

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-44 (rev. 8), “RETIREMENT BENEFITS”
APRIL 1, 2016
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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-44 (rev. 7)
June 1, 2010

EXECUTIVE DIRECTIVE

SUBJECT: RETIREMENT BENEFITS

AUTHORITY: 26 U.S.C. § 415; Tex. Gov't Code §§ 493.001, 493.006(b), 803.201, 803.203, 811.001-814.603, 815.402

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The retirement program for TDCJ employees is administered by the Employees Retirement System of Texas (ERS).

PROCEDURES:

I. Accessing Information

An employee may obtain information pertaining to ERS membership, retirement, including retirement estimates, or other retiree benefits by contacting the ERS directly via the ERS website at <http://www.ers.state.tx.us> or the ERS toll-free phone number at 877-275-4377. Retirement booklets, presentation schedules, and other retirement-related information are available on the ERS website.

II. Employee Retirement System Membership and Contributions

A. Full- and part-time employees in positions not covered by another public retirement system are required to be ERS members and contribute a percentage of the employee's eligible monthly pay to the ERS, unless previously retired from state service under the ERS. Independent contractors and consultants are excluded from membership.

B. Effective Employee Retirement System Membership Date

A newly hired or rehired employee, except for an ERS retiree, becomes an ERS contributing member on the first day of employment or reemployment. ERS retirement contribution deductions begin on the employee's first day of employment or reemployment.

C. Earned Interest on Retirement Accounts

All accounts are credited with interest each fiscal year, as set by law, on their account balance. Beginning January 1, 2014, an ERS member earns 2% interest on their retirement account. Interest credited to the employee's account does not affect the amount of the retirement annuity. Accrued interest only affects an employee who separates employment and withdraws contributions.

D. Refund of Contributions upon Separation of Employment

1. An employee may receive a refund of the employee's retirement contributions plus accrued interest after the employee has been separated from employment for a full calendar month and has not returned to state employment. The refund of employee contributions cancels the ERS membership and terminates all rights to benefits. If such an individual returns to state employment, the individual will become a new ERS member when eligibility requirements are met.
2. To request a refund, an employee must contact the ERS toll-free number at 877-275-4377 or through ERS online. The normal processing time for a refund is 30 to 45 calendar days from the date the employee separated from state employment or requested the refund, whichever occurs later.
3. A separating employee is not required to withdraw retirement contributions; the employee may leave contributions in the employee's account accruing the applicable interest rate. An individual does not have to be an active state employee at the time of retirement to receive an annuity or applicable benefits.

E. Purchasing Service Credit

An active employee may purchase waiting period service, refunded service, military service, and additional service credit (ASC). Information regarding the cost of service credit may be obtained by submitting a request to the ERS by phone, U.S. mail, or the ERS website.

1. The employee must provide the employee's full name, date of birth, and social security number.
2. To receive information relating to the purchase of refunded ERS service, the employee must provide approximate dates of employment.
3. To receive information relating to the purchase of military service, the employee must provide a copy of the employee's military service record, such as a DD-214 or NGB23.
4. ASC is available to an employee with ten or more years of actual ERS service credit, excluding military service. An employee may access the ERS website and receive an estimate of the cost to purchase ASC.

III. Service Retirement

Three factors that determine eligibility for service retirement are an employee's age, length of state service credited with the ERS, and type of state service credited with ERS. The two types of creditable service are regular service and Law Enforcement and Custodial Officers System (LECOS) service, also known as supplemental service.

Each year, the ERS provides a Statement of Retirement Benefits to each employee who is a contributing member. This statement is mailed to the employee's home address on file with the ERS following their birthday.

A. Other Service Credit Allowed for Service Retirement

An employee may be eligible to combine other service credit with ERS service to qualify for service retirement through the proportionate retirement program or the optional retirement program.

