

CHAPTER 7C

ADMINISTRATIVE GRIEVANCE SYSTEM

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Section I General

7C-1. Policy

It is the policy of the Mississippi National Guard to provide technicians a reasonable opportunity to present grievances and have them considered expeditiously, fairly, and impartially, and resolved as quickly as possible. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination or reprisal in presenting a grievance.

7C-2. Purpose

To establish policy and procedures to follow when processing a grievance under the Mississippi National Guard's Administrative Grievance System (AGS). These procedures are established to provide each technician the opportunity to obtain personal relief in a matter of concern or dissatisfaction that is subject to management control. The ASG objectives are:

- a. To prevent undermining of employees' morale by the destructive effect of unsettled complaints and grievances.
- b. To take preventative action and develop an effective procedure for handling complaints and grievances.
- c. To provide a channel, in which a technician is assured freedom from reprisal, for voicing complaints and submitting grievances.
- d. To promote effective employee-management relations and efficiency of agency operations.

7C-3. 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 attention either orally or in writing.
- c. Grievance. Is a request by a technician or by a group of technicians acting as an individual, for personal relief, in a matter of concern or dissatisfaction relating to employment which is subject to the control of agency management. A grievance is further defined as a complaint that has not been satisfactorily resolved through the informal procedures established in this chapter.
- d. Grievance File. Grievance File means a separate file which contains all documents or copies of documents related to the grievance, including but not limited to, any statements of witnesses, records or copies thereof, the report of the hearing when one is held, statements made by the parties to the grievance, the report of a fact finder when fact finding is used, and the decision. A separate grievance file will be established and maintained for each written grievance filed under the AGS and retained in accordance with applicable laws, regulations and records retention schedules.
- e. Personal Relief. Personal Relief means a specific remedy benefiting the grievant(s) and may not include a request for disciplinary or other action affecting another employee.

7C-4. Grievance Coverage

- a. Except as indicated in subparagraph b below, this procedure applies to matters of concern or dissatisfaction to a technician which is subject to the control of TAG 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. This procedure does not apply to:
 - (1) The content of published Mississippi National Guard regulations and policy;
 - (2) Non-selection for promotion from a group of properly ranked and certified candidates; or failure to receive a non-competitive promotion;
 - (3) Discharge, suspension, furlough without pay, or reduction in rank or compensation.

(4) The granting or failure to grant an employee performance award, withholding of Within Grad Increase, the adoption or failure to adopt an employee suggestion or invention, the receipt or failure to receive a Quality Salary Increase, or any other honorary or discretionary award;

(5) The substance of an employee's performance elements, standards, work objectives, or performance rating;

(6) Position classification decision;

(7) Adverse personnel actions.

(8) An action which terminates a temporary or term promotion at the completion of the project or specified period, and returns the employee to the position from which promoted or to a different position of equivalent grade or pay;

(9) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC); or, any matter that the employee files under another review or reconsideration procedure, or dispute resolution process within the Department of Defense;

(10) Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under paragraph 7C-11b(9); above;

(11) Any actions taken pursuant to 32 USC 709 which are;

(a) A technician who is employed in a position in which National Guard membership is required as a condition of employment and who is separated from the National Guard or ceases to hold the military grade specified for his position by the Secretary concerned shall be promptly separated from his technician employment by the Adjutant General of the jurisdiction concerned.

(b) A technician who is employed in a position in which National Guard membership is required as a condition of employment and who fails to meet the military security standards established by the Secretary concerned for a member of a reserve component of the Armed Forces under his jurisdiction may be separated from his employment as a technician and concurrently discharged from the National Guard by the Adjutant General of the jurisdiction concerned.

(c) A technician may, at any time, be separated from his technician employment for cause by the Adjutant General of the jurisdiction concerned.

(d) A reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by the Adjutant General.

Section II

Technician Rights and Obligations

7C-5. Right to Representation

A Technician has the right to present a grievance with or without representation. If a Representative is requested, the individual must be designated by the technician in writing. A written designation may be changed only by written notification to the official then considering the matter. The choice of representative may be denied if it would result in a conflict of interest, conflicts with mission priorities or prevent the timely completion of priority work assignments. All fees for services or expenses incurred by the technician and/or representative will be borne by the technician.

7C-6. Use of Official Time

a. A technician will be given a reasonable amount of official time for the preparation and presentation of a grievance. The time allowed will be determined on the basis of the circumstances in each case. The technician's representative, if also a technician, will be given a reasonable amount of official time to assist or act for the technician in preparation and presentation of the grievance. Allowance or reimbursement for travel will not be authorized.

b. Technicians, whether principals or representatives, must make advance arrangements with their supervisors for the use of official time. When there is a disagreement concerning the amount of official time to be granted, the matter will be submitted by the supervisor to the HRO for a final decision.

c. Official time cannot be properly provided to a technician who is not in a duty status, i.e., on sick or annual leave, leave without pay, absence without leave (AWOL), suspension, furlough, or on a night shift presenting a grievance during the day, etc.

