



LABOR MANAGEMENT RELATIONS AGREEMENT

Between

The Adjutant General, State of West Virginia

And the

West Virginia Chapters of the Association of Civilian Technicians

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ARTICLE 1- General Provisions

Section 1.1- Preamble:

This multi-unit agreement is entered into under the provisions of 5 USC Chapter 71 by and between the West Virginia National Guard, hereinafter referred to as “WVNG,” and the Association of Civilian Technicians West Virginia Chapters, hereinafter referred to as the “ACTWV.” The parties agree consideration of 32 USC 709 Federal case law will be observed in this agreement wherever applicable and appropriate.

Section 1.2- Coverage:

a. It is hereby certified the ACTWV has been designated and selected by a majority of the employees of the West Virginia National Guard as their representative for purposes of exclusive recognition and, pursuant to 5 USC Chapter 71, the said organization is the exclusive representative in such unit:

SHENANDOAH has been designated and selected by a majority of the employees of the West Virginia National Guard as their representative for purposes of exclusive recognition and, pursuant to Chapter 71 of Title 5 of the U.S.C., the said organization is the exclusive representative of all employees in such unit.

UNIT: All Wage Grade and General Schedule employees employed by the Air Technician, detachment No. 5002, West Virginia Air National Guard, Eastern West Virginia Regional Airport, Martinsburg, West Virginia, but excluding all management officials, supervisors, professional employees, and employees described in section 7112 (b) (2), (3), (4), (6) and (7) of the Statute.

MOUNTAIN STATE has been designated and selected by a majority of the employees of the West Virginia National Guard as their representative for purposes of exclusive recognition and, pursuant to Chapter 71 of Title 5 of the U.S.C., the said organization is the exclusive representative of all employees in such unit.

UNIT: All Wage Grade and General Schedule employees employed by the West Virginia Army National Guard, statewide, but excluding all management officials, supervisors, professional employees, and employees described in section 7112 (b) (2), (3), (4), (6) and (7) of the Statute.

MOUNTAINEER has been designated and selected by a majority of the employees of the West Virginia National Guard as their representative for purposes of exclusive recognition and, pursuant to Chapter 71 of Title 5 of the U.S.C., the said organization is the exclusive representative of all employees in such unit.

UNIT: All Wage Grade and General Schedule employees employed by the Air Technician, detachment No. 5001, West Virginia Air National Guard, Yeager Airport, Charleston, West Virginia, but excluding all management officials, supervisors, professional employees, and employees described in section 7112 (b) (2), (3), (4), (6) and (7) of the Statute.

b. This agreement, to include all articles herein, is applicable to identified bargaining unit employees in the West Virginia Army and Air National Guard.

c. The Adjutant General of West Virginia, a state appointed official, enters into this agreement under the provisions of Public Law 90-486, which gives him/her the statutory function of employing and administering employees as Title 32 WVNG technicians. This agreement is solely for the purpose defined in Section 1.3 below.

d. For the purpose of this agreement the ACTWV shall be, but not limited to, bargaining unit members of the Mountaineer Chapter located in Charleston, WV, representing the 130th Airlift Wing, the Shenandoah Chapter located in Martinsburg, WV, representing the 167th Airlift Wing, and the Mountain State Chapter located throughout the state of West Virginia representing the West Virginia Army National Guard. WVNG recognizes ACTWV's right to designate its representative(s) concerning any aspect of labor relations. 5 USC Chapter 71 defines the rights of the Exclusive Representative and these rights will not be denied.

e. For the purpose of representing the Adjutant General under the provisions of this agreement the Director of the Joint staff (DoJS), Air Commanders (AC), Director of Staff-Air (DoS-Air), Surface Maintenance Manager (SMM), United States Property and Fiscal Officers (USPFO), State Aviation Officer (SAO), Human Resource Officer (HRO), and the WVARNG Chief of Staff (CoS-Army) will be hereinafter referred to as "Activity Head."

Section 1.3- Purpose of this Agreement:

a. This agreement sets forth the respective roles and responsibilities of the parties and indicates the nature of the subject matter of proper mutual concern. The WVNG and the ACTWV agree the parties have had full and fair opportunity to bargain on all aspects of all the topics contained in this agreement and this contract represents the parties, full, final, and complete agreement on all aspects of the topics included in the agreement for the life of the contract. The purpose of the parties in entering into this agreement is to, but not limited to:

1. Ensure employees' participation in the formulation of personnel policies and procedures through impact and implementation (I&I) bargaining by the ACTWV.
2. Provide for the highest degree of efficiency and responsibility in accomplishing the mission of the WVNG;
3. Promote systematic labor management cooperation;
4. Facilitate the adjustment of grievances and dispute to a fair and equitable solution;
5. Establish the procedures and methods which will hereinafter govern the working relationship between the parties; and

6. Express the full agreement of all parties and shall govern those areas covered in this contract, and the parties will be bound by the terms of this agreement.

b. The ACTWV agrees to support the WVNG in its efforts to eliminate waste, combat absenteeism, conserve materials and supplies, ensure timely completion of work, improve the quality of workmanship, encourage the submission of improvements and cost reduction ideas, prevent accidents, provide a safe, fair, and equitable workplace to promote the development of good will.

Section 1.4- Laws and Regulations:

a. It is agreed in the administration of all matters covered by the agreement, officials and employees are governed by existing laws and regulations of appropriate authorities including policies set forth in the Code of Federal Regulations; by the parent services; by the National Guard Bureau (NGB); by published Agency policies and regulations, to the extent not in conflict with this agreement.

b. WVNG management officials retain the right:

1. To determine the mission, budget, organization, number of employees, and internal security practices of the Agency, and

2. In accordance with applicable laws

(a) To hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(b) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operation shall be conducted;

(c) With respect to filling positions, to make selections for appointments from--

(1) Among properly ranked and certified candidates for promotions; or

(2) Any other appropriate source; and

(d) To take whatever actions may be necessary to carry out the Agency mission during emergencies.

c. Whenever language in this agreement refers to specific WVNG or Bargaining unit duties or responsibilities (example: Section 1.2, e.) it is intended as a guideline for that particular duty or responsibility. It is agreed the WVNG retains the sole discretion to assign work and to determine who will perform the function indicated.

Section 1.5- Appropriate Bargaining:

a. All matters appropriate for consultation or negotiations, at the state or local level, in accordance with public law or regulation, will be addressed upon request of either party provided they are consistent with the terms of this agreement. Management recognizes the obligation to bargain on those matters with respect to 5 USC Chapter 71 and other applicable laws, rules, and regulations. Matters appropriate for negotiations include, but are not limited to, personnel policies, practices and matters which affect working conditions.

b. WVNG management officials agree to meet and confer as soon as practicable to discuss appropriate bargaining issues. Changes and decisions based on approved issues will not be implemented before bargaining, unless they pose a general health and safety concern for recognized hazards, and assessments of other hazards.

Section 1.6- Meetings at the Local Level:

It is agreed the local supervisor, or designated representative, and the local ACTWV representative will meet at the request of either party at times mutually agreed upon to confer to attempt to resolve appropriate matters. For such meetings, the party requesting the meeting will furnish the subject matter in advance of the meeting.

Section 1.7- Meetings with the WVNG:

The WVNG or its representatives and representatives of the ACTWV shall meet at the request of either party and confer in good faith with respect to personnel policies, practices, and matters affecting working conditions so far as may be appropriate under applicable laws, regulations, and national or other controlling agreement at a higher level. Subject matter will be exchanged in advance of the meeting.

Section 1.8- Rights of the Employee:

a. The WVNG and the ACTWV agree each employee has the right, freely and without fear of penalty or reprisal, to form, join, and assist the ACTWV or to refrain from any such activity. Each employee shall be protected in the exercise of this right.

b. Except as otherwise expressly provided in 5 USC Chapter 71, the right to assist the ACTWV extends to participation in the management of the Association at any level.

c. The WVNG shall take the action required to assure employees within the WVNG are apprised of their rights, under 5 USC Chapter 71, and that no interference, restraint, coercion, or discrimination is practiced within the Agency to encourage or discourage membership in the WCTWV. This agreement does not preclude any employee in the bargaining unit, regardless of ACTWV membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, rules, regulations, or policy, or from having an ACTWV representative in a grievance or appeal action.

d. The WVNG agrees, as part of orientation, all new employees appointed to a position in the bargaining unit shall receive a New Employee Orientation (NEO) briefing. They will also be informed of the ACTWV's exclusive status and will be advised of their right to join the ACTWV. All newly assigned permanent and indefinite employees will be informed of the location of a digital copy of the agreement.

e. The new employee's supervisor will afford a twenty (20) minute orientation by a shop steward on the LMRA within the first pay period.

f. An ACTWV official may be present at any formal discussion which concerns disciplinary actions, grievances, or other general conditions of employment, as prescribed in 7114 (a)(2)(A) of the Federal Service Labor-Management Relations Statute.

Section 1.9- New Employee Orientation:

a. Procedure: The WVNG will establish procedures to assure new employees will be counseled on all aspects of technician employment at the next NEO briefing after being hired.

b. Notification: The ACTWV will be notified of all new bargaining unit employees.

Section 1.10- Joint Responsibilities:

a. Correspondence: Correspondence between the WVNG and the ACTWV shall be answered by either party, generally within ten (10) workdays, but not more than fifteen (15) workdays, of the time of receipt of said correspondence. This time limit does not supersede other time requirements as stated in articles of the LMRA. The WVNG and the ACTWV agree all inquiries relating to employee matters submitted will be processed through official channels. During said correspondence, any applicable supporting documentation should be provided.

b. Orientation: The WVNG will provide facilities to conduct a new LMRA briefing to any employee and WVNG members who wish to attend, at no cost to the WVNG. This may be conducted on Saturdays, Sundays, or after scheduled duty hours between thirty (30) days and sixty (60) days after publication of the LMRA.

c. Official Notification:

1. For the purposes of this agreement "Official Notification" is written correspondence initiated by the WVNG or the ACTWV with a specific intent to provide notice of a change in conditions of employment, working conditions, or to convey WVNG or ACTWV positions or opinions regarding matter so mutual interest.

2. Official Notification will be in written form bearing the signature of the initiating individual and delivered to the addressee. In the event digital communications are employed to speed up the communications process, a

confirmed email will be sufficient to initiate action and will require the sender make delivery of a hard copy within ten (10) working days.

3. Only when written notification as described in 1.10(c)(1) and 1.10(c)(2) above and received by the appropriate Chapter President or the appropriate WVNG representative has been completed will either party be compelled to act or respond according to conditions set forth in this agreement and applicable law, rule or regulation.

d. For the purposes of all actions subject to this agreement, unless otherwise directed by law, rule or regulation, time computations will commence upon the first calendar day, or work day as directed, following the date of the action requiring time period identification. Paid holidays will not be counted in such computations. Example: An action which requires a response within five (5) work days and being executed on a Monday will indicate a computation starting with Tuesday, the first work day following the action, and ending on the following Monday (Close of Business).

Section 1.11- WVNG Obligations:

a. The WVNG agrees to make an electronic copy of this agreement available on the HRO website.

b. The WVNG agrees to furnish quarterly, upon request by the ACTWV, a current manning document with all authorized bargaining unit positions as well as the names of technicians, their grades, and the position titles. The ACTWV agrees to maintain appropriate security for the requested information.

c. The WVNG agrees that reasonable security of personal items is in the interest of the bargaining unit and management and will, within space and funding limitations, furnish each employee with a personal locker or alternative storage providing equivalent security and affording unaccompanied access to the individuals.

d. In accordance with 5 USC Chapter 71, the ACTWV will be afforded its right to request I&I bargaining on conditions of employment, to include both personnel policies and practices and matters affecting working conditions at the state or local level. In addition, matters which significantly affect more than one work area will be conducted at the state level through the LRS.

Section 1.12- Association Obligations:

The ACTWV agrees to furnish the WVNG, and maintain on a current basis, a complete list of all ACTWV officers and stewards to include work area and phone number. Personnel not appointed by the ACTWV will not be allowed to perform official representational functions, nor will they be allowed the use of official time. The ACTWV may appoint bargaining unit representatives telephonically with the appointment to be accomplished in writing within five (5) working days.

Section 1.13- Rights of the ACTWV:

a. A representative of the ACTWV will have the right to be present at any formal discussion between one or more representatives of the WVNG and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment.

b. ACTWV representatives shall be excused from duty without loss of pay or charge of leave to receive information, or orientation relating to pay, working conditions, work schedules, employee grievance procedures, adverse action appeals, as well as, WVNG policy and negotiated agreements pertaining to them.

c. The WVNG agrees there shall be no restraint, interference, or coercion against any ACTWV official or steward and that no officer or steward will be transferred from one work assignment to another for the purpose of discrimination against such officer or steward because of their performance of proper ACTWV functions.

d. In accordance with 5 USC Chapter 71, the ACTWV will be afforded its right to request I&I bargaining on conditions of employment, to include both personnel policies and practices and matters affecting working conditions at the state or local level. Matters that significantly affect more than one work area will be conducted at the state level.

ARTICLE 2 - Workweek and Hours of Work

Section 2.1- Work Period Assignments:

- a. The WVNG has the right to assign and schedule work to meet mission requirements but will consider the desires and preferences.
- b. A work shift is the time period during which a person is at work. A pay period consists of 80 hours of work during a two week calendar period.

Section 2.2- Basic Workweek:

- a. Basic work hours are designated as Monday through Friday, 0730 to 1600 or 1530 to 2400 or 2330 to 0800 which includes one half hour lunch during each shift.
 - 1. The WVNG reserves the right to schedule employees in such a manner as to provide seven (7) days per week coverage, and adjust the hours of duty to meet local mission requirements.
 - 2. The WVNG shall determine whether more than one shift outside the basic work week is required.
 - 3. Changes to the basic workweek are subject to impact and implementation (I&I) bargaining.
 - 4. Any management directed, permanent change in work shift assignment will be subject to applicable laws, rules, and regulations.
 - 5. Work schedules may be established allowing employees to benefit from a maximum of consecutive days off.
 - 6. Shift assignments will be considered among qualified employees by notifying them of the nature and duration of the shift and first requesting volunteers. If more volunteers request a shift than needed, the shift will be offered by highest seniority. If less volunteers request a shift than needed employees will be assigned by lowest seniority. The WVNG retains final approval authority, per 5 USC 7106, but will consider technical experience/capability and the impact on potential mission degradation volunteers may create. Any special skill requirement will void this action.
- b. If the employee's work shift is to be changed, the WVNG agrees to provide the employee a work schedule as soon as possible after determination of need, but not less than seven (7) calendar days in advance except when the head of the Agency determines that the Agency would be seriously handicapped in carrying out its functions or that cost would be substantially increased. If the Agency determines an employee's work schedule will be changed in less than seven (7) calendar days, written notification for the reason(s) may be provided to the employee.

c. Supervisors may adjust work schedules for individual employees who have a conflict with transportation schedules (car pools or public transportation) or educational purposes.

Section 2.3 - Irregular and Emergency Work Schedule:

a. For the purposes of the agreement the following definitions will apply:

1. Irregular Work Schedule – Work assignments other than those scheduled IAW Section 2.2a.

2. Emergency Work Schedule – Work schedule which is required to respond to a situation or circumstance which could not be averted within the reasonable work scheduling practices.

b. Work not scheduled IAW Section 2.2a shall be implemented with consideration of the following factors:

1. Need;

2. All employees within the affected areas will participate on an equal basis with due regard to their particular skills and voluntary assignments;

3. In those cases where use of a regular work shift assignment would seriously handicap the performance of a function, other work schedules may be established. The necessity for an irregular work schedule will be explained to the employee affected. If possible, the employee's views should be obtained as to the exact work schedule to be established. In emergency situations the senior activity head/supervisor at the work location shall have the right to establish work shift assignment, without prior notice, and to continue those work shift assignments until the emergency situation is ended, and the WVNG deems the need is lifted.

c. The ACTWV will be informed of emergency situations requiring schedule changes, as soon as possible. The ACTWV may be provided the specific circumstances surrounding the emergency, and the expected duration.

d. Standby and On Call works status will be utilized IAW 5 CFR 550.112 and 5 CFR 551.431

Section 2.4 – Cleanup Time:

A supervisor may allow employees a reasonable amount of time at the end of the duty day to clean work areas, put away tools and equipment, and for personal hygiene. Also, when it becomes necessary, a supervisor may assign tasks requiring employees to perform needed work during cleanup period.

