



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



SEP 20 2001

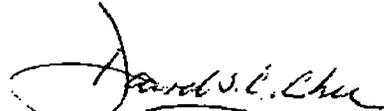
MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (M&RA)
ASSISTANT SECRETARY OF THE NAVY (M&RA)
ASSISTANT SECRETARY OF THE AIR FORCE (SAF/MR)

SUBJECT: Mobilization/Demobilization Personnel and Pay Policy for Reserve Component
Members Ordered to Active Duty in Response to the World Trade Center and
Pentagon Attacks

- References: (a) Secretary of Defense Memorandum, Partial Mobilization (World Trade Center and Pentagon Attacks) and Redelgation of Authority Under Title 10, United States Code, Sections 123, 123a, 527, 12006, 12302 and 12305, 12011, and 12012, September 19, 2001.
- (b) Title 10 U.S.C. Sections 101(a)(13) and 12302
- (c) Title 37 U.S.C.
- (d) DoD Directive 1200.7, "Screening the Ready Reserve," November 18, 1999
- (e) DoD Directive 1235.10, "Activation, Mobilization, and Demobilization of the Ready Reserve," July 1, 1995

This memorandum provides specific guidance to be followed for members identified for activation under reference (a). The attached criteria will be followed in determining which members will be activated, exempted or delayed, and when those activated members may be released from active duty. Service Secretaries may prescribe criteria consistent with this guidance for any area not addressed.

The Military Departments may continue to use qualified volunteers as necessary. Pursuant to reference (b), the military operation supported by this activation is a contingency operation. Therefore, the provisions of sections 303b, 316a, 403(g)(2), 403b(f)(2) and 501(b)(5) of 37, U.S.C., and sections 701(f), 1035, and 1074b of 10, U.S.C., and any other provisions relating to contingency operations will be in effect for members who serve on active duty in support of this operation.


David S. C. Chu

Attachment:
As stated



GUIDANCE

a. Units and/or individuals ordered to active duty under 10 U.S.C. 12302 may not be ordered to active duty for the purpose of training. Units organized to serve as units must be activated as units. A unit is “any identified and managed group or detachment of one or more individuals, organized to perform a particular function whether or not such a group is part of a larger group.” Individual Mobilization Augmentees (IMAs), Individual Ready Reserve (IRR) members, and Inactive National Guard (ING) members may be ordered to active duty under this authority as individuals if they are not members of units organized to serve as units. During the period of active duty under this authority, National Guard and Reserve forces are part of the active armed forces of the United States, but shall not be counted against Active component end strength.

b. No member of a Reserve component called to involuntary active duty under 10 U.S.C. 12302, in response to the World Trade Center and Pentagon Attacks, shall serve on active duty in excess of 24 months under that authority, including travel time to return the member to the residence from which he or she left when called to active duty and use of accrued leave. Service Secretaries concerned may release individuals early (prior to the completion of the period of service for which ordered) based on operational requirements. As a matter of policy, the period of active duty specified for Ready Reserve members in initial orders to active duty under 10 U.S.C. 12302 shall not exceed 12 months. This period may be extended up to an additional 12 months at the discretion of the Service Secretary based on operational requirements or other needs. A member who has been released from active duty prior to completing 24 months, may again be involuntarily called to active duty as long as the total of the combined periods of service under 10 U.S.C. 12302 does not exceed 24 months. The eligible family members of Reserve component members whose orders specify a period of active duty of 179 days or more are eligible for enrollment in TRICARE prime.

c. The periods of service for units or members of the Ready Reserve ordered to active duty under 10 U.S.C 12302 shall be measured from the date active duty commences for the particular unit or member not assigned to a unit without regard to the date of the President’s action or the time of commencement of service by other units or members. No member of the Ready Reserve called to involuntary active duty under 10 U.S.C. 12302 in support of the effective conduct of operations in response to the World Trade Center and Pentagon Attacks, shall serve on active duty in excess of 24 months under that authority, including travel time to return the member to the residence from which he or she left when called to active duty and use of accrued leave. Units or individuals ordered to active duty under 10 U.S.C. 12302 may be released from active duty prior to completion of the period of service for which ordered or by order of the President, or by a pertinent provision of law.

d. Reserve members who have served on active duty for 24 months, or fewer, under 10 U.S.C. 12302, may be retained on active duty under 10 U.S.C. 12301(d), with their consent, and in accordance with Service policy.

e. A member ordered to active duty under 10 U.S.C. 12302, whose status changes due to medical, legal or other situations that render the member unfit to perform duty under that section,

shall have his/her orders modified, on or before completing the maximum 24 month period specified under 10 U.S.C. 12302, to reflect that the member is no longer serving under the provisions of 10 U.S.C. 12302.

