JUDITH W. BOYETTE
PARTNER
DIRECT DIAL (415) 995-5115
DIRECT FAX (415) 995-3577
E-MAIL jboyette@hansonbridgett.com

HansonBridgett

September 4, 2015

VIA UPS

James Wilbanks
Retirement Administrator
Mendocino County Employees'
Retirement Association
625B Kings Court
Ukiah, CA 95482

Re: Final Draft IRS Determination Letter Filing Package

Dear James:

I have enclosed the final draft IRS Determination Letter Filing Package, for approval by the Board. I have also enclosed the following to be signed and returned to us with a check for $2,500.00 made payable to "United States Treasury" for the user fee:

- The signature page for Subtab I-13, Correction of Failure #11,
- Forms 2848, and
- Form 5300.

In response to your comments on the first draft:

1. On line 3(m)(3) of Form 5300, there is an "X" in the column for "Interim Amendments" because the IRS-required "interim" amendment regarding treatment of same-sex spouses following the *Windsor* case was included in Model Tax Regulations. All other amendments to the MCERA plan were "discretionary" meaning not required by the IRS.

2. On line 5(b)(2) of Form 5300, the Instructions provide that this should be left blank for governmental plans.

3. On line 6(2) of Form 5300, MCERA is a multiple employer, rather than a multiemployer plan. According to the Internal Revenue Manual, a **multiple employer plan** is a plan maintained by two or more employers who are not related under IRC 414(b) (controlled groups), IRC 414(c) (trades or businesses under common control), or IRC 414(m) (affiliated service groups). A **multiemployer plan**, on the other hand, is a plan maintained pursuant to one or more collective bargaining agreements and to which more than one employer is required to contribute. Although MCERA covers collectively bargained employees, it is not a plan that is maintained pursuant to a collective bargaining agreement, and so is more appropriately characterized as a multiple

employer plan than a multiemployer plan, as shown on line 6(i)(1). The fact that there are 3 participating employers is indicated on line 6(i)(2).

4. On line 20 of Form 5300, we indicated that the vesting schedule is "Other" because the vesting rules are not quite the standard "full vesting after 5 years" that is typical for ERISA plans, given the forfeiture provisions for felony convictions (which have been approved by the IRS and meet the pre-ERISA vesting rules for governmental plans).

5. On each of the 2010, 2012, 2013 and 2014 reference lists, we will insert June 9, 2015 as the adoption date for changes made to Board of Retirement regulations.

6. We completed Tab H-3 with the adoption date by the Board of Supervisors for the Board of Retirement regulations.

7. We included a copy of the Board of Supervisors' Resolution behind Tab H-5.

8. Thanks for catching the typos – we fixed them.

Please sign and return the forms and correction statement, with the check. If you return the binder as well, we can update it with signed copies of the forms and final cover letter, and return it to you. I will also have a complete electronic copy sent to you then.

If you have any questions, please let me know.

Very truly yours,

Judith W. Boyette

JWB:EJM

JUDITH W. BOYETTE
PARTNER
DIRECT DIAL (415) 995-5115
DIRECT FAX (415) 995-3577
E-MAIL jboyette@hansonbridgett.com

DRAFT

September 24, 2015

VIA OVERNIGHT DELIVERY

Internal Revenue Service
Attention: EP/EO Determination Letters
Stop 31
201 West Rivercenter Blvd.
Attn: Extracting Stop 31
Covington, KY 41011

ON CYCLE FILING
CYCLE E - GOVERNMENTAL PLAN
MULTIPLE EMPLOYER PLAN

Re: The Mendocino County Employees' Retirement Association;
Determination Letter Application

Dear Sir or Madam:

By this letter, we respectfully request a determination letter on the qualification of the Mendocino County Employees' Retirement Association (the "Plan" or "MCERA"). MCERA is a defined benefit pension plan qualified under section 401(a) of the Internal Revenue Code. MCERA is governed by the California County Employees' Retirement Law of 1937 (the "CERL"). The CERL is embedded in the California Government Code. It is enacted by the California Legislature with the approval of the Governor. MCERA is a Code section 414(d) governmental plan, the plan administrator of which has made the election to treat "Cycle E" as the remedial amendment cycle for the Plan.

MCERA (like other retirement systems operating under the CERL) is governed by a 9-member board of trustees called the MCERA Board of Retirement. The MCERA Board of Retirement is an independent organization that is given "plenary authority" by California Constitution, Article XVI, Section 17 to administer the retirement system and invest its assets. Administration includes setting the funding requirements for all contributing employers as well as the day-to-day operation of MCERA. The independent responsibility of MCERA's Board of Retirement is established and protected by the California Constitution. MCERA's trustees, the Board of Retirement, have the primary constitutional responsibility for tax compliance. Therefore, MCERA is making this determination letter application as the plan administrator.

In 2011, in conjunction with its last Cycle E submission, MCERA filed a Voluntary Compliance Program submission to correct certain Plan failures. In response to the filing, the IRS issued a Compliance Statement, dated January 29, 2014, and revised on February 20, 2014. In accordance with Section 6.04 of Revenue Procedure 2015-6, copies of the Compliance Statement, Appendix C of Revenue Procedure 2013-12, and corrective changes to the Plan are enclosed.

Enclosed are the following forms, statements and documents which are being submitted in support of the request for an on-cycle favorable determination letter under Revenue Procedure 2015-6. These documents are at the tabs indicated below:

Tab A: Form 8717 – User Fee for Employee Plan Determination Letter Request and a check in the amount of $2,500.00 made payable to the United States Treasury.

Tab B: Form 2484 – Power of Attorney and Declaration of Representative, authorizing my representation of MCERA in this filing.

Tab C: Form 5300 – Application for Determination for Employee Benefit Plans, including Completed Procedural Checklist, and attachments for lines 3m, 19 and 21.

Tab D: Completed IRS 2010 - 2014 Reference Lists.

Tab E: Last favorable determination letter issued to the Plan.

Tab F: The County Employees' Retirement Law of 1937 (Primary Plan Document), 2015 Version.

