

<b>Policies of the University of North Texas Health Science Center</b>	<b>Chapter 05 Human Resources</b>
<b>05.411 EARLY RETIREMENT WITH MODIFIED SERVICE</b>	

Policy Statement.

It is the policy of the health science center to provide employees an option to voluntarily retire from full-time service at age 55 or thereafter and begin benefiting from retirement annuities while still contributing to the health science center through reduced-service employment.

Re-employment in the Early Retirement with Modified Service (ER/MS) program after retirement involves a commitment to employ the participant through a specific date, subject to normal rules for dismissal, after which date the health science center has no obligation to offer continued employment to the ER/MS participant.

Participation in the ER/MS program is not a right of employees and will be approved only when it can be shown to be in the best interest of the health science center and the employee.

Application of Policy.

Full-time Faculty and Staff

Definitions.

None

Procedures and Responsibilities.

Procedure / Duty

Responsible Party

1. **Eligibility:**

- a.) Regular salaried employees of the health science center may request participation in ER/MS at age 55 or thereafter: if they have credit for five (5) or more years with the Teacher Retirement System of Texas (TRS), or five (5) or more years of participation in the Optional Retirement Program (ORP), or five or more years of participation with a combination of TRS and ORP; and if, under current policy, they would otherwise be eligible for continued employment.
- b.) A participant's eligibility to receive benefits from TRS or an ORP will be governed by the laws and rules governing such eligibility and not by this policy.
- c.) Re-employment after early retirement may not begin before the first day of the second calendar month following the month of retirement.

2. **Limitations on Service:**

Employment under ER/MS may consist of:

- a.) One-half time (50% effort) or less for a period of twelve months or less.
- b.) More than one-half time, up to and including full time (100% effort), for a period not to exceed five consecutive months between September 1 and June 30 of a fiscal year.
- c.) The ER/MS agreement may represent a commitment up to five years. An appointment beyond the initial agreement may be considered on a year-to-year basis.

3. **Job Assignments and Salary Considerations:**

- a.) Members of the faculty and their counterparts in research who are approved for ER/MS will ordinarily continue performing typical classroom or laboratory functions. Post-retirement positions for such persons should not normally involve the supervision of full-time employees.
- b.) Persons in administrative and professional positions who have responsibility for the direction or supervision of full-time staff will, under ordinary circumstances, be reassigned to ER/MS positions which do not involve direction or supervision of full-time employees.
- c.) Persons retiring from classified positions to participate in ER/MS will ordinarily continue in the same or a lesser job classification, and will be reassigned if necessary to avoid their supervision of any full-time employees.
- d.) The salary of ER/MS participants will be adjusted to reflect the value of positions held and work performed in the modified service positions they occupy after retirement. After the salary is established, ER/MS participants will be subject to mandated (across-the-board) salary adjustments during the course of their post-retirement employment and if they qualify, may receive merit increases in recognition of truly outstanding performance. Any changes in percentage of time worked by ER/MS participants will be determined with the mutual consent of the parties concerned.
- e.) Individuals who retire under Texas Retirement System (TRS) or Employees Retirement System (ERS) after September 1, 1998, who return to work with the health science center in a position performing substantially similar services to the services performed

during the last twelve months before retirement may not be paid on an annualized salary rate that exceeds the lesser of:

- i. the rate of compensation received during the twelve months of service immediately prior to retirement; or
- ii. \$60,000.

This salary limit does not apply to a retiree's first six months of re-employment after retirement, except if the retiree is re-employed for more than six months after retirement, the limit applies to the entire period of re-employment.

4. **Sick Leave and Vacation Leave:**

- a.) All retirements constitute a break in service, therefore all accounts for accumulated vacation credit for individuals retiring under ER/MS must be settled at the date of termination. All sick leave credit accumulated at that date is forfeited.
- b.) ER/MS participants are eligible to accrue and use vacation and sick leave under the same general rules concerning percent effort and period of appointment that apply to other employees, as described in Section 6.

5. **Applications:**

Employee /  
Department  
Official

- a.) Persons wishing to participate in ER/MS must submit a written request to their department or administrative unit head using the prescribed application and approval form. Application for ER/MS must be made not later than 90 days before the date on which ER/MS is requested to commence.
- b.) The department or administrative unit head will review the request with the employee, and complete his/her portion of a prescribed application and approval form, and recommend approval or disapproval through normal administrative channels to the appropriate Vice President. Any additional information or special agreements pertinent to the conditions of employment must be noted and acknowledged on the form
- c.) In recommending approval, the department or administrative unit head must demonstrate and certify that the contemplated employment after retirement is in the best interests of the health science center and that the department or unit may expect, with reasonable certainty, to continue to benefit from the reduced

services of the applicant throughout the period of the ER/MS commitment.

- d.) ER/MS will normally commence at the beginning of a fiscal year. ER/MS beginning at a date other than at the beginning of a fiscal year following the fiscal year in which the employee retires is subject to slightly different rules and should be pursued with special care and advice from the Human Resource Services Department.

6. **Terms and Duration of Employment:**

Employee /  
Department  
Official/Human  
Resource  
Services

- a.) An employee applying for Modified Service employment after retirement should receive, before the date of termination in anticipation of retirement, written approval of a Modified Service agreement.
- b.) Modified Service employment after early retirement is for a specific period having a designated beginning date and a designated ending date, at which time the individual shall be terminated unless a new ER/MS application, has been approved for continued employment.
- c.) An extension of the Modified Service agreement may be approved, subject to the same rules and approval procedures as the original agreement.
- d.) ER/MS participants are not eligible to participate in TRS or ORP, and no further state or individual contributions will be made to TRS or ORP. Persons employed in the early retirement program may participate as retirees, however, in any group insurance plan(s) for which other retirees are eligible. Prior to retirement, an ER/MS participant should visit Human Resources Services to complete the paperwork necessary for the continuation of group insurance coverage.
- e.) All provisions of this policy and any agreements executed there under are subject to applicable state and federal laws and regulations.
- f.) In making an application for voluntary ER/MS, the individual waives his/her rights under the Age Discrimination in Employment Act (29 U.S.C. 626) and the Older Worker's Benefit Protection Act (PL 101-433).
- g.) The individual may withdraw his/her application at any time prior to approval. Once approved, the person has seven calendar days to revoke the agreement.

h.) Persons considering ER/MS have the right to consult with an attorney of their choice, at their own expense, concerning the provisions of the ER/MS program.

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| 7. | <b>Administrative Approval:</b><br>All applications for participation in ER/MS must have the approval of the President.  | President's<br>Office                                    |
| 8. | <b>Dismissal Procedure:</b><br>Dismissal from employment prior to expiration of an approved ER/MS agreement must conform to the rules and regulations of the institution for termination of employees, including, for faculty who have retired and elected ER/MS, the rules for dismissal set forth in the Faculty Handbook. | Department<br>Official<br>/Human<br>Resource<br>Services |

References and Cross-references.

PL 101-433, Older Worker's Benefit Protection Act 29 USCA, Sec. 621ff, Age Discrimination in Employment, as amended.

Texas Constitution, Article 16, § 33

Texas Government Code, §§ 659, 821, 825, and 830

Guidelines for the Development of a Policy for Voluntary Modification of Employment, Texas Higher Education Coordinating Board, endorsed October 28, 1982.

Attorney General Opinion 0-4804 (1942).

Forms and Tools.

None

Approved: 9/1/2006

Effective: 9/1/2006

Revised: