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ADMINISTRATIVE REGULATION
NUMBER 200

OPR: PERSONNEL

MILITARY SERVICE BENEFITS Alabama Department of Corrections Employees

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for administering benefits for employees that are members of the military service.

II. POLICY

The Department of Corrections is committed to assuring that employees receive all benefits afforded by statute for training and active service in any component of the Alabama National Guard/Naval Militia/State Guard and of the United States Armed Forces/Reserve Forces.

III. DEFINITION(S) AND ACRONYM(S)

- A. USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994.
- B. War on Terrorism/Homeland Security: Active military service after September 2001 (Act 2002-430).
- C. Military Pay Differential: Compensation paid that is equal to the difference between an employee's lower military basic pay and his/her higher ADOC salary.
- D. Military Basic Pay: Basic pay as set forth in Chapter 3 of Title 37 of the United States Code and that does not include special and incentive pay set forth in Chapter 5 and allowances set forth in Chapter 7 of Title 37 of the United States Code, and other fringe benefits.
- E. Current Promotional Examinations: Examinations administered by the State Personnel Department that are only open to state employees for application for a specified timeframe.

IV. RESPONSIBILITIES

- A. It is the responsibility of Wardens/Division Directors to release employees from their work assignments when called to active duty for training or other military service and to ensure that regulations pertaining to military service are followed as mandated by statute and departmental procedures.
- B. All ADOC employees are responsible for promptly notifying supervisors when called to military service and for initiating and completing requests for benefits as a result of military service.
- C. It is the responsibility of the ADOC Personnel Director to ensure that requests for military benefits are processed promptly and information concerning benefits as a result of military service is made available to employees and supervisors.

V. PROCEDURES

- A. Employees' eligibility for benefits for military service shall be in compliance with USERRA for employment reinstatement.
 - 1. Service less than 31 days: The service member must report back to work at the next regularly scheduled shift on the day following release from the military, safe travel home, and eight (8) hours of rest.
 - 2. Service of 31-180 days: The service member must report within 14 days following release.
 - 3. Service of 181 days or more: The service member must report within 90 days following release.
- B. Military leave shall be granted for weekend drills, training, and for periods of time when employees are ordered to active duty under competent orders, Section 31-2-13 and Section 31-2-38, Code of Alabama 1975.
 - 1. Request for military leave shall be made on an Application for Military Leave (State Personnel Department's Form 14) at least ten (10) days in advance, except in extenuating circumstances. A copy of the military orders or written certification from the National Guard or U. S. Reserve component is submitted with the Form 14.
 - 2. An employee shall be eligible for 168 working hours (21 workdays) of paid military leave per calendar year.
 - 3. An employee who is activated under orders of the Governor of Alabama for state emergencies, such as a natural disaster and under executive orders of the United States of America for a national conflict during separate periods in the same year, may be eligible for an additional 168 working hours (21 days) of paid military leave.

4. When an active duty employee's paid military leave has been exhausted, the employee may elect to use personal day leave, holiday time, compensatory time, or annual leave instead of military leave without pay (MLWOP).
 5. For any calendar year, an active duty employee shall be placed on paid military leave before military leave without pay (MLWOP) or other paid leave such as annual or compensatory leave.
 6. An absence as a result of military duty shall not be deducted from an employee's accumulated annual, compensatory, holiday, or personal day leave balance except when elected by the employee.
 7. An employee that has been released from active duty by military orders shall be on regular leave without pay (LWOP) or annual/compensatory leave (if elected by the employee) for his/her absences that fall within the guidelines of USERRA.
 8. Military employees shall not be entitled to sick leave while on active duty (Attorney General's Opinion 2004-029).
 9. To conserve time and facilitate shift scheduling, applications for weekend drills may be submitted to cover several months at a time.
 10. Employees shall provide military orders or a certificate of attendance to verify call to and dates of active service.
 - a. A copy of the military orders or certificate of attendance shall be maintained in the employee's institutional/divisional file and the ADOC Personnel Division's files.
 - b. Institutional/Divisional Pay Clerks shall forward a copy of the employee's military orders and Form 14 to the ADOC Personnel Division.
 - c. The names of and number of activated employees shall be provided to the ADOC Personnel Division on a weekly basis.
- C. An employee may file an application in writing to the State Personnel Director for an indefinite leave of absence to honorably serve in any component of the U. S. Armed Forces, Section 36-26-31, Code of Alabama 1975.
- D. Leave Restoration: Any annual leave used during activation as a result of being called to active service for 30 or more consecutive days in any of the Armed Forces of the United States during the War on Terrorism which commenced in September, 2001 may be restored (Act 2002-430).
1. Leave shall be requested and restored upon the employee's return from active duty by the timeframes for employment reinstatement under USERRA.

