

TECHNICIAN PERSONNEL
Regulation 537

NEW JERSEY DEPARTMENT OF
MILITARY AND VETERANS AFFAIRS
3650 Saylor's Pond Road
Fort Dix, New Jersey 08640-7600
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TECHNICIAN PERSONNEL REGULATION 537

STUDENT LOAN REPAYMENT FOR NATIONAL GUARD TECHNICIANS

This regulation contains requirements of the New Jersey National Guard Student Repayment Plan. The use of either masculine or feminine pronouns is intended to include both genders. This regulation is effective for implementation 1 August 2003

BY THE ORDER OF THE GOVERNOR:

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Student Loan Repayment Service Agreement

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CHAPTER 1
GENERAL

1-1. Purpose.

The following provides guidance for the implementation of The New Jersey National Guard Student Repayment Plan in accordance with 5 U.S.C. 5379, as amended, which authorizes agencies to establish a program under which they may agree to repay (by direct payment on behalf of the employee) all or part of any outstanding federally insured student loan or loans previously taken out by a candidate to whom an offer of employment has been made, or a current employee of the agency, in order to recruit or retain highly qualified personnel.

1-2. Definitions.

a. Agency: For the purpose of this plan the New Jersey Department of Military and Veterans Affairs (NJDMAVA) is the agency and has the same meaning as in 5 U.S.C. 4101(l) subparagraph (A), (B), (C), (D), or (E).

b. Employee: Any dual or non-dual status technician.

c. Head of agency: The Adjutant General of New Jersey or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

d. Service agreement: a written agreement between the agency and an employee under which the employee agrees to a specified period of employment with the agency of not less than 3 years, in return for payments toward a student loan previously taken out by the employee.

e. Student loan:

(1) A loan made, insured, or guaranteed under parts B, D or E of Title IV of the Higher Education Act of 1965;

(2) A health education assistance loan made or insured under part A of Title VII of the Public Health Service Act, or under part E of Title VIII of that Act.

CHAPTER 2
AGENCY LOAN REPAYMENT PLAN

2-1. Agency loan repayment plan.

a. The J1 has the authority to review and approve student loan repayment benefits.

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b. The Student Loan Repayment Plan may be implemented as a result of the following situations.

(1) Recruitment. Each determination for recruitment purposes (including the amount to be paid) must be made before the employee actually enters duty in the position for which he or she was recruited. In the absence of offering loan repayment benefits, the agency would encounter difficulty in filling a position with a highly qualified candidate.

(2) Retention. Payments authorized in order to retain an employee must be based upon a written determination by the immediate supervisor. This determination must be based on a written description of the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function that is deemed essential to the agency's mission. The high or unique qualifications of the employee or special need of the agency for the employee's services makes it essential to retain the employee, and that, in the absence of offering student loan repayment benefits, the employee would be likely to leave for employment outside the New Jersey National Guard.

2-2. Employee eligibility.

a. In accordance with the other provisions of this plan and 5 U.S.C. 5379, an agency may authorize offering loan repayments benefits to recruit or retain:

(1) Permanent employees.

(2) Career conditional appointments.

b. When selecting employees to receive loan repayment benefits, the NJDMAVA will adhere to the merit system principles and take into consideration the need to maintain a balanced workforce in which females and members of racial and ethnic minority groups are appropriately represented in Government service.

2-3. Request for student loan repayment benefits. A request for Student Loan Repayment benefits will be initiated by the employee's immediate supervisor. The requesting supervisor will make all requests through their activity managers to the J1 of the Human Resource Office in the following manner:

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(a). Recruitment. Each request for recruitment purposes (including the amount to be paid) will be submitted with a written description explaining the difficulty the agency would encounter in filling a position with a highly qualified candidate.

(b). Retention. Requests for payments authorized in order to retain an employee must be based upon a written determination by the immediate supervisor. This determination must be based on a written description of the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function that is deemed essential to the agency's mission. The high or unique qualifications of the employee or special need of the agency for the employee's services makes it essential to retain the employee, and that, in the absence of offering student loan repayment benefits, the employee would be likely to leave for employment outside the New Jersey National Guard. In addition, supervisors must submit the following documents for retention:

- (1). All applications **for retention** must be received by the J1, NLT 1 September of each year in order to forecast funding requirements.
- (2). A copy of the employee's most current Technician's Appraisal, NJDMAVA Form 430.
- (3). A completed Student Loan Repayment Service Agreement, encl-1.
- (4). Certified copy of the loan agreement from the lending institution.

