



CHIEF NATIONAL GUARD BUREAU INSTRUCTION

NGB-JA
DISTRIBUTION: A

CNGBI 0404.01
05 September 2017

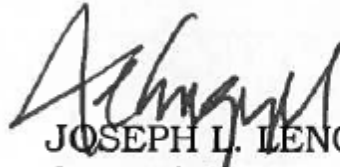
CLAIMS

References: See Enclosure B.

1. Purpose. This instruction establishes policy and assigns responsibilities for processing claims against the U.S. and claims in favor of the U.S. arising from National Guard (NG) activities in accordance with (IAW) references a through aa.
2. Cancellation. This instruction rescinds and replaces NG Regulation 27-20/Air National Guard Regulation 112-1, 10 July 1989, "Claims Against or In Favor of the United States Arising from National Guard Activities."
3. Applicability. This instruction applies to all elements of the NG.
4. Policy. It is National Guard Bureau (NGB) policy to monitor and provide guidance through the Office of the NGB Chief Counsel (NGB-JA) on processing claims against the U.S. and claims in favor of the U.S. arising from NG activities.
5. Definitions. See Glossary.
6. Responsibilities. See Enclosure A.
7. Summary of Changes. This is the initial publication of CNGBI 0404.01.
8. Releasability. This instruction is approved for public release; distribution is unlimited. Copies are available through <<http://www.ngbpdc.ngb.army.mil>>.

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9. Effective Date. This instruction is effective upon publication and must be reissued, canceled, or certified as current every five years from the date of publication.



JOSEPH L. LENGYEL
General, USAF
Chief, National Guard Bureau

Enclosures:

- A -- Responsibilities
- B -- References
- GL -- Glossary

ENCLOSURE A
RESPONSIBILITIES

1. NGB-JA. NGB-JA will:

a. Provide policy and guidance on behalf of the Chief of the National Guard Bureau (CNGB) on processing claims against the U.S. and claims in favor of the U.S. arising from NG activities.

b. Develop, coordinate, and issue a CNGB Manual to provide guidance, including required reports and notifications, IAW this instruction.

c. Serve as the official channel of communication between the States, the Department of the Army, and the Department of the Air Force on all legal matters pertaining to the NG, IAW paragraph 4b of reference u.

d. Distribute copies of active component changes to claims-related guidance or materials to State Claims Officers upon release, if necessary.

e. Maintain and distribute a roster of current State Claims Officers to the U.S. Army Legal Services Agency, Litigation Division; the U.S. Army Claims Service; and the U.S. Air Force Legal Operations Agency, Civil Law and Litigation Directorate.

f. Maintain a list of current U.S. Army Area Claims Offices and Claims Processing Offices on the NGB-JA Litigation and Employment Law Division's Guard Knowledge Online website through reference aa.

2. The Adjutants General (TAG) and the Commanding General of the District of Columbia National Guard. TAG and the Commanding General of the District of Columbia National Guard will:

a. Appoint a military technician (Dual Status) or a member in Active Guard Reserve status as the State Claims Officer.

b. Appoint a commissioned officer, preferably a Judge Advocate, as the State Claims Officer whenever possible.

c. Appoint an Assistant State Claims Officers for the Army National Guard and Air National Guard if the volume of claims requires additional personnel to support the State Claims Officer.

d. Establish procedures to ensure that incidents that may result in claims against the U.S. are promptly reported to the active components by the State Claims Officer.

3. State Claims Officer. The State Claims Officer will:
- a. Serve as the sole individual designated within a State to receive claims under this instruction.
 - b. Liaise directly with active component claims personnel, subject to approval by NGB-JA and TAG concerned or the Commanding General of the District of Columbia National Guard.
 - c. Provide the Litigation and Employment Law Division of NGB-JA with his or her updated contact information, including name, rank, official email address, street address, facsimile number, and duty phone numbers (both Defense Switched Network and commercial, where applicable).
 - d. Provide notification of incidents that may result in claims against the U.S. to the appropriate active component claims authorities and assist in the investigation of those incidents.
 - e. Provide notification of claims to the appropriate active component claims authorities and assist in the investigation of those claims.
 - f. Maintain a chronological log of claims received.
 - g. Forward claims to the State agency responsible for adjudication when claims are filed against both the State and the U.S.
 - h. Establish procedures in conjunction with the U.S. Property and Fiscal Office to gather and review reports of damage to U.S. property.
 - i. Transmit reports of damage to U.S. property to the active component claims authority in cases where there may be potential claims in favor of the U.S.

ENCLOSURE B

REFERENCES

- a. Title 10 United States Code (U.S.C.) Section 1095
- b. 10 U.S.C. § 1095b
- c. 10 U.S.C. § 2734
- d. 10 U.S.C. § 2734a
- e. 10 U.S.C. § 2734b
- f. 10 U.S.C. § 12301
- g. 28 U.S.C. § 1346(b)
- h. 28 U.S.C. §§ 2671-2680, Chapter 171
- i. 31 U.S.C. §§ 3711-3720E
- j. 32 U.S.C. § 316
- k. 32 U.S.C. § 502
- l. 32 U.S.C. § 503
- m. 32 U.S.C. § 504
- n. 32 U.S.C. § 505
- o. 32 U.S.C. § 709
- p. 32 U.S.C. § 715
- q. 42 U.S.C., Chapter 32
- r. CNGB Instruction 5000.01A, 26 April 2017, “Chief of the National Guard Bureau Issuances”
- s. DoD Directive 5105.77, 30 October 2015, “National Guard Bureau”
- t. DoD Instruction 5515.08, 30 August 2016, “Assignment of Claims Responsibility”
- u. DA Pamphlet 27-162, 21 March 2008, “Claims Procedures”

- v. AF Instruction 41-210, 06 June 2012, "TRICARE Operations and Patient Administration Functions"
- w. AF Instruction 51-501, 13 September 2016, "Tort Claims"
- x. AF Instruction 51-502, 05 August 2016, "Personnel and Government Recovery Claims"
- y. Army Regulation 27-20, 08 February 2008, "Claims"
- z. National Guard Regulation 40-3, 15 December 1978, "Medical Care for Army National Guard Members"
- aa. Guard Knowledge Online, NGB-JA Litigation and Employment Law Division
<<https://gkoportal.ng.mil/ngb/STAFF/D01/B01/S08/SitePages/Home.aspx>>
10 July 2017

GLOSSARY

PART I. ACRONYMS

IAW	In accordance with
NG	National Guard
NGB	National Guard Bureau
NGB-JA	Office of the National Guard Bureau Chief Counsel
TAG	The Adjutants General

PART II. DEFINITIONS

Claim -- A demand for payment of a specified sum of money for personal injury, property damage, or wrongful death. Claims must be in writing and signed by a claimant or a properly designated representative unless otherwise specified in this instruction or in the references.

States -- The several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the U.S. Virgin Islands.