

**HOURS OF DUTY AND
LEAVE ADMINISTRATION
FOR THE
KANSAS NATIONAL GUARD**



**STATE OF KANSAS
JOINT FORCE HEADQUARTERS
TOPEKA, KANSAS**

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<u>TABLE OF CONTENTS</u>	<u>PARA</u>	<u>PAGE</u>
PURPOSE		3
Chapter 1 Hours of Duty		4
General Provisions	1-1	4
Authority Delegated to the Adjutant General	1-2	4
Definitions	1-3	4
Establishment of Workweeks and Work Schedules	1-4	4
Establishment of Work Schedules under unusual circumstances	1-5	4
Work Schedules	1-6	5
Standby Tours	1-7	5
Rest Periods	1-8	5
Lunch Periods	1-9	6
Make Ready and Clean-up Time	1-10	6
Holidays	1-11	6
Public/Charitable Activities	1-12	7
Chapter 2 Leave Administration		7
Types of Leave	2-1	7
Definitions	2-2	8
Charging of Annual and Sick Leave	2-3	8
Refund for Unearned Leave	2-4	8
Absence Without Leave (AWOL)	2-5	8
Annual Leave	2-6	8
Granting Annual Leave	2-7	10
Sick Leave	2-8	11
Leave Without Pay	2-9	14
Family and Medical Leave Act of 1993 (FMLA)	2-10	15
Court Leave	2-11	15
Military Leave	2-12	16
44 Day Military Leave (P.L. 104-106, Feb 1996)	2-13	17
Leave to Provide Military Aid to Enforcement the Law	2-14	17
Military Funeral Honors Duty	2-15	18
Absence for Maternity Reasons	2-16	18
Compensatory Leave	2-17	19
Leave for Bone-Marrow Donations	2-18	20
Excused Absences	2-19	20
Chapter 3 Continuation of Pay		23
Enclosure 1		25

PURPOSE

THE PROVISIONS OF THIS PAMPHLET WILL APPLY TO ALL ARMY AND AIR NATIONAL GUARD TECHNICIANS. IT PROVIDES INFORMATION ON HOURS OF DUTY AND LEAVE ADMINISTRATION AS SET FORTH BY THE OFFICE OF PERSONNEL MANAGEMENT, NATIONAL GUARD BUREAU, AND THE ADJUTANT GENERAL OF KANSAS.

SHOULD NEGOTIATED LABOR CONTRACTS SUPPLEMENT OR MODIFY SOME OF THE INSTRUCTIONS CONTAINED IN THIS PAMPHLET, THE NEGOTIATED CONTRACTS WILL TAKE PRECEDENCE. ALL ARMY AND AIR NATIONAL GUARD TECHNICIANS SHOULD BECOME FAMILIAR WITH THE CONTENTS OF APPROPRIATE LABOR AGREEMENTS.

Chapter 1

HOURS OF DUTY

1-1 General Provisions. The provisions of 32 USC 709 authorizes the Secretaries of the Army and the Air Force to prescribe the hours of duty for National Guard technicians. The Service Secretaries have delegated this authority to the Chief, National Guard Bureau.

1-2 Authority delegated to The Adjutant General. Authority to fix the hours of work of National Guard technicians within their jurisdiction including the authority to fix basic workweek and work schedules is delegated to the State Adjutant General. The Adjutant General may depart from the general rule for establishing work schedules if it is substantiated that it would handicap the organization in carrying out its functions. The basic workweek may be spread over no less than four (4) nor more than six (6) consecutive workdays without prior approval of the Chief, National Guard Bureau.

1-3 Definitions.

- a. Administrative workweek means a period of seven (7) consecutive calendar days beginning on Sunday and ending on Saturday and designated in advance.
- b. Regularly-scheduled administrative workweek for full-time technicians means the period within an administrative workweek which these technicians are required to be on duty regularly. For part-time technicians, it means the officially prescribed days and hours within an administrative workweek during which these technicians are required to be on duty regularly.
- c. Basic workweek for full-time technicians usually means the established workweek.
- d. Irregular or occasional compensatory time is time performed on an intermittent or occasional basis even though planned or scheduled in advance of performance.

1-4 Establishment of Workweeks and Work schedules. Administrative workweeks, regularly-scheduled administrative workweeks, basic workweeks, and work scheduled will be established within the provisions and limitations contained in the United States Code and National Guard Bureau regulations. Standby duty will be scheduled as necessary to require that technicians be available to perform work as the need arises.

1-5 Establishment of Work Schedules under unusual circumstances. In those cases where use of a regular tour of duty would seriously handicap the organization in carrying out its functions or would substantially increase costs, other tours may be established. In establishing such tours, the following instructions will be observed.

- a. Wherever possible two (2) consecutive days off should be provided in each administrative workweek. As a minimum, one (1) regular day off, preferably Sunday, will be provided.

- b. Non-workdays should be staggered when it is necessary to provide six-day or seven-day coverage for a particular activity.
- c. Tour will cover a minimum of 80 hours in a biweekly pay period for all full-time technicians but may include hours in excess of 80 hours. Hours in excess of 80 hours in a biweekly tour are considered compensatory time worked and will be administered in accordance with the rules for granting compensatory time.
- d. When the daily tour of duty begins on one calendar day and extends into the next calendar day, the day on which the tour begins is identified as the day of duty, e.g., a tour of duty beginning 2000 hours Friday, and ending 0430 hours Saturday, is identified as the Friday tour of duty.

1-6 Work Schedules

- a. Basic – Consists of five eight-hour days in one basic workweek
- b. Compressed (CWS)
 - (1) 4-10 Schedule – Consists of four ten-hour days in one basic workweek.
 - (2) 5-4-9 Schedule – Consists of eight nine-hour days and one eight-hour day in a biweekly pay period. The eight hour day is the last workday of each pay period. The Scheduled Day Off (SDO) is the non-duty day within each pay period.

1-7 Standby Tours. A standby tour is one that does not involve the regular continuous performance of work on a scheduled basis but does require that technicians be available to perform work as the need arises. When emergency circumstances necessitate such action, work may be required on an irregular or occasional basis beyond the regularly-scheduled tour. Such additional work will be accommodated by granting an equal amount of compensatory time off.

