

State of California

MEMORANDUM

TO: PERSONNEL MANAGEMENT LIAISONS **DATE:** January 23, 2003
REFERENCE CODE: 2003-006

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Personnel Officers
Personnel Transactions Supervisors

FROM: **Department of Personnel Administration**
Policy and Operations Division

SUBJECT: Military Leave - Extended Pay and Benefits for the War on Terrorism
and a Follow-Up to Personnel Management Liaisons Memorandum 2002-015

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Email: ClaricePace@dpa.ca.gov

On December 5, 2002, the Governor issued Executive Order D-65-02, implementing an amendment to Government Code (GC) Section 19775.18. The amendment authorized the Governor, by executive order, to extend supplemental pay and benefits up to an additional 365 calendar days to State civil service employees who are called to active duty for the War on Terrorism. The extension went into effect on January 1, 2003.

Employees who are called to active military duty for the War on Terrorism are eligible to receive the difference between their military pay and allowances and their State pay and benefits for an additional 365 calendar days. The employee must provide military orders that support any claim for supplemental pay and benefits. If the employee does not reinstate to State service following active military duty, any compensation received pursuant to this provision shall be treated as a loan payable with interest. In addition, this statute will not apply to active duty served after the close of the War on Terrorism.

Prior to the enactment of GC Section 19775.18, State civil service employees who were called to active military duty on or after September 11, 2001, in support of the War on Terrorism received their benefits under the provisions of GC Section 19775.17.

According to these provisions, employees were eligible to receive the difference between their military pay and allowances and State salary and benefits for 180 calendar days. However, with the enactment of GC Section 19775.18, any State employee who received benefits under GC Section 19775.17 for this event is now eligible to receive the remaining benefits under GC Section 19775.18 for up to 365 calendar days. Additionally, with the authorization of Executive Order D-65-02 and upon call to active military duty in support of the War on Terrorism, employees are now eligible to receive pay and benefits for a total of 730 calendar days, provided the dates specified in the orders cover such a period of absence.

For example, an employee who has received orders for active military duty for three years, during which he/she has received 180 calendar days of compensation and benefits pursuant to GC Section 19775.17, would now be eligible to receive 185 calendar days under GC Section 19775.18, plus an additional 365 days under Executive Order D65-02 to equal 730 calendar days ($180 + 185 + 365 = 730$). This employee also received the "first 30 calendar days/172 hours" pay as provided under GC Section 19775.

Active duty military orders issued on and after September 11, 2001, for Operation Noble Eagle, Operation Enduring Freedom, National Guard Airport Duty or Homeland Protection, or for any military campaign or operation related to the War on Terrorism qualify for the benefits provided by GC Section 19775.18.

If your department receives orders that are unclear, the Department of Personnel Administration (DPA) encourages you to contact us for assistance.

DPA committed in PML 2002-015, to issue a separate memorandum to clarifying specific provisions of the Military Leave Program. Attachment I is provided to clarify specific provisions of military leave as they relate to State employees who are ordered to active military duty as a result of the War on Terrorism. Attachment II is a revised copy of the Military Leave Work Sheet. DO NOT submit to the State Controller's Office (SCO) a new Military Leave Work Sheet, for those employee's whose leave has been extended, unless the salary or deduction information has changed.

An SCO payroll letter will be issued providing instructions for documenting and issuing payments to employees who are placed on military leave.

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All payroll-processing questions and documentation should be addressed to Pam Keegan with SCO at (916) 323-2439. For policy interpretation questions related to military leave have your personnel office staff contact Clarice Pace at the address listed above.

Bob Painter, Chief
Policy and Operations Division

Attachments

This is a follow-up attachment to Personnel Management Liaisons Memorandum (PML) 2002-015, which notified departments of the provisions of Government Code (GC) Section 19775.18. This statute enhanced pay and benefits to State civil service employees called to active military duty on or after September 11, 2001, for the War on Terrorism.

GC Section 19775.18 provides State employees the difference between their military pay (and allowances) and their State pay for a period not to exceed 365 calendar days. This benefit is for employees who are ordered to duty for an event authorized pursuant to Sections 12302 and 12304 of Title 10 of the United States Code. Section 12302 authorizes the President or Congress to order reservists to duty for up to 24 months in support of war or national emergency. Section 12304 authorizes the President to order reservists to duty for up to 270 days in support of augmenting active forces for any operations mission. This national emergency qualifies as such an event. In addition, Executive Order D-65-02, authorizes State employees the ability to receive an additional 365 calendar days of pay and benefits for a total of 730 calendar days, provided the dates specified in the orders cover such period of absence. These provisions are in addition to the 30 calendar days (172 hours) of pay provided by GC Sections 19775 or GC Section 19775.1. The following explains these statutes:

LONG-TERM MILITARY LEAVE

GC Section 19775 provides 30 calendar days of pay to State employees who receive active military duty orders for more than six months. In order to qualify for payment, the employee must have at least one year of State service immediately prior to the effective date of the active military duty orders.

