

National Defense Authorization Act 2000/2001

Below are the applicable portions of the NDAA 2000 law pertaining to current and future Army Reserve and Air Force Reserve non-dual status technicians.

Civil Service Retirement of Technicians:

In General:

(1) Chapter 1007 of Title 10, United States Code has been amended by adding at the end, the following new section: 10218. Army and Air Force Reserve technician's conditions for retention; mandatory retirement under civil service laws.

- (a) Separation and Retirement of Military Technician's (dual Status) an individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after the date of the enactment of this section loses dual status is subject to paragraph (2) or (3), as the case may be.

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity the technician shall be separated not later than 30 days after the date on which the dual status is lost.

(3) If a technician described in paragraph (1) is not eligible at the time dual status is lost for a reduced annuity the technician shall be offered the opportunity to:

- (a) Reapply for, and if qualified be appointed to, a position as a military technician (dual status); or
- (b) Apply for a civil service position that is not a technician position.

If such technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician:

- (a) Shall not be permitted, after the end of the one-year period beginning on the date of the enactment of this subsection, to apply for any voluntary personnel action; and
- (b) Shall be separated or retired:
 - (i) In the case of a technician first hired as a military technician (dual status on or before February 10, 1996, no later than 30 days after becoming eligible for an unreduced annuity and
 - (ii) In the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

(4) For the purposes of this subsection, a military technician is considered to lose dual status upon-

- (a) Being separated from the Selected Reserve; or
- (b) Ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

Non-Dual status technicians:

(1) An individual who on the date of the enactment of this section is employed by the Army Reserve or Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity shall be separated not later than six months after the date of the enactment of this section.

(2) An individual who on the date of enactment of this section who is employed by the Army Reserves or the Air Force Reserves as a non-dual status technician and who on that date is not eligible for an unreduced annuity shall be offered the opportunity to:

- (a) Reapply for, and if qualified be appointed to, a position as a military technician (dual status); or
- (b) Apply for a civil service position that is not a technician position.

If such technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician:

- (a) Shall not be permitted, after the end of the one year period beginning on date of enactment of this subsection, to apply for any voluntary personnel action; and
- (b) Shall be separated or retired-

(I) In the case of a technician first hired as a technician on or before Feb 10, 1996, and who on the date of enactment of this section is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity; and

(II) In the case of a technician first hired as a technician after February 1996, and who on date of enactment of this section is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such position, or who, within six months of the date of the enactment date of this section is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

Unreduced annuity defined:

(1) For the purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under Section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of age or years of service of the technician.

Voluntary action defined:

(1) In this section, the term "voluntary personnel action", with respect to a non-dual status technician means any of the following:

(a) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

(b) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status)

Below are the applicable portions of the changes to NDAA 2000 law pertaining to current and future non-dual status technicians which came as a result of the hard work and lobbying efforts of AFGE civilian technicians Nation-wide and AFGE Council 164. These changes are significant and were incorporated in the National Defense Authorization Act of 2001.

Separation and Retirement of Military Technicians (dual Status):

(1) An individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after the date of the enactment of this section loses dual status is subject to paragraph (2) or (3), as the case may be

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity and is **age 60** or older at that time the technician shall be separated not later than 30 days after the date on which the dual status is lost.

(3) If a technician described in paragraph (1) is not eligible at the time dual status is lost for an unreduced annuity or is under **age 60** at that time the technician shall be offered the opportunity to:

(a) Reapply for, and if qualified be appointed to, a position as a military technician (dual status);
or

(b) Apply for a civil service position that is not a technician position.

If such technician continues employment with the Army Reserve or the Air force Reserve as a non dual status technician, the technician-

(a) Shall not be permitted, after the end of the one-year period beginning on the date of the enactment of this subsection, to apply for any voluntary personnel action; and

(b) Shall be separated or retired:

(i) In the case of a technician first hired as a military technician (dual status on or before February 10, 1996, no later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(ii) In the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

- (4) For the purposes of this subsection, a military technician is considered to lose dual status upon-
- (a) Being separated from the Selected Reserve; or
 - (b) Ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

Non-dual status technicians:

(1) An individual who on the date of the enactment of this section is employed by the Army Reserve or Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity and is **age 60** or older shall be separated not later than six months after the date of the enactment of this section.

(2) An individual who on the date of enactment of this section is employed by the Army Reserves or the Air Force Reserves as a non-dual status technician and who on that date is not eligible for an unreduced annuity or is under the age of 60 shall be offered the opportunity to:

- (a) Reapply for, and if qualified be appointed to, a position as a military technician (dual status); or
- (b) Apply for a civil service position that is not a technician position.

If such technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician:

- (a) Shall not be permitted, after the end of the one year period beginning on date of enactment of this subsection, to apply for any voluntary personnel action; and
- (b) Shall be separated or retired:
 - (i) In the case of a technician first hired as a technician on or before Feb 10, 1996, and who on the date of enactment of this section is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and
 - (ii) In the case of a technician first hired as a technician after February 1996, and who on date of enactment of this section is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such position, or who, within six months of the date of the enactment date of this section is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

Unreduced Annuity Defined:

For the purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under Section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of age or years of service of the technician.

Voluntary Personnel Action Defined:

In this section, the term "voluntary personnel action", with respect to a non-dual status technician, means any of the following:

- (1) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).
- (2) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

Transition Provision:

(1) An individual who before the date of enactment of this Act was involuntary separated or retired from employment as an Army Reserve or Air Force Reserve technician under section 10218 of Title 10, United States Code, and who would not have been so separated if the provisions of subsection (c) of that section,

as amended by subsection (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before that separation. The effective date of any such reinstatement is the date the employee resumes technician status.

(2) The authority under paragraph (1) applies only to reinstatement for which an application is received by the Secretary concerned before the end of the one-year period beginning on the date of the enactment of this Act.

BELOW IS HOW THE ACTUAL CHANGES WERE WRITTEN INTO LAW!!

The following is the actual language written in NDAA 2001 which for easy reading I have incorporated above in NDAA 2000 language. It includes the transition provisions for being brought back from temp to permanent employees for those impacted.

SEC 525. Extension of Involuntary Civil Service Retirement Date for Certain Reserve Technicians.

(a) Mandatory Retirement not applicable until **age 60**--Section 10218 of title 10, United States Code, is amended--

(1) In subsection (a)--

(A) By inserting "**and is age 60 or older at that time**" after "unreduced annuity" in paragraph (2)

(B) By inserting "**or is under age 60 at that time**" after "unreduced annuity" in paragraph (3)(A); and

(C) By inserting "**and becoming 60 years of age**" after "unreduced annuity" in paragraph (3)(B)(i)(I); and

(2) In subsection (b)--

(A) By inserting "**and is age 60**" or older" after "unreduced annuity" in paragraph (1);

(B) By inserting "**or is under age 60**" after "unreduced annuity" in paragraph (2)(A); and

(C) By inserting "**and becoming 60 years of age**" after "unreduced annuity" in paragraph (2)(B)(i)(I)

b. Transition Provision--

(1) An individual who before the date of the enactment of this Act was involuntarily separated or retired from employment as an Army Reserve or Air Force Reserve technician under Section 10218 of title 10, United States Code, and who would not have been so separated if the provisions of subsection (c) of that section as amended by section (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before separation. The effective date of any such reinstatement is the date the employee resumes technician status.

(2) The authority under paragraph (1) applies only to reinstatement for which an application is received by the Secretary concerned before the end of the one-year period beginning on the date of the enactment of this Act.