

# Asheville-Buncombe Technical Community College (A-B Tech) Procedure

# Procedure 503.10: Separation from Employment and Furlough

## Voluntary Separation with Notice

Employees who voluntarily separate from employment with the College are expected to give notice based on their employment category and classification, as shown below. The College reserves the right to accept the resignation as tendered, accept the resignation immediately or modify to meet the employee notification requirements set forth in this Procedure.

When minimum notice requirements are not furnished for other than exceptional circumstances as determined by the President or designee, the employee may be dismissed for failure to comply. Instructional personnel who terminate their employment prior to completion of their contract for other than valid reasons as determined by the President, may be considered as formally dismissed for breach of contract on the last day actually worked regardless of the effective date of the resignation. Notifications that exceed the employee notification requirements may be reduced with the approval of the Senior Administrator.

Employees who voluntarily separate from employment with the College within three months of their hire date from the position which they are resigning do not meet the minimum notice requirements.

Employees who voluntarily separate from employment immediately following a holiday or weekend will be considered to have separated on the last day they actually worked. If the holiday falls at the end of the month and the employee is in pay status through the last available workday, pay is received for the holiday.

## Employee Notification Requirements

In an effort to ensure that the College has enough time to process the separation of an employee, the College requests that employees give as much notice as possible. Otherwise, there may be a delay in any applicable payroll payouts and will impact TSERS retirement. At a minimum, the College expects notice requirements based on the job IPEDS classification (located on all job descriptions):

Full-Time Regular

* Executive, Administrative and Managerial: Four weeks
* Instructional Faculty: Nine- and 12-month faculty wishing to resign at the end of a fall semester must give notice by November 21. Nine- and 12-month faculty wishing to resign at the end of a spring semester must give notice by April 15. 12-month faculty wishing to resign at the end of a summer term must give notice by July 15*.*
* Continuing Education Faculty: Four weeks
* Professional Non-Faculty: Four weeks
* Clerical: Three weeks
* Technical and Paraprofessional: Three weeks
* Skilled Crafts: Three weeks
* Service/Maintenance: Three weeks

Part-Time Regular

* All Positions: Two weeks

Time-Limited/Adjuncts:

* All Positions: Two weeks
* Student: N/A

## Procedures for Full-Time Employee Separations

Employee: Provides a letter of resignation to the immediate supervisor stating the reason for separation and request for release from contract, if applicable, specifying the proposed separation date. In certain circumstances, a verbal resignation will be accepted.

Immediate Supervisor: Forwards the resignation letter through supervisory channels to the Senior Administrator of the division. In the event of a verbal resignation, immediate supervisor will create a written account of the verbal resignation and forward through the supervisory channels.

Senior Administrator: Confers with the President to determine if the resignation is accepted as tendered, accepted immediately, or if modification is necessary. The Senior Administrator forwards the resignation letter with approvals to Human Resources to trigger the exit process.

## Human Resources (HR):

* Forwards the “exit email” to the separating employee to provide leave balance information and identify anticipated use of leave prior to the last day of work, if applicable.
* Prepares an online Personnel Action Form (PAF) and forwards it for approval to the Human Resources Director and all supervisory levels up to the President.
* Upon notification that all approvals are accomplished, HR completes separation recordkeeping and sends PAF notifications to appropriate departments (e.g., IT, Payroll, Library, Security and the employees’ department). The PAF notification includes the employee’s separation date and pertinent information/instructions for the applicable department.
* Schedules an exit interview to solicit workplace feedback and a benefits meeting to provide benefits information and complete applicable forms with the separating employee.

## Procedures for Adjunct Instructors, Part-Time Limited Employees, Part-Time Regular Employee Separations

Employee: Provides a letter of resignation to the immediate supervisor stating the reason for separation and specifying the proposed separation date. In certain circumstances, a verbal resignation will be accepted.

Immediate Supervisor: Forwards the resignation letter through supervisory channels to the Senior Administrator of the division. In the event of a verbal resignation, immediate supervisor will create a written account of the verbal resignation and forward through the supervisory channels.

