



# HROR 690-1

**HUMAN RESOURCES (FULLTIME)  
MANAGEMENT**  
of the  
TENNESSEE ARMY AND AIR NATIONAL GUARD

# CONTENTS

<u>SUBJECT</u>	<u>PARAGRAPH</u>	<u>PAGE</u>
<b>CHAPTER 1</b>		
<b>GENERAL</b>		
Philosophy	1-1	1
References	1-2	1
Organization	1-3	1
Responsibility	1-4	3
Technicians	1-5	3
Personnel Policy	1-6	3
Goals and Objectives	1-7	4
Receipt of Legal Actions	1-8	5
<b>CHAPTER 2</b>		
<b>CLASSIFICATION AND POSITION MANAGEMENT</b>		
Purpose	2-1	5
References	2-2	6
Areas Covered	2-3	6
Responsibilities	2-4	6
Manpower Authorization	2-5	7
Functional Charts	2-6	7
Desk Audits and Classification Appeals	2-7	8
<b>CHAPTER 3</b>		
<b>RECRUITMENT AND PLACEMENT</b>		
Purpose	3-1	8
References	3-2	8
Areas Covered	3-3	8
Responsibilities	3-4	9
Merit Placement	3-5	9
Personnel and Staffing Actions	3-6	10
Requests for Temporary Full-Time Support	3-7	11
Technician Compatibility	3-8	12
Priority Placement Plan	3-9	13
Pay Setting	3-10	13
Workforce Restructuring (Reduction in Force)	3-11	18
<b>CHAPTER 4</b>		
<b>STANDARDS OF CONDUCT AND DISCIPLINE</b>		
Purpose	4-1	19
References	4-2	20
Self-Control	4-3	20
Notification on Standards of Conduct	4-4	20
Professional Courtesy	4-5	20

# CONTENTS

<u>SUBJECT</u>	<u>PARAGRAPH</u>	<u>PAGE</u>
Off-duty Employment	4-6	20
Wear of the Military Uniform	4-7	21
<b>CHAPTER 5</b>		
<b>PERSONNEL ACTIONS</b>		
Purpose	5-1	22
References	5-2	22
Responsibilities for Personnel Actions	5-3	22
Assignment Policy	5-4	23
Voluntary Actions	5-5	23
Involuntary Actions	5-6	25
Requests for Light Duty for OWCP Cases	5-7	28
<b>CHAPTER 6</b>		
<b>TECHNICIAN TRAINING PROGRAM</b>		
Purpose	6-1	29
References	6-2	29
Definitions	6-3	29
Policy on Technician Employment Training	6-4	30
Responsibilities	6-5	31
Identification of Training Needs	6-6	32
Mandatory Supervisory Training	6-7	33
Attendance at Schools in Technician Status	6-8	33
National Guard Professional Education Center (PEC)	6-9	33
Submission of Application for Training	6-10	34
Submission of Requests for Travel Order	6-11	34
<b>CHAPTER 7</b>		
<b>LABOR RELATIONS AND GRIEVANCES</b>		
Purpose	7-1	34
References	7-2	35
Policy	7-3	35
Labor Organization Membership and Representation	7-4	35
Negotiation of Labor Management Agreements	7-5	36
Excluded Matters	7-6	36
Grievances	7-7	37
Agency Grievance Procedures	7-8	38
Adverse Actions and Discipline	7-9	40
Files	7-10	43
Unfair Labor Practice	7-11	43

# CONTENTS

<u>SUBJECT</u>	<u>PARAGRAPH</u>	<u>PAGE</u>
<b>CHAPTER 8</b>		
<b>EQUAL EMPLOYMENT OPPORTUNITY PROGRAM</b>		
Civilian Technician Equal Employment Opportunity References	8-1	43
Military Equal Opportunity References	8-2	43
Alternative Dispute Resolution	8-3	43
<b>CHAPTER 9</b>		
<b>EMPLOYEE ASSISTANCE PROGRAM</b>		
Purpose	9-1	44
References	9-2	44
Policy	9-3	44
Responsibilities	9-4	45
Procedures for EAP Employee Management	9-5	47
Disciplinary Actions Under EAP	9-6	49
Labor Support and Cooperation	9-7	49
Disclosure Rules	9-8	50
Community Resources	9-9	51
<b>CHAPTER 10</b>		
<b>SPECIAL PROGRAMS</b>		
General	10-1	51
References	10-2	51
Telecommuting	10-3	51
Mass Transportation	10-4	52
Emergency Duties	10-5	52
Employment Verification	10-6	54
<b>CHAPTER 11</b>		
<b>CUSTOMER SERVICES</b>		
General		55
E-Verify	11-1	56
Within Grade Increases	11-2	56
Federal Wage Systems Within Grade Increases	11-3	57
Tenure and Trial Period	11-4	58
Position Description/Performance Plan/OF8	11-5	58
Hours of Work, Lunch, Breaks	11-6	59

# CONTENTS

<u>SUBJECT</u>	<u>PARAGRAPH</u>	<u>PAGE</u>
<b>CHAPTER 12</b>		
<b>PERFORMANCE MANAGEMENT</b>		
Definitions	12-1	59
Supervisors Performance Plan Requirements	12-2	61
Appraisal Appeal	12-3	62
Required Supervisor Folder Documents	12-4	62
Sequence of Documents	12-5	64
Employee Review	12-6	64
Disposition of Employee Folders	12-7	65
<b>CHAPTER 13</b>		
<b>LEAVE ADMINISTRATION</b>		
Definitions	13-1	65
Accrual Rates for Full-Time Permanent Employees	13-2	68
Restoration of Annual Leave	13-3	68
Administrative Leave	13-4	69
Sick Leave	13-5	69
Family and Medical Leave	13-6	77
Leave Transfer Program	13-7	79
Law Enforcement Leave	13-8	80
Administrative Dismissal (Closure of Activity in Emergency)	13-9	81
Use of Leave During Administrative Closures	13-10	82
Dual Compensation	13-11	83
<b>CHAPTER 14</b>		
<b>TARDINESS AND OTHER ATTENDANCE ISSUES</b>		
Absence Without Leave	14-1	83
Leave Restrictions	14-2	84
Workers Compensation	14-3	84
<b>CHAPTER 15</b>		
<b>INCENTIVE AWARDS</b>		
Purpose		85
Sustained Superior Performance	15-1	86
Quality-Step Increase	15-2	87
Special Act or Service Award	15-3	88
Time-Off Awards	15-4	89
On-The-Spot Cash Awards	15-5	89
Suggestion Awards for Air and Army	15-6	90
Length-of-Service Recognition	15-7	92
Payment, Program Promotion, Reports, and Records	15-8	93

## CONTENTS

<u>SUBJECT</u>	<u>PARAGRAPH</u>	<u>PAGE</u>
<b>CHAPTER 16</b>		
<b>EMPLOYEE BENEFITS</b>		
Uniformed Service Employment and Temporary (Tenure 0) and Indefinite (Tenure 3) Employees	16-1	93
Contingency Operation Benefits	16-2	94
Retirement	16-3	94
Non-Contingency Operations Benefits	16-4	98
Work Schedules	16-5	115
	16-6	116

## **CHAPTER 1 GENERAL**

### **1-1. PHILOSOPHY**

This regulation prescribes state procedures for carrying out statutory and regulatory requirements for Full-Time Support Personnel (FTS) of the Tennessee National Guard. Where options are given for variation in guidance from the United States Office of Personnel Management (OPM) the Consolidated Federal Regulations (CFR), National Guard Bureau (NGB) regulations, Technician Personnel Regulations (TPR), and other guidance applicable to FTS personnel, this regulation specifies choices the agency elects to make. This policy applies to Army and Air National Guard FTS, which includes dual status, non dual status and AGR personnel. This regulation serves to provide additional necessary information to enhance and is intended to improve the understanding of fulltime management of the Army National Guard and the Air National Guard of the United States.

### **1-2. REFERENCES.**

Title 32 USC 709 (Public Law 90-486), Title 10 USC 10216, 5 USC Chapter 71, NGR 600-25, ANGI 36-102, CNGB1/TPR 200 and all applicable CNGB1/TPRs.

### **1-3. ORGANIZATION.**

The Human Resources Office (HRO) is established to administer the joint personnel programs for full-time manning (FTM) in the State of Tennessee. The HRO is adapted to meet the special needs of the joint

program required to manage assets in both the Army and Air National Guard. This office must be especially knowledgeable about the applicable law to technicians: Title 32 USC 709 (Public Law 90-486), Title 10 USC 10216, and the portions of 5 USC that apply. Technician manpower is divided into two excepted categories: a.) non-dual status (NDS) or civilian (not required to be members of a military unit) and b.) dual status (military) who must belong to a compatible unit of the Tennessee National Guard.

a. Office of the Human Resources Officer (HRO). The HRO contains the Human Resources Officer and Deputy who serves as the advisor to the Adjutant General for Army and Air National Guard fulltime members. This office is responsible for program management and guidance, manpower and budget decisions, recruitment and placement of FTM, labor and technician relations, to include positive and adverse personnel actions, technician services and wage administration, internal personnel management, to include management controls and equal employment opportunity, classification, position management training, technician development, order approval and publication, and Defense Civilian Personnel Data System (DCPDS) computer system management and reports.

b. Personnel Management Branch. This branch provides advisory and technical services for the hiring process, position management, and classification. The branch provides managers and supervisors with a qualified pool of applicants for vacancy fills. It also provides managers with

sound advice to use in the most efficient and effective design of their workforce. In addition, this branch ensures that all positions are correctly classified in accordance with OPM standards and NGB guidance.

c. Customer Service Branch. This branch provides advisory and technical services to employees on a full range of employee benefits such as (1) Incentive Awards Program (2) counseling of management, employees, retirees and family members on a wide range of benefit programs such as CSRS/FERS retirement, Federal Employee Health Benefits (FEHB), Federal Employee Group Life Insurance (FEGLI), Thrift Savings Plan (TSP), Federal Employees Compensation Act (FECA) and Office of Workers' Compensation Program (OWCP), (3) Provides advice on leave issues such as Sick Leave, Compensatory Leave, Leave Without Pay (LWOP), Absence Without Leave (AWOL), and Military Leave. (4) Manages the Mass Transportation program. (5) Schedules and conducts New Employee Orientation. (6) Manages the Performance Appraisal Application (PAA) to include Performance Improvement Plans (PIP). (7) Maintains the Official Personnel File (OPF) for all technicians. (8) Maintains the regulatory and other guidance required to provide guidance to management. (9) Manages the Telecommuting Program.

d. Labor Relations Branch. This branch contains a Labor Relations Specialist (LRS) who will serve as the management representative for labor negotiation, contract administration, grievances, alternative dispute resolution, mediation, and legal actions.

The Labor Relations Specialist is responsible for the administration, supervision, evaluation and performance of technical work concerned with labor relations in the Tennessee Army and Air National Guard. This includes establishing and maintaining effective coordinating relationships with labor organizations that represent military technicians, negotiating and administering labor agreements, and conferring with bargaining units on behalf of management, and providing guidance, consultation and staff assistance to management on a variety of labor matters. The LRS administers the labor relations programs, including those involved in policy development, agency guidance, and investigation and resolution of complaints and appeals of labor organizations. The LRS is involved in advising management on grievances and appeals, adverse actions in a bargaining unit environment, employee discipline, and related matters which are an integral part of the labor relations program. The LRS must know Executive Orders, regulations, principles and practices, and techniques of labor relations and be familiar with recent court and FLRA decisions.

e. Equal Employment Opportunity Branch. The EEO branch is comprised of the State EEO Manager and an EEO specialist who process discrimination complaints, administer the affirmative action program, employee assistance program (EAP), and handle other special emphasis programs, such as sexual harassment and complaints.

f. Military Duty Management Branch. This branch contains the Active Guard Reserve (AGR) Manager and

FTM personnel who administer the manpower, budget, personnel actions, and administration for the AGR program. This element cares for recruitment, separation, promotion, reduction, reassignment, leave, training, orders, and payment of permanent change of station (PCS) and other special entitlements.

#### **1-4. RESPONSIBILITY.**

The Human Resources Officer (HRO) is a primary staff officer to the Adjutant General and responsible for all FTM personnel management programs and actions in the State of Tennessee for the Army and Air National Guard.

#### **1-5. TECHNICIANS.**

A technician is a civilian who works for the Adjutant General of the state and is paid by the United States Government. Technicians are provided for by act of Congress to improve the readiness of the Army and Air National Guard under Section 709 of Title 32, United States Code. This law authorizes technicians for the administration and training of the National Guard and the maintenance and repair of supplies (sic) to the National Guard or the Armed Forces. Most technicians are employed as dual status members, a term introduced by Section 10216 of Title 10, USC, and referred to as military technicians. Military technicians are required to belong to a unit of the National Guard and wear the uniform of the service as a condition of employment. These members are federal employees and there are limitations regarding how they may be used for state contingency operations. Non-dual status (NDS) allocations are authorized through NGB.

#### **1-6. PERSONNEL POLICY.**

a. Nondiscrimination. Technicians of the Tennessee National Guard will not discriminate because of race or color, religion, gender or age (except where limited by the military assignment), marital status, or non-disqualifying physical handicap, national origin (except for requirements of citizenship), reprisal, lawful political affiliation or lawful bargaining unit (labor union) membership.

b. Qualification and Merit. Applicants who meet technician and military qualifications may be selected or placed in positions for which they are qualified. Selections to fill positions shall be made impartially on the basis of merit, fitness, performance and leadership potential, and the needs of the service.

c. Objective Evaluation. Technician work performance will be evaluated fairly and objectively on a continuing basis in accordance with CNGBI/TPR 430.

d. Safe Environment. Working conditions will be made as safe and healthful as possible.

e. Freedom of Expression. Technicians will be encouraged to express themselves concerning improvement of work methods and working conditions. Technicians will have the right to discuss problems with the appropriate staff without interference, coercion, restraint or reprisal provided such discussions are presented in a courteous and professional manner.

f. Technician Organization. Technicians will have the right without interference, coercion, restraint, or reprisal to join or refrain from joining any lawful labor organization or technician association. Where technicians are represented by an exclusive labor organization, management officials will endeavor to build a relationship with that organization based upon mutual respect and trust.

g. Fair Review. Any technician having a grievance or complaint will be accorded a fair and prompt discussion with the supervisor immediately concerned and, failing prompt and satisfactory adjustment, will have the right to pursue the matter under the Agency or through the negotiated grievance procedures with the exclusive representative bargaining unit.

h. Open Decision on Campaign Participation. Technicians will have the right to participate or not participate in voluntary fund raising campaigns, charity campaigns, and purchase of U.S. savings bonds without compulsion, coercion or reprisal. Technicians do not have the right to appear at political campaigns or activities in uniform, unless serving in an official capacity on behalf of the U.S. government and then only within the restrictions dictated by the Adjutant General.

## **1-7. GOALS AND OBJECTIVES.**

a. Individual Goals. Full-time members (FTM) are expected to develop and work toward objectives that achieve training goals of the Tennessee National Guard. These objectives are:

(1) Provide effective personnel-management leadership in the Tennessee National Guard by ensuring that policies, plans and services are uniform for ARNG and ANG technicians where possible, that quality personnel administrative services are being provided, that continuous review, analysis, and evaluation of policies and programs occurs, and that the Tennessee National Guard properly implements laws, regulations, and policies pertaining to working conditions, pay, allowances, retirement, and Federal benefits.

(2) Strive to achieve the most economical and efficient use of resources.

(3) Use merit placement principles to staff the technician program with qualified personnel providing technicians with the opportunity to advance to their full potential.

(4) Perform position management and classification actions which maximize fiscal and personnel resources, including the development of position structuring, staffing, and grading patterns consistent with efficiency in meeting mission requirements and Office of Personnel Management (OPM) classification standards and requiring supervisory participation in position management and the classification process.

(5) Develop the highest order of expertise and competence of Tennessee National Guard human resources by improving individual performance and effectiveness, by developing personnel resources through sound training, and rewarding

outstanding performance with incentives to enhance motivation.

(6) Ensure support, guidance, and resources necessary for effective equal employment opportunity and diversity in the Tennessee National Guard through recruitment, staffing, community relations, training education, recognition, and affirmative action.

(7) Encourage efficient and effective labor-management relations by increasing management involvement to assure that the labor-management relationship contributes to the effective and efficient conduct of the Tennessee National Guard mission.

(8) Maintain compatibility in accordance with NGB policy.

(9) Explore methods to reduce the cost of injury compensation while continuing maximum benefits to deserving technicians.

(10) Recruit and retain a quality work force.

b. Unit Goals. Unit goals are identified so that individuals may structure their own goals to achieve collective goals.

(1) Federal Goal.

(a) Be capable of activating, deploying, and be combat ready to fight and win.

(b) Be prepared to integrate into the active forces of the United States with minimum disruption.

(2) State Goal. Be prepared to respond to any emergency in order to save lives or protect property, to re-establish law and order, and return harmful or lawless situations to normalcy as directed by the Governor.

**1-8. RECEIPT OF LEGAL ACTIONS.**

a. Receipt of Legal Processes or Services. Subpoenas, orders of the court, official demands for records or individual appearance in court, garnishments, or other processes being attempted for service will be referred to the Military Department of Tennessee Legal Counsel. Requests for records or other data from attorneys, district attorneys, sheriffs, chiefs of police, or their representatives should also be referred to the legal counsel. This does not limit the requirements for Freedom of Information Act (FOIA) to be processed through the J6.

b. Service for Notices or Grievances. Submission of a grievance or other official correspondence or process to the Adjutant General from any exclusive bargaining representative or recognized official will be considered formally delivered if made to the HRO or the Labor Relations Specialist serving as the agent of the Adjutant General.

**CHAPTER 2  
CLASSIFICATION AND POSITION  
MANAGEMENT**

**2-1. PURPOSE.**

Position management is the evaluation of the need for FTM positions that will service unit requirements most efficiently. The policy of the federal government, the National Guard Bureau (NGB), and the Adjutant General of

Tennessee is to organize units in a manner that makes optimal use of manpower and achieves the need for trained military units to meet the goals specified in Chapter 1.

## 2-2. REFERENCES.

Applicable CNGBI's/TPR's, 5 CFR 511, NGB/OPM Qualification Standards, OPM Classification Standards and NGB Classification Supplemental Guidance, etc.

## 2-3. AREAS COVERED.

- Manpower Authorizations
- Functional Charts
- Desk Audits and Classification Appeals

## 2-4. RESPONSIBILITIES.

### a. Human Resource Office (HRO).

(1) Ensure compliance with Position Management Officer (PMO) duties and responsibilities by periodic staff visits or reviews. HRO may elect to direct the Classification Specialist to review or desk audit selected positions or position descriptions to see if they are current or accurate.

### b. Position Management Officer (PMO).

(1) Responsible for compliance with position management requirements established by the law, OPM, NGB, and this regulation.

(2) Initiate procedures to modify position management structures in order to meet mission requirements,

improve efficiency and economy, or to meet local requirements.

(3) Ensure that each request for personnel action is for a valid requirement, that the correct position description is used, that the duty description for vacancy announcement is properly written, and that all information on the SF 52 is accurate.

(4) Coordinate with HRO (staffing) to check the priority placement list before requesting fill of a vacancy.

(5) Ensure that any technician move would meet the rules for compatibility and grade inversion.

### c. Supervisor.

(1) Determine how work will be organized and assigned to individual jobs and groups of positions within the work unit. Ensure incumbents are performing the full range of duties and responsibilities of their official position description.

(2) The first-line supervisor (or requester in block 5 of Part A) will manage subordinate positions within the unit or element for which they have responsibility. By signing the SF 52, the supervisor certifies under penalty of law that there is an actual need for the action, assignment, or fill of the position and that the request is valid by law. Maintain on file a certified position description for the supervisor (him or herself) and each subordinate technician.

(3) Review all vacant positions, as well as positions that later become vacant, to ensure that the

duties and responsibilities of the position are current, valid, and accurately described in the technician position description.

d. Classification and Position Management Responsibilities.

(1) Develop policies and provide guidance governing the NG Classification and Position Management Program.

(2) Advise and assist management officials on organizational structures, and/or eliminating excess or redundant positions to meet new mission requirements, improve organizational efficiencies and effectiveness, create upward mobility opportunities or to respond to budgetary limitations.

(3) Ensure that technicians, commanders, supervisors, and managers are aware of the requirement for Dual-Status technicians to be assigned to compatible military positions.

(4) Conduct position review to ensure all NG technician positions are properly described, graded and classified.

(5) Implement "Standardized" Position Descriptions for statewide organizations.

(6) Develop and conduct position management and classification training.

(7) Validate duties and responsibilities described in position description prior to certifying/approving

all personnel actions involving position changes.

(8) Provide assistance to supervisors and managers to update and/or develop exception position descriptions, as required, for NGB approval.

(9) Authorize minor changes to National Guard technician position description (PD) that will not affect the classification (pay plan, title, series, and grade) of the position.

(10) Ensure that all classification and position management information entered into the Defense Civilian Personnel Data System (DCPDS) are accurate and complete.

**2-5. MANPOWER AUTHORIZATION.**

a. Man-year Availability. An approved position and an employment authority (EA) must exist before a position may be filled. The position will be "built" by HRO (or NGB) and reflected on the Support Personnel Manning Document (SPMD). The PMO must approve requests for fill based upon the annual voucher issued by HRO.

b. Type Man-year Determination. PMO's must determine the type of position that is required or authorized in the organization. Some positions are authorized to be filled by either technician or AGR man-years, depending upon availability of man-years and NGB documentation.

**2-6. FUNCTIONAL CHARTS.**

Supervisors will submit functional charts (wiring diagrams) of their

organizational structure to HRO not later than 30 September of each year. Each “box” will include the title of the position, position description control number, pay plan-series-grade and military rank (if applicable) for technicians or MOS/AFSC and military grade for AGR, and the name of the incumbent. Positions that are not filled will be identified as vacant. The functional chart will also clearly identify the title of the section as required by the UMD and the chain of command up to PMO.

## **2-7. DESK AUDITS AND CLASSIFICATION APPEALS.**

a. When an employee is questioning duties assigned, pay plan, title, series, or grade, he/she may submit a request for review of their position to HRO. Before requesting a desk audit, the employee will discuss the position description content and classification with their supervisor. The supervisor is responsible for assigning the duties and responsibilities. If the supervisor and employee believe a position should be reevaluated through the desk audit process, request it from HRO. The Classification Specialist will interview the supervisor and employee to obtain information about the nature and difficulty of the employee’s work. If the desk audit results in a new PD, the Classification Specialist will provide guidance to the PMO on what personnel actions are required.

b. Desk audits are normally requested prior to filing a classification appeal to verify the work being performed by the position.

c. Employees may not appeal classification actions such as:

(1) The content or accuracy of the official PD.

(2) The accuracy of NGB/OPM classification standards.

(3) An Agency’s proposed classification decision.

(4) Classification of positions to which an employee is not officially assigned.

(5) Positions detailed or temporarily promoted to.

## **CHAPTER 3 RECRUITMENT & PLACEMENT**

### **3-1. PURPOSE.**

The personnel placement policy for dual status (military) and non-dual status (civilian) technicians establishes procedures and provides information on personnel placement actions and employment in the Tennessee National Guard.

### **3-2. REFERENCES.**

Code of Federal Regulations, USC Title 5 and Title 32, NGB Technician Personnel Regulations (TPRs), Chief National Guard Bureau Instructions (CNGBI), OPM Guide to Processing Personnel Actions, HRO Policies and the State Merit Placement Plan.

### **3-3. AREAS COVERED.**

- Merit Placement / IDP
- Personnel & Staffing Actions
- Technician Compatibility
- Priority Placement
- Pay Setting

- Workforce Restructuring (Reduction in Force)

**3-4. RESPONSIBILITIES.**

a. The Adjutant General is the appointing authority for the National Guard Technician Program and is the highest level of authority in the State concerning the overall application of the Merit Placement Plan.

b. The HRO is responsible to The Adjutant General for ensuring the requirements of the Merit Placement Plan are properly administered. The HRO will:

- (1) Ensure compliance with the Merit Placement Plan.
- (2) Develop, maintain, evaluate and revise the Merit Placement Plan as necessary.
- (3) Provide guidance and assistance to PMOs, commanders and supervisors concerning their responsibilities under the Merit Placement Plan.
- (4) Ensure that candidates are properly evaluated and qualified for placement.
- (5) Maintain required records to support merit placement actions.

c. Selecting officials, managers and supervisors at all levels will:

- (1) Be familiar with the objectives, principles and operations of the Merit Placement Plan.

- (2) When acting as selecting officials, assure final selection of applicants is made on the basis of merit and within the principles of this regulation.

- (3) Encourage technicians under their supervision to participate in development opportunities and apply for positions for which qualified.

- (4) Ensure technicians under their supervision who are absent (military duty, service schools, etc.) are considered for positions for which they wish to apply.

- (5) Take actions that are based on merit without discrimination as to race, gender, etc.

d. Individual technicians are responsible for:

- (1) Familiarizing themselves with the Merit Placement Plan.
- (2) Pursuing developmental opportunities in preparing to assume higher-level duties.
- (3) Assuring application forms and Official Personnel Folders (OPF's) contain accurate and current information concerning qualification and self-development activities.
- (4) Coordinating with their supervisors to submit applications for vacancies when temporarily absent from their positions.

**3-5. MERIT PLACEMENT & INDIVIDUAL DEVELOPMENT PLAN (IDP).**

See State Merit Placement Plan and/or applicable Labor Organization Agreement.

a. **Developmental Qualification.** The Individual Development Plan (IDP) is completed when a technician is hired in a developmental position. Before the technician may be advanced to an intermediate or target grade, the IDP must show the technician has completed the required training and experience required. The immediate supervisor or the nominating official must prepare an IDP designed to meet the fully qualified level of the position.

b. **Submission Requirement upon Selection.** The completed IDP must be forwarded to HRO with the selection package. It is recommended that an outline of the developmental requirements be briefed to all candidates during the interview process. A copy of the IDP will be provided to the technician during the supervisor's initial in-briefing of the individual assigned to the developmental position.

c. **Qualification Period at Each Level.** The minimum period of each grade level will be listed on the Employee Notice of Personnel Action, SF 50.

d. **Target Grade Development.** An IDP should be developed for employees who need additional training even though they are already at target grade. IDP's present a realistic answer to the need for employee development in response to agency and individual needs. It also provides valuable input for planning purposes and funding request.

### **3-6. PERSONNEL AND STAFFING ACTIONS.**

#### a. Technician Initiated Actions.

(1) **Reassignment Requests.** Requests for reassignment from technicians may be considered for vacant and funded positions in the same or lower grade. When a position is advertised, HRO will accept these requests until the closing date of the vacancy announcement. These requests will be considered before any promotion or hiring considerations are made.

(2) **Request for Lower Grade.** Requests for reassignment to a lower grade or change to lower grade may be accomplished by SF 52 through their first-line supervisor or by sending a letter to HRO. The request will include the following information:

- Technician's name and mailing address.
- Organizational location and telephone number.
- Position desired (title, series, and grade).
- Organizational location desired.
- Experience applicable to the position.
- Reason for the request.

#### b. Permanent Change of Station (PCS).

(1) Technicians, in rare instances, may be authorized a PCS move. This must be approved by HRO in advance and is usually of benefit to the organization. HRO Staffing will brief the technician and assist them with the PCS order when authorized.

(2) Actual processing of the PCS will be accomplished by USPFO-Transportation office or reporting wing.

c. Management Directed Reassignment. The Adjutant General, through the HRO, may reassign or relocate any technician as mission needs dictate without upgrade or regard to competitive provisions of this plan. In each case, the action must be appropriate to the circumstances of the individual case and appropriate procedures must be followed. Adverse actions will be processed in accordance with CNGBI/TPR 752 and this regulation. Unacceptable performance will be processed in accordance with CNGBI/TPR 430 or CNGBI/TPR 715 and this regulation. The Adjutant General may elect to direct a technician to a lower grade with grade and pay retention for two years. At the end of the two year period, the technician must be re-graded to the grade of the position, and the technician would receive only one half of each subsequent cost of living adjustment until the salary catches up to the grade and step of the position.

d. Detail. A detail is a short duration reassignment to another duty or location to accomplish an unforeseen requirement or workload. Details will normally be for no more than 120 days, but may be approved by HRO for greater periods of time. A technician will

not normally be detailed to perform work of a higher grade level unless he (or she) is temporarily promoted to the higher grade. The detailed technician's position may not be permanently filled while he (or she) is on detail, and the technician remains officially assigned to the original position. Details are accomplished by SF 52.

### **3-7. REQUESTS FOR TEMPORARY FULLTIME SUPPORT.**

Indefinite Technicians. Indefinite positions must be advertised. An indefinite technician is employed for a short period of time to accomplish a specific mission or assignment. The period of indefinite employment should not be less than one year and will not exceed 4 years.

(1) Request for Employment of Indefinite Technicians. A supervisor may request employment of an indefinite technician when a requirement develops for which there will be an employment need for a short period of time less than four years, man-years are available to support the employment, and position vacancies are available for the type of employment required. An indefinite technician receives the benefits of health insurance coverage and other permanent technician benefits. A request for an indefinite technician will be submitted with a probable project end date in Block D of the SF 52.

(2) Termination Actions for Indefinite Technicians. A determination must be made by the first line supervisor each year if the mission or assignment has been accomplished and whether the technician should continue to work, be

terminated or converted to permanent. Indefinite employees should be encouraged to apply for permanent positions if they have good performance. Indefinite technicians must be issued a 30 day notice of termination prior to the separation.

(3) Please contact the Customer Service Branch to request the separation of an Indefinite (tenure 3) employee. Information regarding benefits such as FEHB, FEGLI, FERS, and TSP will be provided to the separating employee.

a. Temporary Hires.

(1) Request for Temporary Technicians. A supervisor may request a temporary technician for emergency work without advertising the job. This requirement will be for a period of time of less than a year, and funds must be available to support the employment. A temporary technician does not receive the same benefits of health insurance coverage and other permanent technician benefits. A request for a temporary technician will be submitted with a "Not to Exceed" date.

(2) Extension/Termination Actions for Temporary. A determination must be made by the first line supervisor whether there is still a need for the temporary technician and whether there are funds available to support the position. If an extension is anticipated, the first line supervisor will forward a SF 52 to extend NLT 2 weeks prior to expiration date. Temporary technicians should be informed of the decision to extend or terminate not later than two weeks from termination. Temporary technicians must be terminated for at

least one pay period to prevent exceeding one year of temporary employment.

b. Unauthorized Employment. First line supervisors or PMO's **will not**, under any circumstances, advise a proposed temporary technician to begin work until formally notified by HRO of employment approval and provided with a start date. Authorizing persons to begin work before the signature of the HRO approving federal funding is a violation of federal law and may open the supervisor and PMO to an adverse action.

### 3-8. TECHNICIAN COMPATIBILITY.

a. Dual status technicians are required by law to be assigned to a military position that is in the same technical field, similar to, or compatible with their technician position description. Should a technician cease to be compatible, the agency may be required to provide a 30-day notice of intent to remove from employment. A military reassignment due to poor performance may result in an incompatible assignment. Military commanders may reassign the technician to a new assignment that is compatible (even though it may require military administrative reduction), but this option belongs to the chain of command. The technician may request a waiver from TAG for a short time to allow a later reassignment to a compatible position, or at the option of management, the technician may be terminated due to failure to maintain a compatible military assignment.

b. HRO Staffing will review requests to move technicians to ensure

that the move would meet the rules for compatibility and/or grade inversion.

### **3-9. PRIORITY PLACEMENT PLAN.**

a. Priority Placement and Stopper Lists are two programs utilized in the military technician program to place technicians without competition.

b. HRO will maintain and monitor a listing of technicians placed in a lower graded position entitled to grade retention as a result of a reduction in force, reclassification, or non-voluntary downgrade (management directed reassignment.) These technicians will be afforded priority placement as outlined below in positions for which they meet the full technician and military qualifications.

c. A stopper list is used to place technicians at another federal facility who have been terminated as a military technician. Involuntary loss of military membership, medical non-retention, or a reduction in force (RIF) constitutes a qualifier for priority placement.

d. If a vacancy of equal or intervening grade for which the technician is fully qualified exists within the area of consideration, the technician will be offered the position. If there is more than one eligible technician on priority placement, the selecting supervisor will be given a list from which to make a selection.

e. Eligibility for grade retention ceases if any of the following conditions occurs at any time after the technician receives written notice of the reduction in grade, but before the commencement

of the two-year period of grade retention:

(1) A break in service of one workday or more;

(2) Reduced in grade for personal cause or at the technicians request (based on the actual grade of the employees position rather than the employees retained grade);

(3) The technician moves to a position under a covered pay system with a grade that is equal to or higher than the retained grade, excluding a temporary promotion;

(4) The employee declines a reasonable offer of a position with a grade equal to or higher than the retained grade;

(5) The employee elects in writing to terminate the benefits of grade retention; or

(6) The employee moves to a position not covered under a pay system.

