

2.8 KCTCS Employee Separation

There are four (4) categories of separation of employment for KCTCS employees:

- Non-renewal of Appointment
- Termination
- Resignation
- Retirement

When an individual leaves employment, college human resources officers shall attempt to conduct an exit interview to discuss the reasons for leaving KCTCS. During the exit interview, the employee may provide insights into areas for improvement that KCTCS can make. Every attempt shall be made to keep all information confidential.

Any KCTCS property such as office or computer equipment, keys, parking passes or credit cards shall be returned to KCTCS at the time of separation. The employee shall be responsible for any lost or damaged items. The value of any property issued and not returned may be deducted from the employee's paycheck, and the employee may be required to sign a wage deduction authorization form for this purpose.

2.8.1 Non-Renewal of Appointment

Term contract employment shall end upon the expiration of the stated term as specified in the contract, without additional notice.

For *faculty initially appointed on or after July 1, 2005 who have tenure-track employment status*, notification of non-renewal of appointment shall be given at least ninety (90) calendar days before the period of appointment ends.

For *faculty initially appointed prior to July 1, 2005, with tenure-track employment status*, the notification of non-renewal for subsequent appointments shall be given as follows:

<u>Notification</u>	<u>Years of KCTCS Service</u>	<u>Deadline for of Non-Renewal</u>
First Year of Service		
Appointment that expires at the end of the current fiscal year		March 1.
Appointment that expires during the current fiscal year		3 months in advance of expiration of appointment.
Second Year of Service		
Appointment that expires at the end of the current fiscal year		December 15.

Appointment that expires during the current fiscal year	6 months in advance of expiration of appointment.
After the Second Year of Service	12 months in advance of expiration of appointment.

For faculty with tenure-track employment status in cases when the chief academic officer and a division chairperson's advice for reappointment for a specific term is rejected by the college president/ceo and a terminal reappointment is offered instead, the following procedure shall be employed. If the tenured members of the division faculty, the division chairperson, and the chief academic officer reaffirm their advice and so request by majority vote, the KCTCS Chancellor shall refer the matter to the KCTCS Senate Advisory Committee on Promotion (or an ad hoc advisory committee especially formed for the purpose). The committee in its deliberation will address itself to the potential of the individual as a faculty member in a college and the likelihood of an eventual tenured appointment, and shall submit a written recommendation to the KCTCS Chancellor. After considering the committee's report, the KCTCS Chancellor shall make a recommendation to the KCTCS President.

It is KCTCS policy not to provide written reasons in cases of non-renewal of appointment. However, upon the faculty member's request, the college president/ceo of the college may meet with the faculty member and discuss informally the circumstances surrounding the non-renewal. If the faculty member is not satisfied with this conference, the faculty member may further request a related conference with the KCTCS Chancellor. Any related appeals through administrative channels and/or the KCTCS Senate Advisory Committee on Appeals shall be initiated in writing by the faculty member within thirty (30) calendar days after being notified in writing by the college president/ceo about non-renewal of appointment.

2.8.2 Termination Procedures

Faculty or staff may be terminated in accordance with the reasons specified in KCTCS Board Policy 2.8-*KCTCS Employee Separation* using the following procedures:

A. Termination for Unsatisfactory Performance for Faculty with Tenured Employment

Status or Tenure-Track Employment Status

Dismissal of a *faculty member with tenured employment status or tenure-track employment status* before the end of a specified term of appointment shall be preceded by discussions between the faculty member and an appropriate administrative officer or officers looking toward a mutual resolution. In the event of failure to agree upon a resolution, the college president/ceo shall be responsible for the preparation of a written statement of charges and to submit it to the KCTCS Chancellor, who shall furnish it to

the faculty member, his/her supervisor, his/her chief academic officer, and the KCTCS Senate Advisory Committee on Appeals . The committee shall make an investigation for the purpose of attempting to reach a resolution and, in the case of failure, to recommend to the KCTCS Chancellor whether, in its opinion, dismissal proceedings ought to be undertaken. The recommendation shall not be binding upon the KCTCS Chancellor.

If the college president/ceo decides to dismiss the faculty member, the faculty member shall have the right to be heard by the KCTCS Senate Advisory Committee on Appeals.

The faculty member shall be informed in writing by the college president/ceo regarding specific charges at least twenty (20) calendar days prior to the hearing. At least seven (7) calendar days prior to the hearing, the faculty member shall answer the charges in writing. The faculty member may waive the hearing. If the faculty member waives the hearing but denies the charges or asserts that the charges do not support a finding of adequate cause, the hearing tribunal shall evaluate all available evidence and rest its recommendation upon the evidence in the record.

During the proceedings the faculty member may have an academic adviser or counsel of personal choice. At the request of either party or the hearing committee, a representative may attend the proceedings as an observer. A full stenographic record of the hearing or hearings shall be taken and made available to the parties concerned. The burden of proof that adequate cause exists rests with the college, and shall be satisfied only by clear and convincing evidence in the record considered as a whole. If the faculty member's competence is in question, the testimony shall include that of qualified faculty from the college or other KCTCS colleges and may include that of qualified faculty from comparable institutions of higher education.

Within seven (7) calendar days following the hearing, the committee shall report to the KCTCS President that adequate cause for dismissal has or has not been established by the evidence in the record. It may, in addition, recommend that, although adequate cause for dismissal has been established, an academic penalty less than dismissal would be more appropriate, giving supporting reasons for the recommendation. If the KCTCS President rejects the recommendation, the KCTCS President shall provide reasons in writing to the committee and to the faculty member, and provide an opportunity for response.