The CERL is the statutory basis for retirement plan benefits and plan administration for the retirement systems (or "plans") of 20 California counties, including MCERA. The CERL is contained in provisions of the California Government Code. Some CERL provisions are mandatory while others are only operative in the counties that adopt them. The mandatory CERL provisions, adopted optional CERL provisions, together with any adopted regulations, resolutions, policies and other relevant documents make up each county's plan document. In Tabs H-1 through H-6 below, we have included explanations of changes in any of these documents that make up MCERA's Plan document since our prior filing in 2011.

Since the last IRS filing, the California Legislature adopted and the Governor approved the California Public Employees' Pension Reform Act of 2013 ("PEPRA"). As described more fully in this application, PEPRA, also contained in the California Government Code, added provisions that amended MCERA and other systems operating under the CERL.

The California Legislature and the Governor control the CERL. They do not, however, have operational responsibility for tax compliance, which falls to MCERA's Board of Retirement. To the extent that the CERL must be amended for tax compliance, this must occur in the usual – often difficult and lengthy – California legislative process, led by appropriate legislators with the support of the 20 county retirement systems operating under the CERL. The CERL does provide that the Board of Retirement, with the County board of supervisors, can adopt operational regulations within the limits of the CERL. Much of the detailed tax compliance provisions are included in MCERA's regulations that have been adopted and are included under Tab H below. Because of the complex legislative situation, as was the case in MCERA's prior successful determination letter application process, to the extent that plan document changes may be required as part of obtaining a favorable determination letter in this current process, MCERA respectfully requests that such changes be made through regulations and, only as absolutely necessary, through legislative changes to the CERL itself.

Tab G: Declaration of Trust and Custodial Agreement.

Tab H: Statement of Effect of Amendments to the Plan Made Since the Last Favorable Determination Letter.

Tab H-1: Changes to the Plan From Adoption of the California Public Employees' Pension Reform Act of 2013 ("PEPRA").

Tab H-2: Changes to the Plan From Adoption of Various Legislative Changes.

Tab H-3: Changes to the Plan from Adoption of Revisions to Board of Retirement Bylaws, Regulations, and Charters.

Tab H-4: Changes to the Plan from Adoption of MCERA Board of Retirement Resolutions.

Tab H-5: Change to the Plan from Adoption of County of Mendocino Board of Supervisors Resolutions.

Tab H-6: Changes to the Plan from Adoption of MCERA Policies and Procedures.

Tab I: VCP Compliance Statement, dated January 29, 2014 and corrected on February 20, 2014; Rev. Proc. 2013-12 Appendix C; and Corrective Amendments to the Plan.

As reflected in Tab H and Tab I, MCERA completed all of the required actions requested by the Service either in the determination letter process or in the VCP Compliance Statement through supporting the process through which legislation amending the CERL was adopted by the California legislature and approved by the Governor and by adopting all required regulations (which were also subsequently approved by the County Board of Supervisors of the plan sponsor).

Request for Consideration of Coordinated Review of Other CERL Systems – Template Application

On March 4, 2015, we submitted a similar determination letter application on behalf of the San Mateo County Employees' Retirement Association (SamCERA). At that time, we explained that we represent a number other systems that are subject to the CERL and to PEPRA, and which intend to submit substantially the same application, with appropriate system-specific documents, during Cycle E. On July 28, 2015, we submitted a determination letter application on behalf of the Orange County Employees' Retirement System (OCERS). Most of the changes that were described for SamCERA and OCERS are described in this filing for MCERA, and also apply to other CERL systems (such as the changes made by the PEPRA legislation). We respectfully request that, as was done in the last Cycle E filing for the CERL systems, these applications be reviewed by the same person or team within the Service in a coordinated manner. We would be happy to discuss the manner in which this coordination could be done in a way that would best fit within the Service's process for dealing with determination letter applications.

****

Judith W. Boyette
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

415-995-5115 (tel)
415-995-3577 (fax)
jboyette@hansonbridgett.com

Thank you for your assistance in this matter.

Sincerely,

Judith W. Boyette

Enclosures

Plan Name: Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan #: 001

INDEX OF TAB ENCLOSURES

Tab A: Form 8717 – User Fee for Employee Plan Determination Letter Request and a check in the amount of $2,500.00 made payable to the United States Treasury.

Tab B: Form 2848 – Power of Attorney and Declaration of Representative.

Tab C: Form 5300 – Application for Determination for Employee Benefit Plans, including Completed Procedural Checklist, and attachments for: lines 3m, 19, and 21.

Tab D: Completed IRS 2010 - 2014 Reference Lists.

Tab E: Last favorable determination letter issued to the Plan.

Tab F: The County Employees' Retirement Law of 1937 (Primary Plan Document), 2015 Version.

Tab G: Declaration of Trust and Custodial Agreement. (This may change prior to filing, depending on whether a new agreement is in place at that time.)

Tab H: Statement of Effect of Amendments to the Plan Made Since the Last Favorable Determination Letter.

Tab H-1: Changes to the Plan From Adoption of the California Public Employees' Pension Reform Act of 2013 ("PEPRA").

Subtab H-1(a): Summary of PEPRA.

Subtab H-1(b): Table of Key Areas of PEPRA and Comparison to CERL.

Subtab H-1(c): PEPRA Statutes (2015 version).

Tab H-2: Changes to the Plan From Adoption of Various Legislative Changes.

Subtab H-2(a): Brief Summary of Various Other Legislative Plan Changes.

Subtab H-2(b): County Employees' Retirement Law of 1937("CERL") - 2015 Version. See copy under Tab F.

Tab H-3: Changes to the Plan from Adoption of Revisions to Board of Retirement Regulations and/or Bylaws.

Subtab H-3(a): Brief Summary of Changes Made By Amendments to Board of Retirement Regulations, Bylaws and Charters.

Subtab H-3(b): Board of Retirement Bylaws, Regulations, and Charters.

Tab H-4: Changes to the Plan from Adoption of MCERA Board of Retirement Resolutions.

