



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

ANDREW M. CUOMO  
GOVERNOR  
COMMANDER IN CHIEF

PATRICK A. MURPHY  
MAJOR GENERAL  
THE ADJUTANT GENERAL

MNAG-TAG

27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Equal Employment Opportunity/Reasonable Accommodation

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. Our agency will provide for and promote equal employment opportunity in employment compensation and other terms and conditions of employment without discrimination for all personnel. No one will be subjected to discrimination based on the following:
  - a. Federal employees: race, color, religion, gender (to include sexual harassment), national origin, age (over 40), physical/mental handicap, or reprisal.
  - b. Military personnel: race, color, religion, gender (to include sexual harassment), national origin, genetic predisposition or retaliation for having engaged in a protected equal opportunity activity.
  - c. State employees: age, race, creed, color, national origin, sexual orientation, military or veteran's status, sex, marital status, physical/mental disability, gender identity, genetic predisposition or carrier status or retaliation resulting from resolution of a grievance or filing a discrimination complaint.
3. This commitment to assuring equal employment opportunities and equal access to services, programs, and activities includes providing reasonable accommodation to a qualified individual with a disability to enable such individual to perform the essential functions of the position for which he/she is applying or in which he/she is employed. Appropriate training on equal opportunity issues will be included as part of this policy.
4. Commanders, supervisors, members and employees will report instances of discriminatory treatment, workplace harassment or retaliations. I am committed to

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SUBJECT: Equal Employment Opportunity/Reasonable Accommodation

taking appropriate action with respect to any and all employees, volunteers, vendors or business partners who engage in discriminatory conduct, as well as executive, supervisory and managerial personnel who knowingly allow such conduct to continue.

5. All employees and members are required to cooperate fully with any investigation of alleged violations of this policy. An employee or member, who fails to cooperate with an investigation, obstructs an investigation or who intentionally provides false or malicious information during an investigation, may be subject to appropriate disciplinary action.

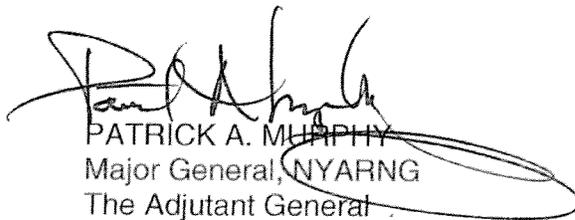
6. No person shall be discharged, disciplined, discriminated against or otherwise subjected to an adverse employment action on the ground that such person filed a complaint, testified, provided information, or otherwise assisted in any investigation of alleged violations of this policy. Retaliation against any complainant or witness is illegal and any person employed by or a member of the Division who engages in such conduct is subject to disciplinary action and any other consequences the law may provide.

7. This policy applies to all employment and military member practices and actions. It includes, but is not limited to recruitment, job application process, hiring, training, disciplinary actions, rate of pay or other compensation, advancement, transfer, classification, reassignment and promotions.

8. Employees may address questions regarding this policy, file a complaint or a reasonable accommodation to the following Division personnel:

a. Federal employees will contact the State Equal Employment Manager, CW2 Heather Langley, (518) 786-4733.

b. State employees will contact Ms. Susan Schmidt, Labor Relations Representative, (518) 786-6143 for equal opportunity matters and Ms. Tina Lehning, Senior Personnel Administrator, (518) 786-4715 for reasonable accommodation matters. New York Guard and Naval Militia members may contact MNHS for assistance with this policy at (518) 786-4830.

  
PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Sexual Harassment Policy

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature when:
  - a. submission to the conduct is either explicitly or implicitly a term, or condition, of an individual's employment;
  - b. submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
  - c. the conduct has the purpose or effect of unreasonably interfering with an affected person's work performance or creating an intimidating, hostile, or offensive work environment.
3. Our Division will not tolerate sexual harassment by any member or employee. Sexual harassment violates acceptable standards of conduct required of all personnel, reduces mission effectiveness and wastes valuable resources. This commitment to the prevention of sexual harassment in the workplace will include providing appropriate training on sexual harassment issues.
4. Sexual harassment is a form of employee and member misconduct. Any employee or member who is found to have engaged in sexual harassment shall be subject to prompt and appropriate remedial and/or disciplinary action, which may include termination or discharge. Supervisors are required to immediately report instances of sexual harassment, discriminatory treatment, workplace harassment or retaliations. Failure will result in disciplinary action, which may include termination or discharge.

