HEADQUARTERS
DEPARTMENT OF THE ARMY AND THE AIR FORCE
Washington, DC 20310-2500
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*NGR 27-20
*ANGR 112-1

Legal Services

CLAIMS AGAINST OR IN FAVOR OF THE UNITED STATES ARISING FROM NATIONAL GUARD ACTIVITIES

Summary. This regulation provides guidelines and procedures for implementing the Federal Tort Claims Act (28 USC 2671-2680), the National Guard Claims Act (32 USC 715), the Foreign Claims Act (10 USC 2734), the Federal Claims Collection Act (31 USC 3711-3720A), and the Federal Medical Care Recovery Act (42 USC 2651-2653).

Applicability. This regulation is applicable to all ARNG and ANG personnel, unless otherwise indicated.

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Internal Control Systems. This regulation is not subject to the requirements of AR 11-2 and AFR 15-1. It does not contain internal control provisions.

Supplementation. Local supplementation of this regulation is prohibited without prior approval from Chief, National Guard Bureau, NGB-JA, Washington, DC 20310-2500.

Interim Changes. Interim changes are not official unless authenticated by the Executive, NGB. Interim changes will be destroyed on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to NGB-JA, Washington, DC 20310-2500.

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*This regulation supersedes NGR 27-20/ANGR 112-02, 30 April 1981 and NGR 27-38/ANGR 112-01, 18 October 1971.

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Chapter 1
General

1-1. Purpose and scope
This regulation supplements the guidance in AR 27-20, "Claims," for the Army National Guard and AFR 112-1, "Claims and Tort Litigation," for the Air National Guard. This regulation provides procedural guidance for processing both claims against the United States and claims in favor of the United States arising from National Guard activities. While adjudication and payment or assertion and collection of such claims is the responsibility of the active components for the Army National Guard and the Air National Guard, it is often difficult for active component claims offices to learn of claims arising within the National Guard and to investigate such claims. This regulation establishes policies and procedures for the National Guard to report claims to the active components and to assist the active components in the investigation of these claims. This regulation does not apply to claims resulting from activities of the National Guard in non-federally funded state service (which are the responsibility of the several states).

1-2. State Claims Officers
The Adjutant General of each State, Territory, Puerto Rico, and the District of Columbia will appoint a State Claims Officer. The Adjutant General may appoint Assistant State Claims Officers for the ARNG and/or ANG if the claims volume requires. The State Claims Officer will be a full-time technician or member on AGR status and will, if possible, be a commissioned officer. States having a full-time Active Guard Reserve (AGR) judge advocate may appoint said judge advocate as State Claims Officer. The State Claims Officer will be the single individual within the State designated to receive claims under this regulation, to provide notification of claims to the appropriate active component claims authority, and to assist that authority in the timely investigation of the claims to the extent possible. Subject to approval of the Adjutant General concerned, direct communication is authorized between the State Claims Officer and active component claims personnel at all levels. Notification of the name, address, and duty phone number of the State Claims Officer will be forwarded to NGB-JA which will maintain and distribute a roster of State Claims Officers to the U.S. Army Claims Service and HQ, USAF/JACC. The U.S. Army Claims Service and HQ, USAF/JACC will distribute to State Claims Officers through the National Guard Bureau (NGB-JA) copies of claims publications and guidance prepared by those agencies.

Chapter 2
Claims Against The United States

2-1. Authority
This chapter implements the Federal Tort Claims Act (28 USC 2671-2680), the National Guard Claims Act (32 USC 715), and the Foreign Claims Act (10 USC 2734).

2-2. Scope

This chapter applies to claims for property damage, personal injury, or death caused by members of the National Guard engaged in training or duty under 32 USC 316, 502, 503, 504 or 505, or active duty for training or other short periods of active duty under 10 USC 672*(b)* or *(d)*, or otherwise incident to federally funded training activities of the National Guard, or caused by National Guard technicians under 32 USC 709.

2-3. Reporting incidents

a. State Adjutants General will establish procedures to ensure that incidents which may result in claims against the United States are promptly reported through the State Claims Officer to the appropriate active component claims authority. Incident reports will include--

(1) The date, place, and nature of the incident.

(2) A description of any damage, loss, or destruction of private property or any personal injury or death resulting from the incident.

(3) The names, addresses, telephone numbers, and military organization (if applicable) of--

(a) The National Guard personnel involved.

