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STATE CAPITOL  
PHOENIX, ARIZONA

June 27, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 66-24-L (R-90)

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REQUESTED BY: Major General Joseph Ahee  
THE ADJUTANT GENERAL

QUESTIONS: [1] Under the provisions of the  
Arizona Revised Statutes, §§  
26-168 and 38-610,

(a) Is there any requirement  
that all days allowed must be  
taken consecutively?

(b) Does the privilege apply to  
any particular days of the week,  
or may any day of the week be con-  
sidered?

(c) May the allowable days be  
taken during a number of periods  
rather than a single time during  
the year?

ANSWERS: (a) No.  
(b) No.  
(c) Yes.

The provisions of A.R.S. § 38-610 apply to officers and employees of the State who are employed on training duties under orders with any branch of the Armed Forces of the United States. The Arizona Revised Statutes, § 26-168(C) provides for officers or employees of the State who are engaged in field training as a member of the National Guard. In providing a separate section dealing with the National Guard, separate and distinct and apart

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from that section dealing with the Armed Forces of the United States, the Legislature has shown that members of the National Guard of the State of Arizona are to be treated under separate sections of the Code. It is the opinion of this office, therefore, that in determining the rights and privileges of an officer or employee of the State when he is absent from employment for reasons of Military duty, these rights and privileges stem from A.R.S. § 26-168, and that in answering these questions it is this statute that must be construed. (See to the same effect Attorney General's Opinion No. 62-29.)

A.R.S. § 26-168 distinguishes between employees of the State or any department or political subdivision thereof and other employees. Section (C) relates to officers and employees of the State and holds as follows:

"An officer or employee of the state, or any department or political subdivision thereof, who is a member of the national guard shall be entitled to leave of absence from his duties without loss of time, pay or efficiency rating on all days during which he is engaged in field training as provided by this chapter." (Emphasis supplied.)

As can be seen, the emphasized portion of the cited paragraph does not require that the days be consecutive, nor does it prescribe any specific day of the week, nor does it require that they be taken at any single time of the year. In other words, to be eligible for the privileges provided for by § (C), the officer and employee of the State need only be engaged in field training as provided for by this chapter. This office has held in Opinion No. 57-36 that armory drills and weekend drills qualify under field training as used in A.R.S. § 26-168(C).

Since paragraph (C) of § 26-168 provides that the

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privileges shall incur only on "all days. . .as provided by this chapter," § 171 of Title 26 is determinative of what "all days" are under "this chapter." Section 171 of Title 26 provides as follows:

"A. Each unit of the national guard shall conduct training in accordance with instructions of the adjutant general and shall comply with the approved training schedules and programs prepared by the department of defense of the United States. Each unit or detachment shall assemble for drill and instruction, and shall participate in encampments, maneuvers or other exercises at times and places and under rules and regulations prescribed therefor. In addition thereto the commanding officer of any organization may require the officers and men of his command to meet for ceremonies, parade, drill or instruction at times and places he designates.

"B. Each unit of the national guard shall, not less than once each year, muster for inspection by an officer designated for that purpose by the secretary of defense or the secretary of any subdivision thereof.

"C. The governor may order the national guard or any part thereof to perform camp or field duty for periods of time he deems advisable."

It is the opinion of this office, then, that paragraph (C) of A.R.S. § 26-168 does not require that the days allowed must be taken consecutively, the privilege does not apply to any particular day of the week and any day of the week may be

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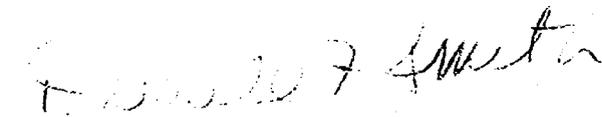
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considered, and that the allowable days taken may be during a number of periods rather than during a single time during the year.

Respectfully submitted,



DARRELL F. SMITH

The Attorney General

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