UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

December 16, 2008

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: MICHAEL W. HAGER
Acting Director

SUBJECT: Minimum Service Requirement to Receive 5 Days of Excused Absence for Employees Returning from Active Military Duty

The Federal Government proudly expresses its gratitude for the great sacrifices made by Federal employees who serve as active duty service members, including the National Guard and Reserve members. To continue our support for Federal employees who have been called to active duty to serve our nation in the Global War on Terrorism (GWOT), we are revising our "Questions and Answers on Excused Absence for Employees Returning from Active Duty," issued on August 6, 2008, to better reflect the authorized practices for the activation of Federal employees.

Background

On November 14, 2003, President George W. Bush issued a Memorandum for Heads of Executive Departments and Agencies entitled "Return of Activated Military Members to Federal Civilian Employment" (see http://www.opm.gov/oca/compmemo/2003/2003-14b.asp) directing agencies to grant Federal civilian employees who were called to active duty in support of the GWOT 5 days of excused absence. On that same date, the U.S. Office of Personnel Management (OPM) issued guidance entitled "Guidance on the Return to Civilian Employment for Activated Military Members" to implement the President's memorandum, which included Questions and Answers on Excused Absence for Employees Returning From Active Duty (see http://www.opm.gov/oca/compmemo/2003/2003-14a.asp). The intent of the President's memorandum was to grant 5 days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life.

To continue our support for Federal employees who continue to serve in the GWOT, OPM issued CPM 2008-12, "Update on Excused Absence for Employees Returning from Active Military Duty" on August 6, 2008. CPM 2008-12 provides a broader interpretation of the President's memorandum to authorize agencies to provide an additional 5 days of excused absence each time a Federal employee returns from active military duty related to GWOT. Since the publication of the President's memorandum, the use of short-term active duty for National Guard and Reserve members has increased.

As a result, OPM has received several inquiries regarding how to administer our guidance for multiple short-term activations. After consultation with the Department of Defense (DOD), including input from the National Guard, we are revising and updating our guidance.

Revised Policy

In summary, the revised Questions and Answers clarify that in order to receive 5 days of excused absence, members must spend at least 42 consecutive days on active duty in support of the GWOT. This is parallel to the requirement to qualify for a post differential when a civilian employee works in a hardship post location on extended detail or in a temporary duty travel status in an overseas location with an approved post differential. This minimum standard reflects the rationale for the excused absence, which is to facilitate an employee's return to civilian service and family life after a significant absence resulting from activation in support of the GWOT. It was never envisioned that employees would have separate, multiple activations for very short periods of time and that such employees would receive 5 days of excused absence for each activation. Furthermore, employees are entitled to 5 days of excused absence only once in a 12-month period. A new 12-month period begins after the first use of excused absence. See the attached revised Questions and Answers for additional guidance and examples.

Effective Date

Policies reflected in this memorandum will be in effect on the date of this memorandum.

Additional Information

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources offices to obtain information on their entitlements.

cc: Chief Human Capital Officers
Human Resources Directors

Attachment: Questions and Answers on Excused Absence for Employees Returning from Active Duty in the Global War on Terrorism

Questions and Answers on Excused Absence for Employees Returning from Active Duty in the Global War on Terrorism

On November 14, 2003, President George W. Bush directed the heads of executive departments and agencies to grant Federal employees who are returning from active duty in support of the Global War on Terrorism (GWOT) 5 days of excused absence from their civilian duties. On August 6, 2008, the U.S. Office of Personnel Management (OPM) issued CPM-2008-12, "Update on Excused Absence for Employees Returning from Active Military Duty," that permitted a broader interpretation of the President's memorandum to authorize agencies to grant an additional 5 days of excused absence each time a Federal employee returns from active military duty related to GWOT. In response to questions received on CPM-2008-12, OPM consulted with the Department of Defense (DOD), and we have revised OPM's "Questions and Answers on Excused Absence for Employees Returning from Active Military Duty" to update and better reflect the authorized practices for the activation of Federal employees.

The President's memorandum is available on OPM's Website at http://www.opm.gov/oca/compmemo/2003/2003-14b.asp. OPM's memorandum and guidance on granting the 5 days of excused absence are available at http://www.opm.gov/oca/compmemo/2003/2003-14.asp and http://www.opm.gov/oca/compmemo/2003/2003-14a.asp.

The following questions and answers provide additional information to assist agencies in implementing the President's memorandum:

Q1. Who is entitled to receive the 5 days of excused absence?

A1. A civilian employee is entitled to 5 days of excused absence after he or she returns from active military service in connection with the continuing Global War on Terrorism (GWOT) -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom, as well as any other current or future military operations deemed to be part of the GWOT.

Q2. How long must an employee be on active duty before he or she qualifies for the 5 days of excused absence?

A2. The intent of the President's memorandum is to grant 5 days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life. The President's memorandum anticipates Federal employees will serve a significant period of time on active duty in support of the GWOT.

An employee must be on active duty in support of the GWOT for at least 42 consecutive days to qualify for 5 days of excused absence. An employee does not qualify for excused absence for active duty of 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. However, agencies may exercise their normal policies to grant excused absence in circumstances not covered by this policy.

Q3. When must an agency grant the 5 days of excused absence? Must an agency grant the excused absence as soon as the employee returns to Federal civilian service?