(b) Any potential claimants.

(c) Any witnesses to the incident.

(d) Any law enforcement officers, civilian or military, who investigated the incident.

b. Incident reports will normally be made by electrical message. State Claims Officers will retain copies of incident reports for a minimum of 2 years from the date of the incident.

2-4. Receiving and forwarding claims

To the extent possible, persons desiring to present claims which may may be covered by this regulation will be referred to the State Claims Officer. Claims received by or presented to any other National Guard personnel or technicians will be transmitted without delay to the State Claims Officer along with the date and place of initial receipt of the claim and a chronology of its distribution since receipt. Transmittal to the State Claims Officer will be by the most expeditious reliable means (by messenger, if possible, or by first class mail). Upon receipt of a claim, the State Claims Officer will mark the claim with the date of receipt by authorized personnel of the National Guard, enter it in the claims log according to paragraph 2-5, and forward it immediately by first class mail to the appropriate active component claims authority. The forwarding endorsement will reference any related incident report previously provided to the claims authority. If the claim is against the State as well as the United States, or if it is unclear whom the claim is against (for example, a claim directed to "the National Guard"), it should also be forwarded to the state agency responsible for adjudicating claims against the State. The State Claims Officer will retain one copy of the claim until final disposition has been made.

2-5. Logging

a. The State Claims Officer will maintain a chronological log of all claims received. For each claim, the log will record--

(1) The date the claim was received.

(2) The name and address of the claimant.

(3) The nature of the claim.

(4) The amount claimed.

(5) The date and place of incident.

(6) To whom the claim was forwarded.

(7) The date forwarded.

(8) A reference to any any related incident report on file.

b. The claims log will be maintained as a permanent record. DA Form 1665 or similar form may be used for this purpose. Separate logs may be maintained for Army and Air Force claims.

2-6. Investigating claims

Investigation of claims against the United States is primarily the responsibility of the active component claims authority. However, to the extent permitted by manpower and resources, State Adjutants General will provide support and assistance to the active component claims authority in investigating claims which result from activities of the National Guard of their jurisdiction or which arise from incidents within their state involving the National Guard of other jurisdictions (e.g., traffic accidents while in transit to training areas). Investigations will be coordinated through the State Claims Officer. AR 27-20, chapter 2, and AFR 112-1, chapter 4, provide guidance on conducting investigations. The use of other investigations for claims purposes (e.g., aircraft accident investigations, Criminal Investigation Command (CID) or Office of Special Investigation (OSI) investigations, line of duty investigations, reports of survey, etc.) will be according to the regulations prescribing such investigations. For claims arising from ARNG activities, the Army Area Claims Offices responsible for liaison with the State Claims Officer of each state are listed in appendix A. For claims arising from ANG activities, State Claims Officers may conduct liaison directly with HQ, USAF/JACC, Bldg 5683, Bolling AFB, Washington, DC 20332-6128, AUTOVON 297-1579, Coml (202) 767-1579. National Guard units and personnel training overseas may give rise to claims. In overseas areas Foreign Claims responsibility in each country is generally assigned to a single service. United States Sending State Offices and Single Service Offices are listed in appendix B. These offices may have to contact the State Claims Officers for assistance in obtaining information from National Guard members about incidents in which they were involved while training overseas.

2-7. Claims litigation

Litigation resulting from claims will be reported according to NGR NGR 27-40/ANGR 110-24, "Litigation."

Chapter 3
Affirmative Claims

3-1. Authority

This chapter implements the Federal Claims Collection Act (31 USC 3711-3720A) and the Federal Medical Care Recovery Act (42 USC 2651-2653).

3-2. Scope
This chapter explains the role of the State Claims Officer in the assertion of property damage recovery claims and medical care recovery claims. It also explains the role of unit commanders and United States Property and Fiscal Office (USPFO) in the processing of medical care recovery claims.

3-3. Property damage recovery
a. Responsibility for collection action to recover for damage to United States property caused by negligence or wrongful act (other than damage covered under the Report of Survey system) rests with the active component. The State Claims Officer will--

(1) In conjunction with the USPFO, establish procedures to gather and review reports of damage to United States property.

