

**EXECUTIVE ORDER NO. 16-06**

**(Civil Service and Exempt Employees Excluded from Bargaining Units 1, 2, 3, 4, 9, 10, 13 and 14)**

WHEREAS, under chapter 89C of the Hawaii Revised Statutes (HRS), the Governor is granted the authority to make adjustments to the wages, hours, benefits, and other terms and conditions of employment for elected and appointed officials, and employees in the executive branch who are excluded from collective bargaining coverage; and

WHEREAS, for excluded employees who are civil service employees under the same classification systems as employees within collective bargaining units, chapter 89C requires that the adjustments be “not less than” those provided under the collective bargaining agreements for employees hired on a comparable basis; and

WHEREAS, chapter 89C also requires that the adjustments for excluded civil service employees result in compensation and benefit packages that are “at least equal to” the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the Employer’s jurisdiction; and

WHEREAS, chapter 89C provides that each appropriate authority shall determine the adjustments that are relevant for their respective excluded employees who are exempt from civil service in consideration of the compensation and benefit packages provided for other employees in comparable agencies; and

WHEREAS, the State, Judiciary, Hawai'i Health Systems Corporation, City and County of Honolulu, and Counties of Hawai'i, Maui, and Kaula'i have entered into memorandum of agreements dated September 20, 2016, with the Hawaii Government Employees Association (HGEA) as the exclusive representative of Bargaining Units (BUs) 2, 3, 4, and 13, that address the subject of military leave with pay; and

WHEREAS, the State, Judiciary, and Hawai'i Health Systems Corporation have entered into a memorandum of agreement dated September 20, 2016, with the HGEA as the exclusive representative of BU 9, that addresses the subject of military leave with pay; and

WHEREAS, the State, City and County of Honolulu, and Counties of Hawai'i, Maui, and Kaua'i have entered into a memorandum of agreement dated September 20, 2016, with the HGEA as the exclusive representative of BU 14, that addresses the subject of military leave with pay; and

WHEREAS, the State, Judiciary, Hawai'i Health Systems Corporation, City and County of Honolulu, and Counties of Hawai'i, Maui, and Kaua'i have entered into a memorandum of agreement dated September 8, 2016, with the United Public Workers (UPW) as the exclusive representative of BU 1, that addresses the subject of military leave with pay; and

WHEREAS, the State, Judiciary, Hawai'i Health Systems Corporation, and City and County of Honolulu have entered into a memorandum of agreement dated September 8, 2016, with the UPW as the exclusive representative of BU 10, that addresses the subject of military leave with pay; and

WHEREAS, consistent with the agreed-upon terms and conditions, the Director of Human Resources Development has recommended to the Governor the adjustments specified in this executive order for civil service and exempt employees in the executive branch who are excluded from BUs 1, 2, 3, 4, 9, 10, 13, and 14.

NOW, THEREFORE, I, David Y. Ige, Governor of Hawai'i, pursuant to my executive authority under articles V and VII of the Constitution of the State of Hawai'i,

the provisions of chapters 37 and 89C of the Hawaii Revised Statutes, and all other applicable authority, do hereby order, effective July 1, 2016; the following for State executive branch elected and appointed officials; civil service and exempt employees excluded from BUs 1, 2, 3, 4, 9, 10, 13, and 14; and Excluded Managerial Compensation Plan (EMCP) employees excluded from BUs 2, 4, 9, 10, 13, and 14:

### **LEAVES OF ABSENCE**

Note: The following provision is to be utilized in conjunction with other existing provisions covering this subject matter.

#### **Military Leave With Pay**

[This adjustment is applicable to elected and appointed officials; civil service and exempt employees excluded from BUs 1, 2, 3, 4, 9, 10, and 13; and EMCP employees excluded from BUs 2, 4, 9, 10, and 13]

Employees whose appointment is for six (6) months or more shall, while on active duty, inactive duty training, or during periods of camps of instruction or field maneuvers as members of the national guard or reserve of the armed forces under call of the President of the United States or the governor of the State, be placed on leave with pay status for a period not exceeding fifteen (15) working days in any calendar year, except as provided below. No such person shall be subjected by any person, directly or indirectly, by reason of absence to any loss or diminution of vacation or holiday privileges or be prejudiced by reason of the absence with reference to promotion or continuance of employment or reemployment.

If an Employee is called to active duty or required to report for camp training or field maneuvers by official military orders a second time within a calendar year, the Employee may elect to use up to fifteen (15) working days of the succeeding calendar year; provided that the Employee's entitlement to the working days advanced shall be

anceled from the succeeding calendar year, and the Employee shall so agree in writing. The Employee who is advanced leave shall be required to reimburse the Employer an amount equivalent to the days advanced in the event the Employee leaves government employment prior to completion of a year's service in the succeeding year from which leave was advanced, except in the case of death of the Employee.

**Military Leave With Pay**

[This adjustment is applicable to civil service, exempt, and EMCP employees excluded from BU 14.]

The document titled *Provisions for Employees Excluded from BU 14 (BU 74, 94 and 37)* shall be updated with the attached revised pages 55 and 56. The document was originally issued in EO 16-03.