### **3-10. PAY SETTING.**

a. Purpose. Generally, pay setting is determined in accordance with the rules applicable to the pay schedule in which the position is classified (i.e. GS or WG).

b. Supervisor's Role. A supervisor has flexibilities in pay setting, such as Above the Minimum (Superior Qualification/Advanced-in-Hiring), Recruitment Bonus, and Retention Bonus. Applicability/requirements for these options may be discussed with HRO Staffing.

c. Promotion. When a GS employee is promoted, he/she is entitled to the equivalent of a two-step increase in pay; a WG employee is entitled to a 4% increase (no locality pay). When a technician on pay retention is promoted, the technician is entitled to either a two-step increase added to the maximum step of the technician's grade, or the technician's retained rate of basic pay, whichever is higher.

d. Grade Retention. A technician on grade retention is entitled to have the retained grade treated as the technician's grade for promotion purposes for two years.

e. Movement from FWS to GS - General Pay-Fixing Guides. Upon reassignment from a Federal Wage System (FWS) position, a technician's rate of basic pay may be set in the General Schedule (GS) grade at the maximum payable rate, if qualified.

f. Highest Previous Rate (HPR). When former employees are rehired, the highest previous rate rule in the setting of the rate of pay will be applied. The employee must provide a copy of the previous SF 50 to prove he/she held a higher rate. In the absence of an SF 50, employees will be placed in step 1 of the pay grade. The applicability of HPR should be discussed with HRO Staffing as it is a case-by-case determination. The highest previous rate rule will not be applicable in the following circumstances:

(1) From one temporary appointment to another with or without a break in service.

(2) Temporary appointments to permanent appointment unless over 12 months in same position.

(3) Service breaks in excess of five years.

(4) Voluntary requests for change to lower grade for personal reasons or in response to the merit placement process when the technician has been in the higher grade for less than one year. In those instances, the technician will be placed in the lower grade and the rate that if re-promoted would not exceed the rate of pay prior to downgrade, unless the rate falls between steps.

(5) Changes to lower grades resulting from cause based on character, conduct, or inefficiency. Technicians in this category will be placed in the lower grade at a same step that reflects a reduction in pay.

g. Night Differential Pay Rates. Night differential rates are paid to both GS and WG technicians.

(1) GS technicians on a regularly scheduled tour of duty for not less than two weeks are entitled to be paid night differential of 10 percent for all hours scheduled after 1800 and before 0600 hours. The differential is paid only for the hours worked in this time span and not for the entire shift. Payment of night shift differential will continue for regularly scheduled night hours when the technician is absent due to a holiday or other non-workday or is in an official travel status. It continues during short periods of paid leave, i.e., periods of less than eight hours of paid leave, inclusive of night and day hours,

during the pay period. Payment of night differential is not authorized for any periods of leave when the total leave in a pay period is eight hours or more.

(2) WG technicians on a regularly scheduled tour of duty not less than two weeks are entitled to pay at seven one-half (7 ½) percent differential when the majority of the hours of the scheduled shift are between 1500 and 2400 hours. A ten (10) percent differential is paid when the majority of the hours of the scheduled shift are between 2300 and 0800 hours. The differential pay is paid for all hours of the shift. Payment will continue for periods of excused absence on a holiday, while in official travel status during the hours of his regular night shift, or on court leave.

(3) A technician regularly assigned to a day shift who is temporarily assigned to a night shift shall be paid a night shift differential for any leave with pay taken when scheduled to work night shifts.

(4) A technician assigned to a regular rotating schedule involving work on both day and night shifts shall be paid a night shift differential only for any leave with pay taken when scheduled to work night shifts.

(5) A technician who is not regularly assigned to a day shift or a night shift but whose shift is changed at irregular intervals shall be paid a night shift differential during leave with pay if the technician received a night shift differential for the last shift worked preceding leave with pay.

(6) Approval for Night Differential Pay. Requests for night

differential pay must be submitted in writing through channels to the Human Resources Office.

(7) Departure from Night Differential. When technician schedules are changed based upon TDY or schools, the normal work schedule changes to eight hours per day without night differential pay.

h. Environmental Differential Pay (EDP)/Hazardous Duty Pay. The elimination or reduction to the lowest level possible of all hazards, physical hardships and unsafe working conditions is the objective of the Tennessee National Guard. When such action is not possible, EDP is warranted for wage grade technicians exposed to the condition. Even though an environmental differential is authorized, supervisors are still responsible to initiate positive actions to eliminate the danger and risk contributing to or causing the hazard or physical hardship. EDP is paid for exposure to hazards, hardships and working conditions of an unusually severe nature which could result in injury, illness or death. General Schedule technicians are eligible for Hazardous Duty Pay under the same rules as EDP.

(1) Recommending Authority. The Adjutant General will appoint the EDP Committee. The EDP Committee, composed of members of the ARNG and ANG, is established to make determinations on local work situations and on the administrative procedures of the plan.

(2) EDP Committee Duties. At least annually, upon a call of the Chairman, the EDP Committee will

review existing HRO/EDP Committee-approved situations to determine whether or not the situation still exists and if it still warrants the payment of EDP. The findings and recommendations of the Committee will be forwarded to the HRO for final approval and implementation. As new situations occur or categories that apply are added to OPM guidance, the Committee will make timely determinations on their applicability to local work situations and then forward recommendations to the HRO.

(3) Composition. The EDP Committee consists of:

- (a) HR Representative.
- (b) Maintenance Office.
- (c) Budget Office.
- (d) Labor Organization Representative.
- (e) Air/Army Safety Office
- (f) Environmental Office

a. EDP Approving Authority. The HRO (Personnel Officer) is delegated authority to approve situations that warrant the payment of EDP as recommended by the EDP Committee.

b. Conditions Authorizing Payment. EDP may be paid for only those conditions which have been authorized by OPM, determined by the EDP Committee to be a situation that meets the requirement, and approved by the HRO. In addition, there must be a local determination that a technician has been exposed to the hazard or condition. Conditions and EDP percentages authorized by category are identified and authorized by OPM guidance.

c. Amount of EDP Payable.

(1) The amount of the environmental differential that is payable is determined by multiplying the percentage rate authorized for the condition described by the rate for the wage grade (e.g., WG-10, step 2) on the current regular non-supervisory wage schedule for the area, counting one-half cent and over as a full cent. The resulting cents an hour amount is paid uniformly to each wage technician in the area who qualifies for the authorized environmental differential, regardless of the grade level of the wage technician or the Federal Wage System wage schedule (WG, WL, or WS) on which the technician is paid.

(2) A technician subjected at the same time to more than one hazard, physical hardship or working condition must be paid for that exposure which results in the highest differential, but will not be paid more than one differential for the same hours of work.

d. Implementation Procedures.

(1) Technician supervisors are responsible for evaluating the duties that are being performed by their subordinates and, if any situation warrants consideration for EDP, requesting that a determination be made as to eligibility. The request should be submitted in writing to HRO. Each request should contain, as a minimum, the following information:

(a) Category, differential rate, and part number that covers the hazardous situation (call HRO for this information).

(b) A complete description of the hazard, physical hardship, or working condition being performed.

(c) A complete description of the safety devices/measures provided to eliminate the hazardous situation.

(d) A statement as to why the available safety devices/measures are not satisfactory to eliminate the potential hazard.

(e) A list by job title and number (no names submitted) of the management officials/supervisors who are authorized to certify as to the exposure for pay purposes.

e. Eligibility Determination. Upon receipt of the request for eligibility determination for EDP, the EDP Committee Chairman will convene the committee at the earliest opportunity to evaluate the request. The committee will determine eligibility and the suggested rate of EDP in accordance with the guidelines established by OPM and appropriate directives from NGB. If the request meets the eligibility criteria, the Committee will prepare an EDP Category Determination; forward it along with all of the other correspondence pertaining to the request to the HRO and recommend approval. The date of determination will be the date the request is approved by HRO. If the request does not meet the eligibility criteria, the Committee will forward it to HRO with the recommendation that it be returned to the requesting official for additional justification or disapproval as deemed appropriate.

f. Approval Process. Upon receipt of the EDP Committee recommendation, HRO will either approve or disapprove the request, or return it to the requesting official for additional justification as deemed appropriate. If approved, HRO will sign and date the EDP Category Determination to authorize the payment of EDP for that particular hazardous situation. EDP requests will be reviewed by the EDP Committee to determine if they warrant the payment of EDP. Records of determination will be maintained by HRO. Eligibility determinations which cannot be resolved by the EDP Committee will be forwarded to NGB for determination.

g. Equitable Work Distribution. Technician supervisors are responsible for insuring that work assignments warranting EDP are distributed equitably among qualified technicians in accordance with workload requirements and the skills of technicians available.

h. Documentation of Time and Attendance Cards. Officials who have been delegated authority to authorize EDP are identified on each EDP Category Determination. These officials are responsible for certifying the authorization of environmental differential pay.

i. Reports. EDP Reports for active cases are required semi-annually in May and November each year and will be due in HRO by 15 April and 15 October. Reports should disclose each individual's name who is to receive EDP, the position title and the total amount paid to the individual.

j. Types of EDP Payments. There are two types of EDP.

(1) Payment for Actual Exposure. The technician is paid EDP for the actual hours of exposure to the condition. The technician is entitled to a minimum of one hour of EDP for each exposure in increments of one quarter hour (15 minutes) or portion thereof in excess of one hour. One hour's pay is authorized for a 15 minute exposure. One and one quarter hour's pay is authorized for a one hour and ten minutes exposure. When a technician is exposed at various times during a day, each exposure is considered separately for the purpose of determining the pay due.

(2) Payment for Hours in a Pay Status. Under this type of payment a technician is paid EDP for all hours he is in a pay status during the day on which the exposure occurs, including hours in a paid leave status. For example, exposure occurs from 0800 to 1100, no exposure but in a work status from 1100 to 1200, and annual leave from 1300 to 1700 would entitle a technician to differential pay for eight hours.

### **3-11. WORKFORCE RESTRUCTURING (REDUCTION IN FORCE).**

a. General. When organization structure changes occur which cause reorganization or elimination of FTM positions, technicians may be removed from their previous position and reassigned or separated. When technicians are forced to separate due to loss of positions, a reduction in force (RIF) occurs. Any placement offer made to dual status technicians as the result of a RIF must have a compatible

military assignment concurrent or prior to the reassignment action, unless waived by TAG or NGB.

b. Tenure Groups. Tenure IIIs and Os will be terminated prior to considering Tenure I and II employees for RIF procedures.

(1) I – Permanent.

(2) II – Permanent in trial or career conditional status (probation).

(3) III – Indefinite.

(4) O – Temporary

c. Air National Guard Competitive Areas. Competitive areas are established based upon the number of affected personnel in the organization or activity during the RIF:

(1) State. If 15 or more technicians are adversely affected, the competitive area will be statewide.

(2) Area. If 8-14 technicians are adversely affected, the competitive area will be based on the three geographical areas and the units they support.

d. Army National Guard Competitive Areas.

(1) Limited RIF within the geographical area and/or the major command.

(2) Statewide RIF. A statewide RIF will be conducted in accordance with the applicable labor management agreement. A statewide RIF will be implemented when a limited RIF does not resolve the RIF requirement.

e. Retention Register. A retention register will be created to be used in a RIF to establish a RIF order of merit list or Order of Release List (ORL). Technicians in positions affected by the RIF will be listed in descending order within their competitive levels, starting with the technician with the most points. Points are calculated based upon tenure of employment, performance appraisals, and length of service. Within tenure groups, add the points of:

(1) The average score of the last three official performance appraisals, HRO Form 430-1, Technician Standards and Appraisal, using the following point scale for the overall evaluation determination.

- (a) Outstanding = 5 points.
- (b) Excellent = 4 points.
- (c) Fully Successful = 3 points.
- (d) Marginal = 2
- (e) Unacceptable = 1

(2) Grant one point for each technician year of service since the service computation date (SCD).

f. Tie-Breaker. The tie-breaker for retention will be the technician with the earliest SCD. The service computation date (SCD) is computed based on all creditable military and civilian service performed in the Federal government.

g. Implementation.

(1) Release of Technicians. Release of technicians under RIF procedures will be done by releasing the technician with the lowest score on the ORL in the following order: Tenure Group III, Tenure Group II, then Tenure Group I. HRO will consider only those technician appraisals on hand when the announcement occurs and will not use any appraisal forwarded later for RIF purposes.

(2) Placement of RIF Technicians. Personnel who are removed from technician positions due to RIF may be placed in vacancies elsewhere by HRO in either the same grade or lower grade. HRO may waive all requirements except education and military requirements. Reemployment priority lists (RPL) will be established by HRO based upon tenure group and retention standing. The RPL is good for two years. Employees are removed due to selection for reemployment, a valid offer is made and rejected, or if the individual asks for his (or her) name to be removed.

**CHAPTER 4  
STANDARDS OF CONDUCT AND  
DISCIPLINE**

**4-1. PURPOSE.**

Full time manning (FTM) Personnel are expected to adopt the highest standards of personal and professional conduct. They are expected to be fully informed regarding the standards of conduct and the procedures affecting the implementation of adverse actions or sanctions for infractions. This process incorporates "progressive discipline" as its foundation with the express goal of

achieving conduct improvement and return to satisfactory performance of highly qualified and motivated technicians.

#### **4-2. REFERENCES.**

Applicable TPRs (i.e. TPR 700, TPR 715, TPR 752, and TPR 752-1 ), 10 USC 10216, 32 USC 709, Ethics Reform Act of 1989, Military Code of 1970, Title 58, Tennessee Code Annotated, DODI 5500.7, AR 600-9, AR 670-1, AFI 36-2903.

#### **4-3. SELF-CONTROL.**

Military technicians are considered to be a high quality work force who are responsible for their own conduct and work performance. Technicians are expected to maintain high standards of honesty and integrity. When that trust is broken, supervisors are authorized to administer penalties in consonance with the infraction using DOD Instruction 5500.7 and CNGBI/TPR 752. Technicians are obligated to follow law, rules or regulations in DOD Directives, NGR's, CNGBI's/TPR's, and this guidance document. Procedures agreed to in employee negotiations (union contracts) will be used in lieu of regulation in the administration of actions involving technicians covered by the bargaining unit (when a conflict with regulation exists, the contract will be followed unless there has been a change required by the Adjutant General causing a notice of impact and implementation (I&I). Violation of any prohibited standards of conduct may be the basis for disciplinary action whether an infraction of rule or law occurred or not. Infractions of morality that damage

the reputation of the service may result in separation from employment.

#### **4-4. NOTIFICATION OF STANDARDS OF CONDUCT.**

a. Initial Entry. During initial orientation of new technicians, HRO will inform new technicians of standards of conduct.

b. Annual Briefing. First-line technician supervisors will brief standards of conduct and courtesy to their subordinate technicians annually in the month of October or during the technician's annual appraisal. Supervisors will maintain record of this employee briefing in the supervisor's folder.

#### **4-5. PROFESSIONAL COURTESY.**

Technicians are expected to display professional courtesy and military technicians in uniform must also display respect for the customs and courtesies of the service. Technicians are required to be especially courteous and helpful in their dealings with Members of Congress and the general public. It is expected that technicians will react courteously even if provoked or treated discourteously. However, technicians are obliged to respectfully refuse to violate law or regulations or to give special advantage not called for by law. Penalties for discourtesy are specified in CNGBI/TPR 752, Table of Penalties for Various Offenses.

#### **4-6. OFF-DUTY EMPLOYMENT.**

Technicians are prohibited from engaging in any outside employment or outside activity not compatible with the

full and proper discharge of the duties and responsibilities of his government employment. All technicians must have written approval from HRO prior to engaging in any outside employment either with or without pay. This requirement also includes self-employment that may interfere with the full and proper discharge of duties. The technician must submit the *Application for Off-Duty Employment* through the technician supervisor channels to HRO. The application is good for one year and a new application must be submitted for off-duty employment that continues beyond one year.

a. Failure to Obtain Permission for Outside Employment - Technicians whose duties are impaired or who are in a conflict of interest due to outside employment may be separated from employment. Management must provide a 30 day notice with the reason for separation.

b. Honoraria Ban - Under the Ethics Reform Act of 1989, Congress has prohibited virtually all federal technicians from accepting compensation from honorariums, appearances, speeches, and any payment for writing articles. Performances as entertainers, artists, or actors will not be affected. Works of fiction, poetry, lyrics or scripts are allowed. Pay for private teaching, such as music lessons, will not be prohibited. Permission for such work must still be obtained from HRO prior to performing the work to be protected. The penalty for violation of this act is up to \$10,000 fine or the amount of compensation, whichever is greater.

#### **4-7. WEAR OF THE MILITARY UNIFORM.**

a. Requirement of Employment. Title 10 of USC, Section 10216 and Section 709 of Title 32 require that dual status employees must “wear the uniform appropriate for the member’s grade and component of the armed forces” while performing duties as a military technician. All dual status military technicians will wear the military uniform appropriate for their branch of service (ARNG or ANG) when on duty. The uniform will include all accouterments and federally recognized grade. The Federal Labor Relations Authority has upheld the intrinsic nature of the military position, wear of the uniform and accompanying requirements for courtesy and grooming standards. Competitive technicians may elect to wear the military uniform if they are members of a unit, but when the uniform is worn the standards for proper grooming and wear apply. Military courtesy rules include conduct becoming a soldier, NCO, or officer, rendering salutes when outdoors, and “tradition of the service” courtesies afforded to the rank of the person addressed.

b. Period of time for Wear. The uniform will be worn when a technician is in duty status. Official time will not be used for changing (to or from) the military uniform at the work site. The commander, at his or her option, may elect to allow civilian clothes to be worn when it is in the best interest of safety or military service:

(1) Safety or enhancement of training.

- (a) During periods of threat, i.e., heightened likelihood of terrorist attack, civil unrest, etc.
  - (b) Traveling by commercial or private transportation.
  - (c) Attending training courses at other than military installations when other students would be in civilian attire.
  - (d) Selected forms of management training involving personal team-building, personality profiles, conflict resolution training, or quality management techniques improved by eliminating obvious rankings.
- (2) When serving in civilian clothes would enhance the mission or when wear of the uniform would detract from the ability to accomplish the assignment.
- (a) Serving as a data collector for the Federal Wage System (FWS).
  - (b) Serving as an NGB Administrative Hearing Examiner.
  - (c) Engaged in labor agreement negotiations as a representative of a labor organization.
  - (d) Serving on some types of labor details.
- c. Grooming Standards. Regulations pertaining to grooming and appearance standards and wearing of the military uniform (AR 600-9, AR 670-1; AFI 36-2903) will be complied with while in uniform.

d. Penalty for Violation. Penalty for violations in wearing the uniform is item #26 TPR 752, Appendix B, Table of Penalties for Various Offenses. Technicians could also be prosecuted for violations of the Military Code of 1970 (Title 58, Tennessee Code Annotated) because they are 3concurrently members of the Tennessee Army or Air National Guard in the service of the state.

**CHAPTER 5  
PERSONNEL ACTIONS**

**5-1. PURPOSE.**

This policy prescribes procedures for requesting personnel actions and instructions regarding the maintenance of the Supervisor’s Record (Technician Work Folder). Personnel actions are accomplished through submission of SF 52, Request for Personnel Action (RPA). Look for forms at the TNGG web page, HRO link.

**5-2. REFERENCES.**

32 USC 709, applicable CNGBI/TPRs i.e. CNGBI/TPR 296-33, CNGBI/TPR 700, CNGBI/TPR 715, CNGBI/TPR 752, and CNGBI/TPR 800.

**5-3. RESPONSIBILITIES FOR PERSONNEL ACTIONS.**

- a. First Line Supervisor. The first line supervisor must initiate a request for personnel action by submitting SF 52 in original only.
- b. Position Management Officer (PMO) or Wing Commander. The PMO/Wing Cmdr must authenticate

information, agree with the actions proposed (or disapprove them) and forward the RPA to HRO. For Air requests funding is required and will be routed through the appropriate financial manager.

#### **5-4. ASSIGNMENT POLICY.**

A military technician will be the primary occupant of the military duty position to which he (or she) is assigned. The military duty assignment must also be compatible with the military technician's position description requirements (also found on the position announcement). Technicians who are not compatible may be separated with 30 days notice.

#### **5-5. VOLUNTARY ACTIONS.**

Retirements and resignations require an SF-52. The employee may furnish a retirement or resignation request by letter or an email. The letter should contain the reason of resignation or retirement, an effective date, and a forwarding address.

a. Request for Reassignment. A request from the technician for transfer to another position must be accomplished by SF 52. Coordination should be made between the technician, his (or her) current supervisor, and his (or her) proposed new supervisor prior to initiating the request.

b. Change to Lower Grade. A technician can request a voluntary change to lower grade at any time. Such requests are normally made for personal reasons and are usually in the technician's own best interest. A request for voluntary change to lower grade must be in writing with all the

facts and circumstances surrounding the action documented. A voluntary change to lower grade at the request of the technician does not carry a right to pay retention. Requests without explanation will be disapproved to protect the technician. Reasons for the request will be entered in Block E of SF 52.

(1) Prohibition of Involuntary Change to a Lower Grade. Management cannot demand that a technician request a change to a lower grade. To make a well-informed decision, a technician should be referred to the HRO for rights and benefits information. A technician who alleges that his (or her) change to lower grade was not voluntary has a right to request an appellate review or administrative hearing (see TPR 752).

(2) Withdrawal of Request. A technician may request to withdraw his (or her) voluntary request for change to lower grade before it becomes effective. Requests to withdraw must be in writing (signed and dated); verbal requests must be followed up in writing. Management may deny withdrawal if the request is made verbally or if a technician's written request to withdraw is received after the action has become effective.

c. Resignation. A technician may resign at any time. Advance notice is not necessary, but technicians are requested, if possible, to provide two weeks' notice to allow for replacement actions, work adjustment, or a short training period for the successor in some instances. Resignation is a voluntary termination of employment. A supervisor may advise the technician of the option to resign if he (or she) is

faced with an adverse action, but may not demand a resignation. A technician who resigns, rather than face an adverse action process, forfeits his (or her) appeal rights in the adverse action. To make a well-informed decision, a technician should be referred to HRO for rights and benefits information.

(1) Processing. The effective date of a resignation will be the date requested by the technician; a resignation goes into effect at 2400 hours on the effective date. The technician should request the supervisor to complete SF 52 with the technician's entries, signature, and date in Block E, or may submit the resignation in writing, signed and dated, with an effective date and reasons for resigning. When the resignation is made orally, management should try to obtain written confirmation of the resignation from the technician. If this is not possible, the person to whom the resignation request was made prepares a memorandum for record to document the request including reasons given by the technician, the date, and the names of any witnesses. Relevant documents should be attached to the SF 52 to speed processing. Technicians are encouraged to provide the specific reason for resigning since these reasons are used to determine future employment eligibility, entitlement to various benefits including unemployment compensation, and whether management policy requires changes.

(2) Withdrawal of Resignation. Prior to the effective date and time of a resignation, a technician has the right to withdraw the resignation without management denial. Management may deny withdrawal of the resignation if the

position has been abolished or if a successor has been selected for the position. If a technician requests to withdraw a resignation before the resignation becomes effective and is denied, then management must provide written explanation of its decision and advise the technician of the right to request an appellate review or administrative hearing (see TPR 752 for a description of both appeal processes). Management has the burden of establishing the validity of its reasons for denying withdrawal. A technician who has resigned and then alleges that the resignation was not voluntary must be advised by the HRO of his (or her) right of appeal. The technician can request an appellate review or administrative hearing (see TPR 752) for a description of both appeals processes. The burden is upon the technician to prove by a preponderance of the evidence how the resignation was made involuntarily. Case law holds that free choice is undermined when technicians experience duress, time pressure, or mental incompetence at the time of their decision.

d. Abandonment of Position. A technician can be removed for abandonment of position if he/she fails to report for work within a reasonable time (10 calendar days). Management must attempt to ascertain the technician's intentions (document all attempts). If no intention of returning can be established, a removal action will be processed and mailed to the technician's last known home address. The removal is effective the last day the technician was at work or the last day of approved leave, whichever is later. Abandonment of position is a voluntary termination from technician employment

and will not require a 30- day notification. A technician who asks to return to duty after abandonment of position will be advised by the HRO of the right to appeal as outlined in TPR 715, paragraph 2-1, e. The burden is on management to prove the technician abandoned the position. A technician who challenges an abandonment of position determination may be charged with the offense(s) of AWOL under the provision of TPR 752.

## **5-6. INVOLUNTARY ACTIONS.**

a. General. Involuntary actions are those actions taken by management with or without consent of the technician. A statement will be entered on the back of the SF 52 in Block D to indicate the supervisor's reasons for initiating the action, or a letter of explanation may be attached to the SF 52 (in which case, Block D will reference the attachment). The PMO will concur or nonconcur in Part F (Part 5) of SF 52 or will attach a letter of concurrence or nonconcurrence. A statement will be entered on the back of SF 52 in Block E to indicate that the technician has been advised of management's intention to take action (or a letter from the technician may be attached indicated his or her agreement or disagreement). The effective date is the date entered in Part A, Block 4 by the HRO, normally the date entered in Part B, Block 4, the effective date requested by the First Line Supervisor.

b. Management-Directed Reassignment. Management may elect to reassign a technician to a position of equal pay and grade or lower for which he/she qualifies with or without consent of the technician. An entry will be made in Block D of SF 52 to indicate the

reasons for this decision. The technician must also sign Block E to indicate whether he (or she) concurs or non-concurs (and the technician may attach a letter). A non-concurrence is grounds for separation after 30 days notice. The effective date is the date entered in Part A, Block 4 by the HRO, normally the date entered in Part B, Block 4, the effective date requested by the First Line Supervisor. Any date appearing in Part E will be immaterial.

c. Terminations. A 30 day notice of termination is required to be sent to the technician prior to administrative separation. The technician may provide evidence for the record if it appears the action is based upon incorrect information. A notice of counseling by the first line supervisor will normally be accomplished prior to any TAG letter of termination. A copy of the notice will accompany the SF 52 with the technician's signature in Part E (unless he (or she) refuses to sign, in which case the situation will be explained and signed by a witness). Notice of termination may be in person and labor organization representation is not required. Reassignment or reclassification will be considered first as an option before administrative separation is requested. When a decision to terminate a temporary employee has been made, a 30 day notice is not required but a letter should be sent to the technician reminding him (or her) of management's intent to separate on the "not-to- exceed" (NTE) date.

(1) Loss of Military Membership. When a dual-status (excepted service) member loses membership in the National Guard,

notice of termination of his civilian employment will be sent to the technician by the TAG. The last day of the 30 day notification must be a workday, but the effective date may occur during any holiday season.

(2) Failure to Meet Military Appointment Requirements or Military Position Requirements. Failure to meet appointment requirements in AR, AFI, or NGR may result in a notice of termination. Position requirements are identified in various publications and position descriptions, but will normally be found on the position vacancy announcement. Temporary conditions may be waived for a short time, but permanent conditions require reassignment or termination. Reasons for termination include:

See Chapter 3, 3-8 for Compatibility Requirements.

(a) Position Requirement. Officers may not be assigned to an "enlisted only" position by law. There is no waiver for this provision. Enlisted members should not be assigned to officer positions, but a waiver may be requested from NGB in cases where a fully qualified enlisted member is available and where a qualified officer cannot be found.

(b) Prohibition of Grade Inversion. A technician may not hold a position that creates a military rank inversion, i.e., be supervised by a person of lower military grade.

(c) Flying Status Requirement. Most aviation positions require technicians to maintain flying status.

(d) Instructor Pilot Requirement. Some aviation positions require technicians to maintain current instructor pilot qualifications.

(e) Crew Chief Qualifications. Some aviation positions require special physical standards for Army and Air National Guard crew chief status. When required to maintain flying status any condition that permanently grounds a technician is grounds for a notice of termination.

(f) Driver's License. Many positions require technicians to maintain a current state and military driver's license. All maintenance positions require a driver's license. Losing a license permanently or for over 30 days is grounds for a notice of termination.

(g) Security Clearance. Most FTM positions require some level of security clearance. Failure to receive or maintain a security clearance required for the position is grounds for reassignment or notice of termination.

(h) Firearms Clearance. Some security positions require a current clearance to carry a firearm. Failure to maintain a clearance for these positions requires reassignment to a position not requiring a clearance or notice of termination.

(i) Training Failure. Failure to complete required training as published in the position vacancy announcement causes a breach of contract (see TNGG web page, HRO, Training, Mandatory Training Policy.) Failing to complete training for which

there is a requirement in the position may result in reassignment to a position not requiring the training or a notice of termination. The first-line supervisor will retain a copy of the military training agreement (contract) signed by the technician regarding his (or her) acceptance of training as a condition of employment, and the original will be filed in a training suspense file or the OPF at HRO. Should the technician fail to meet this obligation within a year, an SF 52 with a copy of the training contract attached will be forwarded to terminate the technician's employment.

(j) Physical Requirements.

A technician must meet physical requirements of his (or her) position in order to perform his position duties efficiently and safely. For example, if a heavy mobile equipment repair leader or mechanic is prohibited by his physician from lifting or climbing due to physical reasons, there are grounds for reassignment or notice of termination.

(3) Termination of General Officers. A military technician promoted to general officer cannot continue in technician employment unless he meets the criteria in TPR 303. Any technician submitting a GO packet should contact the HRO to confirm eligibility for retirement. The only compatible military position for the ARNG is the Commander, Land Component Command and for the ANG is the Chief of Staff. The assignment of a General Officer to the GS-15 position, Director of the Joint Staff, will not preclude the mandatory separation date/mandatory retirement date as established by 10 USC Section 14508. Should Adjutants General elect to assign the Joint Task Force Commander to the state position

encumbered by a "general officer of the line qualified" Assistant Adjutant General, then the GS-15 technician position may only be filled by a Colonel (06)

(4) Notification of Separation for Dual Status Personnel. Federal law requires dual status technicians (excepted service) personnel to maintain membership in the National Guard as a condition of continued employment and requires prompt termination upon loss of membership in the Army or Air National Guard; however, separation will not occur on disability retirements until adjudication from OPM. A technician must be notified in writing of his (or her) termination at least 30 calendar days before the termination date. The following rules apply when computing the 30 day notice: (1) day means calendar day, (2) calendar day is the 24 hour period between 12 midnight and 12 midnight, (3) the 30 day period begins the day after the notification is given directly to the technician, or if mailed, 5 days after the date mailed as shown on the certified mail return receipt, and (4) the last day of the 30 day period may not be a non-workday. A technician has the option of waiving the 30 day notice (waivers must be in writing).

Preparation and issue of the notice is a HRO responsibility.

e. Furlough. A furlough is the placing of an employee in a temporary non-duty, non-pay status because of lack of work or funds, or other non-disciplinary reasons. There are two basic categories of furloughs, each involving different procedures. A furlough of 30 calendar days or less is covered under 5 CFR 752, adverse action procedures. A furlough of more

than 30 calendar days is covered under 5 CFR 351, reduction in force procedures. Furloughs are necessary when there is a shortfall of funds caused by over-commitment or transfer of funds, failure to approve authorization or budget by Congress or the President, lack of work, or unforeseeable circumstances such as a breakdown in equipment, natural disaster, sabotage, or other sudden emergency requiring a curtailment of activities. Furlough may be referred to as a "layoff." Labor organizations will be notified in advance of any intent to furlough. A notice of furlough will be provided to each technician as soon as possible, but unless prevented by law, before the effective date of the furlough. The notice may be sent to the technician's address of record. The notice will include the reason for the furlough, the estimated length (up to 30 consecutive calendar days or 22 days nonconsecutive, for example), and will include a notice of the right of the technician to appeal. Objections to furlough will be sent to HRO, and TAG will review each case individually. The decision will advise the technician that there is no administrative appeal to TAG decision. Furloughs of greater than 30 consecutive calendar days or 22 nonconsecutive days will be handled as a RIF.

f. **Enforced Leave.** When a technician appears to make the workplace or himself (or herself) unsafe due to illness, alcohol abuse, medication, controlled substance abuse, or other causes, including rage, the technician may be placed on enforced leave. A technician may be instructed to leave the work site if he (or she) can do so safely. Management may decide

what type of leave, i.e., annual leave, sick leave, LWOP, in which to place a technician who is forced to leave the workplace when their presence is considered a threat to persons or property or due to not being "ready, willing, and able" to perform assigned duties. When there is a doubt about whether the technician can get home safely, the supervisor should arrange for safe transportation for the technician home. The supervisor may allow the technician to request a change to the type of leave previously submitted for the enforced leave. Enforced leave will not be continued when it is apparent the emergency is past and that the technician is ready to perform his or her duties. If enforced leave is applied, the supervisor should determine if disciplinary sanctions are required.

