



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY RESERVE COMMAND
1401 DESHLER STREET SW
FORT MCPHERSON, GA 30330-2000



ARRC-FTS-OM

24 October 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Conditions of Employment (COE) for Dual Status Military Technicians (DSMT), Non-Dual Status Technicians (NDST), Combat Related Injured – Non-Dual Status Technicians (CRI-NDST), and Technicians (TECHs).

1. References.

a. Memorandum, HQ, USARC, ARRC-FTS-OM, 11 Jan 08, subject: Conditions of Employment (COE) for Military Technicians (MT) During transformation – Revision 1 (rescinded).

b. Department of Defense Instruction (DoDI) 1205.18, Full-Time Support (FTS) to the Reserve Components, 4 May 07.

c. AR 140-1, Mission Organization and Training, 20 Jan 04.

d. 10 United States Code, sections 10216, 10217, and 10218 (10 USC 10216, 10217 and 10218).

e. Memorandum, HQ, USARC, ARRC-FTS-OM, 28 Aug 08, subject: Retention of Non-Dual Status Technicians (NDST) Who Lose Dual Status/Membership in the Selected Reserve (SELRES) due to a Combat-Related Disability (CRD).

f. Memorandum, HQ, USARC, ARRC-FTS-OM, 11 Jan 08, subject: Commander's Intent – Wearing of the Military Uniform by Military Technicians.

g. Memorandum, HQ, USARC, AFRC-PRP-E, 25 May 05, subject: Suspension of Maximum Years of Service (MYOS) for Army Reserve (AR) Troop Program Unit (TPU) Enlisted Soldiers.

h. AR 135-32, Retention in an Active Status After Qualification for Retired Pay, 4 May 04.

i. Memorandum, HQ, USARC, ARRC-FTS-OM, 13 Mar 08, subject: Retention of Army Reserve Dual Status Military Technicians (DSMTs) (Officers).

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- j. AR 614-200, Enlisted Assignments and Utilization Management, 27 Jun 07.
 - k. Memorandum, HQ, USARC, ARRC-PRP-O, 15 Aug 08, subject: Additional Policy Guidance on Overstrength Assignments of Soldiers Based on Army Reserve Transformation.
 - l. Memorandum, HQ, USARC, ARRC-FTS-H, undated, subject: Inactivating Units – Taking Care of the Civilian Workforce.
 - m. Memorandum, HQ, USARC, ARRC-FTS-OM, 12 May 08, Mobilization of Dual Status Military Technicians (DSMTs).
 - n. Memorandum, The White House, 14 Nov 03, subject: Return of Activated Military Members to Federal Civilian Employment.
 - o. Memorandum, U.S. Office of Personnel Management, 14 Nov 03, subject: Return of Activated Military Members to Federal Civilian Employment.
 - p. Executive Order 13223, The White House, 14 Sep 01, subject: Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation.
 - q. AR 600-8-105, Military Orders, 28 Oct 94.
 - r. Memorandum, HQ, USARC, ARRC-FTS-OM, 3 Aug 06, subject: Identifying Military Technicians (MTs) Not in Compliance with Conditions of Employment and Anti-Deficiency Act (ADA) Violations.
2. This memorandum rescinds reference 1a above and establishes USARC policy regarding the COE pertaining to DSMTs, NDSTs, CRI-NDSTs, and TECHs. The COE established by references 1b, 1c, and 1d remain unchanged during transformation for DSMTs.
3. Definitions.
- a. Dual Status Military Technicians. DSMTs are employees who must, as a COE, be members of the SELRES, assigned to the unit by which they are employed or to one they are employed to support (10 USC 10216(a)). Only a DSMT may be hired to serve in a position identified as a DSMT billet.

