

# OWENS COMMUNITY COLLEGE PROCEDURES

## Military leave

**Board Policy No.: 3358:11-5-47**

The Uniformed Services Employment & Reemployment Rights Act (USERRA) was established by the Federal Government to protect civilian job rights and benefits for veterans and members of military reserve units. USERRA applies to all public and private employers, regardless of size, and to all eligible employees, regardless of position. Its primary purpose is to assist employees with a smooth re-entry into the workforce after up to five years of voluntary or involuntary "service in the uniformed services."

### **PROCEDURE:**

#### Requesting a Military Leave:

An employee called to duty or volunteering for military duty is required to complete a "Time Off Request" form and submit it to the Human Resources office as soon as orders are received. The employee will:

1. Complete the form in its entirety
2. Check the box next to Military 600
3. Follow general steps for completing the "Time Off Request" form
4. Attach military orders to "Time Off Request" form
5. Submit to Supervisor for approval
6. Forward to Human Resources

#### Eligibility:

##### (A) Persons subject to reinstatement rights:

- (1) Individuals enlisting in the armed forces of the United States for a four-year term or five-year term, if such additional year is at the request and for the convenience of the federal government (plus in each case any additional period of service imposed pursuant to the law) upon honorable discharge.
- (2) Individuals entering upon active duty (other than for the purpose of determining physical fitness and other than for training) in the armed forces of the United States or the public health service in response to an order or call to active duty in the case of persons inducted under the provisions of the Military Select Service Act (or prior or subsequent legislation providing for involuntary induction of persons into the armed forces) if the total of any such active duty, additional or otherwise does not exceed four years (plus any additional period in which such person was unable to obtain orders relieving such person from active duty) upon relief from duty under honorable conditions.
- (3) Any member of a reserve component of the armed forces of the United States who enters upon active duty (other than for the purpose of determining physical fitness and other than for training) or whose active duty is extended during a period when the U.S. President is authorized to order units of the ready reserves or members of a reserve component to active duty shall have the service limitation governing eligibility for reemployment rights under paragraph (B)(2) of this rule extended by such member's period of active duty, but not to exceed that period or active duty to which the U.S. President is authorized to order units of the ready reserve or members of a reserve component. With respect to a member who voluntarily enters upon active duty or whose active duty is voluntarily extended, the provisions of this policy apply only when such additional active duty is at the request and convenience of the federal government.
- (4) Any member of a reserve component of the armed forces of the United States who is ordered to an initial period of active duty for training of not less than twelve consecutive weeks or any member of a reserve component of the armed forces of the United States who is ordered to active duty for not more than ninety days upon satisfactory completion of such training or service.

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(B) Benefits Rights During Active Service

If an employee leaves his/her job to perform military service, he/she has the right to elect to continue existing employer-based health plan coverage for self and dependents while in the military.

Even if an employee does not elect to continue coverage during military service, he/she has the right to be reinstated in the Owens health plan when re-employed, generally without any waiting period or exclusions except for service-connected illnesses or injuries.

Election of Coverage: At the request of any employee who is called to active duty as described in (A) (1 through 4) above, or at the request of the spouse or dependent of such a person, Owens shall continue or reactivate the health, medical, hospital, dental, and surgical benefits coverage of the employee for the duration of the time the employee is on active duty. The employee, or the spouse or dependent of the employee, who requests the continuation or reactivation of the coverage and the employer are each liable for payment of the same costs for the coverage as if the person were not on a leave of absence. Written notice of the election to continue healthcare coverage must be provided to the Benefits Administrator.

Reinstatement. Employees who do not elect continuation coverage must be reinstated to coverage immediately upon re-employment, without the imposition of exclusions or waiting periods. Employees may be allowed to delay reinstatement until a date later than the employment start date.

(C) Reinstatement rights

(1) An individual identified in paragraphs (A)(1) through (A)(3) of this rule, shall apply for reinstatement within ninety days after being relieved of service and the individuals identified in paragraph (A)(4) of this rule shall apply for reinstatement within thirty-one days after release from active duty or training.

(2) An individual will be reinstated to his/her previous position or to a position of like seniority, status, and pay if still qualified to perform the duties of the position; or if not so qualified by reason of disability sustained during service, but qualified to perform the duties of another position, will be offered employment upon request as will provide such individual like seniority, status, and pay, or the nearest approximation thereof consistent with the individual's circumstances.

(3) An individual will be considered as having been on a leave of absence during service or training and will be re-employed without loss of seniority and shall be entitled to participate in insurance and other benefits offered to employees on leaves of absence in effect at the time of induction or activation.

(D) Short-term training leave Any individual not covered by paragraph (A)(4) of this rule shall, upon request, be granted a leave of absence for the period required to perform active duty or training in the armed forces of the United States. Upon release from such active duty or training such individual may return to the position of employment with such seniority, status, pay, and vacation as the employee would have had if such employee had not been absent for such purposes. Such employees shall report for work at the beginning of the next regularly scheduled working period following return from such service or training.

(E) Nondiscrimination No person shall be denied hiring, retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a reserve component of the armed forces.

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- (F) Delay in reinstatement due to hospitalization An individual who is delayed in making application for re-employment as a result of hospitalization arising out of military service or training are entitled to make application for reinstatement beyond the period specified in paragraph (C) of this rule. However, such applications for reinstatement must be filed within the period of time specified in 38 U.S.C., Sections 2021 et seq.
- (G) Compensation during leaves. Employees who are members of the Ohio national guard, the Ohio military reserve, the Ohio naval militia or members of other reserve components of the armed forces of the United States are entitled to leaves of absence from their duties without loss of pay for periods spent in military service, training or active duty for periods not exceeding thirty-one days in any one calendar year. Compensation under this paragraph shall be computed based upon a forty-hour week.

Employees who are called to active duty as a result of a Presidential Executive Order or an Act of Congress for a period in excess of 31 days are entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the difference between the employee's regular full-time gross monthly wage or salary and the sum of the employee's gross uniformed pay and allowances received that month. Medicare, federal, state, municipal and school district income tax and attachments should be withheld as applicable. However, no deductions are made for retirement systems, union dues, fair share fees or voluntary deductions.

No employee shall receive payments if the sum of the employee's gross uniformed pay and allowances received in a pay period exceeds the employee's regular full-time gross wage or salary for that period.

This procedure conforms to the policy as approved by the Board of Trustees on June 12, 2007, and as filed with the State of Ohio Electronic Rule Filing with the policy effective date of July 13, 2007.

These procedures were developed and implemented by the Vice President of Human Resources and Administration and last updated in accordance with legal compliance and current practice, 9-1-15.