#### **5-7. REQUESTS FOR LIGHT DUTY FOR OWCP CASES.**

It is NGB policy to provide light (modified) duty assignments to technicians, as a result of a claimed workplace injury, who present written medical limitations from their treating physician. Contact the Injury Compensation Program Administrator (ICPA) for the current NGB Light Duty Policy memorandum if copy on file is older than 1-year.

(1) Follow this policy letter for light or modified duty position procedures.

(2) Provide a copy of this memorandum to the employee's treating physician along with the physical effort and working conditions requirements of their PD.

a. If the employee is working a modified version of his/her current position for 30-days or more, then a Temporary Light Duty memorandum must be completed. Supervisor is to forward a copy to ICPA as soon as completed, but not more than 3 business days after expiration of the previous memo if light duty status is being renewed. Sending a scan by e-mail or a fax is acceptable.

b. Supervisors are to report light duty hours worked by the employee at the close of each pay period for as long as the employee is working on light duty. An electronic worksheet for reporting this time is available from the ICPA.

c. LWOP Documentation: When an employee is unable to return to work and has exceeded the 45-calendar day continuation of pay (COP) period they are allowed by OWCP. The supervisor is responsible for submitting an SF-52 "Request for Personnel Action," when an employee is on LWOP for 80-continuous hours or more and is expected to receive compensation benefits. The supervisor needs to be aware that it is the employee's responsibility to file a CA-7 Claim for Compensation form to the ICPA for all time past the COP period. It is the supervisor's responsibility to confirm the actual COP end date for proper coding into the pay system and alert the employee to begin filing for pay from OWCP. NOTE: COP is paid for traumatic injuries only.

d. While in COP status, pay is coded LT. While on OWCP pay, the employee is reported in an LWOP status using the pay code KD. (Office of Worker

Compensation Program (OWCP) – SF-50).

## **CHAPTER 6 TECHNICIAN TRAINING PROGRAM**

### **6-1. PURPOSE.**

This regulation is to provide information and guidance on the administration of the Technician Training Program in the Tennessee Air and Army National Guard. It is also applicable to AGR soldiers attending PEC, USDA-OPM or civilian courses. It covers training and training management related to all full time support personnel.

### **6-2. REFERENCES.**

Applicable TPRs, (i.e. TPR 300, TPR 400), Title 32 USC Section 709; Public Law 85-807, Public Law 90-486, Executive Order 11348, JTR Volume II, C1055.

### **6-3. DEFINITIONS.**

a. Agency. Agency means the Tennessee Air or Army National Guard.

b. Activity. Activity means a training course of instruction of at least 8 hours.

c. Course of Instruction. Course of Instruction includes all training programs conducted by government agencies or activities other than military services (i.e., college or university-conducted courses, etc.)

d. Official Duties. Official duties are authorized duties which the technician is presently doing or can be reasonably expected to do in the future

as defined in the performance standard which is derived from the official position description assigned to the individual and IAW applicable regulations and the Labor Management Relations Agreement.

e. Service Schools. Service schools include all training that is conducted on a regular and repetitive basis by the military services. Special "one time" or infrequent indoctrination conducted by the military services is not considered to be a service school for the purpose of this regulation.

f. Technician. Technician includes non-dual status (civilian) and dual-status (military) technicians of the Tennessee Air or Army National Guard.

g. Technician Training. Technician training is the process of making available to a technician, and the placement or enrollment of a technician in a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative or other fields which are or will be directly related to the performance by the technician of official duties for the agency in order to increase the knowledge, proficiency, ability, skill and qualifications of the technician in the performance of those official duties.

#### **6-4. POLICY ON TECHNICIAN EMPLOYMENT TRAINING.**

a. Required Training. Supervisors and other management officials of the National Guard have the authority to direct a technician to take a course of

training that is necessary for the performance of the technician's official duties, as described in the individual's position description or performance plan. Any training that supports the mission of the National Guard may be required. Disciplinary action may be imposed if such an order is not obeyed; however, the order to train must not be arbitrary, capricious, or unreasonable. A technician should not be required to take training in order to solely improve their performance if that performance is already satisfactory. However, a technician with a fully acceptable or better performance rating cannot use that reason solely to object to attending a directed training course when the supervisor has determined the training to be in the best interest of the needs of the organization. The supervisor's determination must be based on the duties and responsibilities of the official position description or the performance plan and merits of this regulation. A training contract will be prepared for each new or developmental position employees whose position requires specific training for the position. See the Mandatory Training Policy at the TNG website under HRO, Training link. The Adjutant General directs that the following minimum training requirements for technicians will be imposed and these items will be entered on the training contract:

(1) Developmental Position Technicians. Target Level Qualification within stated time-frames as reflected on the training contract. See the Mandatory Training Policy at the TNG website under HRO, Training link.

(2) New Supervisors. Basic Course for Technician Supervisors.

Supervisors who have not completed this course may not appraise or administer discipline to technicians until the course is completed.

(3) All Full Time Employees. The appropriate courses offered by PEC or NGB correlating to the duties of the position hired or moved into (i.e. supply NCO will attend the supply course at PEC or Administrative Officers (AO) must attend Officer In Charge course). To ensure military membership, full time support personnel must maintain all current military training requirements.

b. Other Training. To support qualification of technicians, the policy for technician employment training is to establish or strengthen needed in-service training programs; to send technicians to training programs conducted by other government agencies (subject to availability); send technicians to non-government facilities for needed training (when it is not reasonably available within the government); and to pay all or any part of the expenses of such training, and to encourage adequate time from the civilian position for the technician to become militarily qualified.

**6-5. RESPONSIBILITIES.**

a. The Human Resources Office (HRO) through the Human Resources Development Specialist (HRDS) is responsible for:

(1) Administering the technician training program in accordance with the authority delegated by the Adjutant General.

(2) Documenting, recording, and keeping files on all training requests and training matters.

(3) Certifying training programs meet legal and regulatory requirements.

(4) Developing an annual training plan and formulating and submitting input for the Army training budgets.

(5) Developing and issuing a written policy on training in a state regulation.

(6) Providing supervisory training.

(7) Ensuring regulatory and Labor Management Relations Agreement requirements are followed whenever training is intended primarily for promotion.

(8) Serving as career counselor and upward mobility training coordinator.

(9) Monitoring compliance with negotiated agreement of the labor organization relating to training and employee development.

(10) Ensuring that all newly appointed technicians receive an orientation briefing.

c. Supervisors. Each supervisor is responsible for:

(1) Determining training needs for their subordinates, but especially identifying the minimum required training for specific categories of

technicians and developing a plan to ensure they meet training requirements.

(2) Enforcing the minimum training requirements by applying disciplinary action for those technicians who fail to meet those standards. Progressive discipline, beginning with counseling and corrective training, must be applied to those technicians who do not meet the minimum requirements of the training agreement (contract).

(3) Establishing Individual Development Plans (IDP's) for technicians hired below the full performance level and Performance Improvement Plans (PIP's) for technicians rated below fully acceptable. Supervisors are encouraged to develop an Individual Development Plan for all employees, but will complete an IDP (and if applicable, a PIP) for those technicians who fail to meet minimum training requirements after counseling.

(4) Encouraging individual self development.

(5) Ensuring training is in support of overall mission priorities.

(6) Submitting all requests for technician training on SF182. SF182 will be completed as outlined in the Authorization, Agreement and Certification of Training.

(7) Evaluating effectiveness of training.

(8) Annotating training on the Supervisor's Brief or NGB Form 904-1, Supervisors Record of Technician Employment.

(9) Ensuring that training completion documents are forwarded to the HRO-HRDS for data collection, analysis and filing.

(10) Evaluating the results of performance appraisals as a basis for determining training needs and approving training request.

d. Technician. Each technician selected or required to attend a training activity is responsible for:

(1) Attending all required sessions of scheduled training and submit completion certificate to their supervisor, HRO, and unit.

(2) Completing the appropriate evaluation, received from HRDS.

## **6-6. IDENTIFICATION OF TRAINING NEEDS.**

a. Resource Elements to Identify Training. Position vacancy announcements, position descriptions and training contracts are basic resources in determining training needs. Each supervisor must also analyze performance standards against assigned technician qualifications to determine training needs. The training needs identified must be captured and scheduled to overcome shortcomings in job performance, mission accomplishment, and fulltime expertise for M-day advice. Other options to be considered are on-the-job-training, coaching, special project or rotational assignments.

b. Determination of Priority. All technician training requested must be

given a priority determination. Priority will be coded on the SF182 using the following guidance:

(1) Priority 1 - Must be accomplished or it will have a direct adverse effect on the National Guard mission. Such mandatory training includes new equipment, new programs, and NGB directed training, e.g., Basic Supervisors Course.

(2) Priority 2 – Training promotes more efficient and timely accomplishment of mission requirements.

(3) Priority 3 – Career Enhancement.

#### **6-7. MANDATORY SUPERVISORY TRAINING.**

Expertise to support unit readiness, supervisory training, and refresher courses and enhancement of skills are required for technicians as follows:

a. Eight Hour Supervisor Course (Short). New supervisors may be scheduled to attend the one day Eight Hour Supervisor Course prior to attending the mandatory Basic Supervisors course which eliminates the prohibition against issuing sanctions or discipline and performing other supervisory tasks except for appraisals.

b. Basic Supervisor Course (Long). Each newly appointed supervisor (technician and AGR members who supervise technicians) is required to attend the 40 Hour Supervisor Course within six months of assignment. On a space available basis supervisors with more than five years experience may attend this course as a refresher.

Supervisors are not authorized to appraise employees, issue sanctions or discipline, or perform any formal supervisory tasks before completing the course.

c. Progressive Development. All supervisors and managers are encouraged to attend personnel management development courses throughout their careers.

#### **6-8. ATTENDANCE AT SCHOOLS IN TECHNICIAN STATUS.**

The vast majority of government training made available to National Guard technicians is provided through military service schools, including National Guard schools, government inter-agency schools, i.e., USDA, General Services Administration (GSA), National Independent Study Center (NISC), Professional Education Center (PEC) and other DOD agencies. Technicians will normally attend training in technician status when that training more closely relates to the technician's civilian duties than their military duties. When determination of status is difficult, the final decision rests with the HRO.

#### **6-9. NATIONAL GUARD PROFESSIONAL EDUCATION CENTER (PEC).**

The HRDS is the Quota Management Officer for training at PEC. The HRDS will monitor quotas for personnel attending proponent courses at PEC, Camp Joseph P. Robinson, North Little Rock, Arkansas. Each Major Subordinate Command (MSC), Air Base, and JFHQ-TN Directorate desiring quotas at the PEC will assess and identify the training needs using the

annual survey. MSC's will request seats via ATRRS. If not locked-in, at 45 days prior to start date, any quota listed is lost. Air bases will obtain quotas through the base commander. Position Management Officers should schedule their work force for courses conducted at PEC.

#### **6-10. SUBMISSION OF APPLICATIONS FOR TRAINING.**

a. General. HRO will act as coordinator for technician training. All questions concerning training request will be directed to the HRDS. The overall control of Army technician training funds is the responsibility of the HRO. The funds allocated to support Air technician training are controlled by the Base Financial Committees. To ensure compliance with legal and regulatory requirements, all SF182s for technicians (to include individuals attending military service schools in technician status) must go through HRO for approval.

b. Application Forms. Applications for training are submitted on , SF182 or automated "Request, Authorization, Agreement, Certification of Training and Reimbursement Form". See the TNNG web page, HRO link for forms. SF182 are used by HRO to secure training and monitor or manage training costs. Supervisors should ensure all relative costs are indicated on the application (i.e. tuition). Further assistance in completing SF182 may be obtained by contacting the HRDS in the HRO. Air National Guard applications must be processed through the Resource Advisor or the Comptroller for verification of funds and the training

coordinator prior to submission to HRO for processing.

(1) Supervisors are responsible for approving and certifying that the training is job related or closely related to the technician's official position and duties. The supervisor's signature is required on the SF182.

(2) The HRDS will review the application for accuracy and completeness and ensure the training requested meets legal and regulatory requirements.

(3) The HRDS has the responsibility to secure training and to notify individuals of their acceptance either in writing or verbally unless the training vendor forwards confirmation direct to trainee. In this case, the trainee must notify the HRDS.

#### **6-11. SUBMISSION OF REQUESTS FOR TRAVEL ORDER.**

Technicians will submit their request for travel through the Defense Travel System (DTS) once the SF182 is approved by the HRO.

### **CHAPTER 7 LABOR RELATIONS AND GRIEVANCES**

#### **7-1. PURPOSE.**

The Tennessee National Guard has a means under Title 5 USC, Chapter 71 (Civil Service Reform Act of 1978), to resolve issues on behalf of technicians when they believe they have not been treated fairly. The system is called the grievance procedure. Grievances may be appealed all the way to the Adjutant

General. The act establishes the Federal Labor Relations Authority (FLRA) as an independent administrative and appellate authority with a wide range of labor relations responsibilities in the federal sector. The FLRA provides ... Military technicians have a right under federal law to organize formal groups or labor organizations to represent their views to the leadership and negotiate for certain privileges. There are three such labor organizations in the Tennessee National Guard, two Army and one Air, all of them chapters of the Association of Civilian Technicians (ACT). The Tennessee National Guard, referred to as the Agency, will negotiate or bargain with technicians through these formal groups to improve working conditions, provide added benefits, or change procedures when efficiency is not affected or is improved.

## **7-2. REFERENCES.**

5 USC Chapter 71, Civil Service Reform Act of 1978, 32 USC 709, and TPR 700, Chapter 771.

## **7-3. POLICY.**

The Tennessee National Guard requires supervisors to use labor management agreements concurrently with regulation to manage personnel, implement policy, and execute certain procedures. When a labor management agreement, or contract, specifies a procedure to be accomplished in a particular manner, the Agency (Adjutant General) has agreed to the policy, and this policy supersedes the published regulation, but may not supersede or change law. No technician will carry on any activity as an officer or agent of a labor organization that conflicts or

appears to conflict with the proper exercise of, or are in conflict with, his or her official duties.

## **7-4. LABOR ORGANIZATION MEMBERSHIP AND REPRESENTATION.**

By law the labor organization is required to represent all technicians in the bargaining unit regardless of whether they are members or not. This representation includes grievances, collective bargaining, labor management meetings, etc. Labor organization membership is generally open to any Agency technician. Management officials, supervisors, and confidential personnel who are excluded from the bargaining may not act as a representative of, participate in the management of, or be represented by, a labor organization. The SF 50 Notice of Personnel Action block 37 provides the Bargaining Unit Status code of the technician. Bargaining Units members for the Air National Guard are NG5095, Army Ground is NG5096 and Army Aviation is NG5097. The following categories of personnel are excluded from labor organization involvement:

- a. Management officials and supervisors.
- b. Technicians engaged in the administration of the Federal Labor Relations Statute.
- c. Employees engaged in personnel work in other than a purely clerical capacity.
- d. Confidential technicians who act in confidential capacities for management and who formulate or

affect management policies in the field of labor-management relations.

e. Professional employees unless the majority of employees vote for inclusion in the unit.

f. Technicians engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security or investigation or auditing that affects internal security of an Agency.

#### **7-5. NEGOTIATION OF LABOR MANAGEMENT AGREEMENTS.**

Collective bargaining is a right assured by the Civil Service Reform Act. Any agreement is subject to approval of the Federal Advisory Service which ensures compliance with law and regulations. Any approved labor agreement has a higher degree of force and effect in the workplace than subsequently issued government wide regulation. Only law takes precedence over labor agreements. When management contemplates taking action which will impact on conditions of employment of bargaining unit personnel, the exclusive representative will be notified sufficiently in advance to provide a reasonable opportunity to bargain on the Impact and Implementation of the proposed change. This right will not interfere with the right of the Adjutant General to take action in an emergency for the benefit of the nation, state or organization. When in the course of bargaining, the parties cannot agree on a matter, a Federal Services Impasses Panel (FSIP) may be directed by the FLRA to provide mediators to hear the issues, establish arbitration, and resolve the impasse.

#### **7-6. EXCLUDED MATTERS.**

a. Matters Prohibited from Negotiation by Statute. Any matter for which a statutory appeals procedure exists or those matters which would conflict with law may not be negotiated. Any actions taken pursuant to 32 USC 709(e)(1-4) are expressly excluded from the grievance procedure by law. The exclusions are listed in this paragraph since they are powers granted to the Adjutant General by Congress under Title 32 USC. The final level of appeal in these matters is the Adjutant General of Tennessee.

b. Political activity prohibited by law.

c. Position classification. A position downgrade may be discussed before implementation.

d. Termination. Termination of employment will terminate the grievance.

e. Non-selection for Promotion. Non-selection for promotion cannot be the sole basis for a grievance when the allegation is that he (or she) is better qualified than the person selected.

f. Discrimination Allegations. Allegations of discrimination based on grounds of race, religion, color, national origin, sex (gender) or age. These complaints should be filed under provisions of EEO guidelines.

g. Other exclusions (due to powers by law or where other complaint procedures are in place):

- |                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) Denial of a Wage Grade Increase.                            | submitted through the supervisory chain.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| (2) Oral disciplinary admonitions or verbal warnings.           | <p>a. Coverage. A negotiated grievance or arbitration procedure established through a negotiated agreement as set forth in Title VII, PL 95-454 will take precedence over the stipulations of this regulation. Personnel covered by such agreements must use procedures established in their labor management agreement for grievance or arbitration of issues. Managers, supervisors and confidential technicians are not covered by a bargaining unit. Guidance affecting the rights of management will be followed as stated in this regulation.</p> <p>b. Settlement. Every effort will be made to settle differences at the lowest level. Grievances normally arise from misunderstandings (poor communication) which can be settled promptly and satisfactorily on an informal basis at the first line supervisor level or PMO level. Grievances may be initiated by a technician, by the labor organization, or by the Agency if there is a belief that an inappropriate action has been taken by the Agency or labor organization.</p> <p>c. Allowable Time for Grievances. Time off the job will be allowed for a military technician to present a grievance to a supervisor, provided their work assignments are not of such urgency that they cannot be spared at that moment. Grievance discussions between the technician and the first line supervisor shall be held during duty hours of the affected technician. Supervisory permission is not required for submission of a grievance; however, permission is required if the technician</p> |
| (3) Performance standards and appraisals.                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (4) Disapproval of incentive award recommendations.             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (5) Salary decisions.                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (6) OPM decisions.                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (7) Group life insurance issues.                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (8) Group health insurance issues.                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (9) Re-employment rights or restoration after military service. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (10) Examination ratings.                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (11) Technician suitability and military-related items.         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

### 7-7. GRIEVANCES.

Grievances are complaints about a prohibited policy or practice. Each bargaining unit has established a grievance procedure which governs how complaints (or grievances) can be submitted and how they are handled. The agency grievance procedure will be used unless a technician is a member of an exclusive bargaining unit in which case the bargaining agreement will determine the grievance procedure. Optionally, appeals may always be

finds it necessary to leave his (or her) duty assignment to present the grievance to a higher authority, e.g., the PMO. A technician is entitled to directly communicate with and seek advice from the following personnel or offices:

(1) Human Resources Officer (HRO).

(2) State Equal Employment Manager (SEEM).

(3) Local Union Steward for Bargaining Unit Members. The appropriate recognized labor organization should be consulted for issues regarding the labor organization or its procedures.

d. Decision Processing. A technician's grievance will be given full, impartial and prompt consideration. A decision on the grievance will be issued in accordance with the negotiated grievance procedure after initiation of the grievance.

e. Cancellation. The HRO may cancel a grievance in the following situations:

(1) At the technician's request.

(2) Upon termination of the technician's employment with the Agency unless the relief sought by the technician may be granted after separation from employment.

(3) Upon the death of the technician unless the grievance involves a question of pay.

(4) For failure to pursue the grievance when the technician does not

furnish required information necessary for the agency to understand the problem and duly proceed with advancement of the grievance.

**7-8. AGENCY GRIEVANCE PROCEDURES.**

For non-bargaining unit members, a grievance will begin at the informal level and if not resolved progress to the next level for attempted resolution. The grievance must be filed within 30 calendar days following the action being grieved or the date the employee became aware or reasonable should have been aware of the act being grieved. The supervisors or managers at each level are obligated to reach a decision and present a decision within the suspense shown in the workday's column below. HRO will monitor the process and will provide advice regarding meeting the suspense. When a second level supervisor is the PMO, becomes formal at Step 2.

a. Informal Level – Technician-First Line Supervisor. 7 days.

STEP 1:	PROCESS	WORKDAYS
	Technician presents the grievance orally to the first line supervisor	
	Immediate supervisor meets promptly with technician and renders an oral decision.	4
	Technician accepts or rejects decision.	3

b. Formal Level – Technician-Second Level Supervisor. 11 days.

STEP 2:	PROCESS	WORKDAYS
	Technician submits grievance in writing to the second line supervisor. Send copy to PMO and HRO.	3
	Second line supervisor will meet with the first line supervisor and prepare a written response to the grievance.	5
	Technician accepts or rejects decision.	3

**c. Formal Level – Technician-Position Management Officer. 13 days.**

STEP 3:	PROCESS	WORKDAYS
	Technician submits grievance in writing to the PMO after receiving written response from the second line supervisor.	3
	The PMO will meet with the technician and any supervisors and will render a written decision to the grievance.	7
	Technician accepts or rejects decision.	3

STEP 5:	PROCESS	WORKDAYS
	Technician may request a hearing examiner or appeal directly to TAG. If a hearing examiner is requested:	5
	The hearing examiner may conduct an inquiry of a nature and scope appropriate to the issue involved and at his (her) discretion, take the following steps:	No limit
	Secure documentary evidence Perform personal interviews Call a group meeting of the parties involved Hold a formal hearing, or any combination of the above.	
	If a hearing is held, the conduct of the hearing will be in accordance with the requirements of TPR 752. HRO (Labor Relations Specialist) and the appropriate legal counsel will present the case to the hearing examiner and coordinate the appearance of witnesses. The examiner will submit a written recommendation to the Adjutant General normally within 45 days.	45

**d. Formal Level – Assistant Adjutant General. 21 days.**

**e. Formal Level (Alternative Dispute Resolution – Hearing Examiner). 50 days plus the time required to hold the hearing for which no limit has been placed. Most hearings take less than a week, but more technical situations may take longer.**

STEP 4:	PROCESS	WORKDAYS
	Technician submits grievance in writing to the Assistant Adjutant General after receiving written response from the PMO.	3
	The Assistant Adjutant General will decide whether to meet with the parties or not and will render a decision.	15
	Technician accepts or rejects decision.	3

**f. Formal Level – The Adjutant General. 28 days. Total without a hearing examiner – 90 days. Total with a hearing examiner – uncertain, but probably less than 6 months.**

STEP 6:	PROCESS	WORKDAYS
	If the technician appeals the decision of the Assistant Adjutant General, the Adjutant General will review and decide. The decision of TAG is final.	14
	If a hearing examiner was requested, the hearing examiner forwards his (or her) recommendation to TAG. The Adjutant General will review the recommendation and decide. The decision of TAG is final.	14

**7-9. ADVERSE ACTIONS AND DISCIPLINE.**

CNGBI/TPR 752 will be used to administer discipline and adverse actions in the Tennessee National Guard. Supervisors will become knowledgeable with the appropriate labor management agreement when administering discipline and adverse action.

a. Violations. A listing of more common violations is found in CNGBI/TPR 752. The Military Code of 1970, Title 58, Tennessee Code Annotated, applies to technicians if they are dual status, and some laws may apply to non dual status technicians. These lists are not exhaustive since laws and regulations are changed from time to time. Supervisors will decide penalties based upon merits of each case, but should use the Violations Appendix or the Table of Penalties as a guide. Federal and state laws may provide no option regarding some penalties. Supervisors will coordinate with HRO IAW CNGBI/TPR 752 before applying penalties or sanctions.

b. Labor Representation. Technicians who are assigned to bargaining unit positions (not supervisors or confidential employees) have the right to union representation in meetings with a supervisor when the technician has a reasonable belief the session or examination may result in discipline or adverse action against him (or her) and must be offered by the supervisor. If representation is desired, the supervisor will postpone any discussion of issues and will reconvene the session when an appropriate labor union representative is present. Labor union representatives are allowed to provide clarification, observations of the appropriate course of action or alternatives, and reference appropriate law, regulation, or provisions of agreement, but may not disrupt or interfere with the process of the investigation. See the checklist for Weingarten Investigation on the TNNG web page, HRO, Labor.

c. Steps in Discipline and Adverse Actions Process.

(1) Non-Disciplinary Steps. Non-disciplinary steps lead up to disciplinary or adverse actions and should precede disciplinary or adverse action when the technician has the potential to correct his (or her) actions and improve their performance. The supervisor should consider referring the technician to the Employee Assistance Program (EAP) in accordance with chapter nine (9).

(a) Counseling. Although counseling is not a disciplinary action, it should be accomplished in most cases requiring correction. Counseling is an exchange of information that provides

the technician with clear standards of acceptable conduct and informs the person of guidance or requirements of which he (or she) may not be aware. Counseling is not recorded on the Supervisor's Brief or NGB Form 904-1. Counseling is oral and is not recorded.

(b) Admonition. If after counseling the misconduct continues or is repeated, but non-disciplinary action is still appropriate, admonition is warranted. An admonition is written in the Supervisor's Work Folder on the Supervisor's Employee Brief for the Technician. The employee must be allowed to write on the brief his or her reply to the facts and reasons stated by the supervisor. If the employee replies orally and declines to reply in writing, the supervisor will write on the brief a summary of the reply. The supervisor will state the date on which the admonition and reply will be expunged, absent continuation or repetition of the misconduct. This date will be in accordance with the governing labor management agreement and if not specified in the labor management agreement, no more than one year after the date of the admonition.

(2) Disciplinary Steps. A disciplinary action is a step taken based on a violation of a rule of conduct, in the event a technician did something or failed to do a required action. Disciplinary actions can be broken down to single instances, e.g., a technician coming in late to work every day for a month is not one single problem or violation, but 20 separate but related problems, one for each workday the technician was late. The supervisor should delay discipline until a labor organization representative can be

present when the technician believes that disciplinary or adverse action could be taken and has requested this representation. The supervisor may inform the technician of the availability of EAP before initiating discipline.

(a) Letter of Reprimand (LOR). A letter of reprimand is issued by a person in the technician's supervisory chain. If it is issued by a supervisor other than the first line supervisor, the first line supervisor will receive a copy of the letter of reprimand. The letter of reprimand must describe the violation, must include a warning that further offenses could result in progressive sanctions, must have a specific period identified in which the LOR is to be filed in the technician's official records, must have a statement informing the technician that the reprimand may be grievable, and must inform the technician that he (or she) may apply for the employee assistance program, if applicable. The time frame that the LOR will remain in effect in the Official Personnel Folder (OPF) of the technician is typically 1-3 years. Circumstances or the applicable labor management agreement may require some other timeframe. If the letter of reprimand is part of a pattern of inefficiency that has not yet been resolved, the LOR may be appended to a successive counseling, letter of reprimand, or other disciplinary action and may be retained until progressive discipline has resolved the problem. All letters of reprimand will be cleared for procedural accuracy through the Human Resources Office, Labor Relations Specialist.

(b) Letters of reprimand may only be used in adverse action

proceeding as a previous offense if the adverse action is commenced before the timeframe specified in the letter of reprimand has expired. Letters of reprimand that have expired by their terms do not constitute a previous offense in determining the penalty to be imposed.

(3) Adverse Actions. Adverse actions are actions that may result in a suspension without pay, a reduction to a lower grade, or removal from technician employment. CNGBI/TPR 752 Chapter 4 -1 b (1)-(16) provides a list of actions that do not constitute adverse actions for which the procedures and protections provided by that regulation will not apply.

(a) All adverse actions may have the following steps: 1. Proposed action letter; 2. Technician's response; 3. Original decision letter; 4. Technician's appeal; 5. Final decision letter. The proposed action and original decision letters are always mandatory. The technician's response is not required and is the technician's option to be made by themselves or on their behalf by someone of their choosing. The technician's appeal is at the technician's option and the final decision letter is only required if the technician appeals

(b) Deciding Official. The deciding official will normally be the Assistant Adjutant General (Army or Air) for the Tennessee National Guard. When it is not possible for these individuals to serve as the deciding official, a selection will be made by the Human Resources Officer and approved by the Adjutant General of an individual of commensurate seniority with the

ATAG- Army/Air to serve as the deciding official for the adverse action under consideration. When a supervisor initiates an adverse action, the recommendation will be forwarded through the supervisory chain of command and the Position Management Officer (PMO) to the Deciding Official. Each supervisor will indicate whether he (or she) agrees or disagrees with the proposed action. The PMO, as a minimum, will provide substantive reasons for support or opposition. The deciding official receives the proposed action and the technician's response and issues the original decision for the final disposition of the case which becomes final unless the technician appeals. The deciding official may require both parties to make additional submissions or arguments orally, in writing, or by both methods. The deciding official can return the proposed action to the supervisor for reconsideration, sustain the proposed action, impose a lesser penalty, or use a Last Chance (probation) agreement. The deciding official cannot impose a more severe penalty than was originally proposed by the first-line supervisor.

(c) Last Chance Agreement. When an offense has been committed that would justify removal, but it is in the best interest of the Government to suspend removal of the technician, the agency may decide to offer a last chance agreement. Given certain conditions and when the technician has the potential to recover and perform his (or her) job effectively, separation may be delayed by suspending the action. If it is later shown by a preponderance of the evidence that the technician did not follow the conditions of the agreement, the technician may be immediately

removed without any appeal. If all the conditions are met during the period of time specified in the agreement, no additional discipline for the offense may be imposed.

(d) Appellate review and Administrative Hearing. There are two methods for appeal of an adverse action. The first is an appellate review. The appellate review is a review of the adverse action by the TAG without the involvement of an NGB hearing examiner. The second method of appeal is the administrative hearing. In an administrative hearing, an NGB hearing examiner gathers and assesses the facts using an administrative hearing type process and makes a written recommendation to the TAG. In both methods of appeal, the TAG makes the final decision on the matter and no further appeal is permitted. The technician may elect either the appellate review or the administrative hearing, but NOT both. When TAG renders a decision, with or without administrative hearing, the decision is final. Refer to TPR 752-1 for guidance on adverse action appeals.

#### **7-10. FILES.**

A grievance file is the official record of the grievance proceedings and must contain all documents related to the grievance. This file is separate from the supervisor's folder or the OPF and will be maintained by HRO a minimum of two years.

#### **7-11. UNFAIR LABOR PRACTICE.**

Any action by the union or by the Agency that violates rights granted by the Federal Labor-Management Relations Statute is an unfair labor

practice (ULP). A ULP may be filed with the FLRA by labor, management, or an employee. ULP's are resolved by the FLRA and may result in any number of actions, including cease and desist orders, posting requirements, and other legal actions.

### **CHAPTER 8 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

#### **8-1. CIVILIAN TECHNICIAN EQUAL EMPLOYMENT OPPORTUNITY REFERENCES.**

Civilian discrimination complaint processing and adjudication is governed by the following regulations.

a. Army National Guard. NGR (AR) 690-600.

b. Air National Guard. NGR (AF) 40-1614.