f. Pursuant to 10 U.S.C. 101(a)(13), the call or order to active duty of members of the uniformed services under section 12302 of that title triggers a contingency operation and additional entitlements as authorized under titles 10, 37, and 38, U.S.C. for service members participating in that operation. Members of the National Guard and Reserve voluntarily ordered to active duty in support of this contingency operation are also eligible for these additional entitlements as they apply in their individual situations. Orders shall specifically state that an individual is on active duty in support of the contingency operation.

g. Upon declaration of partial mobilization, Ready Reservists may not be screened from the Ready Reserve due to civilian employment. All members of the Ready Reserve shall be considered immediately available for active duty. Exceptions shall be determined by the Secretary of Defense or his designee. Ready Reservists ordered to active duty with their unit or as individuals shall report as ordered unless physically unable to do so. However, members who have not completed Initial Active Duty for Training, or the equivalent, shall be excluded from the unit activation order. After reporting as ordered, members may be considered for release on extreme hardship or other appropriate grounds.

h. In accordance with 10 U.S.C. 115(d)(1), (6), and (9) respectively, members of the Ready Reserve ordered to active duty under 10 U.S.C. 12302 for 24 months or fewer, or ordered to active duty under 10 U.S.C. 12301(d) for 180 days or fewer to perform active duty for special work per 115(d)(6), or on active duty for special work in support of a combatant command for more than 180 days, but less than 271, per 115(d)(9), shall not be counted when computing authorized end strengths of members on active duty under 10 U.S.C. 115(a)(1).

i. All Active Guard and Reserve (AGR) personnel as defined in 10 U.S.C. 101(d)(6)(A) who are already on active duty under 10 U.S.C. 12301(d) performing AGR duty as described in 10 U.S.C. 12310, including those affiliated with units ordered to active duty or into Federal service, shall not be counted against the number authorized by 10 U.S.C. 12302 for this operation. Funds available for AGR personnel (referred to in 10 U.S.C. 12310) may continue to be used for AGR personnel pay and allowances in accordance with 10 U.S.C. 12318.

j. Individuals failing to comply with an order to active duty shall be reported as absent without official leave to civilian authorities. Such personnel are subject to the Uniform Code of Military Justice (UCMJ) as of their reporting date, whether or not they have reported to active duty. Violations of the UCMJ, including violations of Article 86, UCMJ, shall be handled on a case-by-case basis in accordance with existing laws and regulations.

k. Under Chapter 43 of title 38, U.S.C., service members involuntarily or voluntarily called to active duty must provide their employers with either written or verbal advance notification of their requirement to perform military service, unless notice is precluded by military necessity or is otherwise impossible or unreasonable. Service members should be encouraged to provide the required notice in writing.

l. Civilian reemployment rights and benefits under chapter 43 of title 38, U.S.C., are identical for both members called to active duty involuntarily under 10 U.S.C. 12302 and members who serve voluntarily in response to the World Trade Center and Pentagon Attacks under 10 U.S.C. 12301(d).

m. Under 38 U.S.C. 4333 the Secretary of Defense is authorized to take such actions as determined appropriate to inform employers of the statutory rights, benefits, and obligations of not only Reserve component personnel but employers as well. The Office of the Assistant Secretary of Defense for Reserve Affairs (Manpower & Personnel) has begun work on a "dot mil" web site for collecting employer data. Initially, the site will provide a means for a Reserve component member mobilized in response to the World Trade Center and Pentagon Attacks to **voluntarily** supply information about his/her employer. This information will be used primarily by the National Committee for Employer Support of the Guard and Reserve (ESGR) to better target information on DoD policy, programs and mobilization at employers whom it knows employ mobilized Guard and Reserve members. The Services and Reserve components will be advised when the web site is available for input of employer data.

n. In preparation for web site implementation, the military services are strongly encouraged to capture and store, for all mobilized Reserve component members, the following information: Name of Employer, Street Address, City, State, Zip Code (5-digits), Supervisor's Full Name, Supervisor's Work Phone Number, "May a Member of the Department of Defense Contact Your Employer, Yes or No."

o. All Reserve component members must be put on direct deposit/electronic funds transfer (EFT) in order to receive military pay and allowances. Members should be reminded that direct deposit to a checking account versus a savings account is preferable to ensure members have access to their funds while deployed.

p. Advances of pay and allowances should be limited to the minimum amount needed for the member to take care of expenses associated with the call-up. The advance pay may not exceed one month's pay and allowances, except that in extreme hardship cases as evidenced in written command justification, an advance of up to two additional months of pay and allowances may be authorized. The advance payment shall be made to the member's financial institution by EFT or mailed from Defense Finance and Accounting Service, for those members who at that time do not have an account at a financial institution, to a member's designated address. Any advance payments shall be repaid beginning on the first day of the month after the payment of the advance at the rate of one-third the amount advanced each month for three months, or at the rate needed to repay the advance by the scheduled termination date of the orders, whichever is earlier. In the event a member becomes indebted due to early release or any other reason, the amount owed shall be collected from available pay upon separation or release from active duty. Any remaining debt after separation or release from active duty will be established in the Defense Debt Management System and collected in accordance with current debt collection practices.