IT IS FURTHER ORDERED that this executive order does not apply to (1) employees of public charter schools, the Department of Education and the University of Hawai'i; (2) employees hired for 89 days or less; and (3) those executive branch employees whom I later determine shall not receive the aforementioned adjustment; and

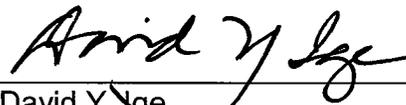
IT IS FURTHER ORDERED that this executive order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i or its agencies, departments, entities, employees, or any other person; and

IT IS FURTHER ORDERED that these provisions are subject to amendment by executive order.

The Director of Human Resources Development shall be responsible for the uniform administration of this executive order and is authorized to make any

interpretations concerning the applicability of these adjustments to the employees of the State government executive branch who are excluded from collective bargaining coverage.

DONE at the State Capitol, Honolulu,  
State of Hawai'i, this 17<sup>th</sup> day of  
November, 2016.



David Y. Ige  
Governor of Hawai'i

APPROVED AS TO FORM:



Douglas S. Chin  
Attorney General

D. In the event a request for sabbatical leave is denied, the Employee may request and shall be provided the reasons for denial in writing from the Employer.

E. Employees on sabbatical leave shall be paid an amount equal to one-half of the basic compensation which the Employee was receiving at the commencement of the leave. Basic compensation shall include any negotiated increase in the schedule as may be provided for in this document. The payments shall be made in accordance with regular pay periods.

F. An Employee granted sabbatical leave may engage in other employment provided the primary purpose for which the leave was granted is met.

G. Before being granted a sabbatical leave, an Employee shall enter into a contract with the Employer which shall provide for the following:

1. The Employee shall agree to return to work upon termination of sabbatical leave or any other leave which may be granted by the Employer immediately following the sabbatical leave. If the Employee fails to report for work upon termination of sabbatical and/or any other leave granted under this document, the Employee shall be considered to have resigned and shall refund all monies received while on sabbatical leave.

2. Upon return from sabbatical leave and/or any other leave granted under this document, the Employee shall agree to work in the appropriate department for a period of two (2) continuous years. If the Employee fails to do so, the Employee shall refund all monies received from the Employer while on sabbatical leave; provided, however, in the event of the death of the Employee, the requirement to refund all monies shall be waived. In the event the Employee is unable to continue employment due to illness or injury, the Employer may shorten the return period.

3. The Employee shall be guaranteed a return to the Employee's position or an equivalent position at the expiration of the sabbatical leave and/or any other leave granted under this document. Upon the Employee's return, the Employee shall have the same salary range and step that the Employee had at the time of taking the leave and the Employee's increment date shall be advanced equivalent to the duration of the leave, provided it is not inconsistent with terms of this document.

4. The Employee shall not accrue any vacation or sick leave credits during the period of sabbatical leave.

5. Any other provisions deemed necessary by the department to be included in the contract.

#### **ARTICLE 40 – MILITARY LEAVE**

A. Military Leave With Pay.

1. Employees whose appointment is for six (6) months or more shall, while on active duty, inactive duty training, or during periods of camps of instruction or field maneuvers as members of the national guard or reserve of the armed forces under call of the President of the United States or the governor of the State, be placed on leave with pay status for a period not exceeding fifteen (15) working days in any calendar year, except as provided in

subparagraph A.2. No such person shall be subjected by any person, directly or indirectly, by reason of absence to any loss or diminution of vacation or holiday privileges or be prejudiced by reason of the absence with reference to promotion or continuance of employment or reemployment.

2. If an Employee is called to active duty or required to report for camp training or field maneuvers by official military orders a second time within a calendar year, the Employee may elect to use up to fifteen (15) working days of the succeeding calendar year; provided that the Employee's entitlement to the working days advanced shall be canceled from the succeeding calendar year, and the Employee shall so agree in writing. The Employee who is advanced leave shall be required to reimburse the Employer an amount equivalent to the days advanced in the event the Employee leaves government employment prior to completion of a year's service in the succeeding year from which leave was advanced, except in the case of death of the Employee.

**B. Military Leave Without Pay.**

1. Employees shall be entitled to military leave without pay for service in the United States Armed Forces.

2. The duration of military leave without pay shall not exceed five (5) years provided that Employees whose period of employment is less than five (5) years, the military leave without pay shall not exceed the specified period of employment.

3. The Employee has the option to 1) substitute any available paid vacation leave time for otherwise unpaid leave or 2) be paid their available vacation leave time in a lump sum payment. The Employee's choice of lump sum payment for vacation allowance will not of itself cause the forfeiture of unused sick leave credits.

4. Upon conclusion of the military leave without pay, Employees shall have reemployment rights in accordance with Chapter 43 of Title 38 of the United States Code.

**5. Replacements for Employees on Military Leave Without Pay.**

a. In filling a position which became vacant by military leave without pay, the appointing authority may appoint a replacement Employee and shall inform the replacement the status of the replacement's employment and the provisions of this document relating to military leaves without pay.

b. A replacement employed in the position from which military leave was granted shall be displaced so that the position may be filled again by the former Employee returning to government employment. Replacement Employees with regular status shall be returned to their former positions or other comparable positions deemed appropriate by the director of personnel services. In the event there are no such positions, the replacement Employees shall be subject to Article 9, Reduction-In-Force.

6. Administration and enforcement of the provision relating to military leave without pay shall be in accordance with applicable laws and regulations.