



HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

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Director of Human Resources

To: Judge Robert Hebert
Commissioner Richard Morrison
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner James Patterson

From: Kathy Novosad, PHR
Sr. Human Resources Generalist

Date: January 20, 2016

Subject: Revisions to Employee Information Manual:
Policy 406: Transfers, Separations and Subsequent Rehires
Policy 510: Retirement

Human Resources is submitting the attached revisions to the Employee Information Manual Policies 406 and 510. The revisions are intended to ensure our continued compliance with TCDRS and IRS regulations by strengthening the County's policy on rehiring retirees. Of note in the revisions is the requirement that rehire of retirees must be approved by Commissioners Court. Form 406A will be added to the manual to facilitate the rehire approval process.

The revised policies and form are attached. Please contact Kent Edwards or me if you have any questions.

406 - TRANSFERS, SEPARATIONS, AND SUBSEQUENT REHIRES

Section 406.01 Transfer Procedures

Fort Bend County employees are eligible to apply for open positions within the County, and may be permitted to transfer from one County department to another. Information on how to apply for open County positions is provided in Section 412 of this manual.

If a County department/office chooses to hire an employee who currently works for another County department/office, the two departments/offices should work together for a smooth transition between positions.

Section 406.02 Separation Procedures and Termination Date

Employees who choose to resign from County employment should submit a resignation letter to their supervisor. Employees who terminate for any reason are encouraged to complete an Exit Interview (see form 4B).

Pay out of any accrued vacation and non-exempt compensatory and deferred time will be made no later than one full pay period after the employee's final pay check, provided the employee has returned all County issued equipment, ID badge, keys and uniforms. The final payment will be in the form of a check and not a direct deposit.

The last day an employee is physically present on the job is considered the termination date for all purposes including benefits. However, under certain circumstances, an employee's termination date may not be the last day physically present on the job if, for example, an employee is unable to return to work following a leave qualifying under the Family and Medical Leave Act (see Section 704 of this manual for more information).

Section 406.03 Rehire Procedures with No Changes to Retirement Account

In certain circumstances, an employee whose employment ends with Fort Bend County may be rehired. If the employee is rehired within 90 calendar days of the termination date and during the 90 days the employee does not cash out their retirement account or does not begin to receive any retirement annuity or payment, certain benefits may be restored. These benefits may include years of service, longevity payments, and accrued sick leave balances. However, vacation time, non-exempt compensatory time and deferred time are all paid out at termination and therefore, are not eligible to be restored upon rehire.

An employee who terminates employment for any reason and is rehired after 90 calendar days from the termination date is considered a new employee with no restoration of any previous benefits.

Rehires may be eligible for medical, dental and other insurance benefits, but will be subject to a waiting period in the event of a break in coverage. Contact the Risk Management department for health benefit enrollment/reenrollment information.

Part time employees are not eligible for most County benefits, therefore, a transfer from full time status to part time status with the

County, even if it does not result in a break in service, will result in termination of most benefits. A return to full time employment from part time employment after a break in full time status of more than 90 calendar days shall be considered a rehire for purposes of this policy. Please see Policy 401, Categories of Employment, for more information on part time and full time status.

Section 406.04
Rehire Procedures with
Changes to Retirement
Account

An employee who retires, or an employee who ends employment for any reason and withdraws the funds from their retirement account and is rehired after any length of time, is considered a new employee with no restoration of previous benefits. Such rehires will be subject to the waiting period for enrollment in health and medical benefits in the event of a break in coverage, or continuation of retiree health benefits may be permitted as explained in Section 511. Contact the Risk Management department for health benefit enrollment/reenrollment information.

Section 406.05
Inservice
Distributions and
Bona Fide Retirement

As stated in Section 510.07-08 of this manual, IRS regulations prohibit “in-service distributions” from qualified retirement plans. This means that an employee may not for any reason withdraw the funds from the Texas County and District Retirement System (TCDRS) account while employed with Fort Bend County. Any attempt to circumvent this provision by terminating employment for the purpose of receiving monthly annuity payments or withdrawing funds from the TCDRS account, and then returning to employment, is strictly prohibited.

Violations of the IRS in-service distribution provision could result in serious tax consequences for the individual, the County, and all County retirees and employees. Therefore, ~~TCDRS prohibits the rehire of in~~ accordance with Texas Government Code Section 842.110 (a), a former Fort Bend County employee shall not be rehired for at least one full calendar month from the original separation date if they have 1) retired or 2) otherwise withdrawn funds from their TCDRS account. In addition and of utmost importance, the retirement or termination must have been a “bona-fide” separation, meaning that the employee retired or ended employment with no agreement or any expectation of future employment with Fort Bend County.

