

# Separation from Employment Policy

**Subject:** University Human Resources

**Policy:** Separation from Employment

**Effective Date:** January 1, 2019

**Revised:**

**Review Date:** Three (3) years from the Effective Date above

**Responsible Party:** University Human Resources

**Applicability:** This policy applies to employees as specified in the policy

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## 1. RESIGNATION

a. Release from Contract/Notice of Intended Resignation.

Employees who are appointed on a Board of Regents Contract, MUS Contract, or Letter of Appointment are expected to complete the contracted term of appointment. However, if there are extenuating circumstances requiring an earlier resignation from employment, an employee may request permission to resign before the end of the contract term. If an employee requests permission to be released from their contract, the employee should provide as much notice as possible, preferably at least one (1) month.

Classified employees may resign at any time but are expected to provide at least two (2) weeks' notice.

b. Letter of Resignation.

An employee resigning from employment must submit a letter of resignation with the requested effective date of resignation to their immediate supervisor, even if the employee has given verbal notice to the supervisor.

Upon receipt of a letter of resignation, the department will process the termination using procedures established by University Human Resources. A [termination processing checklist](#) must be completed.

If for any reason a letter of resignation cannot be obtained, the department may contact University Human Resources to discuss alternative processes for termination of any employee who has left employment.

## 2. RETIREMENT

Employees separating from employment may elect to retire if eligible under their respective retirement program.

MSU offers a variety of retirement programs for its employees; however, each program is operated by entities that are not managed by MSU or the Montana University System. Employees considering retirement may contact University Human Resources for information about retirement programs and the benefits that apply to retirees, however, University Human Resources cannot provide specific information about individual benefits. Employees considering retirement will need to contact their retirement program directly for any details related to their account and the process for initiating any retirement benefits.

Retirement is accomplished by submitting written notification to an employee's immediate supervisor indicating their decision to retire and the proposed effective date. The university provides [retirement resources](#) and a [Retirement Checklist](#) to assist retiring employees.

### **3. PROBATIONARY TERMINATION, NON-RENEWAL, AND CONTRACT EXPIRATION**

#### **a. Classified Employee Probationary Period Termination**

A classified employee in their probationary period may be released at any time during the probationary period. Because the probationary period is a trial period of employment which must be successfully completed before an employee is granted continuing status, an employment may be terminated at the will of either the employer or the employee on notice to the other for any reason or for no reason. See, [Section 39-2-904\(2\)\(a\), MCA](#). For classified employees not covered by a [collective bargaining agreement](#), the probationary period is six (6) months and may be extended for an additional three (3) months upon approval of University Human Resources.

The employing department considering releasing a probationary employee must contact University Human Resources for approval before any action is initiated.

#### **b. Non-Tenurable Faculty on Letters of Appointment**

All non-tenurable faculty, including Research Faculty, NTT Faculty, and Adjunct Faculty, are employed on a Letter of Appointment for a limited term. The period of employment is stated on the Letter of Appointment. The employee's employment expires at the end of the appointment period without any further notice and with no further right of employment.

The decision to offer an additional contract of employment rests solely with the discretion of the university. No notice of non-renewal is legally required, but notice can be provided to allow the employee opportunity to prepare for the future.

Non-tenurable faculty may be terminated for cause before the end of their appointment term and as specified in the terms of the Letter of Appointment (e.g., lack of funding).

#### **c. Tenurable and Tenured Faculty**

Faculty who are appointed to a tenurable position are appointed on MUS contracts. Reappointment of tenurable faculty from year to year shall be at the discretion of the university. If the university determines not to reappoint a faculty member, notice of non-

renewal shall be provided as required by [BOR Policy 706.1](#). Faculty who have attained tenure “have the right to reappointment from appointment term to appointment term until such time as the faculty member resigns, retires, is discharged for adequate cause, or is terminated for reasons of financial exigency or program reduction, curtailment, or discontinuance.” [BOR Policy 706.1](#)

d. Contract Employees-Non-Faculty

Contract employees employed by a Letter of Appointment are employed for a limited term beyond which there is no expectation of continued employment. The employment expires at the end of the contract term without any further notice and with no further right of employment. See [BOR Policy 711.1](#).

Contract employees employed by an MUS Contract serve for the contract term and may be provided notice of non-renewal as outlined in [BOR Policy 711.1](#). Any notice of non-renewal must be reviewed and approved by University Human Resources before issuance.

Any contract employee may be terminated for cause before the end of their contract term, or for such other reasons as may be specified in the terms of the Letter of Appointment or MUS Contract.

e. Administrators

Vice presidents, provost, vice provost, deans, assistant deans, directors, and department heads, “serve in those capacities at the discretion of the president and may be removed at any time” [BOR Policy 706.1.E](#). Tenured faculty members who are appointed to serve in these positions do not have tenured status as to the administrative position. Tenured faculty who are removed from the administrative position will remain tenured with the university and may return to faculty ranks as outlined in [BOR Policy 706.1.E.2](#)

f. Fixed-Term Classified Employees

Classified fixed-term employees are employed for a fixed period of time, not to exceed twelve (12) months. The employment automatically ends at the end of the fixed term. These appointments are not renewable. A classified fixed-term employee may be separated from employment during the fixed term by providing five (5) days’ notice to the employee.

