

**BY ORDER OF THE
COMMANDER**



NJANG INSTRUCTION 51-201

12 February 2012

Law

OFF DUTY EMPLOYMENT

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: This publication is available electronically digitally on the 108th Wing and 177th FW Local Area Network.

RELEASABILITY: There are no releasability restrictions on this publication.

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The purpose of this instruction is to establish policy and procedures for the Off-Duty Employment program and applies to all members of the New Jersey Air National Guard and/or Air National Guard of the United States ordered to serve on active duty (on Title 10 and attached to a unit of the NJANG for OPCON purposes, or as an AGR) for 30 or more continuous days. These members must complete an AF Form 3902, *Application and Approval for Off-Duty Employment*, before engaging in outside employment. This instruction also applies retroactively to active duty members on continuous orders for more than 30 days that was commenced prior to this instruction; such members must submit an AF Form 3902 before continuing such off-duty employment. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://afrims.amc.af.mil/>.

1. PROCEDURES: Members covered by this instruction must complete an AF Form 3902, *Application and Approval for Off-Duty Employment*, before engaging in outside employment, regardless of whether such employment is for pay or for a personally or family-owned business. The approving authority for the 177th FW and 108th Wing are the respective Wing Commanders or Vice Wing Commanders. The approving authority for HQ NJANG personnel is NJANG/CC or NJANG/CV. The approving authority for the 177th Fighter Wing and 108th Wing Commander serving is NJANG/CC. Approval may be granted unless:

1.1. A determination is made that the outside employment is expected to involve conduct prohibited by statute or regulation; or

1.2. The commander, head of organization, or supervisor believes that the proposed activity will detract from readiness or pose a security risk; or

1.3. The proposed outside activity is with a prohibited source. A prohibited source means any person who:

1.3.1. Is seeking official action by the member's agency,

1.3.2. Does business or seeks to do business with the member's agency,

1.3.3. Conducts activities regulated by the member's agency;

1.3.4. Has interests that may be substantially affected by performance or nonperformance of the employee's official duties, or

1.3.5. Is an organization a majority of whose members are described in the above bullets; or

1.4. The proposed outside activity will require the member to travel on a regular basis to locations Outside the Continental United States (**OCONUS**), or Continental United States (**CONUS**) locations beyond the member's normal commuting area or home of record.

2. Officers who are serving as elected or appointed officials of a state or local government may not continue to serve in those positions if they will be on active duty for more than 270 continuous days.

3. The member must complete the AF Form 3902 and deliver it to their supervisor. The supervisor must personally interview the member. Particularly during wartime and contingency operations, the supervisor should pay close attention to those items listed in paragraphs 1, 2 and 1.4 above, and also to ensure that the amount of time the member will work off-duty will not hinder their military duties and/or availability for duty. (For example, do not normally allow more than 20 hours per week of off-duty employment, as you may be faced with employee fatigue or diminished working capacity issues.) Issues regarding endangerment of the safety and health of the member, the unit, and the public should also be considered by the supervisor. For members serving in one of the medical service corps, attention must be paid to the specific requirements of AFI 44-102, Section 1A. Any comments with regard to these issues should be placed on the continuation sheet for all review levels to consider. The supervisor then recommends approval or disapproval and the form is delivered to the Wing Legal Office (or State SJA for JFHQ-Air Component (HQ NJANG) personnel. However, prior to forwarding the request to the Legal Office, the unit commander must indicate approval or disapproval by initialing and dating in either Block 27 or 28.

4. Once the AF Form 3902 is received at the Wing Legal Office, a Judge Advocate will review the form with attention paid to any potential ethical issues. The Judge Advocate will recommend approval or disapproval (with comments, if any) and deliver it to an appropriate approval authority for final action. If the AF Form 3902 is completed between UTA periods and a Judge Advocate is not available on duty, the form should be delivered to the approval authority, which will coordinate the request with the Wing Staff Judge Advocate before taking final action.

5. After the approval authority approves or disapproves the original form, it will be returned to member's unit.
6. The member's unit must promptly inform the member that the request has either been approved or disapproved. The original form is then placed in the member's personnel file in the unit. The member should be provided a copy of the form. The member must also be informed of the requirement to submit a new request for off-duty employment should there be any significant changes to a previously approved request, such as in increase in the number of hours or days worked per week.
7. Even if an off-duty employment request has been approved, the member is always required to put Service to the Air National Guard first before all other employers. Therefore, if manpower needs require it, any supervisor in the member's chain of command may temporarily suspend or curtail an authorization for off-duty employment without prior notice to the member. Members are bound by any temporary suspensions or curtailments by their supervisor(s). Proposed permanent changes must be forwarded to the Legal office and the Approval Authority IN TURN for action.
8. The AF Form 3902, Application and Approval for Off-Duty Employment is attached or can be obtained at: <http://www.e-publishing.af.mil/forms/formlist.asp?puborg=AF&series=3900-3999>.
9. Failure to comply with this instruction is punishable under Article 92 of the Uniform Code of Military Justice.