7C-7. Group Grievances

Technicians may join a group in submitting a grievance as if the groups were an individual, or management may combine the grievances of several individuals and render one decision applicable to all the individuals, if more than one individual is concerned or dissatisfied about the same matter. All individuals joining the grievance must be identified and sign the grievance at the formal stage. All members of a group grievance are required to accept any decision rendered on the grievance, without further recourse available. Each member of the group will receive a copy of any written decision.

7C-8. Obligation of the Grievant

Each grievant and/or his representative must comply with three requirements:

a. Comply with established time limits outlined in this chapter. Failure to do so may be the basis for rejecting the grievance.

b. Satisfy all the requirements of the problem-solving (informal) process before the grievance may be accepted for processing under the formal procedure.

c. Provide sufficient detail to clearly identify the matter being grieved.

d. Specify the personal relief being requested. A grievance without a request for personal relief is not a grievance. Failure to request personal relief may serve as a basis for rejecting a grievance.

Section III Processing the Grievance

7C-9. Informal AGS Process (Problem-Solving)

a. Technicians must present a work-related problem(s) and/or issue(s) to their immediate supervisors as outlined in the informal grievance process before filing a formal grievance.

(1) Step One.

(a) A technician who has a complaint will present the matter to his immediate supervisor. If the problem involves a matter or action directly involving the technician's supervisor, and the technician has been unable to resolve the matter with that supervisor, the technician may present the matter to the next level supervisor. The grievance may be presented orally or in writing or both under the informal procedure. Managers and supervisors may not refuse to accept a grievance in the informal stage at any time. A technician may present a grievance concerning a continuing practice or condition at any time; however, a grievance concerning a specific act or occurrence must be presented within 15-days following the date of the act or event that the technician believes created the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. An extension of time may be granted providing the grievance requests such extension from his supervisor in writing, and has a valid reason for the request.

(b) A supervisor must consider the technician's problem and attempt to resolve it within 10-days, from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance process. The supervisor will prepare a Memorandum for Record (MFR) briefly summarizing the problem, the consideration given, the conclusion reached, and decision on the issue, and if any remedy should be granted. A copy of the MFR will be furnished to the grievant. If the supervisor believes the matter is not covered by the grievance process, the supervisor will inform the technician and advise the technician of the appropriate process, if any, for resolving the problem.

(2) Step Two.

(a) If the first level supervisor is unable to resolve the problem within the time-line outlined above, or the technician is dissatisfied with the first level supervisor's decision, the technician may present his complaint, either orally or in writing, to the second level supervisor. Either the technician or his/her representative must notify the first level supervisor that she/he wishes to continue the grievance at the second step. The technician has 15-days, from receipt of the first level supervisor's decision, to present his complaint to the second level supervisor.

(b) The second level supervisor will follow the same process and time frame outlined in paragraph a(1)(b) above when considering the technician's problem.

(c) If the technician is dissatisfied with the second level supervisor's decision or has not received a decision from the second level supervisor within 10-days, he may file a formal grievance. Either the technician or his /her representative must notify both the first and second level supervisors that she/he wishes to file a formal grievance.

7C-10. Formal AGS Process

a. A technician may file a formal, written grievance when a problem is not resolved during the informal process. The grievance must be filed no later than 15-days from the conclusion of that process. The written grievance must:

(1) Be submitted using the Grievance Form – Mississippi National Guard Technician (page 7C-6) to HRO ATTN: JFH-MS-HRT-ER.

(2) Contain sufficient detail to identify and describe the basis of the grievance.

(3) Specify the personal relief desired.

b. The HRO will coordinate with appropriate senior management for consideration and guidance (e.g., JAG, COS, etc.). The HRO may act as the deciding official or appoint a senior management official to serve as the deciding official on their behalf. If a deciding official is appointed, he or she will be at a higher management level than the officials who considered the grievance during the informal process.

c. The deciding official will make every effort to resolve the grievance including coordination with TAG/COS, if resolution is outside the scope of that deciding official's authority.

d. The deciding official will complete items 13 through 15 of the grievance form and return the original to the technician with his decision within 10-days of receipt of the grievance. An information copy of the grievance form with the decision reached will be sent to the HRO ATTN: JFH-MS-HRT-ER who will insure that TAG is advised of the grievance and action taken.

d. Upon receipt of the grievance form with the deciding official's decision, the aggrieved technician will complete items 16 through 18 of the form and forward the original copy to the HRO ATTN: JFH-MS-HRT-ER within 10-days of receipt of the decision by the deciding official.

7C-11. Hearing Examiner

a. If the aggrieved technician elects to appeal the deciding official's decision, the technician will indicate in item 17 on the grievance form they are requesting referral of the grievance to a hearing examiner.

b. The aggrieved technician must request referral within 10-days of receipt of the decision by the deciding official.

c. If the grievance form is not received from the technician within the 10-day period, the grievance will be cancelled for failure to duly proceed with advancement of the grievance.

d. Once the HRO receives the technician's requests for referral of the grievance to a hearing examiner, the HRO will first advise TAG, and will then refer the matter to a hearing examiner as outlined in Chapter 7B (TPR 752).

f. After receiving the hearing examiner's recommendation, TAG will make a final decision on the grievance. The HRO will insure a copy of the TAG's decision is provided to the aggrieved technicians and her/his chain of command.

f. The decision of TAG will be final and no additional appeal or consideration will be given to the grievance.

