DEPARTMENTS OF THE ARMY AND AIR FORCE
MARYLAND (ARMY AND AIR) NATIONAL GUARD
Fifth Regiment Armory
Baltimore, Maryland 21201-2288

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TECHNICIAN PERSONNEL REGULATION
NUMBER 771

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TECHNICIAN PERSONNEL

GRIEVANCE SYSTEM

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1. PURPOSE. To establish procedures and assign responsibilities for processing and reviewing grievances for technician employees of this agency.

2. APPLICABILITY. This regulation is applicable to all technicians of the State employed under 32 U.S.C. 709.

3. MATTERS COVERED. Except as indicated below the agency grievance system covers any matter of concern or dissatisfaction to an employee if the matter is subject to control of agency management.

4. MATTERS NOT COVERED. This regulation does not cover situations indicated below which are appealable under law, or regulation of the Office of Personnel Management (OPM) applicable to technicians as further amended by Technician Personnel Manual (TPM), and Technician Personnel Regulation (TPR). This regulation does not apply to a negotiated grievance and arbitration procedure established through a negotiated agreement between the State and a labor organization.

a. Violation of reemployment priority.

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*This regulation supersedes TPR No. 771 dated 15 December 1986, same subject.

b. Reduction in force action.

c. Violation of reemployment or reinstatement rights.

d. Violation of military restoration rights.

e. Performance rating appeal.

f. Position classification decision.

g. Level of competence decision.

h. Salary retention decision.

i. Job grading decision.

j. Allegation or complaint of discrimination.

k. Adverse action for political activities or other types of adverse actions involving disciplinary and non-disciplinary removals, suspensions, furlough without pay, and reduction in rank or pay.

l. Fitness for duty examination.

m. Health benefits decision.

n. Contents of published agency policy.

o. Non-selection for promotion from a group of properly ranked and certified candidates.

p. A grievance over the interpretation or application of a negotiated agreement.

q. Non-adoption of a suggestion or disapproval of a quality salary increase, or other kinds of honorary award.

5. RIGHT TO SEEK ADVICE. In situations where an employee has valid reasons for not taking a grievance to his/her immediate supervisor, he/she is free to communicate with and seek advice from his/her servicing personnel officer, EEO officer, or designated EEO counselor, or a supervisory or management official of higher rank than his/her immediate supervisor. These provisions do not necessarily incur face to face consultations, therefore communication may be established by telephone or letter.

6. AVOIDANCE OF DELAY. Each grievance submitted in accordance with the provisions of this regulation will be given full, impartial, and prompt consideration in order that the requirement

for issuance of decision within ninety (90) days after initiation of the informal procedure will be accomplished.

7. PRESENTATION OF GRIEVANCE. Each employee presenting a grievance under this system shall:

a. Be assured freedom from restraint, interference, coercion, discrimination or reprisal.

b. Have the right to be accompanied, represented, and advised by a representative of his/her own choosing.

c. Be assured a reasonable amount of official time if he/she is otherwise in an active technician status.

d. The same provisions indicated in 7a and 7c above, will apply when a representative of the employee is presenting the grievance under this system.

8. INFORMAL GRIEVANCE PROCEDURE.

a. Presenting grievance under informal procedure.

(1) Time Limit - An employee may present a grievance concerning a continuing practice or condition at any time.

(2) An employee shall present a grievance concerning a particular act or occurrence within 15 calendar days of the act or occurrence or the date he/she became aware of such act or occurrence. This time limit may be extended by the agency for good cause shown by the employee.

b. Form of Grievance - An employee may present a grievance under the informal procedure either orally or in writing.

c. Mandatory Use of Informal Procedure - Any employee presenting a grievance must complete action under the informal procedure before a grievance can be accepted for processing under the formal procedure.

d. Local Action - The supervisor will take immediate action to arrange for a meeting with the employee (this meeting should be within five (5) work days, if possible) to discuss the matter. The supervisor has an obligation to act promptly and fairly on the matter, seeking advice and assistance of others when necessary, which may contribute to the resolution of the grievance objectively through informal discussion. Emphasis at this stage should be settlement of the matter at the lowest possible administrative level in the shortest possible time. The immediate supervisor will prepare a memo for the record, including a summary of the grievance, the consideration and

alternative solutions reached, and action taken. A copy will be furnished to the employee, and/or his/her representative, within 15 calendar days.