Section 2.5 – Differential Pay:

Employees assigned to a regularly scheduled night shift or early morning shift will receive the shift differential IAW laws, rules and regulations.

Section 2.6 – Overtime/Compensatory Time:

- a. Employees in the unit shall not be required to perform any work or duty before or after scheduled work hours (overtime) without compensating the employees for all such work or duty. IAW applicable laws, rules and regulations such employees shall be granted appropriate compensation.
- b. Overtime work will be kept to a minimum, consistent with good manpower management, as determined by the supervisor present at the work location. Voluntary performance of overtime by qualified employees may be considered first. An employee assigned to overtime may be relieved from his/her assignment, provided he/she has a valid reason and an employee is available who is capable of performing in his/her place. In normal situations, supervisors will notify employees forty-eight (48) hours in advance of all overtime assignments.
- c. An employee who returns to work due to being recalled, will be granted a minimum of two (2) hours of appropriate compensation, upon arrival back at his/her duty station.

Section 2.7 – Premium Pay:

The WVNG agrees any employee within the unit, who is required to work on a Sunday as part of his/her basic scheduled workweek, is entitled to pay at his/her rate of basic pay plus premium pay. Such premium pay will be at a rate IAW applicable laws, rules and regulations.

Section 2.8 – Rest Periods (Breaks):

- a. Rest periods granted in accordance with these provisions are considered duty time and included in the daily work schedule.
 1. The rest period may not exceed fifteen (15) minutes during each four (4) hours of continuous work.
 2. The rest period may not be a continuation of the lunch period.
- b. Additional short rest periods during the daily work schedule will be permitted when such periods are beneficial and/or necessary.

Section 2.9 – Lunch Periods:

- a. A thirty (30) minute work free lunch period for a shift shall normally be between four (4) and six (6) hours after the start of the shift. Lunch periods will be in addition to the normal work hours. A lunch period will be in a non-pay status.

b. The WVNG retains the right to schedule work during this time period. If work is scheduled during this period the employees affected will be compensated according to applicable rule, law or regulation.

Article 3 – Attendance and Leave

Section 3.1 General:

This article is based upon 5 C.F.R. § 630.401, DODFMR Volume 8, Chapter 5, *Leave and Other Absences*, National Guard Bureau Technician Personnel Regulation (NGB TPR) 630, *Absence and Leave Program*, Family and Medical Leave ACT (FMLA), and the Family Friendly leave Act (FFLA). These references should be used if further guidance is needed.

Section 3.2 Annual Leave:

a. Annual Leave is authorized for all permanent, indefinite, and temporary technicians employed for ninety (90) days or more. A temporary technician employed for eighty-nine (89) days or less is not eligible for annual leave. However, if the period of employment is subsequently extended to ninety (90) days or more, the temporary technician is eligible for leave accrual from the first full pay period of employment.

b. All annual leave to be earned during the year for permanent and indefinite technicians will be credited at the beginning of the leave year or date of employment, and will be available for use throughout the year.

c. Annual leave is earned at the following rate based on years of Creditable Service:

Years of Service	Hours Per Pay Period
Under 3	4
3 thru 14	6 (10 hours last pay period of leave year)
15 and over	8

d. A maximum of two hundred and forty (240) hours of annual leave may be carried over to the next leave year (Reference 3.9 – Restored Annual Leave).

e. The supervisor will endeavor to, consistent with mission requirements, grant leave in the amount requested by each employee at the time he/she considers conveniently desirable. In the event of a conflict of two (2) or more employees requesting leave at the same time, leaving a shop or section unmanned, the WVNG agrees to consider the date of request first. If the date of request is the same, the employee having the most seniority based on technician service computation date will be granted leave. Mission requirements based on ranks/skill levels will take precedence. Changes in scheduled leave may be allowed by the supervisor provided another employee's selection is not disturbed by the change.

f. Absences which could not be planned and approved in advance must be reported to the employee's first line supervisor or other designated person within two (2) hours of his/her regular reporting time, if at all possible.

g. WVNG officials agree to maintain a liberal leave policy and will not unreasonably restrict employees from taking short periods of annual leave. Employees will submit requests for more than forty (40) consecutive hour's annual leave reasonably in advance of the desired time. When an employee submits a request for a short period of annual leave for non-emergency reasons, the first line supervisor will inform the employees of acceptance or denial as soon as possible. The employee's designated supervisor will be authorized to approve requests for unscheduled annual leave. An employee on alert status may have short periods of emergency annual leave approved providing a qualified replacement is available.

h. In deciding whether to call an employee back from leave, or cancel leave, the Agency may consider other available qualified employees. If the Agency decides to call an employee back from leave, or cancel leave, written notification for the reason(s) may be provided to the employee.

i. All leave requests will be approved or disapproved within five (5) workdays after receipt.

Section 3.3 – Sick Leave:

Sick leave is time off from work that employees may use to stay home to address their health and safety needs without losing pay.

Employees shall accrue sick leave in accordance with applicable directives and regulations. The ACTWV and the WVNG recognize the insurance value of sick leave and agree to encourage employees to conserve such leave so it will be available to them in case of extended illness. Additional guidance on sick leave can be found in TPR 630, Chapter 4 and DOD FMR Chapter 5.

a. Sick leave is available on an earned basis for all employees to include temporaries.

b. Sick leave may be advanced to technicians not to exceed two hundred and forty (240) hours at any one time subject to the following conditions:

1. The technician will submit a written request to his/her immediate supervisor, normally prior to expiration of existing sick leave, with a statement that all accumulated sick leave will be exhausted, or the date and time it will expire. A medical certificate indicating expected duration of absence from work must be attached.

2. The immediate supervisor will endorse the request through channels to the HRO with a statement as to the reasonable expectation that the employee will return to duty to earn and repay advanced credits.

3. Authority is delegated to the Human Resource Officer to approve/disapprove requests. The request will be returned through channels, indicating approval/disapproval.

c. Sick leave is earned at the rate of four (4) hours per pay period and earned only for bi-weekly pay periods.

d. Sick leave, if available, shall be granted to employees in accordance with applicable directives and regulations when they are incapacitated for performance of their duties by sickness, injury, or pregnancy and confinement, for medical, dental, or optical examination or treatment; or when exposed to contagious diseases requiring quarantine and when the presence of the employees at their post of duty would jeopardize the health of coworkers. Request for sick leave for medical, dental or optical examination or treatment shall be submitted for approval in advance of the appointment, unless precluded by emergency conditions.

e. Sick leave may be used by employees when on military orders for medical exams/treatment, and with signed doctor's excuse provided to the supervisor.

Section 3.4 - Voluntary Leave Transfer:

The Voluntary Leave Transfer Program is a Federal initiative to allow employees to donate their annual leave to assist other Federal Technicians who have personal or family medical emergencies and who have exhausted their own leave. The program establishes procedures which allow West Virginia National Guard technicians to receive and donate annual leave for use by other federal employees.

Section 3.5 - Family and Medical Leave (FMLA):

The FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the terms and conditions as if the employee had not taken leave. A Form WH-380, *United States Department of Labor Certification of Health Care Provider*, must be provided to be eligible to use FMLA leave. Additional guidance on FMLA leave can be found in TPR 630, Chapter 5 and DOD FMR, Chapter 5.

a. Permanent and indefinite employees are entitled to Family Medical Leave, twelve (12) workweeks of unpaid leave, during any twelve (12) month period, for the following purposes:

1. The birth and care of an employee's child.
2. The placement of a child with the employee for adoption or foster care;
3. The care of a spouse, child, or parent of the employee who has a serious health condition; or
4. A serious health condition of the employee which makes the employee unable to perform the essential functions of his/her position.

b. Family Medical Leave (FML) may be taken intermittently or the employee may work under a work schedule that is reduced by the number of hours of leave taken as

family and medical leave. An employee may elect to substitute other paid leave. Family Medical Leave is in addition to other paid time off available to an employee.

c. Upon return from FML, an employee may be returned to the same position or to an “equivalent position with equivalent benefits, pay status, and other terms and conditions of employment.”

d. An employee who takes FML is entitled to maintain health benefits coverage. A Technician may pay the employee’s share of the premiums on a current basis or pay on return to work.

e. The employee should provide notice of his or her intent to take FML not less than thirty (30) days before leave is to begin or as soon as is practicable.

f. The WVNG may request medical certification for FML taken to care for an employee’s spouse, child, or parent who has as serious health condition or for the serious health condition of the employee.

Section 3.6 – Family Friendly Leave Program:

This program allows Permanent, Indefinite, and Temporary Federal Technicians to use sick leave to care for family members in certain instances under the Family Friendly leave Act. Reference to the Family Friendly Leave ACT (FFLA) may be found in 5 CFR 630.401.

a. Definitions:

1. “Employee.” Any Permanent, Indefinite, or Temporary employee of the WVNG who occupies a management, supervisory, or non-supervisory position.

2. “Family.” The following relatives of the employee:

(a) Spouse, parents and grandparents thereof;

(b) Children, including adopted and step-children, and spouses thereof;

(c) Parents;

(d) Grandparents;

(e) Brothers and sisters, and spouses thereof;

(f) Grandchildren; and

(g) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

b. Employees may elect to use up to thirteen (13) days of sick leave in a leave year to care for family members as a result of:

1. Physical or mental illness;

2. Injury;

3. Pregnancy;
4. Childbirth;
5. To accompany family members to medical, dental, or optical examinations or treatments; or
6. To make arrangements for or attend the funeral of a family member.

c. Employees are guaranteed a minimum of forty (40) hours of their own accrued sick leave each leave year for the above purposes. To be able to use up to the maximum of one hundred and four (104) hours (thirteen (13) days), the employee must maintain a balance of at least eighty (80) hours of sick leave. This requirement ensures a reasonable amount of sick leave is available for the employee's personal illness or injury.

d. Approval of the use of sick leave under the Family Friendly Leave Program is delegated to the First Line Supervisor. The First Line Supervisor must keep records of the use of sick leave in order to assure the maximum limits are not exceeded. Time cards should be annotated to reflect "number of hours Family Sick Leave to care for family members or funeral purposes."

e. Payroll offices will maintain records to accomplish year-end reports to include:

1. Grade or pay level and gender of the employee,
2. Total number of hours used by each employee,
 - (a) For care of family member
 - (b) For funeral purposes.

Section 3.7 – Leave Without Pay (LWOP):

LWOP requests will be processed using OPM Form 71 for less than thirty (30) consecutive days or Standard Form (SF) 52 for more than thirty (30) consecutive days. The supervisor is authorized to approve leave requests of less than 30 days. HRO is the primary authority for this leave program and will provide approval for requests for more than thirty (30) consecutive days.

Section 3.8 – Military Leave:

Military leave permits an employee to be absent from their duties without charge of other leave or loss of technician pay while performing active duty and/or active duty for training.

- a. One hundred twenty (120) hours of military leave is authorize for active duty for all permanent and indefinite technicians and may be used at any time during the leave year. Military leave is charged in increments of hours. Temporary Technicians are not eligible for military leave. Technicians may use available military leave, annual leave, compensatory time, or leave without pay for the performance of military duty.

b. Military leave will be credited to the technician on a fiscal year basis. Up to one hundred twenty (120) hours of unused military leave may be carried over to the next fiscal year.

Section 3.9 – Restored Annual Leave:

a. Annual leave that is in excess of the maximum permissible carryover is automatically forfeited at the end of the leave year. Such leave may be restored to the individual for use no later than the end of the leave year ending two (2) years from the date of forfeiture. The three (3) conditions for which restoration may be approved are:

1. Administrative error
2. Exigencies of the public business
3. Sickness

Section 3.10 – Compensatory Time:

a. Compensatory time off in lieu of overtime pay for irregular or occasional work. One hour of compensatory time off is granted for each hour of overtime. At the request of an employee, the head of an Agency may grant an eligible employee compensatory time off from the employee's scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work. Compensatory time off must be granted to an employee within a reasonable time after the overtime is worked. Refer to 5 U.S.C. 5542, 5543, 5544, 6122, 6123, 6127, 6128, and 5 C.F.R 550.114, 5 C.F.R 551.521, 5 C.F.R. 551.531, and TPR 630, Chapter 11.

b. First line supervisors may authorize compensatory time.

c. All compensatory time will be utilized within the twenty-six (26) pay periods following the bi-weekly pay period in which the time is earned. There are no restoration rights of compensatory time after this period.

d. Compensatory leave may be accrued in fifteen (15) minute increments.

Section 3.11 – Court Leave:

Court leave for jury duty is granted to both permanent and temporary employees, both full time and part time except those employed on an intermittent basis.

a. Duration of Court Service. Court leave is an authorized absence, without charge to leave or loss of pay, of an employee for work status for jury duty, or for attending judicial proceedings in a non-official capacity as a witness on behalf of any party in any matter to which the United States, state, or local government is a party.

- b. An employee who is under proper summons from a court should be granted leave of absence with pay for the entire period of court service, regardless of the number of hours per day or days per week served during the period.
- c. Supervisors may require an employee entitled to court leave to return to duty or be charged with annual leave, compensatory leave, or LWOP if he or she is excused from court service for one day or even a substantial part of the day. The employee may not, however, be required to return to duty if it would create a hardship.
- d. When in a court leave status, employees must forward fees collected to their payroll office. The employee is permitted to keep travel and per diem allowance for each day's attendance in court. Failure to forward fees collected will result in a charge to leave for the days covered by the fee payment. The employee may keep any fees earned on non-work days.
- e. Evidence of Court Service. A copy of orders, subpoenas, summons, or official request to appear in court will be presented to the supervisor as far in advance of the court date as possible. Upon return to duty, the employee will submit evidence from the court reflecting dates of attendance in court.

Witness Status:

Witness in Official Capacity. When an employee is assigned by the Agency or summoned to testify in an official capacity or to produce official records the employee is in an official duty status and entitled to regular compensation without regard to any entitlement to court leave.

- a. If the United States, state, or local government is a party in the judicial proceedings, court leave is appropriate regardless if the employee testifies on behalf of the government or a private party.
- b. When the United States, state, or local government is not a party in the judicial proceedings, annual leave, compensatory leave or LWOP is appropriate.

Section 3.12 – Law Enforcement Leave Under State Active Duty:

Law Enforcement Leave (LEL) is authorize to permanent and indefinite employees in accordance with public law.

Section 3.13 Forty Four (44) Days of Additional Military Leave For Overseas Duty (AMLOD):

- a. Employees are authorized an additional 44 days (352 hours) of military leave for overseas duty. Combat area deployments are excluded in this authorization.
- b. Employees who elect to use this leave status will be on an active duty order, which must cite Title 10 U.S.C. 12315, 12301(b) or (d) (military duty under the protection of Status of Forces Act Agreements (SOFA)) to be eligible for this entitlement.

- c. Employees are not authorized military pay while in this leave status except for non-workdays and holidays. The employee pay and benefits may continue without interruption.
- d. Employees may be eligible for military per diem to cover room and meal expenses if incurred.
- e. AMLOD may be used in combination with annual leave, military leave, compensatory leave, and LWOP.
- f. AMLOD will be credited on a calendar year basis and must be used in the same calendar year.
- g. AMLOD is charged in increments of one hour.

Section 3.14 Inability to Report For Duty Due To Natural Phenomena:

Employees may be granted excused absence based upon the inability to report for duty caused by natural phenomena. The following guidance will apply to the granting of excusal.

- a. General Policy for Adverse Weather Conditions: Each activity head is required to assess local weather situations and notify the Adjutant General if it is advisable to close an activity due to dangerous conditions. Facility closure or dismissal will be determined by the Adjutant General. In the absence of the Adjutant General, authority is delegated to the Chief of Staff (CoS) Army and the Director of Staff (DoS) Air.
- b. Dismissal or Closure
 1. When the situation appears to be extremely dangerous to all concerned and a local dismissal or closure is believed appropriate, activity heads will request approval of The Adjutant General prior to taking any action. In the absence of The Adjutant General, approval authority is delegated to the CoS (Army) and to the DoS (Air). If approval is granted, essential selected technicians may be required to work. Activity heads or their designated representatives are responsible for alerting all personnel in the event of a general or local closure.
 2. Local procedures will be developed and coordinate with the local labor organizations IAW appropriate safety and administrative policy, regulation, and law activity heads will identify positions which are essential, based on mission requirements. Copies of the resulting directives will be provided to ACTWV officials as requested.
 3. When a State of Emergency is declared local or statewide, WVNG activities will comply.
- c. Delayed Arrival: Employees may be granted excused absence for a period of time when traffic conditions or natural phenomena cause a delay, or when traveling requires an unnecessary risk. Affected employees must have made a reasonable effort to report to work during this time. Once a majority of the employees report to work, the Activity

Head will establish a cut-off time for the granting of excused absence and notify the local association representative. Employees will be charged annual leave, compensatory, or LWOP from the cut-off time to the actual arrival time. If the employee does not contact their supervisor within two hours of their scheduled work start time, they will be recorded as AWOL for the entire day. Following contact with the employee, the supervisor may change the member to the appropriate leave status and no disciplinary action will be taken. At the employees' request, supervisors will work with them to allow make up for missed time, if practicable. The supervisor may reschedule the amount of time missed and will grant compensatory time for the time made up. This should be accomplished in the same pay period if possible.

d. Liberal Leave Policy: Activity Heads are encouraged to adopt a liberal leave policy during periods of disruption of work because of natural phenomena. All employees should be granted leave (annual, compensatory or LWOP), if requested. This will allow the individual to determine the degree of risk involved and make his/her own decision to report to work or request leave.