7C-12. Time Limits

When calculating time limits under the AGS, the day of an action or receipt of a document is not counted. The last day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or a day on which the technician is not regularly scheduled to work. In those cases, the last day of the time limit shall be moved to the next regularly scheduled work day. All time limits are counted in calendar days. The time limits may be extended by mutual agreement of the technician and supervisor or deciding official concerned.

7C-13. Miscellaneous

- a. The HRO will provide necessary administrative support to the hearing examiner and will provide advice and assistance to supervisors and the aggrieved employee and/or representative in the presentation and resolution of a grievance.
- b. Procedures for submitting Equal Opportunity Complaints should be IAW MSNG-HRR, Chapter 12.
- c. Grievance procedures will be made available for review by all technicians. Technicians will be fully informed of their rights in this area and of the procedures they should follow in exercising those rights.

7C-14. Cancellation of Grievance

A grievance or a portion of the grievance may be withdrawn or canceled at any stage under the following conditions:

- a. At the request of the aggrieved technician or his elected representative by the submission of a written request, or on notification from HRO that the full remedy has been granted, whether or not the aggrieved technician request cancellation
- b. Upon termination of the aggrieved technician's employment with the Mississippi National Guard;
- c. Upon the death of the aggrieved technician, unless the grievance involved a question of pay;
- d. Because the aggrieved technician (or elected representation) failed to provide sufficient detail to clearly identify the matter being grieved or specify the personal relief requested (cancel the grievance or suspend processing the grievance until the deficiency is corrected);
- e. Because the aggrieved technician failed to comply with established time frames or procedures cited in this chapter (cancel the grievance if time frames are not met; or if otherwise procedurally deficient, cancel the grievance or suspend processing until the deficiency is corrected);
- f. If the technician fails to furnish required information or failure to appear at a scheduled grievance meeting or interview; or
- g. A grievance may be cancelled by TAG or his designated representative by notifying all parties promptly in writing.

GRIEVANCE FORM - MISSISSIPPI NATIONAL GUARD TECHNICIAN	
1. GRIEVANT NAME(S)	2. GRIEVANCE STEP <input type="checkbox"/> FORMAL
3. UNIT/WORK LOCATION:	4. DUTY PHONE:
5. POSITION OCCUPIED:	6. REPRESENTATIVE'S NAME AND DUTY PHONE:
7. GRIEVANCE ADDRESSED TO:	
8. BACKGROUND AND NATURE OF GRIEVANCE: (Provide a concise statement of facts; indicate the section of regulation allegedly violated or work-related problem or condition; indicate names, dates, times, places, phone numbers, etc., where applicable; attach supporting documents, if appropriate; be as clear but brief as possible; if necessary attach a continuation page):	
9. INDICATE THE FIRST AND SECOND-LEVEL SUPERVISORS WITH WHOM THE MATTER WAS DISCUSSED UNDER THE INFORMAL PROCESS: FIRST-LEVEL SUPERVISOR: _____ POSITION: _____ LOCATION: _____ SECOND-LEVEL SUPERVISOR: _____ POSITION: _____ LOCATION: _____	
10. RECOMMENDED SOLUTION (Specify the personal relief being requested. Failure to request personal relief may serve as a basis for rejecting a grievance).	
11. SIGNATURE OF GRIEVANT(S):	DATE:
12. SIGNATURE OF REPRESENTATIVE (IF APPLICABLE):	DATE:

PAGE 1 OF 2 (CONTINUED ON BACK)

GRIEVANCE FORM - MISSISSIPPI NATIONAL GUARD TECHNICIAN (CONTINUED)

COMPLETED BY DECIDING OFFICIAL

13. TO (GRIEVANT):

14. DECISION:

15. SIGNATURE AND TITLE OF DECIDING OFFICIAL:

DATE:

THE DECIDING OFFICIAL WILL FURNISH A COPY TO JFH-MS-HRT-ER.

16. MUST BE COMPLETED BY THE AGGRIEVED TECHNICIAN:

I DO CONCUR WITH THE FORMAL DECISION RENDERED.

I DO NOT CONCUR WITH THE FORMAL DECISION RENDERED BECAUSE (indicate the reason(s) why you do not concur with the Deciding Official's decision):

17. REQUEST:

CANCELLATION OF THIS GRIEVANCE.

REFERRAL OF THIS GRIEVANCE TO A GRIEVANCE HEARING.

18. SIGNATURE AND TITLE OF DECIDING OFFICIAL:

DATE:

ADMINISTRATIVE GRIEVANCE SYSTEM FLOW CHART

