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| <b>ADMINISTRATIVE DIVISION</b><br>HR Division of Human Resources       |   | <b>POLICY NUMBER</b><br>HR 1.57 |
| <b>POLICY TITLE</b><br>Separation from Employment and Break in Service |   |                                 |
| <b>SCOPE OF POLICY</b><br>USC System                                   | <b>DATE OF REVISION</b><br>January 31, 2019                 |                                 |
| <b>RESPONSIBLE OFFICER</b><br>Vice President for Human Resources       | <b>ADMINISTRATIVE OFFICE</b><br>Division of Human Resources |                                 |

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**PURPOSE**

The Separation from Employment and Break in Service Policy communicates to the employees of the University of South Carolina what actions constitute a separation or break in service.

**DEFINITIONS**

**Break in Service:** A break in service indicates an interruption in continuous State service. A break in service occurs when an eligible employee either (1) separates from State service; (2) moves from one State agency to another and is not employed by the receiving agency within 15 calendar days following the last day worked (or approved day of leave at the transferring agency); (3) remains on leave for a period of more than 12 months; (4) separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation; (5) involuntarily separates from State service and the agency's decision is upheld by the State Employee Grievance Committee or by the courts; or (6) moves from a full-time equivalent (FTE) position to a temporary, research grant, or time-limited position.

**Covered Employee:** A full-time or part-time employee occupying a part or all of an FTE position who has successfully completed the probationary period who has grievance rights.

**Date of Separation:** The day following the last day of work or approved pay status, such as annual leave or sick leave.

**Full-Time Equivalent (FTE):** A position authorized by the General Assembly which is expressed as a numerical value as a percentage of time in hours and of funds.

**Long Term Military Leave:** Leave granted to employees who have been, or shall be, commissioned, enlisted or selected for service in the Armed Forces of the United States and the requirements and regulations of the Armed Forces shall prevent their return to civil employment for a period of no less than 90 days but not more than 5 years. Such leave is protected by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

**Reclassification:** For classified positions, the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

**Reduction in Force:** the procedure used by the university to eliminate or reduce a portion of one or more filled FTE positions in one or more organizational units within the university due to budgetary limitations, shortage of work, organizational changes, outsourcing or privatization.

**Reinstatement:** The return of an employee to State service without a break in service.

**Research Grant Position (RGP):** A type of non-FTE position which is funded by federal grants, private foundation grants, research grants, medical school practice plans, individual private gifts, externally generated revenue for service testing agreements and grant generated revenue or a combination of these funding sources. RGP employees are not covered employees.

**Resignation:** Written or oral notification by an employee of relinquishment of employment.

**Separation:** Action initiated by either the university or the employee which ends the employment relationship.

**State Employee Grievance Committee:** The committee composed of State employees who are appointed by the Director of the Department of Administration and who conduct hearings involving appeals filed by covered employees.

**State Service:** Total employment defined in years, months, and days in which an employee has occupied an FTE position, including part-time service.

**Suspension:** An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

**Termination:** The action taken against an employee to separate the employee involuntarily from employment.

**Time-Limited (TL):** A full or part-time non-FTE position hired to fill a position with time-limited project funding approved or authorized by the appropriate State authority, and who is not a covered employee.

**Transfer:** the movement to a different agency of an employee from one position to another position, or the movement of a position from one agency to another.

## **POLICY STATEMENT**

The purpose of this policy is to describe the ways in which an employee may separate from employment with the University of South Carolina and to outline when a break in service occurs, pursuant to regulations of the Division of State Human Resources. This policy applies to all employees except temporary and student employees.

### **A. Separation**

#### **1. Voluntary Separations**

##### **a. Resignation**

- i. An employee who resigns is encouraged to submit the resignation in writing and to include the reason for resignation.
- ii. A resignation will be considered a prima facie voluntary resignation.
- iii. To the extent possible, employees should submit resignations to provide a minimum of two weeks' notice. For faculty who are engaged in administration, teaching or research, a minimum notice of 90 days is preferred.
- iv. An employee who resigns may not rescind a resignation unless the department head agrees to the rescission.
- v. An employee who resigns will not have the right to grieve through the University Grievance policy or to appeal to the State Employee Grievance Committee.

##### **b. Retirement**

- i. Retiring employees are encouraged to provide as much notice as possible to their supervisors.
- ii. The effective date of separation is the day following the last day of work or of approved pay status.

##### **c. Transfers**

- i. When an employee moves to another state agency and begins work with the

gaining agency within 15 calendar days from the date of the separation, the employee is considered to have transferred. A transfer to another state agency does not constitute a break in service unless the employee is not employed by the receiving agency within 15 calendar days following the last day worked (or approved leave at the transferring agency).

