

November 8, 2017

Via Email

MG David S. Baldwin
Adjutant General
California National Guard
Military Department
Office of the Adjutant General
9800 Goethe Rd.
Sacramento, CA 95826-9101

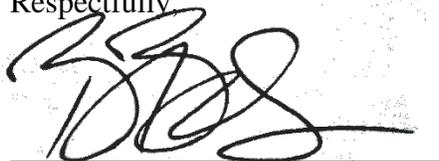
Re: Response to Grievance – Failure to Implement Section 1084 (Sec. 1084) of FY17 NDAA

Dear Sir:

1. In regard to your November 1, 2017, response, we commend you, and are encouraged by your commitment to implement Sec. 1084 of the FY17 NDAA. To our knowledge, you are the only state that is actually taking a pro-active stance to demand that the National Guard Bureau (NGB) do their job and stop interfering with the individual states' ability to follow the law.
2. Regarding whether implementation of Sec. 1084 is a Management right, and that our requested remedy is incompatible or interferes with those rights, the remedy sought by the Union is that the Agency follow Federal law. A demand that an Agency comply with Federal law does not interfere with Management's Rights under 5 USC 7106(a), and is enforceable via the grievance and arbitration process.
3. In light of your commitment that no employee shall be harmed by this delay in implementation, the Union will consider this the Agency's attempt to reach a mutually agreeable solution to our complaint, and will consider the grievance to be on hold pending further information from NGB, if the Agency agrees to the following:
 - a. Should we discover that employees do experience harm subsequent to this notice, the Union reserves the right to invoke arbitration.
 - b. In order to have a meaningful discussion, we're asking that the Agency release the list of dual-status employees already identified for conversion from Title 32 to Title 5, as provided to NGB earlier this year. That list contains a list of employees identified in support of the four tranches proposed by NGB.
4. Our CBA allows the Union to invoke arbitration fifteen (15) days after the Adjutant General's final decision. We consider this response to be your final decision. However, if the terms in 3(a) and (b) are acceptable, please let us know by November 15, 2017, to include forwarding the list of employees identified for conversion through the 20% tranche. Otherwise, we will invoke

arbitration. Point of contact for this matter is the undersigned via email at benbanchs@liuna-ngdc.org, or telephone at (985) 249-3707.

