

Texas Military Forces
Joint Force Headquarters
Adjutant General's Department
Austin, Texas 78763-5218
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*Joint Force Texas
(JFTX) Regulation 1-02

Personnel

State Active Duty for Texas Military Forces Full-time Members

By Order of the Adjutant General:

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The seal of the Adjutant General of Texas is circular, featuring a five-pointed star in the center. The text "OFFICE OF THE ADJUTANT GENERAL" is written around the perimeter of the seal, and "TEXAS" is at the bottom.

Summary. This regulation provides policy and guidance pertaining to Texas Military Forces members on State Active Duty.

Applicability. This regulation applies to all elements and personnel of the Texas Military Forces.

Internal Control Systems. This regulation is subject to the requirements of AR 11-2, but does not contain control measures.

Suggested Improvements. The proponent of this regulation is the Director of Personnel – J1. Users are invited to send comments and suggested improvements to The Adjutant General of Texas, (JFTX-J1), P.O. Box 5218, Austin, Texas 78763-5218.

Distribution. A

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1-1. **Purpose.** The purpose of this regulation is to establish the Texas Military Forces (TXMF) policy regarding State Active Duty (SAD) for members in each category listed below:

- a. Non-dual status federal technicians and Adjutant Generals Department state employees.
- b. Dual-status federal technicians.
- c. AGR Soldiers and Airmen.
- d. Active Duty Operational Support (ADOS).
- e. Joint Counterdrug Task Force.
- f. Injured Members & Workers Comp Benefits.

1-2. Non-Dual Status (NDS) Federal Technicians and State Employees.

a. NDS federal technicians, as well as state employees, who have no uniformed status in the TXMF, are not subject to call-up for State Active Duty. TXMF employees, either state or NDS, are subject to modification of their work schedules to support ongoing State Active Duty or other state missions.

b. Non-dual status technician positions reside within the infrastructure and support functions of the state National Guard, the incumbent is not subject to mobilization, nor is the work described part of the military mission, and the incumbent does not perform a key advisory or essential administrative role that is inherently military. Incumbents of non-dual status positions, however, are required to perform duties in support of the missions of the military forces.

c. A state employee called to state active duty as a member of the state military forces by the Governor because of an emergency is entitled to receive emergency leave without loss of military or annual leave. The Texas Adjutant General is the approving authority for all emergency leave in excess of 15 days and good cause must be shown for continued emergency leave beyond the stated time.

1-3. Dual Status Federal Technicians.

a. Military Technicians (Dual Status). Dual status technicians, when performing as such, will only perform the duties listed in their technician position description. If the requested duty is outside of the position description and in response to a state or federal disaster declaration, then the military chain of command will take the appropriate steps to put the technician on state or federal active duty.

b. Dual Status Technicians and State Active Duty (SAD). In the event of a state emergency declaration by the Governor, Dual Status technicians may be called to state active duty as part of

their military unit (if the unit is mobilized) or may volunteer for state active duty (TX Gov Code 433.005) with the permission of their full-time supervisor.

c. Leave Options for Dual Status Technicians on State Active Duty.

1) An excused absence may be granted to technicians, including temporary technicians, to cover the performance of funeral honors duty during funeral ceremonies for members or former members of the United States Armed Forces, including all components of the Texas Military Forces (not to exceed four hours in any one day).

2) Annual Leave, Compensatory Time and Leave without Pay (LWOP). Dual status technicians on State Active Duty orders are required to be in a leave status from their technician position. The leave status can be annual leave, compensatory time off, leave without pay or law enforcement leave (see paragraph c3, below). Technician leave is requested by submitting a Standard Form (SF) 71, to the full-time supervisor for the period that the technician will serve on SAD.

3) Military Leave to Enforce the Law. Technicians serving under a permanent or indefinite appointment who are members of the National Guard of the United States are entitled to additional military leave, Law Enforcement Leave (LEL), for not more than 22 workdays (176 hours) in a calendar year. LEL is authorized by 5 USC 6323(b) for the purpose of providing military aid to enforce the law or for the purpose of providing assistance to civil authorities in the protection or saving of life or property or the prevention of injury. The law includes situations where the Guard does not actually perform "law enforcement" duties while assisting civil authorities. While in LEL status, the Technician receives the greater of civilian or military pay.

d. Dual Status Technician Injuries While on State active Duty.