2-4. Requirements for service agreements.

a. Before any loan repayments may be made, the employee is required to sign a written agreement to complete a specified period of employment with the agency and to reimburse the agency for loan repayment benefits, when required by Sec. 537.109.

b. This agreement may also specify any other employment conditions the agency considers to be appropriate, such as, but not limited to, the employee's position and the duties he or she is expected to perform, work schedule, and level of performance.

c. The minimum period of employment to be established under a service agreement must be not less than three (3) years, regardless of the amount of loan repayment authorized. Increases or renewals of payments made under this plan will require the employee to enter into a new service agreement.

d. A service agreement made under this plan in no way constitutes a right, promise, or entitlement for continued employment.

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2-5. Procedures for making loan repayments.

a. Conditions for payments. Payments will be at the discretion of the agency and are subject to such terms, limitations, or conditions as may be mutually agreed to in writing by the agency and employee. Payments may be applied only to the indebtedness outstanding at the time the agency and the employee enter into an agreement, and may not begin before the employee enters on duty with the agency. Student loan repayment benefits must be in addition to basic pay and any other form of compensation otherwise payable to the employee involved. Tax withholdings must be deducted or applied at the time any payment is made. Tax withholdings may not be spread out over time. Since these tax obligations could create a financial hardship for the recipient of the repayment benefit, steps can be taken to lessen the impact of tax withholdings on an employee's paycheck in one of the following ways:

(1) The agency can make smaller payments at periodic intervals throughout the fiscal year;

(2) Employees can write a check to the paying agency to cover their tax liability rather than have the tax liability withheld from the employee's paycheck;

(3) The agency can deduct the amount of taxes to be withheld from the loan repayment benefit before issuing payment to the holder of the loan;

b. Loans to be repaid. Before authorizing loan repayments, the agency must verify with the holder of the loan that the employee has an outstanding student loan that qualifies for repayment under this plan.

The agency will verify remaining balances to ensure that loans are not overpaid. The agency may repay more than one loan as long as the loan repayments do not exceed the limits set forth in paragraph (c) of this section.

c. Size of payments. In determining the size of the loan payments, the agency should take into consideration the employee's value to the agency, and how far in advance the agency can commit funds. If budgetary considerations are an issue; **it will be at the agency's discretion** to determine the repayment benefit amount given to an employee each year. This type of arrangement must be included in the written service agreement with the employee. If at any time the agency does not have sufficient funds to support this program during the out years, the agency will notify the employee in writing. If renewed, a new service agreement will be drawn. The amount paid by the agency is subject to all the following maximum limits:

(1) \$6,000 per employee per calendar year;

(2) A total of \$40,000 per employee **per lifetime total**.

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d. Employee responsibility. The employee will be responsible for making loan payments on the portion of the loan(s) that continues to be the employee's responsibility. Payments under this plan do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out. The employee will also be responsible for any income tax obligations resulting from the loan repayment benefit.

2-6. Loss of eligibility for loan repayment benefits.

a. An employee receiving loan repayment benefits from the agency will be ineligible for continued benefits if the employee:

- (1) Separates from employment with the NJDMAVA;**
- (2) Does not maintain an Exceeds Standards level of performance;**
- (3) Violates any of the conditions of the service agreement.**

b. For the purpose of applying paragraph (a) of this section, in the case of an employee covered by an appraisal system established under NJDMAVA TPR 430, NJDMAVA Performance Appraisal System, the employee's most recent rating of record must be at the "Exceeds Standards" level and completed within established timeframes of NJDMAVA TPR 430.

2-7. Employee reimbursements to the Government.

a. Except as provided in paragraph (d) of this section, an employee who fails to complete the period of employment established under a service agreement will be indebted to the Federal Government and must reimburse the NJDMAVA for the amount of any student loan repayment benefits the employee received.

b. Failure to complete the period of employment established under a service agreement occurs when the employee's service with the agency terminates before the employee completes the period of employment specified in the service agreement because:

- (1) The employee is separated involuntarily on account of misconduct or performance;
- (2) The employee leaves the agency voluntarily.

