

CHAPTER 7

STANDARDS OF CONDUCT FOR TECHNICIANS

Technicians have a positive duty to acquaint themselves with each statute that relates to their ethical and other conduct as Federal employees and must comply with the prescribed standards of conduct contained in this Part, FPM Chapter 735, and DOD Directive 5500.7 in discharging their assigned duties and during off-duty hours. They are expected to maintain high standards of honesty and integrity. This chapter is a summary of the rules of conduct that pertain to all Mississippi National Guard Technicians. Supervisors, managers and employees must be familiar with these rules so that they will be able to quickly recognize situations to be avoided. This chapter may be extracted and reproduced. It is not the intent of this chapter to list every restriction or requirement imposed by statute, regulation or other proper authority. The omission or reference to any particular restriction in no way alters the fact that technicians will be held accountable for their conduct if such conduct is in violation of any statute, regulation, or other proper authority to which a technician is subject. Violation of any prohibited standards of conduct may be the basis for disciplinary action.

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Section I General

7-1. References

- a. DOD Directive 5500.7
- b. TPR 700 (735)
- c. Title 18 U.S.C., Sections 202 through 209

7-2. Purpose

This directive prescribes the standards of conduct required for Mississippi National Guard Technicians, both Excepted and Competitive personnel in the discharge of their assigned duties and during off duty hours. It is not the intent of this directive to list every restriction or requirement imposed by statute, regulation, or other proper authority.

7-3. Responsibilities

DOD Directive 5500.7 requires that all technicians be informed of the standards of conduct upon employment, and that the standards are brought to the attention of technicians on a semi-annual basis. To accomplish these requirements:

- a. HRO. Provide a copy of this chapter to new technicians upon initial employment. HRO will print a reminder to supervisors at least semi-annually to insure they bring the contents of this directive to the attention of each technician.
- b. Supervisors. All first-line supervisors are responsible for insuring that technicians under their supervision are informed of the standards of conduct contained herein upon initial employment and then brought to the attention of the technician on a semi-annual basis. To comply with the semi-annual requirement, supervisors will advise all employees. This may be accomplished by having each technician review a copy of this chapter. A copy of this chapter may be posted on bulletin boards, in local news letters or any means to assure all employees are aware of the standards of conduct.
- c. Technicians. All technicians are required to become familiar with the requirements of this chapter and maintain a high standard of honesty and integrity. The omission or reference to any particular restriction in no way alters the fact that technicians will be held accountable for their conduct if such conduct is in violation of any statute, regulation, other proper authority to which a technician is subject. Violation of any prohibited standard of conduct may be the basis for disciplinary action.

7-4. Definitions

Technician. As applied in this chapter means Military Technicians (Civil Service excepted and competitive).

7-5. Obtaining Guidance On The Ethics, Laws, and Regulations

All technicians are encouraged to seek guidance whenever they are unsure whether their actions are in accordance with the standards. There are several sources within the government that can be relied on for guidance on ethical matters, but the technician workforce employed by the Mississippi National Guard is encouraged to contact the HRO for guidance.

7-6. The General Standards of Conduct

- a. A technician must avoid any action that might result in or create the appearance of:
 - (1) Using public office for private gain.
 - (2) Giving preferential treatment to anyone.
 - (3) Impeding Government efficiency or economy.
 - (4) Losing complete independence or impartiality.
 - (5) Making a Government decision outside official channels.
 - (6) Affecting adversely the confidence of the public in the integrity of the Government.
- b. Technicians must be particularly careful that private interests and activities do not impact adversely on or conflict with their public duties. The following section addresses specific standards.

Section II Standard of Conduct

7-7. Use of Government Property

Technicians are prohibited from directly or indirectly using or allowing the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

7-8. Government's Policy On The Acceptance of Gifts, Entertainment, And Favors

a. Prohibitions. Technicians may not solicit or accept anything of monetary value, including gifts, gratuities, favors, entertainment, or loans from any person whom:

- (1) Has or is seeking to obtain contractual or other business or financial relations with any component of the Department of Defense;
- (2) Conduct operations or activities that are regulated by the National Guard; or
- (3) Has interest that may be substantially affected by the performance or nonperformance of the technician's duty.

b. Exceptions. Exceptions to the prohibitions cited in paragraph a above are:

- (1) Gifts, gratuities, favors, entertainment, loans, or similar favors of monetary value that stem from a family or personal relationship when the circumstances make it clear that it is that relationship rather than the business of the person concerned that motivates the gift.
- (2) Loans from banks or other financial institutions on customary terms.
- (3) Unsolicited advertising or promotional material of nominal value such as pens, note pads, and calendars.
- (4) Food or refreshments of nominal value, served on infrequent occasions, in the ordinary course of a luncheon, or dinner meeting and only if you are properly in attendance and there is not a reasonable opportunity to pay, or if the food is offered to all participants attending the meeting or convention.

c. Technicians should be aware that there are criminal provisions relating to the acceptance of gifts, entertainment, and favors found in Title 18 of the United States Code.

d. Title 18 U.S.C. 209 prohibits technicians from receiving any salary or anything of monetary value from a private source as pay for his services to the Government.