1-8 Rest Periods.

- a. Short rest periods during the daily tour may be permitted when such periods are beneficial and/or necessary. The policy adopted will be stated in writing and the technicians will be advised accordingly. Criteria for determining the policy are as follows:
 - (1) Protection of technician's health by relief from hazardous work or that which requires continual and/or considerable physical exertion.
 - (2) Reduction of the accident rate by removal of fatigue potential.
 - (3) Working in confined spaces or in areas where normal personal activities are restricted.
 - (4) Increase in, or maintenance of, high quality and/or quantity production traceable to the rest period.

- b. Rest periods granted in accordance with the following provisions are considered duty time and are included in the daily tour of duty:
 - (1) The rest period may not exceed fifteen (15) minutes during each four (4) hours of continuous work.
 - (2) If the period from the beginning of the daily tour to the luncheon period is less than four (4) hours, a rest period should be granted only in unusual circumstances.
 - (3) The rest period may not be a continuation of the lunch period.
 - (4) A rest period may not be granted where none of the criteria in a, above, is applicable.
- c. Rest periods other than those provided herein may not be considered a part of the daily tour of duty. Such periods must be charged to the appropriate type of leave.

1-9 Lunch Periods. Lunch periods during which the technician is entirely free of duty connection with his/her job may not be considered duty time and must be scheduled outside the hours established for the daily tours of duty. In compressed work schedules or where shift work is in operation and an overlapping of shifts to permit time out for lunch is not possible, a lunch period of twenty minutes or less may be counted as time worked for which compensation is allowed. When on-the-job lunch period is in effect, technicians must remain at their duty site and must be available for work. When the lunch period is free time, or is longer than twenty minutes, the period may not be included as part of the daily schedule of working hours so that payment for the lunch would result.

1-10 Make Ready and Cleanup Time. Incidental duties that are directly connected with the performance of a job, such as obtaining and replacing working tools or materials, undergoing inspections and similar tasks are considered part of the job requirements within the established tour of duty. When work shifts overlap, the shifts will be arranged so that time required for incidental duties will be part of the workday. When incidental duties cannot be made part of the regularly-scheduled workday, the extra time for which compensatory time is granted will not exceed thirty minutes a day.

1-11 Holidays.

- a. The following are observed Federal holidays:

- New Years Day – First day of January
- Dr. Martin Luther King, Jr. day – Third Monday of January
- Presidents Day – Third Monday of February
- Memorial Day – Last Monday of May
- Independence Day – Fourth of July
- Labor Day – First Monday of September
- Columbus Day – Second Monday of October
- Veterans Day – Eleventh Day of November
- Thanksgiving Day – Fourth Thursday of November
- Christmas Day – Twenty-fifth of December

- b. Determining In-Lieu-of Holidays.

- (1) For technicians whose basic workweek is Monday through Friday, if a day declared a holiday by Federal Statute or Executive Order falls on Sunday, Monday is the in-lieu-of holiday. If the holiday falls on Saturday, Friday is the in-lieu-of holiday.
- (2) When a holiday falls on a non-workday for a technician covered by a compressed work schedule and
 - (a) The holiday falls on Sunday, the first regularly scheduled workday following the Sunday holiday is the technician's in-lieu-of holiday.
 - (b) The holiday is not on a Sunday, the last regularly scheduled workday preceding the holiday is the technician's in-lieu-of holiday.

1-12 Community Service Activities.

- a. Must be approved by The Adjutant General.
- b. Time spent in such activities shall be considered hours of work.
- c. Time spent in such activities outside regular working hours is not hours of work.

CHAPTER 2

LEAVE ADMINISTRATION

2-1 Types of Leave. The administration of leave must be on a uniform and equitable basis within the scope of applicable laws and regulations. In granting leave, consideration must be given to the needs of the National Guard and the welfare of the technician. The types of leave are:

Annual Leave
Sick Leave
Leave Without Pay
Family and Medical Leave
Court Leave
Military Leave
Compensatory Leave
Leave for Bone Marrow or Organ Donation
Administrative Leave (Excused Absence)

2-2 Definitions.

- a. Leave year is the period beginning with the first biweekly pay period commencing on or after 1 January and ending with the day immediately before the first day of the first complete pay period in the following calendar year.
- b. Accrued leave is leave earned by a technician during the current leave year that is unused at any time in that leave year.

- c. Accumulated leave is unused leave remaining to the credit of a technician at the beginning of a leave year.
- d. Leave days are days upon which a technician would otherwise work and receive pay exclusive of holidays and all non-workdays.
- e. Medical certificate is a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, treatment or a period of disability of a technician who is/was undergoing professional treatment.
- f. Communicable disease is a disease requiring isolation, quarantine, or restriction of movement of the patient as prescribed by health authorities.

2-3 Charging of Annual and Sick Leave. The minimum charge for annual and sick leave is one tenth of an hour.

2-4 Refund for Unearned Leave. When a technician is separated before he/she has earned all the annual leave he/she has used or the sick leave advanced to him/her, usually the value of the unearned leave must be refunded or deducted from any compensation due. The circumstances under which a refund is not required are stated in 5 CFR 209.

2-5 Absence Without Leave (AWOL). Failure of a technician to secure prior approval for annual leave or failure to notify his/her immediate supervisor as soon as possible when absence is due to an emergency or illness, will result in the absence being charged to AWOL. It is the responsibility of the immediate supervisor to ensure that all absences properly chargeable as AWOL are so indicated on the time and attendance report. When the technician informs his/her supervisor of the circumstances causing the absence, a determination will be made as to whether or not the charge of AWOL should be changed to annual, sick, compensatory, or leave without pay.