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SUBJECT: Sexual Harassment Policy

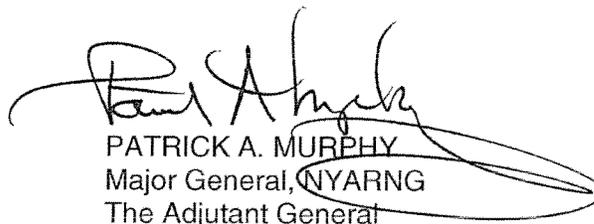
5. All employees and members are required to cooperate fully with any investigation of alleged violations of this policy. An employee or member, who fails to cooperate with an investigation, obstructs an investigation or who intentionally provides false or malicious information during an investigation, may be subject to appropriate disciplinary action.

6. No person shall be discharged, disciplined, discriminated against or otherwise subjected to an adverse employment action on the ground that such person filed a complaint, testified, provided information, or otherwise assisted in any investigation of alleged violations of this policy. Retaliation against any complainant or witness is illegal and any person employed by or a member of the Division who engages in such conduct is subject to disciplinary action and any other consequences the law may provide.

7. Individuals have the right to excel in their position without the threat of sexual harassment or discrimination. A member or employee who believes that he or she has been the victim of sexual harassment or discrimination, or has any knowledge of that kind of behavior, is urged to report such conduct immediately.

a. Federal Employees, Soldiers and Airmen will contact MNHF-EEO, State Equal Employment Manager, CW2 Heather Langley, (518) 786-4733.

b. State Employees and members of the New York Guard and Naval Militia will contact Affirmative Action Officer, Ms. Susan Schmidt, (518) 786-6143 or State Human Resources Director, Ms. Marilyn Hartley, (518) 786-6156.

  
PATRICK A. MURPHY  
Major General, NYARNG  
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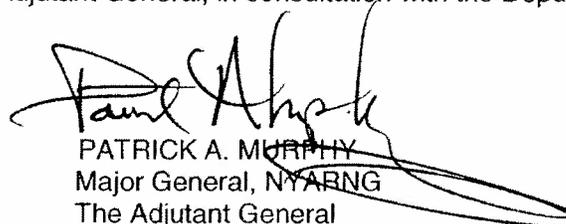
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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Use of State Active Duty (SAD)

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. **References:**
  - a. Military Law, section 6, subdivision 1 (Ordering Organized Militia into State Service for Emergencies); McKinney's Consolidated Laws of New York, Annotated, Book 35 or New York Consolidated Laws Service, Volume 21D.
  - b. Military Law, section 46, subdivision 6 (State Active Duty for Assemblies, Annual Training and Other Duty); McKinney's Consolidated Laws of New York, Annotated, Book 35, or New York Consolidated Laws Service, Volume 21 D.
3. The purpose of this memorandum is to provide policy on the use of SAD.
4. SAD is authorized in accordance with the above references when approved by the DMNA Special Assistant-State or The Adjutant General. Approval must be obtained **prior** to performing SAD.
5. SAD will not be used as a means of paying salaries.
6. Full-time employees serving in functional positions related to mission support readiness are not authorized SAD during regular duty hours/day, except during emergencies and with approval from the DMNA Special Assistant-State or The Adjutant General, in consultation with the Deputy Secretary for Public Safety.

  
PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy on Firearms Secured in Division of Military and Naval Affairs (DMNA) Facilities and on DMNA Property

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. **Basic Policy:** The carrying or security (storage) of firearms (not including military unit property) upon property under the control of DMNA is prohibited unless authorized under one of the following exceptions:
  - a. Firearms may be carried by all law enforcement and government personnel duly authorized to carry firearms on official duty. All federal and state firearms licensing regulations must be adhered to while on DMNA property. No unlicensed firearms are allowed on DMNA property at anytime.
  - b. Firearms may be brought on DMNA property by individuals participating under a nonmilitary use agreement which specifically involves the use or display of firearms. See paragraph 4, below, for requirements in connection with this exception.
  - c. Firearms may be carried by off duty police officers authorized to do so by New York Penal Law and by members of visiting law enforcement agencies using DMNA property under an agreement.
  - d. Firearms may be carried by members of the State Organized Militia (NYARNG, NYANG, NYNM or NYG) who are off duty civilian police/peace officers, not in active military duty status, and who are required by their civilian law enforcement agency's policy to carry a firearm while off duty. The Officer in Charge and Control (OIC&C)

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SUBJECT: Policy on Firearms Secured in Division of Military and Naval Affairs  
(DMNA) Facilities and on DMNA Property

must maintain a copy of the applicable civilian law enforcement agency policy containing this requirement. NOTE: This exception does not apply when the individual is in duty status with the State Organized Militia.

