Texas Christian University Policy

Policy Title: Employment Separation and Position Modification
Policy Subject: Workforce Management
Division: Human Resources
Policy Number: 2.090

I. Applicability
This policy applies to all regular full- and part-time employees, including faculty and staff, unless otherwise specified.

II. Policy Statement and Purpose
To provide guidelines and policy by which the employee and employer relationship is modified or terminated.

III. Policy Definitions

A. Continuous Service – Employment at TCU in a benefits-eligible (.75 FTE or greater) position absent any break in service.

B. Full-Time Equivalent (FTE) – A unit of measurement that describes a position’s workload in a manner that makes workloads across the University comparable. The workload that qualifies as “full-time” varies by position. The regular workweek for a full-time employee at TCU is generally 40 hours. A full-time employee’s “Full-time Equivalent” (FTE) is represented as 1.0 in this data field; and an employee who works half-time is represented as 0.5.

C. Furlough – A temporary reduction in regular hours/schedule, base salary, terms and conditions of employment based on operational necessity with the expectation of restoring employment in the future.

D. Layoff – A temporary suspension of employment of an employee or a group of employees.

E. Position Elimination – An elimination of a single position with no intent to reinstate, permanently reducing the University headcount.
F. **Reduction in Force (RIF)** – A reduction of more than one regular full- and part-time positions wherein the positions are eliminated with no intent to reinstate, permanently reducing the University headcount. A Layoff may become a RIF.

G. **Retirement Eligible** – An employee who is eligible to retire and to continue participation in specified health benefit programs during their retirement. See current criteria for retirement (e.g., Rule of 75) under the [Policy 2.030 Retirement](#).

H. **Separation** – An employee’s departure from a job, which ends their paid compensation on their last day of work and benefits, as applicable.

### IV. Employment Separation and Position Modification

A. **Employment-at-will** – The State of Texas is an “employment at will” state. As such, absent a statute or an express agreement to the contrary, either party in an employment relationship may modify the terms or conditions of employment, or terminate the relationship altogether, for any reason or no particular reason, with or without advance notice. No part of this policy alters the at-will employment relationship or creates a contract, express or implied, between any staff or faculty member and Texas Christian University.

B. **No Amendment to Faculty Policies.** This policy does not amend or diminish policies published in the Faculty and Staff Handbook governing the termination of tenured faculty, the termination of probationary faculty during a contract period, the notice required in decisions whether to reappoint probationary faculty, or terminations of tenured faculty associated with the elimination or severe reduction of an academic program.

C. **Retirement.** An employee who meets the University’s current criteria for retirement (e.g., Rule of 75) under the [Policy 2.030 – Retirement](#) and who wishes to receive TCU Retiree Benefits upon Separation may elect to retire upon Separation. Employees who are eligible for TCU Retiree Benefits upon Separation should coordinate benefits through Human Resources. Due to benefit conversion timing (e.g., transition to Medicare and Social Security Benefits), it is recommended employees schedule their retirement date at least 90-days for staff and 12-months for faculty prior to their planned retirement date.

D. **Separation from Employment** – There are five (5) employment separation categories: voluntary, involuntary, pre-defined employment, University reorganization, and death. Following are the procedures for each employment separation type, including the eligibility for reemployment and benefits-eligibility of impacted employees. Additionally, this policy addresses involuntary reductions of appointment percentages – full-time equivalents (FTE) – when such reductions affect employees’ benefits. Employees are encouraged to contact Human Resources, which has reference materials for both employees and supervisors related to employment separation.
1. **Voluntary Separation.**

   a. **Voluntary Resignation** – When an employee willingly decides to leave the University, the employee shall notify their immediate supervisor with adequate notice in writing prior to the employee’s last day of employment, and in return, the supervisor should accept the resignation in writing. The best practice is for TCU employees who are not eligible for retirement to provide adequate notice prior to their last day of work in their role. A minimum notice of two weeks for most non-exempt staff positions and 30 days for most exempt staff positions is expected. A minimum notice for teaching faculty is at the earliest possible opportunity, but normally not later than 30 days prior to the end of the academic year. If an employee does not provide adequate notice, they may be ineligible for rehire. Once notice of resignation is received, the University reserves the right to modify the last working day and accept an employee’s notice immediately or at any time during the notice period.

   Voluntary Resignations also occur when:

   - An employee abandons or leaves the work location without notice.
   - An employee is absent for three (3) consecutive scheduled days without appropriate notification, except when circumstances preclude giving notice. Consecutive days do not include non-scheduled days, e.g., holidays and weekends. In these situations, the University will make a reasonable attempt to contact the employee before determining that the employee has voluntarily resigned.
   - An employee fails to return to work following an authorized leave of absence.

   b. **Voluntary Incentive Retirement (VIR) Program** – Periodically TCU may offer a voluntary incentive program to assist eligible employees with reaching their retirement goals and provide workforce reduction for the university. Details and criteria for participation in the TCU VIR Program are provided during the program-offering period.