#### **4. REDUCTION IN WORKFORCE**

There are occasions in which it becomes necessary to reduce the workforce because of reduction of funding, lack of work, reorganization, program reduction, curtailment, discontinuance, or other reasons.

a. Faculty

Faculty may be laid off because of a reduction in force as outlined in the [MSU Faculty Handbook](#) and [BOR Policy 710.2.1, Financial Exigency](#)

b. Contract Employees on MUS Contracts

MUS contracts may, and Letters of Appointment do, include a notation which makes employment contingent upon continuation of funding. If the anticipated funding is not forthcoming, an employee hired through a contract or letter of appointment with such notation may be laid off during the expected term of the contract upon fifteen (15) working days written notice. [BOR Policy 711.1.B.5](#)

If the notation is not a term of the MUS Contract, employees on MUS Contracts have the right to employment through the contract term. The contract may be discontinued by providing notice as required under [BOR Policy 711.1.D.2](#)

c. Classified Employees

i. *Layoff*: The university may layoff a classified employee for reasons including elimination of a position or a program, lack of work, lack of funds, expiration of grants, or reorganization. Departments contemplating a reduction in workforce affecting classified employees must contact University

Human Resources before initiating any personnel action. University Human Resources will guide the department to ensure compliance with all necessary laws, policies, and applicable [collective bargaining agreements](#) related to the reduction.

If it is necessary to implement a reduction in the workforce involving classified employees, employees will be retained based on a consideration of job functions, skill, and general job performance history. In determining skill, consideration should be given the following:

- Qualifications and experience necessary to perform the duties that will be retained;
- General qualifications and experience beneficial to future achievement of the department's goals and objectives; and
- Performance on specific tasks that will be retained.

If the skill and performance of two employees is considered to be equal, their length of service with MSU should be considered.

In no case will "bumping" be allowed. "Bumping" is the transfer of one employee to another classified position or another department that results in the incumbent of that position being laid off.

Written notice of layoff must be given at least thirty (30) calendar days in advance of the layoff date.

ii. *Recall*: If the university re-establishes a position from which a classified employee was laid off within one (1) year from the date of layoff, the classified employee has a right to be recalled to the position. If a classified employee is recalled within one (1) year from the layoff date, the employee will have reinstatement of prior service and will not be required to serve the qualifying period for sick leave and annual leave usage, or to serve a new probationary period.

iii. *Rehire*: A rehire occurs when a former classified employee is re-employed after a five-(5) day break in service, in a situation other than a recall. If an employee is laid off and rehired into a different position within one (1) year from date of layoff, the employee will have reinstatement of service and will not be required to serve the qualifying period for sick leave and annual leave usage. A new probationary period will be required.

## **5. RESPONSIBILITIES OF SEPARATING EMPLOYEE**

The separating employee must:

- a. Return all keys issued to the employee to Facilities Services by the last day of employment.
- b. Return any university property in the employee's possession.
- c. Pay all traffic fines at University Police and obtain a valid signature on the appropriate checklist verifying this has been done.
- d. Inform University Human Resources of any address changes as necessary to assure the university may issue the employee's W-2.
- e. Meet with University Human Resources to close out any Flexible Spending Plans, continue health insurance coverage through COBRA, and any other outstanding University Human Resources matters that need to be addressed before separation from the university.
- f. Pay any outstanding debts or other financial obligations, such as CatCard, library fines, parking fines, etc.
- g. Any employee serving as a Principal Investigator must notify the Office of Sponsored Programs of their separation from the university so appropriate actions can be taken to notify the sponsors and meet any remaining obligations related to the contract or grant.

## **6. TERMINATION OF EMPLOYMENT FOR CAUSE**

Tenurable and tenured faculty may be terminated for cause as set forth in the [MSU Faculty Handbook](#) and [BOR Policies](#).

All other employees who have completed their probationary period may only be discharged from employment for good cause. Good cause means reasonable job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reasons.

Expiration of a contract of employment or letter of appointment, or a decision not to renew a contract of employment or letter of appointment, is not a termination for cause.

Before any supervisor or department may terminate the employment of an employee for cause, the proposed termination must be reviewed and approved by University Human Resources to ensure compliance with statutes, policies, and, if applicable, the [collective bargaining agreement](#).

Prior to finalizing a proposed termination for cause, an employee will be offered a pre-termination meeting to give the employee an opportunity to respond to the reasons for termination of employment with an administrator or University Human Resources employee (other than the supervisor recommending discharge) prior to termination.

Employees who are terminated for cause have the right to grieve the action as specified in the [Employee Grievance Policy](#), the applicable [collective bargaining agreement](#), or the [MSU Faculty Handbook](#).

## **7. OTHER NON-DISCIPLINARY SEPARATIONS**

An employee may be terminated if the employee can no longer perform the essential functions of the position and no reasonable accommodation can be identified which would allow the employee to perform the essential functions. University Human Resources must be contacted in any case where there is a concern that an employee may not be able to perform the essential functions of the position.