1) If a technician is injured while on state active duty, he or she is entitled to file for worker's compensation benefits with the AGD State Human Resource Office IAW Texas Gov Code 431.101 and 104. However, technicians who suffer injury or death as a result of SAD are not eligible for employee compensation benefits under the Federal Employees Compensation Act (FECA), since state active duty does not constitute performance of official technician duties.

2) If a technician has enrolled in the Federal Employee Health Benefits (FEHB) plan, and he or she is in a paid leave status from their technician position, FEHB coverage continues. Technicians who are in a non-pay status while performing military duty can keep their FEHB coverage for 24 months. During the first 365 days, they are responsible for paying the "regular" employee premium amount; they can either pay the premiums on a current basis, or they can incur a debt to the government and repay it when they return to active federal service as a technician. During the remaining 12 months, employees are responsible for the full premium (employee share plus the government share) plus a two percent (2%) administrative fee; these premiums must be paid on a current basis.

3) Technicians called to state active duty should contact the Employee Benefits Section of the Human Resource Office for assistance regarding the continuation of health benefits or any other benefits during their leave of absence.

e. TXARNG Ratings. First-line supervisors of TXARNG NCOs and officers supporting SAD missions for more than 59 total days are required to furnish the rated Soldier a letter of input evaluating their performance on the SAD mission. This input will be considered by the member's rater in completing their OER or NCOER, IAW AR 623-3, Table 3-1.

f. TXANG Ratings. TXANG Airmen supporting SAD missions for more than 119 total days under a different rating chain than normally assigned will have a performance report completed by their SAD rating chain IAW AFI 36-2406.

1-4. Active Guard and Reserve (AGR) Soldiers and Airmen.

a. Applicability. This policy applies to both Air National Guard (ANG) and Army National Guard (ARNG) members.

b. AGR Soldiers and Airmen are intended to perform their AGR duties and will not be placed on SAD orders, even if on voluntary leave. AGR Soldiers and Airmen shall not go on leave from their AGR duties for the purpose of being placed on SAD orders. AGR Soldiers and Airmen may not perform SAD missions outside of their normal day-to-day duties or scope of operations, nor may they individually volunteer for SAD missions. However, TXMF AGR members whose day-to-day inherent MTOE/UMD or TDA/UTC duties include performance, direct supervision, or oversight of state or Defense Support to Civil Authority (DSCA) training, instruction, missions, planning, organizing, testing, liaison, or similar duties are authorized and required to perform those duties in an AGR status. These positions specifically include but are not limited to members of the JFTX Staff, SJIATF, the Joint Operations Center (JOC), and the 6th Civil Support Team.

c. AGR Soldiers and Airmen can be individually ordered to respond to an emergency situation when necessary to save human life, prevent immediate human suffering, or mitigate major property damage or destruction, if a traditional Guardsman with the appropriate skills, knowledge, etc., is not available in a timely manner. Upon stabilization of the emergency situation, within a reasonable time period, those individually-activated AGR Soldiers or Airmen must be replaced with the appropriate TXMF member or members. This "reasonable time period" doctrine has been directed by the Chief, National Guard Bureau (NGB), as part of the NGB emergency doctrine. AGR members responding under this circumstance remain on AGR orders and are not placed on SAD orders. Commanders should make the earliest practical return of AGR personnel to their regular AGR duties (and their replacement) one of their initial planning factors. Allowing AGR personnel to remain on a state mission (to which they had initially reported under emergency circumstances) after the point where they could reasonably and practically be replaced with a traditional Guardsman is a violation of regulation, policy, and fiscal law.

d. Title 32 AGR Soldiers and Airmen may perform, supervise, or oversee state or DSCA missions, training, liaison and similar functions in AGR status when their MTOE/UMD or TDA/UTC position duties require them to do so. Title 32 AGR Soldiers and Airmen may also conduct/support SAD missions (while remaining in an AGR status) while performing their statutory duties within the capacity of their assigned paragraph and line number in their specific assigned unit when one of the following conditions exists:

1) The Governor declares a state of emergency.

