



STATE OF OHIO  
ADJUTANT GENERAL'S DEPARTMENT  
2825 West Dublin Granville Road  
Columbus, Ohio 43235-2789

NGOH-HRO-LR

31 AUG 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Ohio National Guard Administrative Grievance Plan for Title 32 Technicians and Title 5 National Guard Employees (HRO Policy # 21-024)

**1. References.**

- a. Title 5, (Code of Federal Regulations).
- b. Title 5, (United States Code, Armed Forces).
- c. Title 32, (United States Code, National Guard).
- d. DoD Instruction 1400.25-M, Volume 771, DoD Civilian Personnel Management System: Administrative Grievance System, dated 26 December 2013, Incorporating Change 1, dated 13 June 2018.
- e. CNGB Manual 0402.01, Alternative Dispute Resolution Procedures, dated 04 January 2016.

**2. Cancellation.** This policy supersedes policy memorandum, Subject: Ohio National Guard Administrative Grievance Plan for Title 32 Technicians and Title 5 National Guard Employees. Human Resources Office (HRO) Policy Number (20-017), dated 30 November 2020.

**3. Purpose.** This Administrative Grievance Plan (AGP) prescribes the procedures and policies to be used in the presentation, acceptance, and processing of grievances from non-bargaining Title 32 Dual Status Technicians and Title 5 National Guard Employees (collectively referred to as "employees"). The procedures herein do not apply to a grievance process established through a negotiated agreement between The Adjutant General (TAG) and the American Federation of Government Employees (AFGE) Local 3970, to which exclusive recognition has been granted. Employees have the right to present grievances with or without representation and must be free to use these procedures without restraint, interference, coercion, discrimination, or reprisal. There is no administrative review of grievances beyond TAG. Under this plan, there is no recourse to arbitration, except through Alternate Dispute Resolution (ADR).

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#### **4. Applicability.**

a. Applies to all non-bargaining employees of the Ohio National Guard (OHNG).

b. Bargaining Unit members are excluded from the AGP. Exception to this is when a matter covered cannot be grieved under the Negotiated Grievance Process (NGP) either because an NGP is not in effect at the relevant time or because the NGP does not cover the matter being grieved.

c. Applicants, not currently employed by the OHNG, are excluded from the AGP.

d. Individuals, not employed by the OHNG at the time of the occurrence of the matter causing the concern or dissatisfaction, are excluded from the AGP.

#### **5. Policy.**

a. The DoD Directive 1400.25, Vol. 771, states DoD employees shall be entitled to present disputes under the Administrative Grievance System (AGS) and have them considered expeditiously, fairly, impartially, and resolved as quickly as possible. Employees will be given reasonable opportunity to obtain consideration of their dissatisfaction, with matters subject to management control, which affects them personally. This opportunity will be an integral part of the normal day-to-day relationship between employees and supervisors or other management officials.

b. ADR techniques should be used to resolve disputes. The ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to: problem solving, mediation, facilitation, conciliation, early neutral evaluation, fact-finding, settlement conferences, and peer review.

#### **6. Responsibilities.**

a. The Human Resources Office (HRO), Labor Relations Specialist (LRS) will provide technical advice and assistance to both supervisors and employees on matters pertaining to grievances. The LRS will manage and maintain all grievance records.

b. Supervisors are obligated to act promptly and fairly upon questions and complaints presented by an employee, to include providing information by consultation with higher levels of management and the HRO when necessary. When possible, questions or dissatisfactions will be resolved by informal discussion. Supervisors will also ensure employees are free from restraint, interference, coercion, discrimination, and reprisal.

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c. Employees are responsible for complying with the procedures outlined in this policy when filing a grievance; responsible for electing a single method to address concerns in lieu of filing in multiple forums, such as both a discrimination complaint and a grievance, for the matter of concern; will provide all relevant information at the time the grievance is filed; and cooperating in any resulting inquiry related to the matter grieved. Employees are also responsible for bearing any expense associated with the preparation and presentation of a grievance.

**7. Requirements.** Employees presenting a complaint or grievance will:

a. Have the right to present grievances using the AGP and to communicate with supervisors or managers and the HRO.

b. Have the right to represent themselves or be represented by someone of their choice. The choice of representative may be denied if it would result in a conflict of interest, conflict with mission priorities, or unreasonable costs.

c. Have full access to relevant information and be given copies of such information upon request, unless doing so would be unduly burdensome or contrary to law or regulation.

d. Be authorized a reasonable amount of duty time for the preparation of the grievance.