#### **8-2. MILITARY EQUAL EMPLOYMENT OPPORTUNITY REFERENCES.**

Military discrimination complaint processing and adjudication is governed by the following regulations.

a. Army National Guard. NGR 600-21, Equal Opportunity Program in the ARNG.

b. Army and Air National Guard. NGR 600-22/ANGI 36-3, National Guard Military Discrimination Complaint System.

#### **8-3. ALTERNATIVE DISPUTE RESOLUTION.**

The voluntary use of alternative dispute resolution will be encouraged to reduce the need for administrative proceedings and litigation, to review existing approaches to dispute resolution, and to eliminate barriers to its use. Requirements and measurement tools are established by DODI 5145.5-D and NGR 27-1. A State ADR Advocate will be appointed within the HRO to submit information and reports, to educate, assist and coordinate with commanders and to provide advice to implement the ADR plan.

## **CHAPTER 9 EMPLOYEE ASSISTANCE PROGRAM (EAP)**

### **9-1. PURPOSE.**

The Employee Assistance Program (EAP) is an administrative means to assist a technician who voluntarily admits he (or she) has a problem with alcoholism, drug abuse, or other job impairment problems. Employees in sensitive positions should refer to PL 91-616 and PL 91-255.

### **9-2. REFERENCES.**

Applicable TPRs, (i.e. TPR 752, TPR 792-2) Public Law (PL) 91-616, the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment and Rehabilitation Act of 1970, PL 92-255, The Drug Abuse and Treatment Act of 1972, PL 93-282, amending PL 91-616 and PL 92-255, Technician Personnel Supplement 792-2, Directory of Licensed Hospitals and Ambulatory Surgical Treatment Centers in Tennessee, and Directory of Drug and Alcohol Facilities (TN).

### **9-3. POLICY.**

The Adjutant General of Tennessee is responsible for the most efficient and rapid accomplishment of the mission of the Tennessee National Guard and recognizes the need to maintain technician morale and aid productivity. The Adjutant General is also concerned with a technician's personal behavior if his actions interfere with the efficient and safe performance of assigned duties, reduces dependability of the technician, reflects discredit on the National Guard, or adversely affects other technicians. It shall be the policy of the Adjutant General that:

- a. **Illness.** Management officials and supervisors recognize alcoholism and drug abuse as treatable health problems.
- b. **Protection for Self-Referral.** No technician will have his job security jeopardized by a request for counseling or referral assistance, except as limited by PL 91-616 and PL 91-255 related to sensitive positions. Cases of absenteeism or conduct-related problems not protected by self-referral will be dealt with in accordance with TPR 752.
- c. **Sick Leave for Treatment.** Sick leave (or advance sick leave in the amount allowed) will be granted for the purpose of treatment or rehabilitation as in any other illness or health problem.
- d. **Information.** Upon determination that a technician may need assistance, inform him of the availability of counseling services at HRO (EAP Coordinator). If EAP is

offered to a technician, and he (or she) refuses this help, the supervisor will provide a firm choice between cooperation and the consequences resulting from unacceptable performance.

e. **Initiation of Sanctions.** If poor performance is caused by a health problem, the supervisor may still initiate sanctions. The decision for a penalty will be prepared in writing and proposed to the technician with the intent to execute it if he (or she) has refused to participate in EAP. If he (or she) accepts EAP, the punishment may be held in abeyance subject to successful progress and completion of the program. If the program is successful, all sanctions and records of adverse action will be removed and eliminated. If the program is unsuccessful, any punishments held in abeyance will be implemented.

f. **Criminal Conduct.** EAP may not be applicable if the technician is guilty of criminal conduct in connection with use or abuse. If a technician has been caught through screening programs, this process will operate separately from EAP and will not be delayed by EAP application. No technician actions will interfere with the efforts of law enforcement authorities.

#### **9-4. RESPONSIBILITIES.**

Responsibilities of the following personnel are outlined in TPR 792-2:

a. **The Adjutant General.** Every occupational group, including military technicians, is subject to problems at all levels of responsibility that may significantly impair job performance, but

are of such an intimate nature that the technician may feel reluctant in seeking assistance or counseling. In-house Occupational Health Programs have proven to be effective in dealing with job impairments or medical problems, as well as legal, financial, marital and family crisis conditions. Alcoholism and drug abuse are included in health programs because studies have indicated that they are conditions that can be treated in the same manner as any other condition that impairs job performance. PL 91-616 and PL 92-255 charge Federal agencies with the responsibilities for developing counseling services and maintaining preventive treatment and rehabilitation services to deal with alcohol and drug abuse among Federal technicians. Both laws state that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license solely on grounds of prior abuse of drugs or alcohol. Action may be taken when crimes have been committed in connection with the abuse. The Adjutant General enforces these provisions of law.

b. **Human Resources Officer (HRO).** The HRO will execute EAP on behalf of the Adjutant General offering informational programs to assist technicians who have requested such assistance. Understanding that alcoholism and drug abuse are treatable health problems, the HRO will assist in obtaining rapid resolution of such illnesses that impair a technician's job performance. The technician having either or both of these illnesses will receive the same careful consideration and offer of assistance that is presently extended to technicians having any other illnesses or health problems. The

Tennessee National Guard is not concerned with the technician's use of alcohol except as it may affect his or her job performance or the efficiency of the service. The Tennessee National Guard does not condone technician drug misuse and when management has good reason to believe criminal conduct is directed towards, or potentially harmful to, the person or property of others, the first obligation is to those persons or properties and then to the technician involved.

c. Employee Assistance Program Coordinator. The EAP Coordinator for Tennessee will also be the State Equal Employment Manager (SEEM). The EAP Coordinator may work in concert with the State Alcohol and Drug Abuse Coordinator (ADCO) to offer assistance to technicians. The EAP coordinator will implement and oversee the Employee Assistance Program. The program coordinator will:

(1) Arrange for and/or provide educational materials that can be used to prevent or discourage alcohol and drug abuse within the technician workforce and, provide information regarding the program during orientation of a newly employed technician to ensure that all technicians are aware of the services available.

(2) Arrange for and/or conduct training of managers and supervisors to ensure that they understand the program, the procedure for dealing with technicians with an alcohol or drug problem, financial difficulties, legal, family or other personal problems, and the benefits derived upon successful rehabilitation of a technician with such problems.

(3) Establish a liaison with community education, counseling, treatment, and rehabilitation facilities.

d. Assistant EAP Coordinators (Air Base Personnel Assistants / Union Stewards) will:

(1) Assist EAP Coordinator to perform duties listed above in their area of responsibility.

(2) Refer technicians to the appropriate Helping Resource in the community.

(3) Distribute educational material when required by the EAP Coordinator.

(4) Maintain and report statistics on program to EAP Coordinator.

e. Supervisors. First line and higher-level supervisors must assist technicians in trouble in returning to a satisfactory performance status, if possible. Legitimately, supervisors have fairly explicit expectations of their technicians in terms of job performance and behavior. When technicians fail to fulfill these expectations, supervisors have both the right and the duty to confront them with the deficiencies, and to provide them with opportunities to correct the problems. Dealing with poor performance is a basic supervisory responsibility. Early intervention may also lead to early, even life-saving identification and treatment of the health problem. In summary, supervisors should:

(1) Be alert, through continuing observation, to changes in the work or behavior, or both of assigned technicians.

(2) Document (on the Supervisor's Brief or NGB Form 904-1) specific occasions when a technician's work performance, behavior or attendance fails to meet minimum standards, or where the technician's pattern of performance appears to be deteriorating.

(3) Advise other members to refer a troubled technician to professional counselors. Supervisors must be able to describe the behavior to the counseling staff, but should not attempt to diagnose or draw conclusions. This is a counseling responsibility.

(4) Conduct an interview with the technician specifically focusing on poor work performance, and inform the technician of available counseling services if poor performance is caused by any person or health problem.

(5) If a troubled technician refuses help and performance continues to be poor, provide a firm choice between accepting assistance through counseling or professional diagnosis of his or her problem. The technician must cooperate in treatment or accept the consequences for unacceptable performance.

f. Troubled FTMs. FTMs who suspect they may have an alcohol or drug abuse problem, even in the early stages, are encouraged to voluntarily seek counseling and information on an entirely confidential basis by contacting

the persons designated to provide such services. Confidential discussions and information may also be obtained by contacting the EAP Coordinator.

## **9-5. PROCEDURES FOR EAP EMPLOYEE MANAGEMENT.**

a. Safety. When a technician does not appear to be in full control of his or her faculties, the supervisor should immediately inquire about the technician's physical condition and determine the safety of the technician and others around him or her. Information on these cases should be relayed to the HRO or the EAP Coordinator. The technician should be referred for medical diagnosis and emergency treatment. Where indicated, the technician should be further referred to a private physician or community health services. If such cases ultimately are determined not to have stemmed from abuse of alcohol or drugs, medical personnel should discuss the facts of the situation with the technician and refer him or her for appropriate treatment.

b. Sick Leave. Sick leave will be granted for the purpose of treatment or rehabilitation as in any other health problem or illness. Doctor's statements are required only if the treatment will exceed three days.

c. Relationship to Disciplinary Actions. EAP will be carried out as a non-disciplinary procedure. Adverse action may be suspended as long as the technician is making progress in a counseling program.

d. Criminal Conduct. When management has a good reason to

believe a technician has engaged in criminal conduct, supervisors shall inform the HRO immediately. Supervisors should attempt not to extract any details regarding any illegal activity or conduct, but specific knowledge of criminal conduct must be reported to the authorities.

e. Rehabilitation Expenses. There is no provision in the law for payment of Federal employee rehabilitation costs. Technicians are responsible for the cost of treatment of alcohol, drug abuse or other personal problems. The Federal Employee Health Benefits program may provide full or partial payment of some costs. Some rehabilitation centers charge fees on a sliding scale based on the individual's ability to pay, but most centers will not refuse an individual because of an inability to pay. The individual has freedom of choice to attend the treatment center or resource he (or she) desires.

f. Confidentiality. Public Law provides for confidentiality of patient information under this program. Records on technicians who have been referred for counseling for any drug or alcohol misuse will be maintained in the strictest confidence and accorded the same security and accessibility restrictions provided for medical records. Supervisor's notes are not subject to the requirements of the confidentiality regulations since supervisors are not performing an alcohol abuse or drug abuse prevention function, but discussion of technician problems by supervisors with persons not having a need to know is strongly discouraged on the grounds of ethics and good supervisory practice. The confidentiality regulations do prohibit persons performing an alcohol abuse or drug

abuse prevention function, i.e., coordinators, counselors, and their staffs, from disclosing information obtained as a result of the performance of that function to an unauthorized person (including a supervisor) without the written consent of the technician. In other words, a supervisor, after referring a technician to a program coordinator or counselor, cannot expect feedback on the technician's progress without his or her written consent. If consent is given, the supervisor may not pass on the information received as a result of that consent to any other unauthorized person (which includes his or her next-level supervisor) without the separate signed consent. More than one consent, however may be contained in a single consent form as long as the requirements for consent are met. Supervisors should continue to provide program personnel with information about the job performance of employees referred to the program, regardless of whether or not consent is obtained for feedback from the program. Counselors from other programs, such as Equal Employment Opportunity Counselors, who are advised by a technician of his or her alcohol or drug problem should immediately refer the technician to the Employee Assistance Program Coordinator and adhere to the confidentiality requirements, which include protection of the technician's identity.

g. Performance. Technicians with below standard performance due to drugs or alcohol will be counseled on the availability of the Employee Assistance program. If the technician refuses to seek help, there is no improvement, or there is inadequate improvement in performance, adverse

action may be taken on the basis of poor job performance. Probationary employees may be separated due to drug or alcohol misuse if improvement is not shown immediately.

#### **9-6. DISCIPLINARY ACTIONS UNDER EAP.**

a. **Supplementary Program.** The Employee Assistance Program (alcohol and drug abuse) supplements, but does not replace, existing procedures for dealing with problem employees. Its premise is that one type of problem employee is the alcoholic or drug abuser and that with this particular kind of problem employee, a special situation exists. The drinking or drug abuse is either an illness or a symptom of an illness and, as with other types of illnesses; it is the agency's role to try to assist the person to recover his or her usefulness as an employee.

b. **Below Standard Performance.** In practice the alcohol or drug abuser should be dealt with little differently than other problem technicians. The supervisor identifies the aspects of job performance that are not fully acceptable, consults with the coordinator about those cases that appear to be developing a trend, discusses aspects of below standard performance with the technician, and advises him or her of availability of counseling assistance if the cause of poor performance stems from any personal problem. If the technician refuses to seek counseling or if there is no improvement or inadequate improvement in performance, or both, disciplinary action should be taken.

c. **Initially Suspended Sanctions.** In relating the alcoholism and drug abuse program to disciplinary policies and practices, the program must be carried out initially as a non-disciplinary procedure aimed at rehabilitation of persons who suffer from a health problem. However, there needs to be a clear understanding that shielding problem technicians by tolerating poor performance clearly contributes to the progression of the illness by delaying a rehabilitative program. Failure on the part of the technician to accept the assistance offered through the program or otherwise correct performance should be dealt with through disciplinary procedures.

d. **Patient Information Confidentiality.** Once a technician is enrolled in EAP counseling or medical treatment, that medical information may be disclosed only as authorized and may not be otherwise divulged in any civil, criminal, administrative or legislative proceeding conducted by any federal, state or local authority unless subpoenaed by a court. Thus, management may not require the coordinating staff to release patient information for use in a disciplinary situation. Regulations permit the release of information in such proceedings with the patient's prior written consent and when in the judgment of the EAP Coordinator that the consent was voluntarily given. Such disclosure should not be harmful to the patient, the program or their counselor relationship. Disciplinary action should always be based on job performance or behavior problems, not progress in a rehabilitative program.

### **9-7. LABOR SUPPORT AND COOPERATION.**

The active participation and support of labor organizations is key to the success of this program. Bargaining unit officials who represent technicians concerning working conditions and personnel policy are influential in creating employee confidence in management's policy. It is essential that labor organizations understand management's sincere commitment to assist the employee with his or her problem. Union officials should understand that the technician will be extended maximum assistance toward rehabilitation. However, it must also be understood that, if the technician is unable to raise his or her job performance to an acceptable level, appropriate action must be taken.

### **9-8. DISCLOSURE RULES.**

a. Without Consent. Whether or not a patient gives his or her written consent, the content of the record may be disclosed when:

- (1) The information is needed by medical personnel to meet a genuine medical emergency;
- (2) The information is needed by qualified personnel for the purpose of conducting scientific research, management audits, financial audits or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner;
- (3) Provided an appropriate order of a court of competent

jurisdiction, granted after application showing good cause. In assessing good cause, the court must weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

b. With consent. Consent to disclose patient information is subject to strict confidentiality regulations and must be in writing. Forms and information on such disclosures are available through the Technician Assistance Program Coordinators.

c. Maintenance of Records.

(1) General supervisory documentation of technician job performance and actions taken to motivate correction of job deficiencies will be maintained in a confidential manner. The responsibility for developing a responsive and useful job performance documentation system rests with management and supervisory officials.

(2) Official Personnel Folders shall not include information concerning a technician's alcohol, or drug problems, or the efforts to rehabilitate him, except as they apply to specific charges leading to disciplinary or separation action. When this information is included due to discipline or separation, the OPF will be locked in a separate file from other OPF for increased protection.

(3) Records on technicians who have been referred for counseling for any reason will be maintained in the strictest confidence and accorded the same security and accessibility restrictions provided for medical records.

(4) Records containing medical information and reports must be kept in a separate locked cabinet during the technician's service with the Tennessee National Guard and may not be made part of the Official Personnel Folder. EAP records reflecting referral and participation in drug or alcohol treatment programs become patient medical records and are protected by law. Due to the penalties for unauthorized release, these records are extremely sensitive and must be kept confidential.

### **9-9. COMMUNITY RESOURCES.**

To encourage the most professional help for technicians, the Tennessee National Guard uses community resources in the State of Tennessee as outlined in:

a. Directory of Licensed Hospitals & Ambulatory Surgical Treatment Centers in Tennessee.

b. Directory of Drug and Alcohol Facilities (in Tennessee). Organized by area and treatment codes.

## **CHAPTER 10 SPECIAL PROGRAMS**

### **10-1. GENERAL.**

In every administration there are special programs which are developed

as an interest of the President of the United States or other key members of the Executive Branch or from Congress when events or budget issues are brought to national attention. These special programs will be implemented by the Customer Service Branch. Usually, such programs last the length of the administration and are changed or modified by the succeeding administration.

### **10-2. REFERENCES.**

5 USC 7106, 18 USC 922 (Gun Control Act of 1968), Title 58, Tennessee Code Annotated, 28 USC 2671-2680, AR 190-14, AFI 31-207, NGR 27-1, TPR 900 (937).

### **10-3. TELECOMMUTING.**

Selected positions of the National Guard will be identified as telecommuter-authorized. Such identification is intended to enhance work from the home by computer. Many jobs in the Tennessee National Guard are not practical selections for this option due to sensitivity of security and type of information handled (Privacy Act materials to classified), due to lack of firewall availability in many computer systems in the field or at home, the lack of funding for computers, telephone lines, or funding for telecommunications from home to work, the inability to apply appropriate rules for workmen's compensation and safety in the workplace requirements, and the difficulty in the appropriate management of work schedules, time cards and leave. Employees allowed to telecommute cannot provide many on-call services to the public or customer services to soldiers from home. This

area will grow as resources are made available to achieve its implementation.

#### **10-4. MASS TRANSPORTATION**

The Mass Transportation Benefit Program is intended to reimburse personnel for transit costs incurred by personnel in their local commute from residence to permanent duty station workplace. Army / Air National Guard Technicians and Non-Dual Status employees are eligible for reimbursement of their qualified mass transportation costs, not to exceed actual expenses, up to a specified limit.

#### **10-5. EMERGENCY DUTIES.**

a. General. Only in dire emergencies will technicians be armed for the purposes of security and then only with the express approval in advance of the Adjutant General. Most duties requiring arms and issuance of ammunition are performed in active duty status, either state or federal, and commanders are encouraged to use this status first if armed security is necessary.

b. Emergency Utilization. Under 5 USC 7106(a)(2)(a) and 5 USC 7106(a)(2)(b) management may order Dual Status technicians to perform installation, facility or aircraft security duties as a function of the right to assign work. Carrying a weapon must be consistent with the installation duties assigned. These duties can include the carrying of a weapon or firearm provided the individual is qualified to use the military-issued weapon. When an operational emergency occurs that demands immediate security, the commander may waive training for as

long as needed to establish emergency protection. When possible, the commander should begin training those persons who are armed, but as a minimum ensure the rules of engagement are issued as soon as possible. Supervisors or sergeants-of-the-guard will brief the tenets of responsibility to reinforce proper responses to situations. Persons who misuse weapons may be subject to liability under state law.

c. Length of Assignment. For a period of up to 120 days, an established position description is not required to detail a technician to a group of duties that meet these criteria. If the technician is required to perform duties different from his or her position description for a longer period, the detail will be accomplished by SF 52.

d. Authority for Utilization. Armed technicians will not be utilized in a location other than a federally owned or leased facility or property or a state-owned National Guard armory or training site under control of the State of Tennessee, except for anti-hijacking requirements established for protection of federal aircraft. If the Governor of Tennessee requires use of armed National Guard members on other than these locations, that person will be placed on SAD. Care should be taken to ensure that the technician remains on state or federal property or property leased to the Army National Guard when executing physical security duties.

e. Rules of Engagement (ROE). Military technicians will use the following rules of engagement when armed unless the ROE is altered:

(1) Force may be used, including deadly force, when a technician reasonably believes he (or she) or others may be in imminent danger of death or serious bodily harm. This authorizes the use of force to prevent the commission of a serious offense involving violence.

(2) Force may be used, including deadly force, to protect Department of Defense or other National Guard assets which would present a substantial danger of death or serious bodily harm to others. This includes the theft or potential loss of control of weapons, ammunition, missiles, rockets, explosives, chemical agents, special nuclear material, weapon systems such as tanks, fighting vehicles, and aircraft whether armed or not.

(3) Force may be used, to include deadly force, to detain, apprehend, or prevent the escape of a person suspected of committing an offense, and it reasonably appears that the suspect presents an immediate danger to yourself or others.

(4) Force may be used, to include deadly force, to prevent the escape of a prisoner who threatens bodily harm or death to escorting personnel or others. There must be probable cause to believe there is a threat of bodily harm.

(5) The weapon may be used as a signaling device as a last resort when all other means of communication have failed and there is a life-threatening situation. This is done by firing three rounds in rapid succession straight into the air away from resources or populated areas.

f. Prohibitions.

(1) The amount of physical force used will not exceed that force that is reasonably necessary to prevent death, serious injury or theft of DoD or National Guard assets that could be used for harm.

(2) Deadly force will not be used when the risk of death or bodily harm to innocent persons is significantly increased. Shots may be fired only with due regard to safety to innocent bystanders. When possible, an order to "HALT" will be given before discharging a firearm used in applying deadly force.

(3) Deadly force in technician status will NOT be used to protect highly sensitive or critical assets of the United States when there is no threat of death or serious injury present. This invokes paragraph 1.5 of AFI 31-207.

(4) Concealed weapons, private weapons, and unauthorized military weapons for which a person has received no training are prohibited. Personal ammunition is prohibited.

(5) Non-dual status technicians will not be armed or issued ammunition.

(6) Commanders may not issue arms to people who are:

(a) Identified substance abusers or alcohol abusers.

(b) Emotionally unstable or whose behavior suggests they would not use firearms safely or with maturity.

(c) Taking prescription medication that could impair their ability to use firearms safely. The commander will discuss the merits of trust before issuing arms or ammunition to persons who are prescribed medications.

(d) Relieved of duty for disciplinary reasons.

(e) Have been convicted of a misdemeanor crime of domestic violence. The Gun Control Act of 1968 (18 USC 922) makes it a felony to sell or otherwise dispose of or provide a firearm to persons convicted of domestic violence.

(7) Attempt not to fire rounds that would not stay on state or federal property or leased property to the National Guard except when such action is a must to prevent death or injury to another person.

(8) These prohibitions take into consideration the provisions of Section 58-1-105, 58-1-106 and 58-1-514, Tennessee Code Annotated; Sections 39-17-1302, 39-17-1306, 39-17-1309, and 39-17-134, Tennessee Code Annotated; 28 United States Code 2671-2680 (Federal Tort Claims Act); Army Regulation 190-14 and Air Force Instruction 31-207. Although covered under Federal Tort Claims, willful or grossly negligent acts may not provide a person protection from individual civil liability.

g. Training Requirements. Unit commanders must ensure the provision of use of force training to any person who is to be issued a firearm or ammunition. A briefing on the rules of engagement for deadly force will be

performed. A briefing on firearms safety will be included in the training with emphasis on safe loading and unloading, rules regarding the prohibition of alcohol, drugs or medications while on duty and eight hours prior to issue, how to handle firearms and ammunition in given circumstances, rules on chambering rounds, rules on where firearms cannot be carried, emphasis on not engaging when innocent people could be harmed, and rules on reporting accidental discharges. Other training may be included, but should not be so protracted as to diminish the importance of the above issues.

h. Uniform Required. National Guard technicians will be in a duty uniform when armed.

i. Not Applicable to Active Duty. This policy does not apply to any form of active duty, either federal or state. Each active status, Army, Air Force, and State, has its own requirements and rules of engagement regarding arms and ammunition.

## **10-6. EMPLOYMENT VERIFICATION**

The My Biz Employment Verification tool will allow technicians to submit employment information to an external organization (business, bank, etc.) directly from the Defense Civilian Personnel Data System (DCPDS). This tool provides two options for type of information to send out – Employment Information or Employment and Salary Information. All information is sent via secure internet. FTMs are in complete control of who receives this information. Instructions are available at the Defense Civilian Personnel Data System (DCPDS) website.

## CHAPTER 11 CUSTOMER SERVICES

The Customer Services Branch of HRO has the mission to perform administrative, technical, evaluative and customer services which will establish and maintain good employer-employee relations and contribute to satisfactory productivity, morale, discipline and motivation. This branch has the responsibility for pay administration, processing of retirements and other separations, administration of time and leave, and the initial implementation of special programs for federal employees of the Tennessee Army and Air National Guard. The Customer Service Branch provides advisory and technical services to employees on a full range of employee benefits such as

1. Incentive Awards Program
2. Counseling of management, employees, retirees and family members on a wide range of benefit programs such as CSRS/FERS retirement, Federal Employee Health Benefits (FEHB), Federal Employee Group Life Insurance (FGLI), Thrift Savings Plan (TSP), and Federal Employees Compensation Act (FECA) Office of Workers' Compensation Program (OWCP)
3. Provides advice on leave issues such as Sick Leave, Compensatory Leave, Leave Without Pay (LWOP), Absence Without Leave (AWOL), and Military Leave.
4. Manages the Mass Transportation program.

5. Schedules and conducts New Employee Orientation.

6. Manages the Performance Appraisal program to include Performance Improvement Plans (PIP).

7. Maintains the Official Personnel File (OPF) for all technicians.

8. Maintains the regulatory and other guidance required to provide guidance to management.

9. Manages the Telecommuting Program.

### **New Employee Orientation**

New Employee Orientation is conducted on the first Monday at the beginning of the pay period. New Employee Orientation is the process by which new employees completes the necessary paperwork and is sworn in as an employee. Should the first workday fall on a holiday (i.e. Monday), the Entrance on Duty (EOD) date is established for the next regular work day.

New employee orientation is based on the geographical area in which they work. Refer to the list below to determine location and time new employees will attend orientation:

**Nashville Area Employees** – Report to the Hugh B. Mott Building, Houston Barracks on Sidco Drive, Room 408, Nashville, TN at 8:30. Please call the Customer Service Branch (615) 313-3016 or (615) 313-3039 if there are any questions or are unable to attend orientation on the designated day.

**Knoxville Area Employees** – New employee orientation is conducted on

the first Monday following the effective date at 9:00. Report to the HRO Remote at the 134<sup>th</sup> HQ BLDG in Alcoa. If for any reason the 134<sup>th</sup> base is closed, all new employees must report to Nashville for New Employee Orientation. Supervisors must contact the HRO Remote **prior** to orientation at (865) 985-3263 or DSN 266-3263.

**Memphis Area Employees** – New employee orientation is on the first Monday following the effective date at 9:00. Report to the HRO Remote at the 164<sup>th</sup> HQ BLDG in Memphis. If for any reason the 164<sup>th</sup> base is closed, all new employees must report to Nashville for New Employee Orientation. Supervisor must contact the HRO Remote prior to orientation at (901) 291-7103 or DSN 726-7103.

**Temporary employees (tenure 0) do not attend New Employee Orientation.**

Effective dates for new employees are set by the Staffing Branch and the selecting supervisor. New employees who do not attend New Employee Orientation as scheduled will have their effective dates adjusted by the Staffing Branch. New employees must bring the documents listed in the "Human Resources Office Supervisor Packet" to the New Employee Orientation..

#### **11-1. E-VERIFY.**

E-verify is an internet based system used to verify the citizenship status of all new federal employees.

a. Preventing Discrimination: The E-Verify Rules of Use:

(1) Employees must be newly hired with a completed Employment Eligibility Verification Form I-9 prior to the HRO using E-Verify to initiate queries about new employees.

(2) Form I-9 requirements from "List B" identity documents must contain a photograph. Examples are a current valid driver's license or a military identification card. If List B items are used, then the employee must also bring either a U.S. passport (must not be expired) from "List A" or a Social Security Card or a Certified Birth Certificate from "List C". One from either list "A" or "C" is required with the list "B" identity document.

(3) Verification queries for all newly hired employees must be submitted no later than the 3<sup>RD</sup> business day after they start work for pay.

#### **11-2 WITHIN GRADE INCREASES.**

Within-grade increases (WGI) are the periodic increase in an employee's rate of basic pay from one step of the grade to the next higher step of that grade. General Schedule employees advance from steps 1 through 10.

a. Eligibility Requirements for GS Within-Grade Increases. To be eligible for a WGI an employee must meet all of these requirements. The employee must:

- (1) be paid at less than the step 10
- (2) occupy a permanent position
- (3) have completed the waiting period

(4) not have received an equivalent increase during the waiting period

(5) have performed at an acceptable level of competence

b. Waiting period begins:

(1) upon first appointment as a Federal employee

(2) upon receiving an equivalent increase, or

(3) in most cases, after a period of non-pay status or break in service (alone or in combination) of more than 52 weeks (unless the non-pay status or break in service is creditable service). Length of waiting periods for full-time and part-time GS employees

<b>Steps 2, 3, 4</b>	<b>52 calendar weeks</b>
<b>Steps 5,6, 7</b>	<b>104 calendar weeks</b>
<b>Steps 8, 9, 10</b>	<b>156 calendar weeks</b>

Within-grade increases apply only to GS employees occupying permanent positions. "Permanent position" is defined in 5 CFR 531.403 as a position filled by an employee whose appointment is not designated as temporary and does not have a definite time limitation of one year or less. "Permanent position" includes a position to which an employee is promoted on a temporary or term basis for at least one year. The term does not include a

position filled by an employee whose appointment is limited to one year or less and subsequently extended so that the total time of the appointment exceeds one year.

**11-3 FEDERAL WAGE SYSTEMS (FWS) WITHIN-GRADE INCREASES.**

Wage Grade (WG) employees receive a periodic increase in an employee's rate of basic pay from one step of the grade to the next higher step of that grade. FWS employees advance from steps 1 through 5.

a. Eligibility Requirements for FWS Within-Grade Increases.

To be eligible for a WGI an FWS employee:

(1) must be paid at less than the maximum step of the grade

(2) must complete the required waiting period

(3) must not have received an equivalent increase during the waiting period

(4) must have a satisfactory performance rating

(5) must be under either a temporary or permanent appointment Unlike a GS employee, an FWS employee does not have to be in a permanent appointment to be eligible for WGIs.

b. Waiting period begins:

(1) Upon first appointment as a Federal employee

(2) Upon receiving an equivalent increase, or

(3) In most cases, after a period of non-pay status or a break in service of more than 52 weeks

Length of waiting periods for full-time and part-time FWS employees:

<b>Steps 1 - 2</b>	<b>26 calendar weeks</b>
<b>Step 3</b>	<b>78 calendar weeks</b>
<b>Step 4 - 5</b>	<b>104 calendar weeks</b>

**11-4. TENURE AND TRIAL PERIOD.**

National Guard Military Technicians employed under the authority of 32 U.S.C. 709 are not covered by the provisions of 5 U.S.C. 7512.

a. When a person first comes to work under an excepted appointment, he or she will normally serve a one-year trial period. The trial period is the initial one year intended to ensure the appointee is capable of performing the duties of the job and to determine whether they have the qualities needed for continued government employment. The trial period provides management a reasonable period of time to observe the new technician’s overall performance.

- (1) One trial period will be served.
- (2) The trial period must be served for 12 consecutive months.

- In the same type of work
- In the same State (same appointing office).

b. Removal action may be taken at any time during the trial period.

c. The National Guard Technician Act requires that technicians be given at least 30 days advanced notice when removal from employment is involved [32 U.S.C. 709(e) (6)].

(1) The technician has no appeal rights;

(2) During the 9<sup>th</sup> and 10<sup>th</sup> month of the trial period, the technician’s first line supervisor makes a determination to retain or separate. The decision to non-retain is documented by completing the documentation in the Performance Appraisal Application (PAA).

(3) The documentation in PAA may not be appealed under the provisions of TPM 430 or grieved under any state procedures.

d. Technicians that are retained will receive a SF-52 indicating a change in tenure from 2 (Conditional) to tenure 1 (Permanent) upon completion of the one year trial period.

**11-5. POSITION DESCRIPTION / PERFORMANCE PLAN / OF 8.**

Within 30 days of hiring a new employee, supervisors are required to complete the new employee’s performance plan in the PAA and ensure the new employee is given a copy. The OF 8, Position Description must be signed by the employee and the supervisor and the front copy

forwarded to HRO, ATTN:  
Classification.