Section 3.15 - Excused Absences:

a. General: An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. The authority to grant excused absence to technicians is within the administrative discretion of the state Adjutant General or delegated official who has made a determination to support an activity which would benefit the National Guard. This authority may not be used in situations of extensive duration, or for periods of interrupted, or suspended operations such as ordinarily would be covered by the scheduling of leave, furlough, or the assignment of other work. In adverse weather conditions or other emergency situations which will prevent employees from performing normal duties or jeopardizes their safety, The Adjutant General may close the organization and require employees to either leave or not report to work. Appropriate ACTWV officials will be notified upon request and if time and/or situation allows.

b. Excused Absence with Adjutant General Approval

1. Community Activities. Employees may be excused for short periods to participate in civil activities the Federal government is interested in encouraging. Before granting excused absences, it should be determined that such participation is in the best interest of the Federal government (including the National Guard). These periods will be limited to no more than a combined total of three workdays during a calendar year. Official community activities may include, but are not limited to inaugurations, dedication of public buildings and projects, ceremonies for officially invited governmental visitors and the convening of legislative bodies.

2. Conferences and Convention. An employee may be excused to attend a conference or convention when it is determined the attendance will serve the best

interest of the Federal service. Excused absence will not be granted to attend National Guard Association Conferences unless the technician is an official delegate or an official of the organization.

3. Participation In Funerals: For questions regarding participation in funerals, refer to TPR 630, Chapter 7, dated 27 August 2010.

4. In cases where an employee is pending an adverse action, and it has been determined the employee's presence may result in potential harm or danger to the organization excused absence may be granted.

c. Excused Absence with Supervisor Approval

1. Blood Donation. Employees are encouraged to serve as blood donors and will be excused from work without charge to leave only for time necessary to donate blood, recuperation following blood donation, and for necessary travel time to and from the donation site. The maximum excused time will not exceed four hours on the date of the blood donation.

2. Registration and Voting. Employees may be excused for a reasonable time to vote or register in Federal, state, county, or municipal elections. Generally, employees are excused from duty to permit them to report for work three (3) hours after the polls open or to leave work three (3) hours before the polls close, whichever results in the lesser amount of time off.

3. Tardiness and Brief Absences. Tardiness and brief absences of less than one (1) hour may be excused when justified.

4. Physical Examinations. Examinations are required as a condition of employee employment in the National Guard. Employees will be excused, without charge to leave or loss of pay, for periodic, baseline, or annual military physical examinations. Administrative leave is also authorized for physical examinations required for military membership taken during regularly scheduled tour of duty hours. This will also apply for Dental examinations required for military duty.

5. Continuation of Pay, Federal Employees' Compensation Act. When an employee sustains a traumatic job related injury and files a Workers' Compensation claim, the employing Agency is required to continue the employee's pay for the period of disability, not to exceed 45 calendar days. Continuation of pay is chargeable as excused absence.

6. Bone Marrow or Organ Donor. IAW 5 USC 6327, an employee is entitled an excused absence for the time necessary to serve as a bone marrow or organ donor. An excused absence for bone marrow donation may not exceed seven (7) days each calendar year. An excused absence for organ donation may not exceed 30 days each calendar year.

7. Employee Interviews. An employee may be excused for a job interview when competition is for a position within the National Guard or the employee is under notice of separation or change to lower grade for any reason except personal cause. All other employment interviews will be charged to annual leave, compensatory leave, or leave without pay. Authorization to develop or deliver a job application to any human resources office other than the local HRO is not an excused absence.

8. Employee Assistance Program (EAP). An employee is entitled to an excused absence for the time required for participating in initial counseling and assessment for the EAP. If the employee is referred for treatment or assistance, he/she must be in an appropriate leave status.

9. An official leave status may be granted by the first line supervisor when an employee who has previously been in any other regular pay status returns to employee status within eight (8) hours of the employee's next scheduled work period. This will afford sufficient rest for safety and productivity. If fatigue may jeopardize safety, supervisors should ensure employees are not required to perform duty when they have reached the point of physical or mental fatigue rendering them incapable of performing their assigned duties safely and reliably. When the employee feels they are unable to perform their duties safely, leave will be requested through their chain of command in accordance with standard leave procedures. If leave is denied, the employee(s) may request modified hours or duties via official e-mail or official Air Force/Army Memorandum from their next line supervisor, who will annotate approved or denied.

Section 3.16 – Holidays:

- a. Employees who perform work during the 24 hour period associated with a federal holiday will be entitled to holiday pay consistent with applicable regulations in connection with all federal holidays now prescribed by law and any other that may be added by law. Holidays designated by Executive Order shall be observed as legal holidays. Official pay status will be identified prior to work being assigned.
- b. Employees will be advised as far in advance as practicable and feasible when they will be required to work on a holiday or a Sunday.

Section 3.17 – Reservist Differential:

Reservist differential pay (authority originates in 5 U.S.C. 5538) may be available to employees deployed, by qualifying military orders, according to law, Presidential, Legislative, DoD and NGB direction.

ARTICLE 4 - ACTWV Representation

Section 4.1 – Policy:

The WVNG and the ACTWV agree to the establishment of ACTWV steward positions. Stewards will be authorized on a ratio of one steward per fifteen (15) bargaining unit members. Where activities are co-located all bargaining unit members will be considered in the steward compilation. Where low density bargaining unit population exists, a steward may be appointed to cover a geographic area. The ACTWV will provide the WVNG with a listing of the designated stewardess and the work locations represented by each of the stewards. The listing will be updated by the ACTWV as changes to the steward assignments occur.

Section 4.2 – Visitation:

a. ACTWV Officials: ACTWV officials, subject to security regulations, will be allowed to visit an installation and/or meet with an employee or local ACTWV officer for the purpose of accomplishing lawful labor organization business. The ACTWV will notify the WVNG or his/her appointed representative prior, either orally or in writing, to each visitation as far in advance as possible. The visiting ACTWV official will be identified and the employee management official or ACTWV officer to be visited. Should pressing mission requirements or an emergency preclude a request from being honored, the WVNG will discuss the situation with the ACTWV and arrange an alternate time and/or date.

b. Visiting Representatives: Subject to security regulations and visitor control procedures, authorized representatives of the ACTWV may be allowed to visit the WVNG for the purpose of accomplishing official labor organization business. The ACTWV will request approval of the WVNG or his/her appointed representative for each visitation as far in advance of the desired date as possible. Each request will include the name of the representative(s), ACTWV status or position, purpose of the visit, and person(s) or employee group(s) with whom the visit is desired. Should pressing mission requirements or emergency preclude a request from being honored, the WVNG will discuss the situation with the ACTWV and arrange an alternate time and/or date.

4.3 – Representation During Temporary Duty (TDY):

Members of the ACTWV may be designated to serve as a point of contact for the participating bargaining unit member(s) while in a TDY status as an employee. This representative will be responsible to assist the member(s) to secure information relative to personnel problems experienced during the course of the TDY. The designated ACTWV representative will have the authority to bring such concerns to the attention of the designated ACTWV representative will have the authority to bring such concerns to the attention of the designated mission commander for resolution. When the problem or concern surfaces during the TDY which cannot be resolved, it may be processed using

the negotiated grievance procedure upon return to home station. Such concerns will be included in the post-mission report for further review and evaluation.

ARTICLE 5 – Official Time

Section 5.1 – Official Time/Excused Absence for ACTWV Representative:

Official time will be made available without loss of annual leave during normal duty hours for the Association representatives to carry on business which is of mutual interest to the WVNG and the ACTWV. Official time provisions encompass negotiations between an exclusive representative and an Agency regardless of whether such negotiations pertain to the negotiation or re-negotiation of a basic collective bargaining agreement. Official time will be provided in accordance with this section, and 5 USC Chapter 71.

Section 5.2 – Granting of Official Time:

Official time will be granted in the following manner: ACTWV representatives will notify their immediate supervisor and obtain concurrence prior to leaving their assigned area. A request must be given at least five (5) work days in advance in writing for known events. Representational activities which are time sensitive may require a verbal request and approval, followed by a written request. The supervisor may concur unless the mission of the section cannot be accomplished without the presence of that representative specifically. The supervisor may also confer with the HRO-LRS prior to granting the official time. The supervisor may delay the representative for only the length of time the mission requires the presence of the representative.

Section 5.3 – Official Time is Authorized for the Following:

- a. Stewards and representatives conferring with employees and/or supervisors on grievances and other matters relating to conditions of employment. The recognized shop stewards in ACTWV at the locations they are authorized to represent or in their absence duly appointed alternates will be given a reasonable amount of official time to investigate, prepare, and present grievances, unfair labor practices, and other employment related complaints. The employee has the right to select an ACTWV representative other than the recognized steward.
- b. Travel time to and from prearranged meetings with the Adjutant General or other WVNG officials. In accordance with applicable JTR's/regulations, ACTWV representatives will receive full travel and per diem allowances.
- c. When appearing at third party hearing proceedings. ACTWV representatives on official time shall not exceed the number of individuals representing the WVNG for such purposes.
- d. ACTWV representatives for the purpose of receiving information or orientation relating to matters of mutual concern.
- e. Negotiation teams for the ACTWV.
- f. ACTWV representatives and stewards to attending training sessions conducted by the state of West Virginia pertaining to matters of mutual concern to the ACTWV and the WVNG.

- g. Chapter treasurers to prepare financial reports required by federal agencies.
- h. Chapter officers to expedite a grievance, in coordination with the HRO-LRS.
- i. When it becomes necessary for any ACTWV officer to consult with the ACTWV's attorney in conjunction with third party processing of a complaint, the representatives and the grievant, in the case of a grievance.
- j. ACTWV representatives will be allowed a reasonable amount of time to change to and from the military uniform for those situations covered in Section 5.4 of this contract Article.
- k. ACTWV Officers or designated representatives to visit elected officials when representing employees in support or opposition to desired legislation which would impact the working conditions of employees by ACTWV. Official time will be requested in writing to the HRO. Per Diem and travel will be at no cost to the WVNG. The ACTWV agrees in order to reduce the negative impact on the workplace, it will make a good faith effort to keep the number of requested individuals and time allotted to an absolute minimum required to perform representational duties.

Section 5.4 – Civilian Attire:

- a. ACTWV representatives will not be required to wear the military uniform in the following situations:
 - 1. When conducting contract negotiations with WVNG officials.
 - 2. When conducting labor-WVNG seminars at commercial facilities sponsored or hosted by the national office of ACTWV of Civilian Technicians, U.S. Department of Labor, Department of Defense, Wage Fixing Authority, etc.
 - 3. When representing ACTWV at third party proceedings
 - 4. When representing ACTWV in the performance of representational duties at Step 2 and above of the negotiated grievance procedure.

Section 5.5 – Compensatory Time for ACTWV Representatives:

ACTWV representatives may not earn compensatory time for representational duties; however, management may make every effort to schedule activities related to labor-management and employee relations utilizing basic work hours.

Section 5.6 – Official Time for ACTWV Representatives:

- a. ACTWV representatives attending training sessions pertaining to matters of mutual concern to both the WVNG and ACTWV which are sponsored by the FLRA, OPM, or other Government WVNG, will be authorized Official Time.

b. ACTWV representatives designated to attend ACTWV sponsored training sessions or seminars pertaining to matters of mutual concern to the WVNG and the ACTWV will be authorized Official Time.

1. Chapter stewards are allowed sixteen (16) hours per individual, per calendar year and travel time as prescribed by the JTR.

2. Chapter officers are allowed twenty-four (24) hours per individual per calendar year and travel time as prescribed by the JTR.

3. Chapter Presidents/Vice Presidents are allowed thirty-two (32) hours per individual per calendar year and travel time as prescribed by the JTR.

4. All training time authorized in this section will be allotted for one calendar year only and will not be carried forward into any other year.

c. Official time will not be granted for purposes prohibited by 5 USC Chapter 71.

d. When official time is requested for a known function, the ACTWV will furnish the HRO-LRS with an agenda of the activity for which the leave is requested and a roster of the personnel recommended to attend. The HRO-LRS will advise the respective supervisor of those personnel authorized to attend the scheduled events.

Article 6 – Grievance Procedures

Section 6.1 – Grievance Definition:

A grievance means any complaint:

- a. By any bargaining unit employee concerning matters relating to their employment.
- b. By ACTWV concerning any matter, relating to employment of any bargaining unit employee(s); or
- c. By any bargaining unit employees, ACTWV, or the WVNG concerning:
 1. The effect of interpretation or a claim of breach of this agreement; or
 2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- d. The WVNG and ACTWV agree this negotiated procedure is the exclusive procedure available to ACTWV and the employees in the bargaining unit for the processing of grievances except where the grievant is provided a choice of the negotiated grievance procedure or a statutory procedure under the provisions of 5 USC Chapter 71.
- e. The WVNG and ACTWV agree normal day-to-day discussions between employees and supervisors are the most constructive means of developing and maintaining effective work relationships. This procedure provides a means for the prompt and orderly consideration and resolution of employee grievances.
- f. It is the policy of the WVNG that all employees have a right to present their grievances to the appropriate WVNG officials for prompt consideration and equitable decision. In exercising this right the employee and his/her representative will be free from restraint, coercion, discrimination, or reprisal.

Section 6.2 – Exclusion:

Certain matters are excluded from coverage by this Grievance procedure and from coverage by the arbitration procedure either because they are not grievable or arbitrable matters, or because they are matters which are subject to final administrative review outside the WVNG under law or regulations. Matters precluded by statute, judicial case law, and future statutory changes to employee appeal rights are excluded. The following matters are also excluded:

- a. Political activities (Hatch Act).
- b. Retirement, life or health insurance.
- c. Examination, certification, or appointment.
- d. Position classification which does not result in loss of grade or pay of an employee.
- e. Non-selection for promotion – See Note Below

Note: An employee who believes that proper procedures were not followed in a particular placement action for which they were an applicant may present a grievance under applicable grievance procedures. A grievance will not be considered when it is based solely on non-selection, and must be corroborated by substantial documentary evidence prior to filing.

- f. WVNG's right to counsel individuals.
- g. Formal EEO complaints.
- h. An individual performance appraisal unless certain conditions are met.

Note: To avoid being excluded herein, grievances concerning appraisals must be corroborated by substantial documentary evidence prior to filing (to include, but not be limited to official government records, signed witness statements, photographs, sound recordings, diagrams). Dissatisfaction with the score without providing substantial documentary evidence is insufficient to meet grievance requirements.

Section 6.3 – Coverage:

Any employee or group of employees covered by this Agreement may present a grievance involving matters relating to personnel policies and practices and work conditions. Such grievances may be adjusted with or without Association representation at the grievant's discretion. However, the Association shall have the right to have its representative present at the adjustment. This right to individual representation does not include the right to take the matter to arbitration unless the Association agrees to do so. An employee or group of employees in the bargaining unit maybe represented only by the exclusive representative in filing a grievance under this negotiated procedure. However, at no time during the stated process shall the Association be excluded or impeded in its right to official recognition under Public Law 95-454. If the individual chooses to waive the right to representation, the individual must do so in writing.

Section 6.4 – Presentation of Evidence:

The party filing the grievance should always present all evidence supporting the grievance at the time of filing regardless of the subject matter. Examples of evidence include, but are not limited to official government records, signed witness statements, photographs, sound recordings, diagrams. The grievant may provide newly discovered evidence relevant to the grievance at any time during the process to include arbitration.