SHORT-TERM MILITARY LEAVE

GC Section 19775.1 provides 30 calendar days of pay to State employees who receive active military duty orders for six months or less. In order to qualify for payment, the employees must have 12 qualifying pay periods of State service or a combination of active duty military service and State service to equal at least one year immediately prior to the effective date of the active military duty orders.

STATE EMERGENCY MILITARY LEAVE

GC Section 19775.1 provides 30 calendar days of pay to State employees who are members of the California National Guard who receive active military duty orders for State emergencies pursuant to GC Section 19773. In order for the employees to receive this payment, the orders must be based on the following conditions:

- The Governor has proclaimed a State of emergency.
- The active duty order is governed by Military and Veterans Code Sections 143 or 146.
- The order is for one or more situations as contained in Section 146 of the Military and Veterans Code.

State employees who are members of the California National Guard are eligible for 30 calendar days of State pay for each emergency military leave. Each emergency military leave is defined as a specific instance. Although there may be breaks in active duty served, all service related to the same instance is considered as one emergency call-up.

In order to clarify how to apply an employee's active military duty orders, the following is provided to assist personnel offices in determining how much compensation an employee is entitled to receive:

- **Reservists and National Guard Members** are eligible to receive 30 calendar days of military leave with pay in a fiscal year for active duty if they qualify under GC Sections 19775 or 19775.1. (Remember, these provisions also apply to members of the National Guard who are called to active military duty for nonemergencies.)
- **A Reservist or Guard Member** who receives active duty orders effective on and after September 11, 2001, as a result of the War on Terrorism may be eligible to receive up to 30 calendar days of military leave with pay. If the reservist has already received 30 calendar days of military pay within the fiscal year prior to September 11, 2001, he/she is not eligible to receive an additional 30 calendar days of pay. However, if the employee has any of his/her first 30 calendar days remaining from the fiscal year prior to September 11, 2001, it may be used as part of the remaining new order (e.g., the employee used 15 calendar days for annual training from July 13, 2001, through July 27, 2001; therefore, the employee has 15 calendar days available for the remainder of the fiscal year).
- **Members of the California National Guard** are eligible to receive 30 calendar days of State emergency military leave with pay when they meet the provisions of GC Section 19773. There is no State service requirement for payment. If the guard member receives State active military duty orders on or after September 11, 2001, for the War on Terrorism, the member is entitled to receive 30 calendar days of pay. This 30 calendar days of pay is in addition to any military leave order with pay received prior to September 11, 2001. However, the guard member is only entitled to receive a maximum payment of 30 calendar days per any one set of orders.

GENERAL PROCEDURES

Employees ordered to active duty must notify their employer by providing a copy of their military active duty orders. If an employee is unable to obtain written orders, a verbal order issued by a military authority is considered valid. In addition to a copy of their orders, employees must provide their personnel office with their military pay records and a completed Military Leave Work Sheet (Attachment II). To be as flexible as possible, realizing that each employee's situation will be different, in those instances where the employee is unable to document his/her military earnings, an estimate of their military pay and allowances will suffice. Once the Military Leave Work Sheet has been completed, the employee keeps a copy, the department retains a copy, and a third copy is forwarded to the State Controller's Office (SCO) for processing. For employees unavailable to complete the work sheet, departments shall be responsible for informing them or their power of attorney of the provisions of GC Section 19775.18 and obtaining completed documents.

In order to issue the adjusted warrant, the Military Leave Work Sheet must be signed by the employee. If the employee is not available and someone else has been provided with power of attorney, his/her signature is acceptable. An adjusted warrant is issued monthly to the employee's department, who is then responsible for dispersing the warrant pursuant to the employee's request. Each department is responsible for monitoring the amount of time the employee receives adjusted State pay.

The Personnel Office is responsible for computing the adjusted gross pay, minus all mandatory deductions (State/federal income taxes and Social Security/Medicare contributions). Retirement contributions are NOT deducted from the pay. Based on the adjusted net pay, the employee will then determine what, if any, action is needed with regard to discretionary deductions. Any federally sponsored income protection program that may be made available to National Guard personnel or military reserve personnel may reduce compensation received pursuant to GC Section 19775.18. (At this time there is no such income protection program available.)