### **11-6. HOURS OF WORK, LUNCH, BREAKS.**

a. Establishment of Duty Hours. The provisions of 32 U.S.C. 709 authorizes the Secretaries of the Army and Air Force to prescribe the hours of duty for National Guard Technicians. The Position Management Officer (PMO) will establish the duty hours for his or her areas of responsibility. Hours of duty will not be earlier than 0600 or later than 1800 hours unless differential pay is authorized or compensatory time is approved. All Army and Air directorates are required to provide a copy of their established work hours for their work centers to the Human Resource Office to maintain on file.

b. Work Week. Technicians are required to work a minimum of 80 hours per pay period in any combination that has been approved by HRO. The standard administrative workweek is Sunday through Saturday with actual workdays Monday through Friday. Alternative work weeks must be approved in advance through HRO.

c. Core Time (Work Hours or Work Schedule). The core hours of employment are 0900-1500 hours. Each office should be open and manned by at least one employee during this period. The public may normally expect offices to be open during these hours. Hours of duty may be changed by HRO upon justification based upon emergency or significant mission needs.

d. Lunch Period. Lunch periods are established by supervisors and are

limited to 30 minutes. Organizations may extend the 30 minute lunch period, not to exceed 60 minutes. Supervisors should coordinate with HRO and obtain approval from HRO prior to enacting this change.

e. Variation for Education. When attendance at a college, university, or other educational institution would meet the needs of the service, the Adjutant General (or his designee) may authorize a rescheduling of the customary workweek to allow such attendance. This authority is to benefit the service and not for the needs of the individual. The courses taken must not be government training. Such attendance also must not appreciably interfere with the accomplishment of the technician's work to be performed, and the technician is still responsible for a full 40-hour workweek (80 hour pay period). No premium pay will be paid solely because of the rescheduling.

## **CHAPTER 12 PERFORMANCE APPRAISAL PROGRAM**

Reference; TPR 430, Performance Appraisal Application, PAA. The objectives of the National Guard Technician Appraisal Program are to provide a meaningful and efficient method for the evaluation of individual, team and organizational performance. Supervisors and managers will ensure technicians understand clearly what their performance standards are and performance is rated in a timely manner.

### **12-1. DEFINITIONS.**

**Appraisal** - The process by which technicians are informed of how their

performance compares against established performance standards, resulting in final performance appraisals at the end of the established appraisal period.

**Appraisal Period** - The established period of time during which performance will be monitored and assessed. Normally, the standard appraisal period will be one year but not less than 120 days. Annual appraisal cycle is 1 October – 30 September.

**Closeout Assessment** - A narrative description of an eligible employee's performance under an approved performance plan. The closeout assessment is completed by the rating official and conveys information regarding the employee's progress toward the completion of the critical element. A Closeout Assessment will be completed for technician employee prior to reassignment or transfer to another function.

**Critical Element** – Any component of a technician's job that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial of a within-grade increase. It may also be the basis for removing or reducing the grade level of that technician. Such action may be affected without regard to performance or other major job elements of the job.

**Higher Level Reviewer** - The individual technician's chain of command who is the rating official's immediate supervisor.

**Interim Review** – A mandatory assessment describing an employee's

year-to-date progress on critical elements and performance standards. At least one interim performance review shall be prepared and documented by the rating official during the appraisal period, typically in March.

**Performance Appraisal Application Tool** - The web-based tool that supports the performance planning and appraisal process, now accessible via *My Biz or My Workplace* in the Defense Civilian Personnel Data System (DCPDS).

**Performance Plan** - All of the recorded and approved performance elements that set forth expected performance. A performance plan must include critical elements and their performance standard.

**Performance Standard** – The management-approved expression of the performance threshold(s), requirements(s), or expectation(s) that must be met to be appraised at a rating level of performance. A performance standard may include, but is not limited to, quality of work, quantity of work, timeliness and manner of performance. A performance standard must, to the maximum extent feasible, permit the accurate evaluation of critical elements and overall job performance on the basis of rating official assessment.

**Rating Official** – The supervisor most responsible for appraising the technician's performance, establishing performance standards, counseling the technician on the critical and major elements of the job, and appraising the technician based on pre-established, mutually understood performance standards.

**Rating Levels** - The five rating level evaluation method is used to evaluate Technician performance. The critical element rating levels consist of the following:

- Level 5 – Outstanding
- Level 4 – Excellent
- Level 3 – Fully Successful
- Level 2 – Marginal
- Level 1 – Unacceptable

Rating levels will be determined and provided by Rating Official and Higher Level Reviewer based on the employee's accomplishments relative to the stated critical elements and performance standards for the employee. A supervisor or rating official shall assign a summary level rating of 1 to 5 to each critical element. A formal Performance Improvement Plan (PIP) is required when a Level 1 or Level 2 rating is given.

**Rating of Record** - The performance rating prepared at the end of an appraisal period for performance over the entire period and the assignment of a summary rating level which constitutes the official rating of record for the appraisal year.

**Self-Assessment** – An employee's narrative description of his/her year-to-date accomplishments related to his/her critical elements and performance standards. Self-assessments are optional and serve as a means by which an employee is able to actively participate in the performance management program. Self-assessments are documented in the Performance Appraisal Application tool during Interim Review and Annual Appraisal.

**Plan Requirements** - Each employee shall be assigned at least two and generally three to five critical elements. Each critical element will be developed by the employee and rating official in input into the Performance Appraisal Application Tool (PAA) within 30 days of the start of the appraisal period; typically 31 October.

**The minimum period of performance** on an approved plan is 120 calendar days during the current appraisal period. Periods of leave without pay and absence without leave may be applied toward the 120 calendar minimum.

**Trial / Probationary Period Employee (Tenure 2)** - New technicians will be carefully observed during the trial/probationary period to determine whether they have the qualities required for permanent service. During this period, supervisors should provide specific training and assistance to improve the technician's work performance. New technician employees should be provided their critical elements and performance plan within 30 days of their hire date.

## **12-2. SUPERVISORS PERFORMANCE PLAN REQUIREMENTS.**

Technicians do not receive official performance appraisals until completion of the required 12 months of Federal service. A supervisor's performance plan shall include at least two and generally three to five critical elements. A mandatory critical element will hold supervisors accountable for carrying out the responsibilities outlined in TPR 430, including but not limited to:

1. Clearly communicating the performance plan and holding employees responsible for accomplishing their critical elements and performance standards.

2. Making meaningful distinctions among employees based on performance and the employee's contributions aligned with the strategic goals and objectives.

3. Fostering and rewarding excellent performance.

4. Addressing poor performance.

5. Assuring employees are assigned a rating of record.

6. Adhering to laws and regulations concerning merit system principles and prohibited personnel practices; and ensuring continuing application of, and compliance with EEO laws, regulations and policy.

Trial Period Employee (Tenure 2). Removal action may be taken at any time during the trial period. If management decides to terminate the employee during the probationary/trial period, a 30-day advance written notification is required (TPR 300). If retention is not recommended, the SF 52 and supporting documentation must be submitted to HRO;

### **12-3. APPRAISAL APPEAL.**

The Adjutant General is the final appellate authority on the question of whether a technician should be demoted or removed rather than reassigned as a result of a performance-based action.

A technician desiring to file an appeal of a performance appraisal, other than for unacceptable or below fully successful performance, may file an appeal to HRO no later than 30 calendar days after the technician's receipt of the appraisal. An appeal based on unacceptable or below Level 2 rating must be filed and must arrive within (15) calendar days of the written notification of the Performance Improvement Plan.

### **12-4. REQUIRED SUPERVISOR FOLDER DOCUMENTS.**

NGB Form 904-1 - Supervisor's Record of Technician Employment - This form is no longer published and has been replaced by the electronic, "Supervisor's Brief." b. Supervisor's Brief. Each first line supervisor is required to maintain a folder for each supervised technician. The supervisor's folder may also be referred to as a "Technician Work Folder" or "Supervisor's Work Folder." This folder may be a manila file folder or a hardback (cardboard) folder with partitions, but not SF 66, Official Personnel Folder. Supervisor's Folders provide the only readily available system for the supervisor to keep current information regarding technician's supervised. First-line supervisors must keep a separate work folder for each technician, but higher-level supervisors are not permitted to maintain duplicate work folders or make entries in the record for lower levels than one level below them. Work folders are a part of the Technician Performance File System and are subject to the Privacy Act. The supervisor's brief is sent to each gaining supervisor when a change of position occurs. The orange stock

record or a copy may still be maintained as an option to the electronic form. Pencil entries in Item 12 will be made to record counseling of performance. Appraisal copies are maintained for the last three years. The technician's current home address and telephone number should be entered in pencil due to possible changes.

Upon discharge from employment, the folder should be offered to the technician. If he (or she) declines to accept it, destroy the contents.

a. OF 8, Current Position

Description - A copy of the technician's current position description should be in the file, signed and dated by the technician and the supervisor.

b. Performance Plan - The supervisor will record the expectations of the technician in performance (in PAA, NGB Form 430.) Retain the last three appraisals.

### Optional Documents

c. Conduct-related Items - Conduct-related records should be maintained until no longer relevant. If the items are retained due to a continuing or recurring problem, the file becomes more sensitive and should be locked in a secure container or file cabinet.

d. Leave or Work Schedules - Leave schedules for advance notice of desired annual leave may be retained in the file. Work schedules to indicate the hours of work normally worked may be included.

e. SF 52's - SF 52 copies may be kept until the action is completed. Original copies of the SF 52 should be

provided to the technician with a copy of the SF 52 retained for the supervisor's folder.

f. Training Documents - Copies of correspondence or forms related to training may be kept until training is completed. Training plans may be kept until no longer relevant.

g. Special Experience or Training Certification - Special documents required for the position, for example, copies of licenses, professional accreditation, certificates of proficiency documenting knowledge of equipment, tools, firearms proficiency, emergency medical technician certification, or other similar validations, may be retained in the file. This includes diplomas or transcripts from colleges or universities when a particular civilian education level is required by the position. Training certificates that are not relevant to the position requirement will not be filed in the supervisor's folder.

h. Awards - Copies of documents supporting awards or other special recognitions may be retained in the file. "Time off Awards" will be recorded on the Supervisor's Brief or NGB Form 904-1.

### Prohibited Documents

i. Letters of Reprimand (LOR) - Letters of Reprimand may not be retained in the work folder, but must be filed in the OPF at HRO. An entry on the NGB Form 904-1 or supervisor's folder will be adequate for record.

j. Notification of Personnel Actions (SF 50's) - The SF 50 or copies of the SF 50 will not be retained in the folder

after the Supervisor's Brief or NGB Form 904-1 has been posted. SF 50's will be recorded in the supervisor folder and given to the technician.

k. Security Investigations - Security investigative records and reports will not be retained in the work folder. This material will be retained in a separate secured file until the action is completed.

l. Letters of Indebtedness - Letters of indebtedness which have no bearing on a technician's ability to perform his duties will not be retained. However, if such information is important in regard to overall deterioration of performance, the possibility of loss of security clearance which is a job requirement, or may affect the reputation of the National Guard due to its flagrancy, the materials may be retained pending conclusion of the incident.

m. Medical Records - Not retained in the supervisor's folder except when the material forms a part of an overall failure to maintain job requirements or physical stipulations for performing the job. This includes SF 256, Self-identification of Medical Disability. Such material may be retained only so long as it is relevant to loss of employment. These records may not be retained due to the "likelihood" of future problems. If the technician meets the job requirement, the materials will be removed.

n. Photographs - Not retained.

o. Resumes - Not retained.

p. Personal Notes - Notes regarding events that have occurred in

the technician's past maintained as memory aids for the supervisor are forbidden.

## **12-5. SEQUENCE OF DOCUMENTS.**

Documents will appear in the supervisor's folder in the following order to ensure they are easily located.

1. Supervisor's Brief or, optionally, NGB Form 904-1.
2. Position Vacancy Announcement
3. OF 8 - Position Description.
4. Pending Actions (optional) - Includes unprocessed SF 52's, un-posted training certificates, annual leave schedules, work schedules, etc.
5. Permanent Actions (optional), Includes job requirement certificates or licenses, job requirement training certificates, etc.
6. NGB Form 430 - Technician Standards and Appraisal.
7. NGB Form 430 - Last 3 appraisals.

## **12-6. EMPLOYEE REVIEW.**

Upon request, a technician must be allowed to review his (or her) own folder. Technicians wishing to provide access to another person must provide the supervisor with written authorization which specifically authorizes the person to be given access and the records to be provided. Access by other management official will be on an official need-to-know basis, although

supervisor's folders are subject to review by HRO staff.

## **12-7. DISPOSITION OF EMPLOYEE FOLDERS.**

Employee folders that should be transferred to another supervisor may be delivered or mailed to the new technician supervisor. The technician must not be allowed to hand carry his or her own folder. Supervisors will ensure that any necessary steps are accomplished prior to forwarding the folder, including appraisals, time off awards, or other actions which may require the folder.

## **CHAPTER 13 LEAVE ADMINISTRATION**

This chapter provides the description and explanation for hours of work and various types of leave in Federal civilian service established by Title 5, United States Code, Chapters 53, 55, 61, 63 and 81. Comprehensive coverage is found in 5 Code of Federal Regulations (CFR) Parts 610 and 630 as well as Technician Personnel Regulation (TPR) 990-2 and DODI 7000.14-R.

### **13-1. DEFINITIONS**

**Absent Without Official Leave (AWOL)** – A period of absence without pay for which an employee did not obtain prior approval.

**Accrued leave** - Leave earned by a technician during the current leave year that is unused at any given time in that leave year.

**Accumulated leave** - The unused leave remaining to the credit of a technician at the beginning of a leave year.

**Advanced Annual Leave** – Annual leave hours granted for use prior to being earned. The amount of annual leave that may be advanced is limited to the amount of annual leave an employee would accrue in the remainder of the leave year. Employees do not have an entitlement to advance annual leave. In most cases, when an employee who is indebted for advance annual leave separates from Federal service, he or she is required to refund the amount of advance leave for which he or she is indebted. First line supervisors may approve a request for advanced annual leave.

**Annual Leave** – time paid to allow technicians to take care of personal needs. An employee may use annual leave for vacations, rest and relaxation, and personal business or emergencies. An employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken. An employee will receive a lump-sum payment for accumulated and accrued annual leave when he or she separates from Federal service or enters on active duty in the armed forces and elects to receive a lump-sum payment.

**Annual Leave Ceilings** – Maximum Annual Leave that may be carried over into the new leave year is 240 hours (30 days).

**Approving Official** – An official who has delegated authority to take or approve action affecting an individual's status or pay in the Federal Service.

**Contagious disease** - A disease requiring isolation of the patient,

quarantine, or restriction of movement by health authorities.

**Creditable Service for Leave Accrual**

– All civilian service that is potentially creditable for Civil Service Retirement Service (CSRS) purposes, including service covered by the Federal Employee Retirement Service (FERS) is also creditable for annual leave accrual.

**Emergency Employee** – An employee who occupies a position that has been determined to be critical, i.e., job that may be vital to public health, safety, welfare, national defense, or the operation of essential facilities or functions.

**Enforced Leave** – Management has the right to require a technician to leave the worksite when: (1) the technician is not ready, willing or able to perform assigned duties, and/or (2) the technicians continued presence is highly undesirable or poses an immediate threat to the workplace. The technician must never be instructed to leave the worksite if their ability to drive is questionable. The supervisor must arrange for a family member or a co-worker to provide transportation for the technician to leave the worksite. Enforced leave must be terminated as soon as management determines the technician is ready, willing, and able to perform assigned duties; or the immediate situation is resolved.

**Excused absence** - An approved absence from duty without loss of pay and without charge to an employee's leave.

**Family Member Leave** – A term used to describe in relation to the employee,

who may receive entitlements under the Voluntary Leave Transfer Program, the Family and Medical Leave Act (FMLA), unpaid leave (LWOP) for family friendly purposes and for use of sick leave for general family care or to care for a family member with a serious health condition.

**Funeral Leave** – Leave in conjunction with the burial of a military member or veteran and sick leave used for bereavement, i.e., to arrange or attend the funeral of a family member.

**Furlough** – The administrative placing of an employee in a temporary status without duties and pay due to lack of work or funds or other non-disciplinary reasons.

**Jury or Court Leave** – A technician is entitled to court leave, without loss/reduction in pay for the period in which the employee is summoned in conjunction with a judicial proceeding as a juror or a witness on behalf of a state or local government. The employee must provide documentation showing that she/he has officially been summoned to serve in court, in order to be paid by the government for the time on court leave. If the employee is compensated by the court for serving, she/he must surrender it, or an equal amount will be taken out of her/his pay. Mileage and parking fees provided by the court may be kept by the employee serving on court leave.

**Leave under the Family and Medical Leave Act (FMLA)** – A maximum of 12 administrative workweeks of unpaid leave during an 12 month period for one or more of the following: (1) birth of a child and care of the newborn, (2)

adoption or placement of a child, (3) treatment of one's own serious health condition, (4) care of a family member with a serious health condition. (see 13-5)

**Leave Without Pay (LWOP)** – An approved absence from duty in a non-pay status requested by an employee.

**Leave year** - A leave year consists of 26 full pay periods. The leave year begins on the first day of the first full pay period after the 26<sup>th</sup> pay period in the previous calendar year and includes all days through the last day of the 26<sup>th</sup> pay period in the current calendar year.

**Lump-Sum Payments for Annual Leave** – An employee will receive a lump-sum payment for any unused annual leave when he or she separates from Federal service or enters on active duty in the armed forces and elects to receive a lump-sum payment. Generally, a lump-sum payment will equal the pay the employee would have received had he or she remained employed until expiration of the period covered by the annual leave.

**Medical certificate** - A written statement signed by a registered practicing physician or other practitioner, usually on office letterhead or prescription pad, certifying to the incapacitation, examination, treatment, or the period of disability.

**Military Leave** - Any full-time Federal civilian employee whose appointment is not limited to 1 year is entitled to military leave. Military leave is paid leave when ordered to active duty, inactive duty training or active duty training. Permanent employees and temporary

employees appointed for more than one year get 120 hours of military leave per fiscal year. 120 hours annual carryover is allowed NTE a maximum of 240 hours yearly.

**Official time** - Any duty time spent on hours of work for which pay is received and when not in a leave status.

**Presidential Leave** – A civilian employee is entitled to 5 days of excused absence after he or she returns from active military service in connection with the continuing Global War on Terrorism (GWOT). Presidential Leave must be used immediately upon Return to Duty. In order to receive 5 days of excused absence, members must spend at least 42 consecutive days on active duty in support of GWOT. Employees are entitled to 5 days of excused absence only once in a 12 month period. A new 12-month period begins after the first use of excused absence.

**Restored Leave** - Annual leave that was previously forfeited because of the employee's exceeding the maximum leave accumulation for carryover into a new leave year, but that has now been restored to the employee's account. Restored annual leave is not added to an employee's current annual leave balance, but is maintained in a separate account(s).

**Suspension** – The placing of an employee for disciplinary reasons in a temporary status without duties or pay.

**Undue hardship** - Adversity to the degree that an individual's continued employment will be jeopardized unless relief is provided (i.e. conflicts with care

for ill parent, scheduling conflicts with childcare, etc.).

**Unscheduled Leave Policy** – A provision that permits employees other than those who are designated as “emergency” to take annual leave, accrued compensatory time, or leave without pay without the prior approval of supervisors when the agency is open for business but circumstances such as adverse weather make it impracticable for employees to report for work as scheduled.

**13-2. ACCRUAL RATES FOR FULL-TIME PERMENANT EMPLOYEES:**

Employee Type	Less than 3 year of service	3 years but less than 15 years of service	15 or more years of service
<b>Full-time employees</b>	½ day (4 hours) for each pay period	¾ day (6 hours) for each pay period, except 1 and 1/4 day (10 hours) in last pay period	1 day (8 hours) for each pay period
<b>Part-time employees</b>	1 hour of annual leave for each 20 hours in a pay status	1 hour of annual leave for each 13 hours in a pay status	1 hour of annual leave for each 10 hours in a pay status

**13-3. RESTORATION OF ANNUAL LEAVE.**

Agencies may restore annual leave that was forfeited because it was in excess

of the maximum leave ceilings if the leave was forfeited because of an administrative error, exigency of the public business, or sickness of the employee. An agency must restore the annual leave in a separate leave account.

**Administrative Error**

The employing agency determines what constitutes an administrative error.

**Exigency of the Public Business**

The employing agency determines that an exigency –i.e., an urgent need for the employee to be at work – is of major importance and that excess annual leave cannot be used. An employee’s use of earned compensatory time off or credit hours does not constitute an exigency of the public business. If the use of earned compensatory time off or credit hours that are about to expire results in the forfeiture of excess annual leave, the forfeited leave cannot be restored.

**Sickness**

The employing agency determines that the annual leave was forfeited because of a period of absence due to an employee’s sickness or injury that occurred late in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year.

An agency may consider for restoration annual leave that was forfeited due to an exigency of the public business or sickness of the employee **ONLY** if the annual leave was scheduled in writing before the start of the third biweekly pay period prior to the end of the leave year. Employees requesting restored leave need to send a memo requesting the number of hours they are requesting be restored and a copy of their leave slips where the supervisor has denied the leave through their chain of command to the HRO before the start of the third biweekly pay period prior to the end of the year. Position Managers, Base

Commanders, and Supervisors must identify an Exigency of Public Business and send a memo describing the mission requirements to the HRO as soon as it becomes apparent that requests for leave from their employee's will not be approved due to mission requirements. This memo will serve as backing documentation when employees request their leave be restored.

**13-4. ADMINISTRATIVE LEAVE (Excused Absence).**

Excused absence refers to an authorized absence from duty without loss of pay and without charge to other paid leave. Periods of excused absence are considered part of an employee's basic workday even though the employee does not perform his or her regular duties. First-level supervisors may excuse absences of one hour or less. Listed below are the more common situations in which excused absence can be granted:

1. Voting – Excused absence may be granted to permit an employee to report to work 3 hours after the polls open or leave work 3 hours before the polls close, whichever involves less time away from work. For example, if polls are open 6:30 a.m. to 6:30 p.m., an employee with duty hours of 9:00 a.m. to 5:30 p.m. may report to work at 9:30 a.m. The 30 minutes of excused absence would permit the employee to report to work 3 hours after the polls open.

2. Blood donations – Employees who donate blood may be granted excused absence to cover travel to and from the

donation site, the actual donation of blood, and recovery.

3. Conference or convention attendance – EANGUS, NGAUS, etc. as determined by The Adjutant General.

4. Local holidays – Employees may be granted administrative leave at the option of the Adjutant General.

**13-5. SICK LEAVE.**

An employee may use sick leave for personal medical needs, care of a family member, care of a family member with a serious health condition or for adoption related purposes.

Sick Leave Accrual	
Full-time Employees	½ day (4 hours) for each biweekly pay period.
Part-time Employees	1 hour for each 20 hours in a pay status.
There are no limits on the amount of sick leave that can be accumulated. Unused sick leave accumulated by employees covered by the Civil Service Retirement System will be used in the calculation of their annuities.	

a. Earning Rates - Technicians earn 13 days of sick leave per year (four hours per fully completed pay period) regardless of length of service. Sick leave may be accrued and carried over from year to year without limit. Part time technicians earn 1 hour of sick leave for each 20 hours in a pay status. Technicians must be employed for the full bi-weekly pay period to be entitled to accrue sick leave for that period. Full time and part time technicians who change to an intermittent work schedule during the pay period are eligible to have their leave accruals prorated. Sick

leave is earned from the first pay period of employment and its earning is not affected by the type of appointment or length of service. Unused sick leave accumulates without limit.

b. Granting Sick Leave.

Supervisors may grant sick leave when a technician:

1. Receives medical, dental, or optical examination or treatment;
2. Is incapacitated for the performance of duties by sickness, injury, or pregnancy and confinement;
3. Is required to give care attendance to a member of his immediate family who is afflicted with a contagious disease (doctor's statement required for all instances of this kind); or,
4. Would jeopardize the health of others by his presence at his post of duty because of exposure to a contagious disease. It is the responsibility of the immediate supervisor to determine whether absences are properly chargeable to sick leave.
5. Has military travel orders (travel and per diem only; no pay, incapacitation pay or retirement points) for the purpose of seeing military and medical authorities as a result of injury or illness sustained while engaged in military duty.
6. Requests sick leave for bereavement involving death of a family member. The limit on the amount of sick leave a technician can use for care and bereavement each leave year is 40

hours. For the purposes of sick leave use, family member is defined as relatives of the technician:

- Spouse and parents of the spouse;
- Children, including adopted children and spouses thereof;
- Parents of the technician;
- Brothers and sisters, and spouses thereof; and
- Any individual related by blood or affinity whose close association with the technician is the equivalent of a family relationship.

c. Charging Sick Leave - The minimum charge for sick leave is one hour. If the hours available to a technician are insufficient to cover the hours used or requested, other leave the employee has accumulated may be used.

d. Requesting Sick Leave.

The technician who becomes ill is responsible for notifying his supervisor prior to the start of the scheduled workday or a technician may request sick leave for medical, dental or optical examinations. The technician will, when requested by his supervisor, furnish a medical certificate under the following conditions:

1. For absences in excess of three (3) workdays.
2. For absences for short periods at frequent intervals when there is reason for the supervisor to believe that the sick leave privilege is being abused. The technician may be required to support

any future grants of sick leave in writing regardless of duration.

e. Advance Sick Leave Criteria – In cases of serious disability or illness, employees, except those serving under a limited appointment or with a specified termination date, may be advanced up to 30 days sick leave. Employees should submit requests in writing for advance sick leave through the leave-approving official to the Human Resource Office. Medical certification must be provided by a certified medical professional. A maximum of 5 days of sick leave may be advanced for family care or bereavement purposes.

f. Advancing Sick Leave - A full time technician who is seriously injured or ill may draw on his (or her) anticipated future sick leave accruals if the disability surpasses the current accumulation. A maximum of 30 days of sick leave (240 hours) may be advanced to a technician subject to the following conditions:

1. Request for advancement of sick leave may be submitted to HRO supported by a medical certificate signed by a licensed medical practitioner certifying to the incapacitation of the technician and the date the technician may be expected to return to work.

2. All of the technician's sick leave must have been used.

3. Any annual leave that would otherwise have been forfeited must have been used; and

4. There must be a reasonable assurance that the technician will return to duty to earn and repay the sick leave which is being advanced. Should the

technician be separated from federal service before the advanced sick leave has been repaid, the technician will be liable for payment of the difference to the agency.

Technicians serving under temporary appointments or under probationary or trial periods, sick leave may be advanced only up to the total amount they would earn during the term of the appointment.

The advanced sick leave credited to a technician's account may never exceed 240 hours at any time. Where it is known that the technician is to be retired or where it is anticipated that he (or she) is to be separated, the total advance may not exceed an amount which can be repaid by sick leave accruals prior to the separation.

Advanced sick leave may be used for family leave purposes.

### **Sick Leave for Purposes Related to Adoption.**

Adoptive parents may request sick leave for the purpose of appointments with adoption agencies, social workers, attorneys and court proceedings for adoption.

Sick leave may be approved by the HRO for other activities related to adoption.

g. Medical Certificates - Medical certificates may be required or waived under the following conditions:

Requests for sick leave for more than three days must be accompanied by SF 71 or OPM Form 71 and a doctor's

statement or medical certificate clearly showing the need for the absence. A technician's statement along with another official's statement may be accepted by the supervisor when the illness is extensive but does not require the services of a doctor, a doctor was not involved due to remoteness of locality, or the technician was unable to secure medical services for some valid reason.

Three Days or Less. A technician's SF 71 or OPM Form 71 (or verbal statement until a form can be submitted) that he (or she) is sick (or has a doctor's appointment) when the absence does not exceed three days may be considered and accepted by the supervisor. However, where there is a doubt regarding misuse of sick leave, the technician will be notified in writing by the supervisor that a medical certificate will be required to support any future grants of sick leave, whether of short duration or not. This written notification will be effective until such time as a review of the case reveals that the requirement is no longer necessary.

h. Disposition of Unused Sick Leave - When a technician separates from federal service disposition of the unused sick leave balance will be as follows:

Upon transfer from one agency to another, a technician's sick leave balance will be transferred to the new agency.

If a technician separates from the Federal Government and then is re-employed within three years, unused sick leave will be re-credited to his (or her) account.

i. Credit for Unused Sick Leave under CSRS - If the technician separates by means of retirement under the Civil Service Retirement System (CSRS), unused sick leave at the time of separation will be annotated in the Official Personnel Folder to be converted to years, months, and days for credit to the technician as service for retirement purposes.

j. Credit for Unused Sick leave under FERS – The National Defense Authorization Act for Fiscal Year 2010 permits unused sick leave to be used as service credit in the computation of benefits under FERS, but not for establishing title to an annuity or in the computation of average salary. Sick leave will be used in the computations in the same manner it is used in CSRS computations. **Effective October 28, 2009, individuals separating with title to an immediate annuity or who die leaving a survivor eligible for a survivor annuity will be entitled to credit for 50 percent of their unused sick leave. Effective for separations and deaths occurring on or after January 1, 2014, one hundred (100) percent of the unused sick leave will be available.**

The provisions apply to unused sick leave to the individual's credit under a formal leave system and for which the employee has not received payment. In the case of individuals who have annuities computed under the provisions of both CSRS and FERS, only sick leave not included in the CSRS part of the calculation will be available under FERS.

Un-liquidated advance sick leave is carried forward from pay period to pay period and from one leave year to

another until liquidated by sick leave accruals. When separation occurs prior to liquidation of the entire advanced sick leave, the remaining balance must be repaid unless the separation is caused by death, disability retirement, or a disability which prevents the technician from continuing in service and which is the basis for the separation. The advanced sick leave must be accounted for by requesting the technician to refund the amount paid for the period covering the leave for which indebted, charge the amount of advanced sick leave against available annual leave, offset the amount of sick leave advanced against earned salary or unapplied savings bond balances, or request a retirement offset (except in disability retirement cases). In case of employment termination by death, unliquidated advance sick leave will be recovered from the estate.

k. Compensatory / Overtime - National Guard technicians are not entitled to overtime pay for overtime work. If overtime work is required, the technician is entitled to compensatory time off equal to the time spent in regular or irregular overtime work, subject to management controls (32 USC 709 (G)(2)).

l. Travel during Non-duty Hours - Travel during non-duty hours normally shall not be required of a technician, but when it is essential that such travel is required, the supervisor shall request compensatory time. The supervisor will record his or her reasons for ordering travel at those hours on NGB Form 46-14 and shall furnish a copy of this form to the technician concerned.

m. Travel Away from Official Duty Station - Time spent in travel status away from the official duty station shall be considered hours of work when the technician is required to:

1. Travel during regular working hours;
2. Drive a vehicle or perform other work while traveling;
3. Travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the technician's regular working hours;
4. Ordered to return to the duty station to report to work at the beginning of the next work day when such an order necessitates travel that does not meet the criteria listed in subparagraphs (1) - (3) above. Such travel is not considered hours of work when the purpose is to perform military service (IDT, ADSW, ADT, etc.) ; or
5. Ordered to perform travel as a result of a required event which could not be scheduled or controlled administratively, including travel to such an event and the return to the official duty station.

n. Home to Work Travel - A technician who travels from home before the regular workday begins and returns home at the end of the workday is engaged in normal "home to work" travel; such travel is not considered hours of work.

A technician who is offered a mode of transportation and who elects to use an alternative mode of transportation by

choice or a technician who travels at a time other than that selected by the agency, shall be credited with the lesser of:

1. The actual travel time which is hours of work; or
2. The estimated travel time which would have been considered hours of work had the technician used the mode of transportation offered by the agency or traveled at the time selected by the agency.

Travel which is performed within the regularly scheduled duty hours on a holiday or on a day designated as the "in lieu of" holiday is not compensatory time earned. Required travel within regularly scheduled duty hours on a holiday will be compensated by premium pay.

The following are examples of situations involving travel which show the number of hours that would be creditable as compensatory time based on the situations given. In these examples the basic work schedule of the technician is Monday through Friday, 8 hours per day, 0730 - 1600 hours. The technician's normal "home to work" travel time is 30 minutes. The designated TDY period is 5 days, Monday - Friday with reporting time of 0730 hrs Monday.

**Example #1:** Technician commences travel on Sunday, leaves home at 1230 hours and reports at 1300 hours at airline terminal, one hour prior to scheduled departure time. Arrival time at TDY location is 1800 hours.

**Decision - Compensatory time authorized would be 5.5 hours from**

**1230 - 1800 hours. Revision "Time in a travel status ends when the employee arrives at the temporary duty worksite or his or her lodging in the temporary duty worksite or his or her lodging in the temporary duty station, wherever the employee arrives first. Time in a travel status resumes when an employee departs from the temporary duty worksite or his or her lodging in the temporary duty station, from whichever the employee departs last".**

**Example #2:** Technician commences return travel to home station after 1630 hours on Friday on a voluntary basis.

**Decision – Compensatory time authorized is the travel time less the normal commuting time from work.**

**Example #3:** Technician commences return travel to home station on Saturday, 1000 hours with travel time at 1500 hours same day.