2-6 Annual Leave. To earn leave, a technician must be employed during a full biweekly pay period. He/she is considered to have been employed for a full period if he/she is on the rolls on all days falling within the pay period, exclusive of holidays and non-workdays. Annual leave may be granted as of the first day of appointment to technicians whose appointments are for 90 days or longer. Annual leave that will be earned during the leave year may be credited to a technician's leave account at the beginning of the leave year. When it is so credited, it is available for use during the year subject to the approval of the supervisor.

a. Annual leave rates for full-time technicians are:

- (1) Technicians with less than three (3) years of creditable service earn four (4) hours of annual leave for each biweekly pay period or a total of 104 hours for the leave year.
- (2) Technicians with three (3) but less than fifteen (15) years of creditable service earn six (6) hours of annual leave for each biweekly pay period except for the last full period of the calendar year in which they earn ten (10) hours for a total of 160 hours for the leave year.
- (3) Technicians with fifteen (15) years or more of creditable service earn eight (8) hours of annual leave for each full biweekly period or a total of 208 hours for the leave year.

- b. Earning rates for part-time technicians. To earn annual leave, part-time technicians must have a regularly-assigned tour of duty on at least one (1) day of the week in a pay period. The part-time technician earns leave to the annual maximum in accordance with the actual number of hours in a pay status. Those hours of service in a pay status that do not equal the number necessary for a minimum leave credit of one (1) hour may be carried over from one pay period to the next until sufficient service is rendered to total the hourly credit. Upon change to full-time service when the part-time technician has insufficient service to earn the minimum of one (1) hour, the fractional hours are lost solely because of the status change.
- c. Pro rata table. The following table may be used as a guide in determining the amount of pro rata credit for leave for both full-time and part-time technicians.

Biweekly Pay Period Workdays Hourly Accrual Rate Category

	<u>4</u>	<u>6</u>	<u>8</u>
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8

- d. Change in annual leave earning rate. A change in annual leave earning rate is effective at the beginning of the first biweekly pay period following the completion of the prescribed creditable service.
- e. Maximum accumulation. The maximum amount of annual leave that may be carried forward from one leave year to the next is 240 hours. However, annual leave forfeited because of limitation may be restored upon a showing that the decision to schedule such leave had been made at least three pay periods prior to the end of the leave year and the technician was prevented from using the leave because of sickness, administrative error or operational demands. The National Emergency by Reason of Certain Terrorist Attacks (Presidential Proclamation of 14 September 2001) is deemed to be an operational demand. For any technician who forfeits annual leave at the beginning of a leave year because the agency determined the technician's services were required in response to the national emergency, the forfeited annual leave is deemed to have been scheduled in advance. A request for restoration of annual leave must be forwarded through the Human Resources Office (HRO) to the Adjutant General for approval. (Approval authority may be further delegated at the discretion of the Adjutant General.) All requests for annual leave restoration will be thoroughly substantiated. Requests IAW the Presidential Proclamation should quote the proclamation.
- f. Creditable service for annual leave. Creditable service for determining the rate for annual leave will include:

- (1) Periods of employment as an Army or Air National Guard technician.
 - (2) Periods of applicable, honorable active military service.
 - (3) Periods of employment by a federal agency substantiated by written documentary evidence. Copies of the proof of employment will be made a part of the technician's Official Personnel Folder (OPF).
 - (4) The entire period during which a technician is carried on the rolls in a non-pay status while drawing compensation from the Office of Federal Employees' Compensation, U.S. Department of Labor.
 - (5) Leave without pay an aggregate of which does not exceed six (6) months in a calendar year.
 - (6) Federal Workforce Flexibility Act of 2004. A newly-appointed or reappointed technician may receive service credit for prior non-Federal service or active uniformed service that otherwise would not be creditable for the purpose of determining his or her annual leave accrual rate. The head of the agency or designee must determine that the skills and experience the technician possesses were acquired through performance in a non-Federal or active duty uniformed service position having duties which directly relate to the duties of the position to which he or she is being appointed and are necessary to achieve an important agency mission or performance goal. (This provision became effective on 28 April 2005.)
- g. Lump Sum Leave Payments. A technician who is separated for one or more workdays is normally entitled to a lump-sum payment for unused annual leave earned through the last full pay period prior to separation. Technicians who are separated or in a LWOP – US to enter military service may elect to retain credit for unused leave or to receive the lump-sum payment. Lump-sum leave is not payable when a technician transfers to a position when all or part of the annual leave is transferable. If a technician who has received a lump-sum payment is reemployed prior to the expiration of the period covered by the lump-sum payment, he/she must refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the period covered by the lump-sum payment. This leave will then be re-credited to the technician's account.

2-7 Granting Annual Leave. It is the policy of the Adjutant General of Kansas to grant technicians annual leave at such times and in such amounts as local conditions permit. When technicians can be spared from their duties, annual leave should be granted freely for personal or emergency purposes. Normally, technicians will not be denied the use of annual leave when they may otherwise be required to forfeit their accruals by maximum accumulation or forfeiture rules. Denial of the use of leave will be based on factors that are reasonable and equitable and do not discriminate against any technician or group of technicians.

- a. Supervisors have the primary responsibility for determining when and the extent to which annual leave is to be granted as well as the responsibility of requiring annual leave to be taken when circumstances require such action. Immediate and continuing steps should be taken to schedule leave and to provide vacation periods to the extent permitted by local working conditions. Each technician should be allowed an extended period of leave for rest and relaxation at least annually, in order to assist in maintaining maximum efficiency

and productivity. Leave policies and schedules should be reviewed continually and modified according to local work requirements. Authority for approving annual leave should be vested in the lowest practicable supervisory level within the organization. Determination as to the time and amount of annual leave which is to be granted generally should be on a basis of mutual agreement between the technician and his/her supervisor.

- b. Technicians have the responsibility of cooperating with management in scheduling vacation periods requesting leave during periods when their service can best be spared. When an emergency condition requires maximum attendance, technicians should be requested to forego scheduled vacations or occasional periods of annual leave until such time as their services may be spared without detriment to the organization.
- c. Although annual leave is a right of a technician in that its accrual may not be denied; and the technician is entitled to be paid for the portion not exceeding his/her accumulated balance upon separation; it nevertheless is the prerogative of management to make the final decision on when leave is to be used. For this reason, the use of annual leave is subject to the prior approval of the appropriate supervisor. Retroactive approval may be given when circumstances warrant; however, it must not be assumed that a mere statement of fact will in all cases result in a favorable action. Failure to secure the proper approval may result in the absence being charged to AWOL.