Those employees who elect to retain their military pay (their military pay may be greater than their State pay) will also need to prepare a work sheet if they elect to continue receiving their State-provided benefit package (health, dental, and vision).

OTHER RELATED MILITARY LEAVE PROVISIONS

Salary Issues -

- Employees on military leave and receiving pay pursuant to GC Section 19775.18 will continue to receive any General Salary Increases (GEN), Merit Salary Adjustments (MSA), or Special In-Grade Salary Adjustments (SISA), regardless of whether the leave is short term or long term.
- While on long-term military leave and no longer eligible for the provisions of GC Section 19775.18, any GEN, MSA, or SISA will be reflected upon the employee's return to State service.

Total State pay is based on the salary for the class the employee was in prior to military leave, plus any differential/supplemental pays they were receiving as a result of the duties they were performing on a continuous basis in their position. This would include such things as bilingual pay, physical fitness pay, shift pay, educational pay, and any recruitment/retention differentials. Pay differentials such as van pool, diving pay, and out of class should NOT be included in the total pay. Further, those receiving a nonreceipted uniform allowance would continue to accrue qualifying pay periods while under GC Section 19775.18.

SCO has indicated, in order to receive payment under GC Section 19775.18 provisions, an S51 transaction must be processed. An S51 is currently defined as a short-term military leave. Regardless of the length of the leave, short or long term, this code must be used to process the adjusted payments in a timely manner.

Leave Credits -

Employees on military leave and receiving pay pursuant to GC Section 19775.18 will continue to accrue leave benefits.

Employees who have leave credits on the books may draw from his/her bank of leave credits anytime during their military leave (Federal Statute: Section 4316[d], Title 38); limited to the number of accumulated hours, on the books. The personnel office must be notified in order to process the employee's request.

For employees who use their leave credits, the pay difference and/or health benefits continuance provisions pursuant of GC Section 19775.18 do not begin until after the use of leave credits.

Employees placed on long-term military leave (regardless of documentation used) are eligible for lump-sum payment for leave credits (excluding sick leave). SCO has indicated these payment requests should be submitted on a Form 674.

Benefit Issues -

It is the option of the employee to elect to continue his/her health, dental, and vision plans. If the employee is not receiving a pay warrant, SCO will need the appropriate documentation to continue the benefit deductions. In those instances where the employee pays a benefit premium but is not receiving a pay check, the State will authorize the continued payment of these premiums via the accounts receivable process.

Employees enrolled in the FlexElect Program with the Cash Option in lieu of health and/or dental coverage will continue to receive the cash option, regardless of whether they receive an adjusted State warrant or opt to retain their military pay.

The Pre-Tax Health Premium is considered a benefit tied to health coverage and will also be continued. If the employee opts to retain his/her military pay, the amount of employee-paid premium will be carried as an agency-collection accounts receivable to be recovered when the employee returns to pay status.

The Pre-Tax deductions into medical and/or dependent care reimbursement accounts are considered voluntary deductions that will no longer be taken when the employee does not receive sufficient State pay to continue the deduction. These deductions will automatically resume once the employee returns to full-pay status.

Supervisor/manager life insurance policies exclude any payment while the employee is on any active duty other than "temporary" duty. "Temporary" refers to short training exercises (e.g., two-week summer duty). Given the circumstances of the War on Terrorism, this coverage is not in effect for those on extended active duty. These same exclusions apply to any supplemental coverage the employee may have purchased by payroll deduction. It is the responsibility of the employee to cancel the voluntary deduction if he/she wishes to avoid paying a premium without receiving the full benefit.

If the employee elects to discontinue these voluntary deductions, he/she will have to reenroll upon reinstatement to State service before coverage can begin. It should also be noted that discontinuance of supplemental coverage would also discontinue spousal/dependent coverage.

Voluntary Long-Term Disability plans also exclude payment for any disability caused by any act of war. If the employee elects to discontinue these voluntary deductions, he/she will need to reenroll upon reinstatement to State service before coverage can begin.

Probationary Period Extensions and Experience for Deep Class Range Changes -

The following will provide clarifying information regarding probationary periods and range changes for employees who have been on military leave:

- A probationary employee who is returning from a military leave will have his/her probationary period extended pursuant to State Personnel Board (SPB) Rule 321 (California Code of Regulations—Title 2, Division 1, Chapter 1, Section 321).
- An employee who is returning from a military leave will have his/her service in the armed forces credited as experience toward meeting minimum qualifications for examinations and deep class alternate range criteria movement on exactly the same basis as if the employee had remained in the position held at the time he/she went on the military leave. Any criteria that requires completion of an apprenticeship program is not included in this allowable movement.

