

Labor Management Relations

Agency Grievance Procedure

FOR THE GOVERNOR:

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Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

History. None

Summary of Changes. This regulation was updated for administrative purposes. It replaces the previous version dated 1 June 2006. This regulation also replaces any Technician AGR Administrative Instruction (TAAD) concerning this subject published before 15 October 2007.

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1. General.

a. This agency grievance procedure applies to California National Guard technicians who are **NOT** eligible for membership in the recognized bargaining unit. Technicians who are eligible for membership in the bargaining unit, whether dues paying or not, must use the negotiated grievance procedures contained in the appropriate labor/management agreement.

b. This procedure provides technicians the opportunity to obtain personal relief in a matter of concern or dissatisfaction that is subject to management control. General objectives in establishing this procedure are:

- (1) To prevent undermining technician morale by the effects of unsettled complaints and grievances.
 - (2) To take preventive action and effectively handle complaints and grievances.
 - (3) To provide a channel for voicing complaints and submitting grievances in which a technician is assured freedom from reprisal.
 - (4) To promote effective employee-management relations and efficiency of agency operations.
- c. Technicians may request the assistance of another person of their own choosing in preparing or presenting their grievances.
 - d. Technicians and/or their representatives will be given a reasonable amount of official time to present the grievance.
 - e. The time limits specified in these procedures pertain to **calendar days** and may be extended by mutual agreement of the technician and supervisor or deciding official concerned.

2. Definitions.

- a. Dissatisfaction – A matter of concern to a technician regarding the interpretation or application of management policies.
- b. Complaint – A dissatisfaction that has been brought to management’s attention either orally or in writing.
- c. Grievance – A complaint that has not been satisfactorily resolved through the informal procedure established herein.

3. Coverage.

- a. Except as provided in subparagraph b below, these procedures apply to any matter of concern or dissatisfaction to a technician which is subject to the control of The Adjutant General or any subordinate management official or supervisor. A grievance may include, but is not limited to, the following:
 - (1) Working conditions and environment.
 - (2) Relationships with supervisors, other technicians, or other officials.
 - (3) Management decisions specifically covered by these grievance procedures.
 - (4) Interpretation and application of personnel policies or directives.
- b. These procedures do not apply to:
 - (1) The content of published California National Guard policy.
 - (2) Non-selection for promotion from a group of properly certified candidates.
 - (3) Discharge, suspension, furlough without pay, or reduction in rate of compensation.
 - (4) Non-adoption of a suggestion or disapproval of an incentive award.
 - (5) Performance rating appeals.
 - (6) Classification appeals.

4. Procedures.

- a. Informal:
 - (1) Technicians who have a complaint will present the matter to their immediate supervisor. The complaint may be presented either orally or in writing. Technicians will present a complaint concerning a particular act or occurrence within 20 days of the date they became aware of that act or occurrence.
 - (2) If the immediate supervisor is unable to resolve the complaint within 20 days, the technician may present the complaint, either orally or in writing, to the second level supervisor. The technician has 20 days from receipt of the first line supervisor’s decision to present his complaint to the second line supervisor.
 - (3) If the technician is dissatisfied with the second line supervisor’s decision or has not received a decision from the second line supervisor within 20 days, a formal grievance may be filed.
- b. Formal:
 - (1) Technicians may present grievances under the formal procedure if they have completed action under the informal procedure and submit their formal grievance within ten days of receipt of the second line supervisor’s decision or within 20 days of the submission to the second line supervisor if no decision was received from the second line supervisor.
 - (2) The written grievance must:
 - (a) Be submitted in memorandum format.
 - (b) Contain sufficient detail to identify and describe the basis of the grievance.
 - (c) Specify the personal relief/resolution desired.
 - (d) Copy furnished to the Directorate for Human Resources.

c. The grievance will be submitted to the appropriate deciding official indicated below, or if that official is the second line supervisor, directly to the Chief of Staff:

(1) **ARNG:**

- (a) Army Division State Headquarters Technicians-Deputy Adjutant General, Army.
- (b) USPFO Technicians – USPFO.
- (c) Surface Maintenance Technicians – Director, State Maintenance.
- (d) Army Aviation/AFRC Technicians – Director, State Aviation.
- (e) Training Site Technicians – Deputy Adjutant General, Army.
- (f) AVCRAD Technicians – Deputy Adjutant General, Army

(2) **ANG:**

- (a) Air Division State Headquarters Technicians-Deputy Adjutant General, Air.
- (b) 146th Airlift Wing Technicians – Port Hueneme, ANG Air Commander.
- (c) 129th Rescue Wing Technicians – Moffett FAF, ANG Air Commander.
- (d) 163rd Reconnaissance Wing Technicians – March ARB, ANG Air Commander.
- (e) 144th Fighter Wing Technicians – Fresno, ANG Air Commander.
- (f) 162nd Combat Communications Group Technicians (For all subordinate units) – North

Highlands, Combat Communication Group Commander.

- (3) **JOINT:** Technicians employed in any “J” staff designated position – Director, Joint Staff.

d. The deciding official will make every effort to resolve the grievance and return the original grievance plus one copy to the technician with the decision memorandum within 20 days of receipt of the grievance. An information copy of the decision memorandum will be forwarded to the Directorate for Human Resources.

e. The aggrieved technician, upon receipt of the technician grievance memorandum with the deciding official’s decision, has 20 days to appeal that decision. The appeal must be submitted to the Directorate for Human Resources and must state the basis for the appeal. If the technician, within the 20 day period, does not request an appeal, the grievance will be considered resolved and canceled for failure to duly proceed with advancement of the grievance.

5. Hearing Examiner.

a. A hearing examiner, when required, will be selected by the Directorate for Human Resources from a list of certified hearing examiners obtained by the Directorate for Human Resources from the National Guard Bureau. Hearing examiners will meet the standards of experience and training prescribed by the National Guard Bureau. Upon approval of the Adjutant General, a hearing examiner will be assigned to conduct an inquiry and to make recommendations, but will withdraw from a proceeding at any time he deems himself disqualified. He may be withdrawn by the Adjutant General for good cause that is found after timely affidavits alleging personal bias or other disqualifications have been filed and the matter has been reviewed.

b. The hearing examiner will conduct an inquiry of the nature and scope appropriate to the issues involved in the grievance. At the examiner’s discretion, the inquiry may consist of:

- (1) Securing documentary evidence.
- (2) Personal interviews.
- (3) Group meetings.
- (4) A hearing.
- (5) Any combination of the above.

c. If a hearing is held, a verbatim transcript will be used and will become part of the record of the proceedings.

d. The examiner will prepare a written report of his findings and recommendations and submit the report to the Adjutant General. The technician will be furnished a copy of the report.

e. The Adjutant General will make a final decision on the grievance not later than 30 days after receipt of the hearing examiner’s recommendation.