The proportionate retirement program applies to the following participating retirement systems:

1. ERS;
2. Judicial Retirement System of Texas Plans I and II;
3. Teacher Retirement System of Texas (TRS);
4. Texas Municipal Retirement System (TMRS);

5. Texas County and District Retirement System (TCDRS);
6. City of Austin Retirement System;
7. City of Austin Police Retirement System;
8. El Paso City Employees' Pension Fund; and
9. El Paso Fireman and Policeman's Pension Fund.

B. Leave Credit

1. General Provisions

a. Sick Leave Credit

One month of retirement credit will be granted for each 160 hours of unused accrued sick leave. Only one minute in excess of the 160-hour increment is necessary to obtain another month of retirement credit. The employee may donate any remaining excess hours to the Sick Leave Pool. For example: An employee with 325 hours of accrued sick leave will receive a total of three months retirement credit based on one month for each 160 hour increment plus one month for one accrued minute over 320 hours. The Sick and Vacation Leave Factor Table (Attachment A) indicates how unused accrued sick leave may be credited to an employee's service credit.

b. Vacation (Annual) Leave Credit

One month of retirement credit will be granted for each 160 hours of unused accrued vacation (annual) leave. Only one minute in excess of the first 160 hour increment is necessary to obtain another month of retirement credit. The Sick and Vacation Leave Factor Table indicates how unused accrued vacation (annual) leave may be credited to an employee's service credit.

2. Employees Hired Prior to September 1, 2009

An employee may convert unused accrued sick and vacation (annual) leave to retirement credit in order to meet length of service retirement eligibility requirements or increase the employee's retirement credit and the amount of the employee's monthly annuity check. An employee is allowed such retirement credit even though the employee receives a lump sum payment for unused accrued vacation (annual) leave. The employee's separation and retirement must occur in the same month in order to receive retirement service credit for unused accrued sick and vacation (annual) leave accruals.

These provisions also apply to former employees who left state service before September 1, 2009, and did not withdraw their retirement account from the ERS before being rehired.

3. Employees Hired on or After September 1, 2009, but before September 1, 2013

An employee may use unused accrued sick and vacation (annual) leave to increase the employee's retirement credit and the amount of the employee's monthly annuity check upon retirement. An employee is allowed such retirement credit even though the employee receives a lump sum payment for unused accrued vacation (annual) leave. Sick leave and vacation (annual) leave is accrued as in Sections III.B.1.a and b; however, such leave may not be used to meet length of service retirement eligibility requirements.

These provisions also apply to former employees who withdrew their retirement account from the ERS and rehired on or after September 1, 2009, but before September 1, 2013.

4. Employees Hired on or After September 1, 2013

a. An employee may use unused accrued sick leave to increase the employee's monthly annuity check upon retirement, but not for retirement eligibility.

b. Vacation (Annual) Leave Credit

(1) If an employee takes a lump sum payment or defers to the TexasSaver 401(k) and 457 Plan for unused accrued vacation (annual) leave, the employee forfeits use of the vacation (annual) leave to increase the employee's monthly annuity check.

(2) If an employee does NOT take a lump sum payment, the employee may use the vacation (annual) leave to increase the employee's monthly annuity check.

These provisions also apply to former employees who withdrew their retirement account from the ERS and rehired on or after September 1, 2013.

IV. Disability Retirement

If an active employee becomes mentally or physically disabled, the employee may be eligible for disability retirement benefits. One of the qualifications required by the ERS is the employee must have sought and been denied a workplace accommodation from the employing state agency. Therefore, before a TDCJ employee applies for disability retirement, the employee must request a workplace accommodation for a position of comparable pay in accordance with PD-14, "Americans with Disabilities Act and Employment of Persons with a Permanent or Long-Term Medical Condition." The employee should contact the ERS for

complete information regarding this requirement and other requirements for disability retirement.

V. Partial Lump Sum Option

An employee may be eligible to choose to receive a check for up to 36 months of standard annuity payments as a lump sum at retirement. Once chosen, a payment from one to 36 months of the standard annuity will be made with the first annuity payment. This payment may be subject to federal withholding taxes if the lump sum is not rolled over to an eligible qualified retirement plan or an Individual Retirement Account (IRA). The standard monthly annuity would then be permanently reduced using established actuarial reduction factors. Selecting the Partial Lump Sum Option will permanently lower the employee's monthly annuity payments.