9. PRESENTING GRIEVANCE UNDER FORMAL PROCEDURE.

a. An employee is entitled to present a grievance under formal procedures if he/she:

(1) Has completed action under the informal procedures, and

(2) has provided sufficient detail to clearly identify the matter being grieved. If enough detail is not provided, the grievance may be rejected, and

(3) has specified the personal relief being requested. If the personal relief is not set forth, and specified, this may serve as the basis for rejection of the grievance. NOTE: A grievance without request for personal relief is not a grievance as defined by part 771. C.F.R. (Code of Federal Regulation).

b. If the grievance was not resolved under the informal procedures at the local action level, the employee must, within 10 calendar days of the conclusion of the informal procedure, submit the grievance, in writing, to the appropriate deciding official for his/her activity. The following are designated as deciding officials and will act in that capacity.

(1) Administrative Officer - MDANG.

(2) PO&T Officer (State Headquarters elements).

(3) Military Personnel Management Officer.

(4) Facility Management Officer.

(5) Executive Officer, 3rd Brigade 29th Inf Div (L).

(6) Executive Officer, Avn Brigade (Cbt) 29th ID (L).

(7) Executive Officer, 29th Inf Div Spt Cmd.

(8) Administrative Officer, Troop Command.

(9) USP&FO.

(10) SSM (For SMO, CSMS and OMSs).

(11) Aviation Facility Commander (For AASF).

(12) Support Personnel Management Officer.

c. The deciding official will determine whether the grievance is timely, is covered by the grievance system, has been processed through the informal procedures, if sufficient detail is provided, and the specified personal relief being requested is identified. The deciding official has the authority to reject the grievance if it was not filed according to the specified procedures mentioned in paragraph 9a (1-4), if it does not meet the requirements as listed above, or if it consists wholely of a matter or matters excluded from coverage of the grievance system. The notice of rejection must be in writing and the reason(s) for rejection identified. This rejection must be provided within 10 work days, after receipt of the grievance.

d. If the grievance meets the requirements of paragraph 9a, b, and c, the deciding official will attempt to resolve the grievance. The deciding official will prepare a written decision informing the employee of his/her findings and of his/her actions to resolve the grievance, if any were taken. The decision will be provided to the employee within 10 work days. If the employee is still not satisfied, he or she may within five (5) calendar days from receipt of the deciding official's decision, forward the grievance with all pertinent documents in the grievance file to the Support Personnel Management Office, who after review of the file will refer the case to the Reviewing Official. Designated Reviewing Officials are as follows:

(1) Air Commander - MDANG personnel.

(2) Chief of Staff - MDARNG personnel.

The reviewing official shall review the file seeking the facts pertaining to the case and if necessary meet with the employee to make an impartial determination.

10. GRIEVANCE DECISION. The reviewing official may sustain or change the deciding official's decision and issue a determination on a grievance, except that:

a. If the reviewing official decides to grant relief sought by the employee, the reviewing official shall issue a determination accordingly without regard to the deciding official's original decision, within 15 work days.

b. If the reviewing official concurs that the deciding official's original decision was appropriate, he or she shall transmit the grievance file with a specific statement of the basis for the determination to The Adjutant General, within 15 work days. The reviewing official will also furnish the employee and his or her representative a copy of that statement.

c. The decision on a grievance shall be in writing and shall contain findings on all issues covered by the reviewing official.

d. The final decision on a grievance rests with The Adjutant General unless the grievance is resolved at a lower level (i.e., reviewing official, or deciding official) in favor of the employee.

Users of this publication are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Support Personnel Management Office, Fifth Regiment Armory, Baltimore, Maryland 21201-2288.

BY THE ORDER OF THE GOVERNOR:

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