2-8 Sick Leave. It is the policy to authorize the use of sick leave in all bona fide cases. It is the responsibility of the supervisor to ascertain whether absences are properly chargeable to sick leave. Technicians may be required to appear for physical examination to determine whether the sick leave is necessary. When a technician is absent for short periods at frequent intervals, the supervisor should advise the technician to visit a physician for a physical checkup and to report with a statement from the physician as to his/her physical condition. When there is reason to believe that sick leave is being abused, a medical certificate documenting that a technician is incapacitated for duty may be required by the supervisor to support any and all sick leave taken. In such cases, the technician will be advised in advance and in writing if such medical certification is to be required. OPM form 71 (Application for Leave) may be used for this purpose. When it is determined that an absence is not a proper charge to sick leave, annual leave or leave without pay may be charged; or, if such absence was not authorized, it will be charged as AWOL.

- a. The accrued and accumulated sick leave to the technician's credit is available for use in the following circumstances:
 - (1) When the supervisor has established a technician is incapacitated for performance of duties because of physical or mental illness, injury, pregnancy, or childbirth
 - (2) For medical, dental or optical examination or treatment
 - (3) When the technician's presence at work would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize fellow technicians because of exposure to a communicable disease. A statement from the physician is required to substantiate the use of sick leave. The physician's statement must specify that duty by the technician would endanger the health of coworkers; or that it is essential that the technician stay at home to provide personal care to a family member with a communicable disease. A statement that the technician is needed at home is not adequate for the granting of sick leave.

- b. Sick Leave for Family Care or Bereavement. Authorizes the use of sick leave by all full-time technicians not to exceed 104 hours in a leave year. Part-time technicians and technicians with uncommon tours of duty are also covered, and the amount of sick leave permitted for family care and bereavement purposes is pro-rated in proportion to the average number of hours of work in the technician's scheduled tour of duty each week. Agencies may advance the 104 hours of sick leave (or a proportional amount for a technician on a part-time schedule or uncommon tour of duty).
- (1) May be used to provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth;
 - (2) May be used to provide care for a family member as a result of medical, dental, or optical examination or treatment; or
 - (3) May be used to make arrangements necessitated by the death of a family member or attend the funeral of a family member.
 - (4) Definition of a family member is:
 - (A) Spouse and parents thereof
 - (B) Children, including adopted children, and spouses thereof (This covers adult sons and daughters, whether disabled or not; and therefore, permits a technician to use sick leave to arrange for or attend the funeral of an adult son or daughter who is over 18 years old and is not disabled.)
 - (C) Parents
 - (D) Brothers and sisters, and spouses thereof
 - (E) Any individual related by blood or affinity whose close association with the technician is the equivalent of a family relationship
 - (5) Sick leave may not be carried over or accumulated in succeeding leave years if a technician does not use any or all of the amount of sick leave under this act for family care or bereavement purposes in a leave year.
 - (6) Technicians requesting to become leave recipients under the voluntary leave transfer program must use the sick leave available under this act before becoming eligible for donated leave to care for a family member.
- c. Sick Leave to Care for a Family Member with a Serious Health Condition. Technicians are able to use a total of up to twelve (12) workweeks of sick leave each year to care for a family member with a serious health condition. This includes any Sick Leave for Family Care or Bereavement.
- (1) "Serious health condition" has the same meaning as it does under the Family Medical Leave Act (FMLA) which is documented in Chapter 2-10. It includes such conditions as cancer, heart attacks, strokes, severe injuries, Alzheimer's, pregnancy, and childbirth. It does not cover short-term conditions for which treatment and recovery are

brief. The common cold, flu, earaches, upset stomach, headaches (other than migraines), routine dental or orthodontia problems are not serious health conditions unless complications arise.

(2) A technician is entitled to a total of 12 workweeks of sick leave each leave year. After the initial 104 hours of Sick Leave for Family Care or Bereavement, the balance can only be used for serious health conditions of family members.

(3) Medical certification of a serious health condition must be provided to the supervisor before it is approved.

(4) Only the first 104 hours of sick leave for this purpose may be advanced.

d. Sick Leave for Adoption. A technician may use sick leave for purposes related to the adoption of a child. The agency may advance up to 240 hours of sick leave for adoption-related purposes. Examples may include but are not limited to:

(1) Appointments with adoption agencies, social workers, and attorneys

(2) Court proceedings;

(3) Required travel;

(4) Any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and

(5) Any other activities necessary to allow the adoption to proceed.

(6) Adoptive parents who voluntarily choose to be absent from work to bond with or care for an adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay for these purposes. An agency may request administratively acceptable evidence for absences related to adoption.

e. Use of sick leave is subject to the approval of the appropriate supervisor.

f. Sick leave earning rates. Sick leave is earned from the start of the first full pay period of employment and its earning is not affected by the type of appointment or length of service. Full-time technicians earn sick leave at the rate of four (4) hours for each full biweekly pay period. Part-time technicians earn one (1) hour for each 20 hours in a pay status.

g. Accumulation of sick leave. Sick leave that accrues to a technician's credit not used during the year in which earned may accumulate from year-to-year without restriction as to the maximum amount.

h. Advancing sick leave. Sick leave may be advanced to a technician not to exceed 30 days (240 hours) at any one time subject to the following conditions:

(1) Request for advancement of the sick leave will be supported by a medical certificate.

- (2) All available accumulated sick leave will be exhausted before advancement.
 - (3) There is reasonable assurance that the technician will return to duty to earn and repay advance credits.
 - (4) Request will be submitted through supervisory channels to the HRO for approval/disapproval.
 - (5) Repayment of advanced sick leave credits. When a technician is separated prior to repayment of advanced sick leave credits, the unliquidated balance will be charged against annual leave and against earned salary.
- i. Unused sick leave credited to a technician's account as of the date of separation is re-credited to the account when the technician is reemployed, if reemployed on or after 2 December 1994, unless the sick leave was forfeited upon reemployment in Federal civil service before 2 December 1994.