Questions regarding extensions of probationary period, deep class alternate range criteria movement, and meeting minimum qualifications for examinations should be directed to SPB.

Retirement -

Retirement credit for military duty is provided under the provisions of GC Sections 20990 and 20998. The State is responsible for the payment of the employer and employee contributions as prescribed in GC Section 20990.

Retirement contributions are deducted when the employee receives full pay for the first 30 calendar days of military leave. This deduction will continue for those employees who remain on the payroll by use of applicable leave credits following any first 30 calendar days pay provision. However, retirement contributions are not deducted from the employee's State issued supplemental pay while serving on active military duty for the War on Terrorism. Per the California Public Employees' Retirement System (CalPERS) GC Section 20630, which defines compensation, CalPERS has determined such payments are not reportable for retirement purposes.

The credit toward retirement is applied when the employee has returned from his/her military leave of absence, and the employer begins reporting payroll to CalPERS. For restoration of retirement credits, the employee must submit a request to CalPERS with a copy of his/her DD-214 showing the dates of active military service.

To be eligible for credit for a noncompensated absence or a specially compensated absence, a MEMBER must have:

1. Been in the employment of a CalPERS-covered agency which includes the State or another agency contracting with CalPERS prior to entering military service;
2. Been granted a military leave or have resigned from employment for the purpose of entering active duty in the armed forces;
3. Entered active duty within 90 days after leaving employment; and

4. Returned to employment with the same agency, the State, or another agency contracting with CalPERS within six months after discharge from active duty. Credit is thus posted after the return to employment.

Please note that members who meet qualifications 1 through 3 but do not return to employment within six months will not qualify for military **LEAVE** credit, but may be eligible to purchase military service credit under other provisions of law.

Employee Action Needed -

A CalPERS member may request military credit at any time after returning from military service, but it must be prior to separation or retirement. However, a delay in calculating leave credit may be experienced if the request is received prior to the posting of all service earned in the fiscal year after the member's return to employment.

Retirement credit may be requested by using the Military Service Credit Request Form in CalPERS publication "A Guide to Your CalPERS Service Credit Purchase Options." This publication is available through the CalPERS web site at "www.calpers.ca.gov" or by calling (800) 352-2238. A copy of military document(s), which includes the active duty entry and discharge dates, should be submitted with the request form to:

Public Employees' Retirement System
Member Services Division – Unit 831
P.O. Box 4000
Sacramento, CA 94229-2704

The member's request should also include:

- Members name and social security number.
- Mailing address (home or postal box preferred).
- Daytime telephone number (include area code).
- Dates of absence from employment.
- Employer (and current employer if different).
- Copy of military document(s) showing active duty entry and discharge dates.

Reinstatement -

After Short-Term Military Leave (six months or less)

Limited-term or temporary employees who are ordered to military service for 30 days or less must return to State service within 10 calendar days after termination of their military leave or within 30 calendar days after any rehabilitation afforded by the United States or the State following military service.

Limited-term or temporary employees who are ordered to military service for more than 30 days but less than 180 days must return to State service within 14 calendar days after termination of their military leave or within 30 calendar days after any period of rehabilitation afforded by the United States or the State following their military service.

Permanent or probationary employees must return to State service within 14 calendar days after termination of military service, following any period of rehabilitation afforded by the United States or after the termination of the State military emergency ordered by the Governor.

After Long-Term Military Leave (six months or more)

Employees must return to State service within six months following the termination of long-term military service. To be eligible for this right of return, the military service cannot extend beyond five years except under special circumstances for which an extension may be available.

After Emergency Military Leave

The time limitations for a right of return depend on the employee's status at the time of the emergency military leave.

If the employee is permanent or probationary, reinstatement to State service is within 14 calendar days after termination of military service, following any period of rehabilitation afforded by the United States or the State, or after termination of the State military emergency ordered by the Governor.

Limited-term or temporary employees must return to State service within 10 calendar days after termination of active military service or 30 calendar days after termination of the State military emergency ordered by the Governor.

The time period between the employees release from active military duty and reinstatement to State service is without pay.

RECONCILIATION OF MILITARY LEAVE PAY AND STATE PAY

Pay needs to be reconciled on a month-by-month basis as it is often times difficult to obtain copies of the military-issued leave and earning statements (LES) for those employees who are called to active duty and who are receiving State issued supplemental pay via GC Section 19775.18.

A military-issued leave and earning statement is needed for each month the employee received supplemental pay. In the event such verification is needed to reconcile the employee's State pay with his/her military pay and allowances, departments may requests verification from the employee's military finance center. All requests for pay history must include the employee's name, social security number, and the pay periods requested. A return address should be included. The employee must also sign a document authorizing the release of the pay information, which must accompany your request.