Section 6.5 – Procedures:

The WVNG and ACT WV expect employees and supervisors to make a sincere effort to reconcile their differences. When such efforts fail the following procedures are established for the settlement of grievances:

- a. Step 1 (Informal): The grievance shall be discussed first by the aggrieved employees(s) with the immediate supervisor of the employees involved. The employee has (have) the right to representation, if desired. The supervisor will give an answer as

soon as possible or within three (3) scheduled workdays. If a satisfactory settlement to the employee's grievance is not reached at the above step, the grievance may be discussed within the next three (3) scheduled workdays by the aggrieved employees, a representative, if desired, and the next in line-higher level for their designee. The supervisor will give an answer as soon as possible or within the next three (3) scheduled workdays. This step will be repeated until the grievance is resolved or until it reaches the level of the Activity head as appropriate.

b. Step 2 (Formal): If a satisfactory settlement to the employee(s) grievance is not reached at the above step, the grievance will be submitted, in writing, within the next five (5) scheduled workdays to the Activity Head or his/her designed representative. 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 designated representative will within five (5) scheduled workdays after receiving the grievance, hold a meeting with the aggrieved and his/her representative, if any. A decision will be made within five (5) scheduled workdays after the meeting.

c. Step 3 (Formal): If the employee(s) is not satisfied with the decision of the Activity Head or designated representative, they may within ten (10) workdays after receipt of such decision submit the grievance directly to the Adjutant General for a decision. A decision will be rendered within ten (10) workdays.

d. Step 4: If the aggrieved employee(s) is (are) not satisfied with the decision of the Adjutant General, a request may be submitted to ACTWV, in writing, and the grievance be submitted to arbitration. If ACTWV decides to submit the grievance to arbitration, ACTWV shall submit a written notice of intent to proceed to arbitration to the Adjutant General within (10) workdays from the receipt of the Adjutant General's decision. If the ACTWV does not notify the Adjutant General in writing of the intent to proceed to arbitration within ten (10) workdays from the receipt of the Adjutant General's decision, the decision will become final.

Note: Throughout the procedure the management official considering the grievances may communicate with the grievant or their representative when there is a need to clarify the reasons for the grievance or the resolution requested. If clarification is requested, the ACTWV or grievant will respond within ten (10) working days and the timelines will be held in abeyance during this response period.

Section 6.6 – Time Limitations:

a. Grievances which are not taken up with the grievant's immediate supervisor within fifteen (15) workdays after the occurrence of the matter out of which the grievance arose or within fifteen (15) workdays of the date the grievant could have been reasonably aware of the occurrence of the matter out of which the grievance arose shall not be presented or considered at a later date. If the grievant does not initiate action to carry the grievance to each succeeding step within the time periods specified, the previous

decisions rendered will become final and shall not be appealable. If the WVNG fails to answer the grievance at any step within the specified time limits, ACTWV/grievant will be free to advance to the next step of the procedure.

b. By mutual agreement, an extension of the time limitations noted in these procedures may be extended by the parties. The agreement to extend time limitations will be submitted in writing, detailing the specific extension period agreed to, and will be signed by both the aggrieved and the supervisor/WVNG official involved.

Section 6.7 – Multiple Grievances:

If an employee has declined representation he/she may pursue resolution independently of the other grievant(s) but may not receive such resolution without the presence and knowledge of an ACTWV representative. If the resolutions of the multiple grievances are significantly disparate ACTWV may request writing justification for such differing resolutions and the right to seek a cure for such discrepancy.

Section 6.8 – Official Time:

Official time will be granted to an aggrieved employee(s) and the ACTWV representative(s) to investigate, prepare, and present a grievance through this procedure; however, no compensatory time will be earned by any such employee(s) or ACTWV representative(s) to accomplish these functions. Employee(s) or ACTWV representative(s) desiring official time for either of the foregoing purposes shall inform the immediate supervisor, if available, or the next higher level supervisor who is available of the reason they desire to be absent from the job site, the anticipated duration of the absence, and must obtain the supervisor's permission before absenting themselves from the work site. The employee(s) and the ACTWV may utilize WVNG facilities and equipment throughout the grievance process.

Section 6.9 – WVNG Grievances:

WVNG grievances will be filed in writing with the appropriate Chapter President of ACTWV. The grievance shall specify the basis for the grievance and the corrective relief sought. ACTWV shall issue a written decision within 15 workdays of receipt of the grievance. Time limits specified in Section 6.6 of this Article will apply.

Section 6.10 – ACTWV Grievances:

ACTWV grievances will be filed in writing pursuant to Section 6.5, Step 2 of this Article, to the appropriate WVNG official by an elected officer of ACTWV. The grievance shall specify the basis for the grievance and the corrective relief sought. Time limits specified in Section 6.6 of this Article will apply.

Section 6.11 – Grievance File:

A grievance file will be established when an employee presents a Step 2 or higher grievance. This file will be maintained in the HRO and contain as a minimum the following:

- a. The original written complaint.

- b. Documentary evidence considered in resolving the grievance.
- c. The written decision.

Section 6.12 – Intent:

The WVNG and ACTWV agree all employees in the bargaining unit will be treated fairly and equitably. An attempt will be made by WVNG officials and ACTWV to address grievances informally and promptly in the interest of good employee/labor management relations and the mission of the organization. Every effort will be made to ensure all arbitration awards or grievance resolutions will be carried out within the terms of this agreement, law, rule, and regulation and such terms apply to all individuals, covered by such award or resolution.

Section 6.13 – Miscellaneous:

- a. Grievances not resolved through the provisions of this Article may be referred to arbitration by either ACTWV or WVNG.
- b. Grievability/arbitrability issues if unresolved will be handled as threshold issues at arbitration.
- c. Normally grievances will be received and adjusted by the supervisor(s) directly assigned as the grievant(s) immediate or subsequent higher level supervisor. If another individual acts in the capacity of another supervisor, a written notification may be provided to the applicable ACTWV President upon request.
- d. Cancellation or termination of a formal grievance is only authorized by the following:
 - (1) At the employee's request.
 - (2) When the employee's employment terminates.
 - (3) Upon the employee's death.

ARTICLE 7 – Mediation

Section 7.1 – Policy:

The WVNG and the Association agree to follow the provisions of the law when agreement cannot be reached over issues deemed appropriate for collective bargaining in accordance with 5 USC Chapter 71.

Section 7.2 – Procedure:

The parties agree when an impasse is reached during negotiations prior to going to the Federal Service Impasse Panel (FSIP), the Federal Mediation and Conciliation Service (FMCS) will be contacted for assistance. The requesting party will assume responsibility to contact the FMCS and coordinate the participation of the mediator in negotiations. Neither party will attempt to unilaterally frame the issue for the mediator. If agreement cannot be reached after invoking mediation, either party may proceed in accordance with 5 USC Chapter 71.

ARTICLE 8 – Arbitration

Section 8.1 – Invocation of Arbitration:

When a matter pursued through the Negotiated Grievance Procedure is not satisfactorily resolved the grievance may be referred to arbitration upon written request of the WVNG or the ACTWV. The request to invoke arbitration must be submitted within thirty (30) workdays of receipt of the decision completing the negotiated grievance procedure. Only the parties to this Agreement may invoke arbitration.

Section 8.2 – Arbitrator Selection:

The WVNG will request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) arbitrators. Representatives of the parties will meet within seven (7) workdays of receipt of the list of arbitrators to select one arbitrator to hear the grievance. One party will strike a name from the list and other party will strike a name. This process will be repeated until there is one name left, who will arbitrate the matter. The party seeking arbitration will strike first.

Section 8.3 – Transcript Fee:

Should transcripts of an arbitration be requested by either party the requesting party will bear the burden of payment for such transcripts.

Section 8.4 – Arbitrator’s Costs:

The fee, per diem, and travel costs of the arbitrator shall be borne equally by the WVNG and the ACTWV.

Section 8.5 – Arbitration Hearings:

Arbitration hearings shall be held on the WVNG’s premises during the regular scheduled work week. Employees in a duty status, who have a relevant role in the proceedings, shall be excused from duty for the time necessary to participate in the hearing without loss of pay. No employee will be compensated for over time by reason of this participation in the hearing.

Section 8.6 – Arbitrator’s Decision:

The arbitrator will be requested to render a decision as quickly as possible after the conclusion of the hearing and preferably within thirty (30) calendar days if at all possible. The Arbitrator cannot amend, supplement, or add to the provisions of this agreement. Certification of compliance with the arbitrator’s decision and the corrective action taken shall be provided to the other party as soon as practicable.

Section 8.7 – Filing of Exception:

Either party may file exceptions to the arbitrator’s award with the Federal Labor Relations Authority (FLRA) under regulations prescribed by the Authority. If no exception is filed during the thirty (30) day period beginning on the date the arbitrator’s award is served on the filing parties, the award shall be final and binding.

Article 9 – Unfair Labor Practices

Section 9.1 – General:

The WVNG and ACTWV agree to follow the provisions of 5 USC Chapter 71 as it relates to unfair labor practices. Access to 5 USC Chapter 71 will be provided on the West Virginia HRO website.

Article 10 – Non Disciplinary, Disciplinary, and Adverse Actions

Section 10.1 – Policy:

Non-Disciplinary, Disciplinary, and Adverse Actions will be carried out according to National Guard Bureau Technician Personnel Regulation (TPR) 715, TPR 752, TPR 752-1, and appropriate law, rule, and regulation.

Section 10.2 – General:

- a. This article applies to matters of conduct only. Actions that which relate to job performance will be accomplished in accordance with the WVNG performance appraisal system and this agreement. By mutual agreement between the WVNG and the ACTWV, discipline and adverse actions will be based on just cause and be consistently and equitably applied to promote the efficiency of the federal service.
- b. Disciplinary action will be administered for the sole purpose of correcting offending employees, problem situations, and maintaining discipline and morale among other employees. Also, a timely investigation and disciplinary action are desirable in order to maintain proper constructive direction of workplace discipline.

Section 10.3 – Corrective Actions (Non-Disciplinary, Disciplinary, or Adverse Action):

- a. Non-disciplinary corrective actions should be taken when the supervisor determines corrective actions can be accomplished through closer supervision, training, or counseling. The supervisor may warn an employee of undesirable conduct. Counseling sessions with the employee by the supervisor are not disciplinary actions .The employee is advised as to the specific infraction or breach of conduct and exactly when it occurred.
 1. Counseling memorandums may be recorded and retained up to, but not more than three (3) months. If a memorandum has not been removed by this time, it will be considered a resolved issue. Supervisors may retain and refer to their previous notes as needed, concerning an employee’s performance, behaviors, or actions.
 2. Oral admonishment is a non-disciplinary action which notifies an employee to desist from a certain course of action or behavior. The supervisor will describe the offense in sufficient detail to enable the employee to understand why the admonishment is necessary. The employee may request representation.
 3. Confidentiality of the records will be maintained at the lowest level of supervision, and access will be limited to HRO, management and/or employees concerned, and individuals to whom the employee has given written permission.
- b. Disciplinary corrective actions consist of written reprimands and adverse actions. Before disciplining an employee, the supervisor will gather all available facts and inform the employee of the reason for the investigation. The employee will be allowed to respond to the supervisor’s statement. After considering the response, the supervisor

will then advise if disciplinary action is warranted. The following procedures will apply for a letter of reprimand or adverse action.

1. Written reprimand:

(a) A written reprimand will normally be issued by the appropriate supervisor and coordinated with HRO for contract and regulatory compliance.

(b) The employee may have a labor organization representative present, if so desired.

(c) The reprimand will describe the offense in sufficient detail to enable the employee to understand why the reprimand is necessary.

(d) The reprimand will inform the employee the letter will be filed as a temporary document in the electronic Official Personnel Folder (eOPF) until a specified date. Retention period will not exceed thirty-six months. Supervisors may retain and refer to their previous notes as needed, concerning an employee's performance, behaviors, or actions.

2. An appeal of an oral admonishment or a letter of reprimand may be made through the negotiated grievance procedure. A successful appeal will cause the action to be withdrawn.

3. Access to disciplinary records will be limited to the HRO, WVNG Management, and/or employees concerned and individuals to whom the employee has given written permission.

4. Once the reference to an oral admonishment is erased, or a letter of reprimand is removed from the eOPF, it will not be relied upon as a prior disciplinary action. The WVNG must ensure when an employee's past disciplinary or adverse record is referred to, it is in fact a past action (in effect) at the time the most recent conduct occurred. Otherwise, TAG and/or reviewing authority will have to find consideration of it improper and not rely on it.

c. Adverse action is an administrative action that results in removal, suspension, or reduction in grade or compensation of any employee. These actions will be accomplished in accordance with rule, law, or regulation.

1. There must be a reason for taking adverse action, and that reason is commonly referred to as a "cause" and is defined as "an offense against the WVNG, employee relationship." What constitutes a "cause" is a decision which must be made on the merits of each situation.

2. Having a "cause" may not be sufficient to warrant adverse action. The WVNG must also conclude that taking an adverse action will promote the efficiency of the service. This is done by establishing a relationship between the "cause" and its

impact or effect on the efficiency of the service (i.e., the employee's ability to perform his/her duties the WVNG's ability to fulfill its mission, etc....)

3. The WVNG must support its reasons for the adverse action by a preponderance of the evidence. This means that considering the record as a whole, the evidence is more convincing to the tier of facts (i.e. deciding official, NGB administrative hearing examiner, or TAG) than the opposing evidence.

4. For all adverse actions the Douglas Factors checklist will be submitted with each factor checked aggravating, neutral or mitigating. Each Douglas Factor marked aggravating designation.

5. Adverse actions will not be initiated by any supervisor without consulting with the Labor Relations Specialist, appropriate Activity Head, and obtaining approval of the HRO before issuing proposed adverse action and original decisions.

(a) The charging supervisor will notify the employee of the Proposed Adverse Action (PAA). The employee will be allowed to request representation if desired, followed by presentation of the written PAA. The employee will be offered seven (7) scheduled work days for the preparation and delivery of a written and/or oral appeal to the Deciding Official. If additional time is required to prepare an appeal, it will be requested in writing, include justification for the additional time, and submitted to the Deciding Official. If additional time is required to prepare an appeal, it will be requested in writing, include justification for the additional time, and submitted to the Deciding Official. Reasonable extension(s) should be approved in whole or part.

(b) The Deciding Official will review the PAA, written and/or oral appeal, and provide a Notice of Original Decision (OD) stating the specific action to be taken, to include upholding, reducing, or dismissing the proposed action. If necessary, upon receipt of the OD, the employee will be allotted seven (7) scheduled work days to prepare a written request for an appellate review by TAG or an administrative hearing conducted by a National Guard Hearing Examiner, but not both. If additional time is needed to prepare an appeal, justification for the additional time will be submitted in writing to TAG.

(c) Copies of the Proposed Adverse Action, the Douglas Factors, the approval of the HRO, the Notice of Original Decision, and the written request for either an Appellant Review or Administrative Review will be maintained in the official records along with evidence and any personnel action forms filed.

6. Adverse actions must be supported by specific documented evidence and delivered along with the original complaint or charge. All evidence will be subject to rules of evidence as stated in applicable rule, law, and regulation.

Section 10.4 – Representation:

a. Weingarten Rights: The US Supreme Court has ruled the following rules apply during an investigatory interview.

1. The employee must make a clear request for ACTWV representation before or during the interview. The employee cannot be punished for making this request.

2. After the employee makes the request, the WVNG must choose from among three options:

(a) Grant the request and delay questioning until the ACTWV representative arrives and (prior to the interview continuing) the representative has a chance to consult privately with the employee;

(b) Deny the request and end the interview immediately; or

(c) Give the employee a clear choice between having the interview without representation and ending the interview.

3. If the WVNG denies the request for ACTWV representation, and continues to ask questions, the employee has a right to refuse to answer. Violation of these rights will be subject to appropriate action by ACTWV.

b. The designated Association/Chapter Official appropriate ACTWV President will be notified in writing by the supervisor when a bargaining employee has waived the right of representation. The supervisor will retain the waiver along with the adverse action documentation. Once requested, neither the ACTWV nor their agent will contact the employee regarding the waiver of right of representation, or the facts and circumstances pertaining to the waiver of the rights of representation, out of respect for the privacy of the individual employee from requesting representation in the future.

c. When disciplinary or adverse actions are considered, the WVNG and the ACTWV agree that the rights and privacy of the individual employee, leadership, and all involved will be protected IAW applicable laws and regulations.

Section 10.5 – Records:

a. In any disciplinary or adverse action, an employee or his/her authorized representative will, upon written request, be furnished a copy of all written documents in the WVNG's file which contain evidence used by the WVNG to support disciplinary action consistent with the Freedom of Information Act (FOIA). In any disciplinary or adverse action, an employee, or his/her authorized representative, will be given access.

b. No written entry will be made in an employee's files concerning disciplinary matters without their knowledge.