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b. Non-dual Status Technicians. NDSTs, defined at 10 USC 10217(a), are civilian employees who serve in a DSMT position, who were hired BEFORE 18 Nov 97 and who, as of that date, were not members of the SELRES or who, after that date, ceased to be a member of the SELRES. (The statute is explicit in its definition of this term.) Thus, an employee hired on or after 18 Nov 97, who subsequently loses membership in the SELRES, does not become an NDST and will not be counted against the “cap” set by Congress (the total number of NDSTs that may be employed by the Army Reserve is currently set at 595 (10 USC 10217(c)).

c. Combat Related Injured – Non-dual Status Technicians (reference 1e). This personnel category was created with passage of the National Defense Authorization Act for FY 2008, PL 110-181, 28 Jan 08, Section 511 (codified at 10 USC 10216(g)). A former DSMT who lost dual status as a result of a CRD, as defined by 10 USC 1413a, may be retained as a CRI-NDST until becoming eligible for an unreduced annuity and becoming 60 years of age. CRI-NDSTs are subject to the personnel management limitations of 10 USC 10218(a)(3)(B). They do not count against the NDST limitations of 10 USC 10217(c).

d. Technicians. TECHs include DSMTs first hired after 18 Nov 97 who, after 5 Oct 99, lose their dual status (10 USC 10218(a)). (Only if the employee was hired before 18 Nov 97 does he or she become an NDST, subject to the more liberal retention rules of 10 USC 10218(a)(3)(B)(ii)).

4. In accordance with (IAW) reference 1f, DSMTs are discouraged from wearing the military uniform while performing the duties of their civilian employment; they will not be required to do so. When serving in a military status, DSMTs will not perform their civilian duties unless their civilian and military duties are identical.

5. COE by category of employment.

a. DSMT.

(1) As a general rule, DSMTs employed by TPUs must be assigned to the unit of employment or to a unit the DSMT is employed to support. DSMTs hired after 8 Dec 83 and before 1 Dec 95, who were previously granted exception to COE, must now comply with DoDI 1205.18; failure to do so may result in separation from the Military Technician Program (MTP).

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(2) DSMTs hired on or before 8 Dec 83 and employed by a TPU are required to maintain an Army Reserve TPU assignment; it need not be the unit of employment or one the DSMT is employed to support.

(3) DSMTs employed by an Area Maintenance Support Activity, Equipment Concentration Site, or Aviation Support Facility may be assigned to any Army Reserve TPU or to an Individual Mobilization Augmentation (IMA) Program billet to meet their COE.

b. NDST.

(1) NDSTs are not permitted to apply for any voluntary personnel actions. A voluntary personnel action means any of the following: the hiring, entry, appointment, reassignment, promotion, or transfer of the NDST into a DSMT position; or a promotion to a higher grade if the NDST is in a DSMT position. However, a management directed reassignment or detail may be authorized. If such an assignment includes additional responsibilities and duties, for which additional base pay would ordinarily be authorized, the NDST may receive such compensation, subject to review and authorization by the USARC Chief Executive Officer (CEO).

(2) NDSTs first hired as a DSMT on or before 10 Feb 96 must be removed not later than 30 days after becoming eligible for an Unreduced Annuity (URA) and becoming 60 years of age.

(3) NDSTs first hired as a DSMT after 10 Feb 96 must be removed not later than one year after the date on which dual status is lost.

(4) "First hired" is a term that means the initial date of employment as a DSMT, as defined in 10 USC 10216; it is not subject to change as a result of the termination of such employment. For example, a DSMT who was first hired on 9 Feb 96, whose employment terminates on 1 Jan 00, and who subsequently is rehired as a DSMT on 1 Jan 08, is still considered to have been "first hired" on 9 Feb 96.

c. CRI-NDST.

(1) Must be able to perform the non-dual status job requirements of the DSMT position.

(2) May not apply for any voluntary personnel action (see paragraph 4b(1), above).

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(3) Must be separated from their NDST civilian employment position not later than 30 days after becoming eligible for a URA and becoming 60 years of age.

d. TECH.