2. **Involuntary Separation** – Outlined below are defined circumstances and guidelines for involuntary employment separation. A supervisor must consult with Human Resources and have authorization by the applicable Vice Chancellor/division head before the University involuntarily separates an employee. Additional policies and procedures apply to the involuntary separation of tenured faculty. Following are the potential circumstances of involuntary separation, as well as guidelines under which separation benefits may be considered.

   a. **Involuntary Separations That Do Not Result From Corrective Action** – In most circumstances, involuntary separations are the result of
corrective action. In the following circumstances, however, corrective action is not required:
  • If an employee’s position is eliminated through a University Reorganization as defined below. This does not apply to tenured faculty.
  • If an employee has exhausted all leave options or is ineligible for additional leave and is unable to return to work.

b. **Involuntary Separations Resulting From Corrective Action** – An employee may be involuntarily separated if an employee’s performance/behavior does not improve through progressive counseling procedures as defined by the Division of Human Resources or if the University determines the employee’s conduct is extraordinarily severe, malicious or blatantly unacceptable (see Human Resources site – Employee Relations). Additional policies and procedures may apply for the separation of a tenured faculty member or a faculty member during the term of an employment contract.

c. **Expired Authorized Employment Documents** – An employee may be involuntarily separated if a new employee is not able to present acceptable documentation that demonstrates the employee is eligible to work after the employee’s third day of employment or if any employee’s work authorization documents expire.

3. **Pre-defined Employment Separation.**

   a. **Completion of Term Appointment** – Specific positions (e.g., visiting lecturers, adjunct positions, fellowships, internships, and post-doctoral positions) may be designated as term appointments within an established agreement. Employees hired for a term appointment will be separated from the University as of the specified end date unless the supervisor notifies the employee in writing that the appointment will be extended and a new end date is determined.

   b. **Expiration of Contract** – Faculty employees as well as certain administrators and coaches, as designated by the Chancellor (or designee), are hired on periodic employment agreements. A separation may occur at the end of a periodic employment agreement if the employee or the University elects not to renew the employment agreement. Terms, conditions, and notification requirements for employees hired under written employment agreements may be outlined within the fully-executed contract. For some faculty positions, obligations or notice requirements with respect to decisions whether or not to offer reappointments or renewals are outlined within TCU’s policies that define expectations of continued employment for faculty with tenure or that define notice
requirements for decisions not to renew a probationary faculty appointment.

c. **Grant/Externally-funded** – Some positions are funded by external source(s), and a separation may occur when the external funding ceases or is depleted. When funding is extended beyond the initial date or amount, employment under the external funds/grant may also be extended. However, employment as a TCU employee is at-will and may be terminated by either the employee or the University at any time regardless of the funding end date.

4. **University Reorganization** – TCU continuously and strategically strives to provide a stable and rewarding work environment. This requires the University to have flexibility in responding to changing financial conditions and in capturing organizational efficiencies. Responding to these changes may include reorganizing or restructuring departments/units, creating or eliminating non-tenured faculty or staff positions, or implementing other changes to meet strategic and operational needs.

   a. **Voluntary Reduction in Hours** – An employee may request to voluntarily reduce the employee’s hours in exchange for reduced salary and benefits. This arrangement may be temporary or ongoing, and supervisors should assess the business needs of the department and discuss with Human Resources and their Vice Chancellor/division head prior to making commitments. The reduction only applies to the current position at the time of the approved reduction. If the employee changes positions within TCU (e.g., department transfer), any reduction in hours will not carry over to the new position.

   b. **Position Elimination** – TCU may eliminate a single position when: a) the functions performed become obsolete; b) during an economic downturn; c) as a part of implementing an operational improvement or modification; d) because of lack of work or funding; or, e) as a part of a reorganization to realize an operational efficiency. An eliminated position may not be backfilled for at least 12-months. Temporary positions can be included when considering position reduction. A supervisor must have authorization by the appropriate Vice Chancellor or designee; and, then consult with Human Resources prior to communicating any position elimination with the employee.

   c. **Layoff** – Employee Layoffs may occur when there is not enough work to perform or a task/project is eliminated or completed. If the University anticipates that the need to reduce the workforce is only temporary, then it may institute a Layoff. If the need to reduce the workforce becomes permanent, then a Layoff may become a Reduction in Force. Should work resume, the University may recall the employee. During the layoff period,
employees may use accrued vacation leave, if any. If a supervisor is considering a Layoff, the supervisor should consult Human Resources and any Layoff Procedure in effect at the time.

**Failure to Return** – if upon recall (when the Layoff ends) an employee fails to return to work, such failure is considered Voluntary Resignation as outlined above. For information applicable to your individual situation, contact Human Resources.

Accepting temporary or casual employment, inside or outside of the university, will not affect the layoff period.

d. **Furlough** – An alternative to a Layoff, the University may reduce standard, routine work hours (and subsequent base wages) or require employees to engage in unpaid time off for a defined period. When an employee is furloughed, the employee is not working or performing job duties during the employee’s shift or furlough period. This includes not taking calls or responding to emails. University employees and supervisors are expected to work together to develop plans to ensure continuity of university operations while any furloughs are in place, including redistributing or removing certain duties as needed. Supervisors may work with Human Resources for assistance in evaluating the impact of furlough periods to a unit’s operations. If a supervisor is considering a Furlough, the supervisor should consult Human Resources and any Furlough Procedure in effect at the time.