A3. Agencies must provide an employee returning from active military service consisting of at least 42 consecutive days in support of GWOT with 5 days of excused absence upon his or her return to Federal civilian service to aid in readjustment to civilian life. Upon receiving notification from an employee of his or her intent to return to civilian duty on a specific date, an agency must grant the employee 5 days of excused absence immediately prior to the employee's actual resumption of his or her duties. The commencement of the 5 days of excused absence represents a return to Federal civilian employment, and the employee is obligated to report for work at the end of the 5-day period.

If the employee had already returned to Federal civilian service prior to the issuance of the Presidential memorandum on November 14, 2003, or was not granted the 5 days of excused absence for a second or subsequent period of active duty outside the original 12-month period (see Q&A 5 and 6), he or she may schedule the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

Q4. How does the 5 days of excused absence affect the time limits for restoring an employee to Federal civilian employment under 5 CFR part 353, subpart B?

A4. The 5 days of excused absence do not affect the time limits for exercising restoration rights, because the commencement of the 5 days of excused absence constitutes a return to Federal civilian service. For example, an employee may take whatever grace period is allowed under part 353 and, *in addition*, is entitled to 5 days of excused absence.

Q5. We have employees who have returned to Federal civilian service, but are expected to be activated again. Can an employee receive 5 days of excused absence more than once?

A5. Yes. Generally, an employee may be granted 5 days of excused absence after he or she returns from at least 42 consecutive days of active military service in connection with the continuing Global War on Terrorism (GWOT) -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom, as well as any other current or future military operations deemed to be part of the GWOT. However, for subsequent periods of active duty in support of the GWOT, an agency may not grant more than 5 days of excused absence within a 12-month period. The 12-month period begins on the first day of excused absence and ends 365 days later. See the Eligibility Examples following Question 13.

An employee called to active duty on multiple occasions is entitled to receive 5 days of excused absence as long as the service meets the 42 consecutive days standard and does not **end** within the 12-month limitation. If the employee has already returned to Federal civilian service and was not granted 5 days of excused absence for a second or subsequent period of active duty, he or she may schedule the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

Q6. If another 42 consecutive days of active duty in support of the GWOT occurs during the same 12-month period, may 5 days of excused absence be granted and held for use at the end of the 12-month period?

A6. No. The subsequent active duty does not result in another 5 days of excused absence if it falls within the 12-month limitation . The employee is not eligible for another 5 days of excused absence under this policy, even if held for use at the end of the 12-month period. A subsequent period of active duty of at least 42 consecutive days must end after the end of the current 12-month period for the employee to be eligible for another 5 days of excused absence. See the Eligibility Examples following Question 13.

Q7. An employee was previously granted more than 5 days of excused absence in the same 12-month period due to multiple periods of short-term active duty. Does this constitute an indebtedness that the employee must repay to the agency?

A7. Agencies have discretion to provide excused absence to the extent that such time off does not interfere with agency operations. If agencies determine or have determined that extra periods of excused absence were authorized as such, there would be no "excess" or "unauthorized" excused absence for the employee to repay.

Q8. Must an employee use the 5 days of excused absence all at once?

A8. Yes. The intent of the President's memorandum is to provide returning employees with a continuous period of paid time off to spend with their families before returning to Federal civilian service, except in the two situations described in Q&A 9.

Q9. May an employee return to Federal civilian duty and then take the 5 days of excused absence at a later date?

A9. No. The 5 days of excused absence must be granted as soon as the employee reports back for Federal civilian duty or notifies the agency of his or her intent to return to civilian duty, except in two situations:

1. If the employee had already returned to Federal civilian service prior to the issuance of the Presidential memorandum on November 14, 2003, he or she may take the 5 days of excused absence at a time that is mutually agreeable to the employee and the agency.
2. If the employee has already returned to Federal civilian service and was not granted the 5 days of excused absence for a second or subsequent period of active duty, he or she may take the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

The 5 days of excused absence may not be "stockpiled" for use at a later date. In addition, the 5 days of excused absence is not to be confused with "credit hours" earned under a flexible work schedule or compensatory time off earned for overtime hours.

Q10. If an employee was activated for military service in connection with the continuing Global War on Terrorism (GWOT) -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom, as well as any other current or future military operations deemed to be part of the GWOT -- but was not deployed overseas, is the employee eligible for the 5 days of excused absence when he or she exercises return rights?

A10. Yes, the President's memorandum applies to all employees who were called to active duty in support of the continuing Global War on Terrorism.

Q11. If an employee who was activated was not a Federal employee when his or her tour began, but has been hired by the Federal Government since his or her deactivation, is the employee entitled to the 5 days of excused absence?

A11. No. The President's memorandum specifically addresses "returning Federal civil servants who were called to active duty." A new employee who was not a Federal civilian employee at the time of his or her activation does not qualify for the 5 days of excused absence.

Q12. How do agencies compute the 5 days of excused absence for part-time employees or employees on uncommon tours of duty, such as Federal firefighters? Do these employees receive 5 work days, 40 hours, or a prorated amount of excused absence?

A12. Each employee is entitled to the equivalent of 1 workweek of excused absence. The period of excused absence for an employee on an uncommon tour of duty or an employee on a part-time work schedule will be prorated according to the number of hours in the employee's regularly scheduled workweek. For example:

Hours in the regularly scheduled workweek	Hours of excused absence
20	20
40	40
56	56
72	72

Q13. May the 5 days of excused absence be prorated depending upon the length of the employee's active duty?

A13. No. Each employee who was activated for military service in connection with the continuing Global War on Terrorism (GWOT) -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom, as well as any other current or future military operations deemed to be part of the GWOT -- is entitled to the equivalent of 1 workweek of excused absence.

ELIGIBILITY EXAMPLES

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.