2) The Governor activates the AGR Soldier or Airman's specific unit of assignment by Modified Table of Organization and Equipment (MTOE), Table of Distribution and Allowances (TDA), or Unit Manning Document (UMD). For purposes of this policy, an ANG "unit" may be defined as a subflight level organization, such as a section. An ARNG "unit" may be defined down to the platoon or section level, so long as that AGR member is assigned to that platoon or section.

3) Texas National Guard equipment or property is loaned or leased in support of a SAD mission and AGR Soldiers or Airmen are required to transport, operate, maintain, or secure the equipment.

e. TXARNG AGR NCO's and officers supporting SAD missions for more than 59 total days are required to obtain a letter of input to their rater from their SAD mission first-line supervisor evaluating their performance on the SAD mission. This input will be considered by the AGR member's rater in completing their OER or NCOER, IAW AR 623-3, Table 3-1.

f. TXANG Airmen supporting SAD missions for more than 119 total days under a different rating chain than normally assigned will have a performance report completed by their SAD rating chain IAW AFI 36-2406.

g. Soldiers serving under the Command Leadership and Staff Assignment Policy (CLASP) who are mobilized for SAD with their MTOE/TDA unit will perform duties inherent in their MTOE/TDA position in an AGR paid status.

h. If compelling circumstances require that AGR personnel need to perform tasks not directly related to their duty assignment, a request must be approved in advance by the National Guard Bureau. Requests will be forwarded through channels to J-1, JFTX.

1-5. Active Duty for Operational Support (ADOS).

a. Applicability. This paragraph applies to members of the Texas Army and Air National Guard performing duty under the authority of 32 USC Sec 502(f) (ADOS orders) for missions other than Counterdrug and AGR tours.

b. TXMF members performing duty under the authority of 32 USC Sec 502(f) will not be ordered to perform duties that are not a specific requirement of the mission for which their ADOS orders were cut, unless the commander amends or curtails their orders and either returns

members to their originally assigned unit, or issues new orders under the appropriate statutory and fiscal authority. Commanders must issue a new order if the member is subsequently called back to duty on ADOS orders after having had their tour amended or curtailed. ADOS Soldiers and Airmen may perform, supervise, or oversee state or DSCA missions, training, liaison and similar functions in ADOS status when their inherent ADOS position duties require them to do so.

c. ADOS Soldiers and Airmen can be individually ordered to respond to an emergency situation when necessary to save human life, prevent immediate human suffering, or mitigate major property damage or destruction, if a traditional Guardsman with the appropriate skills, knowledge, etc., is not available in a timely manner. There is no requirement for commanders to amend, curtail, break, or divide ADOS orders when responding to critical mission requirements that preserve life, safety, and/or health. Upon stabilization of the emergency situation, within a reasonable time period, those individually-activated ADOS Soldiers or Airmen must be replaced with the appropriate TXMF member or members. ADOS members responding under this circumstance remain on ADOS orders and are not placed on SAD orders. Commanders should make the earliest practical return of ADOS personnel to their regular duties (and their replacement) one of their initial planning factors. Orders must be amended or curtailed, however, when members are ordered to perform routine requirements and duties not explicitly provided for under 32 USC Sec 502(f).

d. Members may be retained on ADOS orders and placed on TDY orders to home station when the return of the member is in direct support of the 32 USC Sec 502(f) mission for which the member was called. An example of this would be the member returning to home station to train personnel who are preparing to rotate and replace personnel supporting the same mission.

e. TXARNG NCO's and officers supporting SAD missions for more than 59 total days are required to obtain a letter of input to their rater from their SAD mission first-line supervisor evaluating their performance on the SAD mission. This input will be considered by the member's rater in completing their OER or NCOER, IAW AR 623-3, Table 3-1.

f. TXANG Airmen supporting SAD missions for more than 119 total days under a different rating chain than normally assigned will have a performance report completed by their SAD rating chain IAW AFI 36-2406.