7-9. Gifts to Superiors

Technicians may not solicit contributions from other technicians for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from a technician receiving less pay than themselves. Voluntary gifts of a nominal value or donations in nominal amounts for marriages, illnesses, or retirement are permissible.

7-10. Misuse of Information

National Guard technicians are prohibited from directly or indirectly using or allowing the use of official information obtained through or in connection with their technician position, which has not been made available to the general public, for the purpose of furthering a private interest. Nonpublic information may be used for teaching, lecturing, and writing if it is made available to the technician upon request or when the Adjutant General gives written authorization for its use.

7-11. Failure To Pay Your Debts And Financial Obligations

a. Technicians must meet their just financial obligations in a proper and timely manner. Failure to do so reflects adversely on the Government and on the Mississippi National Guard and is considered improper conduct, (36 C.F.R. 905.735-201), and they (technicians) could face adverse actions in accordance with Technician Personnel Regulation 752.

b. National Guard Technicians' failure to pay their just debts usually has two undesirable effects. First, since the creditor cannot obtain satisfaction from the technician, creditor's only recourse is to try to enlist the help of the Employer. If this is not successful, the creditor is left with the feeling that the Mississippi National Guard and the Federal Government are as much to blame as the technician is. Thus, an unfavorable image is created. Second,

correspondence with creditors and memos to and conferences with the technicians involved add considerably to the workload of the organization. Consequently, technicians are required to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. A just financial obligation means one acknowledged by the technician or reduced to judgement by a court, or one imposed by law such as Federal, State, or local taxes and in a proper and timely manner means in a manner which the National Guard determines does not, under the circumstances reflect adversely on the Government as their employer. In the event of dispute between the technician and an alleged creditor, the Mississippi National Guard is not obligated to determine the validity or amount of the disputed debt.

c. Causes of Indebtedness: Most cases of excessive indebtedness result from one or more of the following:

- (1) Unforeseen circumstances, such as family illness, which are beyond the technician's control.
- (2) Unwise use of credit extended in good faith by reputable merchants and lending institutions.
- (3) Lack of resistance to easy credit sales promotion practices, or high-pressure sales tactics.

d. Use of Disciplinary Actions: In enforcing the indebtedness standard, formal disciplinary actions will be resorted to only after counseling and other corrective measures have failed to resolve the problem and then only after full consideration of the technician's personal circumstances and a finding that failure to meet a just obligation was both deliberate and without good cause.

e. Handling Debt Complaints. The Federal Government and Mississippi National Guard will not permit itself to be used as a collection agency in connection with commercial obligations or claims based on court judgments.

- (1) Creditors and collectors will be denied access to technicians for the purpose of presenting or collecting claims during working hours.
- (2) Upon receipt of a debt complaint, the technician will be contacted by a responsible official and required to submit a statement concerning the action he will take to resolve the matter. Each complaint will be acknowledged and the writer informed of the referral of his letter. If the obligation is admitted, the complaint will be advised of the technician's intentions regarding payment period. If the obligation is disputed or denied, the complaint will be so informed that the National Guard will take no further action pending determination of the claim's validity through proper civil proceedings.

f. Local Programs. Effective administration of the indebtedness standard requires establishment of a local program which is designed to assist technicians in avoiding (or solving) financial problems. Supervisors will give special attention to individual cases as soon as a potential problem arises by:

- (1) Counseling the technician regarding the necessity for action to avoid trouble and advising him of the courses of action that may be open to him.
- (2) Encouraging the technician to make maximum use of the financial counseling and other services available from credit unions or local banks.
- (3) Assisting the technician in making suitable arrangements for a solution to his problem, including advice on a personal budget and contacts with creditors, in an effort to work out satisfactory payment arrangements.
- (4) In extreme cases, helping the technician to obtain advice regarding the procedure to be followed in filing a "Federal Wage Earners' Plan" under the provisions of Chapter 13 of Title 11, U.S.C. Such a plan, if approved by the court, may result in each unsecured creditor being paid in full by a trustee of Federal courts from funds paid monthly by the technician to the trustee.