(1) A TECH is no longer a member of the SELRES and is, therefore, not a DSMT.

(2) A TECH may be retained as a civilian employee under the provisions of 10 USC 10216(e)(2) for up to 12 months from the date that dual status is lost, provided the loss of membership in the SELRES was not due to the failure of the Soldier to meet military standards (for example, failing the APFT or failure to meet the standards of AR 600-9, The Army Weight Control Program).

(3) Although the period of time (up to 12 months after the loss of dual status) that a TECH may be retained is within the discretion of the first general officer commander, the length of time approved should be consistently applied in a given situation and the decision should take into consideration several factors, including but not limited to: the employee's length of service, performance of duties, reason for loss of dual status, and personal situation.

6. Maximum Years of Service/Mandatory Removal Date.

a. DSMTs who are approaching the MYOS for their pay grade as an enlisted Soldier must ordinarily request an exception to policy to maintain membership in the SELRES. However, reference 1g temporarily suspends application of MYOS to TPU Soldiers. Commands must develop/maintain accurate lists of DSMT/Soldiers who are serving beyond the normal MYOS limitation. Once the suspension is ultimately lifted, we anticipate a short suspense to process retention actions.

b. DSMT warrant officers may be retained to age 62 as an exception to mandatory removal at age 60. Submit requests for exception in accordance with procedures outlined in reference 1h. Eligible warrant officers who fail or refuse to request retention will be deemed to have lost their SELRES membership under conditions within their control, and be subject to removal from the MTP for failure to maintain COE.

c. DSMTs who are commissioned officers may be retained beyond MRD. Reference 1i outlines the procedures to request retention. Eligible officers who fail or refuse to submit a request, or who submit late or incomplete requests for retention beyond MRD,

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will be deemed to have lost their SELRES membership under conditions within their control, and be subject to removal from the MTP for failure to meet COE.

7. The Individual Ready Reserve (IRR) is not a part of the SELRES. As a general rule DSMTs are not authorized to be assigned to the IRR. Transfer of DSMTs to the IRR as a management tool is prohibited.

8. DSMTs currently serving in tenured/stabilized positions or other duty positions with special requirements, must complete the required tenure; requests to extend in a tenured position that does not meet COE will not be considered. At the end of tenure/stabilization, the DSMT must be reassigned to a new military duty position commensurate with MOS/branch and COE. If no such position is available, the MT will be held over strength and the commander will submit a request to extend as over strength to Commander, USARC, (ARRC-FTS-OM/Ms. Suzanne Van Wagner). Under no circumstances will a DSMT be reassigned to the IRR upon completion of tenure/stabilization.

9. DSMTs serving as CSMs, who desire to extend their military assignment, must request tenure extension IAW the procedures in reference 1j, paragraph 7-35.

10. As the Army Reserve transitions from a strategic force to an operational force some flexibility is necessary to ensure readiness is not compromised. During transformation, and for the future of the operational force, the following COE rules will apply:

a. All DSMTs whose TPU positions are lost due to Army Reserve transformation may be assigned to a TPU as overstrength or to Special Category position 9990, Reassignment Overstrength, as indicated below (reference 1l).

(1) A DSMT whose civilian position is relocated, and who is subsequently reassigned through appropriate civilian personnel action where the gaining unit has no military requirement for his/her grade or duty AOC/MOS, may be assigned overstrength/9990 on the Unit Manning Roster (UMR) for three out of five years (cumulatively) from the effective date of the relocation.

(2) A DSMT whose civilian position is unaffected by Army Reserve transformation but whose unit no longer has a military requirement for his/her grade or duty AOC/MOS, may be assigned overstrength/9990 for three out of five years (cumulatively) from the date the unit reorganized.

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(3) A DSMT whose civilian position is not affected by Army Reserve Transformation must continue to meet COE and is not authorized overstrength status.