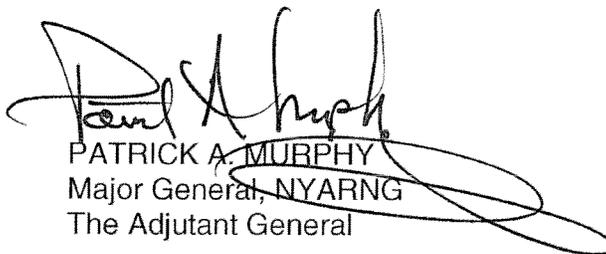
e. Historical personal weapons may be carried or displayed as part of an official historical activity, program or open house. Said weapons will not be loaded.

3. Regardless of the above policy and exceptions, where the installation has a full-time security force with storage capability (for example, Security Forces at an Air National Guard base), the local commander may require any weapon to be secured upon entry.

4. Civilian nonmilitary use of ranges. During use of outdoor ranges under a nonmilitary use agreement, firearms may be carried while on the range. Weapons must be unloaded and cleared when not on the range. Firearms will be secured (for example, by a locking device or in a locked container) and unloaded when entering and leaving any indoor facility.

5. Violations of this policy may result in disciplinary action.

6. For future information regarding this matter, the DMNA point of contact is Mr. Paul McDonald at DSN 489-4561 or commercial (518) 786-4561.

  
PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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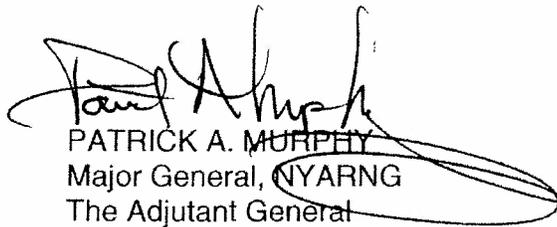
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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Smoking Policy for Division of Military and Naval Affairs (DMNA) Facilities

1. Applicability: This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. An amendment to the New York State Public Health Law, effective 24 July 2003, prohibits all smoking in National Guard facilities occupied by the New York Army and Air National Guard and civilian employees. Designated smoking areas must be located outdoors and not in the immediate proximity of entrances. This policy will provide consistency throughout the state.
3. It is my desire to protect the health of our employees by ensuring that they are not exposed to secondhand tobacco smoke within New York National Guard facilities.
4. Managers and supervisors are expected to adhere to the above policy. The intent of this policy is to make this agency a better place in which to work by ensuring a healthy and safe working environment.

  
PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: DMNA Policy Regarding Contact with Elected Officials

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. All activities that involve Federal, State or local elected officials must be coordinated in advance through the DMNA Government Affairs Office (MNGA).
3. This coordination must be completed prior to the organization's request to an elected official or any commitment you make to any activity. Such activities include, but are not limited to, meetings, invitations, tours, and briefings and any written or oral communication submitted to any organization under DMNA authority or any requests extended to any Federal, State or local official.
4. Any questions regarding this policy should be directed to the Director of MNGA at (518) 786-4520 or 4738.

  
PATRICK A. MURPHY  
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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Drug and Alcohol Abuse Policy

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. Alcoholism and other drug dependencies are illnesses that may be characterized by varying degrees of loss of mental and physical control. All personnel must be well trained, physically fit and mentally alert. Alcoholism and/or drug related dependency or misconduct degrades both readiness and mission accomplishment and is potentially disastrous to the member or employee, his/her family, and the public's trust.
3. Our agency maintains a zero tolerance policy for the presence of substance-impaired personnel. Each officer, non-commissioned officer, director and supervisor will ensure that the following standards are clearly understood by their subordinates and enforced without exception:
  - a. Do not abuse alcohol.
  - b. Do not possess, distribute or use illegal drugs.
  - c. Do not abuse or illegally distribute controlled substances or over the counter medications.
  - d. Do not condone such activities in your unit or office.

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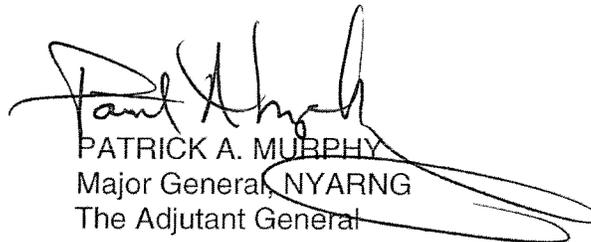
SUBJECT: Drug and Alcohol Abuse Policy

4. Soldiers, Airmen and our Federal and State employees have access to quality assistance and referral programs if needed. Appropriate agents ready to help are as follows:

a. Soldiers, Airmen and their Family members may seek substance abuse information and access to community based treatment programs from assigned Military One Source Consultant, Alicia Russo at (518) 265-2901 or email [alicia.russo@militaryonesource.com](mailto:alicia.russo@militaryonesource.com) or by calling Military One Source direct at 1-800-342-9647.