Tab H-5: Changes to the Plan from Adoption of Mendocino County Board of Supervisors Resolutions.

Plan Name: Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan #: 001

Tab H-6: Change to the Plan from Adoption of MCERA Policies and Procedures.

Tab I: VCP Compliance Statement, dated January 29, 2014; Rev. Proc. 2013-12 Appendix C; and Corrective Amendments to the Plan.

Subtab I-1: VCP Compliance Statement

Subtab I-2: Appendix C

Subtab I-3 to I-16: Corrective Changes to the Plan

TAB A

Form **8717**
(Rev. August 2014)
Department of the Treasury
Internal Revenue Service

User Fee for Employee Plan Determination Letter Request

▶ Attach to determination letter application.
▶ For the latest information about this form, go to *www.irs.gov/form8717*.

For IRS Use Only | OMB No. 1545–1772 | Amount paid _____

1 Name of plan sponsor (employer if single-employer plan)

Board of Retirement of Mendocino County Employees' Retirement Association

2 Sponsor's employer identification number	3 Plan number	4 Plan name
94-6116617	001	Mendocino County Employees' Retirement Association

Caution. *If you qualify for the exemption from user fees for small business employers, complete only the certification below (see the instructions on page 2 for details). For all other applications, leave the certification blank and check the appropriate box in column B of line 5.*

Certification

I certify that the application for a determination letter on the qualified status of the plan listed above meets the conditions for exemption from user fees described in section 7528(b)(2)(B) of the Internal Revenue Code.

Sign Here ▶ _____ Date ▶ _____

Type or print name and title ▶

Attach Check or Money Order Here

Form Submitted	Fee Schedule A	Fee Schedule B (no Demo 5 and no Demo 6)
5a **Form 5300:**		☑ $ 2,500
b **Form 5307:**		☐ $ 500
c **Form 5310:**		☐ $ 2,000
d		
e Multiple employer plans **(Form 5300):**		
(1) 2 to 10 Forms 5300 submitted		☐ (1) $ 3,000
(2) 11 to 99 Forms 5300 submitted		☐ (2) $ 3,000
(3) 100 to 499 Forms 5300 submitted		☐ (3) $ 15,000
(4) Over 499 Forms 5300 submitted		☐ (4) $ 15,000
f Multiple employer plans **(Form 5310):**		
(1) 2 to 10 employers maintaining the plan		☐ (1) $ 3,000
(2) 11 to 99 employers maintaining the plan		☐ (2) $ 3,000
(3) 100 to 499 employers maintaining the plan		☐ (3) $ 15,000
(4) Over 499 employers maintaining the plan		☐ (4) $ 15,000
g Reserved (1a) (1b) (2a) (2b) (3) (4)		
h Reserved (1a) (1b) (2) (3) (4a) (4b) (5) (6) (7)		
i Form 5316 (Group trusts)		☐ $ 1,000

TAB B

Form **2848**
(Rev. July 2014)
Department of the Treasury
Internal Revenue Service

Power of Attorney and Declaration of Representative

▶ Information about Form 2848 and its instructions is at *www.irs.gov/form2848*.

OMB No. 1545-0150

For IRS Use Only
Received by:
Name
Telephone
Function
Date / /

Part I Power of Attorney

Caution: *A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.*

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address	Taxpayer identification number(s)	
Board of Retirement of Mendocino County Employees' Retirement Association (MCERA) **625-B Kings Court** **Ukiah, CA 94582**	**94-6116617**	
	Daytime telephone number **707-463-4328**	Plan number (if applicable) **001**

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	
Judith W. Boyette **Hanson Bridgett LLP** **425 Market Street, 26th Floor, San Francisco, CA 94105** **Check if to be sent copies of notices and communications** ☑	CAF No. **9005-09391R** PTIN Telephone No. **415-995-5115** Fax No. **415-995-3577** Check if new: Address ☐ Telephone No. ☐ Fax No. ☐
Name and address **Elizabeth J. Masson** **Hanson Bridgett LLP** **425 Market Street, 26th Floor, San Francisco, CA 94105** **Check if to be sent copies of notices and communications** ☑	CAF No. **None** PTIN Telephone No. **415-995-5106** Fax No. **415-995-3593** Check if new: Address ☐ Telephone No. ☐ Fax No. ☐
Name and address **Edward M. Bernard** **Hanson Bridgett LLP** **425 Market Street, 26th Floor, San Francisco, CA 94105** (**Note.** IRS sends notices and communications to only two representatives.)	CAF No. **0301-78474R** PTIN Telephone No. **415-995-5807** Fax No. **415-995-3527** Check if new: Address ☐ Telephone No. ☐ Fax No. ☐
Name and address (**Note.** IRS sends notices and communications to only two representatives.)	CAF No. PTIN Telephone No. Fax No. Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

3 Acts authorized (you are required to complete this line 3). With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)
Determination Letter Application	**All forms/matters related to**	**N/A**
	the Determination Letter Application	

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific Use Not Recorded on CAF** . . . . . ▶ ☐

5a Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☐ Sign a return;

☐ Other acts authorized:

b **Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.
List any specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b): _____

6 **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here . . . . . ▶ ☐
YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

7 **Signature of taxpayer.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.
▶ **IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.**

Signature	Date	Retirement Administrator Title (if applicable)
James R. Wilbanks Print Name		Board of Retirement of MCERA Print name of taxpayer from line 1 if other than individual

Part II Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:

a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
b Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
c Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230.
d Officer—a bona fide officer of the taxpayer organization.
e Full-Time Employee—a full-time employee of the taxpayer.
f Family Member—a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
h Unenrolled Return Preparer—Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have prepared and signed the return. **See Notice 2011-6 and *Special rules for registered tax return preparers and unenrolled return preparers* in the instructions (PTIN required for designation h).**
i Registered Tax Return Preparer—registered as a tax return preparer under the requirements of section 10.4 of Circular 230. Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have prepared and signed the return. **See Notice 2011-6 and *Special rules for registered tax return preparers and unenrolled return preparers* in the instructions (PTIN required for designation i).**
k Student Attorney or CPA—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LITC or STCP. See instructions for Part II for additional information and requirements.
r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ **IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.** See the instructions for Part II.