ARTICLE 11 – Equal Employment Opportunity (EEO) Program

Section 11.1 – Policy:

The WVNG Technician Equal Employment Opportunity Program follows the requirements of national policy and federal law. It assures equal employment opportunity in every aspect of personnel policy and practice in employment, development, promotion, and treatment of employees. The WVNG and ACTWV agree to cooperate to the fullest in providing equal employment opportunity for all qualified applicants and employees and to prohibit discrimination as defined by the Equal Employment Opportunity Commission (EEOC) and 29 CFR 1614. The WVNG will consult, confer, or negotiate, as appropriate, matters concerning personnel policies, practices, and matters affecting working conditions of employees. Both parties agree to promote and support all programs for equal employment opportunity through a positive and continuing effort.

Section 11.2 – ACTWV Rights and Responsibilities Regarding EEO Policy and Procedures:

- a. IAW 5 USC Chapter 71 and other law, rule, and regulation, representatives of ACTWV may provide representation in the development, maintenance, and execution of WVNG EEO policy.
- b. For all EEO related matters there are three (3) representational statuses which may serve one or all conditions associated with ACTWV rights and responsibilities.
 1. Representation to the entire WVNG Bargaining Unit on an individual or class complaint basis.
 2. Representation for individual(s) in EEOC matters.
 3. Representation for individual(s) in EEO Negotiated Grievance matters.
- c. Information requests IAW 5 USC 7114(b) (4) will be available upon written request and supported by signed authorization from the individual(s) being represented, if required.
- d. No ACTWV representative in an EEO proceeding will be treated in a negative manner because of his/her union status.

Section 11.3 – EEO Complaint/Grievance Procedures:

- a. An employee must make an election to pursue his/her claims in the negotiated grievance process, or the EEO complaint process.
 1. An employee who is a victim of alleged discrimination may file a complaint through the EEO Complaint Process or a grievance through the Negotiated Grievance Procedure as outlined in Article 6 of this agreement, but not both. An employee may file an EEO complaint through the statutory procedures by contacting a designated EEO counselor, or the HRO State Equal Employment

Manager (SEEM) within forty-five (45) calendar days of the occurrence, or ACTWV to file a grievance within forty-five (45) calendar days of the occurrence.

2. The election occurs when the aggrieved person first files his/her complaint, whether or not the Agency has informed the individual of the need to elect and irrespective of whether the grievance has raised a claim of discrimination. Contact with an EEO Counselor, the HRO SEEM, or an ACTWV representative is not an election. A complainant should be aware, if he or she chooses to pursue an EEO complaint or a negotiated grievance, the time limitations in either process will not be extended unless the WVNG and the complainant agrees in writing.

b. Complaints alleging sexual harassment.

1. The WVNG and ACTWV agree sexual harassment in the workplace will not be condoned. Reported cases of sexual harassment will receive prompt action to include necessary and appropriate action against those employees found to be guilty of sexual harassment offense.

2. Any bargaining unit employee who feels they have been the victim of sexual harassment may file an EEO complaint through the statutory procedure by contacting an EEO counselor or HRO SEEM within forty-five (45) calendar days of the occurrence or filing a grievance through the grievance procedures outlined in Article 6 of this agreement within forty-five (45) calendar days of the occurrence, but not both.

Section 11.4 – Employee Employment Statistics:

The WVNG agrees to make available all survey reports containing employee information that are considered or deemed as public documents directed by the EEOC Management Directive 715, EEOC Form 462, and IAW other law, rule, and regulation.

ARTICLE 12 – Employee Assistance program (EAP)

Section 12.1 – Policy:

Public Law provides for the appropriate prevention, treatment, and rehabilitation programs and services for substance abuse among employees. The WVNG has implemented the EAP to help its employees help themselves and reduce the losses attributed to substance abuse and other employee problems which interfere with work performance. If it becomes necessary for the employees to utilize this program to achieve its intended goal, employees may be referred to the EAP by their supervisor or they may volunteer. Participation in the program is voluntary. Initiation of the EAP will be in accordance with applicable rule, law, or regulation.

ARTICLE 13 – Health and Safety

Section 13.1 – General:

It is WVNG’s responsibility to establish and maintain an effective and comprehensive occupation safety and health program which is consistent with the Occupational Safety and Health Act of 1970 and other governing regulations. The WVNG shall welcome at any time suggestions for practical and economically feasible ways of improving safety conditions and shall:

- a. Show consideration to employees in respect to job assignments during periods of inclement weather subject to the urgency of the work involved and in accordance with appropriate regulations.
- b. Provide a place of employment which is free from recognized hazards which are causing, or are likely to cause, death, diminished health, functional capacity, or shorter life expectancy of its employees.
- c. IAW appropriate law and regulation identify secure storage area in the proximity of the work place adequate for individual safety equipment.
- d. In order to provide essential specialized expertise, the WVNG heads shall authorize safety and health personnel to utilize such expertise from whatever source available.
- e. This article is based upon 29 U.S.C. § 668(a)(2), to the extent use of appropriated funds is authorized by 5 U.S.C. § 7903, OSHA 29 CFR Parts 1910, 1915, 1917, 1918, and 1926, AFTP 3-4 (Airman’s Manual, 11 JANUARY 2019), TRADOC Regulation 350-20 (Prevention of Heat and Cold Casualties, 6 July 2012), and Air Force Occupational Safety and Health (AFOSH) Regulations; current versions. These references should be used if further guidance is needed.

Section 13.2 – Employee Responsibilities:

Each employee shall comply with the standards, rules, and regulations issued by the Agency and shall use safety equipment, personal protective equipment, and/or other devices and procedures provided or directed by the WVNG and necessary for their protection. Employees are encouraged to submit safety suggestions or report unsafe and unhealthy conditions to appropriate officials. The ACTWV will support the WVNG’s safety policies and programs.

Section 13.3 – Training of Employees and Representatives:

- a. The WVNG shall provide appropriate safety and health training for employees consistent with the nature of the work to be performed and any specialized training necessary to maintain a safe and healthy work environment in accordance with CFR 1910 (Medical Services and First Aid) and CFR 1926 (Safety Training and Education).

b. Representatives designated by the ACTWV will be authorized to participate in Occupational and Health Activities. Requests for specialized training of designated representatives will be considered as being in the best interest of the efficient performance and mission requirements and will be considered on a case by case basis as resources permit.

c. All training will be conducted by certified specialists and will be properly documented.

Section 13.4 – Personal Protective Equipment:

The WVNG will provide personal protective equipment to employees where it determines that such equipment is reasonably necessary to protect employees during the conduct of official Agency business. Such equipment must be essential to the performance of Agency business, primarily benefit the Agency and not the employee, and not be a personal item that should be furnished by the employee. If there is a disagreement between the supervisor and the employee concerning whether protective equipment is required, the Agency (i.e. Quality Assurance, Safety, Bio-Environmental) will assess the workplace to determine whether hazards are present and, as necessary, make available to affected employees appropriate protective equipment in accordance with applicable law, rule, and regulation.

a. Safety toed boots which will provide protection from joint disease, leg or back pain, and varicosities due to prolonged exposure to concrete floors will be issued through the supply system.

To obtain a pair of boots, the supervisor must sign a letter which authorizes the employee military boots.

The employee then provides the signed letter to the appropriate military supply facility, who will either provide boots, or provide the employee a letter that a boot is available, but the employee is electing to purchase boots outside the military supply channel.

The employee must take the letter to their Financial Management Office (FMO), then FMO will pay up to the cost of the military boot supply would have issued.

b. Appropriate and approved respirators shall be provided for use when required. The WVNG shall be responsible for the establishment and maintenance of a respiratory protective program which will include routine cleaning, disinfection, inspection, employee training ,and inclusion of this program in a safety program SOP.

c. First aid supplies will be furnished at each work area.

Section 13.5 – Emergency Medical Assistance:

If an employee is injured, or requires emergency medical care, any available emergency medical responders will be contacted upon becoming aware of the need. If an employee elects to file an OWCP claim, and meets eligibility for Continuation of Pay (COP), leave will be authorized if care is required outside of the workplace during duty hours, only for reasonable travel time to

and from treatment, and as medically directed. Appropriate documentation is required within ten (10) days of each use of COP. COP leave will be converted to sick leave if the claim is later denied. If no claim is filed, appropriate leave will be charged.

Section 13.6 – Limited Duty:

An employee who has been injured or temporarily incapacitated but deemed able by his/her physician to perform limited light duty may be assigned such duties when available, until he/she has fully recovered from the injury or incapacitation. Supporting medical documentation is required. Employees serving in temporary limited duty status may apply for, and will be considered for promotion, if otherwise eligible. (Reference the most current Technician/Active Guard Reserve Administrative Instruction concerning Limited Duty available on the WV HRO website).

Section 13.7 – Placement of Technicians with Disabilities:

The WVNG will place qualified employees with disabilities to the extent practical and permitted by regulation.

Section 13.8 – Safety Factors:

The Agency will adhere to all Federal and service component regulations concerning the number of employees required to complete assignments.

Section 13.9 – Operating Equipment/Machinery:

Only WVNG determined qualified personnel will be assigned to perform repair work or operate equipment/machinery.

Section 13.10 – Fire Extinguisher:

The WVNG agrees to supply and maintain an adequate number of fire extinguishers where required and ensure that employees required to operate extinguishers receive appropriate fire extinguisher training.

Section 13.11 – Eye Wash and Emergency Shower Stations:

Where directed by OSHA and/or AFL, or AF, and approved by the installation/state Safety Offices, OSHA-approved equipment for quick drenching or flushing of the eyes and body shall be provided within the immediate work area.

Section 13.12 – Consultation on Safety Standards:

The WVNG will consult with the ACTWV prior to adoption of safety standards not otherwise governed by applicable rules or regulations. The decision for adoption of a safety standard remains with the WVNG.

Section 13.13 – Access to Safety Records:

IAW law and regulation, access to safety reports/records concerning safety inspections or survey results, excluding accident reports, will be available to the appropriate ACTWV President, and to any employee upon written request.

Section 13.14 – Safety Committee:

ACTWV participation in Safety committees within the WVNG will be established in accordance with applicable regulations and directives. The ACTWV will be notified of the committee agenda, items if available, which involve employee related OSHA matters, or ACTWV submitted hazard reports.

Section 13.15 – Conduct of Safety and Health Inspections:

Upon request, by the appropriate ACTWV President, the annual safety inspection schedule will be provided. IAW law, rule, and regulation an ACTWV appointed representative will be permitted to accompany OSHA and local inspections, unless the OSHA Inspector(s) excuses representatives during times of the inspection. Upon request, a copy of any Notice of Unsafe or Unhealthy Working Conditions and/or inspection report will be sent to the ACTWV at the same time notification is made to the work place.

Section 13.16 – Workers Compensation:

Employees may immediately report job related injuries or illnesses to their supervisor. The employee, with their supervisor, shall ensure proper procedures are followed and all necessary reports and required documents are completed according to the provisions of the Federal Employees Compensation Act (FECA). Local processing of worker's compensation claims will be initiated by the employee and coordinated through the HRO Injury Compensation Program Administrator (ICPA). In all situations involving federal workers' compensation, the HRO ICPA is available to assist the employee, and ensure all required procedures are properly accomplished. In the event of a worker's compensation claim, the HRO ICPA will advise the employee as to his/her entitlement and obligations under the FECA. If an employee is incapacitated and unable to notify the workplace of injury or illness, the FECA program allows up to thirty (30) days to file a claim and qualify for the forty-five (45) day window for use of up to forty-five (45) days of COP leave.

Section 13.17 – Hazardous Materials Communication Training:

- a. Hazardous material information and training will be made available in accordance with applicable regulations and public law.
- b. As required by law, rule, regulation, and changes thereto, the WVNG will ensure all employees will receive the training required by the directives and standards detailing the hazards associated with chemicals used in their respective workplace. Employees who handle, use or are potentially exposed to hazardous materials in the course of official duties will receive training on the specific hazards in their work area. This training will be conducted and documented upon initial work area assignment and whenever a new

hazard is identified or introduced into a work area. This initial training will occur before the employees are exposed to hazardous materials.

c. The WVNG shall provide employees with effective information and training on hazardous chemicals in their work areas at the time of their initial assignment. Employees will be trained when new chemical hazards are introduced into their work area. Information and training may be designed to cover categories of hazards (e.g. flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and safety data sheets. All training will be recorded appropriately.

d. Safety Data Sheets (SDS)/Material Safety Data Sheets (MSDS) will be available to all supervisors, employees, and their representatives whom could be potentially exposed to any chemical hazards in their assigned work areas. The SDS/MSDS will be on file in a known location and accessible to all of the above individuals.

e. If an employee is involved in an accident associated with hazardous chemicals, the appropriate SDS/MSDS will accompany the employee if possible, or immediately be delivered to the medical facility.

Section 13.18 – Extreme Cold:

The WVNG and the ACTWV mutually recognize the hazards of working in extremely cold temperatures, while at the same time, acknowledge the necessity for accomplishing certain tasks to varying extent even in the most extreme temperatures. It is acknowledged that it is the responsibility of each employee to ensure the adequacy of cold weather gear worn is appropriate and to make full and proper uses of all such protective equipment prior to working in extreme temperatures. Common sense must be applied as cold tolerance between individuals differs and that the type of outside work being accomplished affects the body heat generated by a worker. Work rest cycles must be followed during extreme cold conditions, +10 (F) and below.

Section 13.19 – Extreme Heat:

The hazards of working in extreme heat are also recognized by the WVNG and the ACTWV. It is acknowledged that it is the responsibility of the WVNG to ensure that adequate supplies of potable water are available for drinking, however, it is the responsibility of the employee to stay hydrated. Appropriate hot weather protective equipment will be utilized. It is the responsibility of the employee to ensure adequate protective measures are followed. Work/rest cycles will be followed during extreme heat conditions, +90 (F) and above.

Section 13.20 – Hazard Reporting:

a. A hazard (i.e. unsafe procedures, practices, or conditions) in the work place may be reported by any person and may be submitted on any event or condition which affects safety.

b. Hazards should be reported to responsible supervisors so action may be taken. Oral reports for imminent danger situations are mandatory, in such situations, the Safety

Office will be immediately notified. If the hazard is eliminated on the spot, no further action is required. If the hazard is not or cannot be corrected within the work center, a Hazard Report will be prepared and given to the Safety Office.

c. If after review and processing of the report by the Safety Office the originator is not satisfied, the employee may appeal or file a grievance.

d. The term “imminent danger” means any conditions or practices in any work place which could reasonably be expected to cause death or serious physical harm (a risk of injury of any sort is not sufficient) immediately or before there is sufficient time for such danger to be eliminated through normal procedures.

1. In the case of imminent danger situations, employees shall make reports by the most expeditious means available.

2. The employee has the right to decline to perform assigned tasks because of a reasonable belief that, under the circumstances, the tasks pose an imminent risk of death or serious bodily harm. In those instances, the employee must report the situation to his/her supervisor or the next immediate higher level supervisor.

3. If the supervisor believes the condition or corrected condition does pose an immediate danger, the WVNG shall request an inspection by the Safety Office as well as contact the ACTWV representative, who shall be afforded the opportunity to be present at the time of the inspection.

ARTICLE 14 – Appropriate Work Uniforms

Section 14.1 – Uniform Wear:

While performing duties as a military technician (dual status), they will wear the uniform appropriate for the member's grade and component of the armed forces and will follow customs and courtesies in accordance with appropriate component guidance.

Section 14.2 – Uniform Authorization:

The WVNG will make reasonable efforts to provide the employee with coveralls contingent upon the availability of funding. Laundry service will be provided to resolve contamination by hazardous materials when washing machines are not available at the work site. This section must be compliant with all applicable fiscal laws, regulations, and DO guidance.

Section 14.3 – Uniform Servicing:

The WVNG will provide uniforms and coveralls in the quantities authorized by applicable service regulations and position description (PD), AFSC, and MOS specific authorization documents. Employees will use the direct-exchange-program for worn, torn, or soiled clothing which occurs as a result of normal wear and tear, or which cannot be rendered free of contaminants, clean, or serviceable per applicable regulation. It will be each individual employee's responsibility to ensure unserviceable uniforms or coveralls are turned over to the unit-activity. The employee's parent unit/activity will be responsible for ordering replacement uniforms as soon as possible. Work time will be authorized for the purpose of exchanging unserviceable uniforms when the employee's unit of assignment supply function is co-located with the work site.