(2) Determine whether an incident of damage may give rise to a claim against a responsible tort-feasor under the applicable active component claims regulation.

b. If an incident has given rise to a potential claim in favor of the United States, the State Claims Officer will transmit the completed report of survey or comparable investigation to the active component claims authority. However, in ARNG cases where the potential claims in favor of the United States exceed $1000.00, the State Claims Officer will also, if manpower and resources permit, prepare and transmit DA Form 1208 (Report of Claims Officer) according to the guidance in AR 27-20, paragraph 14-9*a(3)*.

3-4. Medical care recovery
a. The Federal Medical Care Recovery Act provides that--

(1) When the United States furnishes hospital, medical, surgical, or dental care and treatment, including prosthetics and medical appliances, to a person who is injured or contracts a disease under circumstances that create legal liability upon a third party to pay damages, the United States has the right to recover from the third party the reasonable value of the care and treatment furnished or to be furnished.

(2) The head of the U.S. department or agency that furnishes the care and treatment may require the injured party to assign the claim or cause of action against the third party to the extent of such medical care.

(3) To enforce its right, the United States may intervene or join in any action or proceeding against the third party brought by the injured party. If the injured party has not started such action within 6 months after the first day that care and treatment began, the United States may institute action against the third party in a State or Federal court, alone or in conjunction with the injured party.

(4) The injured party will not be denied recovery or damages not covered by the Act because of any action under it by the United States.

b. Assertable and non-assertable claims are discussed in AR 27-20, chapter 14, and AFR 112-1. This determination will be made by the appropriate active component claims authority.

c. When an ARNG or ANG member receives medical care in a military treatment facility (MTF), medical care recovery will be pursued by the service operating the MTF according to its regulations.

d. When an ARNG or ANG member receives medical care in a non-military Federal treatment facility or civilian treatment facility, the following actions will be accomplished.

(1) The unit commander or his authorized representative will send a copy of the authorization for admission of the member to the treatment facility, in the format prescribed in NGR 40-3 or ANGR 168-10, to the State Claims Officer whenever the possibility of third party tort liability exists and will advise the injured party of his or her obligations as set forth in AR 27-20, paragraph 14-14*f* or AFR 112-1, paragraph 15-66.

(2) The State Claims Officer will report the incident as soon as practical to the commander of the MTF of the member's service nearest to the place where he is receiving medical care and to the active component claims authority servicing that MTF who will be responsible to pursue the medical care recovery claim.

(3) The State Claims Officer will coordinate with the USPFO, or such other agency as may be responsible under NGR 40-3 or ANGR 177-03 to pay for medical treatment, to ensure that all public voucher payments for the member's treatment are consolidated, updated, and reported to the active component claims authority for inclusion in the Government's claim.

(4) The State Claims Officer and the USPFO will establish procedures to ensure that all public voucher payments for medical treatment are screened for possible third party tort liability in order to identify cases which were not previously reported.

(5) The State Claims Officer will obtain copies of existing reports of the incident resulting in the injury or death (e.g., civilian and/or military police accident reports, line of duty investigations, reports of survey, etc.) and forward them to the active component claims authority. These reports may provide all the information needed by the active component claims authority to complete the recovery action. However, the active component claims authority may request either a complete report (on DA Form 1208 for ARNG) or an abbreviated report covering any aspect of the incident. State Claims Officers will provide such additional investigative assistance whenever manpower and resources permit.

3-5. Timely submission

The State Claims Officer will ensure that all potential affirmative claims under this chapter are reported promptly, investigated to the extent possible, and forwarded to the appropriate active component claims authority to permit timely assertion of the Government's claims.

Appendix A

Army National Guard Liaison Responsibilities

State	Area Claims Office
Alaska	Fort Richardson
Alabama	Fort Rucker
Arizona	Fort Huachuca
Arkansas	Fort Sill
California	Fort Ord
Colorado	Fort Carson
Connecticut	West Point
Delaware	Aberdeen Proving Ground
District of Columbia	Military District of Washington, Fort McNair
Florida	Fort Stewart
Georgia	Fort Benning
Guam	WESTCOM Claims Service
Hawaii	WESTCOM Claims Service
Idaho	Fort Lewis
Illinois	Fort Sheridan
Indiana	Fort Benjamin Harrison
Iowa	Fort Leavenworth
Kansas	Fort Riley
Kentucky	Fort Knox
Louisiana	Fort Polk
Maine	Fort Devens
Maryland	Fort Meade
Massachusetts	Fort Devens