(1) "Reasonable" amount of duty time is defined as whatever is appropriate under the circumstances of the complaint.

(2) Employees will submit a written request for duty time to their supervisor for time to prepare and/or present the grievance.

(3) Supervisors will approve requested duty time to allow their employee(s) time to prepare and/or present their grievance.

(4) Approved duty time will be based on mission requirements and required duty responsibilities of the employee (grievant) and will be scheduled at the earliest available time.

e. Freedom from interference or reprisal. Any person involved in the processing of a grievance, including the grievant(s), management officials, and their respective representatives and witnesses, must not be subjected to restraint, interference,

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coercion, discrimination, or reprisal by any employee of the OHNG in connection with the exercise of rights and responsibilities under this policy.

f. An employee may withdraw a grievance at any step in the process, but must do so in writing.

## 8. Grievance Coverage.

a. **Matters covered.** Except as provided in paragraph b., this grievance procedure covers any matter of concern or dissatisfaction of an employee if the matter is subject to the control of The Adjutant General of Ohio, and covers an employment matter as opposed to a military matter.

b. **Matters not covered.** Covered employees may grieve any matter under the AGP except for the following:

(1) The content of established regulations and policies.

(2) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protections Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity (EEO) channels or any manner the employee files under another review or reconsideration procedure, or dispute resolution process.

(3) Filed by the employee under another review or reconsideration procedure or dispute resolution process within the OHNG.

(4) Non-selection for a position from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion.

(5) The preliminary warning notice of an action which, if effected, would be covered under the grievance system or excluded from coverage. For example, this includes oral warnings and notices of proposed adverse actions for which a decision has not been rendered.

(6) The substance of an employee's performance elements, standards, or work objectives. However, the application of the critical elements and performance plan is a grievable matter. For example, a performance appraisal based on performance which is not relative to a critical element in the approved performance plan is grievable or an appraisal that addresses conduct versus performance of the critical elements.

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(7) Determinations concerning additional step increases, recruitment, relocation, or retention incentives; physicians' comparability or additional pay allowances; supervisory differentials, critical position pay; or dual compensation waivers.

(8) Any action taken under a voluntary formal agreement entered into by an employee involving geographic relocation.

(9) Termination of a probationer or separation or termination of an employee during a trial period.

(10) The termination or expiration of a temporary promotion, provided the employee was informed in advance of the temporary nature of the promotion and the employee was returned to his or her former position from which temporarily promoted or to a different position of equivalent grade and pay.

(11) Termination or expiration of a time-limited excepted appointment.

(12) A separation or termination action.

(13) Any action taken pursuant to Title 32 United States Code (USC) 709 Paragraph (f)(4) involving T32 Dual Status National Guard Technicians.

(14) Establishment of a Performance Improvement Plan (PIP) following an unacceptable rating.

(15) The granting of or failure to grant an employee performance award, adoption, or failure to adopt an employee suggestion or invention, or failure to receive a performance award.

(16) An allegation or complaint of discrimination.

(17) Prohibited political activities.

(18) Benefits to include, but not limited to retirement, life insurance, and health insurance.

(19) Complaints regarding bargaining unit positions.

(20) An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process.

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**9. Time Limits.** When calculating time limits under the AGP:

a. The day of an action or receipt of a document is not counted. The next day begins the calculation of the time limit.

b. The last day of the time limit is counted unless it is a Saturday, a Sunday, a government holiday, or a day in which the employee is not regularly scheduled to work. In those cases, the last day of the time limit will be moved to the next regularly scheduled workday.

c. All time limits are counted in calendar days.

**10. Grievance Files.** The HRO, LRS will establish and maintain a separate file for each formal grievance under the AGP. The LRS will assign a tracking number for each formal grievance. Progress for each grievance will be documented until a decision has been rendered, submitted, and closed. Formal grievances will be reported to senior leadership as requested.

a. Each file contains all documents or copies of documents related to the grievance to include all informal grievance documentation if conducted prior to submitting a formal grievance.

b. Each file will be retained for four years from the date of completion in accordance with applicable laws, regulations, and records retention schedules.

**11. Informal Grievance Process.**

a. An employee may informally present a work-related problem to his or her immediate supervisor to try to resolve the problem at the lowest level.

b. If the problem involves a matter or action directly involving the immediate supervisor, and the employee has been unable to resolve the matter with the supervisor, the employee may present the matter to the next level supervisor within their chain of command.

c. The problem must be presented within 15 calendar days following the date of the act or event in which the employee believes created the problem, or the date the employee became aware of, (or reasonably should have become aware of) the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time.