Note. For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column. See the instructions for Part II for more information.

Designation—Insert above letter **(a–r)**	Licensing jurisdiction (state) or other licensing authority (if applicable)	Bar, license, certification, registration, or enrollment number (if applicable). See instructions for Part II for more information.	Signature	Date
a	CA	99363		
a	CA	240812		
a	CA	227568		

TAB C

Form **5300**

(Rev. December 2013)

Department of the Treasury
Internal Revenue Service

Application for Determination for Employee Benefit Plan

(Under section 401(a) and 501(a) of the Internal Revenue Code)

▶ Information about Form 5300 and its instructions is at *www.irs.gov/form5300.*

OMB No. 1545-0197

Review instructions and the Procedural Requirements Checklist before completing this application.

For Internal Use Only

Complete lines 1j-1m and 2h-2k only if you have a foreign address, see instructions.

1a Name of plan sponsor (employer if single-employer plan)

BOARD OF RETIREMENT OF MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASS'N

b Address of plan sponsor

625-B KINGS COURT

c City: UKIAH

d State: CA

e Zip code: 94582

f Employer identification number (EIN): 94-6116617

g Telephone number: (707) 463-4328

h Fax number: (707) 467-6472

i Employer's tax year end (MM): 06

j City or town

k Country name

l Province/country

m Foreign postal code

2a Person to contact. If a Power of Attorney is attached, mark box, and do not complete this line. ☑

Contact person's name

b Contact person's address

c City

d State

e Zip code

f Telephone number

g Fax number

h City or town

i Country name

j Province/country

k Foreign postal code

If more space is needed for any item, attach additional sheets the same size as this form. Identify each additional sheet with the plan sponsor's name and EIN and identify each item.

Under penalties of perjury, I declare that I have examined this application, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE ▶ _____ **Date ▶**

Type or print name: JAMES R. WILBANKS

Type or print title: RETIREMENT ADMINISTRATOR

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 11740X Form **5300** (Rev.12-2013)

3a (1) Determination requested for (enter applicable number in box):

[3]

1 – Initial Qualification – New Plan
2 – Initial Qualification – Existing Plan
3 – Request after initial qualification

(2) Enter applicable number (4-7) in box for special rulings, if applicable.

[ ]

4 – Affiliated Service Group (ASG) status (section 414(m))
5 – Leased employee status (section 414(n))
6 – Partial termination
7 – Termination of multiemployer collectively bargained or multiple employer plan covered by Pension Benefit Guaranty Corporation (PBGC) insurance.

b If line 3a(1) is "1" or "2," enter the date the plan was initially adopted. [ ]

c If line 3a(2) is "6," enter the date of the partial termination. [ ]

d If line 3a(2) is "7," enter the effective date of termination. [ ]

e (1) **Yes** [✓] **No** [ ] Is the plan being filed "on-cycle" pursuant to section 13 or 14 of Rev. Proc. 2007-44, 2007-28 I.R.B. 54? If "Yes," complete lines 3e(2) and 3e(3) below.

(2) Provide the submission cycle indicator pursuant to section 13 or 14 or Rev. Proc. 2007-44. [E]

A. Cycle A **C.** Cycle C **E.** Cycle E **G.** Pre-approved DB plans
B. Cycle B **D.** Cycle D **F.** Pre-approved DC plans

(3) Provide the cycle reason. [3]

1. The last digit of the EIN, or
2. A multiple employer plan, or
3. A governmental plan including governmental multiple employer plan, or
4. A multiemployer plan, or
5. A DC pre-approved plan, or an individually designed DC plan that is eligible for the six-year remedial amendment cycle (RAC), filing in the two-year window, or
6. A DB pre-approved plan, or an individually designed DB plan that is eligible for the six-year RAC, filing in the two-year window, or
7. EIN of the parent company, jointly trusteed single employer collectively bargained plan (if the plan sponsor is the Joint Board of Trustees include the EIN used on the Form 5500 filing) or centralized organization if that organization administers and operates the plan, or
8. New plan exception, or
9. Cycle changing event (include the date and explanation of the cycle changing event), or
10. Cycle A controlled group election, ASG election or centralized group election. Attach a copy of the election. Also, attach a statement showing in detail:
a. All members of the group (including their EIN),
b. The type(s) of plan(s) each member has, and
c. Plans common to all members.
11. Urgent business need, or
12. Other, attach an explanation.

See Rev. Proc. 2007-44 for details, including sections 10, 11 and 16.

(Line 3 continued)

If line 3e(2) is "A" through "E," skip to line 3g.
If line 3e(2) is "F" or "G," go to line 3f.

	Yes	No	
f (1)	☐	☐	Is the plan a pre-approved Master & Prototype (M&P) plan?
(2)	☐	☐	Is the plan a pre-approved Volume Submitter plan (VS)?

(i) Name of sponsor or practitioner

(ii) Date of opinion/advisory letter

(iii) Serial # of opinion/advisory letter

	Yes	No	
g (1)	☐	☑	Is this form being filed because it is a pre-approved plan required to file on a Form 5300?

(2) If "Yes," mark each applicable box. (More than one box may be checked, if applicable.)

☐ ☐ 1 – Multiple employer plan, or

☐ ☐ 2 – Request required pursuant to published guidance by Service (such as minimum funding waiver), or

☐ ☐ 3 – Section 415 and 416 added to an M&P plan due to required aggregation, or

☐ ☐ 4 – The normal retirement age in the M&P or VS pension plan is earlier than age 62.

