

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, 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 510.08 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, 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. 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 Human Resources department. Human Resources will seek Commissioners Court approval for the rehire if the

initial separation or retirement meets the criteria of a bona-fide separation or retirement as explained above.

**Section 406.06
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 406.07
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 406.08
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 406.09
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.

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