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HIHRO-M

3 April 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Guidance on Excused Absence for Federal Civil Service Employees Returning from Active Duty in Support of the Global War on Terrorism (GWOT)

1. References.

- a. Memorandum (CPM 2008-21), Office of Personnel Management (OPM), 16 December 2008, subject: Minimum Service Requirement to Receive 5 Days of Excused Absence for Employees Returning from Active Duty.
- b. Memorandum (CPM 2008-12), OPM, 6 August 2008, subject: Update on Excused Absence for Employees Returning from Active Military Duty.
- c. Memorandum (CPM 2003-14), OPM, 14 November 2003, subject: Return of Activated Military Members to Federal Civilian Employment.
- d. President's Memorandum, 14 November 2003, subject: Return of Activated Military Members to Federal Civilian Employment.
- e. Executive Order 13223 effective 14 September 2001

2. On 14 November 2003, President Bush granted Federal employees, who are *returning* from active duty five days of excused absence from their civilian duties. The purpose of this leave is to aid the returning employee in readjusting to civilian life. On 6 August 2008, OPM amended their previous guidance to grant the five-day excused absence each time an employee returns from active military service in the continuing Global War on Terrorism (GWOT). To better reflect the authorized practices for the activation of Federal employees, on 16 December 2008, OPM once again revised their guidance to reflect a *minimum* standard that must be met to earn the five-day excused absence.

- a. The technician must be on active duty in support of the GWOT for at least 42 *consecutive* days to qualify for the five days of excused absence.
- b. The technician does not qualify for the excused absence if the active duty period was less than 42 days or for an accumulation of 42 or more days of active duty if at least one of the activations does not meet the 42 consecutive days standard.
- c. The technician is entitled to the five-day excused absence *only once* in a 12-month period. The 12-month period begins on the first day of excused absence and ends 365 days later. A technician called to active duty on multiple occasions is entitled to receive the five days of excused absence as long

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as the service meets the 42 consecutive day's standard and does not end within the 12-month limitation. To assist you with determining the 12-month period, enclosed are eligibility examples from OPM.

d. The five-day excused absence does not affect the time limits for exercising restoration rights. This is because the commencement of the five days of excused absence constitutes a return to federal civilian service. The technician is eligible to take whatever grace period is allowed under the USERRA law and; in addition, be entitled to the 5-day excused absence. For example, a technician on active duty for more than 180 days, has 90 days in which to exercise his/her reemployment right. If this same technician was on active duty in support of the GWOT, he/she would also be eligible for the 5-day excused absence at the end of that restoration period.

3. The 5-day leave will be administered in the following manner:

a. The five days of excused absence applies to all Hawaii National Guard technicians returning from active military service in connection with the continuing GWOT, i.e., Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established under Executive Order 13223. Technicians, whether deployed overseas or activated in place, are eligible for the excused absence. The technician must have been employed with the Hawaii National Guard on the date of the activation and returned to their Federal civilian position to be eligible.

b. The number of hours will be equivalent to one workweek of excused absence. The period of excused absence for a technician on an uncommon tour of duty or on a part-time work schedule will be prorated according to the number of hours in the technician's regularly scheduled workweek. It must be taken as a ***continuous period*** of paid time off to spend with family members ***prior*** to returning to Federal civilian duties.

c. The five days of excused absence will not be "stockpiled" for use at a later date. The only exception will be if the technician has already returned to duty from a second or subsequent contingency operation prior to the issuance of this revised guidance; meets the new OPM minimum standard as stated above; and was not granted the five days of excused absence, then the technician should be allowed to take the excused absence at a time mutually agreed upon by the technician and supervisor. However, the leave must be taken no later than 31 December 2009.

d. This excused absence should not be confused with compensatory time off earned for overtime hours.

4. Upon receiving notification from the technician of his/her intent to return to civilian duty on a specific date the supervisor will:

(1) Grant the technician five days of excused absence *immediately* prior to the technician's actual reemployment. The commencement of the excused absence represents a return to Federal civilian employment and the technician is obligated to report to work at the end of the five-day period.

