KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421
FAX – 785-296-0983
www.kansasregents.org

TO:	Kansas Board of Regents 403(b) Retirement Plan Participant – Mandatory or Voluntary Plan
FROM:	Kansas Board of Regents Retirement Plan Committee
SUBJECT:	Bona fide separation from service required to access KBOR 403(b) Funds (termination of employment or retirement)

Please read the following information to ensure that you do not take distribution from the KBOR 403(b) Retirement Plan if there is no bona fide separation from service, as you will be subject to tax penalties and your retirement contributions will be subject to taxation. The following information is from KBOR Retirement Plan consultants.

The KBOR 403(b) Mandatory and Voluntary 403(b) Retirement Plans are governed by the Internal Revenue Code and regulations. The 403(b) regulations prescribe when access to those funds is permitted.

Mandatory Retirement Plan - While actively employed, you cannot access your Mandatory Plan funds. The only exception is that those covered by a KBOR Phased Retirement Contract can access their Mandatory Plan funds.
Voluntary Retirement Plan - While actively employed, access to your Voluntary Plan funds is permitted, regardless of bona-fide separation from service, if you take a loan or hardship withdrawal or meet one of the following triggering events: age 59 ½, death or disability.

However, if you terminate employment or retire and you know you will be rehired (into any employee or student position) because of a verbal or written agreement with any of the KBOR state universities or KBOR Board Office, then the separation from service is not bona fide and there is not a distributable event to authorize access to 403(b) funds.

If you take distribution from your 403(b) Plan and you are later rehired, if the facts **support** that the intent was to separate from service or retire, the subsequent rehire **would not** create a problem for the 403(b) Plan distributions.

If you take distribution from your 403(b) Plan and you are later rehired, if the facts **do not support** the intent to separate from service or retire, the subsequent rehire **would create** a problem for the 403(b) Plan distribution.

a. If you took a distribution from your 403(b) Plan, you will be subject to a 10% premature distribution penalty. This qualification defect will be for your specific contract.
b. If you rolled funds out of the KBOR 403(b) Plan to another plan, the amount will be taxable regardless of the rollover, and the rollover would need to be reversed to preserve the tax qualification of the receiving plan. If you rolled funds to an IRA that are not timely withdrawn before your tax return is filed, the amount rolled is taxable and there is a 6% excise tax due on the amount in the IRA each year thereafter.

If this were to occur, the employer (the KBOR state university or Board Office) would be responsible for notifying you (and any affected receiving plan for whom there is notice) of the error and correcting the tax reporting and withholding with respect to the distribution. If not corrected, all of your 403(b) contracts will be subject to taxation, and the employer will be responsible for the incorrect reporting and withholding.

As the state university and Board Office cannot provide tax advice, if you have additional questions you are encouraged to seek appropriate counsel from a tax or legal professional.