**DEPARTMENTS OF THE ARMY AND THE AIR FORCE**
**NATIONAL GUARD BUREAU**
**1411 JEFFERSON DAVIS HIGHWAY**
**ARLINGTON, VA 22202-3231**

2 5 APR 2003

NGB-JA

MEMORANDUM FOR THE ADJUTANTS GENERAL OF ALL STATES, PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AND THE COMMANDING GENERAL OF THE DISTRICT OF COLUMBIA

SUBJECT: (All States Log Number P03-0030) 15 Days of Paid Military Leave Under 5 U.S.C. 6323(a)(1)

1. The purpose of this memorandum is to provide information on whether a Federal employee who is called to active duty as a member of the National Guard or Reserves is entitled to military leave.

2. NGB-HR issued a memorandum dated 22 April 2002 to the states advising that National Guard Technicians on Title 32 or Title 10 AGR tours of duty are not entitled to 15 days of military leave while on an AGR tour. This guidance was subsequently rescinded by the National Guard Bureau (NGB) and the states were advised to contact NGB-HR for further guidance on this subject. Based on continuing inquiries from the states on this subject, it is necessary to provide the dispositive position of NGB.

3. 5 U.S.C. 6323. Military leave; Reserves and National Guardsmen (a)(1) provides "Subject to paragraph (2) of this subsection, an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss of pay, time, or performance or efficiency rating for active duty, inactive duty training (as defined in section 101 of Title 37), funeral honors duty (as described in section 12503 of title 10 and section 115 of title 32), or engaging in field or coast defense training under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard. Leave under this subsection accrues for an employee or individual at the rate of 15 days per year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year."

4. National Guard Technicians meeting the requirements of 5 U.S.C. 6323(a)(1) are entitled to military leave. Based on Comptroller General decisions and Office of Personnel Management guidance issued in 1991 (FPM Letter 630-34, May 2, 1991), employees on long term military duty that spans a fiscal year are eligible for the

additional military leave accrual at the beginning of a new fiscal year. This legal position reflects the opinion of the Chief Counsel, National Guard Bureau and is concurred in by the General Counsels of the Departments of Defense, the Army, and the Air Force.

5. Point of contact is James C. Hise, Chief Counsel, National Guard Bureau, DSN 327-2723 or 703-607-2723.

6. This memorandum will expire one year from date published unless sooner rescinded or superceded.

H STEVEN BLUM
Lieutenant General, US Army
Chief, National Guard Bureau

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EACH STATE HRO
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