1-6. Joint Counterdrug Task Force.

a. Applicability. This paragraph applies to members of both the Texas Army and Air National Guard performing Full-Time National Guard Duty Counterdrug (FTNGD-CD) under the authority of 32 USC Sec 502(f) and funded as part of the Joint Counterdrug Task Force (JCDTF) under 32 USC Sec 112.

b. JCDTF Soldiers and Airmen will not be placed on SAD orders, even if on voluntary leave. JCDTF Soldiers and Airmen shall not take leave from their normal day-to-day duties for the purpose of being placed on SAD orders. JCDTF Soldiers and Airmen may not perform SAD while on Counterdrug orders, even during non-duty hours, nor may they individually volunteer

for SAD missions. However, JCDTF members can be individually ordered to respond to an emergency situation, or as part of their assigned MTOE or TDA unit, when necessary to save human life, prevent immediate human suffering, or mitigate major property damage or destruction, if a traditional Guardsman with the appropriate skills, knowledge, etc., is not available in a timely manner. Upon stabilization of the emergency situation, within a reasonable time period, those individually-activated JCDTF Soldiers or Airmen must be replaced with the appropriate TXMF member or members. This “reasonable time period” doctrine has been directed by the Chief, National Guard Bureau (NGB), as part of the NGB emergency doctrine. JCDTF members responding under this circumstance will remain on FTNGD-CD orders and will not be placed on SAD orders. Commanders should make the earliest practical return of JCDTF personnel to their regular JCDTF duties (and their replacement) one of their initial planning factors.

c. Reimbursement of National Guard Pay & Allowances (NGPA) for responding to such emergency situation will be effected through ARNG/ANG funding streams. Commanders and Program Managers must identify appropriate funding sources (e.g., annual training, ADOS, disaster response, etc.) for reimbursement in advance.

d. On occasion, there may be a need to use Counterdrug force packages (e.g., CDAE, RC-26, SOD, etc.) for non-Counterdrug missions in an effort to save lives, prevent human suffering, or mitigate great property damage. In this case, a request must be made by the agency (e.g., LEA, Office of Emergency Services, etc.) to the Counterdrug Coordinator (CDC). The CDC will verify that the request meets the criteria/requirements identified in Paragraph 2-8 of NGR 500-2/ANGI 10-801, National Guard Counterdrug Support, 29 August 2008 (e.g., lost persons, escaped felons, civil disturbances, disasters, or weapons of mass destruction) and commit the requested assets. The JCDTF will request reimbursement for all associated equipment and personnel costs from ARNG/ANG funding sources, or through the agency making the request.

1-7. Injured Members & Workers Comp Benefits while serving on SAD.

a. Benefits. TXMF members on SAD paid status are carried on a state payroll as state employees. A member of the State Military Forces, as defined by section 431.001 Government Code, who is injured, disabled or killed while engaged in authorized training or duty, is entitled to receive Workers Compensation benefits under Chapter 501, Labor Code. Workers Compensation is a state-regulated insurance program that pays state employee medical bills and replaces some lost wages if an employee is injured at work, or has work-related illness. Workers Compensation provides four types of benefits.

1) Medical Benefits: Pays for medical care necessary to treat a work-related injury or illness.

2) Income Benefits: Replaces a portion of wages lost because of a work-related injury or illness.

3) Death Benefits: Replaces a portion of lost family income for eligible family members of workers killed on the job.

4) Burial Benefits: Pays some of the deceased worker's funeral expenses.

b. Reporting procedures for members injured on SAD. When a member (employee) is injured on the job, even if the employee does not feel he/she needs to see a doctor at that time, the injury must be reported to the Workers Compensation Coordinator (WCC) within 30 days of the accident. If the employee needs immediate medical treatment, someone in the member's chain of command should report the injury to the WCC immediately, in the event the treatment facility needs to verify that it is a valid Worker's Compensation claim before medical treatment is given. Report claims to Workers Compensation Coordinator, Human Resources Office, Camp Mabry, Austin, Texas (512) 782-5133 or DSN 954-5133. Upon notification/request the Coordinator will provide all necessary forms and instructions for filing the claim. Return all completed documents to State Human Resources, Bldg 10, Camp Mabry, or fax copies to 512-782-5669, or documents may be scanned and e-mailed.