b. Federal Technicians may seek alcohol and substance abuse referral assistance from the Federal Employee Assistance Program (EAP) Coordinator; Sheila Lindsay at (518) 786-4950 or email [sheila.lindsay@us.army.mil](mailto:sheila.lindsay@us.army.mil).

c. State employees may seek alcohol and substance abuse referral assistance from the Governor's Work-Life Services EAP Coordinators across New York State as listed at [www.worklife.state.ny.us/eap](http://www.worklife.state.ny.us/eap) or by calling 1-800-822-0244. Employees may also contact the Division EAP Coordinator Lori Myers at (518) 786-4409 or the Chair, Matt Greenhouse, at 1-866-308-1744. Employees and members of the New York Guard and Naval Militia may always contact MNHS for any assistance at (518) 786-4830.

  
PATRICK A. MURPHY  
Major General, NYARNG  
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27 JUN 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Financial Guidelines for the Presentation of Gifts and Social Functions

1. Applicability: This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. The two main social activities that typically occur in relation to DMNA are:
  - a. Officially authorized activities which may involve monetary collections from attendees. This would include holiday or similar type gatherings, picnics or award ceremonies, dining-ins and dining-outs and;
  - b. Non-official gatherings such as retirement lunches and dinners.
3. The following guidelines are meant to prevent the perception or actual impropriety in relation to the presentation of gifts, and applies to honorees and their spouses:
  - a. Contributions for gifts must be voluntary.
  - b. Individual gift contributions may not exceed ten dollars per member.
  - c. The total value of the gift from any organizational entity may not exceed \$300 for each honoree. If the total contributions exceed the \$300 limit, the excess funds should be applied to enhance the function (e.g., additional snacks and or/flowers, etc.) so that all attendees benefit, or the excess funds should be returned in equal parts to all contributors.
  - d. Gifts may not be in the form of cash.

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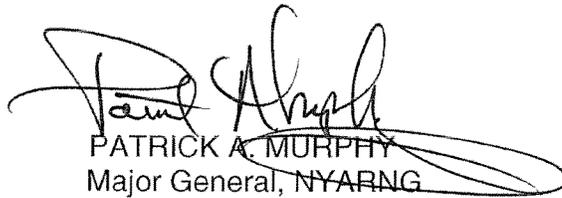
SUBJECT: Financial Guidelines for the Presentation of Gifts and Social Functions

e. Announcements of a social function should indicate the cost to attend the function (meal, entertainment, etc.) and the contribution amount of the gift (not to exceed \$10) separately.

4. No governmental fund can be used for the deposit of revenue derived from the aforementioned activities. Unofficial bank accounts established for a social function cannot bear the name "New York State" or "Division of Military and Naval Affairs".

5. Excluded from the above-mentioned guidelines are activities conducted in regard to everyday sunshine water clubs or coffee clubs.

6. If there are any questions in relation to these guidelines, please contact Mr. Robert A. Martin, Director of Budget and Finance (MNBF) or Mr. Thomas Mahoney, Deputy Director at (518) 786-4513.



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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Distribution and Consumption of Alcoholic Beverages in the Division of Military and Naval Affairs (DMNA) Facilities

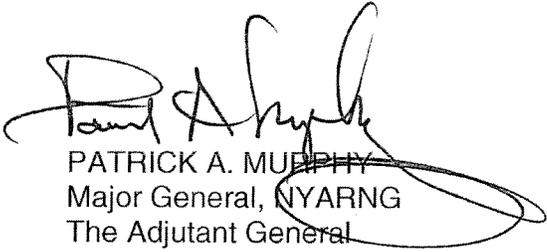
1. Applicability: This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs (Division) and Joint Force Headquarters-NY.
2. References:
  - a. New York State Military Law.
  - b. The Governor's Policy on Drug and Alcohol-Free Workplace.
  - c. The Federal Drug-Free Workplace Act of 1988.
  - d. Memorandum policy from the Governor's Office of Employee Relations "Alcohol and Controlled Substances in the Workplace."
  - e. Information on the Federal Drug-Free Workplace Act, December 1995.
3. This memorandum sets forth the official policy of DMNA regarding the sale, distribution and/or consumption of alcoholic beverages within DMNA. DMNA facilities include all facilities as defined in DMNA Regulation 420-1. This memorandum supersedes any previously issued policy letters.

