

JAMES A. RHODES STATE COLLEGE
HUMAN RESOURCES POLICY STATEMENT

This policy and/or procedure provides operating principles for Human Resources issues at James A. Rhodes State College. It supersedes any prior policy covering the specific subject. This policy and/or procedure may be suspended, modified or cancelled as determined by the College. This policy and/or procedure does not create a contract of employment, nor is it a condition of employment between the College and its employees.

This policy and/or procedure is provided on-line for the convenience of access for College employees. It is created in WordPerfect and is in “read-only” format. The file can be opened, reviewed and/or printed for reference. The original policy will be the governing copy and is on file in Human Resources.

(Specific Policy Follows on Next Page)

DISCIPLINARY ACTION AND DUE PROCESS

Policy 5.5
BOT 4-19-94
Revised 5-15-07

Applies to: Faculty and all Staff

A. Policy Guidelines

Disciplinary action including reprimands, suspension, involuntary demotion, and termination may be taken against any faculty/staff member for violation of college by-laws, policies or procedures, and/or offenses such as incompetency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public and neglect of duty. Termination of employment for financial or organizational reasons is covered by policy 8.3 Reduction in Work Force - Faculty, and Administrative Professional, and Technical Staff and 8.4 Reduction in Work Force - Support Staff.

It is the intent of James A. Rhodes State College that fair and orderly procedures exist for the processing of any disciplinary action including dismissals, suspensions or non-renewals.

B. Definitions

1. **Due Process:** Those procedures as set forth in these policies and procedures of the College regarding discipline, dismissals, non-renewals, and suspensions affecting staff and faculty.
2. **Termination:** The cessation of employment for any reason.
3. **Dismissal:** The involuntary and imposed termination of a contract of employment prior to the expiration date of the contract.
4. **Non-renewal:** Failure or refusal of the College to offer a new contract of employment for the subsequent academic or fiscal year based on reasons other than reduction in force.
5. **Reduction in force:** Termination based on determinations of faculty/staff reductions as set forth in Policies 8.3 and 8.4.
6. **Suspension:** The temporary cessation of the duties, responsibilities, or privileges, or any combination thereof, of a faculty or staff member.
7. **Working Days:** Days exclusive of weekends, holidays, and those days the faculty or staff member may be on authorized vacation, authorized sick leave, or authorized leave.

C. Reprimand, Involuntary Demotion, Suspension, Dismissal and Non-Renewal of Contract

1. A faculty or staff member may be suspended, involuntarily demoted or dismissed only by the direct action of the appropriate vice-president, or president, after consultation with the immediate supervisor and the director of Human Resources.
2. The College believes in the principle of corrective action and follows a policy of progressive disciplinary action for minor offenses, as defined by the College. An oral or written reprimand will precede any suspension for such offenses and one or more suspension(s) may precede dismissal for such offenses.
3. A written reprimand will not be used against an individual in decisions affecting his/her promotion, suspension, or dismissal after twelve months from the effective date of the reprimand, providing there has been no intervening reprimand or disciplinary action during the twelve months. A written reprimand will be removed from an individual's personnel file after a twelve month period free of reprimand or disciplinary action has elapsed, providing the employee so requests in writing.

4. When it is necessary to suspend or dismiss a faculty or staff member, such action will be taken as soon as possible following the last infraction which led to the suspension or dismissal unless a complete investigation is required for the protection of the individual or the College.
5. A request for suspension or dismissal of a faculty or staff member is to be made to the appropriate vice president or president, with a copy to the director of Human Resources, and should contain the following:
 - The name and the title/rank of the faculty/staff member
 - A statement of the specific reasons for requesting the suspension or dismissal, accompanied by specific documentation of evidence supporting the request.
6. A request for involuntary demotion is to be made to the appropriate vice president or president, with a copy to the director of Human Resources. The requestor should be prepared to show that attempts have been made to inform the individual of:
 - a) His/her inadequate work performance.
 - b) What is expected of the faculty/staff member to improve his/her work performance
 - c) Failure of adequate improvement
7. A faculty/staff member who is involuntarily demoted will be retained by the College at the demoted rank or classification and will be given work commensurate with that demoted position.
8. A faculty or staff member who receives a reprimand or a suspension of three days or less, has the right to appeal the action through the appropriate grievance procedure.
9. Staff or faculty may be dismissed within the term of their contract of employment. The appropriate administrator may also make the decision not to renew a contract of employment with a contractual staff or faculty member. Any decision made pursuant to dismissal or non-renewal of contract procedures cannot be the subject of a grievance. Instead, a separate appeal procedure for this purpose has been established (see section C). The grounds for dismissal or non-renewal of contract include, but are not limited to:
 - a) Malfeasance, misfeasance, or nonfeasance of duty
 - b) Incompetency
 - c) Insubordination
 - d) Grave misconduct
 - e) Failure to meet reasonable written and published standards of performance applicable to contractual staff or faculty members of the College.
 - f) Failure to fulfill provisions of the contract of employment or the responsibilities, duties, or functions of his/her position with the College.
 - g) Reduction in forces.
10. A decision of non-renewal will be made by the appropriate administrator, after a conference with the appropriate vice president, president, and director of Human Resources. A private meeting of the appropriate administrator, appropriate vice president, and the affected staff or faculty member will then be held.
11. Procedure for dismissal and non-renewal of contract:
 - a) Notice
 - 1) Time of Notice
 - Notice of dismissal may be given at any reasonable time, however, two weeks' advance notice should be provided. In situations where an individual has been found to be in gross violation of rules and regulations, no advance notice is necessary.
 - Notice of non-renewal of contract will be provided as follows:
 - (1) Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year

appointment terminates during an academic year, at least three months in advance of its termination.