If this is a pre-approved plan that does not meet one of the requirements above, attach an explanation why the Form 5300 is being filed.

h	☐	☑	If the plan is not a pre-approved plan, is the plan an individually designed plan that is eligible for the six-year RAC?
i (1)	☐	☐	If this is a VS plan, did the VS practitioner have the authority to amend on behalf of adopting employers for the entire prior RAC? N/A
(2)	☐	☐	If this is a VS plan, does the VS practitioner have the authority to amend on behalf of adopting employers for the entire current RAC? N/A
j	☐	☑	Was the plan sponsor entitled to rely on a favorable opinion or advisory letter as an "identical adopter" of a pre-approved plan for the plan's RAC immediately preceding the cycle in which the application is submitted? If "Yes," complete j(i), (ii) and (iii). If "No," go to line 3k.

(i) Name of sponsor or practitioner

(ii) Date of opinion/advisory letter

(iii) Serial # of opinion/advisory letter

	Yes	No	
k	☑	☐	Does the plan have a determination letter (DL) for the plan's RAC immediately preceding the cycle in which the application is filed? If "Yes," complete line k (i), (ii), and (iii). If "No," go to line 3l.

(Line 3 continued)

(i) Date the letter was issued 01/29/2014

(ii) Year of the Cumulative List considered in the letter 2009

(iii) Expiration date of the letter 01/31/2016 1

	Yes	No	
l	✓		Do any amendments not considered in a prior DL have any discretionary provisions? If "Yes," and the amendment contains only discretionary provisions, mark an "X" in column (v) in the table. If "Yes," and the amendment contains both interim and discretionary provisions, mark an "X" in columns (iv) and (v) in the table.

m Complete the following table (for (iv), (v), and (vi) mark with an "X" in the applicable boxes). If additional space is needed, attach a separate sheet of paper the same size, label it "Attachment to 3m" using the same format as below.

	(i) Amendment ID	(ii) Effective Date (MMDDYYYY)	(iii) Adoption Date (MMDDYYYY)	Type of Amendment		(vi) Power to Amend on Behalf of	(vii) Due Date of Tax Return (including extensions) (MMDDYYYY)
				(iv) Interim Amnd.	(v) Discr. Amnd.		
3m(1)	TAB H-1	01/01/2013	09/30/2012		X		
3m(2)	TAB H-2	10/02/2011	10/02/2011		X		
3m(3)	TAB H-3	10/19/2011	10/09/2011	X	X		
3m(4)	TAB H-4	11/07/2012	11/07/2012		X		
3m(5)	TAB H-5	12/11/2012	12/11/2012		X		
3m(6)	TAB H-6	11/09/2011	11/09/2011		X		
3m(7)							
3m(8)							
3m(9)							
3m(10)							

n Enter total number of amendments on line 3m. 6 SEE ATTACHMENT.

o Designate the specific tax return that the employer uses to file its return. N/A

1 = EXPIRATION OF CURRENT DETERMINATION LETTER WAS EXTENDED BY REV. PROC. 2012-50.

4a Name of plan (plan name cannot exceed 70 characters, including spaces):

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

b Enter 3-digit plan number 001

c Enter the month on which the plan year ends (MM) 12

d Enter plan's original effective date 01/01/1948

e Enter number of participants 2,487
If 100 or less, complete line 4f. Otherwise, go to line 5a.

	Yes	No	
f	☐	☑	Does the plan sponsor have no more than 100 employees who received at least $5,000 of compensation for the preceding year? If "Yes," go to line 4g. If "No," go to line 5a.
g	☐	☐	Is at least one employee a non highly compensated employee?

5a Indicate the type of plan by entering the number from the list below. 4
(Use the lowest number from the list below applicable to the plan.)

1 – Pension Equity Plan (PEP)
2 – cash balance conversion
3 – cash balance (not converted)
4 – defined benefit but not cash balance
5 – ESOP
6 – money purchase
7 – target benefit
8 – stock bonus
9 – 401(k)
10 – profit sharing plan

	Yes	No	
b (1)	☑	☐	If the response to 5a was "1," "2," "3," "4," "6," or "7," was the plan's normal retirement age below 62 any time after 5/22/07? If "Yes," go to line 5b(2). If "No," go to line 5c(1).
(2)	☐	☐	Has the employer (or trustees, if this is a multiemployer plan) made a good faith determination that the plan's normal retirement age is not lower than an age that reasonably represents the typical retirement age for the industry in which the covered workforce is employed? If "Yes," attach required statement. Governmental plans see instructions. 2

c (1) If the response to 5a was "5," mark the box to indicate whether the plan sponsor is an S Corporation or a C Corporation.

☐ C Corp. ☐ S Corp.

(2) If there has been a change to the corporate status from C to S or S to C (election/revocation), provide the effective date of such change.

	Yes	No	
6a (1)	☐	☑	Is the plan sponsor a member of an ASG, controlled group of corporations, or a group of trades or businesses under common control within the meaning of section 414(b) or (c)? If "Yes," attach the required statement.
(2)	☐	☑	Is the plan sponsor a foreign entity or is the plan sponsor a member of an ASG, controlled group of corporations, or a group of trades or businesses under common control within the meaning of section 414(b) or (c) that includes a foreign entity?
b	☑	☐	Is this a governmental plan under section 414(d)?
c (1)	☐	☑	Is this a church plan under section 414(e)? If "Yes," go to line 6c(2). If "No," go to line 6d.

2 = THIS IS A GOVERNMENTAL PLAN.

(Line 6 continued)

	Yes	No	
(2)	☐	☐	Was an election made by the church to have participation, vesting, funding, etc. provisions apply in accordance with section 410(d)?
d	☑	☐	Does this plan benefit any collectively bargained employees under Regulations section 1.410(b)-6(d)(2)?
e	☐	☑	Is this an insurance contract plan under section 412(e)(3)?
f	☐	☑	Is this a multiemployer plan under section 414(f)?
g	☐	☑	Is this a request for a ruling under section 401(h)?
h	☐	☑	Is this a request for ruling under section 420?
i (1)	☑	☐	Is this a multiple employer plan under section 413(c)? If "Yes," complete lines 6i(2) through 6i(5). If "No," go to line 7.