2-9 Leave Without Pay (LWOP). LWOP is a temporary non-pay status. It cannot be imposed as a penalty nor can a technician be required to apply for LWOP in lieu of a suspension. It must not be confused with AWOL which is charged for unauthorized absence or absence for which the technician's request for leave was denied as unjustified. Technicians may be granted LWOP by the approving official upon written application. It may be granted whether or not the technician has annual or sick leave to his/her credit.

- a. For LWOP more than 30 calendar days, the technician must make application on the Standard Form 52, Request for Personnel Action. The original of the SF-52 will be forwarded to HRO after approval.
- b. Approval of LWOP will be made only after considering the value to the National Guard or the serious needs of the individual concerned. A basic consideration in authorizing such leave is a reasonable expectation the individual will return to duty at the end of the period of leave. The following are examples of cases for which approval of extended periods of LWOP may be proper:
 - (1) Education, either civilian or military, that would result in increased job proficiency and ability
 - (2) Recovery from illness or disability not of a permanent or disqualifying nature when immediate return to duty would impair the technician's health or threaten the health of other technicians
 - (3) To provide for the retention of a qualified and desirable technician on the employed rolls pending final action by the Office of Federal Employees' Compensation, or other appropriate agency, on a claim for employment-connected disability
- c. The day or days declared as holiday(s) immediately preceding the first day or following the last day of a period of LWOP are considered as days to which the technician is entitled to pay, if he would otherwise have been available and performed duty. A technician is not entitled to pay for any days that have been declared as holidays within a period of leave without pay.

- d. LWOP due to military activation is a technician right and does not need approval of the immediate supervisor, although coordination is highly advised. Military orders are required for proper documentation.

2-10 Family and Medical Leave Act of 1993 (FMLA).

- a. Entitlement – Sections 6381 through 6387 of Title 5, United States Code, as added by Title II of the FMLA of 1993, provides covered Federal employees with entitlement to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- (1) The birth of a son or daughter of the technician and the care of such son or daughter.
- (2) The placement of a son or daughter with the technician for adoption or foster care.
- (3) The care of the spouse, son, or daughter, or parent of the technician who has a serious health condition.
- (4) Serious health condition of the technician that makes the technician unable to perform the essential functions of his or her position.

- b FMLA leave may be taken intermittently, or the technician may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. A technician may elect to substitute annual leave and/or sick leave, consistent with current laws and regulations, for any unpaid leave under FMLA. FMLA leave is in addition to other paid time off available to technician.

c. Job Benefits Protection

- (1) Upon being returned from FMLA leave, a technician must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.
- (2) A technician is entitled to maintain health benefits coverage. They may pay the technician's share of the premiums on a current basis or upon return to work.

d. Advance Notice and Medical Certification

- (1) The technician must provide notice of intent to FMLA leave not less than 30 days before leave is to begin or as soon as is practicable. A technician may not invoke entitlement retroactively unless the technician is physically incapable of invoking entitlement during the period of absence. In that exception, the technician may retroactively invoke entitlement within two days after returning to work.
- (2) Medical certification for FMLA is required. A technician must provide medical documentation within fifteen (15) calendar days. If this is not possible, medical certification must be provided within a reasonable period, but no later than thirty (30) calendar days after the date the agency requests such certification.

- e. Care for covered service members. The National Defense Authorization Act of FY 2008 added a provision to FMLA which allows 26 workweeks of leave for family members to care for a covered service member who suffers a serious injury or illness on active duty.

- (1) Qualified family member includes the spouse, child, parent, or next of kin of the service member.
- (2) The 26 workweeks is a maximum entitlement (includes the 12 workweeks in the original FMLA).
- (3) May be taken only once in a 12-month period and is limited to a one-time use per technician.

2-11 Court Leave. Court leave is the authorized absence (without loss of pay or leave) for jury duty or for attending judicial proceedings in a non-official capacity as a witness on behalf of a state or local government, or on behalf of a private party in connection with a judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. Reference 5 USC 6322. The following table may be used as a guide:

TECHNICIAN ABSENCES FOR COURT OR COURT-RELATED SERVICES

Name of Service	Type of Absence			Fees			Govt. Travel Expenses	
				No	Yes		No	Yes
	Court Leave	Official Duty	Annual Leave/LWOP	Retain	Turn into agency			
I Jury Service								
(A) US or DC court	X			X			X	
(B) State or local court	X					X	X	
II Witness Service								
(A) On behalf of US or DC government		X		X				X
(B) On behalf of State or local government								
(1) in official capacity		X				X		X
(2) not in official capacity	X					X	X	
(C) On behalf of private party								
(1) in official capacity		X				X		X
(2) not in official capacity								
(a) when a party is a US, DC, or State or local government	X					X	X	
(b) When a party is not US, DC, or state or local government			X		X		X	

NOTE: Court leave is to be evidenced by a certificate of attendance from the courts.

2-12 Military leave. Military leave permits a technician to be absent from their technician duties without charge to annual leave or loss of pay while performing inactive duty/active duty/active duty for training. Military leave is granted to technicians who are members of the reserve component of the Armed Forces. Fifteen (15) days (120) hours of military leave will be credited to a technician's account at the beginning of each fiscal year.

- a. Granting military leave. Public Law 106-554, effective 12-21-00, amends section 6323(a) of Title 5, United States Code, adding that the minimum charge for military leave is one hour. Additional charges for military leave will be in multiples of the

minimum charge. A technician will be charged military leave only for hours during which he/she would otherwise have worked and received pay. The law also provides as follows:

- (1) Subject to paragraph (2) of this subsection, a technician as defined by section 2105 of this Title or an individual employed by the government of the District of Columbia, permanent or indefinite, is entitled to leave without loss of pay, time, or performance or efficiency rating for active duty or engaging in field or coast defense training under sections 502-505 of Title 32 as a reserve of the armed forces or member of the National Guard. The above reference does not include State active duty.
 - (2) Military leave under 6323(a) will be prorated for part-time technicians and for technicians on uncommon tours of duty based proportionally on the number of hours in the technician's regularly-scheduled biweekly pay period.
- b. Technicians ordered to military duty/inactive duty may elect to use annual, compensatory, or leave without pay prior to using military leave.
 - c. Technicians will not be charged military leave for intervening non-duty days.
 - d. Technicians serving on military duty which extends into a second fiscal year (1 October) may use the 120 hours of military leave which accrues at the beginning of the second year without returning to technician status.
 - e. Technicians who request military leave for inactive duty training (generally 2, 4, or 6 hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Hours in the technician workday that are not chargeable to military leave must be worked or charged to another leave category, as appropriate.

