



CALIFORNIA MILITARY DEPARTMENT INSTRUCTION

NGCA-JSD-MP
DISTRIBUTION: TA

CMDI 1400.01
02 June 2016

SEPARATION OF A DUAL STATUS TECHNICIAN DUE TO LOSS OF MILITARY MEMBERSHIP

Reference(s): See enclosure

1. Purpose. This California Military Department (CMD) Issuance establishes the Human Resources Office (HRO) separation procedures for a Military Technician who is being separated from a technician position due to loss of military membership for non-retention, medical disability, Expiration Term of Service (ETS), cause, or non-disciplinary reasons.

2. Superseded/Canceled. None.

3. Applicability. This notice applies to all California National Guard Dual-Status (DS) technicians.

4. Policy.

a. DS technicians who are discharged or separated from the military require prompt termination from the technician position upon loss of military membership in the Army or Air National Guard. Federal law requires civilian personnel employed under Title 32 United States Code, Section 709(a) to maintain membership in the California National Guard as a condition of continued employment.

b. The technician termination will reflect the reasoning of the military separation and be classified as:

(1) Voluntary reason– a request made by employee or with the consent of the employee, to include action for cause or charges of misconduct or delinquency.

(2) Involuntary reason – a request made against the will of and without the consent of the employee without cause or charge of misconduct or delinquency.

(3) Medical reason– a request that is solely due to the employee's documented medical condition or a medical disqualification that prohibits a military member from retaining military membership.

c. A technician will be notified in writing of the termination of his/her employment as a technician by HRO. Notification will be given at least 30 days before the termination date of technician employment.

d. Technicians must notify their supervisor immediately after becoming aware of their discharge or separation from the military.

e. The manager, supervisor, Remote Designee (RD), and/or technician must coordinate the separation action request and follow the procedures provided in Enclosure A, Processing Guidance.

5. Definitions. See Glossary.

6. Responsibilities.

a. The Adjutant General (TAG) is responsible for ensuring that a system has been established to provide for coordinated management direction regarding voluntary, involuntary and non-disciplinary actions.

b. HRO:

(1) Has final delegated authority for separation and benefit entitlement determinations and will assist in coordination with Army Benefits Center – Civilian (ABC-C) for disability, discontinued service and optional (voluntary) retirement actions.

(2) Will provide guidance and direction to managers and supervisors to ensure that actions comply with applicable laws, policies and negotiated collective bargaining agreements (CBA).

c. It is the Employee Benefits Specialist (EBS) responsibility in conjunction with the Employee/Labor Relations Specialist (E/LRS) to administer and manage such programs, provide advice, and monitor compliance.

d. Managers and Supervisors:

(1) Must ensure that prompt action is taken to ensure that a technician who has lost military membership is separated in accordance with 32 USC §709(a) and (b) and paragraph 3-1, Technician Personnel Regulation (TPR) 715.

(2) Shall identify all technicians who are subject to military separation.

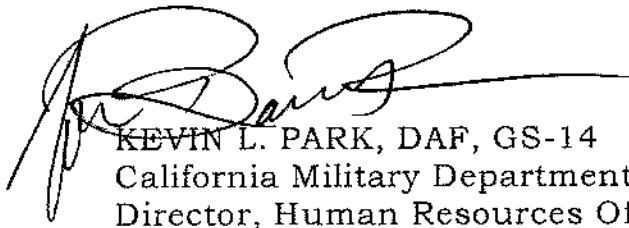
(3) Must ensure technicians understand the conditions of employment and military membership requirements for continued employment.

(4) Must ensure that a technician receives notification regarding his/her last working day specified in the 30-day Notice of Termination Memorandum (NOTM) issued by HRO. Employees who report to duty after the last working day established by HRO or use any annual or sick leave after that date, may incur a debt.

7. Summary of Changes. This is the initial publication of CMDI 1400.01.

8. Releasability. This issuance is approved for public release; distribution is unlimited.

9. Effective Date. This notice is effective upon publication.



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ENCLOSURE A

PROCESSING GUIDANCE

1. The unit/wing RD or supervisor/manager must provide HRO with a Request for Personnel Action (RPA), SF-52 and a source document. The source document must be one of the following:

a. Military Discharge Order

b. Military Retirement Order

c. TAG Enlisted Qualitative Retention (EQRB) Non-Retention or Non-selection for Retention/Continued Unit Participation Memorandum

d. (ANG ONLY) An AF 418 Form which provides a clear and valid reason for non-retention, if an order is unavailable.

NOTE: ALL source documents must include a separation reason code or indicate reason for separation. If a source document isn't provided HRO will verify information based on the ANG Alpha Roster or SIDPERS/iPERMS.

2. **Request for Personnel Action (RPA):** Upon receipt of the separation RPA and source document via Defense Civilian Personnel Data System (DCPDS) the Employee Benefits Specialist will send an email response to the Remote Designee (if applicable) and supervisor and technician acknowledging receipt of the personnel action and source documents, and/or request any missing information.

3. **Source Document:** The HRO will review the source documents and SF-52 to ensure accuracy and to determine the reason for separation. HRO must verify the reason for any separation in order to determine the correct nature of action and the employee's benefits and entitlements. The source documents must include a separation code or indicate a clear reason for separation. In cases in which the source document does not indicate a clear reason, HRO will verify the information using military personnel records or systems available.

