injuries will be reported daily at 0900, 1700, and 2300 to Joint Force Headquarters (JFHS)-JOC by E-mail. See Figure 3-2, page 3-9, JOC Incident/Accident Report.

3-2. Line of Duty Investigations. A LOD investigation is required for all deaths and any injury, illness or disease requiring services outside of those provided by the command where civilian costs are incurred.

a. **Definition.** A LOD is a command responsibility. The investigation is a review process which is used to determine a Service Member's eligibility for benefits as a result of an injury/illness, disease or death. Elements of LOD investigations and reports include:

(1) The status of the Service Member at the time the injury or illness was incurred or the disease was contracted.

(2) Medical evidence that an injury, illness or disease was incurred or contracted during or aggravated by the performance of duty.

(3) Evidence of death.

b. Line of Duty Investigation Appointing Authorities.

(1) The appointing authority for all SAD forces mobilized into SAD or the senior commander in the Task Force chain of command of the force provider.

(2) The appointing authority will issue letters appointing such officers as may be necessary to conduct duty status investigations and reports.

c. Reviewing Authority. The reviewing authority in all cases is The Adjutant General or designated representative. LOD investigations and reports will be submitted within 20 days of the injury or illness by the Task Force commander through the JFHQ-JOC to MNHS while the activation is on going and direct to MNHS if forwarded after the close of operations.

d. Line of Duty Injuries and Investigations.

(1) Upon being ordered into SAD, each unit will include in its accompanying library the appropriate medical LOD forms listed in Tab I of the Domestic Emergency Standard Operating Procedure (DESOP). See Figure 3-3, page 3-11, Medical Document Request.

(2) The procedures and formats prescribed in the DESOP Tab I of Appendix 2 will be followed in every instance of an injury or illness incurred or a disease contracted during SAD.

e. Initial Incident Reporting. Commanders will ensure that LOD investigations are initiated promptly as outlined. An Initial Incident Report will be completed and submitted to the JFHQ-JOC J1 immediately. Additional information and status updates should be forwarded at 0900, 1700, and 2300 daily unless otherwise directed by JFHQ-JOC OIC. Commanders will ensure that all LODs are forwarded through the JFHQ-JOC to MNHS within 20 days of the date of occurrence. If the JFHQ-JOC is not in operation, LODs will be submitted directly to MNHS. Certain LOD investigations may require investigating officers to be placed on SAD to complete the LOD investigation.

Note: To prevent delay, LOD investigations that are complete except for SAD orders will be forwarded without the SAD orders. MNHS will coordinate with the applicable force provider or Budget and Finance (MNBF) to acquire necessary documentation.

3-3. Line of Duty Preparation.

a. LOD investigations will be prepared in all cases involving civilian or military health care in connection with injuries or illnesses contracted or in the event of death, while performing SAD. See Figure 3-4, page 3-13, Statement of Understanding Civilian Health Care, and Figure 3-5, page 3-15, Medical Release Statement. LOD investigations for NYARNG, NYG, and NYNM personnel will be prepared in accordance with AR 600-8-4, Line of Duty Policy, Procedures, and Investigations. NYANG commands will utilize AFI 36-2910, Line of Duty (Misconduct) Determination, DD Form 261, Investigation, Report of - Line of Duty and Misconduct Status, AF Form 348, Line of Duty Determination, and related forms as applicable.

b. LOD investigations will be completed regardless of the value of the civilian medical cost. Additionally, LOD investigations will be completed for, but are not limited to, the following circumstances:

- (1) When medical treatment is required.
- (2) Cases in which incapacitation or a disability pension pay may be applied for as a result of the incident.
- (3) Pre-existing injuries.
- (4) Diseases.
- (5) Injuries/death incurred while traveling directly to or from authorized duty status.
- (6) The injury or disease which may have resulted from the Service Member's own misconduct.
- (7) Self-inflicted wounds or injuries.
- (8) The injury or disease may have been received or contracted during a period of unauthorized absence, or during a period prior to authorized SAD.
- (9) An injury incurred while engaged in authorized SAD, which appears not to be "in line of duty."
- (10) The complexity of the case warrants one.

c. Evidence collection is required for a SAD LOD investigation and is crucial to making the appropriate determination for benefits.

(1) A formal Line of Duty investigation is required in certain cases to certify that the incident has not resulted from misconduct. Formal Line of Duty investigations require an appointed Investigating Officer certify that misconduct did not occur in the incident.

Note: MNHS or Director of the Joint Staff (DJS) can request in their discretion that a formal Line of Duty Investigation be completed for incidents.

