



NATIONAL GUARD BUREAU
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NGB-J1-TN

24 May 2010

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: Intermixing of Technician Duty and Military Status (TN-10-11)

1. This memorandum provides guidance and procedures that apply to instances where National Guard Technicians are performing duty in a Technician status and in a full time military status on the same day. This memorandum does not apply to military duty that is specified by law to be for less than 24 hours in duration, e.g. UTAs, make-up UTAs, RMAs etc. The general rule is: **The performance of paid full time military duty prohibits a Technician from being in a paid technician status on the same day unless the paid status is the result of leave (annual, military or compensatory time) being used or in limited circumstances, one of the exceptions stated below apply.** Note: 32 USC § 502 (d) and 37 USC Ch. 3 § 206 provide for the minimum amount of time that must be worked for which military pay can be authorized.

2. In **no instance** can a technician be paid for normal technician duty (not in a leave status) and full time military duty on the same day for two consecutive days. Full time military duty that is scheduled for more than one day must be scheduled for the needs of the service and done so in a manner that complies with the principles of fiscal responsibility. When military duty is scheduled for second and subsequent days, the military duty is scheduled in 24-hour increments. The exception for travel time in paragraph 3 below applies only when the military duty is for more than two days, see 52 Comptroller General Decision 471, Feb 1973. Note: in the example cited, the last day of military service is more than two days after the start of military orders.

3. There are certain exceptions to this rule, the first of which deals with Technician duty that is performed before the beginning of full time military duties. This type of situation involves military duty that is scheduled to start, or starts, after the beginning of the normal technician work day. Examples include extra drill periods that are held on Friday night before the drill weekend, drill periods performed after the normal technician duty day as a make-up drill period, the start of AT periods, training flight periods and the first day of alert duty that have a report time later in the day or evening. In all of these instances any time actually spent performing technician duties and the time spent performing military duties are both compensated even if performed on consecutive days. If the normal technician duty day ends at 1600 and the extra drill period starts at 1700 then both periods are fully compensable without use of leave. If the technician day

NGB-J1-TN

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starts at 0800 and the military duty starts at 1200, the first four hours of technician time are paid for in the normal fashion and the military period is fully paid. The remainder of the technician work day must be accounted for in some type of leave status, i.e. annual leave, military leave, compensatory time or leave without pay. The technician work schedule: straight eights, 5-4-9, 4-10, will determine the amount of leave that must be taken on any given day. If the full time military duty extends beyond this first day, **no normal technician duty may be performed on the second or subsequent day(s) of full time military duty unless the exception in 4. below applies.** For every day beyond the initial day of full time military orders, until the release date, all normal technician duty must be accounted for by some type of leave status as indicated above. This exception would also apply to those situations where the military duty (other than full time military duty) occurs before the normal technician duty day, e.g. a technician reports to his unit for a weigh-in and PT test for a soldier of the year competition before the start of the technician work day.

4. The second exception deals with full time military duty lasting for **more than two** days that ends on the same day as normally scheduled technician duty. Two rules will apply in this situation. The first is that the last day of the full time military duty cannot be for a period of time four hours or more. The second rule is that there be at least an eight hour period between the end of the full time military duty and the start of the normal technician duty for rest in accordance with 38 USC § 4312 (e) (1) (i) USERRA. The only situation where this exception will apply is for travel time after the end of the period of full time military duty that extends beyond 2400 hours for a short period of time. Example: the full time military duty is performed at a location that is remote from the home of record for the military member. To return home, travel time will last until 0200 hours on a technician duty day. In that case there is no substantial amount of military time spent (less than four hours) and there is at least eight hours of time for rest before the beginning of the normal technician duty day (assuming the technician duty day starts at 0800) with two hours provided for leave. If the travel time lasted until 0359 (less than 4 hours) and the normal technician duty day starts at 0700, the technician could be in leave status for the first 5 hours of the technician day (0359 plus 8 hour rest period) and in normal technician status for the rest of the technician duty day. If the travel time at the end of the full time military duty lasts for more than four hours, that full day will be considered as a full time military duty day.

5. This guidance supersedes NGB-J1-TN memorandum subject: Performance of Alert Duty by Military Technicians (TN-07-39) dated 16 May 2007, in the portions dealing with the performance of military and technician duties on the same day only. The point of

NGB-J1-TN

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