Section 14.4 – Uniform Exchange Issues:

Should employees not receive the requested uniform, the employee shall inform his/her immediate supervisor who shall provide assistance with a resolution of uniform procurement.

ARTICLE 15- Environmental Differential Pay (EDP) and Hazardous Duty Pay (HDP)

Section 15.1 – General:

This article is based upon 5 USC, §5545 (d), and §5548 (b), 5 CFR, §550.901-907 and Appendix A to Subpart I of part 5.50, 5 CFR, §532.511 and Appendix A to Subpart B of Part 532. Local Application of this policy is developed and implemented in WVHRO Regulation 532-1, *Environmental Differential pay (EDP)/ Hazardous Duty Pay (HDP)*.

Section 15.2 – Policy:

The objective of the WVNG and ACTWV is the elimination or reduction to the lowest level possible all hazards, physical hardships, and working conditions of an unusually severe nature. ACTWV and WVNG agree to conduct the EDP and HDP Program as set forth in appropriate law, rule, and regulation.

Section 15.3 – Coverage:

- a. Environmental Differential Pay (EDP) is applicable to Federal Wage System (FWS) technicians. Hazardous Duty Pay (HDP) is applicable to General Schedule (GS) technicians.
- b. Both EDP and HDP are defined by, and subject to, restrictions outlined in public law and applicable OPM and NGB regulations.
- c. Only individuals authorized by regulation and assigned to perform work which is normally authorized EDP/HDP will perform such duties.

Section 15.4 – Establishment of Environmental Differentials and Authorizations:

- a. A proposal that a local work situation be identified for inclusion under environmental of hazardous differential will be described in writing on a HRO Form 532-1 by an employee or to the immediate supervisor at the work location.
- b. The format for a situation currently in the WVHRO Regulation 532-1 may be used as a guide in describing the proposed situation. As a minimum, information identifying the work location and the hazard or physical hardship for which differential is proposed will be included in the request.
- c. The supervisor who receives a proposal for inclusion in EDP/HDP will forward the proposal through supervisory channels to the HRO. The HRO will process the request as provided in applicable regulations.
- d. All requests for EDP/HDP determination will be considered by the EDP/HDP committee and retained as an entry to the EDP/HDP Register regardless of approval or denial in order to expedite future issues dealing with the same or similar requests.

Section 15.5 – EDP/HDP Committee:

In accordance with applicable law, regulation, and this agreement, the parties agree to adhere to WVHRO 532-1, dated 20 April 2012. In the event of a revision of WVHRO 532-1, both parties shall negotiate as required by applicable law.

a. The WVNG will establish an EDP/HDP committee which will meet on an annual basis or at the discretion of TAG and as required by the committee chairperson. The purpose of the committee will be to conduct a review of the state EDP/HDP Plan in order to determine the adequacy of the plan and to review the annual expenditures for EDP/HDP.

b. The committee will be appointed by TAG and will include the President or the appointed representative from each ACTWV chapter. Each ACTWV chapter will designate its representative to this committee. These are voting members and will be equal to the number of the WVNG’s voting representatives. Identification of the WVNG’s voting representatives will be provided prior to the commencement of any committee meeting. The committee chair will cast the deciding vote in the event of a tie.

c. Subject matter experts may be called by either the ACTWV or the WVNG.

Section 15.6 – Appeals of EDP/HDP Decisions:

Appeal/ grievance of the denial of an EDP/HDP situation will be initiated as a formal grievance IAW Article 6 Grievance Procedure of this agreement.

Article 16 – Position Description and Classification

Section 16.1 – Scope of Employment:

Upon appointment, an employee will be assigned to duties in accordance with the Position Description. Each employee will be provided with a copy of the Position Description for the position to which assigned. The Position Description prescribes the work relationships, scope, principal duties, qualifications, required, related experience, training requirements, and training standards. Employees may, from time to time, be required to perform duties other than those reflected as principal duties of the Position Description. Consequently, each Position Description contains the statement, “Performs other duties as assigned.” Generally, such tasks are related to the employee position requirements and qualifications and are of an incidental nature.

Section 16.2- Other Significant Facts:

The ACTWV and the WVNG understand that at certain times work assignments may involve liabilities or responsibilities in addition to those normally associated with work assignment. The liability and/or compensation of any assigned work or task as an additional duty will be the same as any work assignment covered by the Position Description.

Section 16.3 – Change in Position Description:

Changes in a Position Description will be made available to, and discussed with, the employee concerned and the ACTWV. Supervisors will explain to the employee an opportunity to resolve questions as to adequacy and accuracy of duties and responsibilities in the employee’s position. The employee will be notified as soon as possible when an action is to be taken which will have any effect on the employee’s pay, status, or working conditions.

Section 16.4 – Appeals:

An employee has the right to appeal the classification of the officially assigned position. An employee desiring to file a classification appeal shall first discuss the matter with the employee’s supervisor. The ACTWV will be notified of the meeting and given the opportunity to be present unless the employee declines representation in writing. The employee may present the classification appeal or the employee may select a representative of the employee’s own choosing to assist in preparing the written appeal. The employee may present the written classification appeal. Reference Article 1 Section 1.2 (a), the ACTWV, as the Exclusive Representative, shall be provided a copy of the prepared appeal and shall represent the appeal to the WVNG. The Human Resources Office (HRO) shall advise and assist employees on procedural aspects of filing classification appeals. The right to appeal classification without fear of restraint, prejudice, or reprisal is retained by all employees.

Section 16.5 – Review of Position Descriptions:

- a. The WVNG and the ACTWV will encourage the employee to periodically review the Position Description for the position currently assigned and to report significant changes in responsibilities and duties to the immediate supervisor. Changes to an official Position Description may be initiated by the employee in coordination with the

supervisor or by the supervisor. The proposed changes must be forwarded to the HRO for review and approval. The HRO will respond in writing to all requests for local changes to Position Descriptions. Situations which cannot be resolved at the local level will be forwarded to NGB for settlement. The ACTWV will be involved in all levels of the process consistent with Federal statutes.

b. The WVNG agrees to conduct Impact and Implementation (I&I) bargaining when there are changes in the organizational structure which affects the employee work force. Subject bargaining will provide the opportunity to review the revised Position Descriptions.

c. OPM or NGB grading standards, as appropriate, will be provided to the ACTWV upon request.

Section 16.6 – Position Classification:

a. The ACTWV may make recommendations and present supporting evidence concerning the adequacy and equity of a standardized Position Description or position classification standard of positions held by the employees in the bargaining unit. The WVNG agrees to review the presentation and provide the ACTWV the results of its review.

b. The WVNG agrees to inform the ACTWV when changes will be made in the duties and responsibilities of positions held by employees in the bargaining unit. Changes in reorganization or position classification standards which results in classification changes will be provided in writing to the ACTWV.

Article 17 – Performance Appraisal System

Section 17.1 – Introduction:

The WVNG and the ACTWV will refer to 5 USC 43: *Performance Appraisal*, 5 CFR 430: *Performance Management*, 5 USC Chapter 71: *Labor Management Relations*, 32 USC 709: *Technicians: Employment, Use, Status*, and National Guard Bureau technician Personnel Regulation (NGB TPR) 430: *National Guard Technician Appraisal Program*, 5 Nov 2009, West Virginia National Guard Human Resources Office Bulletin 11-04: *Performance Appraisal Application (PAA) Review of Procedures*, 1 Oct 2011, and Technician/AGR Administrative Instruction (TAAI) 10-002: *Five –Tier Technician Performance Management System*, 1 Jun 2010.

This article establishes procedures and provides information for the Technician Performance Appraisal System which shall be subject to the applicable rule, law, or regulation and this agreement.

Section 17.2 – Policy:

- a. All employees must be appraised annually based on the performance elements for their position through the use of objective performance standards.
- b. Annual performance appraisals may be used as a basis for developing, promoting, demoting, or retaining technicians, as well as assisting employees in improving performance.
- c. The appraisal process requires feedback throughout the appraisal period.

Section 17.3 – Performance System Management:

- a. Performance management standards will encompass as a minimum Performance Standards, Periodic Progress reviews, Counseling (feedback exchange), and Appraisals.
 1. Performance standards: Plainly stated comments which describe the responsibilities and performance levels required according to the work position assigned.
 2. Periodic Progress Reviews: Appropriately documented mid-term counseling.
 3. Counseling: Dialog, written and/or verbal, between the rating supervisor and the employee being appraised which can be documented to provide appropriate future guidance.
 4. Appraisals: Formal documentation of the rating assigned to the employee.

17.4 – Appeals and Grievances:

Employees not agreeing with their technician appraisal may elect to appeal or grieve their performance evaluation within thirty (30) calendar days of receipt to the HRO. The HRO will inform the employee their appeal must contain the following information: name of the employee,

organization, the appraisal being appealed, why the appraisal should be changed, performance level requested, and the date the notice was received. The HRO will then establish the board to make a recommendation to TAG. TAG will then make the final decision. Appeals will be processed through the supervisory chain. Grievances will be handled IAW Article 6 – Grievance Procedure of this agreement.

17.5 – Performance Improvement Plan:

- a. When an employee performance is rated less than “Fully Successful,” the employee will be advised in writing and placed on a formal Performance Improvement Plan (PIP) and assisted by counseling and increased supervisory guidance in improving areas which were less than “Fully Successful.”
- b. Employees may be considered for reassignment to another position for which he/she is qualified before initiating action to reduce in grade, or removal, due to unacceptable performance.

Article 18 – Incentive Awards

Section 18.1 – General:

This article is based upon 5 USC Chapter 45: *Incentive Awards*, 5 CFR 451: *Awards*, National Guard Bureau Technician Personnel Regulation (TPR) 451: *Performance Management Awards*, West Virginia Supplement TPR 451: *National Guard Incentive Awards Programs*, and the West Virginia Air and Army National Guard Incentive awards Program.

Section 18.2 – Policy:

This article establishes procedures and provides information for the West Virginia Air and Army National Guard Incentive Awards Program. The ACTWV and the WVNG agree to conduct this program IAW applicable law, rule and regulation. The parties agree that the details outlining the purpose, scope, and administrative procedures relating to the West Virginia Air and Army National Guard Incentive Awards Program are published in TPR 451 and further defined, as pertains to members of the bargaining unit, in this article.

Section 18.3 – Program Scope:

The program recognizes and rewards employees, individually or collectively, for achievements and suggestions contributing to the efficiency, economy, or other improvements of government operations which exceed normal job performance requirements, as well as those who perform outstanding special acts or services in the public interest in connection with official employment. The West Virginia Air and Army National Guard Incentive Awards Program addresses awards and recognition of employee actions or accomplishments. Award justification encompasses, but is not limited to, Sustained Superior Performance (SSP), Quality Salary Increase (QSI), Special Acts or Services (Special Achievement Awards), and Time-Off Awards.

Section 18.4 – West Virginia Air and Army National Guard Incentive Awards Committee:

The West Virginia Air and Army National Guard Incentive Awards Committees will be established for the WVARNG, 130 AW, and 167 AW by the WVNG, and will serve all employees in the state. The President, or their appointed representative, of each ACTWV Chapter will be assigned to the Committee. The HRO will review for compliance, and the Adjutant General has final approval.

Section 18.5 – Program Promotion:

Maximum publicity of the West Virginia Air and Army National Guard Incentive Awards Program will be provided by supervisors and the HRO to communicate the value of the West Virginia Air and Army National Guard Incentive Awards Program to commanders, managers, supervisors, and employees.

Section 18.6 – Award Recommendation:

Employees who have witnessed activity or other situations which is deemed to be sufficient and deserving of incentive awards may be submitted in writing, or through supervisory channels, the name and position of the individual(s) who are deserving. No distinction will be made with

regard to the employment level of the individual submitting the recommendations and all such recommendations will be acknowledged by the Committee in writing.

Article 19 – Merit Placement and Promotion

Section 19.1 – General

Merit Placement and Promotion will be administered according to 5 CFR Part 335: *Promotion and Internal Placement*, National Guard Bureau Technician Personnel Regulation (TPR) 300-2: *Performance Management Awards*, West Virginia Supplement TPR 3001-: *Merit Placement Plan for Excepted and Competitive Technicians*, WV HRO Regulation 300-5: *Request for Lateral Transfer or Change to Lower Grade*, and the Appointment of the West Virginia Air and Army National Guard Incentive Awards Program Committee Charter. This article establishes the procedures and provides information for the Merit Placement Program. The WVNG and the ACTWV agree to administer this program in accordance with applicable law, rule, and regulation.

Section 19.2 – Objectives:

- a. This article refers generally to the filling of bargaining unit vacancies the WVNG elects to fill in the excepted and competitive services, and will be used for promotions and competitive reassignments.
- b. To give employees an opportunity to receive fair and appropriate consideration for higher level jobs or shift work assignments.
- c. To provide an incentive for employees to improve their performance and develop skills, knowledge, and abilities.

Section 19.3 – Definitions:

- a. Interviewing Official: Normally the first-line supervisor. The use of selection panels or several levels of supervision is authorized, if deemed appropriate.
- b. Reviewing Official: The HRO is the Reviewing Official for all recommendations prior to approval by TAG.
- c. Final Approving Authority: TAG is the final approving authority on all employee selections.
- d. Entry Level Positions: Those positions that will normally be filled from outside the employee work force. They include:
 1. ARNG – All positions at GS-05/WG-08 or below.
 2. ANG – All positions at GS-05/WG-10 or below.
 3. Officer only positions at GS-09/WS-10 or below.

Section 19.4 – Employee Responsibilities:

Employees are responsible for familiarizing themselves with the provisions of this article, and ensuring applications are accurate and complete. Employees are responsible for maintaining a copy of their own current application.

Section 19.5 – The WVNG’s Rights:

Recognizing it is essential to the mission of the WVNG that employee positions be filled with the best qualified individuals available, the WVNG retains the right to:

- a. Select, or not select from among a group of certified individuals.
- b. Select candidates from any appropriate source most likely to best meet the mission objectives of the WVNG.

Section 19.6 – Actions Exempt From Competition:

- a. Promotion due to issuance of new classification standard or the correction of a classification error.
- b. Placement of over graded employees entitled to grade retention as a result of RIF, reclassification, or WVNG directed change-to-lower grade.
- c. Promotion when competition was held earlier (i.e., position advertised with known promotion potential).
- d. Re-promotion to a grade or an intervening grade or position from which an employee was demoted without personal cause, and not at his or her request.
- e. Promotion resulting from an employee’s position being reclassified at a higher grade because of additional duties and responsibilities.
- f. Management, or voluntary reassignment of an employee to positions in the same grade and pay plan, and having no higher promotion potential. Consideration will be given to the impact, the action may have, on the potential upward mobility for other employees.
- g. Position change to a position having no higher promotion potential.
- h. Position change required by RIF regulations and this agreement.
- i. Temporary promotion of one hundred and twenty (120) days or less.
- j. Detail to higher graded position or to a position with known promotion potential for one hundred and twenty (120) days or less.
- k. Selection of a former employee from the Re-employment Priority List for a position at the same or lower grade than the position last held.

1. Placement as a result of priority consideration when a candidate was not previously given proper consideration in a competitive action.

Section 19.7 – Request For Lateral Transfer Or Change To Lower Grade

The policy for processing of an individual's request for lateral transfer or a change to low grade is established in accordance with applicable laws, rules, and regulations and any change thereto.

Section 19.8 – Vacancy Announcements:

A vacancy announcement will provide the minimum amount of information identified by the WVNG as necessary to provide a clear understanding of the position to be hired. Criteria may also be viewed in rule, law and regulation.

Section 19.9 – Vacancy Posting:

- a. Vacancy Announcements will normally be advertised for thirty (30) calendar days. Two of the various situations vacancy announcements may be advertised for less than thirty (30) calendar days, are as follows:
 1. For announcements to Area 1 only: Fourteen (14) calendar days.
 2. For other instances: Fourteen (14) calendar days or less, subject to the WVNG's request.