(2) Enter the total number of participating employers. 3

(3) Enter the number of participating employers submitting a Form 5300 concurrent with this application. 0

(4) Enter the EIN of the employer submitting the controlling plan. 94-6116617

(5) Enter the 3-digit plan number of the controlling plan. 001

7	☑	☐	Have interested parties been given the required notification of this application? 3
8	☐	☑	Is a separate DL application for this plan currently pending before the IRS?
9a	☐	☑	Does this plan satisfy one of the design-based safe harbor requirements for contributions or benefits under Regulations section 1.401(a)(4)-2(b) or 3(b)? If "Yes," go to line 9b. If "No," go to line 10a.
	Yes	**No**	
b	☐	☐	Is this an election for a determination regarding a design-based safe harbor? If "Yes," complete lines 9c through 9e. If "No," go to line 10a.
c	☐		Enter the letter ("A" - "E") from the list below that identifies the safe harbor intended to be satisfied. **A** = 1.401(a)(4)-2(b)(2) defined contribution (DC) plan with uniform allocation formula **B** = 1.401(a)(4)-3(b)(3) unit credit defined benefit (DB) plan **C** = 1.401(a)(4)-3(b)(4)(i)(C)(1) unit credit DB fractional rule plan **D** = 1.401(a)(4)-3(b)(4)(i)(C)(2) flat benefit DB plan **E** = 1.401(a)(4)-3(b)(5) insurance contract plan
d	☐	☐	Does this plan satisfy one of the safe harbor definitions of compensation under Regulation sections 1.414(s)-1(c)(2) or (3)? 3 = THIS IS A GOVERNMENTAL PLAN.

(Line 9 continued)

e List the plan section(s) that satisfy the design-based safe harbor (including, if applicable, the permitted disparity requirements):

	Yes	No	
10a	☐	☑	Does this plan have a cash or deferred arrangement (CODA)? If "Yes," go to line 10b(1). If "No," go to line 10e.
b (1)	☐	☐	Does the CODA satisfy a safe harbor? If "Yes," go to line 10b(2). If "No," go to line 10d.
(2)			Indicate by using the corresponding number the type of section 401(k) safe harbor that was satisfied. ☐ **1.** 401(k)(12)(B) **2.** 401(k)(12)(C) **3.** 401(m)(11)(B)
c	☐	☐	Does this plan contain a qualified automatic contribution arrangement (QACA) within the meaning of section 401(k)(13)?
d	☐	☐	Does this plan contain an eligible automatic contribution arrangement (EACA) within the meaning of section 414(w)?
e	☐	☑	Does this plan have matching contributions within the meaning of section 401(m)? If "Yes," go to line 10f. If "No," go to line 10g.
	Yes	**No**	
f	☐	☐	Does this plan satisfy the 401(m) safe harbor?
g	☐	☑	Does this plan have after-tax employee voluntary contributions within the meaning of section 401(m)?
11	☐	☑	Does this plan utilize the permitted disparity rules of section 401(l)?
12	☐	☑	Is this plan part of an offset arrangement with any other plans? If "Yes," attach the required statement.
13	☐	☑	Is this plan part of an eligible combined plan arrangement within the meaning of section 414(x)? If "Yes," include the EIN and Plan # of the other plan. EIN: ☐ Plan #: ☐
14	☐	☑	Has this plan been involved in a merger, consolidation, spinoff, or a transfer of plan assets or liabilities that was not considered under a previous DL? If "Yes," submit the required attachment.
15a	☐	☑	Has the plan been amended or restated to change the plan type? If "Yes," go to line 15b. If "No," go to line 16a.
b	☐	☐	Was the change considered in a prior DL? If "No," attach a statement explaining the change.

	Yes	No	
16a	☐	☑	Does the plan sponsor maintain any other qualified plans under section 401(a)? If "Yes," attach required statement and complete lines 16b and 16c. If "No," go to line 17.
b (1)	☐	☐	Does the plan sponsor maintain another plan of the same type (for example, both this plan and the other plan are DC plans or both are DB plans) that covers non-key employees who are also covered under this plan? If "No," go to line 16c(1). If "Yes," when the plan is top-heavy, do non-key employees covered under both plans receive the top-heavy minimum contribution or benefit under:
(2)	☐	☐	This plan, or
(3)	☐	☐	The other plan?
c (1)	☐	☐	If this is a DC plan, does the plan sponsor maintain a DB plan (or if this is a DB plan, does the plan sponsor maintain a DC plan) that covers non-key employees who are also covered under this plan? If "No," go to line 17. If "Yes," when the plan is top-heavy, do non-key employees covered under both plans receive:
(2)	☐	☐	The top-heavy minimum benefit under the DB plan,
(3)	☐	☐	At least a 5% minimum contribution under the DC plan,
(4)	☐	☐	The minimum benefit offset by benefits provided by the DC plan, or
(5)	☐	☐	Benefits under both plans, using a comparability analysis, at least equal to the minimum benefit.
17	☐	☑	Does any amendment to this plan reduce or eliminate any section 411(d)(6) protected benefit? If "Yes," attach the required statement.

	Yes	No	NA	
18	☐	☐	☑	If this is a DC plan, are trust earnings and losses allocated on the basis of account balances? If "No," attach a statement explaining how they are allocated.

	Yes	No	
19	☑	☐	Is any issue involving this plan currently pending or has any issue related to this plan been resolved during the current RAC by: **(1)** Internal Revenue Service, **(2)** Department of Labor, **(3)** PBGC, **(4)** Any court (including bankruptcy), or **(5)** The Voluntary Correction Program of the Employee Plans Compliance Resolution System. If "Yes," attach a statement with the contact person's name (IRS Agent, DOL Investigator, etc.) and telephone number.