Appendix A

References

1. Title 5, US Code (USC), Section 6323(a) and (b).
2. Title 10, USC, Sections 331, 332, 333, 12301, 12310, and 12406.
3. Title 32, USC, Sections 112 and 502(f).
4. Army Regulation (AR) 135-18, The Active Guard Reserve (AGR) Program, 1 November 2004.
5. AR 135-200, Active Duty for Missions, Projects, and Training for Reserve Component Soldiers, 30 June 1999.
6. AR 623-3, Evaluation Reporting System, 15 May 2006.
7. Air Force Instruction (AFI) 36-2406, Officer and Enlisted Evaluation Systems, 15 April 2005.
8. NGR 500-1/ANGI 10-8101, Military Support to Civil Authorities, 1 February 1996.
9. NGR 500-2/ANGI 10-801, National Guard Counterdrug Support, 29 August 2008.
10. NGR (AR) 600-5, The Active Guard/Reserve (AGR) Program, 20 February 1990.
11. ANGI 36-101, The Active Guard/Reserve Program, 3 May 2002.
12. Memorandum, National Guard Bureau, NGB-ARH, 5 September 2006, SUBJ: Policy for Title 32 ARNG Full-time National Guard Duty (AGR) Soldiers Performing State Active Duty
13. Memorandum, All States Log # P06-0014, National Guard Bureau, NGB-J1, 17 January 2007, Guidance for Members Performing Duty Under the Authority of Title 32 USC Sec 502(f)
14. Texas Government Code 431.101, Definitions, and 431.104, Compensation for Death or Disability
15. Texas Government Code 433.005, Calling of State Military Forces
16. Adjutant General's Department Regulation (AGTX Reg) 600-4, Title 32 Full-Time Counterdrug Duty (FTCDD), 1 October 1997.
17. TARNG Reg 690-600/TANG Reg 40-600, Civilian Personnel Hours of Duty and Leave, 15 June 1983 (w/ Change 1, 1 September 1987).
18. OPORD 06-01 (All Hazards OPORD), 12 October 2006.

19. Texas Workers Comp Act. Title 5, Texas Labor Code, Chapter 408 & 501
20. Texas Government Code, Section 431.0825 & 661.903

Appendix B
GLOSSARY

Section I
Abbreviations

ADOS
Active Duty Operational Support

AFI
Air Force Instruction

AGD
Adjutant General's Department

AGR
Active Guard and Reserve

ANGI
Air National Guard Instruction

AR
Army Regulation

C.F.R., CFR
Code of Federal Regulations

CLASP
Command Leadership and Staff Assignment Policy

DOD
Department of Defense

FECA
Federal Employees Compensation Act

FEHB
Federal Employees Health Benefits

FOIA
Freedom of Information Act

FTNGD-CD
Full-Time National Guard Duty-Counterdrug

FOUO

For Official Use Only

HRO

Human Resources Office

IAW

In accordance with

JCDTF

Joint Counterdrug Task Force

JFTX

Joint Forces Texas

JOC

Joint Operations Center

JTF-TX

Joint Task Force, Texas

LEL

Law Enforcement Leave

MTOE, MTO&E

Modified Table of Organization and Equipment

NCOER

Noncommissioned Officer Evaluation Report

NDS

Non-Dual Status (Federal Technician)

NGR

National Guard Regulation

OER

Officer Evaluation Report

SAD

State Active Duty

TDA

Table of Distribution and Allowances

TXANG

Texas Air National Guard

TXARNG

Texas Army National Guard

TXSG

Texas State Guard

TXMF

Texas Military Forces

U.S.C., USC

United States Code

USPFO

United States Property and Fiscal Office

Section II

Definitions (Omitted)

UNCLASSIFIED

TXMFPD

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