If a former employee is rehired and found to be in violation of the bona fide separation requirement of Section 842.110 (a), Section 842.110 (b) requires that the person's TCDRS membership be restored, the retirement annuity will be canceled, and the person must return any amounts distributed and payments received. Further, the employee will be subject to immediate termination of employment. Termination of employment may result in termination of eligibility for retiree medical benefits.

Elected officials, department heads, supervisors and managers must guard against giving employees any express or implied expectation of rehire to any position if the employee retires or ends employment and withdraws the funds from their TCDRS account. Commissioners Court approval shall be required to rehire any such person. The rehiring of retirees or former employees for temporary assignments may be permitted.—Elected Officials and Department Heads who choose to rehire a retiree or former employee after any length of time should complete Form 406A and submit the form to the ~~consult with~~ Human

Resources department. Human Resources will seek Commissioners Court approval for the rehire if, and verify that the initial separation or retirement meets the criteria of a bona-fide separation or retirement as explained above.

**Section 406.~~0506~~
Employees of
Community Supervision
and Corrections
Department (CSCD)**

Note that employees of the Community Supervision and Corrections Department (CSCD) are not County employees. Employees of CSCD participate in the State of Texas employee medical benefits plan. Transfer between positions at CSCD and positions in County departments and offices will necessitate a change in medical benefits plans and may impact an individual's ability to continue medical benefits at a subsidized rate at retirement. Please see Section 511 of this manual, or contact the Risk Management Department for further information.

**Section 406.~~0607~~
Reinstatements Under
the Sheriff's Office Civil
Service Commission**

Employees of the Sheriff's Office who are reinstated with back pay and benefits by order of the Civil Service Commission following an appeal of their discharge may not be subject to the terms of Section 406.03 and 406.04 above even if the employee is reinstated after 90 days of separation.

**Section 406.~~0708~~
Drug and Physical
Screening for Transfers
and Rehires**

If an employee separates from the County for any reason and is rehired within thirty (30) calendar days, or an employee transfers from one department to another and no break in service occurs during the transfer, a new pre-employment drug screen or physical is not required except in the following circumstances:

1. All employees transferring into positions that require the performance of safety sensitive duties, as defined by the Department of Transportation (DOT) must undergo a DOT physical and drug screen.
2. Employees transferring into certain law enforcement positions may be required to undergo drug testing and a pre-placement physical for certification purposes.

Candidates for such positions will be notified if the testing is necessary.

**Section 406.~~0809~~
Retirement**

Please see Section 510 of this manual for important information on retirement, as well as options available to employees who terminate employment before their retirement eligibility date.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
January 1, 2002
Revised: December 20, 2005
Revised: March 2, 2010
Revised: March 26, 2013
Revised: October 22, 2013
Revised: January 26, 2016

STATEMENT REGARDING THE REHIRE OF FORMER EMPLOYEE

Former Employee Name _____

Dept./Office and Job Title of Last Position Held by Former Employee _____

Date of Separation of Employment with FBC _____ Earliest Possible Re-employment Date _____

Dept./Office and Job Title of Position to be Filled _____

Former Employee ☐ Retired ☐ Terminated and withdrew TCDRS account

TO BE SIGNED BY THE FORMER EMPLOYEE SEEKING REHIRE

By my signature below, I attest that on the date indicated above I completed a bona fide separation of employment with Fort Bend County, meaning that I separated employment without intention to return to work for Fort Bend County after gaining access to my qualified retirement plan with TCDRS. I further attest that NO prior agreement or arrangement, either specified or implied, existed between me and any hiring authority of Fort Bend County to return to any position of employment in Fort Bend County following my separation.

I understand that returning to employment under a specified or implied agreement to return to employment following retirement or access to one's TCDRS account is a violation of federal law (26USC§401(a)), as well as a violation of Texas Government Code Section 842.110. Such violation could result in disqualification of the TCDRS retirement plan and have serious tax consequences for me, as well as all Fort Bend County employees, the County, and all members of TCDRS. I further understand I could be subject to back taxes, penalties and interest and may be required to repay any funds received from my TCDRS account. I further understand that I would be subject to immediate termination of employment which could result in discontinuation of retiree medical benefits provided by Fort Bend County.

