

STATE OF WEST VIRGINIA
ADJUTANT GENERALIS DEPARTMENT
Charleston, West Virginia 25311

WV Technician Personnel Regulation Number 771-1
Number 771-1

12 March 1984

Agency Administrative Grievance System

TECHNICIAN GRIEVANCE PROCEDURE

The purpose of this Regulation is to establish -the Agency Grievance -Procedure for military technicians, excepted and competitive, of the West Virginia National Guard.

1. REFERENCE. Chapter 771, Technician Personnel Regulation 700, dated 16 August 1982, as changed.
2. APPLICABILITY. The Technician Grievance Procedure is applicable to all managers, supervisors, and employees not covered by the Management Agreement Between The Adjutant General and National Association of Government Employees Locals.
3. DEFINITIONS.
 - a. Grievance. A request by a -technician or group of technicians acting as individuals, for personal relief in matter of concern or dissatisfaction which is subject to the control of management.
 - b. National Guard Hearing Committee Review. Three or more individuals to be appointed by The Adjutant General, State *of* West Virginia on an ad hoc basis. Individuals appointed will be military technicians or military duty personnel *of* the West Virginia National Guard. To insure the Committee is fair, impartial, and objective, none *of* the members should be from the Activity from which the grievance originates. The Committee will investigate the facts pertaining to -the grievance and make a recommendation to The Adjutant General.
 - c. Appellant Review. A review *of* the written statements made during the formal grievance procedure and other investigation as deemed appropriate by The Adjutant General_
 - d. Final Decision Authority. The Adjutant General, State *of* West Virginia, is the final decision authority. There is no administrative review beyond The Adjutant General.

Supersedes Technician Personnel SOI Number 4-2, 15 December 1974
Distribution: A,B,C

e. Activity Head. Occupants of the following positions are designated as Activity Heads for the purpose of this Regulation:

Executive Support Staff Officer, HQ, WVANG
Air Commander, 130th Tactical Airlift Group, WVANG
Air Commander, 167th Tactical Airlift Group, WVANG
Command Administrative Officer, WVARNG
United States Property and Fiscal Officer, WVNG
Support Personnel Management Officer, WVNG

4. Matters Covered. Grievances may include, but are not limited to such matters as:

- a. Working conditions and environment.
- b. Relationships with supervisors and with other technicians and officials.
- c. Implementation of personnel policies.

NOTE: Technician grievances may not include questions of policy in the areas mentioned above. They may, however, include questions on the application of the policy to an individual or group of technicians.

5. Matters Not Covered. The following matters may not be processed under the grievance system.

- a. The contents of published agency regulations and policy.
- b. A decision which is appeal able to the Merity Systems Protection Board or subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission under law .or regulation.
- c. Non-selection for promotion from a group of properly ranked and certified candidates.
- d. A preliminary warning or notice of an action which, if effected, would be covered under this procedure.
- e. An action which terminates a temporary promotion.
- f. The substance of the critical elements and performance standards of an employee's position.
- g. The granting of or failure to grant an employee performance award or the adoption or failure to adopt an employee suggestion or invention.
- h. The receipt of or failure to receive a performance award or Quality Salary Increase.

i. A merit pay determination or a merit pay increase or the lack of a merit pay increase under the Merit Pay System or a decision on the granting or failure to grant cash or honorary recognition.

j. Termination of a probationary employee for unsatisfactory performance.

k. Separation for loss of military membership.

l. Reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation.

m. Grievances filed after a resignation has been submitted, regardless of reason.

6. Right To Seek Advice. A technician is entitled to seek advice from the Support Personnel Management Office concerning procedures or regulations, as required.

7. Technician Representative. A technician has the right to select another individual to represent him or her while presenting a grievance under these procedures. The technician and the representative shall be assured of freedom from restraint, interference, coercion, discrimination, or reprisal, and be assured a reasonable amount of official time as determined by the Activity Head to prepare the grievance. A grievance must be initiated by the affected technician and not by a representative.