(4) DSMT overstrength assignments must be managed on a case-by-case basis and avoided when possible. If a valid unit position is not available at the end of a DSMTs 34th month of cumulative service in an assigned overstrength/9990 position, the commander must submit an exception request to Commander, USARC, (ARRC-FTS-OM/Ms. Suzanne Van Wagner), to request extension beyond the 36-month period. Upon completion of the maximum authorized overstrength/9990 period (or an approved extension), the DSMT will be reassigned to a TPU position that meets COE or be removed from the MTP.

b. During transformation, DSMTs who remain assigned to the document of an inactivated unit, who are awaiting placement or separation, must be temporarily assigned to a valid unit or activity where they can also be assigned as a TPU Soldier (same or supported unit). (See reference 1I for further guidance.) The military assignment may be in an over strength capacity as discussed in paragraph 9a(1) above if there is no other valid unit within commuting distance. These temporary civilian actions and TPU assignments must be managed on a case-by-case basis.

c. Army Reserve Transformation, which includes actions required by both the Base Realignment and Closure (BRAC) Act and the Army Reserve Command and Control Reorganization (ARC2), is a phased action. During the transformation period, the Regional Readiness Commands (RRCs) will continue to provide base operations type support to their respective regions until the designated Regional Support Command (RSC) achieves full operational capability, thereby assuming the base operations type support for the units located within the region of the RRC. DSMTs assigned to the RRC headquarters will continue to meet conditions of employment if they are assigned to a unit within the RRC area of support. When the RSC has assumed full operational capability, the DSMTs military assignment must meet the conditions of employment as articulated elsewhere in this guidance. For example, a DSMT assigned at an RRC HQ and serving in a military capacity in a collocated battalion HQ that previously fell under the C2 of the RRC may continue to serve in that battalion until the RSC assumes base operations type support of that battalion.

11. To determine if an assignment meets the same or supported unit requirement the following guidelines are provided. This memorandum supersedes previous guidance provided by this headquarters.

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a. DSMTs employed in Area Maintenance Support Activities, Equipment Concentration Sites, or Aviation Support Facilities, may belong to any Army Reserve SELRES TPU or Individual Mobilization Augmentee Program position to comply with the COE.

b. HQ, RRC/RSC. DSMTs assigned to these headquarters may be assigned militarily to any TPU in the SELRES.

c. Mission Support Elements. DSMTs assigned to these organizations may be assigned militarily to any TPU in the SELRES.

d. HQ, AR-MEDCOM. DSMTs assigned to this headquarters may be assigned militarily to any TPU in the SELRES.

e. HQ, USACAPOC. DSMTs assigned to this headquarters may be assigned militarily to any TPU in the SELRES.

f. HQ, MIRC. DSMTs assigned to this headquarters may be assigned militarily to any TPU in the SELRES.

g. HQ, 85th RSG/HQ, 87th RSG. DSMTs assigned to these headquarters may be assigned militarily to any TPU in the SELRES.

h. HQ, 75th (BCTD); HQ, 80th TC; HQ, 102d TD; HQ, 94th TD; HQ, 100th TD; HQ, 84th TC; HQ, 104th TD; HQ 70th TD; HQ, 108th TC; HQ, 98th TD; HQ, 95th TD. DSMTs assigned to these headquarters may be assigned militarily to any TPU in the SELRES. DSMTs assigned to subordinate units must maintain membership in the TPU by which employed or a unit they are employed to support (downtrace).

i. READINESS Command. DSMTs assigned to this command may be assigned militarily to any TPU in the SELRES.

j. DSMTs assigned to Operations and Functional (O&F) commands must continue to be assigned to the unit of employment or to one which the DSMT is employed to support.

k. DSMTs employed by units other than those identified in paragraphs 10b through 10i must continue to be assigned to the unit of employment or to one which the DSMT is employed to support.