The faculty member may appeal the KCTCS President's decision to dismiss through the independent third party appeal process. The decision from the independent third party appeal may be taken to the Board of Regents pursuant to KRS 164.360. The Board of Regents' decision shall be final.

B. Termination for Unsatisfactory Performance for Regular Staff and for Faculty with Term Contract Employment Status, Continued Employment Status, or Continuing Employment Status

Prior to the decision to terminate *regular staff* and to terminate *regular faculty with term contract employment status, continuing employment status, or continued employment status*, the college shall conduct a fact-finding process in which the employee is interviewed, along with other individuals as necessary and appropriate, to gather the facts surrounding the alleged policy violations/performance problems.

Pending the investigation and exhaustion of the administrative remedy procedures, the employee may be put on administrative leave by the college, with or without pay.

Following the investigation, the college shall send a written pre-termination notice informing the employee of the specific incidents of the reported policy violations/performance problems and the college's intention to terminate the employee. The notice shall include information regarding an opportunity for the employee to request a pre-termination hearing. The purpose of the hearing is to review the issues with the employee and allow the employee to respond to the charges one final time before the college makes a final decision regarding termination. The hearing shall routinely be conducted on the campus by college administration. In the pre-termination notice, the clear and concise reason(s) for the termination shall be included.

Within seven (7) calendar days following the hearing, the employee shall be advised in writing that a decision shall be rendered within the time period established by the college. If the decision is to terminate the employee, the letter shall include specific reasons for the termination and information regarding the complaint resolution procedure.

C. Termination for Financial Emergency

In the instance of termination because of a financial emergency, an employee shall be given notice as soon as possible but not less than ninety (90) calendar days prior to termination. Prior to the effective date of the termination, a faculty member with tenured, tenure-track, continuing, continued, or term contract (during the term of the contract) employment status may appeal to the KCTCS Senate Advisory Committee on Appeals. Staff may utilize the KCTCS Complaint Resolution Procedure if they elect to appeal the action. The position of an employee who was terminated due to financial emergency shall not be filled by a replacement within a period of two years, unless the released employee has been offered reappointment and a reasonable time within which to accept or decline it.

2.8.2.1 Considerations of Academic Freedom

A faculty member who alleges that a decision to terminate the faculty member was caused by reasons violative of academic freedom rights the faculty member shall present their allegation under the complaint resolution procedure, or if applicable in writing to the KCTCS Senate Advisory Committee on Appeals within thirty (30) calendar days before the end of the appointment period. An allegation so presented shall be given preliminary considerations by the *KCTCS Senate Advisory Committee on Appeals*, which shall seek to settle the matter by informal methods. The faculty member's statement of allegations

shall be accompanied by statements that the faculty member agrees to the presentation, for the consideration of the committee, of such reasons and evidence as the college may allege in support of its decision. If the dispute is unresolved at this stage and if the committee so recommends, the procedures set forth in this administrative policies and procedure shall be applied, except that the faculty member making the complaint is responsible for stating the grounds upon which the faculty member bases his/her allegation, and the burden of proof shall rest upon the faculty member. If a prima facie case is established via this procedure in favor of the faculty member, it becomes incumbent upon the college president/ceo, or designee, who made the decision to terminate to present evidence in support of the decision (See KCTCS Academic Freedom Policy).

2.8.2.2 Administrative Leave

Until the final decision regarding termination has been reached, the faculty or staff member may be placed on administrative leave, or assigned to other duties. Salary shall continue during the period of administrative leave, except in cases of serious misconduct as determined by the college president/ceo. For employees under the administrative regulations for KRS Chapter 151B, the issue of pay status during an administrative leave is further addressed in the administrative regulations located in Appendix I.

2.8.3 Resignation

Employees in all employment status categories shall provide the proper notice as specified in KCTCS administrative policies and procedures in order to not adversely impact KCTCS operations. Resignations shall be given early enough to obviate serious inconvenience to KCTCS. To leave “in good standing”, regular status and temporary status non-exempt staff employee shall give at least two weeks written advance notice, unless otherwise specified in the terms of their contract. To leave “in good standing”, regular and temporary exempt staff employees shall give at least one month written advance notice. Faculty members are requested to give written notice of their intent to resign as soon as possible and no less than three (3) months in advance. This advance notice requirement may be waived by the college president/ceo.

Employees under the KCTCS personnel system, the UK personnel system, or the administrative regulations for KRS Chapter 18A, who have not worked for one year, are not on an approved leave of absence, and did not otherwise terminate or resign, shall be deemed to have resigned at the end of that year. For employees under the administrative regulations for KRS Chapter 151B, this issue is addressed in the administrative regulations located in Appendix I.

2.8.4. Retirement

Eligible KCTCS employees in all employment status categories may retire in accordance with the applicable retirement plan's policies and procedures. Proper notice of retirement shall be given. For the KCTCS 403b retirement plan an employee shall give notice of retirement no less than 3 (three) months in advance of retirement, although this requirement may be waived by the college president/ceo. Requirements for giving notice of retirement under the UK 403b retirement plan are specified in the UK Administrative Regulations. Requirements for giving notice of retirement under the defined benefit plans are specified in the state statutes pertaining to the state retirement plans.

To be considered as an official retiree under the respective retirement plans, the terminating employee shall meet the age and service requirements as specified in the KCTCS retirement plan policies and procedures and the respective regulations for the retirement plans.

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