**Decision - All travel time hours are creditable since travel crossed regular scheduled duty hours on off duty day. Compensatory time is credited for 5 hours.**

**Example #4:** Technician is offered commercial air, but elects to travel by privately owned auto. Technician departs Sunday 0800 hours and arrives on or after 1630 hours, same day.

**Decision - Compensatory time would be credited for 3.5 hours. Compensatory time is based on constructive air travel time when traveling by privately owned auto.**

**Example #5:** Suppose the directed mode of transportation in Example #4 is by government auto.

**Decision - All hours while driving the vehicle would be creditable. Authorized travel for any reason is creditable as hours of work when traveling during hours on non-workdays which correspond to the regular working hours on regular workdays.**

o. Leave Without Pay (LWOP) – A temporary unpaid leave status and absence from duty that, in most cases, is granted at the employee's request. In most instances, granting LWOP is a matter of supervisory discretion, employees, however, has an entitlement to LWOP in the following situations:

1. Family and Medical Leave Act provides covered employees with an entitlement to a total of up to 12 weeks of unpaid leave (LWOP) during any 12-month period for certain family and medical needs.

2. The Uniformed Services Employment and Reemployment Rights Act provides employees with an entitlement to LWOP when employment with an employer is interrupted by a period of service in the uniformed service.

3. Employees may not be in a pay status while receiving workers' compensation payments from the Department of Labor.

p. Granting LWOP - There must be reasonable expectation that the technician will return at the end of the approved period before LWOP is granted. LWOP may be approved in the following circumstances:

1. Increased job ability

2. Protection or improvement of employee's health;

3. To cover a disabled veteran's absence for medical treatment;

4. To cover a technician's absence to perform military duties; Indefinite employees (tenure 3) must be separated and may not use LWOP for periods greater than 30 days and temporary employees may not use LWOP at all.

5. To cover an absence, for limited periods, when the technician is receiving injury compensation under the Federal Technicians Compensation Act (workers compensation).

6. To cover an absence under the provisions of the Family Medical Leave Act or other authorized special program.

7. To participate in school activities directly related to the educational advancement of a son or daughter (or step son/daughter) such as a parent-teacher conference or interviewing for a new school; accompanying son or daughter to routine medical or dental appointment; accompanying an elderly relative to routine medical or dental appointments for other professional services related to the elders' care. Leave without pay for this purpose is limited to a total of 24 hours unpaid leave in any 12 month period.

8. Retention of a desirable employee; or

9. Furtherance of a program of interest to the Government.

q. Duration. LWOP, for other than deployment, will not be authorized for a period in excess of 52 weeks (1 year). Except for personnel on AGR tour, that will not exceed five (5) years. The AGR program is a career program. All personnel accepting an AGR position will be separated-US for a period not to exceed five years. A technician that exceeds five years service on the AGR program will not be permitted to automatically reinstate into the technician program. Title 32 AGRs that opt to reinstate to the technician program prior to the lapse of five years of AGR service will be placed in a position of like grade, unit, and tenure/step.

LWOP will not be granted to indefinite or temporary employees who enter active duty; these employees should submit a resignation or they will be issued a 30 day letter. This form of termination does not affect the employee's rights under USERRA.

r. Approval of LWOP for Less Than 30 Days - First line supervisors may approve periods of less than 30 days of LWOP upon the request of the individual using OPM 71, *Request for Leave or Absence*.

s. Approval of LWOP for More than 30 Days - All requests for LWOP for more than 30 days will be submitted on SF 52, Request for Personnel Action, and forwarded to HRO for determination. Part F (Part 5) of SF 52 will be completed by the requesting technician, indicating the specific reason for LWOP. If the request is to attend a military training course or deployment, a copy of their orders must be attached. If the request is for a medical reason, a

statement from a doctor must be attached.

t. Associated Actions for Absence Uniformed Service - is used when a technician is called to military service by the President of the United States. Additional information is available in the section on Absence Uniformed Service and Return to Duty actions for information regarding restoration rights and impact on benefits.

u. Effects of Non-pay Status. If absence is to perform duty with the uniformed services (title 10) and employee exercises restoration rights, or because of compensable injury, there is no penalty for the non-pay status – the time is credited for length of service purposes just as though the employee had remained in pay and duty status.

Within a leave year, 80 hours of accumulated LWOP affects the accrual of the employee's annual and sick leave. If an employee returns to duty from an aggregate LWOP of more than six months in a calendar year, the employee's Service Comp Date and leave must be recomputed when the employee returns to duty.

Determination	Number of Days/Hours in Non-pay Status Allowed Without Penalty
<b>Initial Appointment Probationary Period</b>	Any non-pay time in excess of 22 workdays extends the probationary period by that number of days.
<b>Leave Earnings</b>	If employee is in non-pay status for an entire pay period, no annual or sick leave is earned for that pay period. If non-pay time occurs during part of one or more of a full-time employee's pay periods, the employee continues to earn

	leave until the non-pay time totals 80 hours. Then leave is reduced by the amount the employee earns during a pay period.
<b>Service Computation Dates</b>	6 months of non-pay time is creditable. The employee's service computation date must be adjusted by the amount of non-pay time in excess of 6 months in one calendar year. (Excess time is added to employee's service computation date.)
<b>Within-grade Increase General Schedule</b>	<b>Waiting Period for Step Non-pay Time Allowed</b>  Step 2-3-4 2 Workweeks (80 Hours) Step 5-6-7 4 Workweeks (160 Hours) Step 8-9-10 6 Workweeks (240 Hours)
<b>Within-grade Increase Federal Wage System</b>	<b>Waiting Period for Step Non-pay Time Allowed</b> Step 2 1 Workweek (40 Hours) Step 3 3 Workweeks (120 Hours) Step 4-5 4 Workweeks (160 Hours)

before being required to report to military duty, then no leave is required.

On the last day of the active duty period, if the technician performs a normal technician workday after release from military control, no leave is required. If after release from military control, he performs a portion of the normal technician workday he will be in an appropriate leave status for the hours not worked. The technician will be expected to report for duty after training or special work period termination no later than the required dates under USERRA. Failure to report for duty within the required time will exhaust any rights under USERRA.

On days between the first and last day of the active service period, the technician will be in an appropriate leave status from the technician position.

v. LWOP Documentation - The supervisor is responsible for submitting an SF-52 "Request for Personnel Action," when an employee is on LWOP for 80- continuous hours or more and is expected to receive compensation benefits.

w. Performance of Active Service - When a technician is ordered to active service for training or special work, the following rules apply:

On the first day of the active duty period, if the technician must report for military duty after he has begun a normal technician workday, he (or she) will be in an appropriate leave status from the technician position for the remainder of the normal technician workday. If the normal technician workday is completed

**13-6. FAMILY AND MEDICAL LEAVE (FMLA)**

Under the Family and Medical Leave Act of 1993 (FMLA), most Federal employees are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

1. the birth of a son or daughter of the employee and the care of such son or daughter;
2. the placement of a son or daughter with the employee for adoption or foster care;
3. the care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or

4. a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her positions.

Under certain conditions, an employee may use the 12 weeks of FMLA leave intermittently. An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and OPM's regulations for using annual and sick leave, for any unpaid leave under the FMLA. (The amount of sick leave that may be used to care for a family member is limited. See "Sick Leave to Care for a Family Member with a Serious Health Condition") FMLA is in addition to other paid time off available to an employee.

a. Job Benefits and Protection

(1) Upon return from FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment."

(2) An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work.

b. Advance Notice and Medical Certification

(1) An employee must provide notice of his or her intent to take family and medical leave not less than 30 days before leave is to begin or, in emergencies, as soon as practicable.

(2) An agency may request medical certification for FMLA leave taken to care for an employee's spouse, son, daughter, or parent who has a serious health condition or for the serious health condition of the employee.

c. Certification Requirements – An employee is required to provide requested medical certification that provides the following information:

(1) The name, address, phone and fax numbers of the health care provider and the provider's type of medical practice;

(2) The approximate date the serious health condition began and its probable duration;

(3) A statement of description of appropriate medical facts regarding the patient's health condition, which must be sufficient enough to support the need for FMLA leave and may include symptoms, diagnosis, hospitalization, doctor visits, whether medication has been prescribed, any referrals for evaluation or treatment, and other regiment of continuing treatment;

(4) Information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required providing care for the family member.

(5) If the need for leave is on an intermittent or reduced schedule basis for planned medical treatment for the family member, information sufficient to establish the medical necessity for intermittent or reduced schedule leave

and an estimate of the dates and duration of such treatments and any periods of recovery;

(6) A statement that the intermittent or reduced schedule leave is medically necessary to care for the family member, which can include assisting in the family member's recovery, and an estimate of the frequency and duration of the required leave.

d. FMLA leave to care for an injured member of the Armed Forces. Family and Medical Leave Act provisions provide military family leave entitlements for a Federal employee who (1) is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness and (2) provides care for such service member.

(1) The serious illness or injury must have been incurred by the covered service member in the line of duty while on active duty in the Armed Forces.

(2) Covered family members are entitled to up to 26 weeks of FMLA leave during a single 12-month period to care for the service member (hereafter referred to as "military family leave").

(3) During the single 12-month period, the employee is entitled to a combined total of 26 weeks of regular FMLA leave and military family leave. For example, if during the single 12-month period an employee wants to take 6 weeks of regular FMLA leave for the birth of a child, as well as military family leave for care of a service member, the 6 weeks of regular FMLA leave would be subtracted from the combined

entitlement of 26 weeks, leaving the employee with 20 weeks of military family leave for care of the service member.

(4) The use of this military family leave in a single 12-month period does not limit the use of regular FMLA leave during any other 12-month period. For example, if an employee uses 26 weeks of military family leave during a single 12-month period but has not used any regular FMLA leave during that period, the employee would be entitled use up to 12 weeks of regular FMLA leave immediately following the single 12-month period.

(5) Similar to regular FMLA leave, military family leave is unpaid leave for which an employee may substitute any accumulated annual or sick leave. The normal leave year limitations on the use of sick leave to care for a family member do not apply.

FMLA leave to care for an injured member of the Armed Forces must complete the U.S. Department of Labor Form WH-385, *Certification for Serious Injury or Illness of Covered Service member - - for Military Family Leave (Family and Medical Leave Act)*, and Form WH-384 *Certification of Qualifying Exigency For Military Family Leave (Family and Medical Leave Act)*. These forms can be found at the TNNG website, HRO, Services link.

### **13-7. LEAVE TRANSFER PROGRAM**

Under the Leave Transfer Program, technicians can donate annual leave to other technicians who are seriously ill or have family members who are seriously ill. Leave recipient applicants must

exhaust all accrued leave to be eligible for the leave transfer program.

a. Leave Recipient – A potential leave recipient’s employing agency must determine that a full-time employee’s absence from duty without available paid leave because of a medical emergency is (or is expected to be) at least 24 hours. An employee may receive donated annual leave when he or she becomes an approved leave recipient.

b. Limitations on Leave Donations – In any leave year, an employee may donate not more than one-half of the amount of annual leave he or she would accrue during a leave year. For employees with “use or lose” annual leave, the employee may donate the lesser of one-half of the annual leave he or she would accrue in a leave year or the number of hours remaining in the leave year for which the employee is scheduled to work and receive pay. Technicians may not transfer sick leave.

c. Forms – Available at the TNGG web page – HRO – Services, or at applicable OPM web pages.

OPM 630 – Application to Become a Leave Recipient – attach doctor’s statement and submit to HRO for approval.

OPM 630a – Request to Donate Annual Leave to Leave Recipient (within agency) submit forms to HRO/Tech Pay for processing.

OPM 630b – Request to Donate Annual Leave to Leave Recipient (outside agency) submit forms to HRO/Tech Pay for processing.

## 13-8. LAW ENFORCEMENT LEAVE

**(22-Day Military Leave)** Paid leave for permanent or indefinite employees to aid in enforcement. Also used for flood relief, firefighting, blizzard relief, or other natural disasters. **Unlike the 120 hours of military leave for active duty, the individual is not authorized to retain both payments for the additional 22 days of military leave. This type of leave pays only the difference between civilian pay and pay received on orders, excluding travel, transportation, and per diem.**

Personnel entitled to law enforcement/contingency leave, must provide a copy of military orders, the military LES(s) (already serving) or an estimate of military entitlements to the Customer Service Representative (CSR) when requesting this leave. If all information is not received, the leave will not be input until all documentation is received. The military LES must cover the same pay periods where the contingency operations/law enforcement leave is used.

**44-Day Military Leave** – Technicians are entitled to the 44 days of military leave under the following conditions:

1. The Active Duty is **without pay** under title 10, section 12301(b) or 12301(d).
2. The Active Duty is for participation in operations outside the United States, its territories and possessions.
3. This leave cannot be used in Guam, Puerto Rico, Virgin Islands, Alaska or Hawaii.

4. The Technician must request this leave.
5. The 44 workdays of military leave are available on a calendar year basis (no carryover).
6. While in this status Technicians receive full Technician pay but NO military pay during the Technician workweek.
7. A Technician may elect to perform military duty **WITH** pay either in military leave status, annual leave status, compensatory time; or military leave status **WITHOUT** military pay utilizing the "44" day leave entitlement.
8. Military orders must identify period of leave.

### **13-9. ADMINISTRATIVE DISMISSAL (CLOSURE OF ACTIVITY IN EMERGENCY)**

a. General - Sometimes a facility, work station, or activity must be closed due to environmental disasters which require the closure of that area. This usually refers to hazardous weather situations, but also includes power failures, earthquakes, floods or other emergencies. The Adjutant General reserves the right to detail technicians to other locations, where applicable, instead of opting for administrative dismissal.

b. Essential Operations - Certain operations are so essential that they cannot be interrupted regardless of weather conditions. Firefighting personnel, medical staff and snow removal crews are obvious examples.

Technicians who are expected to report for and remain at work even when others are excused are called "essential" personnel. These individuals will be officially notified in writing of their requirement for continued performance with a copy of the letter to HRO.

c. Authority for Closing - The closing of a National Guard activity for brief periods (normally no longer than three days) is at the administrative discretion of the Adjutant General of Tennessee. When a general announcement is made that closes state buildings within a county or the state, the Adjutant General may determine that National Guard activities in that area will be closed. Closing state facilities does NOT close NG facilities unless specifically noted.

#### d. Types of Emergencies

(1) Environmental Disturbances - Installations or activities may be closed due to inclement weather conditions, earthquake, snowstorm, fire, flood, etc. The senior technician will coordinate with the next higher headquarters prior to closing. The MSC/MACOM will notify the HRO of the closing telephonically and in writing. It is very important that supervisors understand how to handle their responsibilities for administering the leave program during hazardous weather situations and that they notify their employees. The first determination to be made is whether the condition arose during or outside of duty hours. When the problem arises during work hours, and results in early dismissal, whether a technician is charged leave and how much depends on the individual technician's status at the time of the announcement.

(2) At work: If the technician is at work and is excused, there is no charge to leave for the remaining hours of the work shift (administrative leave).

(3) At work, departed prior to dismissal: If the technician was on duty and departed after official word was received, but prior to the time set for dismissal, leave is charged only from the time the technician departed until the time set for dismissal. Technicians should not be permitted to depart before the time set for dismissal without a charge to leave.

(4) Absent on approved leave during closure: If the technician was absent on approved leave for the entire work shift, the entire absence is charged to the appropriate previously scheduled leave. If the technician was at work and departed before official word was received for dismissal the approved leave will be charged for the remainder of the work shift (e.g., annual, LWOP, as applicable).

(5) Closure when hazardous conditions arise outside of normal duty hours: When hazardous conditions arise outside of normal duty hours resulting in the closure of federal activities, the ground rules are quite different. When Guard installations are closed, they are on-work days (for leave purposes). If an employee is on annual or sick leave (pay status), the technician will be authorized administrative leave with resubmission of SF 71. However, for all personnel on military leave or non-pay status (e. g., LWOP), the status is continued without change.

(6) Installation not closed, but hazardous conditions exist due to weather

Individuals who report to work late will be granted administrative leave for time spent en-route.

Individuals who do not report will be charged with annual leave or other applicable status.

In the cases of interruption of building services, renovation of facilities, etc., employees who are present for duty at the time of release will be granted administrative absence. Changes in status from leave or LWOP are not authorized.

### **13-10. USE OF LEAVE DURING ADMINISTRATIVE CLOSURES.**

Technicians may, at their discretion, use any form of appropriate leave (Annual, Comp, or LWOP) when they:

Are prevented from arriving to work on time.

Need to leave work early to avoid hazardous conditions.

Could not return home if they reported to work.

Supervisors will work closely with their technicians to allow them to make up time they missed due to events beyond their control.

a. Reporting Requirements - The Adjutant General must provide approval prior to a Base Commander, Position Management Officer or senior technician closing an installation for all

or part of a day due to weather conditions.

**Federal Holidays**

Federal law (5 U.S.C. 6103) establishes the following public holidays for Federal employees. Please note that most Federal employees work on a Monday through Friday schedule. For these employees, when a holiday falls on a non-workday -- Saturday or Sunday -- the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

<b>New Year's Day</b>
<b>Birthday of Martin Luther King, Jr.</b>
<b>Washington's Birthday</b>
<b>Memorial Day</b>
<b>Independence Day</b>
<b>Labor Day</b>
<b>Columbus Day</b>
<b>Veterans Day</b>
<b>Thanksgiving Day</b>
<b>Christmas Day</b>

**13-11. DUAL COMPENSATION.**

Dual compensation occurs when a technician is on military orders and does not take appropriate leave from their technician position. When technicians are on military duty the technician must submit OPM 71, *Request for Leave or Approved Absence*, indicating the type of leave they are taking (military leave, annual leave, time off award, compensatory time off for travel, or sick leave, if appropriate) in order to retain both civilian and military pay. If a

technician does not have any leave available, they must request leave without pay.

**CHAPTER 14  
TARDINESS AND OTHER  
ATTENDANCE ISSUES**

**14-1. ABSENCE WITHOUT LEAVE (AWOL)**

Absence without leave (AWOL) is defined as an absence from duty (i.e., tardiness or leaving the work area) which has not been authorized or approved by the proper official in accordance with this regulation. Pay is denied for the entire period of absence. When it is determined that the absence is excusable the charge of AWOL may be changed. The absence may be charged to any appropriate form of leave. The supervisor must determine whether or not the circumstances warrant a change to approved leave. When a technician is charged with AWOL the agency may not require him to perform work for any part of the period for which pay will not be received.

a. Recording AWOL - Technician AWOL is recorded on NGB Form 46 or AF Form 1278. No other pay action is required. Pay is withheld for the entire period of such absence. The minimum charge of AWOL is one half hour to be charged as one hour and additional charges of AWOL will be in multiples of one hour. If it is later determined that the absence without prior authorization was excusable or that the technician was ill, the charge to absence without leave will be changed to annual or sick leave.

AWOL is a status and not normally a disciplinary measure, but may become a disciplinary measure. Incidents of unauthorized absence should be dealt with by counseling and may be made a basis for disciplinary action in accordance with TPR 752.

## 14.2 LEAVE RESTRICTIONS

### a. Sick leave Restrictions

Employees may be placed under a requirement to produce written administratively acceptable evidence in support of all sick leave requests. Documents placing employees under such requirements are referred to as "sick leave restriction" letters. Employees on sick leave restrictions must provide documentation certifying illness within 15 calendar days after the date the agency requests it. Some exceptions are permitted if certification cannot be obtained with the time limit despite the employee's best efforts, but the limit may not be extended beyond 30 calendar days after the agency's request.

### b. Leave Without Pay Restrictions

Employees may be entitled to LWOP for FMLA leave, extended military leave, or treatment as disabled veteran, or as a reasonable accommodation of a disability. Supervisors should keep in mind that a request by an employee for LWOP for any reason not listed above is not a right and the supervisor must approve / disapprove the request in the same manner as a request for Annual Leave. Leave without pay may be granted only when the supervisor finds doing so will be in its best interests. If the supervisor denies a request for leave without pay, the employee's absence will be unauthorized and the

supervisor should code the employee AWOL.

## 14-3. WORKERS COMPENSATION.

National Guard technicians employed under the provisions of 32 USC 709 are eligible for benefits under the Federal Employees Compensation Act (FECA), managed by the Office of Workers' Compensation Program (OWCP) under the Department of Labor (DOL) when they suffer a job-related injury or incur an occupational disease or illness.

a. Responsibility of Technicians - Technicians have the following responsibilities for administration of the Office of Worker's Compensation Program (OWCP).

- (1) Observe all safety regulations, and require wearing of safety equipment.
  - (a) Protective eye goggles.
  - (b) Ear plugs.
  - (c) Respirators or face masks.
  - (d) Steel-toed shoes.
- (2) Report safety, health, and fire hazards.
- (3) Keep supervisor informed of emergency information.
- (4) Report all injuries, no matter how minor, to supervisor or acting supervisor as soon as possible after the event.
- (5) Report any status change while receiving continuation of pay (COP) or OWCP compensation or while working on light duty.

### b. Responsibility of Supervisors

(1) Prevent injuries and occupational illnesses.

(2) Enforce safety regulations and wearing of protective equipment. Do not allow technicians to report to work without equipment.

(3) Report and assist technicians in reporting injuries.

(4) If a traumatic injury occurs:

(a) Refer for treatment promptly. To include a signed by supervisor CA-16. The level of medical emergency supersedes paperwork.

(b) Report injury to HRO and Safety.

(c) Complete the proper forms and forward in a timely manner to the ICPA in to HRO. This must be accomplished within ten calendar days. Supervisors must be cognizant of federal laws providing penalties for failure to efficiently forward reports of injuries. Refer to OWCP package furnished by HRO for requirements. Digital versions of the OWCP supervisor training and forms are available on the Human Resources Office web page off of the TN home page. The CA-16 must be requested from the ICPA as it is a controlled form.

(d) Recommend to ICPA that COP be withheld when the technician has failed to submit supporting medical documentation within 10 calendar days following absence from work due to OWCP traumatic injury. Withholding COP is decided by OWCP not the agency.

(e) Assist with forwarding all documentation pertaining to the claim to the ICPA timely. This includes medical documentation and bills.

(f) Provide clear and factual information at the time of filing the CA-1 if he/she contests the claim due to misconduct or other questionable activities on the part of the employee.

#### **CHAPTER 15. INCENTIVE AWARDS Ref 5 USC Chapter 45; 5 CFR Part 451 and NGB TPR 451**

**Purpose** - The Incentive Awards Program is designed to motivate members of the Tennessee National Guard to increase productivity and creativity, and achieve greater efficiency, economy, and improvement of operations. It provides a method for rewarding those whose job performance and ideas are substantially above normal job requirements and performance standards. The Incentive Awards Program will be endorsed and vigorously supported by all levels of management, and administered entirely on the basis of merit. It is critical that these awards be managed in a manner that is cost-effective for the Tennessee National Guard but still successfully enhance the Performance Management Program and exceptional employee performance.

**Program Committee** - In order to provide continuity, members of the Incentive Awards Committee will be appointed by the Human Resources Officer for a three year term. The awards committee will meet three times throughout the year, March, June, and September.

The committee will meet at the call of the Board President who will be appointed by the HRO. The Board President will vote only when a voting member is not available for the awards board. The scope and level of review of the Committee may be established as necessary to effectively manage the Incentive Awards Program.

**There are two primary types of awards – monetary and non-monetary.**

**Monetary Awards** - Invention Award, On-The-Spot Award, Quality Step Increase (QSI), Sustained Superior Performance (SSP), Special Act or Service Award and Suggestion Award. **Monetary awards will be authorized depending upon funds availability and budget constraints.**

**Non-Monetary Awards** – Length of Service Awards and Time-Off Awards

**15-1. SUSTAINED SUPERIOR PERFORMANCE (SSP)**

Monetary award in recognition of a WG level technician whose significant superior performance of duties and responsibilities clearly exceed the technician's assigned position requirements.

a. Eligibility - To be eligible for a sustained superior performance award, the technician's most recent performance appraisal must reflect a rating of 4 (Excellent) or higher. The sustained superior performance on which the award is based must have been maintained for at least 6 months and in the same job and grade level, unless the technician was demoted during the period for reasons other than

cause. Award eligibility will not be effected by position changes occurring after the period covered by the recommendation. However, an SSP is not appropriate if a technician is about to receive a promotion or has received a promotion in the past 6 months. If the technician's performance appraisal was completed more than 60 days after the rating period, a new performance appraisal must be completed before being considered for an SSP. There will be no exceptions to this policy.

b. Procedures and Approval Authority - The technician's immediate supervisor is responsible for initiating the nomination, using NGB Form 32. The recommended amount or percentage of the award will be indicated on NGB Form 32. If the supervisor does not provide a recommendation on NGB Form 32, the Incentive Awards Committee will determine the amount of award. In all cases, the Incentive Awards Committee will make a final determination of that amount or percentage of amount. A nomination package will include NGB Form 32 and a current appraisal, a narrative justification of not more than one page with significant facts and information supporting justification of the award. After review by the Incentive Awards Committee, the Committee will, by a majority vote, recommend approval or disapproval to The Adjutant General or designated representative. If approved, The Adjutant General or designated representative will sign and forward the NGB Form 32 to the HRO Program Manager for final processing. If disapproved, it will be returned through supervisory channels to the nominating official with an appropriate explanation. When a nomination is disapproved, the technician must begin a new waiting

period before consideration for a new incentive recommendation. The effective date of a new waiting period begins following the period the previous recommendation was based upon.

**If funds are deemed not available, HRO will notify PMO or Base Commander and the awards packet will be held until the next board.**

c. Amount of Award - Payment of awards for SSPs will not exceed 10% of annual base salary. The Committee will apply the following guidelines in determining the amount of awards:

1. Performance rating of 4 (Excellent) may be awarded up to 5% of annual base salary.
2. Performance rating of 5 (Outstanding) may be awarded up to 10% of annual base salary.

If the Committee determines that an award above 10% is warranted, these cases will be forwarded to NGB-HR on NGB Form 32 for review and approval. The case must reflect that the technician has performed his/her duties in a highly outstanding manner and has contributed significant tangible and/or intangible contributions to the organization and Government. The nomination package should include copies of the technician's performance standards, performance appraisal, (HRR Forms 430 and 430-1), and any other awards the technician may have received. The NGB Form 32 will also include a narrative justification describing how the technician's outstanding performance of duties and special achievements are deserving of an award in excess of 10%. When the recommendation

has been approved, the Program Manager will process the completed NGB Form 32 for payment. The technician then receives the cash award and a Commendation Certificate.

## **15-2. QUALITY STEP INCREASE (QSI).**

A QSI is a faster than normal within grade increase used to reward employees at any GS grade level who display high-quality performance. Quality Step Increase (QSI) should be used only by management officials as recognition of service that significantly exceeds high quality job performance by General Schedule technicians. A QSI is not to be repeated on a purely automatic basis, but should clearly show that the technician's performance is deserving of such recognition. If a technician has received a QSI, the justification for QSIs in successive years in the same grade and position must provide specific evidence of increased quality of performance over and beyond that on which the previous increase was warranted.

a. Eligibility - A period of high quality performance for this award is 12 months in the same job and grade level. To be eligible for a QSI, the technician's overall performance for the previous 12 months, as reflected on the most recent performance appraisal, must have been at the outstanding level with a performance rating of five (5). A QSI does not affect the timing of an employee's next regular WGI unless the QSI puts the employee in step 4 or step 7 of the grade, in which case the waiting period is extended by an additional 52 weeks. The period of eligibility is three years without a QSI or

SSP.

b. Procedures - The technician's immediate supervisor is responsible for initiating the nomination, using NGB Form 32. A technician's current performance appraisal will be used as justification for this award, provided it is not more than 60 days old. If the technician's performance appraisal is more than 60 days old, a new performance appraisal must be completed before being nominated for a QSI. A nomination package will include, in addition to NGB Form 32 and a current appraisal, a copy of employees Position Description, and a narrative justification of not more than one page with significant facts and information supporting justification of the award of a QSI. The immediate supervisor must also certify that, based on past experience, it is believed the technician's high quality of performance is likely to continue. The NGB Form 32 should be submitted to the HRO Program Manager. The Committee will review the nomination. If the Committee determines that a QSI is not justified based on the documentation submitted, it may recommend an SSP award in lieu of a QSI. The Committee is not authorized to recommend changing an SSP to a QSI.

A QSI is not appropriate when a technician is about to receive a promotion or has received a promotion in the past 6 months.

A QSI may not be granted when it is based in whole or in part upon a specific act or any period of service that served as the basis for a previous cash award or within 12 months of receiving a cash award.

Periods of extended absence (i.e., in excess of 30 consecutive days) to include extended military active duty, will exclude individuals from eligibility for a QSI during the rating period. This does not apply to technician performing technician TDY.

c. Approval Authority - The Incentive Awards Program Committee will forward its recommendation to The Adjutant General, who will review the nomination and grant final approval/disapproval. If disapproved, the nomination will be returned to the originator, through channels, with an appropriate explanation. When a nomination for a QSI is disapproved, a new period of consideration must be established (12 months from the previous period of service). Approved QSIs are effective at the beginning of the next regular pay period following the date of final approval.

### **15-3. SPECIAL ACT OR SERVICE AWARD.**

A special act or service award is a monetary award in recognition of an act of heroism, or similar one-time special act, service, or scientific achievement that contributes to the efficiency, economy, or other improvement of Government operations or is otherwise in the public interest. The act, service, or scientific achievement may or may not involve measurable monetary benefits and may include an individual or group of individuals. Only one award may be received per act, service, or scientific achievement.

a. Award Processing - A supervisor (technician/military) having a direct knowledge of the special act or service should initiate the nomination

immediately on an NGB Form 32 and forward to the Incentive Awards Program Manager. The Program Manager will then forward nominations to the Incentive Awards Committee for appropriate action. After review by the Incentive Awards Committee, the committee will recommend approval or disapproval to The Adjutant General. All nominations will be submitted within 30 calendar days after the special act or service.

#### **15-4. TIME OFF AWARDS.**

Time-Off Awards are excused absences granted to employees (technicians) without charge to leave or loss of pay. Time Off Awards are granted in recognition of exceptional or outstanding performance and Level 4 or 5 rating of record for the annual performance appraisal, a special act, exceptional service, or other personal effort that contributes to the quality, efficiency, or economy of government operations. The act or service may or may not be within the technician's normal job requirements. The award is intended to recognize superior or exceptional service over and above normal duties as specified in the technician's job standards. **Time-Off Awards can be used in lieu of SSPs or QSIs.** Justification for a Time-Off Awards and other cash awards should not be inclusive of each other. Each award should be for a separate act or service and should not overlap. Time-Off Awards will not be used in conjunction with cash awards and are not an annual entitlement. In addition, Time Off Awards cannot be used for military duty.

a. Procedures and Approval Authority - A SF-52, Request for

Personnel Action must be submitted for a Time-Off Award. The nominee's supervisor must initiate or endorse the recommendation. Justification for a time-off award should be in a brief narrative format on page 2 of the SF-52. The narrative must clearly explain the act or service accomplished by the technician.

Nominations initiated by the supervisor will be forwarded through the chain of command to the next level of supervision / Position Manager for approval or disapproval. Time-Off Awards cannot be processed for employees on LWOP.

Awards of up to 40 hours may be granted for each separate act or service to be recognized. No more than 80 hours may be granted to any individual within a calendar year. The technician must use the time awarded within 12 months from the date of the award. The technician cannot take the time off until the award has been entered into the pay system and is documented on SF 50, Personnel Action.

b. Eligibility - All technicians, to include temporary technicians, are eligible for a Time Off Award. It is our intent, however, that temporary technicians are hired for emergency workload and will be given Time-Off Award only in cases of exceptional performance. Time-Off Award for temporary employees will be reviewed and/or approved by HRO on a case-by-case basis.