**Failure to Return** – If an employee fails to return to work when the furlough program ends, such failure is considered Voluntary Resignation as outlined above. For information applicable to your individual situation, contact Human Resources.

Accepting temporary or casual employment, inside or outside of the university, will not affect the furlough period.

e. **Reduction in Force (RIF)** – An employee may be involuntarily separated from employment when the employee’s position is eliminated as a part of a RIF. A Layoff may become a RIF when necessary, or the University may determine the need to immediately reduce its workforce. A reduction in force may require compliance with the federal Worker Adjustment Retraining and Notification (WARN) Act. If the University is considering a RIF that may lead to the elimination of a tenured faculty position, then the University must also comply with Section V of the University’s Tenure Policy, “Termination Procedures in the Event of Elimination or Severe Reduction of an Academic Program.”

f. When a department or division determines there may be a need for a RIF, the supervisor must contact Human Resources, who will guide the
department in assessing options and developing a plan for implementation (RIF Plan). Planning is based on the expectation that the duties of the eliminated positions are being permanently reassigned or will no longer be performed. If a supervisor is considering a RIF, the supervisor should consult Human Resources and any Reduction in Force procedure in effect at the time.

i. **Employee Notification** – The employee will be given at least 30 calendar days' advanced notice (the “Notice Period”) that the employee’s position is being eliminated. The Notice Period may be a working, non-working, or modified period at the discretion of the University. Affected employees whose Notice Period includes any non-working time will be compensated during this time.

ii. **Separation as a Part of a RIF** – All University benefits are discontinued at the end of the month in which the position elimination occurs. Accrued vacation and sick leave, as applicable, is paid in accordance with *Policies 6.001-Vacation Leave and 2.030 Retirement-Retirement*. Employees eligible to retire under the current requirements for retirement as outlined in the University’s *Policy 2.030-Retirement*, should coordinate benefits through Human Resources.

iii. **Exclusions from RIF Notice Period and/or RIF Separation Benefits**: The following positions are not entitled to RIF Notice Period:

- Employees with less than 6-months of service;
- Employees whose notice of separation was issued prior to the beginning of the Notice Period;
- Employees whose voluntary resignation, last day of employment was communicated prior to the Notice Period;
- Pre-defined employment positions, where the employment is limited to a specified period in writing within an established agreement at the time of hire.
- Grant or externally funded positions as well as positions that were funded 51% or more from sponsored projects (contract or grant-funded positions) at any time during the preceding 24 months (two years).
- Positions subject to seasonal layoffs/partial year schedules, if RIF occurs during the non-contract/employment months.
- Reduction in full-time equivalency (FTE) where the employee remains in either full or partial benefits-eligibility status. (However, a reduction in FTE that reduces the position to a non-benefits-eligible status is eligible for RIF provisions.).
Employee is reassigned to another position that allows the employee to remain in either full- or partial benefits-eligibility status. However, a reduction in FTE that reduces the position to a non-benefits-eligible status is eligible for RIF provisions.

TCU is transferring or contracting current work to an outside vendor, and TCU employee(s) performing that work are offered employment by that vendor.

iv. **RIF Separation Benefits** – Employees who separate from TCU under a RIF may be provided Separation Benefits. Separation Benefits may include but are not limited to separation pay, continuation of health insurance, or other benefits offered as a part of a RIF Plan.

v. **Acceptance of Another Position at TCU** – If an employee is offered and accepts a comparable position with TCU prior to the separation date, the employee is no longer eligible for separation benefits, and the separation agreement shall be voided. If the employee accepts a comparable position with TCU after the separation date, but prior to the expiration any separation benefits, the separation benefits will cease on the date of rehire with the university.

5. **Death** – Once the University receives notification of an employee’s passing, Human Resources will assist the department and immediate family members with identifying available resources and completing applicable paperwork. Employees who have trouble with the loss of a colleague are encouraged to contact the University’s Employee Assistance Program (EAP) and the Office of Religious and Spiritual Life for support.

V. **Enforcement**
Failure to comply with or violations of this policy are handled in accordance with applicable University policies and procedures; which may include disciplinary actions up to and including termination from the University.

VI. **Administrative Responsibility**
The Division of Human Resources is responsible for administering and interpreting this policy.

VII. **Policy History**
Issued: 06/05/2020

VIII. **Related Policies and Information**
A. Policy 2.030 – Retirement
B. Policy 2.070 – Code of Conduct
C. Policy 6.001 – Vacation Leave
D. Americans with Disabilities Act
E. WARN Act
F. Handbook for Texas Christian University Faculty and Staff
G. Layoff Procedure (request from Human Resources)
H. Reduction in Force Procedure (request from Human Resources)
I. Furlough Procedure (request from Human Resources)

IX. Appendix
There are no appendices to the policy.

X. Approved By and Approval Date
Approved by Chancellor’s Cabinet, 5/28/2020