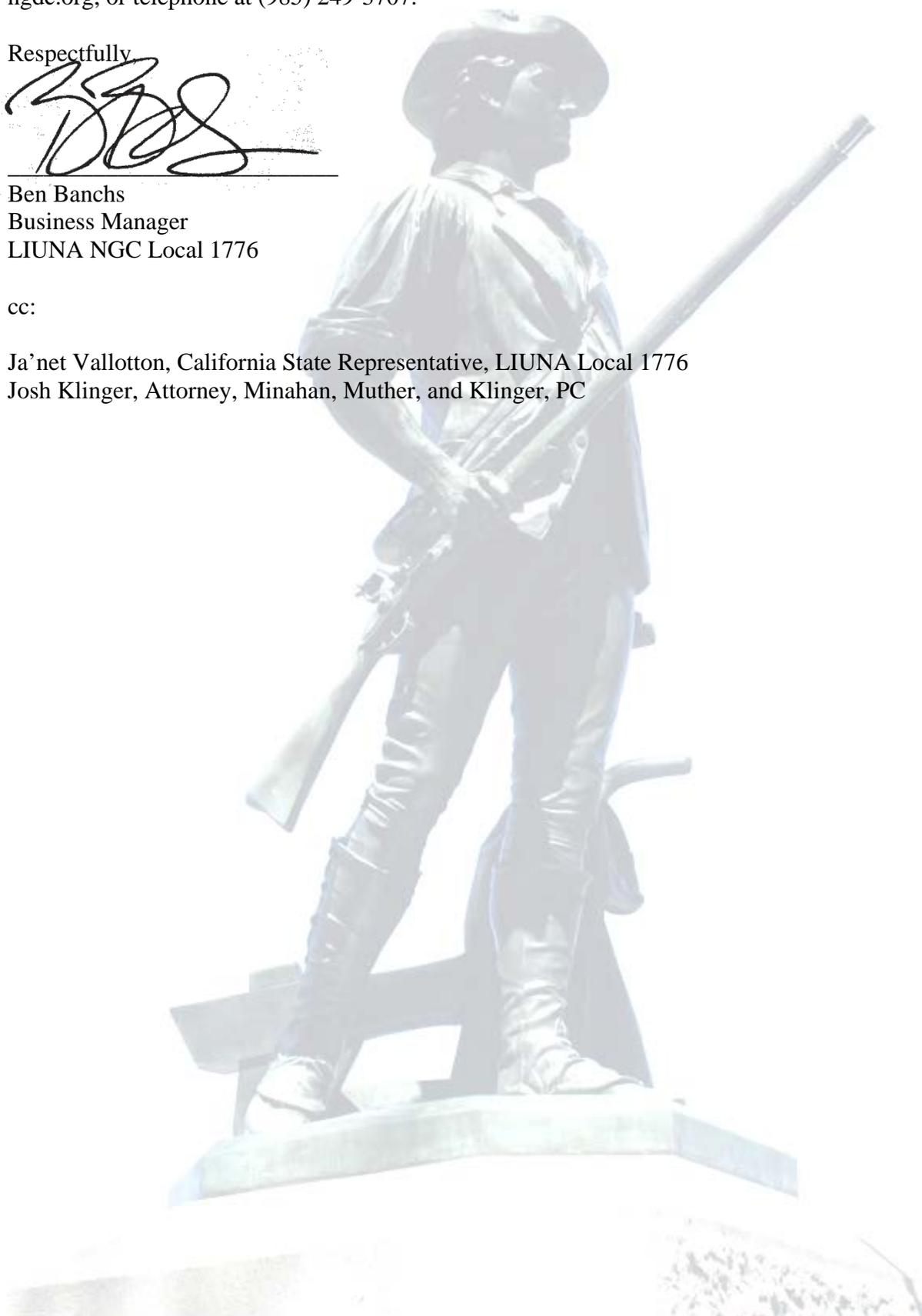
Respectfully,



Ben Banchs
Business Manager
LIUNA NGC Local 1776

cc:

Ja'net Vallotton, California State Representative, LIUNA Local 1776
Josh Klinger, Attorney, Minahan, Muther, and Klinger, PC





MILITARY DEPARTMENT
OFFICE OF THE ADJUTANT GENERAL
9800 Goethe Road
Sacramento, California 95826-9101

November 1, 2017

SUBJECT: Response to Grievance for Failure to implement Section 1084 of the FY17 NDAA, dated October 3, 2017

LIUNA National Guard Council Local 1776
P.O. Box 1794
Abita Springs, LA 70420

To Whom It May Concern:

The California National Guard has carefully considered the enclosed grievance that was filed on October 3, 2017 and is responding as follows:

AGENCY POSITION: The California National Guard management firmly supports working within its legal authority to accomplish its mission of generating combat ready units to conduct state and federal military operations. It is the position of this agency that pursuant to 5 USC 7106(a), mission, budget, organization, numbers of employees, and internal security practices are management rights. A request that this agency implement section 1084 of the FY17 National Defense Authorization Act is not compatible with our Management rights.

RESPONSE TO GRIEVANCE: The California National Guard will continue to accomplish its mission and is fully willing to address individual employee issues when brought either by the individual employee or brought by the Union on behalf of individual employees. The grievance does not allege any specific instances of a harm suffered by an employee based on an action or inaction on the part of the California National Guard. If any individual issues arise, we will certainly work to resolve them in a fair and equitable manner.

INFORMATIONAL: It is the intent of the California National Guard to be fully compliant with current law and protect its' employees and their rights. The California National Guard is unable to implement the T5 conversion of T32 dual-Status technician members until further steps are taken by National Guard Bureau (NGB), and submitted the enclosed "Request for Implementation" memorandum to the National Guard Bureau on October 12, 2017. While concurrently requesting NGB execute an early conversion, the California National Guard is suspending all separation actions, other than for cause (misconduct) separations that are related to civilian duties, by retaining potentially affected employees beyond the normal 30 day period. In fact, the California National Guard will indefinitely resist separating any affected employee(s), except where cause exists - as supported by the evidence and accomplished in accordance with requisite due process.

The California National Guard welcomes input and/or dialog to further preserve the rights of our employees impacted by this delayed conversion. Any questions regarding this letter can be directed to the J1 at 916-854-3358.



DAVID S. BALDWIN
Major General
The Adjutant General

Enclosures



MILITARY DEPARTMENT
OFFICE OF THE ADJUTANT GENERAL
9800 Goethe Road
Sacramento, California 95826-9101

NGCA-JSZ

12 October 2017

MEMORANDUM FOR Chief, National Guard Bureau, 111 S George Mason Dr, Arlington,
VA 22204

SUBJECT: Request immediate implementation of T5 conversion

1. The California Military Department (CMD) requests your favorable consideration in the immediate implementation of the T5 conversion of T32 Dual-Status technician members as identified in the ANG and ARNG "Picklists" submitted to National Guard Bureau on 5 September 2017.
2. Expedient implementation will allow the CMD to preserve the rights of those who are currently encumbering positions which have been identified for conversion and of whom may otherwise be facing separation actions due to military incompatibility or loss of military membership.
3. It is the intent of the CMD to be fully compliant with the current law, protect our employees and their rights, and preserve the knowledge base, training, and experience that we have invested in them.
4. Any questions regarding this memorandum can be directed to the J1 at 916-854-3358.



DAVID S. BALDWIN
Major General
The Adjutant General