

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. 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)

MILITARY LEAVE/REEMPLOYMENT RIGHTS

Policy 6.7.5
BOT 6-18-96
Revised BOT 1-15-13

Applies to: Faculty and Staff

Policy

The College provides military leave benefits and reemployment rights to all eligible regular faculty and staff at any full time equivalency (FTE) in accordance with state and federal law.

Policy Guidelines

- A. Eligible faculty and staff who are members of the U.S. Armed Services, including the Coast Guard, the Ohio organized militia, the commissioned corps of the Public Health Service, the National Guard (when engaged in active duty for training, inactive duty for training, or full-time National Guard duty), and any other category of persons designated by the President of the United States in time of war or emergency are entitled to a military leave of absence with pay for a period or periods not to exceed thirty-one days per calendar year for each calendar year in which the eligible faculty or staff member is performing service in the uniformed services, and without pay for up to a maximum of five years (unless special orders are issued by the President of the United States or the United States Department of Defense). This leave does not affect vacation or sick leave accrual. Military leave is granted for voluntary, involuntary and mandatory service. Pay and benefits vary depending on whether the service is a result of a regular call-up or a call-up due to Presidential, Gubernatorial or Congressional order.
- B. An employee who requests a military leave of absence must provide reasonable advance written notice of such active military service to the College. Such advance notice is not required when it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable. The employee is required to submit to his/her supervisor two copies of military orders or other statement in writing from the appropriate authorities as evidence of call to training or duty. One copy of all such orders is to be forwarded to Human Resources along with the Absence From Duty Form (faculty, administrative, and professional/technical staff) or Time Adjustment Form (support staff).
- C. Military Leave Due to Regular Call-Up
 1. Regular call-up for one month or less
 - a. For military call-ups of one month or less, individuals are entitled to receive leave with pay for up to 22 days or 176 hours for each calendar year in which the eligible individual is performing service in the uniformed services.
 - b. Medical, dental, vision and retirement benefits are continued for the individual and covered dependents as if the individual was not on leave.
 2. Regular call-up exceeding one month
 - a. For military call-ups that exceed one month, individuals are entitled to receive leave without pay for up to a maximum of five years.
 - b. Individuals on active duty may elect to use the military health care system or may continue existing College medical, dental and vision coverage for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Upon return from military leave, individuals are entitled to reenroll in College health benefits without any waiting period.

Retirement contributions to state systems are not required during the period of military leave. Individuals may purchase military service time in accordance with the rules of their respective public retirement systems (OPERS, STRS). Purchasing military service time is not available for Alternative Retirement Plan (ARP) participants.

D. Military Leave Due to Presidential, Gubernatorial or Congressional Order

1. For call-ups of one month or less, pay and benefit entitlements are the same as for a regular call-up. See Section C.1.
2. For call-ups that exceed one month
 - a. The College will provide the individual a monthly pay differential equal to the difference between the current gross monthly wage or salary and the sum of the gross military pay and allowances, or \$500, whichever is less. However, the individual shall receive no payments if the sum of the individual's gross uniformed pay and allowances received in a pay period exceeds the individual's gross wage or salary as an employee for that period or if the individual is receiving pay under section D.1.
 - b. Individuals on active duty may elect to use the military health care system or may continue existing College medical, dental and vision coverage for the duration of the call-up period. The cost of coverage will remain the same as if the individual were not on leave. Upon return from military leave, individuals are entitled to reenroll in College health benefits without any waiting period.
 - c. Retirement contributions are the same as stated in Section C.

E. Reemployment Rights

1. The intent of the Uniformed Services Employment and Reemployment Rights Act of 1994 is to encourage non-career military service by eliminating or minimizing the disadvantages to civilian careers and employment that occur as a result of military call-ups. The thrust of the law is to restore the individual to the previous employment position with all seniority, status, pay, and benefits that would have accrued if the individual had not left for military service.
2. To be eligible for reemployment rights, individuals must not have been issued a discharge under dishonorable conditions, or bad conduct, or as otherwise set forth in 10 U.S.C. § 1161.
3. Discrimination or retaliation for participation is prohibited, whether an individual volunteers or is ordered to active military service.
4. An individual's right to reemployment includes restoration of the benefits that were elected by the employee and his or her dependents at the time military service began, as well as to benefits that began during the leave for which the individual would reasonably have become eligible. For example, if vacation accrual increases from two weeks to three weeks upon completion of five years of service, then a person who works for two years, serves two years on active duty, and then returns, would be entitled to three weeks of vacation one year after reemployment.
5. The College is not required to reemploy a person after military leave if:
 - a. The College's circumstances have so changed as to make reemployment impossible or unreasonable;
 - b. Such reemployment would impose an undue hardship upon the College; or
 - c. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurring period.

F. Return from Duty

1. An individual returning from qualified military service is entitled to be restored to his or her former position or to one of similar seniority, pay, and status, if he or she is qualified to perform the duties of the former position. Positions for which the serviceperson will have rights are based on the length of the person's intervening uniformed service. There is a condition in most instances that the person is qualified for the position in which he or she will be reemployed. Under the law, a person is "qualified" for a position if he or she has the ability to perform the essential tasks of the position. The Uniformed Services Employment and Reemployment Rights Act has left "essential" tasks undefined since this requirement is somewhat akin to those of the Americans with Disabilities Act (ADA) essential job functions.

a. Uniformed service of less than 91 days. A person whose uniformed service was fewer than 91 days is to be promptly reemployed in the position that he or she left.

b. Uniformed service for more than 90 days. If the intervening uniformed service was for more than 90 days, the returning employee will have the same reemployment rights as persons with a shorter term of uniformed service, except that he or she will have the additional option of employment in a position of like seniority, pay and status.

2. The Uniformed Services Employment and Reemployment Rights Act does not create a system of seniority but simply recognizes any existing seniority systems that have been established by contract, custom or practice.

3. The employer is obligated to make reasonable efforts to update the skills of an employee who is not initially qualified for the position to which he or she is entitled, unless efforts would create an undue hardship. Congress intends for the employer to provide refresher training and any training the employee would have received if he or she had remained on the job, before deciding on an employee's qualifications.

4. Employee Application for Reemployment in a timely manner:

a. For service of less than one month, the employee must apply for reinstatement no later than the beginning of the first full regularly scheduled work period that starts at least 8 hours after return from military service.

b. For service of more than one month but fewer than six months, the employee must apply for reinstatement not later than 14 days after release from active service.

c. For service of more than six months, the employee must apply for reinstatement not later than 90 days after release from active service. Failure to provide notice does not mean that an individual forfeits his or her rights. Rather, it subjects the individual to the employer's conduct rules, established policies, and general practices.

d. The individual must provide documentation of a discharge, or release from duty, under honorable conditions.