8. Grievance Procedures. The procedures noted below will be followed when processing a grievance. Technicians must complete action under the informal procedure before a grievance concerning the same matter will be accepted from the technician for processing under the formal procedure. The Adjutant General expects technicians and supervisors to make a sincere effort to reconcile their differences. When such efforts fail, however, the following procedures are established for the settlement of grievances:

a. Step 1 (Informal). The grievance shall be discussed first by the technician(s) involved with their immediate supervisor. The supervisor will answer as soon as possible, or within the next three (3) scheduled workdays.

b. Step 2 (Informal). If a satisfactory settlement to the technician is not reached at the above Step, the grievance may be discussed within the next three (3) scheduled workdays by the aggrieved technician and his/her representative if desired, and the next higher supervisor in line. The supervisor will give an answer as soon as possible, or within three (3) scheduled workdays. This step will be repeated until the grievance is resolved or until it reaches the Activity Head. At that point the grievance will become formal.

c. Step 3 (Formal). If a satisfactory settlement to the employee is not reached at the above Step, the grievance shall be committed to writing and warded directly to the Activity Head or designated representative within three (3) scheduled workdays. The nature of the grievance, a summary of the efforts made to resolve the grievance informally, the corrective action sought and other pertinent information will be noted in submitting the grievance in writing. The Activity Head or representative will, within five (5) scheduled workdays after receiving the grievance, hold a hearing with the aggrieved and s/her representative, if desired. A decision will be made within five (5) scheduled workdays after the hearing. The decision will be in writing. A copy of all documents will be provided the Support Personnel Management Office for establishment of the grievance file.

d. Step 4 (Formal). If the technician is not satisfied with the decision of the Activity Head or designated representative, the technician may, within fifteen (15) calendar days after receipt of such decision, appeal in writing directly to The Adjutant General for a decision. The technician must request either an Appellant Review or National Guard Hearing Committee, as described in Paragraph 3 of this Regulation. In the absence of a specific request, an Appellant Review will be used. Within ten (10) scheduled workdays from receipt, The Adjutant General will take the following action:

(1) Appellant Review. Render a final decision.

(2) National Guard Hearing Committee Review. Appoint the Committee to conduct the investigation. The Committee will make a recommendation within 30 calendar days from conclusion of the hearing or receipt of the transcript, if used. Upon receipt of the recommendation, The Adjutant General will render a final decision on the grievance within ten (10) working days. The Adjutant General's decision is final and shall not be appealable.

9. Withdrawal of Grievance. A technician may withdraw a grievance at any time. If the grievance has proceeded to the formal state, it will be withdrawn in writing.

10. Time limitations. Grievances which are not taken up with a technician's immediate supervisor within fifteen (15) calendar days after the occurrence of the matter out of which the grievance arose or at the time the matter came to the attention-of the aggrieved party, shall not be presented or considered at a later date. If the technician does not initiate action to carry the grievance to each succeeding step within the time limits specified, the previous decision rendered will become final and shall not be appealable.

11. Grievance File. A grievance file will be established when a technician grievance becomes formal. This file will be maintained by the Support Personnel Management Office and will contain, as a minimum, the following:

a. Written grievance.

b. Summary of transcript of any proceedings before an individual or group to which a personal presentation is made.

c. The individual or group's finding(s), or recommendation.

d. Documentary evidence considered in resolving the grievance.

e. Written decision.

12. Summary. It is the desire of The Adjutant General that all technicians be treated fairly and equitably. Every attempt will be made by management officials to adjust grievances informally and promptly in the interest of good employee-management relations and the mission of the West Virginia National Guard.

FOR THE GOVERNOR:

JOHN A. WILSON, III
Major General , WVANG
The Adjutant General

SUMMARY OF CHANGES:

Allows the grievant to select an Appellant Review, or National Guard Committee Review at The Adjutant General level.
Makes minor changes in terminology to conform with existing organizational structures and regulations.