VI. Retirement Notification

A. Employee Responsibilities

1. The employee must contact the ERS at 877-275-4377 and speak with a retirement benefits specialist who will assist with the retirement process. The employee must contact the ERS no earlier than 90 days before the employee's expected retirement date.
2. After the employee has decided upon a retirement date with the ERS, the employee must immediately notify the human resources representative of the employee's pending retirement.
3. Upon receipt of a Retirement Acceptance form from the ERS, the employee must:
 - a. Sign as instructed;
 - b. Have the Retirement Acceptance form notarized; and
 - c. Mail the completed form and any requested documentation to the ERS. Documents must be postmarked by the employee's retirement date.

This is to ensure the employee receives the first annuity payment on time.

4. If applicable, the employee must decide whether to defer all or part of the lump sum payment of unused vacation or overtime into a TexaSaver Plan on the PERS 571, Lump Sum Deferral Enrollment Form TexaSaver 401(k) and 457 Plans (Attachment B). If the employee does not have a TexaSaver Plan account, the employee can open one prior to separation from service and defer the lump sum payment.

The employee must inform the human resources representative on or before the employee's separation date of the employee's intention to defer all or part of the lump sum payment.

B. Human Resources Representative Responsibilities

1. Upon receipt of notification of an employee's retirement effective date, the human resources representative must take the following actions:

- a. Provide the employee with a Separation Guide.
- b. Assist the employee in completing the PERS 428, Retiree Options Regarding State Compensatory and Holiday Leave Accruals form (Attachment C). The human resources representative must explain to the prospective retiree that failure to exhaust all compensatory and holiday accruals will result in the cancellation of the employee's retirement application, unless the employee indicates an election to forfeit all excess compensatory and holiday leave on the PERS 428.

The human resources representative must file the original PERS 428 in the employee's unit or department human resources file, Insurance and Retirement Section, and provide a copy of the form to the employee.

- c. Use the Sick and Vacation Leave Factor Table to calculate the employee's sick and vacation (annual) leave balances.
- d. Inform the employee that even if the employee returns to work as a working retiree within 12 months of retirement, none of the employee's sick leave balance will be restored. If applicable, the human resources representative must assist the employee with completion of the PERS 205, Sick Leave Pool Contribution, for any remaining sick leave balance.
- e. Inform an employee who retires, the employee is not allowed to return to state employment for 90 calendar days.
- f. If applicable, assist the employee with completion of the PERS 571, Lump Sum Deferral Enrollment Form TexaSaver 401(k) and 457 Plans, and immediately fax the PERS 571 to the deferred compensation coordinator, Employee Services, Human Resources Division.
- g. Complete information and use the comments section to provide additional details in the TDCJ Payroll/Personnel System (PPS) Employee Retirement Update (RETU) screen.
- h. Enter the Payroll Status Change (PSC) in the PPS Payroll Status Change Update (PSCUPD) screen in accordance with the due date

established on the payroll schedule for the applicable month of retirement.

2. The human resources representative must immediately send an email to the Benefits Program Area, Employee Services, Human Resources Division, if an employee cancels or makes a change related to the employee's retirement.

Brad Livingston
Executive Director

Texas Department of Criminal Justice Sick and Vacation Leave Factor Table

The ERS grants creditable service for accrued and unused sick and vacation (annual) leave.

This service may be used to increase the annuity payments. For employees hired prior to September 1, 2009, this service may also be used to satisfy requirements for retirement eligibility.