4. **Military Separation Reason/Code:** The separation reason/code will assist HRO in determining if the military separation is voluntary or involuntary or due to medical reason(s). If the document contains multiple reasons, HRO will determine the prime reason by examining all documents and information provided to the agency. A military separation that was caused or initiated by the military member's own action(s) to include for cause, failure to re-enlist at ETS, failure to pass the Physical Fitness Test (PFT) and/or an enlisted member accepts a commission while holding an enlisted only position is considered

voluntary. If the military member has voluntarily applied for an early military retirement, then this will also be considered voluntary. If the early qualification for retirement and/or retired pay was based on reaching the maximum military age of 60 years old, this will be considered involuntary. If the commander fails to accept the member's re-enlistment or selects to non-retain the employee for non-disciplinary reasons, it's also considered involuntary.

The separation reason and code is the determining factor in regards to retirement or severance pay entitlements. If the technician is found to be eligible for a civilian Discontinued Service Retirement (DSR) based on involuntary separation, a Minimum Retirement Age (MRA), or applies for an optional (voluntary) retirement he/she will receive an immediate annuity with or without penalty. An involuntary separation may entitle a technician to severance pay and/or DOD Priority Placement Program (PPP). If the technician is not eligible for retirement or severance pay, he/she will be terminated and provided information regarding a Deferred Retirement.

5. 30-Day Notice of Termination Memorandum (NOTM): HRO must initiate a 30-day NOTM and ensure the technician separating receives information on their benefits and entitlements. HRO will determine the technician's last working day as a DS Technician based on the military discharge date. Normally starting with 30 calendar days from the date of the source document plus five (5) additional calendar days to allow for US Postal mail delivery. There may be a special case where the effective date may change due to HRO not receiving all required information and/or if changes have been made to military orders (e.g., discharge date or type of separation changes). HRO will provide the original copy of the 30-day NOTM to the technician via US Mail, and an electronic copy will be issued via email to the supervisor and unit/wing RD (if applicable). The supervisor must acknowledge receipt of the letter and meet with the employee to discuss the 30-day NOTM. The employee must acknowledge receipt of such notice by signing the receipt page, which also provides them an opportunity to change their mailing address and waive the retirement/separation date and elect an earlier date. If the technician elects an earlier date on an involuntary separation, it's still considered an involuntary action.

6. Medical Discharge: If the technician is being medically discharged, the last working day must be determined by HRO according to the medical discharge date or the date the Office of Personnel Management (OPM) initial decision letter is received by HRO. Technicians who apply and/or are eligible for a disability retirement benefit under National Guard's Special Provision Disability Retirement based on Public Law 97-253, may remain working or on the agency's rolls in a leave status until OPM makes a decision. Upon receipt of OPM's decision letter HRO must coordinate the "Last Day of Pay" (LDOP). The HRO must establish a separation date or last working day. The technician

must be terminated no later than the end of the pay period in which OPM's initial notification is received. All disability retirement actions are processed through HRO by ABC-C.

ENCLOSURE B

REFERENCES

1. Title 32 United States Code, Section 709, "Technicians: Employment, Use, Status"
2. The Guide to Processing Personnel Actions, Chapter 35, "Glossary of Terms Used in Processing Personnel Actions"
3. Technician Personnel Regulation (TPR) 715, 13 July 2007, "Voluntary and Non-Disciplinary Actions,"
4. National Guard Bureau (NGB), Memorandum for All National Guard Human Resources Officers, 24 April 2015, "Subject: Processing National Guard Special Provision Disability Retirement"
5. California National Guard (CNG) Full-Time Personnel Regulation (FPR) 207, 1 May 2006, "DOD Priority Placement Program"
6. CNG FPR 302, 1 July 2006, "DS Technician Employment"
7. CNG FPR 532, 1 November 2006, "Premium Pay and Differentials".

GLOSSARY

PART I DEFINITIONS

Discontinued Service Retirement (DSR) -- Retirement based on involuntary separation against the will and without the consent of the employee, other than on charges of misconduct or delinquency. An employee who does not meet the age retirement at the time of separation may retire on discontinued serviced if he or she is age 50 with 20 years of creditable service or at any age with 25 years of creditable service including 5 years of civilian service.

Involuntary separation -- A separation against the will of and without the consent of the employee, other than separation for cause on charges of misconduct or delinquency.

Medical Related separation -- A separation or military discharge that is solely due to the employee's medical condition(s) which has resulted in a medical disqualification that prohibits a military member from retaining military membership.

Optional Retirement -- A voluntary retirement, without reduction in annuity, of an employee who meets minimum age and service requirements.

Priority Placement Program -- A tool to assist in transitioning NG Technicians who will be or were separated from a permanent technician position for reasons other than cause to other DOD federal employment. PPP is not a guarantee of a job.

Retirement -- Separation from the service when employee is eligible to obtain an immediate annuity.

Severance Pay -- Technicians may be entitled to severance pay when involuntarily separated from their employment and not eligible for a retirement. Severance pay is based on a technician's creditable (civilian) service, age and salary.

Voluntary separation -- A separation request made by employee or with the consent of the employee, to include action for cause or charges of misconduct or delinquency.

GLOSSARY

PART II ACRONYMS

ABC-C	Army Benefits Center-Civilian
ANG	Air National Guard
CBA	Collective Bargaining Agreement
CMD	California Military Department
CNG	California National Guard
DOD	Department of Defense
DS	Dual-Status
DSR	Discontinued Service Retirement
EBS	Employee Benefits Specialist
E/LRS	Employee/Labor Relations Specialist
ETS	Expiration Term of Service
FPR	Full-time Personnel Regulation
HRO	Human Resource Office
iPERMS	Interactive Personnel Electronic Records Management System
LDOP	Last Date of Pay
MRA	Minimum Retirement Age
NOTM	Notice of Termination Memorandum
OPM	Office of Personnel Management
PFT	Physical Fitness Test
PPP	Priority Placement Program
SIDPERS	Standard Installation and Division Personnel Reporting System
TAG	The Adjutant General
TPR	Technician Personnel Regulation
USC	United States Code