20 Indicate the regular (non top-heavy) vesting provisions of the plan by entering the letter from the list below:

[G]

a – Full and immediate
b – Full vesting after 2 years of service
c – Full vesting after 3 years of service
d – Full vesting after 5 years of service
e – 2 to 6 year graded vesting
f – 3 to 6 year graded vesting
g – Other

21 For DB plans – method for determining accrued benefit:

a(1) Benefit formula at early retirement age is:

SEE ATTACHMENT.

a(2) Benefit formula at normal retirement age is:

SEE ATTACHMENT.

a(3) Normal form of retirement benefit is:

ANNUITY

22 For DB plans – enter the letter of the accrual rule satisfied by the plan:

[ ]

A = Regulations section 1.411(b)-1(b)(1) – 3 percent method 4
B = Regulations section 1.411(b)-1(b)(2) – 133 1/3 percent rule
C = Regulations section 1.411(b)-1(b)(3) – Fractional rule

23 For DC plans – Employer contributions:

a(1) Profit sharing or stock bonus plan contributions are determined under (mark box):

☐ A definite formula ☐ A discretionary formula ☐ Both

Indicate the plan section where the above formula is located in the plan document:

(2) Matching contributions are determined under (mark box):

☐ A definite formula ☐ A discretionary formula ☐ Both

Indicate the plan section where the above formula is located in the plan document:

(3) Money purchase plan – Enter rate of contribution:

Indicate the plan section where the above formula is located in the plan document:

(4) Target benefit plan formula is:

Indicate the plan section where the above formula is located in the plan document:

	Yes	No	NA	
24a	☐	☐	☑	For DC plans—Is this an applicable DC plan as defined in Regulations section 1.401(a)(35)-1(f)(2)?

b If this is an applicable DC plan enter the section of the plan that contains the diversification language.

c If the plan satisfies one of the exceptions noted in line 24 of the instructions, enter the relevant section(s) of the plan.

4 = THIS IS A GOVERNMENTAL PLAN.

Procedural Requirements Checklist

Use this list to ensure that your submitted package is complete. Failure to supply the appropriate information may result in a delay in the processing of the application.

	Yes	No	
1.	✓		Is Form 8717, User Fee for Employee Plan Determination Letter Request, attached to your submission?
2.	✓		Is the appropriate user fee for your submission attached to Form 8717?
3.	✓		If appropriate, is Form 2848, Power of Attorney and Declaration of Representative, Form 8821, Tax Information Authorization, or a privately designed authorization attached? (For more information, see the Disclosure Request by Taxpayer in the instructions and Rev. Proc. 2013-4, 2013-1 I.R.B. 126, updated annually.)
4.	✓		Is a copy of your plan's latest DL, if any, attached?
5.	✓		Have you included a copy of the plan, trust, and all amendments adopted or effective during the current RAC?
6.	✓		Is the EIN of the plan sponsor/employer (NOT the trust's EIN) entered on line 1f? FORM 5300 IS BEING FILED BY PLAN ADMINISTRATOR - SEE COVER LETTER.
7.			If you are requesting a determination for an ASG Status, have you included the information requested in the instructions?
8.			For Partial Termination Requests: Have you included the required information as specified in the instructions?
9.			If line 3g is "Yes" and does not meet one of the exceptions, have you attached an explanation of why the Form 5300 is being filed?
10.			If line 5b (2) is "Yes," is the required statement attached? THIS IS A GOVERNMENTAL PLAN.
11.			If you answered "Yes" to line(s) 6a, have you included the information requested in the instructions?
12.	✓		For Multiple Employer Plans: Have you included the required information as specified in the instructions?
13.	✓		Have interested parties been given the required notification of this application? Make sure line 7 is completed. THIS IS A GOVERNMENTAL PLAN.
14.			If line 12 is "Yes," have you attached the required statement?
15.			If line 14 is "Yes," have you attached the required statement?
16.			If line 15b is "No," have you attached the required statement?
17.			If line 16a is "Yes," have you attached the required statement?
18.			If line 17 is "Yes," have you attached the required statement?
19.			If line 18 is "No," have you attached the required statement?
20.	✓		If line 19 is "Yes," have you attached the required statement?
21.	✓		Is the application signed and dated? (Stamped signatures are not acceptable; see Rev. Proc. 2013-4 updated annually.)

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001
Form 5300, Line 19

Statement of Contact Information for Plan's Voluntary Correction Program (VCP) Submission under the Employee Plans Compliance Resolution System Resolved During the Current Remedial Amendment Cycle

IRS Examiner: Danielle Norris
Telephone Number: 202-317-8726

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001
Form 5300, Line 21

Method For Determining Accrued Benefit

Line 21(a)(1) – Benefit formula at early retirement age is:

Benefit formulas under the CERL are not based on normal retirement age. The benefit formulas that apply to MCERA are found in CERL §§ 31664, 31664.2, 31676.11 and 31676.12, and for members covered by PEPRA Government Code §§ 7522.20 and 7522.25.

Line 21(a)(2) – Benefit formula at normal retirement age is:

Benefit formulas under the CERL are not based on normal retirement age versus early retirement age. The benefit formulas that apply to MCERA are found in CERL §§ 31664, 31664.2, 31676.11 and 31676.12, and for members covered by PEPRA Government Code §§ 7522.20 and 7522.25.

TAB D

Plan name Mendocino County Employees' Retirement Association EIN 94-6116617 Plan number 001

2010 Reference List

	✓	N/A	2010 Cumulative List (Notice 2010-90) New Provisions	Plan Section Reference	Date Amendment Signed
1	✓		Notice 2009-86, 2009-46 I.R.B. 629, provides that the IRS and Treasury intend to amend the normal retirement age regulations to change the effective date for governmental plans to plan years beginning on or after January 1, 2013.	Changes made to Board of Retirement Regs under Tab H-3(b)	June 9, 2015
2		✓	WRERA § 201(a) added § 401(a)(9)(H) which provides a suspension of the required minimum distribution rules for 2009 applicable to defined contribution plans.		
3		✓	Notice 2009-82, 2009-41 I.R.B. 491, provides guidance relating to the suspension of the required minimum distribution rules for 2009 applicable to defined contribution plans.		
4		✓	Notice 2009-97, 2009-52 I.R.B. 972, extends the deadline to amend for § 401(a)(35) to the last day of the first plan year that begins on or after January 1, 2010; extends the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of § 411(a)(13)(C), to meet the requirements of § 411(a)(13) (other than § 411(a)(13)(A)) to the last day of the first plan year that begins on or after January 1, 2010; extends the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of § 411(a)(13)(C), to meet the requirements of § 411(b)(5) to the last day of the first plan year that begins on or after January 1, 2010.		
5		✓	Final regulations under § 401(a)(35) were published on May 19, 2010 (75 Fed. Reg. 27927).		
6		✓	HEART Act § 104(a) added § 401(a)(37) with respect to benefits payable on the death of a plan participant while performing qualified military service.	California Government Code Section 31485.17	Effective January 1, 2011