(2) Initiate a Standard Form (SF) 52 (Request for Personnel Action) for the technician's return to duty (RTD), which will be forwarded to the HRO for input into the personnel system. The effective date of the RTD will be the first day of the five-day period of excused absence. Enter the dates

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of the five-day excused absence period in Part D of the SF 52. In addition, before forwarding the SF 52 to the HRO for processing, please attach a copy of the technician's release from active duty (REFRAD) orders; any amendments to the basic active duty order as applicable; and DD Form 214 (copy 2, 4 or 7). **HRO must receive the SF 52 and applicable documents in order to process the RTD action in the personnel system. Timekeepers will not be able to input the five-day excuse absence and regular work hours until the action is input into the personnel system.**

(3) Have the technician complete an OPM Form 71 (Request for Leave or Approved Absence) on the first day back to work. In item 4 of the OPM Form 71, check the "Other Paid Absence" box and enter the dates/hours of the five-day period of excused absence. In item 6, "Remarks", enter this memorandum as the reference. In addition, a copy of the active duty orders for the contingency operation should be attached to the OPM Form 71. Supervisor will retain documents for audit purposes.

(4) Have timekeeper use the code "LV" (Excused Absence) when recording time and attendance in the Defense Civilian Pay System (DCPS) for this period of absence. In the remarks section, enter "OPM Form 71 on file."

5. Supervisors and managers are responsible for ensuring that the above guidelines are adhered too. If there are any questions, please contact Sandy Hashimoto at (808) 672-1235.

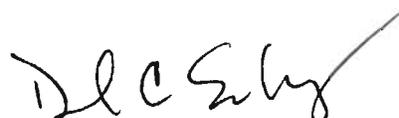
6. This memorandum supersedes memorandum, HIHRO-M, 14 October 2008, subject: Interim Guidance on Excused Absence for Federal Civil Service Employees Returning from Active Duty.

FOR THE ADJUTANT GENERAL:

Encl
OPM Eligibility Examples

CF:
USPFO/Payroll
154 WG/FM

DISTRIBUTION: A


DAVID C. SNAKENBERG
Colonel, HIANG
Human Resources Officer

OPM ELIGIBILITY EXAMPLES FOR 5-DAY EXCUSED ABSENCE IN SUPPORT OF GWOT

EXAMPLE 1: On January 1,2009, an employee is called to active duty in support of the GWOT for 120 days. Upon return to Federal civilian service, the employee is granted 5 days of excused absence to aid in readjustment to civilian life. The 5 days of excused absence is used May 4 through May 8, 2009, and the employee returns to his or her Federal civilian duties on May 11,2009. On January 1,2010, the employee is again called to active duty in support of the GWOT for 45 days. Upon return to Federal civilian service on February 16,2010, the employee is not eligible for 5 days of excused absence as the employee is still within the same 12-month period. The first 12-month period during which 5 days of excused absence was granted expires on May 3, 2010.

EXAMPLE 2: On January 1,2009, an employee is called to active duty in support of the GWOT for 120 days. Upon return to Federal civilian service, the employee is granted 5 days of excused absence to aid in readjustment to civilian life. The 5 days of excused absence is used May 4 through May 8, 2009, and the employee returns to his or her Federal civilian duties on May 11,2009. On March 23,2010, the employee is again called to active duty in support of the GWOT for 45 days. Upon return to Federal civilian service on May 7,2010, the employee is eligible for 5 days of excused absence as the first 12-month period during which 5 days of excused absence was granted expires on May 3, 2010 (i.e., will end on the day before the first anniversary of the employee's beginning to use excused absence). The first day of excused absence, May 7, 2010, would be the start of a new 12-month period, which will end May 6, 2011.

EXAMPLE 3: On January 1,2009, an employee is called to active duty in support of the GWOT for 30 days. Upon return to Federal civilian service, the employee requests 5 days of excused absence prior to returning to his or her Federal civilian duties. The employee is not eligible for 5 days of excused absence since the period of active duty did not meet the qualifying requirement of at least 42 consecutive days.

EXAMPLE 4: On January 1,2009, an employee is called to active duty in support of the GWOT for 20 days. On June 1,2009, the employee is again called to active duty in support of the GWOT for 10 days. On December 1,2009, the employee is called to active duty for the third time in support of the GWOT for 20 days. The employee returns to his civilian duties after each period of active duty. Upon return to Federal civilian service on December 23, 2009, the employee requests 5 days of excused absence based on 50 days of active duty. The employee is not eligible for 5 days excused absence since none of the individual periods of active duty meet the qualifying requirement of at least 42 consecutive days.