7-12. Gambling While On Duty

Technicians are not allowed to participate in any gambling activity while on Government-owned or leased property or while on duty for the Government. This includes the operation of a gambling device in conducting a lottery or pool, in a game for money or property, or in selling or purchasing number slips or tickets. (5 C.F.R. 735-201)

7-13. Engagement in Riots or Civil Disorders

a. General. Section 7313 of Title 5, U.S.C. prohibits the employment or retention in employment of a person convicted of participating in a riot or civil disorder.

b. Definitions.

- (1) "Civil Disorder" means any public disturbance involving acts of violence by assemblages of three or more persons that cause an immediate danger of, or results in damage or injury to, a person or the property of another individual.

(2) "Riot" means a public disturbance involving an act or acts of violence of one or more persons, part of an assemblage of three or more persons whose act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person, or to the property of any other individual or a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the property of any other individual.

(3) "To incite a riot" or "to organize, promote, encourage, participate in, or carry a riot": includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief not involving advocacy of any act or acts of violence, or assertion of the rightness of, or the right to commit any such act or acts.

7-14. A Second Job Outside Of The Government

Technicians may engage in outside employment, with or without compensation, but only if it will not adversely affect the Performance of their official duties and will not conflict with their duties. Such work may include civic, charitable, religious, and community undertakings. Technicians may not participate in outside employment which:

- a. Tends to impair their mental or physical capacity to perform Government duties and responsibilities in an acceptable manner;
- b. Is likely to result in criticism or cause embarrassment to the Mississippi National Guard;
- c. Creates a real or apparent conflict of interest;
- d. Takes their time and attention during their official work hours.

7-15. Bribery and Graft

National Guard Technicians may be subject to criminal penalties if they solicit, accept, or agree to accept anything of value in return for performing or refraining from performing an official act.

7-16. General Conduct Prejudicial to the Government

a. A National Guard Technician is prohibited from engaging in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government.

b. National Guard Technicians are prohibited from using their technician titles or positions in connection with any commercial enterprises or for endorsing any commercial products. Technicians not on active duty are permitted to use their military titles in connection with commercial enterprises. Such use of military titles shall in no way cast discredit on the National Guard. The use of military titles in these situations is prohibited when the use gives rise to any appearance that such an enterprise is sponsored, sanctioned, endorsed, or approved by the National Guard.

7-17. Courtesy in the United States Government (National Guard)

National Guard Technicians are required to be courteous in all their dealings with the general public, Members of Congress, and their co-workers to the extent this requirement will not infringe upon the technician's legal rights. It is expected that technicians will perform courteously, even if treated discourteously by members of the public or co-workers. However, technicians are obliged to refuse to violate law or regulations or to give special advantage not called for by law. Technicians should be periodically reminded that, where appropriate, courtesy demonstrated to the public and co-workers might be included as a factor in their performance standards.

7-18. Requirement To Give Statements To Investigative Officials

Technicians are required to assist any duly appointed investigative officials. This requirement includes the giving of statements or evidence to investigators authorized to conduct investigations into potential violations. (NOTE: Technicians always retain their constitutional rights: including the rights to counsel and against self-incrimination).

7-19. Disloyalty And Striking Against The Government

Under law and Executive Order, a person may not accept or hold a position in the government of the United States or the government of the District of Columbia if such person:

- a. Seeks the overthrow of our constitutional form of government by force or violence or other unlawful means.

- b. Is a member of an organization that seeks the overthrow of our constitutional form of government by force or violence or other unlawful means.
- c. Participates in a strike against the government of the United States or the government of the District of Columbia.

7-20. Security Programs

- a. The Departments of the Army and Air Force have implemented Section 2 of Executive Order 10450 through the publication of AR 380-67, AFR 40-202, AFR 40-732 and other associated publications. As National Guard technicians are employees of the Department of the Army or Air Force in the performance of their duties, the above mentioned directives will govern the security programs.
- b. Investigations and issuance of security clearances for technicians in the competitive service will be processed in accordance with appropriate Army or Air Force directives governing civilian technicians.
- c. Investigations and issuance of security clearances for technicians in the excepted service will be processed through normal military channels in connection with the technician's military membership assignment requirements within the National Guard.