(2) In all investigations, the Investigating Officer (IO) must be free from bias or prejudice while conducting the investigation. The IO shall never begin the investigation with predetermined ideas as to the cause of the injury, illness, disease or death. The IO will determine, to the maximum extent possible, the facts as they actually occurred, not as reported, to make an intelligent and accurate LOD determination. Failure to secure key evidentiary information can result in delays or an erroneous LOD determination.

(3) The preparation of the LOD investigation requires attention to detail. The IO will ascertain dates, places, persons and events definitely and accurately and report them in the LOD investigation report. The Appointing Authority must ensure that the investigation contains sufficient pertinent information and data to enable later reviews to be made without additional information.

(4) All findings of fact will be supported by evidentiary exhibits, copies of military and civilian reports, clinical records, emergency room reports, hospital admission and discharge summaries, operative notes, laboratory reports, witness statements and other documents.

(5) Preparation of witness statements will be thorough and provide an accurate account of the situation. Witness statements will be prepared using DA Form 2823, Sworn Statement. When there are no witnesses available, the unit commander must make sufficient comment as to why no witnesses were available. The unit commander must certify that the accounts provided in the witness statements (schedule, activities, mission) are consistent and truthful. If the injured member was under the supervision of a superior, the superior's account of the situation must be obtained. The investigating officer must determine if negligence or misconduct was involved. Pre-existing medical or physical conditions must be identified during the investigation.

d. Preparation of the DA Form 2173, Statement of Medical Examination and Duty Status, and the assembling of the LOD Investigation (NYARNG, NYG, NYNM) shall be in accordance with the following guidelines.

(1) The completed LOD investigation will be prepared with an original and five (5) copies.

(2) The DA Form 2173 must be accurate.

(3) The DA Form 2173 must have the following statement typed on the front:

(4) STATE ACTIVE DUTY OPERATION (Insert name of operation)

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(5) Sworn statements from the Service Member and witnesses, DA Form 2823.

(6) Commander's statement.

(7) Lab reports, outpatient treatment records, sick slips, radiologist's reports, emergency room report, hospital discharge summary, operative notes, prescribed medication, and other medical documentation is required to support the investigation.

(8) Medical release form.

(9) Statement of understanding.

(10) Medical certification.

(11) Copy of State Active Duty orders for the period covering the LOD.

Note: SAD pay orders will be obtained from The DMNA Budget and Finance (MNBF) Directorate for all Service Members as applicable. When a Service Member is on a "no pay" SAD status (New York Guard members), a published Form 1379 must be submitted as part of the LOD packet.

e. The original form set and 3 copies of the LOD investigation package must be forwarded by the unit to MNHS through JFHQ-JOC no later than 30 working days from the date of incident. Command emphasis must be placed on the preparation of the LOD investigation, as this is the source document for all incapacitation pay requests. MNBF-SAD cannot authorize and approve payment of incapacitation pay or medical expenses until DMNA approves the LOD as "in the line of duty."

Note: LODs that are complete except for SAD orders will be forwarded without the SAD orders when the unit has been demobilized from SAD. MNHS will coordinate with MNBF to acquire necessary documentation.

f. Service Members are entitled to appeal an LOD determined to be "not in the line of duty." To initiate an appeal of an LOD, the Service Member must submit a written notice of appeal through proper command channels to MNHS. The appeal will include the service member's justification for the appeal and any supporting documentation. MNHS will review the appeal package and make a recommendation to grant or deny the appeal. MNHS will forward the appeal package along with their recommendation to the Legal Affairs Directorate (MNLA), who will then review and make a determination. The package will then be forwarded to MNBF for review and to make its recommendations. These three recommendations will then be submitted to the DJS for a final review and determination.

3-4. Incapacitation. A Service Member will not be removed from the SAD payroll due to incapacitation alone. New York State Military Law, Section 216, provides that soldiers injured while performing SAD, if such injury shall incapacitate the individual from pursuing his usual business or occupation, shall receive pay and allowances and medical expenses for the period of the incapacitation, not to exceed 90 days. If approved by the Chief of Staff, this 90-day period can be extended for another 90 days and expenses for medical treatment may be allowed until the incapacitation from the injury cannot be materially improved by further care. In summary, incapacitation pay is payable for a period not to exceed 90 days; however, if appropriate, the Chief of Staff or designee may extend the incapacitation pay for an additional 90 days. In circumstances beyond 180 days New York State Military Law, Sections 217 and 218, may provide for a temporary disability retirement. The commander will notify MNHS immediately when an individual has been rendered incapacitated by a medical professional. Weekly reports will be forwarded to MNHS on the status of the individual. After the first 90 days has occurred, the Service Member's parent unit commander must request in writing through MNBF to MNAG-TAG for authorization for any additional days of pay and medical care. MNBF will coordinate with MNHS to ensure there is a valid LOD.