<i>Employees Retirement System Of Texas (ERS) Creditable Service Granted For Unused Leave Accruals</i>	<i>Required Leave Accrual Range (Stated In Hours & Minutes)</i>
1 Month	160:00
2 Months	160:01 – 320:00
3 Months	320:01 – 480:00
4 Months	480:01 – 640:00
5 Months	640:01 – 800:00
6 Months	800:01 – 960:00
7 Months	960:01 – 1120:00
8 Months	1120:01 – 1280:00
9 Months	1280:01 – 1440:00
10 Months	1440:01 – 1600:00
11 Months	1600:01 – 1760:00
12 Months	1760:01 – 1920:00
13 Months	1920:01 – 2080:00
14 Months	2080:01 – 2240:00
15 Months	2240:01 – 2400:00
16 Months	2400:01 – 2560:00
17 Months	2560:01 – 2720:00
18 Months	2720:01 – 2880:00
19 Months	2880:01 – 3040:00
20 Months	3040:01 – 3200:00
21 Months	3200:01 – 3360:00
22 Months	3360:01 – 3520:00
23 Months	3520:01 – 3680:00
24 Months	*3680:01 – 3840:00
*Employees may be granted more than 24 months creditable service if final accrued sick and vacation (annual) leave balances exceed 3840:00 hours.	

Note: Unused accrued sick and vacation (annual) leave balances must be independently calculated.

Example:

320:22 Unused Vacation (Annual) Leave = 3 Months
 318:45 Unused Sick Leave = 2 Months
 5 Months ERS Creditable Service

Lump Sum Deferral Enrollment Form TexaSaver 401(k) and 457 Plans

Payroll Name: _____ Separation Date: _____

Social Security Number: _____ Date of Birth: _____

I have an existing account or have created an account with Empower prior to my separation/retirement from the state; and I authorize my employer to defer my lump sum salary to my designated account as indicated below in the line provided by each option.

Vacation or Overtime or Both: _____

401(k) or 457: _____

Percentage or Dollar Amount: _____

Traditional or Roth: _____

*Maximum or Specific Percent or Amount: _____

*I understand that if I elect to defer the maximum possible, a portion of this pay to cover Social Security and Medicare taxes must be available to withhold and cannot be tax deferred. As such, this portion is subject to federal income tax withholding as well, decreasing the option to elect 100% of these funds to be tax deferred.

Participant Signature _____ Date _____

Note to Participant: In order to begin processing, all blanks must be completed.

For HR Use Only

Audited by:

HR Rep Printed Name _____ HR Rep Signature _____ Date _____

Initial upon completion:

- _____ All blanks have been completed.
- _____ Faxed to HRHQ Deferred Compensation Coordinator at 936-437-3577
- _____ Confirmed document was received at 936-437-4208
- _____ Copy to Employee
- _____ Copy to Employee Unit or Department Human Resources File, Activity Section

**Texas Department of Criminal Justice
Retiree Options Regarding
State Compensatory and Holiday Leave Accruals**

Employee Name: _____ **Month/Day of Birth:** _____
(mm/dd)

Unit/Department: _____

I have notified my human resources representative of my pending retirement. My human resources representative has explained my options regarding my existing state compensatory and holiday leave balances. I hereby elect the following option:

(Initials) **OPTION ONE: Forfeit State Compensatory and Holiday Leave Accruals**
I understand that, by choosing this option, I will lose any state compensatory and holiday leave accruals remaining at the time of my elected retirement effective date indicated below.

Retirement Effective Date (last calendar day of month):

(mm/dd/yyyy)

****or****

(Initials) **OPTION TWO: Exhaust State Compensatory and Holiday Leave Accruals**
I understand that, by choosing this option, my elected retirement effective date will be after all my state compensatory and holiday leave accruals have been exhausted. My elected retirement effective date will be the date indicated below. I also understand that: (1) I must notify the Employees Retirement System of Texas (ERS) in writing if I previously established a retirement effective date with the ERS; and (2) that the election of this option may change that effective date.

Retirement Effective Date (last calendar day of month):

(mm/dd/yyyy)

Employee Signature: _____ **Date:** _____
(mm/dd/yyyy)

Human Resources Representative Signature: _____ **Date:** _____
(mm/dd/yyyy)

Note to Employee: With few exceptions you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

Distribution:
Original – Unit or Department File - Insurance and Retirement Section
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