7-21. Political Activities

- a. All National Guard technicians are subject to the political activities restrictions outlined in FPM Chapter 733 and summarized below. All technicians are free to engage in political activities to the widest extent consistent with the restrictions imposed by law. Technicians are not obligated to contribute to a political fund or to render political service, and they may not be removed or otherwise prejudiced for refusal to do so.
- b. Enforcement of political activities restrictions and investigation of allegation of prohibited political activities on the part of a technician in the competitive service is the responsibility of OPM. Questions arising in this respect should be directed to the HRO.
- c. The State Adjutant General, acting for the Secretary of the Army or the Secretary of the Air Force, is responsible for enforcing the political activities restrictions for technicians in the excepted service. The responsibility for investigating and deciding allegations of prohibited political activity also rests with the State Adjutant General. Technicians have a right of appeal to OPM after a decision is rendered by the State Adjutant General.
- d. Under the law, certain nonpartisan political activities are permitted when prior approval of the Adjutant General has been received. The HRO should be contacted for any additional information desired regarding the political activities of technicians.
- e. Permissible Political Activities Each technician retains the right to:
 - (1) Register and vote in any election;
 - (2) Express opinions as an individual citizen privately and publicly on political subjects and candidates;
 - (3) Display a political picture, sticker, badge or button (NOT AUTHORIZED ON MILITARY UNIFORMS);
 - (4) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
 - (5) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
 - (6) Attend a political convention, rally, fundraising function, or other political gathering;
 - (7) Sign a political petition as an individual citizen;
 - (8) Make a financial contribution to a political party organization;
 - (9) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;
 - (10) Be politically active in connection with a question, which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any other question or issue of a similar character;
 - (11) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law; and
 - (12) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the National Guard.

f. Prohibited Political Activities Include:

- (1) Serving as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political club or being a candidate for any of these positions;
- (2) Organizing or reorganizing a political party organization or political club;
- (3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose or in connection with a partisan election;
- (4) Organizing, selling tickets to, seeking support for, or actively participating in a fund-raising activity of, a political party or political club;
- (5) Taking an active part in managing the political campaign of a candidate for public office or political party office;
- (6) Being a candidate for, or campaigning for, an elective public office;
- (7) Taking an active part in an organized solicitation of votes in support of or in opposition to a candidate for public office or political party office;
- (8) Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or candidate in a partisan election;
- (9) Driving voters to the polls on behalf of a political party or a candidate in a partisan election;
- (10) Endorsing or opposing a candidate in a partisan election in a political advertisement, a broadcast, campaign literature, or similar material;
- (11) Serving as a delegate, alternate, or proxy to a political party convention;
- (12) Addressing a state or national convention or caucus, or a rally or similar gathering of a political party in support of or in opposition to a candidate for public or political party office, or on a partisan political question; and
- (13) Initiating or circulating a nominating petition for a candidate in a partisan election.

NOTE: An election is partisan if any candidate for an elected public office is running as a representative of a political party whose presidential candidate received electoral votes in the last presidential elections.

7-22. Miscellaneous Statutory and Non-statutory Provisions

a. Statutory Provisions:

- (1) The prohibition against bribery of public officials (18 U.S.C. 201) which imposes a maximum penalty of \$20,000 fine or three times the money or thing received, whichever is greater; 15 year imprisonment; or both; and removal;
- (2) The prohibition against receiving compensation for claims, contracts, etc. (18 U.S.C. 203), which imposes a maximum penalty of \$10,000 fine; five years imprisonment; or both; and removal;
- (3) The prohibition against prosecuting claims against and other matters affecting the Government (18 U.S.C. 205), which imposes a maximum penalty of \$50,000 fine; five years imprisonment; or both;
- (4) The prohibition against prosecuting claims involving matters connected with former duties - disqualification of partners (18 U.S.C. 207), which imposes a maximum penalty of \$50,000 fine; five years imprisonment; or both;
- (5) The prohibition against an employee or special Government employee acting or participating in any matter in which he, his immediate family, his partner, or an organization with which he is connected or is seeking employment has a financial interest (18 U.S.C. 208), which imposes a maximum penalty of \$50,000 fine; five years imprisonment; or both;
- (6) The prohibition against an employee receiving salaries or contributions from other than Government sources for his Government services (18 U.S.C. 209), which imposes a maximum penalty of \$50,000 fine; five years imprisonment; or both;
- (7) The prohibition against acceptance or solicitation to obtain public office (18 U.S.C. 211), which imposes a maximum penalty of \$1,000 fine; or one year imprisonment; or both;
- (8) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913), a minimum penalty of \$10,000 and a maximum penalty of \$100,000 fine (31 U.S.C. 1352(a));
- (9) The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918), which imposes a maximum penalty of \$1,000 fine; one year and a days imprisonment; or both; and removal;