State	Area Claims Office
Michigan	Fort Benjamin Harrison
Minnesota	Fort Sheridan
Mississippi	Fort Rucker
Missouri	Fort Leonard Wood
Montana	Fort Lewis
Nebraska	Fort Riley
Nevada	Presidio of San Francisco
New Hampshire	Fort Devens
New Jersey	Fort Dix
New Mexico	White Sands Missile Range
New York	West Point
North Carolina	Fort Bragg
North Dakota	Fort Riley
Ohio	Fort Knox
Oklahoma	Fort Sill
Oregon	Fort Lewis
Pennsylvania	Fort Meade
Puerto Rico	Fort Buchanan
Rhode Island	Fort Devens
South Carolina	Fort Jackson
South Dakota	Fort Riley
Tennessee	Fort Campbell
Texas	Fort Hood
Utah	Fort Carson
Vermont	Fort Devens

State	Area Claims Office
Virginia	Fort Lee
Virgin Islands	Fort Buchanan
Washington	Fort Lewis
West Virginia	Fort Lee
Wisconsin	Fort Sheridan
Wyoming	Fitzsimons Army Medical Center

Appendix B

United States Sending State Offices and Single Service Offices

Army addresses

Belgium
United States Claims Office, Belgium
Nato Support Element
APO New York 09667

El Salvador
Staff Judge Advocate
193d Infantry Brigade (Panama)
ATTN: AFZU-JA-CL
Fort Clayton, Panama
APO Miami 34007

France
United States Claims Office, Belgium
NATO Support Element
APO New York 09667

Federal Republic of Germany
United States Army Claims Service, Europe
APO New York 09166

Grenada
United States Army Claims Service, OTJAG
ATTN: JACS-FM
Fort Meade, Maryland 20755

Honduras
Staff Judge Advocate
193d Infantry Brigade (Panama)
ATTN: AFZU-JA-CL
Fort Clayton, Panama
APO Miami 34007

Korea
United States Armed Forces Claims Service, Korea
APO San Francisco 96301

Air Force addresses

Australia
USAFLO/CINCAPACREP
APO San Francisco 96404-5000

Azores
1605 MASW/JA
APO New York 09406-5000

Air Force addresses

Canada
SPACECOM/JA
Peterson AFB, Colorado 80914-5001

Denmark (except Greenland)
CINCUSAFE/JA
Office of Defense Attache, United States Embassy
Copenhagen, Denmark
APO New York 09012-5001

Egypt
HQ 9th Air Force/JA
Shaw AFB, South Carolina 29151-5002

Greece
7206 Air Base Group/JA
APO New York 09223-5000

Greenland
(for Foreign Claims)
Base SPACECOM/JA
Peterson AFB, Colorado 80914-5001

(for Personnel Claims)
1st Space Wing/JA
Peterson AFB, Colorado 80914-5001

India
HQ PACAF/JA
Hickman AFB, Hawaii 96853-5001

Israel
no address available

Japan
5 Air Force/JA
APO San Francisco 96328-5000

Luxembourg
36 Tactical Fighter Wing/JA
APO New York 09132-5000

Nepal
HQ PACAF/JA
Hickman AFB, Hawaii 96853-5001

The Netherlands
32 Tactical Fighter Squadron/JA
APO New York 09292-5000

Air Force addresses

Norway
7240 Air Base Squadron/JA
APO New York 09085-5000

Oman
HQ 9th Air Force/JA
Shaw AFB, South Carolina 29152-5002

Pakistan
HQ 9th Air Force/JA
Shaw AFB, South Carolina 29152-5002

Saudi Arabia
HQ 9th Air Force/JA
Shaw AFB, South Carolina 29152-5002

Spain
401 Tactical Fighter Wing/JA
APO New York 09283-5000

Turkey
TUSLOG/JA
APO New York 09254-5000

United Kingdom
513 Combat Support Group/JA
APO New York 09127-5000

Navy addresses

Bahrain
Commanding Officer
ATTN: Staff Judge Advocate
Administrative Support Unit
FPO New York 09526-2800

Iceland
Commanding
ATTN: Staff Judge Advocate
U.S. Naval Air Station
FPO New York 09571

Italy
Officer in Charge
U.S. Sending State Office for Italy
APO New York 09794

Portugal
Officer in Charge
U.S. Naval Legal Service Office Detachment
U.S. Naval Station
Box 46
FPO New York 09540

BY ORDER OF THE SECRETARIES OF THE ARMY AND THE AIR FORCE

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