Signature _____ Date _____

TO BE SIGNED BY THE DEPARTMENT HEAD OR ELECTED OFFICIAL INITIATING REHIRE

By my signature below I agree that an offer of employment has been made to the individual named above. I understand this individual is a retiree of Fort Bend County, or has otherwise had access to their Fort Bend County TCDRS account, and I attest that to my knowledge, prior to this individual's separation on the date specified above, no agreement, either specified or implied, existed between the individual and Fort Bend County to return to any position of employment with the County. I understand that such an agreement would violate federal law and state statute, and could result in serious tax consequences for all members of TCDRS, including me.

Signature _____ Date _____

TO BE SIGNED BY HUMAN RESOURCES REPRESENTATIVE

The individual named above terminated on _____ and is to be rehired on _____. At least one full calendar month has elapsed since this individual last made a deposit into their TCDRS account. Individual has asserted to me, and I have no reason to believe otherwise, that his/her separation of employment on _____ was a bona fide separation of employment and no prior agreement, either specified or implied, existed between individual and Fort Bend County to return to any position of employment with the County.

Signature _____ Date _____

510 – RETIREMENT

**Section 510.01
Retirement System**

Fort Bend County participates in the Texas County and District Retirement System (TCDRS). The retirement plan is managed by TCDRS, and the County funds the retirement plan at an amount approved annually by Commissioners Court. Human Resources administers plan enrollment, withdrawal and retirement for the County.

**Section 510.02
Eligibility**

All part-time¹ and full-time employees of the County become members of the retirement system after making their first deposit into their account at TCDRS. Once an employee becomes a member of TCDRS, membership continues until an employee withdraws their funds. Participation in TCDRS is mandatory. All eligible employees must participate in the retirement program.

**Section 510.03
Contributions and
Interest**

Seven percent (7%) of each eligible employee's salary is deducted from their pre-tax income and deposited in their TCDRS account beginning with their first pay check. Seven percent (7%) annual interest is credited each December 31 on the balance from the beginning of the year (or pro-rated if retirement or withdrawal takes place before December). TCDRS is a qualified retirement plan with the IRS; therefore deposits and interest earned are tax deferred as long as the funds remain in the TCDRS account.

Employees shall receive no credited service time towards vesting or retirement eligibility for any calendar month in which no contribution is made to their TCDRS account. This may include periods of unpaid leave under the Family and Medical Leave Act (FMLA) and Worker's Compensation leave if the employee is not receiving a County paycheck.

**Section 510.04
Vesting**

Employees shall receive credited service for each month in which a contribution is made to TCDRS, and shall be vested after contributing to TCDRS for a total of eight (8) years² (96 months). Once vested, an employee is eligible to receive the County match (currently two-to-one) on all contributions made as a County employee and the applicable earned interest when they achieve retirement eligibility as defined in Section 510.06. If a vested employee withdraws their funds from TCDRS before they reach retirement eligibility, no matching funds will be provided.

An employee may receive credited service toward vesting and retirement eligibility for previous or future participation in other qualifying retirement plans in Texas. Examples of other qualifying service may include Texas Municipal Retirement System (TMRS), Teacher Retirement System of Texas (TRS), Employees Retirement System of Texas (ERS), and service with other counties and districts who are members of TCDRS. Employees with service time in other qualifying plans should contact TCDRS to inform them of the additional service time.

Section 510.05 Withdrawals

Withdrawals from a retirement account may only be made when an employee retires or upon separation of employment with the County. If an employee's employment with Fort Bend County ends for any reason before reaching retirement eligibility, the following options are available:

1. Employees who are vested may leave the funds in the TCDRS account and receive the retirement when they qualify. (See Section 510.06)
2. Employees who are not vested may leave the funds in the TCDRS account and continue to earn annual interest, and no match will be provided.
3. The funds may be rolled over into a qualified retirement plan of the employee's choice, and no match will be provided.
4. The funds may be withdrawn in one lump sum after taxes and penalty due to the IRS have been deducted, and no match will be provided.

Section 510.06 Retirement Qualification

A vested individual is eligible for retirement with Fort Bend County if one of the following qualifications is met:

1. Eight (8) years (96 months) of credited service and at least sixty (60) years of age;
2. Thirty (30) years of credited service at any age; or
3. Rule of seventy-five (75) – Age plus years of credited service equal seventy-five (75).