- (2) Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
- (3) At least twelve months before the expiration of an appointment after two or more continuous years at the institution.

2) Form of Notice

Notice of dismissal or non-renewal shall be given in writing and shall be either given in person to the employee or sent by registered mail to his/her most recent address as shown on personnel records of the College.

3) Source of Notice

The responsibility of giving notice of dismissal or non-renewal of contract is the appropriate vice president's or his/her designee.

4) Nature of Notice

The notice of dismissal or non-renewal shall state specifically the unsatisfactory performance claimed as justification for the action. Such reason(s) shall be in detail sufficient for the employee to reasonably and sufficiently understand the cause.

Note: The notice of dismissal or non-renewal should be given in a personal conference between the appropriate administrator(s) and the staff or faculty member.

D. Dismissal/Non-Renewal Appeal Procedure

1. The staff or faculty member who wishes to appeal his/her dismissal or non-renewal may request informal negotiations with the appropriate vice president or his/her designee in an effort to resolve the problem.
2. The staff or faculty member who is not satisfied with the results of the informal negotiations may request a hearing before the College Hearing Committee.
3. Within fifteen (15) working days after receiving the notice of dismissal or non-renewal, the faculty or staff member may deliver in writing, to the office of the appropriate vice president or his/her designee, a reply to the notice.

The reply should contain a request for a hearing before the College Hearing Committee and a rebuttal to each and every reason for dismissal or non-renewal. If the employee intends to assert that his/her dismissal or non-renewal violates his/her statutory or constitutional rights, the assertion(s) shall be contained in the reply.

4. Within five (5) working days after a timely receipt of the faculty or staff member's reply to the dismissal or non-renewal notice, the vice president or his/her designee shall see that a College Hearing Committee is formed.

The College Hearing Committee shall consist of two members appointed by the vice president or his/her designee, two persons appointed by the staff or faculty member, and a fifth person mutually selected by the four appointees. All five members of the College Hearing Committee must be full-time employees of the James A. Rhodes State College.

5. The College Hearing Committee shall convene within fifteen (15) working days after the College's receipt of the staff or faculty member's timely reply. All concerned parties shall be notified in writing of the date, time, and place of each and every meeting of the College Hearing Committee. Human Resources will coordinate and provide such notices.

Proceedings of the College Hearing Committee shall be governed by such rules of procedure as the committee may adopt which are consistent with this policy and appeal procedure. Upon the request of any member of the committee, all available relevant data required for a thorough investigation of the dismissal or non-renewal action shall be made available to the College Hearing Committee. Furthermore, the College Hearing Committee shall make available to the employee and the vice president or his/her designee all available relevant data derived from any and all sources. The College Hearing Committee shall review all material relevant to the case, and hear relevant testimony from the employee, vice president or designee, and other witnesses. An electronic recording shall be kept of all proceedings before the College Hearing Committee, and additionally, a written transcript of the proceedings shall be made and retained. Human Resources will provide support to the College Hearing Committee for these proceedings. Human Resources will maintain all files, recordings, transcripts, etc., of these proceedings when the College Hearing Committee has concluded its function.

6. Within three (3) working days of the conclusion of its meeting(s), the College Hearing Committee shall forward, in writing, to the staff or faculty member, the vice president and the president, its recommendation concerning the disposition of the case. The College Hearing Committee may:

* Affirm the vice president's decision to dismiss the employee or non-renew the employee's contract.

or

* Recommend that the vice president reverse or in some specific way alter his/her decision concerning the dismissal or non-renewal.

7. In the event that the College Hearing Committee recommends a reversal or some other alteration of the vice president's original decision, the vice president shall respond in writing to the Committee, to the employee, and to the president any change in his/her original decision to dismiss or non-renew. This response must occur within three (3) working days of the date of the Hearing Committee's recommendation.

8. If the College Hearing Committee affirms the vice president's decision of dismissal or non-renewal, or if the vice president refuses to either reverse or alter his/her decision despite a recommendation by the College Hearing Committee, the faculty or staff member may appeal to the president of the James A. Rhodes State College.

Such an appeal shall be made within five (5) working days after notification by a) the College Hearing Committee (in the case of its affirmation of the vice president's original decision) or by b) the vice president (in the case of the vice president maintaining his/her original decision contrary to a recommendation of the College Hearing Committee to do otherwise).

9. The appeal shall be in writing and include a formal request that the president review the case. Within five (5) working days after receiving the letter of appeal, the president shall review all material relevant to the case, including the transcripts of the meetings of the College Hearing Committee. Upon the completion of his/her review, the president shall take whatever action he/she deems appropriate. He/she shall notify in writing, the employee, the vice president, and the College Hearing Committee of his/her actions in the case.

Note: Upon mutual agreement of both parties, the time restrictions may be modified at any level of this procedure.