Section 19.10 – Area of Consideration:

- a. The area of consideration for each specific positions vacancy announcement will be that deemed most appropriate.
- b. The following is a list of established areas of consideration:
 1. Area One (1) – Current on-board full-time personnel in the WVNG; and may be limited to specific activities within the state on a case by case basis as long as there is a pool of qualified applicants at that location, as determined by the HRO. (This does not include temporary Technicians)
 2. Area Two (2) – All members of the WVNG.
 3. Area Three (3) – All members of the National Guard, and others when eligible for membership in the WVNG.
- c. First-round consideration will be from Area One (1) personnel on employee vacancies. The list of Area One (1) qualified applicants will be referred to the interviewing official before Area Two (2) or Area Three (3) personnel.

d. Second-Round consideration may be given to Area Two (2) personnel, if a recommendation is not made after full consideration of Area One (1) personnel, and Third-Round consideration for Area Three (3) personnel if a recommendation is not made after full consideration of Area Two (2).

e. The final recommendation for selection may be made from Area One (1), Area Two (2), or Area Three (3) personnel. If selection is made from an area off consideration previously bypassed for recommendation, a written statement will be added to the selection documentation noting this fact. The Agency will approve the recommendation before notification to any applicants.

Section 19.11 – Application Procedures:

The application is the basic document by which the individual's qualification for the position is determined. It must, therefore, reflect the applicant's current and past employment data as well as military duty assignments, qualifications, and training, in fairness to all applicants, only information contained in the application will be used.

Section 19.12 – Certification:

The HRO will review all applications to determine basic eligibility. A Subject-Matter Specialist may be used if desired. The HRO will certify "Officer Only" and "Managerial/Supervisory" positions, as applicable.

Section 19.13 – Certification Panel:

A certification panel shall be established for the purpose of certifying candidates for the position to be filled. The HRO is authorized to establish the panel and detail the panel's procedures. This includes the number of members to be on the panel, designation of panel chairperson, selection of management panel members, and the date, time, and place the panel will meet.

Section 19.14 – Certification and Referral of Candidates:

Following the certification of candidates, the HRO will refer the candidates to the selecting official. Candidates will be listed in alphabetical order. Applications and supporting documents submitted by candidates will also be forwarded to the interviewing official. Applications will be given to the interviewing-selecting official and packaged according to Area of Consideration. This process will continue until all qualified applicants from each area of consideration have been referred or selection has been achieved.

Section 19.15- Notification To Individuals Not Certified:

Individuals not meeting the minimum qualifications for the position as determined by the HRO – Staffing Section, or those applicants determined to be "not best qualified" under the provisions of the Merit Placement Plan, will be notified at the same time as the certification to the selecting official. The notification will include a statement as to what basic qualifications were lacking, or the applicant was determined not the "best qualified." Applications will be maintained in the vacancy announcement file for a period of two (2) years, per NGB TPR 300, and then destroyed.

Section 19.16 – Appeal Rights:

Individuals may appeal non-certification by immediate notification to the HRO. The HRO will furnish guidelines as to requirements for filing a formal appeal. This appeal must be filed in writing no later than five (5) working days from receipt of notification of non-certification. The appeal should be specific as to which areas are to be reconsidered.

Section 19.17 – Interview Guidelines:

Each applicant must be interviewed. A personal interview is desirable. A telephone interview may be used if requested by, or agreed to by the applicant. In the event an applicant cannot be located, a certified letter with a return receipt requested will be forwarded to the address on the application with instructions to contact the selecting supervisor within three (3) days. Failure to respond will be considered as withdrawal of the application. The letter and return receipt will be attached to the application and returned to the HRO with the selection endorsement. All applicants will be asked the same questions and should be interviewed by the same interviewing official or selection panel.

Section 19.18 – Placement/Promotion Records:

- a. Sufficient records required to allow reconstruction of the placement action will be maintained for a minimum of two (2) years, per NGB TPR 300-1. If a grievance is pending, records will be maintained until resolution of said grievance or the two (2) years whichever is longer.
- b. Information relating to individual placement action or to the candidate will not be discussed with or shown to unauthorized individuals. Supervisors and personnel specialists participating in merit placement actions will not disclose the details of their work to unauthorized persons.

Section 19.19 – Grievances:

An employee who believes proper procedures were not followed in a placement action for which the employee was an applicant, may file a grievance. A grievance will not be considered when it is based solely on non-selection. The WVNG, upon request, shall provide the chapter president or his/her designated representative the opportunity to review all material utilized in a placement or promotional action.

Article 20- Furlough

Section 20.1 – General:

The WVNG and the ACTWV will refer to 5 USC Chapter 71, 32 USC 709, National Guard Bureau Technician Personnel Regulation (TPR) 715, Voluntary and Non-Disciplinary, or current versions and all other applicable directives, regarding furlough actions.

Article 21 – Reduction In Force

Section 21.1 – Introduction:

The WVNG and the ACTWV will refer to 5 USC Chapter 71, 32 USC 709, NG Technician Personnel Regulation (TPR) 300 (351), *Realignments, and Reduction in Force*, or current versions, and all other applicable directives regarding Reduction in Force (RIF).

Section 21.2 – General:

- a. A RIF occurs when an employee is released from a competitive level by separation, change to lower grade, furlough for more than thirty (30) days, or reassignment which involves displacement of another employee. Such action may be due to a lack of work or funds, reorganization, transfer of functions, or the need to place an employee exercising restoration rights.
- b. The following actions do not constitute a RIF:
 1. Separation of employees who fail to accompany a transfer of function.
 2. WVNG reassignment of an employee to a vacancy at the same grade or representative rate.
 3. Termination of temporary employee.
 4. Downgrades as a result of reclassification.
 5. Termination of temporary promotions.
 6. Elimination of employees through disciplinary/adverse action procedures.
 7. Furlough of 30 days or less.

Section 21.3 – Policy:

- a. A RIF will be accomplished IAW this LMRA and the applicable rule, law, or regulation.
- b. The WVNG will designate the specific area for RIF after consultation with the ACTWV.
- c. The WVNG agrees to consider all reasonable actions to avoid or minimize the impact of a RIF. The WVNG will pursue the authorization for early retirement and other voluntary separation issues. Consideration will be given to curtailing recruitment or promotion in the geographical or specialty area affected by the RIF. Existing vacancies will be made, within budgetary restraints, to retain employees affected by a RIF to prevent separation.

Section 21.4 – The WVNG Will:

- a. The WVNG will notify the ACTWV when they receive formal notification within fourteen (14) workdays of receipt of the written notice. The WVNG further agrees to meet with the ACTWV to discuss the need for RIF and upon request provide documents received relative to the RIF.
- b. Allow the ACTWV not more than fourteen (14) workdays to review the implementation procedures, once the WVNG develops them. The implementation of RIF is subject to I&I bargaining.
- c. Provide briefings, as appropriate, to keep the employee work force informed.
- d. Assure applicable regulations are available for review by the WVNG, the ACTWV, and employees concerned.
- e. Develop an aggressive placement program for adversely affected employees.
- f. Provide a separate written Specific Notice to each affected employee to be Reduced in Force at least sixty (60) calendar days prior to the effective date.

Section 21.5 – Competitive Area:

A competitive area will be designated by the WVNG and will be described geographically, organizationally, or a combination of both.

Section 21.6 – Competitive Level:

- a. Competitive level codes are assigned to all positions which in a RIF are used to establish a retention register. The establishment of competitive level codes is the responsibility of the HRO. A competitive level code is an alpha numerical identifier which separates positions by the following:
 - 1. Occupational Series
 - 2. Grade Level (to include trainee)
 - 3. Supervisory or Non-Supervisory Positions
 - 4. Pay Schedule (Plan)
 - 5. Full-time or Part-time Appointment
 - 6. Same Service (excepted or competitive)
 - 7. Other, such as Working Conditions, Special Skills Requirements, Physical Requirements, etc.
- b. Separate competitive levels are required within the same series and grade, and within the same trade or occupation when differences exist. Items for consideration are recruitment, training, or area of assignment.

c. A competitive level may consist of one position when that position is not interchangeable with or similar to other positions.

Section 21.7 – Retention Register:

a. The WVNG will establish a retention register before releasing employees from their competitive level. The register will show competing employees in descending order starting with the highest score first. The retention register documents any action being taken and is maintained for every RIF action even when the released employee occupies the only position in the competitive level.

b. When a register is established, it will list all competing employees in descending order by tenure groups I, II, III. The employee's correct tenure group is shown in Item 7, SF 50. Tenure groups are the categories in which employees are grouped based on length of employment and completion of probationary/trial periods.

1. Tenure Group I – Permanent, Competitive Service employees with career status, who have successfully completed their probationary period, and permanent, Excepted Service employees who have successfully completed a trial period.

2. Tenure Group II – Permanent employees who are serving a trial or probationary period. This category includes Competitive Service employees with career-conditional status and Excepted Service employees who have not completed their trial period. Competitive Service employees under career appointments who must serve a probationary period are also in tenure II.

3. Tenure Group III – Employees who serve under indefinite appointments in the excepted service.

c. Retention standing within each tenure group is established by using the following criteria:

1. Employees will be given five points for “Outstanding,” three points for “Excellent,” and one point for “Fully-Successful” rating. Points awarded for three performance appraisals, within the established timeframe, will be averaged for use in final computation. All decimals will be rounded up to the nearest whole number if it's greater than or equal to .5 and rounded down if less than or equal to .49. No points will be awarded for ratings of “Marginal” or “Unsatisfactory.” Employees who do not have three appraisals on file will be credited with a “Fully Successful” rating for any missing appraisals. One point will be awarded for each complete year of creditable service. Creditable service is based upon SCD. The sum of points awarded will be used to establish the employee position in the retention register.

2. The SCD will be used as the first tie-breaker if two or more employees in the same tenure group have the same retention score.

3. The date an employee became a Title 32 Excepted or Competitive employee in West Virginia will be used as the second tie-breaker in the event two or more employees have the same retention standing and SCD.

Section 21.8 – RIF Notices:

a. General Notice: When it cannot be determined what specific personnel action will take place during a RIF, general notice may be issued. A general notice must be supplemented by a specific notice before an employee can be released from the competitive level. The general notice will be as far in advance as possible but not less than ninety (90) days.

b. Specific Notice: Before releasing an employee from the competitive level a specific notice must be given to the employee clearly stating what action will be taken, and the effective date of such action. The employee must receive the notice at least sixty (60) calendar days prior to the effective date of the RIF. A Saturday, Sunday, or legal holiday may not be counted as the last day of the period. Likewise, specific notices may not be issued or made effective during the period 15 December through 3 January.

c. Specific Notice Information. The following information, as applicable, is to be included when preparing a specific notice of reduction in force.

1. Reason for the reduction.
2. Specific action to take place (e.g., separation, furlough offer of change to lower grade, etc.)
3. Title, grade, and salary of current position.
4. Competitive area and competitive level designated.
5. SCD, employee service date, and retention rating.
6. The position title, grade, salary, and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.
7. Reasons for any exceptions to retention order.
8. Effective date of proposed RIF (other than 15 December thru 3 January)
9. Where the employee may review retention registers and RIF regulations, and the HRO personnel specialist to contact for information.
10. Appeal rights, how to file them and any time limits imposed.
11. A clear explanation of the employees grade and/or pay retention entitlement.
12. Severance pay eligibility.
13. Placement information and eligibility for reemployment priority list.

14. Discontinued service retirement eligibility.

15. A request for the employee to acknowledge receipt of the notice and to accept or decline any offer.

Section 21.9 – Placement Action:

a. Reemployment Priority List (RPL). A RPL must be maintained for tenure groups I and II employees separated in a RIF. Upon the effective date of the RIF, employees separated in a RIF. Upon the effective date of the RIF, employees will be placed on this list, but only if they have not declined a reasonable offer, which preserves a permanent position in their present grade, step, or equivalent salary. Employee will remain on this list for two (2) years following the date of separation unless they decline RPL enrollment in writing, or accept/decline a valid/reasonable offer. Employees who receive an invalid offer, may turn down the offer and remain on the RPL until a valid/reasonable offer is received in writing. Employees who accept a valid/reasonable offer not at their current grade will remain on the RPL until one of the following occurs:

1. Employee is placed at their previous grade through a valid/reasonable offer.
2. Employee declines a valid/reasonable RPL/PPP offer.
3. Employee is placed in another position regardless of grade via merit promotion procedures.
4. The two (2) year RPL enrollment period expires.

b. Priority Placement Program (PPP): A Department of Defense program which assists displaced employees in obtaining employment within the DoD. Displacement is due to no fault of the employee, i.e. RIF, loss of military membership not for cause, among others.

Section 21.10 – Appeals:

a. A competing employee may appeal to TAG after receiving a specific notice of RIF and the employee believes the WVNG incorrectly applied the provisions of this contract Article and applicable rule, law or regulation.

1. An appeal may be submitted upon receipt of a specific notice, but no later than thirty (30) calendar days before the effective date of the action.
2. The appeal must be in writing and must include the following information: Name, SSN, position title, series and grade, position description control number (PDCN), and the place of employment.
3. The appeal must clearly state the reason the employee believes the action is inappropriate, and must show the WVNG failed to comply with the RIF

procedures outlined in this Article (e.g., insufficient notice, improper tenure grouping, and errors in SCD).

- b. Extension of Time Limit: TAG may extend the appeal time limit when the employee provides sufficient justification.
- c. Decision on Appeal. TAG will issue a written decision and, where applicable, direct the HRO to take any necessary corrective action. A copy of the decision stating what corrective action will be taken is then forwarded to the employee. The decision of TAG is final and there is no further right or appeal. A copy of the decisions issued by TAG will be furnished to all interested parties.
- d. Corrective Action. The decision of TAG may require the HRO to take corrective action as follows:
 - 1. Correct the retention register.
 - 2. Correct the employee's specific notice.
 - 3. Restore the employee to the former grade/pay level or one of like seniority, status, and pay when the employee was reduced or separated improperly.
 - 4. Reimburse the employee for all pay lost as a result of any improper RIF action.
- e. If an appeal uncovers an error that does not change the outcome of the RIF, TAG will correct the error without requiring restoration or recall of the employee, or employees involved.

Article 22: Contracting Out

Section 22.1 – General:

The WVNG may contract out as necessary per 5 USC § 7106(a) (2) (B). Office of WVNG and Budget (OMB), OMB Circular No. A-76, requires agencies periodically compare the overall cost of continuing to perform certain activities termed “commercial activities” using civil service personnel. The WVNG will take reasonable actions to minimize the impact on affected employees. The USPFO will provide the HRO and JA all contractor position requests to verify they cannot be more reasonably filled by an employee. This will not limit the WVNG’s right to perform historical, routine, and recurring contracting functions necessary to maintain equipment in a fully operational status. Upon request, the WVNG will meet with ACTWV representatives for appropriate discussion over the effects of the instant contracting on the bargaining unit.

Article 23 – Training/Education

Section 23.1 – General: This article is based upon National Guard Bureau Technician Personnel Regulation (NGB TPR) 400, The Technician Human Resources Development Program, or current versions, and provide the WVNG regulatory guidance to establish and operate the Human Resource Development program and reference for this article.

Section 23.2 – Policy:

- a. Although it is expected employees are qualified to perform their duties as a prerequisite to employment, the WVNG and the ACTWV recognize the continuing need for additional training or retraining.
- b. The WVNG is responsible for training programs as may be required to improve the efficiency of the West Virginia National Guard Technician Program. In developing these training programs, the WVNG agrees to review plans with and consider recommendations from the ACTWV. On-the-job and/or formal training will be provided as necessary to assist all employees in meeting the requirements of their current position description.
- c. When details of pending changes in function, organization, and mission are available, it shall be the responsibility of WVNG officials to plan for maximum retraining of the employee(s). Consideration will be made to waive qualification requirements in accordance with applicable laws and regulations to place employees in lines of work where their services can be utilized. Reduction in Force or a major equipment change and/or reassignment to a position that is not related to their past job description may authorize a resident school for retraining.

Section 23.3- Notification of Training Availability:

- a. The WVNG is responsible for ensuring employees are made aware of the availability of funded civilian and military training courses on a timely basis.
- b. Employees may request any available job related training, funded or non-funded. Attendance will be at the discretion of the WVNG.

Section 23.4 – Training in a Non-Technician Duty/Pay Status:

Training in a technician or non-technician status will be accomplished in accordance with applicable laws, rules, and regulations, and any change thereto.

Article 24 – Travel and Temporary Duty

Section 24.1 – Travel Notification:

- a. The Agency shall provide notification to affected employees not less than seven (7) calendar days of pending travel assignments except when the head of an Agency determines that the Agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased. Written notification for the reason(s) may be provided to the employee.
- b. When TDY travel would cause hardship, the technician assignment will be reevaluated and consideration of the circumstances will be given to the affected technician. Denial of a technician's hardship request will be issued in writing or email.

Section 24.2 – Compensatory Time and Other Pay Statuses:

Employees may earn compensatory time or other work compensation as applicable by law while performing employee duties which extend beyond the normal duty day, employees may only be required or authorized to travel up to the maximum distance as authorized in the JTR or other guidance.