## 2. Involuntary Separations

### a. Termination

- i. Faculty or unclassified academic staff may be terminated for cause for disciplinary reasons or for substandard performance pursuant to the terms of the relevant faculty manual.
- ii. A department head or authorized supervisor may terminate a classified or unclassified non-academic employee for cause for disciplinary reasons or for substandard performance pursuant to university policy [HR 1.39 Disciplinary Action and Termination for Cause](#) or [HR 1.36 Performance Evaluation for Classified and Unclassified Non-Academic Staff](#).
- iii. RGP and TL employees are employed at will and may be terminated at any time with or without cause.
- iv. An employee who is terminated during the probationary period does not have the right to grieve the action through the University Grievance policy (see university policy [HR 1.42 Grievance](#)).
- v. A covered employee has the right to grieve a termination through the University Grievance policy (see university policy [HR 1.42 Grievance](#)). Covered employees have the right to appeal to the State Employee Grievance Committee after internal administrative procedures have been exhausted.
- vi. Internationals hired as H-1B employees must have the cost of return travel paid to their last country of residence abroad when terminated prior to the ending date of their H- 1B status with the University.

### b. Reduction in Force

For additional information see university policy [HR 1.45 Reduction in Force](#)

### c. Death

The effective date of separation is the day following the last day of work or of approved pay status.

## B. Break in service

A break in service has implications for annual leave, sick leave, any subsequent rehire, benefits eligibility, and continuous state service date. For additional information see university policies [HR 1.03 Annual Leave](#), [HR 1.06 Sick Leave](#), [HR 1.85 Research Grant and Time Limited Positions](#), and [HR 1.90 Job Reference and Background Checks](#).

An employee experiences a break in service when the employee:

1. Moves from the university to another state agency and is not employed with the receiving agency within 15 calendar days following the last day of work or approved pay status at the transferring agency.
2. Remains on leave for a period of more than 12 months.

Exceptions:

- a. The employee is on long term military leave with re-employment rights protected under Federal and/or State law.
  - b. The employee is participating in the Government Employees Interchange Program.
  - c. The employee is on disability leave without pay that has been extended by the Division of State Human Resources.
3. Separates from State service and is paid for unused annual leave.

Exception: When an employee moves from a position in which the employee earns both annual and sick leave to a position in which the employee only earns sick leave. All earned sick leave shall be transferred.

4. Separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated within State government within 12 months of the effective date of separation.
5. Involuntarily separates from State service and the university's decision is upheld by the State Employee Grievance Committee or by the courts.
6. Moves from an FTE position to a temporary, research grant, or time-limited position.

## **PROCEDURES**

- A. Units must notify the Division of Human Resources of all types of separations. If the separation action is not submitted by established payroll deadlines, the separating employee will continue to receive paychecks. The university will attempt to redress salary overpayments pursuant to university policy [FINA 6.01 Salary Overpayment](#), but all unrecovered salary overpayments are the responsibility of the unit.

- B. Supervisors are encouraged to follow best practices in receipt of a resignation providing written acceptance of a written resignation and following an oral acceptance of an oral resignation with written confirmation.
- C. Final salary payment will be made through the last day of work or approved pay status.
- D. The employee will be paid in a lump sum for unused annual leave subject to the maximum authorized in university policy [HR 1.03 Annual Leave](#) unless transferring to another State agency. In this case annual leave will be transferred.

Employees separating from the University are expected to complete an exit interview survey. The exit interview survey can be completed online and will be maintained by the Division of Human Resources.

- E. Additional information regarding separations and off boarding procedures is available through the Division of Human Resources website at <http://hr.sc.edu>.

**RELATED UNIVERSITY, STATE AND FEDERAL POLICIES**

- [Uniformed Services Employment and Reemployment Rights Act \(USERRA\)](#)
- [SC Code of Laws, Sections 8- 17-310 through 8- 17-370, State Employee Grievance and Procedure Act](#)
- [State Human Resources Regulations 19-719](#)
- [ACAF 1.06 Academic Titles for Faculty and Unclassified Academic Staff Positions](#)
- [ACAF 1.16 Non-Tenure Track Faculty](#)
- [FINA 6.01 Salary Overpayment.](#)
- [HR 1.03 Annual Leave](#)
- [HR 1.06 Sick Leave](#)
- [HR 1.36 Performance Evaluation for Classified and Unclassified Non-Academic Staff](#)
- [HR 1.39 Disciplinary Action and Termination for Cause](#)
- [HR 1.42 Grievance](#)
- [HR 1.45 Reduction in Force](#)
- [HR 1.85 Research Grant or Time Limited Positions](#)
- [HR 1.90 Background and Reference Checks](#)

**HISTORY OF REVISIONS**

| DATE OF REVISION | REASON FOR REVISION   |
|------------------|---|
| January 31, 2019 | Updated to the new format<br>Added section on break in service<br>Changed the definition of date of separation<br>Updated the names of organizational units |