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12. On a limited basis, DSMTs, who maintain military membership in a unit which they are employed to support, may use future force structure changes to meet COE. For example, a DSMT may be assigned militarily to a unit that is currently not one they are employed as a DSMT to support, provided the organization will realign under the DSMTs downtrace and there is both an approved command plan and a published execution order. The effective date of realignment must be within one year of the date the DSMT is assigned to the unit. The intent is to minimize civilian personnel reassignments in those situations where structural realignments that will allow employees to meet COE will be completed within a one-year period.

13. DSMTs are not categorized as key employees and are not exempt from mobilization due to their DSMT status.

a. DSMTs will mobilize with their units when the units are activated as a whole. If a unit is partially mobilized, assigned DSMTs may be mobilized dependent on their military position and skills. Soldiers, who are employed as DSMTs in other units, will mobilize to meet the requirements of their military chain of command.

b. DSMTs may volunteer for mobilization in a unit other than the one by which the DSMT is employed, to include those in different commands. However, unit commanders are not required to approve reassignments to allow such mobilizations. Furthermore, it should be noted that transfer to a unit other than one which the DSMT is employed to support is a violation of the statutory conditions of employment (Title 10, United States Code, section 10216) and Department of Defense Instruction 1205.18, and could result in the individual's removal from the Military Technician program.

c. Dual Status Military Technicians can be considered for involuntary reassignment from their parent unit to an alerted or mobilized unit only if no other qualified Soldier is available for mobilization. Early reassignment of a Soldier from his or her unit of civilian employment, to a unit scheduled to mobilize, is a violation of the DSMT conditions of employment and should be avoided. Military Technicians will not be involuntarily reassigned from their unit while their unit is in ARFORGEN years 2-5 due to training and operational requirements.

d. Dual Status Military Technicians will not be mobilized to perform essentially the same duties as those performed in their day-to-day civilian capacity unless the unit has been mobilized. The purpose of mobilizing DSMTs, other than as described in paragraphs 4, 5, and 6, is to augment and support mobilization efforts, to sustain the operation, or to assist with demobilization.

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14. IAW reference 1n, the President directs that all Federal employees returning from active duty receive 5 days of uncharged leave. The Director, Office of Personnel Management, has issued the implementation guidance at reference 1o.

a. A DSMT is entitled to 5 days of uncharged leave/excused absence upon return from active military service in connection with Operation Enduring Freedom, Operation Iraqi Freedom, or any other military operation subsequently established under Executive Order 13223 (reference 1p). Taken in conjunction with the President's directive, this guidance means that DSMTs who are ordered to active duty under Executive Order 12332 and 10 USC, sections 12302 or 12304, who receive orders issued in conjunction with reference 1q, are entitled to the 5 days of excused absence. (Note that deployment overseas is not a requirement to receive the uncharged leave/excused absence.) Orders funded by Reserve Personnel Army accounts and/or Active Duty for Training (Format 260) are not considered a "call to active duty" for the purposes of the 5 days of uncharged leave/excused absence even though the stated purpose of the orders may be "In support of GWOT".

b. The excused absence must be granted immediately prior to the DSMT's actual resumption of his or her civilian duties. The 5 days must be taken all at once; for example, they may not be taken 1 a day at a time in conjunction with 5 weekends. The commencement of the 5 days of uncharged leave/excused absence represents a return to Federal civilian employment, and the employee is obligated to report for work at the end of the 5-day period. If a qualifying DSMT has not yet been granted the 5 days of uncharged leave/excused absence, he or she may take the 5 days at a time mutually agreeable to the employee and the Command.

15. Commands are responsible for maintaining their tracking system established in accordance with reference 1r to prevent Anti-Deficiency Act (ADA) violations. Assignment as overstrength/9990 to a unit is not an ADA violation. However, employment in a DSMT position without concurrent membership in the SELRES is an ADA violation and will be treated as such. ADA violations may subject both the employee and the supervisory chain to punitive action.

16. For additional information or assistance, contact Ms. Suzanne Van Wagner, 404-464-8775, or suzanne.vanwagner@us.army.mil.

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