



Texas Military Department

DIRECTIVE

Number 1030.04

OCT 23 2019

NGTX-GC

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

Reference. Texas Code of Military Justice (TCMJ), section 432.015.

1. PURPOSE. This directive updates TMD P16-08, Withholding Authority to Dispose of Misconduct Under Section 432.015 of the Texas Code of Military Justice (TCMJ), dated 7 November 2016. This issuance establishes Texas National Guard 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.

2. APPLICABILITY AND SCOPE. This issuance applies to all members of the Texas Army National Guard (TXARNG), the Texas Air National Guard (TXANG), and the Texas State Guard (TXSG) to include Soldiers and Airmen serving on State Active Duty (SAD), 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 status.

3. DEFINITIONS. For purposes of this issuance, 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.

4. POLICY. Withholding and Delegation: Pursuant to TCMJ General Court-Martial Convening Authority, I withhold subordinate Commanders' authorities to dispose of misconduct under section 432.015 of the TCMJ as follows:

a. I withhold authority, under TCMJ section 432.015, to dispose of acts of alleged misconduct 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 Airman's chain of command.

b. I withhold authority, under TCMJ section 432.015, to dispose of acts of alleged misconduct committed by non-commissioned officers in the grades of E5 and E6. I delegate this authority to the first Battalion or Squadron Commander in the Soldier or Airman's chain of command.

c. In addition to the delegations noted above, the authority to reduce a Soldier under section 432.015 will be further limited by the following table:

Grades	O2 Commander or above	O4 Commander or above	O6 Commander or above
E1-E4	Reduction of one Grade	Any Reduction	Any Reduction
E5	No Reduction	Reduction one Grade	Reduction of two Grades
E6	No Reduction	Reduction one Grade	Reduction of two Grades
E7-E9	No Reduction	No Reduction	Reduction of two Grades

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

Grades	O2 Commander or above	O4 Commander or above	O5 Commander or above
E1-E4	Reduction of one Grade	Any Reduction	Any Reduction
E5	Reduction of one Grade	Reduction one Grade	Reduction one Grade
E6	No Reduction	Reduction one Grade	Reduction one Grade
E7	No Reduction	No Reduction	Reduction one Grade
E8-E9	No Reduction	No Reduction	*only O6 Commander or above

5. RESPONSIBILITIES.

a. This issuance does not limit 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.

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

6. INFORMATION REQUIREMENTS. NA

7. RELEASABILITY. Unlimited

8. EFFECTIVE DATE. This issuance will expire two years from the effective date of publication unless sooner rescinded or superseded.

9. POINT OF CONTACT. Office of the General Counsel at 512-782-5057.


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