q. Members shall have proper documents in their possession to establish qualifications and eligibility for special pays. In the case of medical department personnel, the members may

provide proof that such documentation is being processed by the appropriate medical approving authority. This will ensure that payment of health profession and other specialty pays are properly implemented.

r. The Secretary of Defense has determined that legal services constitute a professional service under section 592 of title 50, United States Code Appendix (U.S.C. app.). Therefore, Reserve component personnel called to active duty under 10 U.S.C. 12301(d) or 12302 in response to the World Trade Center and Pentagon Attacks, who provided professional legal services in their civilian occupation, shall be afforded professional liability insurance protection on the same basis as health care providers under 50, U.S.C. App. 592.

s. Members of the National Guard and Reserve who serve on active duty in response to the World Trade Center and Pentagon Attacks shall receive a complete health screening assessment prior to release from active duty per the following policy guidance:

1. Each member of the National Guard and Reserve, who is deployed for 30 continuous days or longer to a land-based location outside of the United States that does not have a permanent U. S. military treatment facility, shall receive a full medical assessment, to include a mental health assessment, prior to release from active duty in accordance with the policy guidance as prescribed in DoD Instruction 6490.3, "Implementation and Application of Joint Medical Surveillance for Deployments," dated August 7, 1997; Assistant Secretary of Defense (Health Affairs) Memorandum, "Policy for Pre- and Post-Deployment Health Assessments and Blood Samples," dated October 6, 1998; and Joint Staff Memorandum, "Deployment Health Surveillance and Readiness," dated December 4, 1998. The assessment should be completed in theater at least 5 days before redeploying to home station or a mobilization processing station. Post deployment assessments of Reserve component personnel shall be completed prior to release from active duty. The completed Post-Deployment Health Assessment Questionnaire shall be placed in the permanent medical record and a copy shall be forwarded to the Deployment Surveillance Team, 5113 Leesburg Pike, Suite 701, Falls Church, VA 22041 within 30 days of completion.

2. Members of the National Guard and Reserve called to duty in response to the World Trade Center and Pentagon Attacks who deploy for fewer than 30 days to an area as stated in paragraph s.1., above, or who did not deploy outside of the United States (regardless of the length of time), should, as a minimum, complete a medical evaluation prior to release from active duty. This evaluation should be documented on DD Form 2697. A copy of the completed DD Form 2697 shall be placed in the member's medical record. Individual medical problems shall be fully assessed and the medical record shall contain documentation of any medical problem encountered during this period of active service and the member's medical status at separation. This documentation must contain sufficient detail to provide the basis for future evaluation of possible service connected disabilities.

3. Members requiring a more detailed medical evaluation or treatment shall, with the member's consent, be retained on active duty pending resolution of their medical condition. Members who cannot be returned to full military duty or who are found to be not physically qualified for retention in the Service shall, with their consent, be retained on active duty under 10

U.S.C. 12301(d), until they have completed the Medical Evaluation Board/Physical Evaluation Board process. Members who, notwithstanding their medical condition, elect release from active duty shall have their medical problem(s) fully documented in their medical record prior to release from active duty. In all cases where a medical problem is documented, a line of duty determination shall be made. Members who elect to be released from active duty notwithstanding their medical condition shall be entitled to the medical care and benefits as provided for in Department of Defense Instruction 1241.2, "Reserve Component Incapacitation System Management" when it is determined that the member has incurred or aggravated an injury, illness, or disease in the line of duty during this period of active duty.

t. In accordance with 10 U.S.C. 1074b, National Guard and Reserve personnel who were ordered to or volunteered for active duty in response to the World Trade Center and Pentagon Attacks are entitled (along with their dependents) to medical and dental care for up to 30 days after their release from active duty unless the member attains coverage during that 30 days by an employer-sponsored health care plan. If the member attains medical coverage by an employer-sponsored health care plan prior to the completion of the 30 day limitation, the military medical and dental coverage ceases. If the member completes the 30 days and is not covered by an employer-sponsored health care plan by the 31st day, the member will be without medical and dental health care coverage from the U.S. Government.

u. To ensure identification of qualification for veterans' and other benefits, members of a Reserve component who have served on active duty in response to the World Trade Center and Pentagon Attacks on or after September 11, 2001, will be issued a Certificate of Release or Discharge from Active Duty (DD Form 214) in accordance with Department of Defense Instruction 1336.1, "Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)." The certificate will be provided on release from active duty, regardless of the number of days actually served. The "remarks" section of the DD Form 214 will be annotated to indicate participation in operations in response to the World Trade Center and Pentagon Attacks, or any other such operations associated with the World Trade Center and Pentagon Attacks, identification of the provision(s) of law under which the member served on active duty, duty location, and the dates, if any, of service in the designated imminent danger pay areas for operational missions associated with the World Trade Center and Pentagon Attacks.