2-13 Public Law 104-106 dated 12 February 1996. This public law provides an additional 44 days of military leave for military technicians only who elect to serve on active duty without pay in support operations OCONUS under Section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10, United State Code, Chapter 15 of Title 10, United States Code, or any other provision of law during a war or national emergency declared by the President or Congress.

- a. The 44 days are in addition to the 120 hours of military leave and the 22 days of law enforcement leave authorized in a fiscal year. The 44 days, however, are accrued in a calendar year and cannot be carried over from one year to the next. The days are workdays instead of calendar days.
- b. When using the 44 days, technicians must be in a non-pay military status; however, they will be converted to a military pay status from a non-pay status on technician non-workdays and holidays.
- c. Technicians electing to use the leave must elect prior to deployment the periods during which they will use the 44 days or other appropriate leave. They must provide a copy of their military orders to their supervisor documenting that the tour of duty meets eligibility criteria to include the proper authority and the statement that the military duty will be in non-pay status.

- d. Supervisors must maintain accurate records of leave taken and ensure that military orders document eligibility criteria.
- e. Under the law, technicians either receive military or technician pay. They receive both only if they elect to use annual, the 120 hours of military leave, or comp time when in Title 10 status with military pay.

2-14 Leave for Emergency Duty as ordered by the President, the Secretary of Defense , or the Governor (Law Enforcement Leave). This additional military leave is authorized without loss or reduction of leave to which otherwise entitled, credit for time or service, rating of performance or efficiency, for the purpose of providing aid to enforce the law. This covers National Guard technicians who perform military duties in support of civil authorities in the protection of life, property, or preventing injuries or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101 (a)(13) of Title 10, United States Code.

- a. Each National Guard technician serving under a permanent or indefinite status appointment who is an officer or enlisted member of the National Guard of the United States, Commonwealth of Puerto Rico, or District of Columbia, is entitled to leave for not more than 22 workdays in a calendar year for the purpose described above. Technicians have the option of using annual leave, compensatory time, or leave without pay before using this leave.
- b. Pay compensation for military service to enforce the law may not be less than the pay due a technician as his/her normal civilian pay for the same period of time. Military pay and allowances received (other than travel, transportation, or per-diem allowance) shall be credited against the technician's civilian pay; and if less than the civilian pay, the difference shall be paid to the technician. If military pay exceeds civilian pay, no civilian pay will be made to the technician nor will a refund of the excess be required. NOTE: Pay statements may be used to verify performance and pay for such duty.

2-15 Military Funeral Honors Duty. Military technicians may be utilized in a technician status to administer, plan, train and prepare military funeral honors details for performance of funeral honors. When technicians volunteer to perform military funeral honors as part of a detail, they must be placed in a military duty status and take appropriate leave from their assigned technician duty position for the period of travel to and from the burial site, and performance of the funeral honors. Administrative leave or excused absence may be granted when the technician is performing military funeral honors duty if the \$50 military stipend is waived. Technicians will be paid the stipend if in an approved leave status from their technician duty. Use of administrative leave or excused absence is not authorized while the technician is in any active duty military status.

2-16 Absence for Maternity Reasons.

- a. Technician responsibility. Technicians should report pregnancy as soon as it is an established fact so that any necessary steps may be taken to protect the technician's health or improve her working conditions and to aid any staffing adjustments that may be planned to compensate for her absence.

- b. Supervisors should always be aware of any working conditions which could have an adverse effect upon the technician with various physical conditions. If any of these elements could have a harmful effect on the pregnant technician, it may be suggested that she consult her own physician on this matter. If after consulting her physician she requests modifications of her work duties or a temporary reassignment, every reasonable effort should be made to accommodate her request.
- c. The granting of leave for maternity reasons can be a combination of three separate kinds of leave: sick leave, annual leave, and leave without pay. The same leave policies, regulations, and procedures that are applicable to requests for leave generally must apply. Sick leave may be used to cover the time required for physical examinations and to cover the period of incapacitation. After delivery and recuperation, if the technician desires a period of adjustment or needs time to make arrangements for the care of the child, such additional leave requirements may be taken care of by the use of available annual leave or leave without pay.
- d. Technicians planning to return to work. The agency has an obligation to assure continued employment in her position or a position of like seniority unless termination is otherwise required by expiration of appointment, reduction-in-force, for cause, or for similar reasons unrelated to maternity absence.
- e. Technicians not planning to return to work. A technician who is not planning to return to work should submit her resignation on or before expiration of her period of incapacitation; or she may be separated at an earlier date as may be required for other reasons, e.g., expiration of appointment, reduction-in-force, for cause, or for similar reasons unrelated to maternity absence.
- f. A male technician may request annual leave, leave without pay, compensatory leave, or sick leave for family care or bereavement for purposes of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons. Approval of leave for this reason should be consistent with the policy for granting leave in similar situations, and each leave request should be considered on its own merits.

2-17 Compensatory Leave.

- a. Technicians are not entitled to pay for overtime worked. If overtime work is required, the technician will be granted an amount of compensatory time off from his/her in irregular or regular overtime work in excess of the regularly-scheduled duty in a day. Compensatory time cannot be earned on a Federal holiday unless the tour of duty on that day exceeds eight (8) hours.
- b. A technician is entitled to earn, on an hour-for-hour basis, compensatory time off for time in a travel status away from the technician's official duty station when the time is not otherwise compensable. Time in a travel status includes the time a technician actually spends traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel.
- c. Compensatory leave approval procedures.