Senior Administrator: Determines if the resignation is accepted as tendered, accepted immediately, or request for modification is necessary. Forwards the resignation letter with approvals to Human Resources. The Senior Administrator notifies the immediate supervisor of the approval to proceed with the PAF process.

Immediate Supervisor: Prepares an online Personnel Action Form (PAF) and forwards it for approval to all supervisory levels up to the Senior Administrator.

Human Resources: Upon notification that all approvals are accomplished, completes separation recordkeeping and sends PAF notifications to appropriate departments (e.g., IT, Payroll, Library, Security and the employees’ department). The PAF notification includes the employee’s end date and pertinent information/instructions for the applicable department.

## Retirement

Employees interested in retirement should contact the Benefits Specialist at least 120 days before the expected retirement date. A Retirement Checklist that shows the retirement activities and timelines is available upon request. In addition to filing the required State retirement paperwork, retiring employees must also notify their supervisor of their intent to separate from employment by following the voluntary separation notice requirements.

### Voluntary Separations without Notice

Unless there are extenuating circumstances, when an employee fails to report to work, walks off the job, and/or does not return to work from an approved leave as scheduled, without acceptable notice to, and approval by, the College, the employee may be considered to have abandoned his or her job. As a result, the employee may be immediately subject to disciplinary action and/or immediately separated from employment as a Voluntary Separation without Notice.

An employee may also be voluntarily separated from employment when the employee and the College are unable to reach agreement on a return-to-work arrangement that meets both the needs of the College and the employee’s condition when:

1. The employee remains unavailable to return-to-work after utilizing all applicable leave benefits, if the employee is unable to return to all of the position’s essential duties as set forth in the employee’s job description or designated work schedule due to a medical condition or the vagueness of a medical provider’s prognosis; or
2. Notwithstanding any unexhausted applicable leave benefits, the employee is unable to return to all of the position’s essential duties as set forth in the employee’s job description or designated work schedule due to a court order, due to a loss of required credentials, due to a loss of other required certification, or due to other extenuating circumstances that renders the employee unable to perform the position’s essential duties as set forth in the employee’s job description or designated work schedule.

## Involuntary Separations/Dismissal of Full-Time Regular Contracted Employees

In the event a full-time regular employee is recommended for dismissal during the contract period, the Employee Due Process, Policy 509.02, may be utilized by the employee to request an appeal.

## Non-Renewal of Contract for Full-Time Regular Employees

Involuntary separations due to non-renewal of contract are not eligible for Due Process under Policy 509.02.

The decision not to renew the contract of a full-time regular employee will be made by the College President following a recommendation from the employee’s immediate supervisor and any intermediate supervisors including the applicable Senior Administrator. The employee shall be notified at least thirty calendar days prior to the effective date of separation.

An employee who believes that involuntary separation was based on a discriminatory reason(s), should follow the reporting process identified in Procedure 111 Non-Discrimination and Harassment. Such a report will prompt an investigation by the Human Resources and Organizational Development Division. The President may elect to place the employee on leave with or without pay status pending the final outcome of any such investigation.

## Involuntary Separation of At-Will Employees

At-will employees are not covered by Policy 509.02 Employee Due Process.

The decision to terminate the employment of an at-will employee (non-student) will be made by the College President following a recommendation from the employee’s immediate supervisor and any intermediate supervisors up to the Senior Administrator. The employee shall be notified at least ten (10) business days prior to the effective date of separation; however, the President may elect to end employment immediately and pay the employee for no more than ten (10) business days beyond the last actual day worked.

The decision to involuntarily separate a student employee has been delegated to the applicable second level supervisor following a recommendation from the immediate supervisor. No notice is required.

An at-will employee who believes that involuntary separation was based on an unlawful reason(s), should follow the reporting process identified in Policy 509.03, Grievance and Reporting. Such a report will prompt an investigation by the Human Resources and Organizational Development Division.