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SUBJECT: Distribution and Consumption of Alcoholic Beverages in the Division of Military and Naval Affairs (DMNA) Facilities

4. Alcoholic beverages, including wine, spirituous and malt liquors, are banned from DMNA facilities and workplaces. This prohibition does not apply to civil associations or clubs, caterers or licensees, lessees, concessionaires or certain social activities of organizations of the organized militia under specific conditions as outlined in the enclosure.
5. Violation of this policy places the entire chain of command, military and civilian, at great risk. Violators will be disciplined to the fullest extent appropriate.
6. Questions concerning the proper use of alcoholic beverages in DMNA facilities may be addressed to the Office of Legal Affairs (MOLA) at (518) 786-4541. Questions concerning rental events should be addressed to MNFE-NMU, ATTN: Mrs. Gayle Carpenter at (518) 786-6079.

Encl



PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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Distribution and Consumption of Alcoholic Beverages  
in the Division of Military and Naval Affairs (DMNA) Facilities

Alcoholic beverages, including wines, spirits and malt liquors are banned from DMNA facilities and workplaces in accordance with the policy established by The Adjutant General. Itemized below are the specific terms and conditions under which exceptions to said policy are authorized:

a. Civil association or club. Alcoholic beverages may be served within the confines of a fully licensed and insured clubroom. If the club is to serve as the "caterer" for any event, such as a nonmilitary use event or activity in an area other than the clubroom, the club must obtain a temporary liquor/wine permit for each event/distribution point.

b. Social activities of the organized militia or other DMNA element:

(1) Without a licensed caterer, alcohol may be served at social activities such as retirement parties, change of command ceremonies, and other such celebratory events only with prior approval of the unit commander and the Officer in Charge and Control (OIC&C) of the facility. The unit commander and the OIC&C shall be responsible for ensuring proper conduct at the event and shall be held accountable for same.

(2) With a licensed caterer, permission to have alcoholic beverages served by a licensed caterer at social functions requires advance approval using the same process as described above. The caterer must possess a current New York State liquor license and permits to serve at the location of the event. A separate permit must be posted at each point of distribution of alcoholic beverages. The unit commander and OIC&C will still remain responsible and accountable.

c. Nonmilitary use events:

(1) The safe, distribution or consumption of alcoholic beverages in conjunction with a nonmilitary use agreement will be subject to approval in advance. The DMNA customer utilization form, DMNA Form 42, or any other letter of application for a nonmilitary use agreement must indicate if alcohol is to be used or sold. DMNA reserves the right to deny approval to serve alcoholic beverages at any event which would serve the best interests of DMNA and the State.

(2) Private, social nonmilitary use event. This type of rental includes birthday parties, anniversary parties, wedding receptions, showers, retirement parties and other small events of a strictly private, invitation-only nature. In some cases, individuals hosting these events may wish to serve alcoholic beverages and food, but are not using the services of a caterer. Alcohol may be served and consumed, but not sold, by individuals at private social events under an approved and executed nonmilitary use

agreement with appropriate liability insurance coverage. Alcohol may not be sold by anyone or any organization without a permit from the State Liquor Authority. If a licensed caterer or restaurateur is serving alcoholic beverages at a private function under an approved and executed nonmilitary use agreement, said caterer or restaurateur is responsible for having the appropriate license and insurance as applicable under New York State Liquor Law.

(3) At all other nonmilitary use events, the sale or distribution of alcohol may be accomplished only by a fully insured caterer or restaurateur possessing the appropriate alcohol permit. The applicable permit must be posted at each distribution point as required by law.



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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Violence in the Workplace Policy

1. **Applicability:** This policy is applicable to all members assigned to the State's Organized Militia, including the Army National Guard, Air National Guard, Naval Militia, New York Guard, and all State and Federal employees of the Division of Military and Naval Affairs and Joint Force Headquarters-NY (Division).
2. The Division is dedicated to ensuring that all employees work in a safe and secure environment. The Division has a "Zero Tolerance" policy and employees are expected to work together to provide a safe workplace where violence is not tolerated and every effort is made to prevent it. Any action or behavior that is threatening to another's physical safety or emotional health is unacceptable.
3. Verified threats or violent acts will result in immediate and appropriate disciplinary action, which may include removal.
4. Workplace violence includes physical or verbal aggression directed toward others or at State or Federal property and equipment. Acts of threats of violence, whether made directly or indirectly, by words or symbols, violate the Division's policy to provide a safe workplace for its employees.
5. Supervisors are held accountable for safeguarding the workplace from threats, intimidations or fear, and responding promptly and appropriately to incidents of harassment, threats, or acts of violence. Management at all levels must report any incidents of violence in the workplace as outlined below. Appropriate action necessary to resolve the issue must be initiated immediately.
6. All employees have an obligation to report, without fear of reprisal, any threat they have witnessed, received, or heard. Such threats should be reported immediately