For purposes of this policy, an employee will be **eligible** to retire after working at least one work day in the month in which they first meet one of the qualifications listed above, or at any time thereafter. Retirement will be **effective** on the last business day of the month in which the employee chooses to retire, and the first retirement payment will be received on the last business day of the month following the effective date.

An employee who qualifies for retirement with Fort Bend County may be eligible to continue medical benefits coverage at a subsidized rate if they meet the conditions detailed in Section 511. Employees must meet with Risk Management to elect coverage on or before their retirement date to ensure they have no break in medical coverage. A break in coverage will result in the employee being ineligible for medical benefits at retirement.

The life insurance benefits and long-term disability benefits paid by Fort Bend County will be discontinued at retirement.

Employees of the Community Supervision and Corrections Department (CSCD) participate in Fort Bend County's TCRDS plan; however, CSCD employees are not County employees. CSCD employees participate in the State of Texas employee medical benefits plan. Continuation of benefits upon retirement is subject to the rules and regulations of the State plan.

An employee who retires, or an employee who ends employment and withdraws their funds from their retirement account, and is rehired after any length of time, is considered a new employee with no restoration of previous benefits. Such employees are subject to the waiting period for enrollment in health and medical benefits if there

Section 510.07 ~~Subsequent~~ Rehire after Retirement

was a break in coverage, or continuation of retiree health benefits may be permitted as explained in Section 511. Contact the Risk Management department for health benefit enrollment/reenrollment information.

Section 510.0708
Subsequent
Rehire/Inservice
Distributions and Bona
Fide Retirement

As stated in Section 406.04-05 of this manual, IRS regulations prohibit “in-service distributions” from qualified retirement plans. This means that an employee may not for any reason withdraw funds from their Texas County and District Retirement System (TCDRS) account while employed with Fort Bend County. Any attempt to circumvent this provision by terminating employment for the purpose of receiving monthly annuity payments or withdrawing funds from the TCDRS account, and then returning to employment, is strictly prohibited.

Violations of the IRS in-service distribution provision could result in serious tax consequences for the individual, the County, and all County retirees and employees. Therefore, ~~TCDRS prohibits~~ in accordance with Section 842.110(a) of the Texas Government Code the rehire of a former Fort Bend County employee shall not be rehired for at least one full calendar month from the original separation date if they have 1) retired or 2) otherwise withdrawn funds from their TCDRS account. In addition and of utmost importance, the retirement or termination must have been a “bona-fide” separation, **meaning that the employee retired or ended employment with no agreement or expectation of any future employment with Fort Bend County.**

If a former employee is rehired and found to be in violation of the bona fide separation requirement of Section 842.110(a), Section 842.110(b) requires that the person's TCDRS membership be restored, the service retirement annuity will be canceled, and the person must return any amounts distributed and payments received. Further, the employee will be subject to immediate termination of employment. Termination of employment may result in termination of eligibility for retiree medical benefits.

Elected officials, department heads, supervisors and managers must guard against giving employees any express or implied expectation of rehire to any position if the employee retires or ends employment and withdraws the funds from their TCDRS account. Commissioners Court approval will be required to rehire any such person. The rehiring of retirees or former employees for temporary assignments may be permitted. Elected Officials and Department Heads who choose to rehire a retiree or former employee after any length of time should complete Form 406A and submit the form to the ~~consult with~~ Human Resources department. Human Resources will seek Commissioner Court approval for the rehire if , and verify that the initial separation or retirement meets the criteria of a bona-fide separation or retirement as explained above.

Section 510.0809
Retirement
Information

Additional information regarding retirement is available from the TCDRS Member Information Guide, at the TCDRS website, www.tcdrs.org, or by contacting TCDRS at:

Texas County and District Retirement System
P. O. Box 2034
Austin, Texas 78768-2034
(800) 823-7782

Retirement seminars, attended by representatives from TCDRS, Human Resources, Risk Management, and Section 457 Plan vendors, are held throughout the year. Employees should attend one session early in their Fort Bend County career, and again when they near retirement eligibility so they can plan adequately for their retirement. Those employees nearing retirement eligibility should also contact Human Resources for a retirement consultation meeting.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
July 20, 1993

Revised: February 10, 2004

Revised: November 7, 2006

Revised: January 27, 2009

Revised: March 2, 2010

Revised: October 22, 2013

Revised: January 26, 2016

¹ Effective January 1, 2007, all non-temporary part-time employees of the County must be enrolled in TCDRS.

² Employees who were members of TCDRS before January 1, 2000 may be vested with 4 years of service.