## Reduction in Force / Furlough

### Process and Procedure

If the President decides that 1) a state of financial exigency exists or is imminent or a program change has occurred or should seriously be considered, and 2) separation of the employment or furlough of one or more employees may be an advisable consequence of either circumstance, the President shall prepare a statement for the Board of Trustees outlining in terms as specific as the circumstances permit the options for response and a recommendation for action.

If the reason involves a state of financial exigency, the Board will meet as soon as possible consistent with the requirements contained in the Board Constitution after receiving the President's statement to determine if, in view of all available information and options, it should take action that involves separation or furlough. If the reason involves a program change, the Board will meet within two weeks of receiving the President’s statement. In either case, if the Board adopts action resulting in separation or furlough, it shall 1) designate the particular areas of College operation in which it thinks separation or furlough should be affected, and 2) set forth the criteria for the President to use in selecting employees for separation of employment or furlough guided by the general criteria included below. The President will determine which of the employees will be impacted. In selecting employees for separation or furlough, the primary consideration shall be the maintenance of a sound educational program faithful to the College’s vision, mission, and values. The President will consider relevant factors when considering a reduction in force or furlough, which may include but are not limited to:

* Written recommendations regarding staffing needs from supervisors.
* Specific and overall program enrollment history and needs.
* Source of available funds and applicable restrictions.
* Other beneficial service by an employee to the College.
* Length of service in the North Carolina Community College System with a higher priority being given to the length of service for the College; and employee performance evaluations.

The above factors are not listed in any particular order or rank. In addition, the state legislature may require or recommend a different course of action.

Full-time limited, part-time employees, and/or adjunct faculty may be terminated first; however, maintaining the quality of instruction in certain programs may require using adjunct faculty while terminating full-time regular employees. Efforts to retain full-time employees may require split shifts or other accommodations on the part of the employee. Consideration shall be given to 1) the nature and extent of the program change and/or financial exigency, and 2) the quality of each employee's performance, as well as other factors that the Board of Trustees and President deem pertinent and applicable.

The President may recommend, and the Board may approve, an across-the-board furlough applicable to College employees on specific workdays with the President being authorized to maintain minimal personnel on duty and in pay status during such leave days for the protection of College property, as deemed necessary by the President. Such furlough days shall be designated by the President in the school calendar with reasonable advanced notice to employees and students.

## Notice for Reduction in Force/Involuntary Separation/Furlough

Following the Board's action, the President shall cause written notice of separation or furlough to be sent by College email to each affected employee. The notice shall include 1) a statement of the conditions requiring separation of employment or furlough, 2) a general description of the procedures followed in making the decision, and 3) a copy of this procedure. The employee’s College email address will be used for notification. It is the employee's responsibility to check their College email. In the event that an employee does not have a College email address, the notice may be sent by certified mail, return receipt requested. It is the employee's responsibility to ensure that their mailing address is correct in College records.

When a separation from employment is based on program change that is unrelated to financial exigency, a full-time employee on contract shall be given no less than 30 calendar days prior notice and a part-time employee covered by this policy shall be given no less than 15 calendar days prior notice. Such notice requirements apply only to separation effective during the contract period inasmuch as the College does not offer continuing contracts or tenure.

When the separation or furlough is based on financial exigency, the Board will make every reasonable effort, consistent with the need to maintain sound educational programs and within the limit of available resources, to give not less than 15 calendar days prior notice to full or part-time employees covered by this policy before terminating employment or the first day of the furlough during the contract period. If it is not possible to comply with this notice requirement, the employee shall be given as much notice as possible under the circumstances of the financial exigency.

## Request for Hearing

If the Board approves an across-the board furlough under this Policy, there shall be no employee right of appeal.