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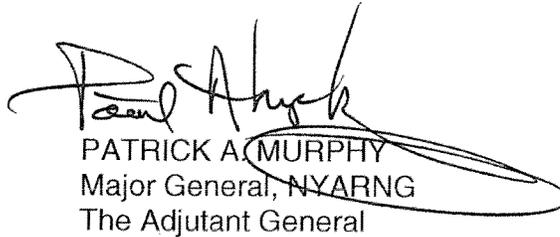
SUBJECT: Violence in the Workplace Policy

through the chain of command or supervisory levels to the State and Federal Human Resources Directorates as outlined below.

7. Managers, Soldiers, Airmen and Federal and State employees should immediately report incidents as follows:

a. Soldiers, Airmen and Federal Technicians please contact MNHF, SFC Tracey Miller, (518) 786-4735/DSN 489-4735.

b. State Employees and members of the New York Guard and Naval Militia may contact MNHS, Labor Relations Representative, Ms. Susan Schmidt, (518) 786-6143.



PATRICK A. MURPHY  
Major General, NYARNG  
The Adjutant General

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## **New York State Division of Military and Naval Affairs**

### **State Human Resources Management**

### **Domestic Violence and the Workplace Policy**

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#### **POLICY STATEMENT:**

Domestic violence permeates the lives and compromises the safety of thousands of New York State employees each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

#### **PURPOSE:**

The goal of this Domestic Violence in the Workplace Policy (DVW) is to identify and prescribe practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

Therefore, the New York State Division of Military and Naval Affairs, (DMNA), to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following.

## **DEFINITIONS:**

For purposes of this policy, the following terms will be defined as follows:

**Domestic Violence:** A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

**Intimate Partner:** Includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who are in an “intimate relationship” including but not limited to, couples who live together or have lived together, or persons who are dating or who have dated in the past, including same sex couples.

**Abuser:** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

**Victim:** The person against whom an abuser directs coercive and/or violent acts.

## **I. NON-DISCRIMINATORY AND RESPONSIVE PERSONNEL POLICIES FOR VICTIMIZED EMPLOYEES**

DMNA shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- a. New York State law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his/her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law [Penal Law §215.14]. DMNA will, with prior day notification, allow time off for victims or subpoenaed witnesses to exercise those rights as provided by Law. Any questions or concerns regarding the leave that must be granted to victims or subpoenaed witnesses shall be addressed to State Human Resources Management (MNHS).
- b. Upon request, MNHS will assist an employee in determining the best use of attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family member who has been a victim of domestic violence, MNHS will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.

- c. Victims of domestic violence may lack the required documentation or have difficulty obtaining the required documentation to justify absences without compromising their safety. Therefore, MNHS will consult with the employee to identify what documentation he/she might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet documentation requirements.
- d. Employees who are the victim of domestic violence and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), shall be allowed to make reasonable changes in benefits at any time during the calendar year where possible, in accordance with statute, regulation, contract and policy.
- e. NYS has established that victims of domestic violence are now a protected class in the employment provisions of the NYS Human Rights Law. This law prevents an employer from firing or refusing to hire any individual based on their status as a victim of domestic violence and prevents discrimination in compensation or in the terms, conditions or privileges of employment. Inquiries about a job applicant's current or past domestic violence victimization, and employment decisions based on any assumptions about or knowledge of such exposure are prohibited.
- f. In cases in which it is identified that an employee's work performance difficulties are a result of being a victim of domestic violence, said employee shall be afforded all of the proactive measures outlined in this Policy, and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, special care will be taken to consider all aspects of the victimized employee's situation, and all available options in trying to resolve the performance problems shall be exhausted, including making a referral to the EAP, consistent with existing collective bargaining unit agreements, statute, regulations and Division policy.
- g. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated or voluntarily separates from employment, DMNA shall inform the employee of his/her potential eligibility for unemployment insurance and respond as soon as possible to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits. [§593 of NYS Labor Law.]

## **II. ACCOUNTABILITY FOR EMPLOYEES WHO ARE OFFENDERS**

Employees who engage in the following behavior(s) will be held accountable: (1) using state resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official state business; or (3) using their job-related authority and/or state resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

- a. Where an employee has found to have threatened, harassed, or abused an intimate partner at the workplace using state resources such as work time, workplace telephones, FAX machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes and regulations.
- b. Where DMNA has verification that an employee is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the agency shall determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.
- c. Where an employee intentionally uses his/her job-related authority and/or intentionally uses state resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his behavior, said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes and regulations.

