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Memorandum

TO: Cabinet Secretaries and Agency Directors
FR: Sandra K. Perez, State Personnel Director
VIA: Governor Bill Richardson
DATE: September 21, 2006
SUBJECT: Military Leave - Active Duty for Federal Fiscal Year 2007

In accordance with NMSA 1978, Section 20-4-7, Governor Richardson has authorized an additional 15 days of (paid) military leave for state government employees, excluding those employees in a temporary or emergency status, who are members of the National Guard or Reserves and are mobilized by the President of the United States or the Governor of New Mexico in support of military and emergency or disaster operations. This additional paid leave is for the duration of the federal fiscal year 2007 (October 1, 2006 - September 30, 2007), and shall be in addition to the 15 days of (paid) military leave that is provided for in NMSA 1978, Section 20-4-7.

Due to a number of military operations occurring domestically and abroad, many National Guard members and Reservists will use the 15 days of military leave during normal active duty training. The additional 15 days of military leave will enable the men and women of our armed forces to complete the training that is necessary prior to mobilization or deployment. This training is essential to ensuring that our troops possess the necessary skill and training to protect them and others while in hostile and dangerous situations.

For unusual and extenuating circumstances additional military leave may be considered and/or approved. Requests of this nature should be forwarded to Sandra Perez, State Personnel Director, who will consult with General Montoya. The approval of additional leave will be based on the merits of the request.

When military leave has been exhausted, state employees have the option of being placed on leave without pay (LWOP) or using accrued leave. State employees may use all of their annual leave on consecutive days or use up to 27 hours per pay period in order to maintain their group insurance benefits.

State employees who exhaust their annual leave shall then be placed on LWOP for the remainder of time they are on active duty. State employees shall not receive pay or accrue leave while on LWOP.

The appointment of state employees in emergency or temporary status who are called to active duty shall have their appointment expired.

State employees in the Reserves and the National Guard, except those in emergency or temporary status, who are called to active duty are entitled to return to their former position or to a similar position with the same pay provided that they are still qualified to perform the duties of the position. State employees must return to work within 90 days of release from military service.

Upon return to work, the State employee shall be entitled to all of the rights and benefits, based up length of service, he or she would have received had the military service not occurred. Therefore, all time spent while on active duty shall count for seniority, general pay increases, probation and annual leave accrual rate purposes. In addition, State employees that are on military leave shall be protected from a reduction in force.

Questions relating to this matter should be directed to the assigned state personnel HR consultant.

Any questions relating to this matter from the Governor's Exempt Service should be directed to Lisa Ortiz at 505-827-3947.

1. Group Insurance

The state will allow the continuation of group insurance coverage until the State employee is no longer on active duty and returns to work. The State employee must return to work within 90 days of release from active duty. Premiums must be paid for coverage to continue. The State employee must have at least 27 hours of paid leave time per bi-weekly pay period for the state's contribution to be made. When the State employee exhausts his or her leave balance, the State employee must pay 100% of the premium per pay period.

In the event that the State employee fails to pay the premiums for group coverage as offered by the State of New Mexico, the state shall immediately reinstate the insurance for the State employee and his or her dependents and shall waive the proof of good health requirement. Reinstatement shall occur immediately upon the State employee's return to work.

If the State employee elects to pay his or her life insurance premium during the period of military leave, he or she shall be entitled to receive basic and supplemental employee life insurance benefits, even if death is due to an act of war or military service. However, the accidental death and dismemberment (AD&D) coverage would not apply for any loss due to an act of war or service in any military force. This exclusion is stated in the plan booklets.

If the State employee elects to continue coverage, he or she (or his or her family) should make arrangements with the agency group insurance representative for the payment of insurance premiums.

Any questions related to Group Insurance should be addressed to the state employee's group insurance representative or Risk Management.

2. PERA

The PERA Board awards free military service credit to a PERA member who enlists in the military or is a member of the National Guard or a military reserve component that is activated under a federal call to duty, deployment, peace keeping mission or other declared National emergency.. Service credit is

granted on a monthly basis. To obtain free military service credit, the PERA member must meet the following requirements:

- The member must be entitled to reemployment rights under the Federal Uniformed Services Employment and Reemployment Rights Act of 1994.
- The member must be employed by an affiliated public employer at the time he or she enlists or is activated.
- The member must be reemployed by the affiliated public employer within 90 days from the date of discharge from military service.
- Within 30 days of reemployment the employer with whom the member was employed immediately prior to entering military service shall certify in writing the date of termination and the date of reemployment of the member.
- The member must complete a PERA affidavit form, certify the military service, and submit a DD214 that indicates the dates of service.
- The member must have been honorably discharged and cannot use the same period to obtain or increase a benefit from another state system or the educational retirement system.

Free service credit will not be given for intervening service in which the member voluntarily reenlists, but the service may be purchased if the member has reemployment rights under federal law.

Please call a PERA benefit counselor at 505-827-4700 or toll free in New Mexico 1-800-342-3422 if there are any questions concerning free military service.

xc: James Jimenez, Chief of Staff
Brian Condit, Deputy Chief of Staff
Bianca Ortiz-Wertheim, Director of Cabinet Affairs
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