



## HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

Kent M. Edwards, PHR  
Director of Human Resources

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

From: Kent Edwards

Date: February 24, 2010

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

Human Resources is submitting revisions to the Employee Information Manual, Section 406: Transfers, Separations, and Subsequent Rehires and Section 510: Retirement, for your consideration.

The policies were revised to better communicate the IRS and TCDRS regulations regarding "retirement in place" and "in-service distributions" from a qualified retirement plan. Since 2006, TCDRS has prohibited the rehire of a retiree within one full calendar month of the original separation date. In 2009, via HB 407, TCDRS strengthened their language regarding the rehire of employees who have ended employment and cashed out their retirement accounts. Two conditions must be met in order to rehire a former employee who has withdrawn the funds from their retirement account: 1) The employee must have terminated employment with no agreement or expectation to be rehired, and 2) the employee must have a break in service of at least one full calendar month.

So, at this time, we are revising these two policies to conform to the IRS and TCDRS regulations and guidelines. Furthermore, the revisions proposed in the attached policies stress the importance of guarding against in-service-withdrawals and retirement-in-place, and stress that elected officials, department heads, supervisors and managers must avoid giving employees any implied or explicit expectation that they will be rehired after retirement, or after termination for any reason if the retirement account is cashed out.

The policy revisions have been approved by the County Attorney's office.

Copies of the red-lined policies are attached. If you have any questions, please contact Kathy Novosad at 281-341-8624, or Kent Edwards at 281-341-8631.

## 406 - TRANSFERS, SEPARATIONS, AND SUBSEQUENT REHIRS

### 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, 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 Risk Management for health benefit enrollment/reenrollment information.

### 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 Risk Management for health benefit

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**Deleted:** new elected official or department head should notify the present elected official or department head of the impending personnel change. ¶

Departments must submit Master File Change Cards (green) to the Human Resources Department for transfers by 3:00 p.m., Mouday, preceding the last Friday of the payroll cycle.

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enrollment/reenrollment information.

As stated in Section 510.07 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 a former employee for at least one full calendar month from the original separation date if they have retired or otherwise withdrawn funds from their TCDRS account. In addition, 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.

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. 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 consult with Human Resources, and verify that the initial separation or retirement meets the criteria of a bona-fide separation or retirement as explained above.

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#### Section 406.05 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:

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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 406.06 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.

Deleted: Retention of Benefits Upon Separation

Deleted: If an employee draws out their retirement funds upon termination, they relinquish all County retirement benefits unless they buy back into the Retirement System (TCDRS) within sixty (60) calendar days of the original separation date. Contact the Human Resources Department for more information.¶

¶ Any separation of County employment for a period of ninety (90) calendar days or longer will cancel the accrual and retention of retirement benefits that have not been vested (see policy 510 Retirement).¶

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

<b>Page 1: [1] Deleted</b>	<b>novoskat</b>	<b>8/13/2009 11:13:00 AM</b>
<b>Section 406.02 Drug and Physical Screening for Transfers and Rehires</b>	<p>If an employee separates from the County 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 for the following reasons:</p> <p>All employees transferring into positions that require a commercial driver's license must take and successfully complete a Department of Transportation (DOT) physical and drug screen.</p> <p>Employees transferring into TCLEOSE positions must comply with requirements for drug testing and pre-placement physicals.</p> <p>Re-employment after a separation of ninety calendar days or longer is treated as new employment. Please see Subsequent Rehire Procedures, Section 406.04 for further information.</p>	

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	and the employee has not withdrawn their retirement funds or has applied for or is in receipt of an annuity benefit payment from TCDRS, they will retain all benefits not paid out at separation. Benefits paid out at separation include exempt v	

<b>Page 1: [3] Deleted</b>	<b>novoskat</b>	<b>8/13/2009 9:57:00 AM</b>
	<p>, and vacation.</p> <p>Examples of benefits that may be retained if an employee is rehired <u>within 90 calendar days</u> of separation are longevity, sick leave balances, and retirement (TCDRS). This does not include health benefits. Contact Risk Management for health benefit information.</p>	

<b>Page 1: [4] Deleted</b>	<b>novoskat</b>	<b>8/13/2009 10:19:00 AM</b>
	Any individual designated as a retiree as defined in Section 401.01 will not be considered for employment/re-employment with the County for a period no less than 12 consecutive calendar months from the date of retirement. Elected Officials and Department Heads who wish to rehire an individual designated a retiree must get the approval of the Commissioner's Court.	

Departments must submit Master File Change Cards (white) to the Human Resources Department by 3:00 p.m., Monday, preceding the last Friday of the payroll cycle.

## 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 set annually by Commissioners Court. Human Resources administers plan enrollment, withdrawal and retirement for the County.

### Section 510.02 Eligibility

All part-time<sup>1</sup> 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.

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Employees shall receive no credited time towards vesting or retirement eligibility for any month in which no contribution is made to their TCDRS account, including periods of unpaid leave under the Family and Medical Leave Act (FMLA).

### Section 510.04 Vesting

The vesting period is eight (8) years<sup>2</sup>. After 8 years of continuous employment with the County and participation in TCDRS, an employee is eligible to receive a two-to-one match from the County on all contributions and earned interest upon qualifying for retirement under one of the three options listed in Section 510.06. If a vested employee withdraws their funds from TCDRS before they reach retirement eligibility, no matching funds will be provided.

### Section 510.05 Withdrawals

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

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- ~~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 still leave the funds in the TCDRS account and continue to earn annual interest, but will not receive any match as described in Section 510.04~~
- The funds may be rolled over into a qualified retirement plan of the employee's choice
- The funds may be withdrawn in one lump sum ~~after taxes and~~ penalty due to the IRS have been deducted



**Section 510.06  
Retirement  
Qualification**

An employee is eligible for retirement with Fort Bend County if one of the following qualifications is met:

1. Eight (8) years of service and at least sixty (60) years old;
2. Thirty (30) years of service; or
3. Rule of seventy-five (75) – Age plus years of 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 work day of the month in which the employee chooses to retire, and the first retirement payment will be received on the last work 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 if they meet the conditions detailed in Section 511. Employees are advised to consult with Risk Management prior to deciding on a 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.

**Section 510.07  
Subsequent Rehire**

An employee who retires, or an employee who ends employment 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 employees are subject to the waiting period for enrollment in health and medical benefits if there was a break in coverage, or continuation of retiree health benefits may be permitted as explained in Section 511. Contact risk Management for health benefit enrollment/reenrollment information.

**Deleted:** Any individual who retires from Fort Bend County will not be considered for employment/re-employment with the County for a period no less than 12 consecutive calendar months from the date of retirement. Department Heads who wish to rehire a retiree within that 12 month period must obtain the approval of Commissioners Court.

As stated in Section 406.04 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 the rehire of a former employee for at least one full calendar month from the original separation date if they have retired or otherwise withdrawn funds from their TCDRS account. In addition, 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.

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. 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 consult with Human Resources, and verify that the initial separation or retirement meets the criteria of a bona-fide separation or retirement as explained above

**Section 510.08  
Retirement  
Information**

Additional information regarding retirement is available from the TCDRS Member Information Guide, at the TCDRS website, [www.tcdrs.org](http://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, the Social Security Administration, 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.

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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

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

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