



TEXAS MILITARY DEPARTMENT  
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NGTX-GC

NOV 07 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: (TMD P16-08) Withholding Authority to Dispose of Misconduct Under Section 432.015 of the Texas Code of Military Justice (TCMJ)

1. **References.** Texas Code of Military Justice (TCMJ), Section 432.015.

2. **Applicability.** This policy applies to all service members of the Texas Army National Guard, the Texas Air National Guard, and the Texas State Guard, to include Soldiers and Airmen serving on Full Time National Guard (FTNG) orders, Active Duty Operational Support (ADOS) orders, Active Guard Reserve (AGR) orders, or any other applicable orders in a Title 32 or State Duty statute.

3. **Purpose.** This policy establishes Texas Military Department policy on withholding and delegation of Commander's Nonjudicial Punishment (NJP) under Section 432.015 of the TCMJ. This policy supersedes and voids all previous TCMJ misconduct or punishment withholding policies. All previously executed actions in accordance with Section 432.015 of the TCMJ are not subject to this policy memorandum.

4. **Policy.**

a. **Withholding and Delegation:** Pursuant to my General Court-Martial Convening Authority under the TCMJ, I hereby withhold lower level Commander's authority to dispose of misconduct under Section 432.015 of the TCMJ as follows:

(1) I withhold authority to dispose of all alleged acts of misconduct via Section 432.015 of the TCMJ committed by a senior non-commissioned officer in the grades of E7 to E9. I delegate this authority to the first Brigade or Wing Commander in the Soldier or Airmen's chain of command.

(2) I withhold authority to dispose of all alleged acts of misconduct via Section 432.015 of the TCMJ by a non-commissioned officer in the grades of E5 and E6. I delegate this authority to the first Battalion or Squadron Commander in the Soldier or Airmen's chain of command.

(3) In addition to the above mentioned policies, the authority to reduce a Soldier under Section 432.015 will be further limited by the following table:

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Grades	O2 Cdr or above	O4 Cdr or above	O6 Cdr or above
E1-E4	Reduction of 1 Grade	Any Reduction	Any Reduction
E5	No Reduction	Reduction 1 Grade	Reduction of 2 Grades
E6	No Reduction	Reduction 1 Grade	Reduction of 2 Grades
E7-E9	No Reduction	No Reduction	Reduction of 2 Grades

(4) In addition to the above mentioned policies, the authority to reduce an Airmen under Section 432.015 will be further limited by the following table:

Grades	O2 Cdr or above	O4 Cdr or above	O5 Cdr or above
E1-E4	Reduction of 1 Grade	Any Reduction	Any Reduction
E5	Reduction of 1 Grade	Reduction 1 Grade	Reduction 1 Grade
E6	No Reduction	Reduction 1 Grade	Reduction 1 Grade
E7	No Reduction	No Reduction	Reduction 1 Grade
E8-E9	No Reduction	No Reduction	<b>*only O6 Cdr or above</b>

(5) For purposes of this policy, a "Commander" is defined as a commissioned officer or warrant officer of the state military forces who has either been appointed to a command by a superior authority or has lawfully assumed command.

b. This policy does not restrict a higher Commander's ability to remove delegated misconduct action and raise it to his/her command level.

c. This policy does not affect a Commander's ability to impose administrative adverse actions on Soldiers or Airmen within his/her respective command and who are suspected of committing misconduct.

5. The effective date of this policy is the signature date and will expire 2 years from the date of publication unless sooner rescinded or superseded.

6. Point of contact for this policy is the General Counsel at (512) 782-5057.

  
JOHN F. NICHOLS  
Major General, TXANG  
Adjutant General

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KATHERINE M. BROWN  
CWS (TXANG)  
SIG - Policy  