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d. A supervisor must consider the employee's problem and attempt to resolve it within 30 calendar days from the date the problem is first brought to the supervisor's attention. If the supervisor determines the matter is not covered by the grievance process, the supervisor must inform the employee, in writing, and advise the employee of the appropriate process, if any, for resolving the problem.

e. When an employee presents a problem verbally, the supervisor's determination may be verbal or written. If the problem is presented in writing, the determination must be in writing. If the problem was not resolved, the supervisor must inform the employee of the time limit in which to file a formal grievance.

f. The time limit for resolving the problem during the informal grievance process may be extended by mutual agreement to accommodate resolution of the dispute.

g. If the Informal Grievance is resolved, to the satisfaction of the employee, the corrective action will be initiated, if applicable, the employee will be notified in writing and the grievance file will be closed.

h. If the grievance cannot be resolved, to the satisfaction of the employee, the supervisor will provide a written decision to include the basis for the decision. The supervisor will also advise the employee in writing of their right to file a formal grievance within 15 calendar days of receipt of the decision.

## **12. Formal Grievance Process.**

a. Formal grievances must:

(1) Be in writing and provide sufficient detail concerning the matter(s) being grieved to clearly identify the basis of the grievance and,

(2) Specify the personal relief requested.

b. If the employee used the informal grievance process, the employee may submit a written formal grievance using OHNG Form 771 (Encl 1) to the HRO LRS no later than 15 calendar days from the conclusion of the informal process. Include a copy of the informal grievance, the official's decision, and all supporting documentation such as copies of email, memoranda, etc., relative to the matter(s) presented in the informal grievance. If the employee alleges he/she submitted an informal grievance and the appropriate official did not timely respond, the employee must provide sufficient documentation to demonstrate attempts to satisfy the informal grievance process.

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c. If the employee did not use the Informal Grievance Process, but would rather raise the matter initially as a formal grievance, the employee may file their formal written grievance using OHNG Form 771 to the HRO LRS within 15 calendar days following the act or event in which the employee believes created the problem, or within 15 calendar days following the date the employee became aware of (or reasonably should have become aware of) the act or event.

d. An employee's formal grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue(s) and the specific, personal remedy sought. The grievance must be submitted with copies of any documents in the employee's possession related to the grievance and include the name, address, and telephone number of the employee's representative, if any, to the LRS for review. The remedy sought must be personal to the employee, and may not include a request for disciplinary or other action affecting another employee.

e. Additional documentation or information will not be accepted from the grievant once the formal grievance package is submitted to the LRS.

f. Prior to transmitting the grievance to the appropriate deciding official, the LRS will determine if the grievance is timely, covered by the grievance policy, and contains complete information regarding any informal grievance. If the package is not complete or does not meet the requirements listed, the LRS will reject and return the grievance submission to the employee, along with a notice in writing providing the basis and rationale for rejecting the submission. An employee may request a review of the LRS's decision to reject the grievance by the HRO.

g. If an informal grievance was conducted, the accepted grievance will be sent to the supervisor's next higher-level management official, deciding official, within the chain of command. NOTE: If an informal grievance was not conducted, the formal grievance will be sent to the employee's first line supervisor to attempt to resolve the grievance.

h. The deciding official must give the grievance due consideration and should take the following actions:

(1) Thoroughly review the contents of the grievance and associated documentation provided by the employee.

(2) Conduct or initiate an inquiry into the basis of the grievance and the supervisor's reason(s) for not granting relief using the informal process, if applicable.



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(3) Provide an opportunity for the grievant and/or the grievant's representative to provide comments, in writing, on the contents of the grievance file (including all documents, reports of an inquiry, and witness statements on which the deciding official will rely upon in making a decision). Include any written comments received from the grievant and his/her representative in the grievance file.

(4) Fully consider the grievance and issue a written decision to include supporting documentation and rationale for the decision as soon as possible, but normally no later than 60 calendar days from the filing of the grievance.

(5) May extend timeframes up to 90 calendar days when warranted by special circumstances (e.g. when those involved are geographically dispersed or where fact-finding is conducted in the process).

(6) Any delay beyond 90 calendar days must be by mutual agreement, in writing, with the grievant to extend the time to accommodate resolution of the dispute.