#### **15-5. ON-THE-SPOT CASH AWARDS.**

On-the-Spot Cash Awards are special act or service awards designed to quickly recognize one time or short-term effort by Tennessee National Guard Technicians that results in service of exceptionally high quality or quantity. The award is to be used for immediate recognition of significant superior performance but not sufficient to warrant a higher incentive award. The On-the-Spot Cash Award is particularly appropriate for rewarding technician efforts that might otherwise go unrecognized. Examples include:

1. Performance of exceptionally high quality work under tight deadlines.
2. Performance of added or emergency assignments in addition to regular duties.
3. Exhibiting exceptional service or responsiveness in dealings with customers.
4. Demonstrating extraordinary initiative or creativity in handling a critical need or issue.

a. Procedures and Amounts of Awards - On-the-Spot Cash Awards may range from \$25.00 to \$300.00 for a single award. A technician may receive no more than \$2,000.00 in a calendar year. These amounts are before applicable taxes. On-the-Spot Cash Award nominations will include a narrative justification accompanied by a completed NGB Form 32. Supervisors must initiate the recommendation for the award and forward the nomination through the Position Management Officer or Base Commander to the Human Resource Office. Human Resource Office will present this award to The Incentive Awards Program

Committee. The Committee will forward its recommendation to The Adjutant General, who will review the nomination and grant final approval/disapproval. If disapproved, the nomination will be returned to the originator, through channels, with an appropriate explanation. The selecting official or designated representative will, as soon as possible, present the individual with a memorandum indicating the amount of the award and the reason for the recognition. Payment of the award will be included in the individual's normal pay normally within 30 days after the award is approved by The Adjutant General.

b. Eligibility - All Tennessee National Guard Technicians, including temporary technicians, are eligible for On-the-Spot Performance Awards. This type of award should be used to reward lower GS and WG, non-supervisory personnel.

#### **15-6. SUGGESTION AWARDS FOR AIR AND ARMY.**

a. Procedures – AIR - This instruction prescribes policies and procedures for administering and managing the ANG Suggestion Program. It also gives instructions on the submission and eligibility of suggestions, explains evaluation and disposition procedures, and provides guidance for the payment of awards. Air National Guard Instruction 38-401 will be used for all requirements for the Air National Guard Suggestion Program.

Unit Commanders budget for and ensure that the unit promptly pays suggestion awards, designate a Suggestion Program Manager (SPM), and establish procedures to verify that

their unit implements suggestions.

(1). Eligibility - Any individual, team, or group within the ANG may submit a suggestion. An idea does not become a suggestion until a person submits it on an AF Form 1000, Idea Application and it meets the following criteria:

A suggestion must outline a specific area for improvement, state a workable solution, and incorporate expected benefits with documentation of validated savings.

Suggesters must sign the AF Form 1000, agreeing that the US Government may use their suggestions, once awarded, without incurring further claims by suggesters, their heirs, or any other persons. A copy of the AF Form 1000 must be forwarded to HRO as backing documentation to indicate what the suggestion was that is being awarded. New suggestions come in three different types, Stand-Alone, Confirmatory, and After-the-Fact. All Suggestions are processed through the State HRO SPM. All issues must be resolved before submitting a suggestion.

(2). Evaluation Procedures - A suggestion that needs MAJCOM, Air Force, or other federal agency approval requires a unit level evaluation performed by the QA. The evaluation analysis will state how it affects local procedures and identify the next-level evaluator. Evaluators complete an AF Form 1000-1 for each evaluation. Both the evaluator and responsible official must sign the form. To approve or disapprove a suggestion, the responsible official must have the authority to implement the suggestion.

**Upon approval of Suggestion Awards, approval notification will be forwarded to the Air Base Comptroller who will send an email stating, “funds available” or “do NOT process, funds not available”. Upon approval of funds availability from the Comptroller, HRO will process the Suggestion Award. If funds are not available, the Suggestion packet will be retained until the next board. The NGB Point of Contact will be notified if funds are not available.**

b. Procedures - ARMY - The Army Suggestion Program (ASP) provides cash award incentives up to \$25,000 for adopted ideas that save Government resources. To be accepted in the ASP, a suggestion must satisfy the following conditions:

1. Benefit the Army or other U.S. Government activity
2. Present a problem or situation and propose a solution with sufficient rationale to support the requested new procedure.
3. If the suggestion has been put into effect prior to submission, it cannot have been in effect over 90 days.

Army Suggestion awards will be processed through AKO on the U.S. Army Suggestion Program webpage.

## **INVENTIONS**

**Processing Inventions** - Inventions are a new and useful process, machine, or other item that may be patentable under the patent laws of the United States. If

adopted, inventions submitted as suggestions, or in connection with scientific achievements, are eligible for cash awards. By law, if an invention is published or used publicly, or an article embodying it is sold or is placed on sale more than 1 year before filing of a patent application in the U.S. Patent and Trademark Office, a U.S. Letters Patent may not be granted. Therefore, to protect the rights of the Government and the inventor, any suggestion or other contribution that appears to be an invention must be promptly submitted to NGB-HR for review and processing. NGB-HR will forward the suggestion, or scientific achievement that incorporates the invention, to the Patents Division of the Departments of the Army or the Air Force Judge Advocate General.

The Judge Advocate General's office will determine whether the contribution is an invention, what the inventor's rights are, and whether the invention will be processed for patenting. After processing, the invention will be returned to NGB-HR with the following considerations:

1. An award of \$100.00 in addition to any award that might have been paid for the suggestion or scientific achievement to the inventor and, if applicable, to each joint inventor following a determination that the invention was made under circumstances that give the Government at least a license under the invention pursuant to the provisions of EO 10096, and the inventor voluntarily consents to the granting of at least a nonexclusive irrevocable and royalty-free license in the invention to the Government with power to grant licenses for all Governmental purposes.

2. An award of \$300.00 (to be shared equally when the invention is filed by joint inventors) upon the issuance of a patent. Upon notification from the appropriate Judge Advocate General's Office that an invention has been approved for implementation, NGB-HR will notify the Program Manager to arrange for payment of a cash award based on benefits to the Government. When an invention award is paid, the inventor must complete the required forms acknowledging the payment of the award. When the inventor accepts an award based upon the approved invention, the acceptance will constitute waiver of any claim against the Government. Cash awards for inventions will be processed using the automated personnel data and pay systems.

#### **15-7. LENGTH-OF-SERVICE RECOGNITION.**

Length-of-service emblems and certificates will be awarded to all National Guard technicians as recognition for long and faithful Federal service with the National Guard and other Government agencies.

- a. Eligibility - Technicians become eligible for recognition when they complete ten years of creditable Federal service. Creditable service includes all service used in establishing the technician's service computation date. This award may be presented in five year increments up to and including 50 years. The HRO determines technician eligibility and prepares certificates for presentation. This award should be presented as soon as the technician attains eligibility. However, the presentation may be set within a reasonable period after the date of

eligibility in order to arrange presentation ceremonies. Benefits to technician morale from such recognition depend to a great degree upon the pride and respect with which the awards are presented, received, and worn. In order to foster these ideals, care should be taken to ensure that maximum publicity is given to presentation ceremonies. Selecting officials, supervisors, or commanders should present the emblems and certificates.

### **15-8. PAYMENT, PROGRAM PROMOTION, REPORTS, AND RECORDS .**

All cash awards will be financed from Federal funds locally available within the State. All cash awards will reflect the Comptroller's approval that funds are available prior to HRO processing the award.

a. All monetary awards will be paid at the earliest practicable date after the adoption of a suggestion or the approval of any other cash award. The movement of personnel, after recommendation of an award that requires higher headquarters approval, does not change the financial responsibility of the recommending organization for payment of the full award.

(1). Cash awards are considered obligations that must be met, except where the granting of an award would cause an over-obligation on the State.

(2). Cash awards are treated as additional income; therefore, taxes will be withheld in accordance with established regulations.

Regardless of the reason for separation from employment, an unpaid cash award will be treated as an amount due and will be processed in accordance with established regulations.

## **CHAPTER 16 EMPLOYEE BENEFITS**

### **16-1. UNIFORMED SERVICE EMPLOYMENT AND REEMPLOYMENT RIGHTS ADMINISTRATION (USERRA)**

USERRA stands for the Uniformed Services Employment and Reemployment Rights Act of 1994. The Act prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services, and protects the right of veterans, reservists, National Guard members, and certain other members of the uniformed service to reclaim their civilian employment after being absent due to military service or training. USERRA reemployment rights apply to voluntary military service as well as to personnel being mobilized with their units.

Civilian employees returning from uniformed service are eligible for reemployment if:

1. they gave written or verbal notice prior to leaving for military training or service (except when giving notice was precluded by military necessity);
2. their cumulative service did not exceed 5 years;

3. they were released from service under conditions other than dishonorable; and

4. they report back to their civilian job in a timely manner, or submit a timely application for reemployment.

## **16-2. TEMPORARY (Tenure 0) AND INDEFINITE (Tenure 3) EMPLOYEES.**

Temporary (tenure 0) and term employees (tenure 3) will be separated from their technician position and are entitled to finish out any unexpired portion of his or her appointment upon reemployment. The military activation period does not extend the civilian appointment.

a. Processing Procedures: The Human Resources Office will counsel all employees on the following:

(1) Notify employees concerning their benefit and eligibility requirements

(2) Give eligible employees the opportunity to elect to continue or terminate their FEHB enrollment and submit the required documents

(3) Review military orders provided and employee records to determine eligibility for benefits

(4) Types of Leave that may be used while in military status

Supervisors are responsible for ensuring that a SF-52 is submitted to the HRO with a copy of the employee's military orders, placing the employee on LWOP. The effective date of the LWOP will be the same effective start date on the orders. Employees must submit an

"Employee Election Checklist" indicating their benefit elections. The Employee Election Checklist will be filed in the employee's Official Personnel Folder (OPF) as an official record of the employee's elections.

An employee may elect to use Military Leave, Time off Award, Annual Leave, or Comp time for travel while in a LWOP status. Employees should be reminded that accrued compensatory time and time-off awards will be forfeited after 26 pay-periods and should be scheduled first. A leave slip must be submitted by the employee requesting leave to the supervisor.

Compensatory time for work may be used, however, a LES must be submitted with the SF-52 indicating the hours of Comp Time for Work earned and a statement must be put on the back of the SF-52 requesting to use comp time for work prior to being placed on Absent Uniformed Service (AUS). Compensatory time for work may not be used intermittently.

## **16-3. CONTINGENCY OPERATION BENEFITS.**

a. Federal Employees Health Benefits (FEHB): Employees who are placed in a Leave without Pay (LWOP) status to perform military service for contingency operations may continue to be covered by FEHB for up to 24 months, unless the employee elects in writing to have the enrollment terminated. If the employee chooses to continue the FEHB, and the employee has been called to active duty under title 10, in support of a contingency operation, the agency will pay the employee share of the premium. Employees, who elect to terminate their

FEHB, must upon their Return to Duty (RTD), specify the date they want to have their FEHB reinstated. Employees may elect to be covered under Transitional Tricare and have their FEHB reinstated toward the end of their Transitional Tricare coverage or have their FEHB reinstated upon their RTD.

b. Federal Employees' Group Life Insurance (FEGLI): Coverage for the employee continues for up to 12 months while the employee is on a military leave of absence. The employee may elect to continue FEGLI beyond the end of the 12 months in a non-pay status for an additional 12 months of coverage by arranging to pay both employee and agency contributions.

c. Retirement – Creditable Service: Employees in LWOP status continue coverage under the retirement provisions. The period of military service is creditable service subject to the normal rules for crediting military service. However, the military service is not creditable under the 6-month leave without pay rule. In order to receive credit for military service while on LWOP from the civilian position, the employee must follow the prescribed CSRS and FERS military deposit rules.

d. Service Deposits - In any case where military service interrupts creditable civilian service, the deposit payable may not exceed the amount that would have been deducted and withheld from basic pay during civilian service if the employee had not performed the period of military service. In computing the amount of the military deposit, the agency must make two calculations (1) 3% or 7% of the military base pay, for FERS and CSRS

respectively, and (2) an alternative calculation of what the CSRS or FERS employee contributions would have been for the civilian service had the individual not entered into the military. The employee's deposit is the lesser of the two. Employees should carefully review military deposit estimates provided by the personnel office. Interest begins to accrue yearly subsequent to a 2 year interest-free grace period. Employee can eliminate the additional interest cost of such a deposit by making the deposit during the interest free grace period.

d. Death Benefits – Should the military member/employee die while in LWOP status performing military services that qualifies under USERRA, death benefits will be paid as if the employee was still in the civilian position. If a federal civilian employee dies of injuries incurred in connection with his or her service with an Armed Force in a contingency operation, the eligible survivors may receive a death gratuity payment of \$100,000. The gratuity is a one-time payment disbursed to the highest ranked survivor or survivors of the employee according to the order of precedence (See HRO/Benefit Specialist for the order or precedence).

e. Disability – If the employee becomes disabled for their civilian position during their LWOP status and if they meet the service requirement for a disability retirement (5 years for CSRS, 18 months for FERS), the employee will become entitled to disability benefits under the retirement law.

f. Federal Long Term Care – Federal Long Term Care coverage may

continue as long as employees continue to pay their premiums, there is not any Government contribution toward premiums. Employees that have payroll deductions of premiums, must contact Federal Long Term Care at 1-800-LTC-FEDS (1-800-582-3337), and explain that your servicing payroll location is changing.

g. Federal Employee Dental and Vision Insurance Programs – If you are called to active duty in support of a contingency operation, employees will need to contact BENEFEDS at 1-877-888-3337 to temporarily suspend benefits or to make arrangements for payment of premiums while in a leave without pay status.

h. Return to Duty (RTD) - Under USERRA, an employee, who enters active military duty (voluntarily or involuntarily) from any position generally has full job protection for a period of five years (cumulative active duty time requiring Absence-Uniformed Service status), provided that the employee applies for reemployment with the following time limits:

i. USERRA Restoration - Employees who served less than 91 days must be restored to the position for which qualified that they would have attained had their employment not been interrupted. Employees who serve more than 90 days have essentially the same rights, except that the agency has the option of placing an employee in a position, for which they qualify, that is of like seniority, status, and pay. Upon restoration, an employee is entitled to be treated as though they had never left for purposes of rights and benefits based upon the length of service.

An employee performing active military duty is protected from reduction in force (RIF) and may not be discharged from employment for a period of 1 year following separation (6 months in the case of a Guard Member called to active duty under 10 U.S.C. 12304 for more than 30 days, but less than 181 days, or ordered to an initial period of active duty for training of not less than 12 consecutive weeks), except for poor performance, conduct or for suitability reasons.

Upon return from active duty, employees are responsible for notifying their manager/supervisor to initiate an SF-52, to Return to Duty and employees must complete the Return to Duty Requirements portion of the Employee Election Checklist.

j. Reservist Differential Pay – Reservist Differential (RD) is an entitlement to eligible Federal civilian employees who are involuntarily ordered to active duty under specific provisions of law. The RD is based on a comparison of military pay (basic pay, housing allowances, commuted rations/BAS, but not annual uniform allowances, travel payments etc.). When the civilian pay calculation exceeds military pay and any civilian pay received while Absent –US, the difference is due the employee. The differential payment will be equal to the amount by which an employee's projected civilian basic pay for a qualifying period exceeds the employee's actual military pay and allowance allocable to that pay period as defined in Appendix D of the Office of Personnel Management's (OPM) Agency Implementation Guidance, dated January 8, 2010. This differential

amount will be reduced if an employee uses paid civilian leave.

The employee is responsible for providing a copy of their activation order at least 4 weeks prior to the scheduled date of deployment. It is recommended that the orders accompany the SF-52 placing the employee on Absent-US (formerly LWOP-US).

k. Return to Duty Dates – A technician may return to their federal technician job after their REFRAD date from their mobilization order or while on Terminal Leave. Employees may not return to duty while they are on Post Deployment Mobilization Respite Absence (PDMRA). A soldier will use PDRMA days first and then may elect to return to duty while on terminal leave.

SERVICE	APPLY FOR RESTORATION
1 – 30 Days	Must report to his or her employer by the beginning of the first regularly scheduled work day that would fall 8 hours after the end of the calendar day.
31 – 180 Days	An application for reemployment must be submitted no later than 14 days after completion of a person's service.
181 – Days or more	An application for reemployment must be submitted no later than 90 days after completion of a person's military service.

l. Terminal Leave - A technician may return to their federal technician job while they are on terminal leave from their mobilization order. They receive their active duty pay while on leave and their technician pay (USC 5, (5534a).

m. Transitional TRICARE Benefits – Employees may be eligible for transitional TRICARE benefits coverage

for a period of 180 days after release from active duty. Employees may waive reinstatement of their FEHB coverage to use the transitional TRICARE coverage. Employees MUST sign the “Waiver of FEHB Reinstatement” provided by the HRO. Prior to the end of the 180 days coverage by TRICARE, employees may reinstate their FEHB, it is recommended that at the time the waiver is signed that the employee also sign the paperwork to have their FEHB reinstated based upon the date that their TRICARE coverage ends. This will prevent a lapse of coverage.

n. Presidential Leave – Employees are entitled to 5 days excused absence after they return from active military service in connection with the continuing Global War on Terrorism (GWOT) – such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom, as well as any other current or future military operations deemed to be part of the GWOT.

An employee must be on active duty in support of the GWOT for at least 42 consecutive days to qualify for 5 days of excused absence. An employee does not qualify for excused absence for active duty of less than 42 days or for an accumulation of 42 or more days of active duty if at least one of the activations does not meet the 42 consecutive days standard.

Upon receiving notification from an employee of his or her intent to return to civilian duty on a specific date, an agency must grant the employee 5 days of excused absence immediately prior to

the employee's actual resumption of his or her duties.

An employee may be granted 5 days of excused absence more than once if he or she returns from at least 42 consecutive days of active military service in connection with the continuing Global War on Terrorism. An agency may NOT grant more than 5 days of excused absence within a 12 month period. The 12-month period begins on the first day of excused absence and ends 365 days later.

#### **16-4 RETIREMENT:**

a. Federal Employee Retirement System (FERS) - Employees who were first hired on or after January 1, 1987 are automatically covered by FERS, unless they were specifically excluded by law or regulation. This is the official retirement system which will be offered to federal employees. The FERS general formula is  $1\% \times \text{HI-3 years of salary} \times \text{Length of Service}$ .

1. Immediate Retirement - Immediate retirement eligibility for FERS are the following:

- age 60 with 20 years of service
- age 62 with 5 years of service
- MRA with 30 years of service
- MRA with 10 years of service

A pension begins immediately upon retirement for technicians eligible for these options. Involuntary Retirement. FERS Technicians who have at least 20 years of service and who attain age 50 or any age with 25 years of service and are separated from military service due to a mandatory removal date or

involuntary separation (due to no fault of the technician) may be paid a full annuity without a reduction for age. A pension begins immediately upon retirement for technicians eligible for this option.

1) MRA + 10. Technicians who have 10 years of civilian service may retire with full benefits (health, life, survivor annuity). However, there is a reduction of  $5 \frac{1}{2}$  of 1% for each month (5% per year) the employee is under age 62 for his or her Basic FERS Annuity. MRA +10 is not eligible for the retiree annuity supplement. A pension begins immediately upon retirement for technicians eligible for this option.

2) Postponed Annuity. FERS employees who have 10 years of service and have attained their MRA and leave federal service may postpone their retirement. This decision has to be made at the time of termination, at that time they will need to consult with the Customer Service Branch before leaving federal service. FEHB and FEGLI benefits may be reinstated if retirement is postponed until age 62. The amount paid in the pension would not be reduced and would begin at age 62 for technicians eligible for this option.

3) Retiree Annuity Supplement. The supplement is a benefit paid to certain FERS employees who retire before age 62. Technicians who have at least 20 years of service would meet this requirement. The payable supplement is an estimate of the amount of Social Security benefits earned during FERS service.

b. Thrift Savings Program - The TSP is a defined contribution plan providing the largest pillar of support to the FERS system. The retirement income received from a TSP account depends upon how much the employee (and the agency that matches the contributions) has contributed during the employee's working years and the earnings on those contributions. Contributions and earnings are an integral part of the retirement package and dictate the retirement benefit later on. FERS is a shared retirement system – with the government -matching contributions. Contributions are voluntary, but if the employee makes no contributions, the government does not make any matching contributions.

1. FERS Basic Annuity. The top of the pyramid (and smallest level) is the FERS basic annuity, approximately 1.8%.

2. Social Security. The middle level of the pyramid is Social Security, approximately 7.65%. Social Security (and FERS) is automatically deducted from the employee's paycheck as mandated by law.

3. Thrift Savings Program (TSP). The bottom level of the pyramid, TSP, can be the largest and most important part of the employee's retirement planning. The government matches dollar for dollar the amount elected to be placed in the technician's TSP account up to a predetermined percentage. This amount can grow significantly over the years.

c. Investment Funds - The TSP has a selection of individual and lifecycle funds that offer broad market

diversification. You can choose to have your retirement dollars invested in everything from a short-term U.S. Treasury security to index funds comprised of domestic and international stocks. Here are some of the investment funds offered:

1. Common Stock Index Investment Fund (C Fund).
2. Fixed Income Index Investment Fund (F Fund).
3. Government Securities Investment Fund (G Fund).
4. International Stock Index Investment Fund (I Fund).
5. Small Capitalization Stock Index (S Fund).

d. TSP Contribution Rules - There are two types of employee contributions:

- Regular
- Catch-Up (for participants 50 and older)

You have to contribute the maximum of regular contributions to be eligible to make catch-up contributions. You can also choose between two tax treatments for your contributions:

- Traditional (pre-tax)
- Roth (after-tax)

e. Regular Employee Contributions - are payroll deductions that come out of your basic pay before taxes are withheld (traditional contributions) or after taxes have been withheld (Roth contributions). Each pay period, your agency or service will

deduct your contribution from your pay in the amount you choose (or the automatic enrollment amount of 3%) and send your contribution to the TSP. Your agency or service will continue to do this until you make a new TSP election to change your contribution or stop it, or until you reach the Internal Revenue Code (IRC) contribution limit. How do you know if the correct amount is coming out of your pay? Check your earnings and leave statement to verify the amount.

f. Catch-Up Contributions - are payroll deductions that participants who are age 50 or older may be eligible to make in addition to regular employee contributions. Catch-up contributions are voluntary and can be either traditional pre-tax or Roth after-tax. To be eligible to make catch-up contributions, you must already be contributing an amount that will reach the IRC elective deferral limit by the end of the year. In the year you turn 50, you can begin making catch-up contributions at any time. Each pay period, your agency or service will make your contribution to the TSP from your pay in the amount you choose. Your catch-up contributions will stop automatically when you meet the IRC catch-up contribution limit or at the end of the calendar year, whichever comes first. Your catch-up contributions will not continue from year to year; you have to make a new election for each calendar year.

g. Agency Contributions for FERS Employees - As a FERS employee, you receive Agency Automatic (1%) and Matching Contributions (on your own TSP contributions). These contributions

don't increase the dollar amount of your pay for income tax or Social Security purposes, nor do they come out of your pay. They're an important employee benefit — a critical part of the FERS retirement system — and they are deposited into your TSP account by your agency. It's important to understand how these contributions work and to maximize them for a comfortable retirement. **Agency Automatic (1%) Contributions** — equal to 1% of your basic pay—are deposited into your FERS employee TSP account every pay period, beginning the first time you're paid. Agency Automatic (1%) Contributions are not taken out of your pay; your agency gives them to you. You don't have to contribute any money to your TSP account to receive these contributions, but they are subject to "vesting." **Vesting** means that you are entitled to keep your Agency Automatic (1%) Contributions (and their earnings) after you've completed a time-in-service requirement —3 years for most FERS employees and 2 years for FERS employees in Congressional and certain non-career positions. All Federal civilian service counts toward vesting not just service while you are a TSP participant.

The date your vesting period begins is determined by your TSP Service Computation Date (TSP-SCD), which your agency reports to the TSP. Your Service Computation Date is shown along with other vesting information on your quarterly and annual TSP participant statements. The date will never be earlier than January 1, 1984. If you leave Government service before you satisfy the vesting requirement, your Agency Automatic (1%) Contributions and their earnings must be forfeited.

However, if you die before separating from service, you are automatically considered vested in all of the money in your account.

h. Agency Matching Contribution - If you're a FERS participant, you receive Agency Matching Contributions on the first 5% of pay you contribute **every pay period**. The first 3% is matched dollar-for-dollar by your agency; the next 2% is matched at 50 cents on the dollar. This means that when you contribute 5% of your basic pay, your agency contributes another 4% of your basic pay to your TSP account. Together with the Agency Automatic (1%) Contribution you get, your agency puts in a total of 5%. Keep in mind, though, that if you stop your employee contributions, your Agency Matching Contributions will also stop, but Agency Automatic (1%) Contributions will continue to go into your account. You can contribute more than 5% but your agency only matches the first 5% you contribute.

**CSRS participants do not receive matching contributions.**

i. How Much Can You Contribute - The Internal Revenue Code (IRC) places a number of specific limits on the dollar amount of contributions you can make to the TSP.<sup>3</sup> These limits can change annually and are generally referred to as the "IRS limits" because the Internal Revenue Service (IRS) is responsible for calculating them each year. When the annual limits become available, the TSP announces them on the TSP website and the ThriftLine as well as through its various publications. The IRC elective deferral limit is the maximum amount of employee

contributions that can be contributed in a calendar year. The elective deferral limit applies to the combined total of your tax-deferred traditional contributions and Roth contributions. The IRC elective deferral limit for 2012 is \$17,000. The IRC **section 415(c)** limit is an additional limit that the IRC imposes on the total amount of all contributions made on behalf of an employee to an eligible retirement plan in a calendar year. "All contributions" include employee contributions (tax-deferred, after-tax, and tax-exempt), Agency Automatic (1%) Contributions, and Agency Matching Contributions. For 2012, the section 415(c) limit is \$50,000. Members of the uniformed services should pay particular attention to this section 415(c) limit if they contribute from pay that is subject to the combat zone tax exclusion because section 415(c) allows their contributions to exceed the elective deferral limit. The IRC **catch-up contribution limit** is the maximum amount of catch-up contributions that can be contributed in a calendar year by participants age 50 and older. It is separate from both the elective deferral limit imposed on regular employee contributions and the IRC section 415(c) limit imposed on employee contributions (tax-deferred, after-tax, and tax-exempt), Agency Automatic (1%) Contributions and Agency Matching Contributions. For 2012, the limit for catch-up contributions is \$5,500 under IRC section 414(v).

j. A Choice of Tax Treatments - The TSP offers you two tax treatments for your employee contributions when you make a contribution election:

1. **Traditional TSP** — If you make **traditional contributions**, you defer

paying taxes on your contributions and their earnings until you withdraw them. If you are a uniformed services member making tax-exempt contributions, your contributions will be tax-free; only your earnings will be subject to tax at withdrawal.

**2. Roth TSP** — If you make **Roth contributions**, you pay taxes on your contributions as you are making them (unless you are making tax-exempt contributions from combat pay) and get your earnings tax-free at withdrawal, as long as you meet the requirements to qualify.

k. Traditional TSP and ROTH TSP- The Thrift Savings Plan began accepting Roth TSP employee contributions in May 2012. All employee-contributions made before May 2012 are considered traditional contributions. When a participant is automatically enrolled in the TSP, he or she begins by making traditional contributions. If you want to make Roth contributions, you have to submit a contribution election to tell your agency what portion of your contributions you want designated as Roth. Traditional (pre-tax) contributions are taken out of your paycheck before your income is taxed. This lowers your current taxable income and gives you a tax break today. If you are a FERS employee, your agency's contributions also go into your traditional balance. This money grows in your account tax-deferred, but when you withdraw your money, you pay taxes on both the contributions and their earnings. Roth (after-tax) contributions are taken out of your paycheck after your income is taxed. When you withdraw funds from your Roth balance, you will receive your Roth contributions

tax-free, since you already paid taxes on these contributions. In addition, you will not have to pay taxes on the earnings, as long as 5 years have passed since January 1 of the calendar year when you made your first Roth TSP contribution (known as the 5-year rule) AND you are at least age 59 ½, permanently disabled (or deceased). If you satisfy these Internal Revenue Code (IRC) requirements, your earnings will be considered "qualified," and you will not pay any taxes on them at withdrawal. Note: The TSP cannot certify to the IRS that you meet the IRC's definition of disability when your taxes are reported. You must provide the justification to the IRS when you file your taxes. Tax-exempt contributions are contributions uniformed service members may make while earning tax-exempt pay in a combat zone. If your tax-exempt contributions are designated as traditional contributions, you will pay no tax on the contributions, but your earnings will be taxed when withdrawn. If your contributions are designated as Roth, you will pay no taxes on your contributions, and their earnings will also be tax-free when withdrawn, as long as you meet the IRC requirements. **Traditional and Roth balances.** If you make an election to choose Roth contributions, your account will then be made up of two separate balances—traditional and Roth. These two "pots" of money will keep your contributions and any money you transfer into (or out of) your TSP account separate for tax purposes, but any loans, withdrawals, and interfund transfers you make will include a proportional amount from each balance. You will not be able to take out, borrow from, or change the investment of, just one pot of money.

I. **Tax Liability** - When you withdraw your money from the TSP, you will owe taxes on any traditional contributions (except contributions made from tax-exempt pay), and the earnings they have accrued. You can continue to defer these taxes by transferring or rolling over your TSP withdrawal payment to a traditional individual retirement account (IRA) or an eligible employer plan. You can also transfer or roll over your traditional funds to a Roth IRA, but you will have to pay taxes on the full amount in the year of the transfer. If you have Roth contributions in your account, you have already paid taxes on them. You will not owe any further taxes on your Roth contributions, and you will not owe taxes on their earnings if your withdrawal payment is a “qualified distribution.” In other words, if 5 years have passed since January 1 of the calendar year when you made your first Roth contribution and you have reached age 59 ½, or have a permanent disability, the entire Roth portion of your account will be paid out tax-free. If your earnings are not qualified, you can defer paying taxes on them by transferring your payment to a Roth IRA or Roth account maintained by an eligible employer plan.

m. **Retirement Age and the Penalty Tax** - If you receive a TSP withdrawal payment before you reach age 59½, you may have to pay a 10% early withdrawal penalty tax on any taxable part of the distribution not transferred or rolled over. This penalty tax is in addition to the regular income tax you owe, but there are exceptions. In general, if you leave Federal service in the year you turn age 55 or older, the 10% penalty tax does not apply to any withdrawal you make that year or later.

In addition, disability retirement approved by the Office of Personnel Management may not exempt you from the early withdrawal penalty tax. The IRS requirement is more stringent, and you will have to substantiate your claim of exemption with the IRS. There are other exceptions to the early withdrawal penalty tax. The tax rules that apply to distributions from the TSP are complex, and you may also want to consult with a tax advisor or the IRS before you make any withdrawal decisions. You may be able to take a tax credit of up to \$1,000 (up to \$2,000 if filing jointly) for your TSP contributions. Eligibility depends on the amount of your modified adjusted gross income (AGI). For tax year 2012, your AGI must be no more than \$57,500 if married filing jointly, \$43,125 if head of household, or \$28,750 if single, married filing separately, or qualifying widow(er). (These amounts are adjusted each year for inflation. For more information, see your tax advisor or refer to IRS Form 8880.)

n. **TSP Loans, Withdrawals, and Refunds** - Because the purpose of the TSP is for you to save money for your retirement, there are rules that restrict when and how you may take money out of your account while you are still employed. Once you leave Federal service, however, you can take your money out at any time. However, the IRS may impose an early withdrawal penalty tax on the disbursement, depending on your employment status, when you take the disbursement, and how you receive the funds.

There are three ways to get your money out of the TSP:

- A loan

- An in-service withdrawal (i.e., a withdrawal while you are still employed by the Federal Government)
- A post-separation withdrawal (i.e., a withdrawal after you separate from service)

Any loan or withdrawal you take from your account will be paid proportionally from your traditional and Roth balances, and from each TSP fund in which you have investments. (The same is true for tax-exempt contributions in your traditional and Roth balances if you are a member of the uniformed services.)

For example, you cannot request a loan or withdrawal from only the taxable portion of your traditional balance that is invested in the G Fund. If you have both traditional and Roth balances and you are invested in five TSP funds, both balances and all your fund investments will be impacted by your loan or withdrawal. Cost of taking a loan - You repay your loan with interest. The interest rate is the interest rate for the G Fund at the time your loan application is processed. The TSP also charges a processing fee of \$50 for each loan.

