

APPENDIX 1  
**Title 32 United States Code**  
**National Guard**

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§709. **Technicians: employment, use, status**

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject to subsections (b) and (c), persons may be employed as technicians in—

- (1) the organizing, administering, instructing, or training of the National Guard;
- (2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and
- (3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):
  - (A) Support of operations or missions undertaken by the technician's unit at the request of the President or the Secretary of Defense.
  - (B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.
  - (C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—
    - (i) active-duty members of the armed forces;
    - (ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);
    - (iii) Department of Defense contractor personnel; or
    - (iv) Department of Defense civilian employees.

**(b)** Except as authorized in subsection (c), a person employed under subsection (a) must meet each of the following requirements:

**(1)** Be a military technician (dual status) as defined in section 10216 (a) of title 10.

**(2)** Be a member of the National Guard.

**(3)** Hold the military grade specified by the Secretary concerned for that position.

**(4)** While performing duties as a military technician (dual status), wear the uniform appropriate for the member's grade and component of the armed forces.

**(c) (1)** A person may be employed under subsection (a) as a non-dual status technician (as defined by section 10217 of title 10) if the technician position occupied by the person has been designated by the Secretary concerned to be filled only by a non-dual status technician.

**(2)** The total number of non-dual status technicians in the National Guard is specified in section 10217 (c)(2) of title 10.

**(d)** The Secretary concerned shall designate the adjutants general referred to in section 314 of this title to employ and administer the technicians authorized by this section.

**(e)** A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed in that position is required under subsection (b) to be a member of the National Guard.

**(f)** Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned—

**(1)** a person employed under subsection (a) who is a military technician (dual status) and otherwise subject to the requirements of subsection (b) who—

**(A)** is separated from the National Guard or ceases to hold the military grade specified by the Secretary concerned for that position shall be promptly separated from military technician (dual status) employment by the adjutant general of the jurisdiction concerned; and

**(B)** fails to meet the military security standards established by the Secretary concerned for a member of a reserve component under his jurisdiction may be separated from employment as a military technician (dual status) and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned;

**(2)** a technician may, at any time, be separated from his technician employment for cause by the adjutant general of the jurisdiction concerned;

**(3)** 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 of the jurisdiction concerned;

**(4)** a right of appeal which may exist with respect to paragraph (1), (2), or (3) shall not extend beyond the adjutant general of the jurisdiction concerned; and

**(5)** a technician shall be notified in writing of the termination of his employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.

**(g)** Sections 2108, 3502, 7511, and 7512 of title 5 do not apply to a person employed under this section.

**(h)** Notwithstanding sections 5544 (a) and 6101 (a) of title 5 or any other provision of law, the Secretary concerned may prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

**(i)** The Secretary concerned may not prescribe for purposes of eligibility for Federal recognition under section 301 of this title a qualification applicable to technicians employed under subsection (a) that is not applicable pursuant to that section to the other members of the National Guard in the same grade, branch, position, and type of unit or organization involved.