## **III. FIREARMS**

Pursuant to New York State and federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

- a. In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify DMNA if they are arrested on a domestic violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to DMNA or to the appropriate police agency.
- b. Should an employee fail to comply with the requirements set forth in V. a., said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statute or regulations. In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

#### **IV. EMPLOYEE AWARENESS**

DMNA shall increase awareness of domestic violence and inform employees of available sources of assistance.

- a. Information on domestic violence and available resources in the work site will be posted in places where employees can obtain it without having to request it or be seen removing it, such as Division intranet, rest rooms and lounge areas. Such information shall include available sources of assistance such as the EAP, local domestic violence service providers, the NYS Domestic Violence and Sexual Assault hotline, and/or human resources personnel who are trained and available to serve as confidential sources of information, support, and referral.
- b. Referrals shall be made to domestic violence programs located on the NYS Office for the Prevention of Domestic Violence (OPDV) website at [http://www.opdv.state.ny.us/about\\_dv/fss/resource.html](http://www.opdv.state.ny.us/about_dv/fss/resource.html). Additional referrals may be made to best meet the needs of the employee. Information will be available on employee bulletin boards and included in employee newsletters, as appropriate.
- c. Information on domestic violence awareness and services will be included in written materials provided to new employees and as part of new employee orientation.
- d. Employees will be informed that New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims. The law prohibits designation of domestic violence as a pre-existing condition. An insurance company cannot deny or cancel an insurance policy or require a higher premium or payment because the insured is or has been a domestic violence victim. [§2612 of the Insurance Law.]
- e. Information on domestic violence and this Policy will be integrated into existing materials and literature, policies, protocols, and procedures.

- f. Additional domestic violence awareness activities such as "brown bag" lunch programs and other health and wellness programs will be considered.

## **V. WORKPLACE SAFETY PLANS**

The safety and welfare of all Division employees remains of the utmost priority and concern. Therefore, a domestic violence workplace safety response plan has been implemented to provide reasonable means to protect all employees and assist victimized employees in developing and implementing individualized domestic violence workplace safety plans, consistent with existing collective bargaining agreements, statutes and regulations.

- a. MNHS Labor Relations Representative is designated as the DMNA/OPDV Liaison. This liaison will ensure agency-wide implementation of the domestic violence and the workplace policy, and serve as the primary liaison with OPDV regarding this Policy.
- b. The Employee Assistance Program Office (EAP) is designated as support for those in need of assistance around the issue of domestic violence. EAP contact information, including name, phone number and location will be included in all DVW Policy materials and clearly posted.
- c. DMNA shall comply and assist with enforcement of all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the work site. If requested by the victim of domestic violence or law enforcement, the agency shall provide information in its possession concerning an alleged violation of an order of protection.

Employees are encouraged to bring their orders of protection to the attention of the DMNA/OPDV Liaison, MNHS Director or DMNA Office of Legal Affairs (MNLA). Once the order of protection has been brought forward, it shall remain in a secured file cabinet in MNHS, accessible only by the DMNA/OPDV Liaison. In the case of a workplace emergency requiring the presentation of the order of protection to law enforcement, if the DMNA/OPDV Liaison is unavailable to obtain the document, the MNHS Director will have access to the cabinet where the document is locked.

The DMNA/OPDV Liaison will discuss with the employee a plan on how to best proceed to ensure the safest possible work environment for the employee and the rest of the Agency staff. With permission of the employee, this may include: providing a copy of the order of protection and/or photo of the perpetrator to security and front desk personnel; identifying a supervisor and/or colleague to assist in the identification of the subject of the order of protection; and creating a workplace safety plan (see Model Policy Section V f.).

The employee is responsible to notify the DMNA/OPDV Liaison if there are any changes to the order of protection.

- d. While many DMNA facilities are gated and/or protected by Security Forces, if it is suspected that an abuser has gained unauthorized access to the work site, or if an abuser engages in any acts that threaten the safety of employees, employees are required to report these threatening behaviors or incidents immediately. In facilities where on-site security is present, employees must alert security by phone or in person without delay. In facilities where on-site security is not available, employees must call 911 immediately to report the incident to local law enforcement. Local Supervisors and MNHS staff must also be notified as soon as possible.
- e. Victims of domestic violence will be informed of the DMNA confidentiality policy and the limitation thereto. (See Section VII. NYS Agencies Responsibility d – g).
- f. Upon request, victimized employees will be consulted with to develop and implement individualized workplace safety plans, which may include, when appropriate, advising co-workers and, upon request, the employee's bargaining representative, of the situation; setting up procedures for alerting security and/or the police; temporary relocation of the victim to a secure area; options for voluntary transfer or permanent relocation to a new work site; change of work schedule; reassignment of parking space; escort for entry to and exit from the building; responding to telephone, fax, e-mail or mail harassment; and keeping a photograph of the abuser and/or a copy of any existing court orders of protection in a confidential on-site location and providing copies to security personnel. Plans must address additional concerns if both the victim and the offender are employees of DMNA.
- g. This policy will be reviewed annually, with all revisions and updates forwarded to OPDV.