- (10) The prohibition against disclosure of classified information (18 U.S.C. 798), which imposes a maximum penalty of \$10,000 fine; 10 years imprisonment; or both;
 - (11) The prohibition against disclosure of confidential information (18 U.S.C. 1905), which imposes a maximum penalty of \$1,000 fine; one year imprisonment; or both; and removal;
 - (12) The prohibition against habitual use of intoxicants to excess (5 U.S.C. 7352), which imposes a maximum penalty of removal;
 - (13) The prohibition against the misuse of Government vehicles (31 U.S.C. 638a(c), which imposes a maximum penalty of removal;
 - (14) The prohibition against the misuse of franking privilege (18 U.S.C. 1719), which imposes a maximum penalty of \$300 fine;
 - (15) The prohibition against the deceit in examination or personnel action (5 U.S.C. 1302, 18 U.S.C. 1917), which imposes a maximum penalty of \$1,000 fine; one year imprisonment; or both;
 - (16) The prohibition against fraud and false statement (18 U.S.C. 1001), which imposes a maximum penalty of \$10,000 fine; five years imprisonment; or both;
 - (17) The prohibition against mutilating or destroying public records (18 U.S.C. 2071), which imposes a maximum penalty of \$2,000 fine; three years imprisonment; or both; and removal;
 - (18) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508), which imposes a maximum penalty of \$5,000 fine; 10 years imprisonment; or both;
 - (19) The prohibition against embezzlement and theft of Government money, property or records (18 U.S.C. 641), which imposes a maximum penalty of \$10,000 fine; 10 years imprisonment; or both;
 - (20) The prohibition against failure to account for public money (18 U.S.C. 643), which imposes a maximum penalty of fine equal to amount embezzled; imprisonment not more than 10 years; or both;
 - (21) The prohibition against wrongfully converting property of another (18 U.S.C. 654), which imposes a fine equal to amount embezzled; imprisonment not more than 10 years; or both;
 - (22) The prohibition against unauthorized use of documents relating to duties (18 U.S.C. 285), which imposes a maximum penalty of \$5,000 fine; five years imprisonment; or both;
 - (23) The prohibition against political activity (5 U.S.C. 7323, 7324, 7325), which imposes a maximum penalty of removal;
 - (24) The prohibition against solicitation of political contributions (18 U.S.C. 602), which imposes a maximum penalty of \$5,000 fine; three years imprisonment; or both;
 - (25) The prohibition against solicitation of political contributions in Federal buildings (18 U.S.C.), which imposes a maximum penalty of \$5,000 fine; three years imprisonment; or both;
 - (26) The prohibition against making political contributions through a Government employee or Senator or Representative (18 U.S.C. 607), which imposes a maximum penalty of \$5,000 fine; three years imprisonment; or both;
 - (27) The prohibition limiting political contributions and purchases (18 U.S.C. 608), which imposes a maximum penalty of \$5,000 fine; three years imprisonment or both;
 - (28) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219); and
 - (29) The prohibition against the employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313), which imposes a maximum penalty of removal.
- b. Non-statutory Provisions:
- (1) Misconduct generally: Criminal, dishonest, immoral, or notoriously disgraceful conduct (Title 5, CFR 731.202(b)(2)), which imposes a maximum penalty of removal.
 - (2) Malfeasance, nonfeasance in personnel administration. Violation of any law, rule or regulation administered by the OPM, or failure to adhere to established policies, regulations, standard, and instructions on personnel management subject to the jurisdiction of the OPM (Title 5, CFR 5.1 & 5.3) which imposes a maximum penalty of removal.
 - (3) Examination inducing withdrawals. Influencing another to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment (Title 5, CFR 4.3), which imposes a maximum penalty of removal.

(4) Examination-fraud. Intentional false statements or deception or fraud in examination for appointment (Title 5, CFR 731.202(b)(3)), which imposes a maximum penalty of removal.

(5) Refusal to testify. Refusal to furnish testimony or information to authorized representatives of the OPM, MSPB, or Special Counsel in regard to matters inquired of arising under the Civil Service Laws, Rules, and Regulations (Title 5, CFR 731.202(b)(4)), which imposes a maximum penalty of removal.

7-23. Action That May Be Taken If A Technician Violates The Standards Of Conduct

Technicians may be subject to disciplinary action if they violate any of the standards of conduct. The type of action to be taken must be determined in relation to the specific violation. Some types of disciplinary action that may be considered are admonishment, written reprimand, reassignment, suspension, demotion and removal. When such actions are taken, applicable laws, regulations, and procedures must be followed. In addition, violations of Federal criminal statutes may subject the violator to criminal prosecution. If technicians have questions concerning disciplinary action, discuss their concerns with the supervisor or the HRO.