3-5. Demobilization.

a. Within 24 hours after demobilization, each unit/taskforce commander, as applicable, will submit the following information to the JFHQ-JOC pertaining to Service Members remaining in the hospital at the time the unit is relieved from SAD. In the event the task force be disbanded immediately following the end of the mission, the parent unit of the Service Member concerned will submit the following information:

- (1) Grade, name, SSN, branch of service.
- (2) Name and location of hospital.
- (3) Estimated length of stay in hospital.
- (4) Brief diagnosis of disease or injury.

b. Negative reports are required.

c. The task force command or force provider must submit periodic payrolls for personnel remaining in an open LOD SAD status after the close of the state activation. Each Service Member's medical status will be monitored closely with written justification to remain on SAD for continuance on the state payroll for specific calendar dates.

d. In the event a Service Member requires assistance for transportation to medical appointments, the task force will coordinate transportation requirements with the Service Member's parent unit.

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FOR OFFICIAL USE ONLY
JOC INCIDENT/ACCIDENT: (assigned by JOC)

WHAT:

WHO:

DUTY STATUS:

WHERE:

WHEN:

WHY/HOW:

REPORTED BY:

PERSONAL INJURIES:

PROPERTY/VEHICLE DAMAGE:

ACTION TAKEN:

	E-mail	Voice MSG	In person
Name of person contacted			

FOR OFFICIAL USE ONLY
Figure 3-2. JOC Incident/Accident Report

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STATE OF NEW YORK
DIVISION OF MILITARY AND NAVAL AFFAIRS
330 OLD NISKAYUNA ROAD
LATHAM, NEW YORK 12110-3514

ELIOT SPITZER
GOVERNOR
COMMANDER IN CHIEF

JOSEPH J. TALUTO
MAJOR GENERAL
THE ADJUTANT GENERAL

MEDICAL DOCUMENTATION REQUEST

Dear Madam/Sir:

(Rank, Name, SSN)

is a member of the New York State Organized Militia, was injured or became ill on State Active Duty, and was treated at your facility on _____.
(Date)

In order to expedite the payment of charges incurred, it is necessary that you mail to the Service Member's unit a copy of all medical records pertaining to the injury/illness. The Service Member has agreed to the release of these medical records by signing the attached medical release statement.

Please mail to the following unit address:

Thank you for your cooperation in this matter.

Sincerely,

Figure 3-3. Medical Document Request

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DIVISION OF MILITARY AND NAVAL AFFAIRS
330 OLD NISKAYUNA ROAD
LATHAM, NEW YORK 12110-3514

ELIOT SPITZER
GOVERNOR
COMMANDER IN CHIEF

JOSEPH J. TALUTO
MAJOR GENERAL
THE ADJUTANT GENERAL

**STATEMENT OF UNDERSTANDING
OF CIVILIAN HEALTH CARE**

I, , understand that as a member of the New York State Organized Militia (NYARNG, NYANG, NYNM, NYG) who incurred or aggravated an injury or disease while on State Active Duty, am entitled to health care at the expense of New York State so long as the injury or disease is not due to misconduct, fault or negligence on my part. Emergency civilian health care may be authorized by my commanding officer to save life, limb, and eyesight or to prevent undue suffering. The State Human Resources Management Directorate (MNHS) must provide approval for any additional non-emergency civilian health care at the state's expense.

I further understand that if I do not obtain prior approval from MNHS for non-emergency civilian health care, I will be responsible for the total cost incurred by me for my medical treatment.

SIGNATURE _____

NAME _____

SSN _____

TIME/DATE _____

WITNESS' SIGNATURE _____

WITNESS' NAME _____

WITNESS' SSN _____

TIME/DATE WITNESSED _____

Figure 3-4. Statement of Understanding of Civilian Health Care

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ELIOT SPITZER
GOVERNOR
COMMANDER IN CHIEF

JOSEPH J. TALUTO
MAJOR GENERAL
THE ADJUTANT GENERAL

(Date)

MEDICAL RELEASE STATEMENT

I, _____, hereby
Last Name, First Name, MI, Rank / SSN

authorize release of all medical documents relative to my medical care to the Division of Military and Naval Affairs Guard (ATTN: MNHS).

Signature

Date

Figure 3-5. Medical Release Statement

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The proponent of this regulation is the State Human Resources Directorate. Users are invited to send comments, suggested improvements and changes on DA Form 2028 (Recommended Changes to Publications and Blank Forms) Directly to The Adjutant General, Division of Military and Naval Affairs, ATTN: MNHS, 330 Old Niskayuna Road, Latham, New York 12110-3514.

OFFICIAL:

JOSEPH J. TALUTO
Major General, NYARNG
The Adjutant General



KATHRYN G. BOHACEK
Director, Administrative Support

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