## **VI. TRAINING**

Training will be made available to all staff on domestic violence. Training will be required of certain staff, and strongly encouraged for others, as outlined below.

- a. The DMNA/OPDV liaison and all personnel designated to provide support for those in need of assistance shall complete OPDV's one-day training on Domestic Violence and the Workplace. Training will prepare support personnel to identify possible signs and indicators of victimization, make appropriate referrals to domestic violence service providers, work with professionals to assist identified victims with safety planning, and develop individualized responses in recognition of the physical, social and cultural realities that may affect an individual victim's situation.

Training will also include information on the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity and the safety risks to on-site personnel and visitors.

- b. All appropriate managers, supervisors, employee assistance professionals, human resources personnel, union and labor representatives and security staff shall be encouraged to attend OPDV's training on Domestic Violence and the Workplace.
- c. Training on domestic violence and its impact on the workplace should be made available on a regular basis for all agency staff. Training shall include information on the physical, social and cultural realities that may affect victims of domestic violence, the ways in which domestic violence impacts the workplace, including the potential impact on worker productivity and safety risks. When possible, OPDV-approved training materials will be integrated into existing union and management training programs, agency training programs, EAP training, Public Employer Workplace Violence Prevention Programs training, etc. Training may also be provided by OPDV or a local domestic violence service provider when scheduling permits.

## **VI. NYS AGENCIES RESPONSIBILITY**

- a. Domestic violence is behavior that will not be tolerated. As such, DMNA pledges to actively provide information and support to employees who are victims of such abuse.
- b. Copies of this policy will be disseminated to all current employees and to all new employees upon hiring or appointment.
- c. Employees will review and follow the policy and procedures set forth in this Domestic Violence and the Workplace Policy.
- d. All incidents of domestic violence in the workplace will be documented, consistent with applicable law and this policy. Such documents should be provided to the DMNA/OPDV Liaison as soon as practicable. Such documents shall be kept confidential to the extent permitted by law and agency policy and the provisions of section g detailed below.
- e. Employees providing domestic violence information and support services shall document, consistent with applicable law and DMNA policy, the number of employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers. All information about employees who seek assistance shall be kept confidential to the extent permitted by law and DMNA policy and the provisions of section g detailed below, and documentation should not include any personal information. The number of employees seeking assistance as outlined above shall be reported to the DMNA/OPDV Liaison.

- f. The DMNA/OPDV Liaison will, consistent with applicable law and Division policy, provide information about the number and general nature of domestic violence incidents that happen in the workplace, the number of employees who report domestic violence, the number of employees that request information/services, and the number of referrals made to domestic violence service providers, with no personally identifying information, to OPDV at the time and in a manner determined by OPDV.
- g. Information related to an employee being a victim of domestic violence shall be kept confidential, to the extent permitted by law and DMNA policy, and shall not be divulged without the written consent of the victimized employee, unless it is determined that maintaining said confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is deemed necessary to enforce an order of protection. In such circumstances where a determination has been made that maintaining confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is deemed necessary to enforce an order of protection, only those individuals as deemed necessary by DMNA to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information. Only the minimum amount of information necessary to protect the safety of the victim and/or other employees or enforce an order of protection will be disclosed. Where possible, the victim of domestic violence shall be provided notice of the intent to inform other employees and/or safety personnel. Employees who are the victim of domestic violence will be informed of the Division's policy of confidentiality toward domestic violence information and the limitations of that policy. Nothing herein shall prevent DMNA from investigating an act or acts of domestic violence that happen with in the workplace. Examples of situations where confidentiality cannot be maintained are as follows:
  - 1. Supervisors/managers may be informed about a domestic violence incident that happens in the workplace, or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee's co-workers.
  - 2. First aid and safety personnel may be informed about a domestic violence incident that happens in the workplace or a report of domestic violence, if it is necessary to protect the safety of the employee or the employee's co-workers.
  - 3. Government officials investigating a domestic violence incident that happens in the workplace, or a report of domestic violence, shall be provided relevant information on request.