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c. If an employee fails to reimburse the agency for the amount owed under paragraph (a) of this section, a sum equal to the amount outstanding must be recovered from the employee under the agency's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and subpart K of part 550 or through the appropriate provisions governing debt collection if the individual is no longer a Federal employee.

d. Paragraph (a) of this section does not apply when the employee fails to complete a period of employment established under a service agreement because:

(1) The employee is involuntarily separated for reasons other than misconduct or performance;

(2) The employee leaves the agency voluntarily to enter into the service of any other agency, unless reimbursement to the paying agency is otherwise specified in the service agreement.

e. The head of an agency may waive, in whole or in part, a right of recovery of an employee's debt if he or she determines that recovery would be against equity and good conscience or against the public interest.

f. Any amount repaid, or recovered from, an employee under this section will be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited will be merged with other sums in such account and will be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

2-8. Records and reports.

a. NJDMAVA-HRO must keep a record of each determination made and make such records available for review upon OPM's request. These records may be destroyed after 3 years or after OPM formally evaluates the program (whichever comes first).

b. Before January 1st of each year, the agency must submit a written report to the Office of Personnel Management stating when the agency made student loan repayments on behalf of an employee during the previous fiscal year. Each report must include:

(1) The number of employees selected to receive this benefit;

(2) The job classifications of the employees selected to receive benefits under this part;

(3) The cost to the Federal government for providing benefits under this part.

**New Jersey National Guard Technician
Sample Student Loan Repayment Service Agreement**

Title 5 USC 5379 allows repayment of outstanding federally insured student loans made by educational institutions or banks and other private lenders as authorized by the Higher Education Act of 1965 and the Public Health Service Act. Student loan repayments are made directly to the lender subject to the conditions stated in this agreement. Use of this authority in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service.

CONDITIONS OF EMPLOYMENT

The New Jersey National Guard agrees to provide a student loan repayment benefit to:

Employee: _____

SSN: ____ - ____ - ____

Position: _____

subject to the conditions of employment stated in this document.

(Here, you should state conditions of employment specific to each agreement as described in para 2-1 through 2-7, or attach as a separate page.)

CONDITIONS OF LOAN REPAYMENT

I agree to complete (minimum of three years) of service. My period of service begins on Date .
In return, The New Jersey National Guard will make payments on my outstanding federally insured loan to:

Lender Name: _____

Lender Address: _____

Repayment Amount: _____

Years: _____

Total: _____

Increases or renewals made under this plan will not exceed \$6,000 each calendar year up to a lifetime total of \$40,000 and **may not be made without entering a new service agreement with the agency**. If increases or renewals are made changes will be documented on a revised service agreement. The NJDMAVA shall provide the DFAS with a copy of the amended service agreement to ensure the size and duration of payments to the loan holder are adjusted accordingly.

LOAN REPAYMENT PROCEDURES

DFAS will make payments to the lender on a biweekly basis. It will determine the amount to be paid by dividing the annual repayment amount by the number of pay periods in the year for which payments are made. This usually will be 26 payments per year, except for those years having 27 pay periods. In those cases, 27 biweekly payments will be made. The loan repayment amount will be considered as taxable wages and tax withholding will be made on a biweekly basis as appropriate. The NJDMAVA is not responsible for any late fees or penalties assessed by loan holders prior to, during, or subsequent to this agreement.

LOSS OF ELIGIBILITY FOR LOAN REPAYMENT BENEFIT

I understand I will no longer be eligible for the loan repayment incentive if I voluntarily end my employment with the New Jersey National Guard, fail to maintain an acceptable level of performance (Exceeds Standards), or in any way violate the terms of this agreement

REIMBURSEMENT OF LOAN REPAYMENT BENEFIT

If I am separated from the NJDMAVA for reasons of misconduct or performance, or if I leave the NJDMAVA voluntarily before I complete the period of service specified in this agreement, I will reimburse the NJDMAVA for the entire amount of all loan repayments considered as taxable wages that the NJDMAVA has made in my behalf.

Employee Signature

Date

I certify that I have discussed the conditions of the student loan repayment program with this employee.

HRO Representative Signature

Date

"This information is subject to the Privacy Act of 1974, as amended."