This fee is used to cover the cost of processing and servicing your loan. It is deducted from the amount of the loan that you receive. Before you take a loan, consider that your loan costs are not limited to the interest and fee that you pay. The cost of a loan can be much more far-reaching. When you borrow from your account, you miss out on the earnings that might have accrued on the money you borrowed. Even though you must pay the money back to your account with interest, the interest you pay to your account may be less than what you might have earned if you had kept the money in the TSP. Further, if you have an outstanding loan when you leave Federal service, you must pay

it back within 90 days or the outstanding balance will be treated as taxable income.

There are two types of TSP loans:

- A general purpose loan
- A loan for the purchase or construction of a primary residence

You can have only one general purpose and one residential loan outstanding at a time. The total amount that you can borrow is limited to your own contributions and the earnings on those contributions. You cannot borrow less than \$1,000 or more than \$50,000. You can find out the amount you may be eligible to borrow from your TSP account by visiting the TSP website or calling the ThriftLine. You can also use the Estimate Loan Payments calculator on the TSP website to estimate your loan payment amount before you request a loan. You do not need to provide any type of documentation for a general purpose loan. However, you will need to provide documentation for a residential loan. You must wait 60 days from the time you pay off one loan until you are eligible to request another loan of the same type. Loan repayments are made through payroll deductions. They are deducted from your pay each pay period in the amount to which you agreed. If your agency or service does not deduct your loan payment from your pay, you must submit the loan payment directly to the TSP with a TSP Loan Payment Coupon (Form TSP-26). You are responsible for your loan payments. You can also make additional payments or pay off your loan early by check or money order using the Loan Payment Coupon, available at [www.tsp.gov](http://www.tsp.gov). And you can re-amortize your loan to change

the amount of your payment, number of payments, or repayment period. You must repay your general purpose loan within 5 years. Residential loans must be repaid within 15 years. If you fail to repay your loan in accordance with your Loan Agreement (or your most recent re-amortization), or you do not repay your loan when you separate from service, the TSP will report a taxable distribution to the IRS. You will owe income taxes on the taxable amount of the outstanding balance of the loan and possibly an early withdrawal penalty tax. You will not owe income taxes on any part of your outstanding loan amount that consists of tax-exempt or Roth contributions. You will owe taxes on the earnings on tax-exempt contributions that were part of your traditional balance. The following conditions apply to Roth earnings:

- If the taxable distribution is declared because you separate from service, any qualified Roth earnings will not be subject to tax. Roth earnings that are not qualified will be subject to tax.
- If the taxable distribution is declared for another reason (such as a default on your loan), your Roth earnings will be taxed, even if they were already qualified (or eligible to be paid out tax-free). Note: If you have two TSP accounts and you want to combine your accounts, you must close any loan in the account you are moving before the accounts can be combined. If you are a married FERS or uniformed services participant, your spouse must consent to your loan by signing the Loan Agreement. If you are a married CSRS participant, your spouse will be notified of your loan. These rules apply even if you are separated from your spouse. There are exceptions to these rights, but exceptions are rarely granted. See Form

TSP-16, Exception to Spousal Requirements (U-16, uniformed services), for more information. Bankruptcy and TSP loans - If you have a TSP loan, your payments must continue because, for bankruptcy purposes, a TSP loan is not a debt, and the TSP is not your creditor. Therefore, the bankruptcy court does not have jurisdiction over your TSP loan. For more information, see the TSP fact sheet Bankruptcy Information — Petitions filed on or after October 17, 2005. Different rules apply to bankruptcies filed prior to that date. (See the TSP fact sheet Bankruptcy Information — Petitions filed before October 17, 2005.) In-service withdrawals (i.e., withdrawals from your account while you are still employed) are available to all active participants. The TSP does not charge a fee for making an in-service withdrawal. However, the overall impact on your retirement savings may be significant. You must pay Federal, and in some cases, state income taxes on the taxable portion of the withdrawal, and you may also be subject to a 10% early withdrawal penalty tax. More importantly, if you make a financial hardship in-service withdrawal, the overall impact can be even greater because you cannot contribute to the TSP for 6 months following your withdrawal. If you are a FERS employee that means you will also not receive any Agency Matching Contributions during that time.

o. Types of In-Service Withdrawals - There are two types of in-service withdrawals:

- A financial hardship in-service withdrawal

- An age-based in-service withdrawal

#### Financial hardship in-service withdrawal

- You can make a financial hardship in-service withdrawal if you can certify, under penalty of perjury, that you have a financial hardship as a result of a recurring negative cash flow, legal expenses for separation or divorce, medical expenses, or a personal casualty loss. You may withdraw only your contributions and any earnings those contributions have accrued. You can request \$1,000 or more; however, the amount that you request cannot exceed the actual amount of your certified financial hardship. Further, you may not make contributions to your account (and if you are FERS, you will not receive the associated matching contributions) for 6 months after the disbursement of your funds.

Age-based in-service withdrawal - You can make an age-based in-service withdrawal anytime after you reach age 59½, as long as you are still a civilian Federal employee or a member of the uniformed services. You may withdraw part or all of your vested account balance. You can request a dollar amount of \$1,000 or more, or your entire account balance (even if it is less than \$1,000). You are permitted to make only one age-based in-service withdrawal. If you make one, you will not be eligible to make a partial withdrawal from your account after you separate from service. Spouses' rights for in-service withdrawals - If you are a married FERS or uniformed services participant, your spouse must consent to your in-service withdrawal. If you are a married CSR participant, the TSP must notify your spouse before an in-service withdrawal can be made. These rules apply even if you are separated from

your spouse. There are exceptions to these rights, but exceptions are rarely granted. For more information, see Form TSP-16 (or U-16 for members of the uniformed services), Exception to Spousal Requirements.

Taxes on In-Service Withdrawals - You must pay Federal income taxes on the taxable portion of in-service withdrawals when they are paid directly to you. You will owe taxes on the portion of your withdrawal that comes out of your traditional balance (excluding tax-exempt contributions). You can retain the tax-deferred status of the traditional portion of your age-based withdrawal by transferring it to a traditional IRA or eligible employer plan. (You can also transfer it to a Roth IRA, but you would have to pay taxes on the transfer in the year it is made.) You will not pay Federal income taxes on the portion of your in-service withdrawal that comes from your Roth contributions, and you will only pay taxes on the earnings if they are not qualified, however, you can transfer the Roth portion of your withdrawal to a Roth IRA or a Roth account maintained by an eligible employer plan. Financial hardship in-service withdrawals may be subject to an early withdrawal penalty tax if you are younger than age 59½ when you make your withdrawal.

p. Withdrawals After You Separate- If your vested account balance is \$200 or more after you leave Federal service, you can leave your money in the TSP until later, or you can withdraw all or a portion of your account. If you leave your money in the TSP after you separate from service, be sure to keep your address up-to-date so that the TSP can reach you. Any withdrawal from your account will be made up of a

proportional amount of traditional (non-Roth) and Roth money. If your vested account balance is less than \$200 when you leave Federal service, the TSP will automatically send you a check for the amount in your account. The check will be mailed to the address in your TSP account record. You cannot leave this money in the TSP or make any other withdrawal election. Combining accounts. If you decide to leave money in the TSP after you separate from either the uniformed services or Federal civilian service, you will be able to combine your TSP accounts by submitting Form TSP-65, Request to Combine Uniformed Services and Civilian TSP Accounts. Money that you transfer will be deposited as employee contributions into the traditional or Roth balance of the combined account based on the way it was identified in the original account. There are restrictions about how and when accounts can be combined. For example, you can only combine the money from the account related to your separation into your other account (and if you have a loan in the account you are moving, you must close it before you can combine your accounts). Also, tax-exempt contributions (i.e., contributions from combat zone pay) in your uniformed services TSP account may not be transferred to your civilian TSP account unless they are part of your Roth balance. Tax-exempt contributions that are part of your traditional (non-Roth) balance must remain in your uniformed services account.

q. Types of Post-Separation Withdrawals - There are two types of post-separation withdrawals:

(1) Partial withdrawal. You can take out \$1,000 or more and leave the rest in your account until you decide to withdraw it at a later date. You may make only one partial withdrawal from your account. If you made an age-based in-service withdrawal, you are not eligible for a partial withdrawal.

(2) Full withdrawal. You choose how your entire account will be distributed using one — or any combination — of three withdrawal options available to you:

- A single payment
- A series of TSP monthly payments
- A life annuity purchased for you by the TSP

A single payment allows you to withdraw your entire TSP account at one time in one payment. It is sometimes referred to as a “lump sum.” If you’re considering TSP monthly payments or an annuity, you should compare these benefits to see which one best fits your situation. You can get help by visiting the calculators on the TSP website. TSP monthly payments allow you to withdraw your entire account in a series of payments that will be paid to you each month from your TSP account. You can ask for a specific dollar amount each month or you can have the TSP calculate a monthly payment based on your life expectancy. If you choose a specific dollar amount, it must be at least \$25. At any time while you are receiving monthly payments, you can ask the TSP to stop the monthly payments and pay you your remaining account balance in a single payment. Also, once a year, you have the opportunity to make changes to the dollar amount of the monthly payments you are receiving. You also have the

opportunity to make a one-time switch to receiving monthly payments based on a dollar amount rather than monthly payments based on life expectancy. An annuity pays a benefit to you (or to your survivor) every month for life. The TSP purchases the annuity on your behalf from a private insurance company. You can have the TSP purchase an annuity with all or any portion of your account balance when you request a full withdrawal. In general, the amount you use for the purchase of an annuity must be \$3,500 or more. Once a life annuity is purchased, it cannot be changed. If you choose a life annuity and you have only one type of balance (traditional or Roth) in your TSP account, you must have at least \$3,500 in your account at the time your annuity is purchased. If you are using only a portion of your account for an annuity, the percentage you choose when requesting your withdrawal must equal \$3,500 or more of your vested account balance. If you choose a life annuity and you have both a traditional balance and a Roth balance in your TSP account, the minimum threshold of \$3,500 applies to each balance separately. You may choose to purchase an annuity as long as you have \$3,500 in either your traditional or Roth balance. The TSP will purchase two of the same type of annuity (one with the traditional balance and one with the Roth balance). You cannot choose different annuities for each type of balance. Also, the following rules apply:

- If you choose to use 100% of your TSP account to purchase an annuity and both balances are below \$3,500, your withdrawal form will be rejected.

If you have both a traditional balance and a Roth balance and at least one of the balances is at least \$3,500, the TSP

will purchase an annuity with the balance that is at least \$3,500 and pay the other balance directly to you as a cash payment.

- Alternatively, if you choose an annuity as part of a mixed withdrawal, any amount(s) that cannot be used to purchase the requested annuity will be split proportionally and distributed according to the other withdrawal option(s) you have chosen. You have a choice of three basic annuity types:
  - A single life annuity — paid only to you during your lifetime.
  - A joint life annuity with your spouse — paid to you while you and your spouse are alive. When one of you dies, payments are made to the survivor for the rest of his or her life.
  - A joint life annuity with someone (other than your spouse) who has an insurable interest in you — paid to you while you and the person you choose are alive. When one of you dies, payments are made to the survivor for his or her life. If you elect a joint annuity, you may be able to choose between a 50% or 100% payment option to the survivor. Some additional annuity features may also be available, depending on the basic annuity type you choose. You may be able to request “cash refund,” “10-year certain,” or “increasing payment” features.

Spouses’ rights for a partial withdrawal - If you are a married FERS or uniformed services participant, your spouse must consent to your partial withdrawal. If you are a married CSRS participant, the TSP must notify your spouse before a partial withdrawal can be made.

Spouses’ rights for a full withdrawal - If your vested account balance at the time of your full withdrawal is more than \$3,500, your withdrawal will be subject to Federal law regarding spouses’ rights. These rules

apply even if you are separated from your spouse:

- If you are a married FERS or uniformed services participant, your spouse is entitled to an annuity with a 50% survivor benefit, level payments, and no cash refund feature. Your spouse must waive the right to this particular annuity unless you use your entire account balance to purchase it.
- If you are a married CSRS participant, the TSP must notify your spouse before it can process your withdrawal, regardless of which withdrawal option you choose. For both partial and full withdrawals, there are exceptions to these rights. However, the conditions under which an exception is made are very limited. More information about exceptions is provided on Form TSP-16 (TSP-U-16 for members of the uniformed services), Exception to Spousal Requirements.

r. Taxes on Withdrawals After You Separate - You must pay Federal income taxes on the taxable portion of withdrawals when they are paid directly to you. You will owe taxes on the portion of your withdrawal that comes out of your traditional balance (excluding tax-exempt contributions). You can retain the tax-deferred status of the traditional portion of your withdrawal by transferring it to a traditional IRA or eligible employer plan. (You can also transfer it to a Roth IRA, but you would have to pay taxes on the transfer in the year it is made.) You will not pay Federal income taxes on the portion of your withdrawal that comes from your Roth contributions, and you will only pay taxes on the earnings if they are not qualified. However, you can transfer the Roth portion of your withdrawal to a Roth IRA or a Roth account maintained

by an eligible employer plan.

Depending on your age when you leave Federal service, as well as your withdrawal option and its timing, you may be subject to the IRS early withdrawal penalty tax. For detailed information about the tax rules that apply to post-separation withdrawals, you should read the TSP tax notice "Important Tax Information about Payments from Your TSP Account" and consult with your tax advisor.

Withdrawal deadline - If you are separated from Federal service or the uniformed services, you are required to make a withdrawal choice for your TSP account balance by April 1 of the year following the year you become age 70½. However, if you are still employed at age 70½, your required withdrawals must begin by April 1 of the year following the year you separate from Federal service or the uniformed services. If you do not withdraw (or begin withdrawing) your account by the required withdrawal deadline, your account balance will be forfeited to the TSP. You can reclaim your account; however, you will not receive earnings on your account from the time the account was forfeited. IRS Required Minimum Distribution - At the same deadline, you will also be subject to the IRS required minimum distribution rules. These rules require you to receive a certain portion of your account each year based on your life expectancy. The TSP will send you information about these rules if they apply to you.

s. Automatic Enrollment Refunds- If you were automatically enrolled in the TSP, you may request a refund of the employee contributions (plus earnings or minus losses) associated with the automatic enrollment period. If you

make a contribution election to change your automatic contributions in any way, you are no longer in the “automatic enrollment period,” and you can therefore not request a refund of contributions you made after the change. When the TSP receives your first contribution, you will receive your “welcome letter” from the TSP. The welcome letter will indicate the date your refund request must be received in order to be processed and other details relating to the refund. You will receive a refund of your own employee contributions (and earnings). If you are FERS, you will forfeit all Agency Matching Contributions to the TSP when your refund is processed; however, your Agency Automatic (1%) Contributions will remain in your account. Read the instructions on Form TSP-25 for more information. See the TSP website for the form and additional information about automatic enrollment. Please note that requesting a refund of your automatic employee contributions will not stop your agency from deducting future contributions from your pay each pay period. If you also want to stop your automatic contributions, you must make a contribution election to stop your contributions. Special note for participants automatically enrolled more than once (i.e., separating and being rehired after a break in service of more than 30 days): Under rules mandated by the IRS, you are not given a new 90-day refund period unless one full calendar year (January through December) has passed since your last automatic enrollment contribution.

t. Death Benefits - In the event of your death, your account will be distributed to the beneficiary or beneficiaries you designate on the

TSP’s Designation of Beneficiary form.<sup>4</sup> If you do not designate beneficiaries to receive your account, it will be disbursed according to the following order of precedence required by law:

- To your spouse
- If none, to your child or children equally, and to descendants of deceased children by representation;
- If none, to your parents equally or the surviving parent;
- If none, to the appointed executor or administrator of your estate;
- If none, to your next of kin who is entitled to your estate under the laws of the state in which you resided at the time of your death. For this order of precedence, a child includes a natural child or an adopted child but does not include a stepchild who has not been adopted. A parent does not include a stepparent, unless your stepparent has adopted you. “By representation” means that if your child predeceases you, his or her share will be divided equally among his or her children. A will or any other document (such as a prenuptial agreement) is not valid for the disposition of your TSP account.

Designating a beneficiary - If you wish, you can designate a person or persons, your estate, or a trust to receive your TSP account after your death. To designate a beneficiary or beneficiaries, you must use Form TSP-3, Designation of Beneficiary. The completed form must be properly signed, witnessed, and received by the TSP on or before the date of your death.

Reviewing your beneficiaries - By law, the TSP must pay your properly designated beneficiary under all circumstances. For example, if you designate your spouse as a beneficiary on Form TSP-3, a beneficiary participant account will be set up for that spouse

after your death, even if you are separated. If you divorce (and even re-marry) but you do not submit a new Form TSP-3, your TSP account will be paid to the individual designated on your form, even if this person had given up all rights to your TSP account.

Consequently, if your life situation changes, you may want to file a new Designation of Beneficiary form that cancels or changes your current beneficiary designation. TSP distribution of death benefits - In order for beneficiaries to receive your account balance after your death, they (or their representatives) must complete Form TSP-17 (TSP-U-17 for members of the uniformed services), Information Relating to Deceased Participant, and send it to the TSP along with a copy of the certified death certificate. Once the TSP processes this information and determines the beneficiaries for your account, we will contact them with additional information and instructions.

#### **Beneficiary Participant Accounts**

In the event of your death, if your spouse is a beneficiary of your account and your spouse's share is \$200 or more, a "beneficiary participant" account will be established in your spouse's name. Any death benefit processed from your account for your spouse will be deposited into this TSP account and invested in the G Fund. Your spouse can leave the money in the TSP and manage the investments in the TSP's funds, combine the account with his or her own TSP account, if applicable, or withdraw the money using any of the TSP post-separation withdrawal options.

u. Thrift line - The toll-free ThriftLine (1-TSP-YOU-FRST or 1-877-968-3778) is the TSP's automated telephone service. It has information

such as plan news, share prices, and loan and annuity rates. You can opt to speak with a Participant Service Representative or you can use your TSP account number and ThriftLine PIN to access your account and perform certain transactions.

v. Creditable Military Service for Retirement - Calculating Active Duty Service such as Title 10 active duty service, may be credited as service time for federal civilian employment. A DD Form 214 serves as the resource document and includes honorable service in the Army, Navy, Air Force, Marine Corps, Coast Guard, and Public Health Service after 30 June 1960. Title 10 service as a commissioned officer of the National Oceanic and Atmospheric Administration (NOAA) after 30 June 1971 is also creditable. Title 32 military service is not creditable for federal retirement unless it is covered by USERRA.

Resource Documents - The military technician is responsible for supplying the Customer Service Branch with the documentation needed to properly credit his or her Service Computation Date (SCD). Military service is creditable for leave and RIF and is indicated in block number 31 on the SF 50.

Military Deposit –

(1) For CSRS employees who were employed prior to October 1, 1982, military service will be used to determine the service computation date for retirement eligibility regardless of whether or not a deposit is made. The payment of military service is forwarded to DFAS and takes 6-8 weeks to process; therefore the employee should pay the deposit 2 months before retiring so that the retirement annuity will not be delayed. The service will also be used

in the annuity computation; however, if the employee elects not to make the military deposit and the employee is eligible for social security benefits at age 62 (or retirement, if later), the CSRS annuity will be recomputed without that military service. This is known as “catch-62” and will result in a permanent reduction in the annuity. Only one data match for SSA occurs; the match occurs at age 62 if the employee retired prior to age 62. The reduction is permanent and will occur regardless of whether or not the employee actually applies for social security benefits. The deposit required is seven percent of base pay earned during military service. CSRS law provides a 2-year interest-free grace period on military deposits from the date the employee was hired in a covered position (retirement benefits). After that 2-year interest is accrued and compounded annually. Crediting military service before 1 January 1957 is cost-free and no deposit is required.

(2) For FERS employees, post-1956 service will only be creditable for retirement if a deposit is paid for that service. In cases where the employee has a CSRS component (at least 5 years of CSRS and/or FICA service before becoming FERS), military service performed prior to electing FERS will be treated under CSRS rules. To compute the amount of a military deposit due under CSRS or FERS the employee should contact the customer service office and request military earning for the post-56 service. This usually takes 2-3 weeks for determination of the deposit requirement. The technician can choose a minimum payment of \$25.00 per pay period or a lump sum payment – payroll deduction, or a lump sum cash payment. The deposit

required is three percent of base pay earned during military service. FERS law provides a 2-year interest free grace period on military deposits from the date the employee was hired in a covered position (retirement benefits). After that 2-years interest is accrued and compounded annually. Crediting military service before 1 January 1957 is cost-free and no deposit is required.

w. Civil Service Retirement System (CSRS) - CSRS voluntary retirement is referred to as an immediate or optional retirement. The actual annuity is determined by a formula, but the approximate annuity may be 36% of pay for 20 years of service to a maximum of 80% of basic pay for 42 years or more years roughly calculated on the average base pay of the highest three consecutive earnings years. Roughly, the percentage can be calculated as the total years of service minus 2 years; then multiply that figure by two. When the annuitant becomes eligible for social security at age 62, a government pension offset applies, and the social security annuity is reduced. The annuity may be reduced significantly (by 20% or more) for CSRS retirees, but the overall benefit of both the CSRS and social security annuity should be greater than either by itself. Mixed years of service must be calculated under CSRS and FERS and applied to separate tables for the combined annuity. In order to be eligible for an immediate (voluntary) retirement, CSRS employees must be age 55 with 30 years of service, age 60 with 20 years of service, or age 62 with 5 years of service and must also meet the “one out of two” requirement, meaning an employee must be covered under CSRS for at least one year out of

the last two years immediately preceding retirement. All creditable civilian service, creditable military service and unused sick leave will be used to determine the length of service. See official OPM retirement tables for precise rules, percentages and amount calculations.

x. Early Retirement - Special Authority. Early retirement must be authorized by a special announcement elected by the Agency (or federal government). Early retirement authorized by DA or DAF, DoD, or Congress programs, sometimes including RIF and force shaping boards, will be accomplished as stated in the announcement of the program. The Voluntary Early Retirement Authority (VERA) allows eligible employees to retire early. Occasionally, management utilizes early retirements to reduce the impact of downsizing or personnel reductions and to keep disruption of the workforce at a minimum. Employees covered by CSRS and who meet all eligibility requirements may volunteer for an early retirement. VERA applicants will have their annuities reduced by one-sixth of one percent for each full month they are under age 55 (2 percent per year). This is a permanent reduction.

a. CSRS Employee. CSRS technicians who have at least 20 years of service, attain age 55, and are separated from military service due to a mandatory removal date may be paid a full annuity based upon the years of service in CSRS that they have accrued. There is no penalty for early retirement in this event. When a CSRS employee is separated earlier than age 55 due to a mandatory removal date from military service or due to a termination other

than for cause may receive the same retirement benefits as calculated in paragraph 15-7 except that a 2 percent penalty will be applied for each CSRS year under the 55 years of age.

b. FERS Employee. FERS employees are vested with a deferred annuity after 10 years of service and may receive a full annuity after 20 years of service. FERS employees meeting all eligibility requirements who volunteer for an authorized early retirement will not have a reduction in their annuities, except those FERS employees with CSRS years of service too. If a FERS employee has a CSRS component and retires before age 55, the CSRS age reduction rules will apply only to the CSRS component. FERS annuitants retiring under an early retirement option are eligible for a FERS Supplemental Annuity upon reaching MRA. VERA may or may not be accompanied by a Voluntary Separation Incentive Payment (VSIP). Requirements for VERA is minimum age 50 with 20 years or any age with 25 years of service.

y. Discontinued Service Before Attaining Retirement Eligibility – (1) Deferred Retirement. When a vested technician is required to separate earlier than eligibility for an immediate annuity, the retirement is deferred. Former employees who choose not to withdraw their retirement deduction and were not eligible for any type of voluntary retirement upon separation from their CSRS accounts may take a deferred retirement beginning at age 62. Former FERS employees may take advantage of deferred retirement at age 62 or upon attaining their minimum retirement age (MRA) if they had at least 10 years of service before the date of separation.

Former employees who desire to begin an annuity at their MRA will have a reduction of five-twelfths of 1 percent for each full month by which the commencing date of annuity precedes their 62<sup>nd</sup> birthday, or 5 percent for each full year they are under age 62. The reduction at MRA+10 is permanent.

There is no reduction for former CSRS or FERS employees taking a deferred retirement at age 62. The annuity will be computed using the employee's HI-3 and the number of years of creditable service at the time of separation.

Annuitants with a deferred retirement may retain FEHB after the 31-day extension period for 18 months (must pay the employee and agency premium plus 2% administrative fee). FEGLI terminates within 31 days, but it may be converted to another policy. Once terminated a retiree is not eligible to resume FEHB or FEGLI benefits. If the employee has less than the required number of years for a deferred retirement, the total withholdings and matching amounts may be withdrawn (removing any future eligibility of counting these years toward a retirement unless the amounts are paid back). Survivor benefits are not available for non-retired CSRS employees other than lump sum of the retirement fund without interest. A survivor annuity is generally payable to the spouse of a deceased former employee (with over 10 years of creditable service) even if the former employee did not apply for retirement. A lump sum payment of the retirement fund with interest would be payable if the former employee had less than 10 years creditable service.

(2) Technicians Not Eligible for Retirement - Gross misconduct

terminations will eliminate retirement options for FERS or CSRS employees and terminates any FEHB or FEGLI benefits. Technicians with a discontinued service retirement are not eligible for a Voluntary Separation Incentive Payment (VSIP) since it is allowable only for voluntary separations. If a CSRS employee is terminated due to gross misconduct, he (or she) may receive only the contributions he (or she) has paid into the retirement account.

z. Disability Retirement - CSRS Employees – (1) Disability retirement under CSRS requires at least 5 years of CSRS service. Technicians who are discharged from the National Guard because of physical disqualification are eligible for a disability retirement under Public Law 97-253 (Special Provisions). Under special provisions of law for CSRS military technicians, employees are administratively granted disability retirement if they are separated from employment (under Section 709 9e)(1) of Title 32) for a disability that disqualifies them from membership in the National Guard. They must not have accepted other federal employment. Persons separating with a disability retirement receive an immediate annuity.

(2) FERS Employees. Disability retirement under FERS requires a minimum of 18 months of service. Technicians who are discharged from the National Guard because of physical disqualification are eligible for a disability retirement under Public Law 97-253 (Special Provisions). Under special provisions of law for FERS military technicians, employees are administratively granted disability

retirement if they (1) are separated from employment (under Section 709 9e)(1) of Title 32) for a disability that disqualifies them from membership in the National Guard. FERS retirees may not receive a disability pension until they have applied for a disability through the Social Security Administration (SSA). They must not have accepted other federal employment. FERS disability benefits are 60% of the employee's consecutive HI-3 average salary for the first year, forty (40%) of his consecutive HI-3 after the first year until the employee reaches 62, At that time the benefits will revert to his regular FERS retirement. Persons separating with a disability retirement receive an immediate annuity.

(3) Disability Retirement Processing. The technician who has been discharged due to physical disqualification or who is being submitted for a Fitness for Duty Evaluation (FFDE) that may lead to discharge should call the Customer Service Representative in the HRO office as soon as possible to prepare for the start of retirement actions. The FERS technician must include evidence of having filed for disability with the SSA before being processed for OPM retirement. Proof of SSA filing is also required with the application packet after any adjustment of the disability. Retirement processing will begin with counseling of benefits, explanation of the application process, and filing the application when the discharge order is received. The application must be sent to the Office of Personnel Management (OPM) for approval (6-8 weeks to approve, longer than a routine retirement). The technician, if able to perform the full parameters of the

position description, may stay in duty status until the claim has been approved. If he (or she) is unable to work the technician will remain in a leave status and will be separated when OPM approval for disability retirement is received.

#### **16-5. NON-CONTINGENCY OPERATIONS BENEFITS:**

a. Federal Employees Health Benefits (FEHB) – If the employee's military service is not in support of a contingency operation, he/she is responsible for paying the employee share of the premium for the first 12 months and 102% for the final 12 months of continued coverage. Employee may make their payments directly to DFAS (generally with after-tax monies) or incur a debt to be paid upon their return to duty. When the coverage terminates at the end of the 24-month period, the employee is entitled to a 31-day extension of coverage and may elect to convert to a non-group policy. The employee is not eligible for continued coverage under the temporary continuation of coverage (TCC) provision following the 24-month period.

b. Federal Employees Group Life Insurance (FEGLI) – Coverage will continue at no cost for up to 12 months in a non-pay status and will terminate with an automatic 31-day extension of coverage.

c. Request for LWOP - Temporary employees (tenure 0), Indefinite employees (tenure 3), and Probationary employees (tenure 2) will not be approved for LWOP to take an AGR tour.

Tenure 1 employees selected for an AGR tour will be separated under the category of Separated-US, which will entitle these employees to reemployment rights under USERRA.

## 16-6. WORK SCHEDULES.

a. Normal Duty Period - A normal duty day will be eight hours in length. A normal duty week will be 40 hours in length. A pay period will be scheduled for a total of 80 hours. Work schedules are described below.

b. Compressed Work Schedules - A compressed schedule is a fixed schedule which enables the full-time employee to complete the basic work requirements of 80 hours in fewer than 10 full workdays in each biweekly pay period by increasing the number of hours in the workday. There are no flexible times in a compressed schedule. Employees' times of arrival and departure from work are set, as the days on which they are to complete the basic work requirement. The two most common compressed schedules are the 4-10 and the 5-4/9 schedules. Reference Figure 6-1 for examples of compressed work schedules.

c. 5 x 4 x 9 Schedules - Technicians will work nine hours a day for 8 days, 8 hours for 1 day, and get 1 day off each pay period. For example; Monday through Thursday will be nine hours of duty plus lunch. The first Friday of the pay period will be an eight-hour day. The second Monday of each pay period is the day off. Tuesday through Friday of the second week is all nine hour days.

d. 4 x 10 Schedules - Technicians will work four days per week, ten hours per day plus lunch. Scheduled workdays will fall between Monday and Friday each workweek. Managers and supervisors will ensure that there are sufficient personnel available each workday to meet mission requirements.

Tour of Duty Requirement. Technicians who are scheduled for a special duty period are obligated to follow the special schedule unless excused by the first-line supervisor. Similarly, technicians in a travel, training, or detail status will adhere to the tour of duty hours of the organizational segment to which they are temporarily assigned.

e. Exception Schedules - First line supervisors are empowered to approve deviations to established schedules on a single instance basis. This exception authority is to provide the first line supervisor a tool to correct situations when the Compressed Work Schedule creates a one-time undue hardship on a technician. Exceptions are not to be granted on personal preference. As hardship situations are resolved, technicians are expected to revert to the Compressed Work Schedule designated for his or her work location as approved by the Adjutant General. No supervisor has the authority to approve an exception to his or her own personal schedule.

f. Notification of HRO - Changes in work schedules must be approved by HRO. When a supervisor or PMO decide that a work schedule should be changed, a request showing this approval will be forwarded to HRO in writing. Changes of work environment normally require notification and I & I

bargaining with labor organizations and HRO should effect these notifications. Memorandums must include the affected units or sections and include reasons or, if applicable to only one or two persons, the title of the technician's section, the technician's hours of work. Technicians may not be briefed on any work environment change until a formal meeting is held. See the TNG website, HRO, Labor link for information on what constitutes a formal meeting.

### Models of Compressed Work Schedules

FOUR-DAY WORK WEEK	5/4-9 COMPRESSED PLAN
<p><b>Basic Work Requirement</b> A full-time <a href="#">employee</a> must work 10 hours a day, 40 hours a week, and 80 hours a <a href="#">biweekly pay period</a>. The <a href="#">agency</a> head determines the number of hours a part-time employee must work in a 4-day workweek and the number of hours in a biweekly pay period.</p>	<p><b>Basic Work Requirement</b> A full-time employee work eight 9-hour days and one 8-hour day for a total of 80 hours in a biweekly pay period. The agency head determines the number of hours a part-time employee must work in a 9-day biweekly pay period.</p>
<p><b>Tour of Duty</b> The "<a href="#">tour of duty</a>" is established by the agency and is limited to four 10-hour days.</p>	<p><b>Tour of Duty</b> The "tour of duty" is established by the agency and is less than 10 workdays in a biweekly pay period.</p>
<p><b>Overtime Work</b> Overtime work is work ordered or approved in advance by management and is in excess of the <a href="#">compressed work schedule's basic work requirement</a>.</p>	<p><b>Overtime Work</b> (See <a href="#">Four-Day Workweek</a>.)</p>