v. Consistent with applicable laws and regulations, individuals pending disciplinary allegations under the Uniform Code of Military Justice, may have their orders extended or otherwise be retained on active duty without the member's consent, as provided by Rule of Courts Martial 202(c) and 10 U.S.C. 802(d), pending resolution of the allegations.

w. Personnel with accrued leave shall be treated in accordance with 37 U.S.C. 501. Personnel with accrued leave shall, within statutory limitations, be given the option of receiving payment for such leave, taking pre-separation leave, or a combination thereof. National Guard and Reserve personnel desiring to take accrued leave prior to release from active duty may be voluntarily retained on active duty past their normal release date for up to the number of days of leave which they have accrued. If the total number of days an individual is retained on active duty in order to use accrued leave will exceed 24 months, the orders shall be amended to reference 10 U.S.C. 12301(d) as the authority for retention beyond 24 months.

x. In accordance with 10 U.S.C. 12686, National Guard and Reserve personnel who have been ordered to active duty (other than for training) in response to the World Trade Center and Pentagon Attacks who, on the date which they would otherwise be released from active duty, are within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from active duty before becoming eligible for that pay unless such release is approved by the Secretary of the Military Department concerned. Members retained on active duty under this citation shall have orders amended to reference 10 U.S.C. 12301(d) as the authority for retention beyond 24 months.

y. Service Secretaries may prescribe supplemental policies to this guidance, but must comply with the standards and provisions provided herein as a minimum.

z. Specific Order Writing Guidance.

1. All call to active duty orders will specify that duty is in support of operations as prescribed in Executive Order 13223, September, 14, 2001.

2. Involuntary orders to active duty will specify the initial period of active duty for up to 12 months.

3. All orders for individuals and units will contain the statement "Call 1-800-336-4590 (National Committee for Employer Support of the Guard and Reserve) or check on line at www.esgr.org if you have questions regarding your employment/ reemployment rights."

4. No member shall be in an inactive duty training status (IDT) in a designated Imminent Danger Area / Hostile Fire Area as prescribed by Department of Defense Instruction 1215.19, Uniform Reserve, Training and Retirement Category Administration.

5. Upon being called to active duty, the Reserve member may report to a location within commuting distance of the member's home of record. The member is only entitled to active duty pay and allowances.

In the case where the reporting location is not within commuting distance of the member's home of record, the Service Secretary may, IAW Section U7150, paragraph A4 of the JFTR, call the member to active duty in a temporary duty status, so long as the order states the call to active duty is in a temporary duty status.

In the event orders move individuals or the entire unit to a location away from the reporting location, such orders will normally indicate temporary duty status. Per Diem will be paid in accordance with the JFTR.

ORDER TO ACTIVE DUTY POLICY

Unless a different reporting time is specified by the Military Service concerned, all members of units and individuals ordered to active duty under 10 U.S.C. 12302 are to report within 24 hours of notification, unless physically unable. Upon reporting, members will be activated unless excepted (released from active duty) under the following cases:

<u>AREA</u>	<u>MEMBER IS:</u>	<u>THEN</u> ¹
Medical	Hospitalized, convalescing, or being evaluated for retention	Delay or separate
	HIV positive	Do not activate
	Pregnant	Do not involuntarily activate ²
	New Mother (by birth or adoption)	Defer for 12 weeks from time of delivery or placement in home
Schooling	Enrolled in high school and under 20 years old	Defer
	Has not completed initial active duty for training (IADT) or equivalent ³ per 10 USC 671	Except
	Enrolled in college or professional schooling	Activate ⁴
Judicial	Under arrest or confinement	Delay or separate
Personal	Sole surviving son or daughter ⁵	Activate ⁶
	Pending separation action	Service policy
	Military spouse	Activate ⁷
	Sole parent	Activate ⁷
Other	Extreme personal hardship	Activate ⁸

¹ Members will be determined to be eligible/ineligible for deployment in accordance with regulations prescribed by the Secretary concerned.

² Members may volunteer for active duty under 10 U.S.C. 12301(d)

³ Equivalent includes those members who have completed all initial active duty for training (IADT) required by the Service concerned.

⁴ Exceptions may be granted consistent with Service policies.

⁵ As defined in DoD Directive 1315.7.

⁶ Assign IAW DoD Directive 1315.7.

⁷ May be considered for exception under extreme hardship provision.

⁸ Service Secretaries may approve a delay in exceptional cases.