(1) Under normal day-to-day conditions, the assignment of overtime must be requested by the first-level supervisor and approved in writing in advance by the second or higher-level supervisor. Documentation will be required on NGB Form 46-14, Request Authorization and Report of Compensatory Time. This documentation must be maintained for one (1) year from the approval date and be maintained by the first-line supervisor.

(2) Under emergency situations, when circumstances make it not possible or practicable for the second-level or higher supervisor to approve overtime work in advance, after-the-fact approval must be secured and made a matter of record, i.e., maintained by first-level supervisor for one (1) year from approval date. Necessary work should never be deferred simply to conform to this guidance.

d. Compensatory leave must be granted to an employee within a reasonable time after the overtime is worked. Earned compensatory leave must be used within twenty-six (26) pay periods after the pay period in which it was accrued. If not used within that time, the compensatory leave will be forfeited. Compensatory leave cannot be used on a holiday.

e. Compensatory leave is credited for overtime worked in increments of hours and quarter hours; and when automated payroll systems allow, compensatory leave can be taken in quarter hour increments.

f. Compensatory leave earned will be taken with the supervisor's approval.

2-18 Leave for Bone-Marrow or Organ Donation. Technicians are entitled to seven (7) days of paid leave each calendar year (in addition to sick and annual leave) to serve as a bone-marrow donor and 30 days as an organ donor. This leave may be used without loss or reduction of pay, leave to which otherwise entitled, credit for time or service, or performance rating. Appropriate documentation should be forwarded to immediate supervisor for coordination.

2-19 Excused Absences. An excused absence is an absence from duty administratively authorized without charge to leave within the discretion of the State Adjutant General or designee. In addition to more common situations listed, technicians may also be authorized excused absence from regular duty assignments for brief periods without charge to leave to perform acts or services in situations where The Adjutant General or delegated official has made a determination that support of the activity would benefit the National Guard.

a. Civil activities. Technicians may be excused for short periods to participate in civil activities the Federal government is interested in encouraging. These periods will be confined to not more than three (3) workdays during a calendar year. Official civil activities may include but are not limited to inaugurals, dedication of public buildings and projects, ceremonies for officially invited government visitors, and the convening of legislative bodies. Before the granting of excused absence, it should be determined that such participation is in the best interest of the Federal government. Community or civil celebrations such as banquets, dinners, receptions, carnivals, festivals, opening of sports seasons, and anniversaries are not considered official civil ceremonies even though sponsored or attended by civic or governmental dignitaries.

NOTE: Technicians who suffer injury or death as a result of injuries incurred while on excused absence may be eligible for technicians' compensation benefits under the

Federal Employee's Compensation Act. Eligibility will be determined on a case-by-case basis by the Department of Labor.

- b. To attend conferences or conventions.
 - (1) The Adjutant General of Kansas has authorized excused absences for the purpose of attending the following conferences when they fall upon designated workdays. This excused absence includes any necessary time required in traveling to and from the conferences:
 - National Guard Association of the United States
 - National Guard Association of Kansas
 - Enlisted Association of the National Guard of the United States
 - Enlisted Association of the National Guard of Kansas
 - (2) Excused absence from technician duty including any necessary travel time is also authorized officers and committee members of the above associations when conducting official association business during technician duty hours.
- c. Absence under emergency conditions. The Adjutant General of Kansas has the authority to close Kansas National Guard activities and installations for short periods of time when normal operations are interrupted by events beyond the control of management or technicians or for managerial reasons. This authority may be appropriately delegated. The resultant absence of technicians in such situations is charged to administrative leave without loss of pay. The release of regular technicians because of such interruptions to normal operations shall be confined to emergency situations such as extreme weather conditions, natural disaster, or breakdown of essential services such as heating systems. Technicians in the same immediate geographical area who are similarly affected are expected to receive similar treatment on these occasions. The following individuals are delegated authority to affect group dismissal as discussed above for the area or activity shown. In all cases, coordination will be made with The Adjutant General prior to the actual dismissal. In the absence of The Adjutant General, POC for coordination will be the Executive Support Staff Officer (Air) or The Command Administrative Officer (Army).
 - (1) Adjutant General of Kansas - all Army and Air NG activities in the Topeka area. In his absence, the appropriate full-time support chain of command. (Encl 1)
 - (2) Air Commander, McConnell AFB - all air technicians at McConnell.
 - (3) Administrative Officer (AO) – Army technicians in the city of responsibility. In cities with more than one Administrative Officer, the senior supervisor will make the decision and notify affected AO's. Due to geographical distances between units that AO's are responsible for and considering that conditions may vary greatly within these areas, unit technicians may contact supervisors concerned, explain the conditions, and request instructions.
 - (4) Installation Commanders – Army technicians at independent installations not in the Topeka area (i.e. MATES, AASF #2).
- d. When such conditions occur, the individual designated above will decide whether or not early dismissal of technicians is warranted. When such a determination is made,

absence without charge to annual leave is authorized for those technicians in actual duty status who are not required to maintain essential operations for the specified period of time prior to closing time. The decision as to what constitutes "essential operations" and which technicians are required for this purpose are matters for the senior supervisor at each installation to determine. This decision should be made in advance and those technicians should be notified. When group dismissal is initiated, the next higher level supervisor(s) of the affected technicians and the Adjutant General of Kansas will be notified immediately with all pertinent details provided.