AUTHORITY:

Public Law 103-353 *Uniformed Services Employment and Reemployment Rights Act*
10 U.S.C. 973(b)

DoD Directive 1344.10, *Political Activities by Members of the Armed Forces on Active Duty*

DOD 5500.7-R, *Joint Ethics Regulation*

AFI 44-102, *Community Health Management*

ANGI 36-101, *Active Duty Guard / Reserve Program*

MARIA A. FALCA-DODSON
Major General, NJANG
Commander

Attachment

AF Fm 3902 – Application and Approval for Off-Duty Employment

Attachment 1

APPLICATION AND APPROVAL FOR OFF-DUTY EMPLOYMENT			
PRIVACY ACT STATEMENT			
AUTHORITY: 10 U.S.C. 974; 10 U.S.C. 8013; Executive Order 9397; DoD 5500.7-R, Sections 2-206 and 2-303.			
PRINCIPAL PURPOSE(S): Provide information for commanders to evaluate proposed off-duty employment, grant approval, and determine impact on duty performance.			
ROUTINE USE(S): Records may be disclosed for any of the blanket routine uses published by the Air Force.			
DISCLOSURE: Disclosure of SSN is voluntary. Failure to provide the information could result in disapproval of request for off-duty employment.			
SECTION I APPLICANT DATA AND CERTIFICATION (Completed by Applicant)			
1. LAST NAME, FIRST NAME, MIDDLE INITIAL		2. GRADE	3. SSN
5. ORGANIZATION OFFICE SYMBOL ADDRESS		6. DUTY PHONE	4. AFSC
8a. NAME OF EMPLOYER		8b. BUSINESS ADDRESS	
8c. IS EMPLOYER A DEPARTMENT OF DEFENSE CONTRACTOR? <input type="checkbox"/> (1) YES <input type="checkbox"/> (2) NO <input type="checkbox"/> (3) DONT KNOW		8d. PHONE NUMBER	
9. TITLE OF POSITION OF OFF-DUTY EMPLOYMENT		10. OFF-DUTY PERIODS OF EMPLOYMENT (Days per week; hours per day)	
11. JOB DESCRIPTION (Continue on reverse side)		12. NORMAL PERIODS OF MILITARY DUTY (Days per week; hours per day)	
I certify that I understand the applicable provisions of the Joint Ethics Regulation (DoD 5500.7-R). I further certify that the off-duty employment for which I am applying (Mark applicable block): (Note: explain in detail on the reverse of this form any answer that results in checking a box "will." Checking a box "will" does not automatically result in disapproval, but does require an explanation).			
WILL a.	WILL NOT b.		
<input type="checkbox"/>	<input type="checkbox"/>	13. Bring discredit upon the Air Force, Department of Defense or U.S. Government.	
<input type="checkbox"/>	<input type="checkbox"/>	14. Interfere with or be incompatible with my government duties.	
<input type="checkbox"/>	<input type="checkbox"/>	15. Interfere with the customary or regular employment of local civilians. (Enlisted members only)	
<input type="checkbox"/>	<input type="checkbox"/>	16. Require absences during normal military duty hours.	
<input type="checkbox"/>	<input type="checkbox"/>	17. Involve any expense to the Air Force or use of government facilities, property or manpower.	
<input type="checkbox"/>	<input type="checkbox"/>	18. Endanger my safety or health.	
<input type="checkbox"/>	<input type="checkbox"/>	19. Involve the use of my military title or representation before any federal agency.	
<input type="checkbox"/>	<input type="checkbox"/>	20. Involve employment with an organization now involved in a strike.	
<input type="checkbox"/>	<input type="checkbox"/>	21. Place me in a position that might be incompatible with my rank, position or assignment.	
<input type="checkbox"/>	<input type="checkbox"/>	22. Require action at any time as a sales agent for the purpose of personal commercial solicitation of military personnel junior in rank or grade.	
<input type="checkbox"/>	<input type="checkbox"/>	23. Appear to involve a conflict of interest.	
<input type="checkbox"/>	<input type="checkbox"/>	24. Involve working for a firm or other entity that is engaged, or is endeavoring to engage, in business transactions of any sort with an agency of the Department of Defense.	
<input type="checkbox"/>	<input type="checkbox"/>	25. Violate any U.S., state or local law; ordinance; or Air Force regulation or instruction.	
26a. DATE SIGNED		26b. SIGNATURE OF APPLICANT	
SECTION II SUPERVISOR'S RECOMMENDATION			
<input type="checkbox"/> 27. RECOMMEND APPROVAL. I HAVE PERSONALLY INTERVIEWED THE APPLICANT AND I HAVE NO OBJECTION TO THE REQUESTED OFF-DUTY EMPLOYMENT.			
<input type="checkbox"/> 28. RECOMMEND DISAPPROVAL (Explain).			
29a. DATE SIGNED		29b. NAME AND GRADE OF SUPERVISOR	29c. SIGNATURE
SECTION III JUDGE ADVOCATE RECOMMENDATION			
<input type="checkbox"/> 30. APPROVAL		32. REMARKS (Continue on reverse side)	
<input type="checkbox"/> 31. DISAPPROVAL			
33a. DATE SIGNED		33b. NAME AND GRADE	33c. SIGNATURE
SECTION IV APPROVING AUTHORITY ACTION (Completed by Unit Commander or Delegatee)			
<input type="checkbox"/> 34. APPROVED		36. REMARKS (Continue on reverse side)	
<input type="checkbox"/> 35. DISAPPROVED			
37a. DATE SIGNED		37b. NAME, GRADE AND TITLE	37c. SIGNATURE

Attachment 1

AF IMT 3902, 19950301 - CONTINUATION SHEET

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