The following is a listing of finance centers for each branch of the military. Requests for pay history records should be directed to one of these locations:

United States Marine Corps
Pay Section
1164 15th Street
Camp Pendleton, CA 92055
(760) 725-5838

United States Army
Defense Finance Accounting Service
DFAS-IN
MPO
Historical Records Branch
Indianapolis, IN 46249-0865
(317) 542-2800

United States Air Force
Defense Finance Accounting Service (DFAS)
6760 East Irvington Place
Denver, CO 80279
(800) 433-0461

United States Navy
Defense Finance and Accounting Service
1240 East 9th Street
Cleveland, OH 44199
(800) 346-3374

NOTE: The policies in this PML are based on GC Sections 19770 through 19786 and federal law. In some instances the federal and State laws provide different benefits. To comply with both federal and State statutes, whichever statute provides the greatest benefit shall prevail.

MILITARY LEAVE WORK SHEET

This work sheet is to be completed by both the employee and Personnel Office prior to reporting for active duty. Numbers 1 through 6 and 13 through 15 are to be completed by the employee. Numbers 7 through 10 are to be completed by the Personnel Office. Numbers 11 and 12 are to be completed by both the employee and Personnel Office. The employee should be apprised of and complete any additional documentation as a result of necessary discretionary deduction changes. A copy of the employee's Military Orders MUST be attached.

1. NAME: _____
2. SOCIAL SECURITY NUMBER: _____
3. CIVIL SERVICE CLASS: _____
4. MILITARY RANK: _____
5. DATE MILITARY LEAVE BEGINS: _____; ENDS: _____
(ORDERS ATTACHED)
6. MILITARY GROSS PAY:
BASE PAY _____

ALLOWANCES
BAQ _____
Hazardous Duty _____
Flight Pay _____
Foreign Duty _____
Diving Pay _____
Clothing Allowance _____
Foreign Language Proficiency _____
Medical/Dental Officers _____
Active Duty Reserve Medical Officers _____
Other _____
Other _____
Other _____
TOTAL GROSS MILITARY PAY _____
7. CURRENT STATE GROSS SALARY: _____

8. ADJUSTED STATE GROSS SALARY: _____
(State gross salary minus Military gross pay.)

9. ESTIMATED MANDATORY DEDUCTIONS:

Estimated Federal Taxes (27%) _____

Estimated State Taxes (6%) _____

Estimated Social Security (6.2%) _____

Estimated Medicare (1.45%) _____

TOTAL MANDATORY DEDUCTIONS: _____

10. ADJUSTED NET STATE SALARY: _____

11. MAINTAINED PAYROLL STATE DEDUCTIONS:
(These deductions will be maintained automatically.)

Employee

Check those deduction(s) you wish maintained.

Personnel Office

Complete all deduction organization codes and amounts.

<u>DEDUCTION</u>	<u>DEDUCTION ORGANIZATION CODE</u>	<u>DEDUCTION AMOUNT</u>
_____	Health Benefits	_____
_____	Dental	_____
_____	Vision	_____

12. DISCRETIONARY STATE DEDUCTIONS:

Employee

Check those deductions you wish maintained, providing there are sufficient funds. If there are insufficient funds, it is the employee's responsibility to make the appropriate arrangements. Otherwise the deductions will not be made while on leave status.

Personnel Office

Complete deduction organization codes and amounts.

<u>DEDUCTION</u>	<u>DEDUCTION ORGANIZATION CODE</u>	<u>DEDUCTION AMOUNT</u>
Deferred Compensation		
Flex-Elect		
United Way		
Long-Term Disability		
Insurance		
Parking		
Union Dues		
Union-Offered Insurance		
Credit Union Deductions		
Spousal/Child Support		
Other - (List)		

NOTE: The employee is responsible for contacting the appropriate source for any changes to their discretionary deductions.

13. IF YOU HAVE DIRECT DEPOSIT, DO YOU WISH TO CONTINUE? YES NO
(If no, submit Form 699 to cancel.)

14. FORWARD MY WARRANT TO:

15. I ELECT PAYMENT OF LEAVE CREDITS: YES NO
(If yes, please explain:

I understand the provisions afforded me under Government Code Section 19775.18 Military Leave. I further understand that it is my responsibility to document/estimate my military pay and allowances for purposes of determining my adjusted State pay; and that I am responsible for returning to the State of California any overpayments made to me.

SIGNATURE

DATE

COPIES FOR:

Employee
Department
State Controller's Office