- e. Time and Leave. Technicians who received prior approval for authorized leave (military, annual, sick leave, comp time, etc.) for the period of excused absence will not be authorized administrative leave.
- f. Snow or ice developing during the night or before a technician's regular work hours should not ordinarily be the basis for absences from work; but under unusually severe weather conditions, supervisors may excuse tardiness for up to one (1) hour. If technician does not arrive within this one hour, the entire absence will be chargeable to the appropriate leave (compensatory leave, annual leave, leave without pay with the supervisor's consent, or absence without leave) until the technician reports to work. Should an early dismissal be implemented and technician scheduled to report has not yet reported for work because of the weather, that technician will be placed in the appropriate leave status up to the time of the early dismissal and then placed in administrative leave status.
- g. Weather conditions may develop during the working day of a severity not necessitating group dismissal, but posing individual problems and concern for certain technicians. When such conditions occur, individuals may request early dismissal from their supervisor. When the request is justified, the supervisor may release technicians affected on an individual basis; and the absence will be charged against accrued compensatory time, annual leave, or leave without pay.
- h. Dismissals due to excessive heat in most work areas of Kansas National Guard activities should be very rare. Individuals who suffer from heat and feel their health is endangered will consult with their supervisor who may, if circumstances warrant, grant the technician sick or annual leave, as appropriate. Supervisors will be alert for individuals who might be affected by the heat and will take special precautions with them on days of extreme heat.
- i. Voting and registering to vote. It is policy to excuse technicians for a reasonable time, when practicable to do so, without seriously interfering with operations, to vote or register in any elections or referendums on civic matters in their community. Generally, a technician is excused from duty so as to permit him/her 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. No such time shall be granted if voting and/or registration can be accomplished outside of regular working hours.
- j. Blood Donation. Technicians may be excused to donate blood. Guidance can be obtained from local collective bargaining agreements.

- k. Tardiness and brief absence. Brief absences from duty of less than one (1) hour and tardiness may be excused when the reasons appear to be adequate to the supervisor. When not justifiable, the absence must be made up or charged to an appropriate leave account. In addition, the absence may become the basis for disciplinary/adverse action.
- l. Physical examination. Whenever a technician is required to take an examination, either mental or physical, as a condition for continued employment or promotional opportunity in the National Guard, they may be excused for the time required for such examination.

CHAPTER 3

CONTINUATION OF PAY (COP)

Work Related Traumatic Injury. When a technician sustains a work-related traumatic injury, he or she may elect to be put in a 45-day continuation-of-pay status. The technician must report the injury within 30 calendar days in order to be eligible for COP. This means no charge will be made to annual, sick or LWOP for a 45-day period if supported by medical documentation. The 45 days are interpreted as calendar days and the time will be carried as administrative leave and a remark made, "COP – work-related injury".

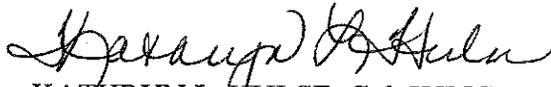
- a. If disabled before working hours begin, then COP starts on the first full day or first full shift of lost time after the disability begins. Example: Technician is scheduled to start work at 0800 hours, arrives at the office at 0745 and sustains an injury before the work hour begins which causes the technician to miss the entire day or shift. The day or shift of injury would be recorded as the first day on COP.
- b. If disabling injury occurs during the work day or shift, COP starts the first day of lost time following the date of injury (technician will be kept in a regular pay status for any fraction of a day or shift in which the disability begins with no charge to the 45-day period and no charge to leave). Example: Technician is injured during the day and is unable to remain on duty for the balance of the day. The technician stays in a regular pay status for the remainder of the day and COP will start the following full day or shift if the technician fails to report for work. If the technician reports to work the next day, the first day of COP would be the first day of lost time the technician has due to the injury if it is within 45 days of the injury. If an individual is injured on a Friday and the doctor's report indicates disability or that the technician should not return to work until Monday, then the weekend (Saturday and Sunday) must be charged as COP.
- c. Once the 45 days of COP begins, it runs consecutively with no break in time. If during that 45-day period, the technician needs to be absent from work in relation to the injury, the absence will be counted as COP. However, once the 45-day period has expired, COP is no longer available. There is one exception. If the technician is under medical care on the 45th day of the COP and the medical care will continue on consecutive days after the 45th day, the technician would be able to continue COP for as many days as is still to the technician's credit. Example: Technician sustains injury

the COP period would run through 15 November. During that period, the technician uses twenty days of COP in connection with the injury. However, on 15 November, the technician is scheduled for surgery. In this case, the technician may continue on COP for the balance of the original 45 COP days or 4 December is consecutive and supported by medical documentation.

- d. A technician may elect to receive COP if he/she suffers a recurrence of an approved disability providing the recurrence takes place within the 45-day COP period. Example: Technician returns to work after an absence of 25 calendar days on COP due to a disabling injury. Ten days later the technician suffers a recurrence of the same injury. He/she can elect to use the remaining 10 calendar of the initial 45-day COP period or 20 days if the technician is under medical care on the 45th day and the days of medical care after the 45th day are consecutive.

THE PROPONENT OF THIS REGULATION IS THE KANSAS NATIONAL GUARD HUMAN RESOURCES OFFICE. USERS ARE INVITED TO SEND COMMENTS AND SUGGESTED IMPROVEMENT TO THE JOINT FORCE HQS, HUMAN RESOURCES OFFICE, 2800 SW TOPEKA BLVD, TOPEKA, KS 66611-1287.

FOR THE ADJUTANT GENERAL:


KATHRYN L. HULSE, Col, KSNB
Human Resources Officer

GROUP DISMISSAL

TECHNICIANS EMPLOYED IN THE TOPEKA AREA

In accordance with paragraph 2-19c of this pamphlet, upon determination by The Adjutant General to effect group dismissal of technicians employed in the Topeka area, the following notification procedures will be utilized:

1. The Adjutant General of Kansas will notify:
 - a. Assistant Adjutant General (Army)
 - b. Command Administrative Officer (Army)
 - c. Executive Support Staff Officer (Air)
 - d. Human Resources Officer
2. The Command Administrative Officer (Army) will notify:
 - a. Army Aviation Support Facility
 - b. Director of Personnel
 - c. Director of Plans, Operations and Training
 - d. Director of Maintenance
 - e. Director of Information Management
 - f. Appropriate troop organizations and units in the Topeka area
3. The Human Resources Office will notify:
 - a. U.S. Property and Fiscal Office
 - b. Director of Facilities Engineering
4. The Director of Personnel will notify:

Recruiting and Retention
5. The Director of Plans, Operations, and Training will notify:

Plans, Operations, and Military Support Division
6. The Director of Maintenance will notify:
 - a. Combined Support Maintenance Shop
 - b. Field Maintenance Shop
7. The Executive Support Staff Officer will notify:

190th Air Refueling Wing