Section 24.3 – Defense Travel System (DTS) and Government Travel Card Program:

- a. DTS will be the means for requesting travel orders.
 1. TDY travel orders will be issued when employees are assigned work in locations requiring travel, and exceeding twelve (12) hours.
 2. When travel begins and ends at the normal duty location and the travel is not expected to exceed 12 hours the supervisor shall confirm appropriate authority and advise the traveler of authorization for reimbursement of miscellaneous expenses until local travel orders can be issued.
 3. Employees may be instructed to travel in the local area. Travel not documented via an official travel authorization shall be confirmed by a written or electronic confirmation from the supervisor.
- b. Review and approval of DTS requests will be accomplished by the individual or appropriate authority within five (5) calendar days of travel. If this has not been accomplished, the employee will notify the immediate supervisor.
- c. The issuance of government travel card to employees will be consistent with the provisions of applicable regulations.
- d. Technicians who are not eligible or denied issuance of the government travel card will initiate a DTS request. Travel regulation per each service will be followed as applicable.

Article 25 – Dues Authorization & Revocation Procedures

Section 25.1 – Purpose:

The purpose of this article is to provide a procedure for the authorization and revocation of voluntary allotments from the pay of employee members of the ACTWV (bargaining unit) for the payment of labor organization dues. This procedure is entered into under provisions of 7115, 5 USC Chapter 71.

Section 25.2 – Employee Eligibility:

This article is applicable to all employees of the bargaining unit who are members in good standing of the ACTWV, and who:

- a. Have voluntarily authorized payroll deductions for payment of dues to the ACTWV with full knowledge of the method of revocation of the authorization;
- b. Receive an established normal amount of pay on regularly scheduled pay days, and such net salary, after other legal and authorized deductions, is sufficient to cover the full amount of the authorized allotment for dues; and,
- c. Are covered by the bargaining unit for which exclusive recognition has been granted.

Section 25.3 – Dues Allotment:

- a. Dues in the amount as approved by the National Association of Civilian Technicians will be deducted from the bi-weekly pay of eligible employees who are members of the ACTWV, and who have voluntarily authorized such deductions on a properly executed Standard Form (SF) 1187. The base rate of pay shall be exclusive of any hazardous duty, overtime, shift differential, premium, or other related pay outside the employee's basic rate of pay.
- b. An employee may only have one allotment per pay period payable to the ACTWV.
- c. If the amount or rate of regular dues is changed, the ACTWV will notify the Human Resources Office (HRO), USPFO, and Wing Financial Offices in writing, of the change. Only one such change will be made in any period of twelve (12) consecutive months.

Section 25.4 – Allotment Authorization Procedures:

- a. The ACTWV will inform each of its members of the voluntary nature the authorization for payment of labor organization dues, and of the prescribed procedure for revoking same.
- b. The ACTWV agrees to distribute to its members in good standing the prescribed authorization form, SF 1187, Request for Payroll Deductions for Labor Organization Dues. The ACTWV chairman, secretary, or treasurer will be designated to receive

properly executed forms, certify the labor organization portion of the forms, and submit the forms to the HRO.

c. Allotments authorized on properly completed and certified forms received by the HRO will be processed to the servicing employee payroll office. The authorized amount shall be withheld from the employee's pay and will continue until the allotment is terminated under one of the conditions stated in section 25.5 below.

Section 25.5 – Terminating Allotments:

The WVNG Representative will take action to terminate an allotment:

a. Within fifteen (15) days, after the ACTWV loses exclusive recognition under any of the conditions specified in 5 USC Chapter 71, or other pertinent regulations provided during the fifteen (15) day period the ACTWV has not re-acquired its exclusive recognition.

b. At the end of the pay period when, or during which, an employee separated from bargaining unit or moves to position not-serviced by the appropriate employee payroll office.

c. When the WVNG Representative receives written notice from the ACTWV the employee payroll office.

d. Upon receipt of a properly executed SF 1188, Cancellation of Payroll Deductions for Labor Organization Dues, providing such allotment was withheld from the employee's pay for a period of at least one (1) year, or in accordance with Section 25.6.

e. When the employee who authorized the allotment dies, retires, or separates from the employee employment.

Section 25.6 – Voluntary Allotment Revocation by Employee:

Any employee who wishes to terminate his/her allotment may submit a properly executed SF 1188, providing such allotment was withheld from the employee's pay for a period of at least one (1) year.

Section 25.7 – Responsibilities:

a. ACTWV – The ACTWV will:

1. Comply with the terms of the article.
2. Distribute government provided forms SF 1187 to its members.
3. Ensure allotments on the part of its members are voluntary.
4. Certify the amount of rate of its regular dues.

5. Forward completed SF 1187's for information and processing to the serving employee payroll office.
6. Educate its members on the overall program for payroll allotment for payment of labor organization dues, its voluntary nature, and the availability of SF 1187's.
7. Inform its members of the conditions governing revocation of allotments and the availability of SF 1188's.
8. Notify HRO in writing within five (5) workdays when a member of ACTWV is expelled or for any reason ceases to be a member in good standing.
9. Promptly notify HRO in the event of a change in dues structure or other change requiring an amendment to this article.
10. Promptly forward any written revocation of allotment.

b. WVNG – WVNG Representative will:

1. Comply with the terms of this article.
2. Upon receipt of an SF 1187 from the ACTWV, ensure the named employee meets the requirements for dues withholding, and promptly forward the request to the servicing payroll office.
3. Ensure a supply of SF 1188's is available for use in revocation of allotments, and make the forms available to employees on request.
4. Provide the ACTWV with a copy of the SF 1188 (or written letter or revocation, if applicable) when an employee voluntarily terminates labor organization dues.
5. Notify the ACTWV, in writing, when an employee's dues allotment is being terminated as a result of retirement resignation or death.
6. Provide the ACTWV with a copy of any published pay scale memorandums (general schedule and wage system).

c. Servicing Payroll Office – The servicing payroll office will:

Ensure properly executed SF 1187's for dues allotments for members of the ACTWV are submitted for verification and processed so as to be effective during the pay period in which received in the servicing payroll office.

Section 25.8 – Exclusionary Provisions from LMRA:

The ACTWV and the WVNG recognize the expiration of the Labor-Management Relations Agreement (contract) shall not terminate, or in any way affect, dues withholding under this article. The parties agree dues withholding shall continue under the procedures set forth in this

article during renegotiations of the LMRA, or until otherwise changed by mutual written consent of the parties.

Article 26 – Use of Facilities

Section 26.1 – Space for ACTWV Meetings and Training:

By Request of the ACTWV, the WVNG will provide space, when available, for the conduct of official ACTWV meetings or ACTWV sponsored training sessions.

Section 26.2 – Bulletin Boards and/or Designated Space:

a. The WVNG will provide bulletin board and/or designated space, (as an appropriate substitute), in each major functional area for the exclusive use of the ACTWV. Any derogatory or inappropriate material will not be posted. The size of the bulletin board and/or designated space will be approximately 3.5 f.t x 4.0 ft.

1. The ACTWV is responsible for maintaining bulletin board and/or designated space in an orderly condition.
2. All costs incident to the preparation and posting of materials will be borne by the ACTWV.
3. ACTWV Officials or designated representatives are the only personnel authorized to post or remove material from the bulletin boards and/or designated space.
4. Violation of this agreement, concerning the material posted to the ACTWV bulletin boards and/or designated space, shall be grounds for revocation of the privilege, when the violation was affected by an ACTWV official or representative.

Section 26.3 – Mail or Document Distribution, Internet, and Email:

These resources will only be authorized during break, lunch, and when official time is requested by the ACTWV officer and approved by the supervisor for periods of fifteen (15) minutes or more. Should the ACTWV believe that actions by supervision, which they believe unnecessarily impede, interfere, coerce, intimidate, limit or deny access to these communications, they may file an Unfair Labor Practice Charge with the FLR alleging a violation of 5 U.S.C Chapter 71 section 7116(a).

Section 26.4 – Office Space and Equipment:

a. If requested by ACTWV, the WVNG agrees to provide office space, desk, file cabinet, and telephone, if these items are available. If office space, desk, file cabinet, and telephone are granted, the WVNG retains the right to re-acquire them if mission dictates. Before action to re-acquire WVNG will notify the appropriate ACTWV officers in writing. The ACTWV representatives may have access, subject to security regulations, to the occupied office space before, during, and after normal duty hours. All expenses incurred in any installation and use of office equipment will be borne by the ACTWV.

b. WVNG recognizes the need and purpose of the ACTWV to store, access, and maintain digital or other forms of information in the course of its representational duties IAW applicable rules, laws, and regulations.

c. Digital information on computers and electronic devices used by the ACTWV will be considered private and confidential.

Section 26.5 – Lunch Area (Break Rooms) and Sanitation Facilities:

a. The WVNG agrees to maintain existing Lunch Areas (Break Rooms) and Sanitation Facilities IAW 29 CFR. Upon request from either party, the WVNG and the ACTWV will meet at a mutually agreed upon time to discuss improvements to these facilities. The WVNG agrees to discuss the establishment of such facilities or the purchase, placement, and maintenance of appliances with non-appropriated funds consistent with appropriate rules and regulations.

b. The WVNG will notify ACTWV officials of pending evacuations, or other disruptions.

Section 26.6 – Electronic Devices:

The WVNG agrees to follow the use of approved electronic devices in designated work areas IAW regulation or directive.

Section 26.7 – Broadcast/Network Communications:

Where authorized and present, broadcast or network communications (i.e. cable television) may be used to inform employees without individual cost consistent with law, rule, or regulation.

Article 27 – Wage Surveys

Section 27.1 – General:

The WVNG shall notify the ACTWV when information is received from higher authority has directed the start of an official wage survey in the area. When the wage survey lead Agency requests the WVNG to participate in the wage survey, the WVNG will notify the ACTWV who will nominate the ACTWV representative(s) for appointment to the wage survey data collection team. The number of personnel to be appointed to the data collection team will be determined by the lead Agency; however, the WVNG agrees to appoint at least one representative of the ACTWV to the team. The WVNG will not deny or decline a designation of lead Agency when the conditions exist to authorize such authority and responsibility.

Section 27.2 – Requests for Wage Surveys:

It is agreed the ACTWV shall have the right to request a full scale wage surveys to be conducted when significant industry wage raises have taken place in the area, and such request and substantiating data shall be promptly forwarded to the National Guard Bureau (NGB).

Section 27.3 – Wage Survey Data:

The WVNG agrees to furnish, at the request of the lead Agency, wage survey supporting data needed to identify the numbers and classes of Federal Technicians covered by the survey. Copies of such data will be provided to the ACTWV.

Article 28 – Publications

Section 28.1 – Availability:

The WVNG will assist ACTWV representatives and employees in accessing and or obtaining US Government Publications via internet or local access, unless the requested information cannot be legally disclosed.

Article 29 – Privacy and Security

Section 29.1 – General:

The WVNG and the ACTWV will adhere to appropriate law, rule, and regulation regarding privacy and security in the employee workplace.

Section 29.2 – Purpose:

Privacy and security of personal as well as workplace materials and conditions are a paramount concern for the WVNG and ACTWV.

Section 29.3- Communications:

- a. All employees utilizing government telephone are subject to monitoring and/or recording at all times.
- b. Computers, email, network activity, and wireless service use will be monitored and subject to inspection at any time.
- c. Records utilized for purposes of discipline will be considered evidence and available to the appropriate ACTWV representative(s) in accordance with applicable laws, rules, and regulations and any change thereto.

Section 29.4 – Private Recording:

Private recording of workplace activities and conversations will be authorized only in accordance with law, rule and regulation.

Section 29.5 – Video Security Systems:

- a. The primary use of video security systems are for theft prevention, facilities physical security, and employee's safety.
- b. Monitoring and use of video security systems regarding illegal activities must be consistent with law, rule, and regulation.

Section 29.6 – Use of Video Security Records:

Fraudulent use or unauthorized disclosure of information contained in video feeds or tampering of equipment by unauthorized personnel without proper legal authority may result in violation and prosecution IAW appropriate law, rule, and regulation.

Article 30 – Agreement Administration

Section 30.1 – Effective Date:

The effective date of the new contract shall be the thirty-first (31st) day from the execution of signing by the ACTWV and TAG, or the date of Agency (DOD) approval, whichever comes first. Both dates will be recorded in the agreement prior to distribution.

Section 30.2 – Execution:

- a. A secure digital copy of the final negotiated document will be e-mailed to each negotiator for review and comment prior to affixing signatures. Ten (10) days will be allocated for the review. At the end of the review period, the agreement will then be executed by affixing the signatures of TAG and all members of the respective negotiating teams.
- b. Execution (formal signing), of the new agreement shall occur after National Association of Civilian Technicians’ reviews and chapter ratifications.

Section 30.3 – Agency Approval:

- a. The head of the Agency shall approve the agreement within thirty (30) days from the date the agreement is executed by the parties, provided the agreement is in accordance with provisions of applicable law, rule, or regulation.
- b. If the head of the Agency does not approve or disapprove the agreement within the thirty (30) day period, the agreement shall take effect and be binding on the WVNG and the ACTWV, subject to the provisions of applicable law, rule, or regulation.
- c. In the event any specific provisions are not approved by the Agency, the remainder of the agreement shall go into effect on the thirty-first (31st) day after execution, (as determined by Section 30.2).
- d. The effective date of the new contract shall be the thirty-first (31st) day from the execution of signing by the ACTWV and TAG, or the date of Agency (DOD) approval, whichever comes first.

Section 30.4 – Association Approval:

- a. Upon conclusion of negotiations, all articles will be typed in final draft format. During the ten (10) day review period the agreement will be submitted to the ACT National Office and to the affected chapters for ratification by the membership.
- b. Any items not ratified by chapter membership will require the parties to renegotiate those items. Renegotiation of any such items will be accomplished within the guidelines of MOU.

Section 30.5 – Agreement Duration:

- a. This agreement shall expire three years (3) from the effective date as determined in Section 30.1 Further, the agreement will be terminated by TAG upon certification by proper authority the ACTWV no longer represents the employee in the bargaining unit.
- b. The term of this agreement may be extended beyond the expiration date:
 - 1. For one year increments based on mutual agreement of the parties;
 - 2. During a period of declared national or state emergency by the mutual consent of the parties.
- c. The provisions of this agreement will remain in effect until the agreement is approved by the Agency, provided those portions of the agreement which have not been settled have been submitted for third party decision.

Section 30.6 Agreement Amendment:

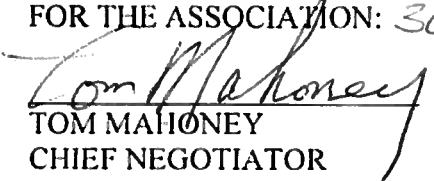
- a. This agreement may be subject to modification as a result of a change in or issuance of an appropriate new law, rule, or regulation by proper authority at the Agency or higher level.
- b. By mutual consent of the parties.
- c. A request for an amendment or modification of this agreement by either party shall be in writing, and shall set forth the compelling need for the proposed change, and a summary of the proposed change(s).
- d. Representatives of the WVNG and the ACTWV will meet within thirty (30) days to commence negotiating the proposed amendment or modification, unless a later date is mutually agreed upon. No modification of the agreement other than those specified in the summary will be considered.
- e. Representatives of the WVNG and the ACTWV will be performed in accordance with the existing MOU.

Section 30.7 – Negotiating a New Agreement:

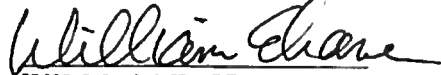
- a. Negotiations for a new agreement will commence no earlier than one hundred and eighty (180) calendar days, but not later than ninety (90) calendar days prior to the termination of this agreement. In the event either party fails to request negotiations of a new agreement within the established time frame, this agreement will automatically extend for a period of one (1) year.
- b. Thirty (30) days prior to the start of negotiations of a new agreement, four (4) representatives of the WVNG and four (4) representatives of the ACTWV will meet to initiate a memorandum of understanding establishing the ground rules for the conduct of negotiations.

IN WITNESS WHEREOF, the parties have entered into this agreement on this 15th
day of March 2021.

FOR THE ASSOCIATION: *30 MAR 2021*


TOM MAHONEY
CHIEF NEGOTIATOR
ASSOCIATION OF CIVILIAN TECHNICIANS

FOR THE EMPLOYER:


WILLIAM E. CRANE
BRIGADIER GENERAL
THE ADJUTANT GENERAL