2. Requests for leave restoration shall be made on the Military Leave/Differential Request Form (State Military Department's Form 1).
 3. The employee shall provide the completed State Military Department's Form 1 with Notarized Release and a copy of his/her U. S. Military Form DD 214, Certificate of Release or Discharge from Active Duty, and orders (if not already on file) to the Institutional/Divisional Pay Clerk.
 4. The Institutional/Divisional Pay Clerk shall forward the Form 1 with Notarized Release, U.S. Military Form DD 214, military orders (if applicable), and the employee's leave and work record (ADOC Form 214) to the ADOC Personnel Division.
 5. The ADOC Personnel Division shall complete the Certificate of Military Service in accordance with Act 2002-430, (State Military Department's Form 2). The total package shall be submitted to the State Personnel Department for approval and processing.
 6. Any annual leave restored that increases an employee's leave balance to more than 480 hours shall be carried forward to January 1 of the following calendar year, Attorney General's Opinion 2003-070.
 - a. Excess annual leave may be carried over one time.
 - b. Excess annual leave shall be used by the end of the year (December 31) in which it was carried over. This leave shall not be carried over again and is lost if not used.
 - c. Restored leave to be carried over shall be verified by the ADOC Personnel Division.
- E. Differential Pay: An employee on military leave without pay (MLWOP) may receive compensation for the difference between his/her lower military basic pay and his/her higher state salary if called into active service for 30 or more consecutive days during the War on Terrorism which commenced in September, 2001 (Act 2002-430).
1. Requests for military differential pay must be made in accordance with the reinstatement requirements of USERRA.
 2. Requests for military differential pay shall be made on the Military Leave/Differential Request Form (State Military Department's Form 1).
 3. The employee shall provide the completed State Military Department Form 1 with the Notarized Release, a copy of his/her U.S. Military Form DD 214 and orders (if not already on file), and military payroll information (Leave and Earnings Statement - LES) to the Institutional/Divisional Pay Clerk.

4. The Institutional/Divisional Pay Clerk forwards the Form 1 with Notarized Release, U.S. Military Form DD 214 and orders (if applicable), the employee's military payroll information (LES), and leave and work record (ADOC Form 214) to the ADOC Personnel Division.
 5. The ADOC Personnel Division shall complete the Certificate of Military Service in accordance with Act 2002-430 (State Military Department's Form 2) and submit it along with the above documents to the State Military Department for certification that the duty performed was for War on Terrorism /Homeland Security.
 6. The ADOC Personnel Division shall calculate the difference between the active duty base pay and the state salary based on the number of days of active service using the Military Differential Pay Worksheet (State Military Department's Form 4).
 7. The ADOC Personnel Division shall complete the Military Differential One Time Payment (1 PAY) (State Military Department's Form 3) and forward the total package to the State Personnel Department for processing.
- F. Employment Status: An employee called to military active service returns to the same employment status and appraisal score attained before active service (Section 31-2-13, Code of Alabama 1975 and State Personnel Procedures Manual, November 2004 Edition.
1. Military employees returning within the guidelines set by USERRA shall resume the same duty assignments and job responsibilities that they had before military activation.
 2. The timeline for the probationary performance appraisal shall be frozen until the employee returns from active service.
 - a. The Institutional/Divisional Pay Clerk shall immediately notify the ADOC Personnel Division when a probationary employee is activated and when he/she returns from activation.
 - b. Military employees on probation shall be terminated for cause only.
 3. Performance appraisal scores shall not be lowered as a result of military activation.
 4. An employee's seniority shall not be reduced or affected in any way as a result of military service. Employees may bid for shift and off-days in absentia or upon return from military duty.
 5. Military employees returning within the timelines set by USERRA may request to take any current promotional examinations missed as a result of active service to the State Personnel Department.

- G. Any activated employee may elect to continue his/her individual or dependent health insurance coverage with the State Employees' Health Insurance Plan while he/she receives compensation.
1. An employee shall make written notification to the State Employees' Insurance Board (SEIB) that he/she elects to continue individual and/or dependent health insurance coverage.
 2. The employee shall submit a copy of his/her military orders along with the written notification to SEIB.
- H. Employees on military leave without pay (MLWOP) remain active members of the State Employees' Retirement System (ERS).
1. Employees may purchase retirement service credit for any period of activation.
 2. The employee shall provide a written request to purchase service credit and his/her U.S. Military Form DD 214 to the Institutional/Divisional Pay Clerk.
 3. The Institutional/Divisional Pay Clerk shall forward the written request, U.S. Military Form DD 214 and the employee's Leave and Work Record (ADOC Form 214) to the ADOC Accounting/Payroll Division.
 4. The Accounting/Payroll Division shall calculate the amount of service credit using the Employees Retirement System's Form F, Service Calculation Form.
 5. The Form F, U.S. Military Form DD 214 and the employee's written request shall be forwarded to the ERS for processing.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

Copies of the forms prescribed by this regulation may be obtained from the State Personnel Department, the ADOC Personnel Division, or an ADOC Institution/Division Pay Clerk.

- A. Application for Military Leave - Form 14, State Personnel Department
- B. Military Leave/Differential Request Form with Notarized Release - Form 1, State Military Department
- C. Certificate of Military Service - Form 2, State Military Department

- D. Military Differential One Time Payment (1 PAY) - Form 3, State Military Department
- E. Military Differential Pay Worksheet - Form 4, State Military Department
- F. Service Calculation Form (Form F), Employees' Retirement System

VIII. SUPERCEDES

This regulation supersedes Administrative Regulation 200 dated December 15, 1997, as amended.

IX. PERFORMANCE

This Administrative Regulation updates policy and procedure concerning military leave and other benefits and is based on the laws and regulations below.

- A. Section 31-2-13, Code of Alabama 1975.
- B. Section 31-2-38, Code of Alabama 1975.
- C. Section 31-12-8, Code of Alabama 1975/Act. No. 2002-430, Act on Terrorism
- D. Section 36-26-31, Code of Alabama 1975.
- E. Section 4312(e), Title 38 United States Code.
- F. Rules of the State Personnel Board, as amended October 26, 2002
- G. Attorney General's Opinion 2003-070.
- H. Attorney General's Opinion 2004-029
- I. State Personnel Procedures Manual, November 2004 Edition



Donal Campbell, Commissioner