Within five (5) business days after receiving a notice of reduction in force separation a full-time regular contracted employee may request a review of the action by the Board of Trustees. This request must be in writing and submitted to the Chair of the Board of Trustees through the Board Secretary. The written notice must specify the grounds on which it is contended that the decision was arbitrary, capricious, discriminatory, or a violation of this policy and must include a short, plain statement of the facts that the employee believes supports the contention. Review may be held solely to determine whether the decision to terminate was arbitrary or capricious with respect to the employee. The hearing shall be conducted informally and privately with only the members of the Board, the employee, the President, and such witnesses as may be called in attendance, except that the employee, the Trustees, and the President may each be accompanied by person(s) who may give counsel but may not participate directly in this hearing.

Notwithstanding the foregoing, legal counsel representing the Board of Trustees shall act as a procedural officer during the hearing and give advice to the presiding Trustee regarding necessary rulings and matters of due process. The Board of Trustees will establish hearing procedures consistent with applicable legal requirements and it will inform the employee of these procedures upon receiving the written request for hearing.

## Continuation of Health Insurance

Contingent on approval, if an employee is separated and has at least twelve (12) months of service and is terminated in accordance with this Policy due to a financial exigency, the employee may retain health insurance coverage for up to twelve (12) months. The College shall continue to pay the employer portion of the cost of health insurance coverage for twelve (12) months, but the employee must continue to pay the employee portion of the cost of coverage. A former employee covered by this section shall lose eligibility if the former employee is provided health insurance coverage on a non-contributory basis by a subsequent employer. This Policy does not limit any other right of the employee to extend health coverage at their cost and expense as provided by applicable law.

## College Property and Separating Employees

Human Resources will work with each supervisor to ensure that a plan is in place for returning all A-B Tech property including but not limited to:

* + Computer equipment must be returned to IT.
  + College phones must be returned to IT.
  + College issued uniforms.
  + P-Cards shall be surrendered to the P-Card Coordinator and all purchasing information must be verified through BOA Works.
  + Building keys must be returned to Campus Police.
  + ID Cards must be returned to Campus Police.

Failure to return any property may result in payroll deduction equal to the amount of unreturned College property.

## Separating Employees and Rehire Eligibility

The College has the right to mark any employee as “ineligible for rehire” in the personnel file based upon the recommendation from the Senior Administrator and the Vice President of Human Resources & Organizational Development for any reason including, but not limited to; Failure to comply with College policies and procedures, past or current disciplinary actions, failure to fulfill employment agreement, involuntary separations or dismissals, and/or failure to return College property. This decision creates no right of grievance or appeal.

## Definitions:

Employment categories are defined in Policy 503.05.

Dismissal: An involuntary separation from employment of full-time regular employees under contract.

Non-renewal of Contract: An involuntary separation from employment that occurs for a contracted employee upon the conclusion of the current contract period. Non-renewal of contract and a reduction in pay in a future contract are not subject to the Employee Due Process Policy.

Reduction in Force: An involuntary separation from employment during a contract period as a result of financial exigency or program change.

Furlough: An involuntary leave without pay occasioned by a reduction in the number of paid workdays occurring during employment.

Financial Exigency: Any decrease in the College’s financial resources that are brought about by decrease in enrollment, decrease in funding from any source (federal, state, local, institutional, etc.) or by other action or events requiring the immediate expenditure or diversion of College resources that prevent or inhibit the College’s ability to continue the employment or level of the employee’s compensation or a class of employees and cause a need for reduction in force.

Program Change: This term refers to any elimination, curtailment, or reorganization of an educational offering or support department which may or may not be related to a financial exigency.

### Separation Date: The last day of work or the day of death shall be the separation date, except in the following cases:

* If an employee is exhausting vacation leave prior to retirement or a Reduction in Force, the separation date shall be the ending date of leave.
* If an employee is exhausting sick/vacation leave for medical reasons, the separation date could be the ending date of leave. This is subject to the approval of the Executive Director of Human Resources and Organizational Development.

Pursuant to Board Policy 503.10, the Separation from Employment procedure must be followed when employees voluntarily or involuntarily separate from the College.

Owner: Vice President, Human Resources and Organizational Development, x 7178

Updated: June 22, 2022