(7) If the deciding official fails to communicate a time extension or provide the written decision within 60 calendar days, the grievant may request review by the LRS.

i. If the deciding official cannot resolve the grievance in a manner acceptable to the employee within the prescribed time limit, they will refer the grievance, together with the grievance file and all pertinent material, to the LRS who, after review of the file, may refer the grievance to the appropriate Activity Head (Encl 2) for which the employee is assigned.

j. The Activity Head will fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision to the employee and to the LRS.

k. If the Formal Grievance is resolved, to the satisfaction of the employee, the corrective action will be initiated, if applicable; the employee and LRS will be notified in writing; and the grievance file will be closed.

l. If the grievance cannot be resolved, to the satisfaction of the employee, the Activity Head will notify the LRS and refer the grievance to TAG with all supporting documentation.

m. In cases where the grievance is elevated from Activity Head to TAG, the decision of TAG on the merits of the grievance are final and not subject to further review or

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arbitration. All final decisions from TAG will be issued in writing to the employee and the LRS. Corrective action, if applicable, will be initiated and the grievance file will be closed.

### **13. Rejection of a Grievance.**

a. A grievance package may be rejected for any of the following reasons:

- (1) The grievance is not timely filed;
- (2) The grievant has had his or her right to file a grievance abridged for formal written decision;
- (3) The employee or matter is excluded from coverage under this policy;
- (4) The relief requested violates law, rule, or regulation, or is not personal to the grievant, as defined by this policy;
- (5) The grievant fails to provide sufficient detail to clearly identify the matter being grieved or specify the personal relief requested;
- (6) The grievant fails to comply with applicable time limits or procedural requirements, or employee fails or refuses to provide required information;
- (7) The grievant raises the same matters under another formal dispute resolution process.
- (8) The grievant has filed or files a complaint of discrimination on the same matter(s).

b. If the grievance is rejected, the LRS will return the grievance submission to the employee, along with a notice in writing providing the basis and rationale for rejecting the submission. An employee may request, in writing, a review of the LRS's decision to reject the grievance by the HRO.

### **14. Cancellation of a Grievance.**

a. Wherever possible, the deciding official should rule on the merits of a grievance. However, the Agency retains the right to cancel or suspend a grievance when:

- (1) The employee, or his / her representative, requests cancellation in writing;

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(2) The employee's duty status is terminated, unless the personal relief sought may be granted after termination of employment;

(3) Upon the death of the employee, or upon his/her separation for reasons not connected with the grievance, provided there is no question of pay involved or other relief that could be granted to the employee.

b. If the grievance is cancelled, the LRS will return the grievance submission to the employee, along with a written notice accepting the cancellation. No further action is then taken on the grievance.

15. The POC, for Administrative Grievances, is Mrs. Cheryl Clark, Labor Relations Specialist, at (614) 336-7475, DSN: 346-7475, or email at [cheryl.l.clark.civ@mail.mil](mailto:cheryl.l.clark.civ@mail.mil).



JOHN C. HARRIS JR.  
Major General  
The Adjutant General

2 Encls  
1 – OHNG Form 771  
2 – Designation of Activity Heads

DISTRIBUTION:  
A, D

# OHNG - FORMAL ADMINISTRATIVE GRIEVANCE FORM

GRIEVANT INFORMATION			
Name of Grievant	Phone		
Position Title	Series / Grade		
Organization	Duty Location		
Immediate Supv			
GRIEVANCE INFORMATION			
Describe the nature of the grievance in space below:		Date grievance occurred	
Name of Witness	Witness Organization		
What policy/regulation do you feel applies to this grievance, if any?			
What relief/resolution are you seeking?			
What efforts have been made to try and resolve this grievance?			
Representative Name (if any)		Phone	Email
SIGNATURES			
Grievant Signature			Date
Supervisor Signature			Date

### Designation of Activity Heads in Grievance Resolution

<b>ACTIVITY HEAD</b>	<b>ACTIVITIES INCLUDED</b>
Air Commander	Each Respective ANG Wing
ARNG Chief of Staff	JFHQ ARNG Personnel
Director of Staff	JFHQ ANG Personnel
United States Property and Fiscal Officer	USPFO
Human Resources Officer	HRO

NOTE: If an Activity Head indicated above has rendered a decision under the informal procedure in a particular case, The Adjutant General of Ohio will determine to act as the Activity Head or request a Hearing Examiner (HE) for the formal procedure. Supervisors should contact HRO to request such a designation when appropriate.