October 3, 2017

Via Email
Adjutants General *et al.*
Arkansas National Guard
California National Guard
Guam National Guard
Illinois National Guard
Louisiana National Guard
Michigan National Guard
Nevada National Guard
New Mexico National Guard
South Carolina National Guard
South Dakota National Guard
Utah National Guard

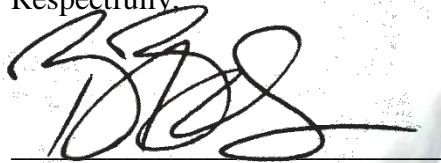Re: Grievance for failure to implement Section 1084 of the FY17 NDAA

Dear Sirs:

1. This letter serves as formal notice that, effective today, LIUNA is filing a grievance on behalf of affected employees we represent due to your Agency's failure to follow Federal law; specifically, Section 1084 of the Fiscal Year 2017 National Defense Authorization Act (FY17 NDAA), which requires that your Agency convert certain dual-status technician positions previously authorized under Title 32 (T32) to positions covered by Title 5 (T5).

2. We are filing the grievance directly with your office because you are the lowest level of management within your Agency that has the authority to effectuate the law. As such, and based on the language in our collective bargaining agreement (CBA), we're providing you thirty (30) days to initiate discussions with us and reach a decision that is agreeable to both parties. Otherwise, we will invoke binding arbitration. No extensions of time will be granted.

3. We are aware that, in compliance with Federal law, your Agency has already identified those dual-status positions within your state that should be converted from T32 to T5, but that you have been instructed, inaccurately, by the National Guard Bureau (NGB) not to proceed with conversion because, according to them, Federal regulations allow up to six (6) months to effectuate such a conversion.

4. Unfortunately, NGB's justification for delaying the conversion is not legally sound, and their guidance is causing your Agency to be in breach of Federal law. NGB's interference in your complying with Federal law puts your Agency in jeopardy of being administratively and financially liable for said failure, to include the cost of arbitration and substantial lawyer's fees. As resolution, the Union asks that your Agency immediately implement the requirements of the FY17 NDAA, as cited in Paragraph 1 (above).

Arkansas   California   Guam   Illinois   Louisiana   Michigan   Nevada   New Mexico   South Carolina   South Dakota   Utah

5. If circumstances beyond your control prevent immediate implementation of the law, we're asking that your Agency agree to delay or cancel any and all adverse administrative actions against employees stemming from said failure to properly implement Federal law. Specifically, that your Agency not take any adverse employment action based on expired military conditions of employment against incumbents whose employment authority should have otherwise been converted from Title 32 to Title 5 effective October 1, 2017. This includes any and all separations covered by NGB Technician Personnel Regulation (TPR) 715, Chapter 3, Paragraphs 3-1, 3-2, and 3-3. These military requirements no longer apply to those identified for conversion in any of the tranches submitted to NGB, whether that be the 4.8%, 10%, 12.6%, or 20%.

6. I urge you to contact us immediately in order to discuss resolution, to include a discussion of those positions that your Agency identified for conversion, as well as identifying those employees who may be in jeopardy of being separated for expired military conditions of employment. Failure to reply by November 2, 2017, will result in our invoking arbitration.

7. Point of contact (POC) for this matter is the undersigned via telephone at (9875) 249-3707, or via email at benbanchs@liuna-ngdc.org. You may also contact your designated LIUNA State Representative (SR) who will be able to discuss the contents of this grievance and possible resolution, and then communicate those to me. If no SR has been identified for your Agency, then contact the undersigned.

Respectfully,

Ben Banchs
Business Manager
LIUNA NGC Local 1776

cc:

General Joseph Lengyel *et al.*, Chief, National Guard Bureau
Minahan, Muther, & Klinger, PC, Attorneys at Law