



NATIONAL GUARD BUREAU

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NGB-J1-TN

27 October 2011

MEMORANDUM FOR THE HUMAN RESOURCE OFFICERS OF ALL STATES, THE COMMONWEALTH OF PUERTO RICO, THE U. S. VIRGIN ISLANDS, GUAM, AND THE DISTRICT OF COLUMBIA

SUBJECT: Guidance to Allow Dual-Status National Guard Technicians to Receive Influenza Vaccine While in Technician Status (TN-11-24)

1. References:

a. Memorandum, NGB, NGB-J1-TN-L, 4 February 2008, subject: Assignment of Military Training Duties to Title 32 National Guard Technicians (TN-08-03) (enclosed).

b. AR 40-562/BUMEDINST 6230.15A/AFJI 48-110/CG COMDTINST M6230.4F, Immunizations and Chemoprophylaxis, 29 September 2006, Chapter 3-2, b (6).

c. OPM Memorandum for Heads of Executive Departments and Agencies, Immunizations of Federal Workers with 2009 H1N1 and Seasonal Flu Vaccines, 30 September, 2009.

d. AR 40-501, Standards of Medical Fitness, 23 August 2010.

2. Purpose: To issue guidance (in accordance with reference a. paragraph 6), to read: "National Guard Technicians may receive the influenza (flu) vaccine and only the flu vaccine on a voluntary basis when offered during any scheduled flu vaccine activity on the installation or by the Medical Unit during Technician duty hours."

3. Background:

a. Influenza virus (seasonal and H1N1) is a real threat, causing an annual average of 36,000 deaths and 225,000 hospital admissions in the United States. Results from current studies indicate that young healthy adults (i.e. military populations) are more vulnerable to the H1N1 virus (swine flu). The H1N1 virus was responsible for at least 2,100 deaths and 42,000 hospitalizations in 2009-2010.

b. The current trivalent flu vaccine is effective and protects against seasonal flu and H1N1. The vaccine is the best way to prevent influenza and its complications and is recommended by the Centers for Disease Control and Prevention (CDC). Immunization is mandatory for all military personnel.

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c. The flu vaccine is safe. The risk for severe or life threatening reactions ranges from 1 in 100,000 to 1 in 1,000,000 in our military population when patients are properly screened. In addition, the Vaccine Injury Compensation Program is a federally mandated program that is the primary source for compensation in vaccine-related injury claims.

d. In accordance with (IAW) AR 40-562/AFJI 48-110 the installation or activity commander, upon recommendation from the appropriate medical authority, will provide immunizations against diseases that may be a significant cause of lost work hours for federal civilian employees. By extrapolation the influenza vaccine is therefore a mechanism to prevent disease and promote productivity within the technician workforce. Such immunizations are voluntary and to be given at no cost to the employee.

4. Further implementation guidance:

a. While in Title 32 National Guard Technician status, employees can voluntarily receive influenza vaccine as indicated in the OPM memorandum. Supervisors can allow, but not direct, technicians to participate in the flu vaccine program. It is strictly voluntary and there is to be no retribution for employees who decline to participate.

b. Each state should consult with their Judge Advocate General for proper implementation of this program.

c. Each state should consult with their local medical authority or state surgeon for the proper medical implementation of this program IAW AR 40-562.

5. The point of contact for this memorandum is Brenda Decruise, Deputy Chief, Technician Personnel Division, at DSN 327-1478, 703-607-1478, or Brenda.Decruise@us.army.mil.

Encl



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NGB-J1-TN-L

4 February 2008

MEMORANDUM FOR THE HUMAN RESOURCES OFFICERS OF ALL STATES,
PUERTO RICO, THE VIRGIN ISLANDS, GUAM AND THE DISTRICT OF COLUMBIA

SUBJECT: Assignment of Military Training Duties to Title 32 National Guard
Technicians (TN-08-03)

1. The references are:
 - a. TPR 400 publication date
 - b. 5 U.S.C. 7901
 - c. Federal Service Labor Management Relations Statute Section 7106(a)
 - d. DoD Directive Number 5210.56
2. NGB-J1-TN-LR Memorandum (TN-07-48), dated 8 June 2007, subject as above, is hereby rescinded.
3. The purpose of this memorandum is to provide updated implementing guidance regarding assignment of military training duties to National Guard Technicians.
4. National Guard Technicians may not attend military technical training schools in technician status. These schools have the intent of training personnel in military occupational specialties and require mandatory physical training standards and other military training incidental to, but part of, the overall academic experience over and above the enhancement of technician job performance. In accordance with TPR 400, The Technician Human Resources Development Program, technicians will attend training in military status when training: Leads to the award of an AFSC or MOS, is a prerequisite for a military assignment, includes mandatory physical fitness assessment, drug testing, weigh-ins, or requires other military standards for the completion of the training or course.
5. National Guard Technicians cannot be weighed, nor have urinalyses or drug testing performed for medical mobility processing purposes while in a technician status. Medical mobility processing or any other procedure requiring weigh-ins, urinalysis or drug testing must be completed in an inactive duty or active duty military status. If drug testing must be accomplished due to the result of a ground or aircraft accident, or observation of erratic behavior, place technicians immediately, in an inactive duty status or active duty military status for such purposes. For National Guard medical authorities to conduct urinalysis or drug testing, they must have authority over the technician, authority to conduct the test, and authority to expend substance abuse funds. Since Technicians are not under proper military authority during the Technician workweek, and not in military status, there is no authority to drug test them and/or expend substance abuse funds.

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(TN-08-03)

6. National Guard Technicians cannot be required to receive immunizations in technician status (either by directive or voluntarily) to maintain worldwide medical qualifications for active military duty assignments or deployments. Immunizations should be administered in an inactive duty or active duty military status, in accordance with Surgeon General policy letters and military regulations for both ARNG and ANG.
7. National Guard Dual-Status and Non-Dual Status Technicians may be authorized excused absence of short duration to participate in voluntary Physical Fitness Programs (PFPs). While not mandatory, technicians are encouraged to participate in PFPs authorized under 5 U.S.C. 7901 health service programs. Dual status and non-dual status technicians cannot be required to undergo an annual military physical fitness test in technician status, either voluntarily or involuntarily.
8. National Guard Dual-Status Technicians may be assigned to train in the wear and use of chemical warfare equipment while in technician status. Case law makes the implementation of this assignment "an agency right to assign work" and outside the duty to bargain. Union proposals that excessively interfere with the right to assign work, regarding when and to whom the duty is assigned, are not negotiable proposals within Section 7106 (a) of the Federal Service Labor Management Relations Statute.
9. National Guard Dual-Status Technicians may be required to fire a weapon for range firing and weapons qualification while in technician status. They may also be required to carry firearms when the duties of their technician position require such. Department of Defense Directive, Number 5210.56, governs the carrying of firearms by DoD military and civilian personnel performing law enforcement and security duties.
10. Point of contact for this memorandum is Ms. Lynn Crouse, Acting Chief, Labor Relations, at DSN 327-5981, or commercial 703-607-5981.


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Chief, Office of Technician Personnel

*Note that not all union proposals regarding the assignment of work are outside the duty to bargain, including proposals regarding CWE training and weapons firing. If a union proposal "excessively interferes" with the right to assign work, causes undue delay, or is within the duty to bargain at the election of the agency," the agency may initially make the determination that the proposal excessively interferes with the right to assign work or bargaining is elective with the agency. If this decision is challenged, the Federal Labor Relations Authority will make the determination based on the positions/facts presented by the parties. Check with your JAG prior to citing these authorities.