2010 Reference List

	✓	N/A	2010 Cumulative List (Notice 2010-90) New Provisions	Plan Section Reference	Date Amendment Signed
7		✓	HEART Act § 104(b) amended § 414(u) by adding § 414(u)(9) regarding how a plan may provide benefit accruals for a person who dies or becomes disabled while performing qualified military service.		
8		✓	HEART Act § 105(b)(1) added § 414(u)(12) with respect to the treatment of differential wage payments during the period a person, while on active duty, is performing service in the uniformed services.		
9	✓		Notice 2010-15, 2010-6 I.R.B. 390, provides guidance regarding HEART Act §§ 104(a), 104(b), 105(b)(1), and 107.	California Government Code Section 31485.17	Effective January 1, 2011
10		✓	SBJA § 2112 added § 402A(c)(4) which permits rollovers of otherwise distributable amounts from a plan account other than a designated Roth account to the plan's designated Roth account.		
11		✓	Notice 2010-84, 2010-51 I.R.B. 872, provides guidance regarding § 402A(c)(4).		
12		✓	Final Regulations under § 411(a)(13) were published on October 19, 2010 (75 Fed. Reg. 64123).		

2010 Reference List

	✓	N/A	2010 Cumulative List (Notice 2010-90) New Provisions	Plan Section Reference	Date Amendment Signed
13		✓	Notice 2010-77, 2010-51 I.R.B. 851, extends the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of § 411(a)(13)(C), to meet the requirements of § 411(a)(13) (other than § 411(a)(13)(A)) to the last day of the first plan year that begins on or after January 1, 2011. Notice 2010-77 also extends the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of § 411(a)(13)(C), to meet the requirements of § 411(b)(5) to the last day of the first plan year that begins on or after January 1, 2011.		
14		✓	Proposed regulations under § 411(a)(13) were published on October 19, 2010 (75 Fed. Reg. 64197) and can be relied upon until the 2014 final hybrid plan regulations become effective.		
15		✓	Proposed regulations under § 411(b)(1) were published on October 19, 2010 (75 Fed. Reg. 64197) and can be relied upon until the 2014 final hybrid plan regulations become effective.		
16		✓	Final Regulations under § 411(b)(5) were published on October 19, 2010 (75 Fed. Reg. 64123).		
17		✓	Proposed regulations under § 411(b)(5) were published on October 19, 2010 (75 Fed. Reg. 64197) and can be relied upon until the 2014 final hybrid plan regulations become effective.		
18		✓	PPA '06 § 903(a) added § 414(x) with respect to special rules for eligible combined plans that consist of a defined benefit plan and a qualified cash or deferred arrangement.		

Plan name Mendocino County Employees' Retirement Association EIN 94-6116617 Plan number 001

2011 Reference List

	✓	N/A	2011 Cumulative List (Notice 2011-97) New Provisions	Plan Section Reference	Date Amendment Signed
1		✓	Revenue Ruling 2011-1, 2011-2 I.R.B. 251, revises the generally applicable rules for group trusts and, if certain requirements are met, permits the participation in group trusts of custodial accounts under § 403(b)(7), retirement income accounts under § 403(b)(9), and governmental retiree benefit plans under § 401(a)(24). This revenue ruling also modifies the transition relief provided in Revenue Ruling 2008-40.		
2		✓	Notice 2011-19, 2011-11 I.R.B. 550, provides that the terms "readily tradable on an established securities market" and "readily tradable on an established market" mean employer securities that are readily tradable on an established securities market within the meaning of § 1.401(a)(35)-1(f)(5) for purposes of §§ 401(a)(22), 401(a)(28)(C), 409(h)(1)(B) and § 409(l). Notice 2011-19 is effective for plan years that begin on or after January 1, 2012, except for certain plans that have a delayed effective date.		
3		✓	Notice 2011-85, 2011-44 I.R.B. 605, extends the deadline for adopting an interim or discretionary amendment under § 411(a)(13) (other than § 411(a)(13)(A)). Notice 2011-85 also announces that the Treasury Department and the IRS intend to amend the 2010 final hybrid plan regulations to postpone the effective/applicability date of § 1.411(b)(5)-1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i) to plan years that begin on or after a date to be specified in those regulations that is not earlier than January 1, 2013. This notice also extends the deadline for adopting an interim or discretionary amendment under § 411(b)(5).		
4		✓	PRA 2010 § 211(a)(2) added § 431(b)(8), which provides two special funding rules available to multiemployer plans.		
5		✓	Notice 2010-83, 2010-51 I.R.B. 862, provides guidance with respect to the special funding rules under § 431(b)(8).		

Plan name Mendocino County Employees' Retirement Association EIN 94-6116617 Plan number 001

2012 Reference List

	✓	N/A	2012 Cumulative List (Notice 2012-76) New Provisions	Plan Section Reference	Date Amendmer. Signed
1		✓	Notice 2012-6, 2012-3 I.R.B. 293, extends and expands the transition relief provided under Revenue Ruling 2011-1 for certain group trusts, certain retirement trusts that qualify under the Puerto Rico Internal Revenue Code that participate in group trusts, and certain qualified retirement plans that benefit Puerto Rico residents. The notice also provides additional time for governmental retiree benefit plans described in § 401(a)(24) to be amended to satisfy the applicable requirements of Revenue Ruling 2011-1.		
2	✓		Notice 2012-29, 2012-18 I.R.B. 872, provides that the IRS and Treasury intend to modify the normal retirement age regulations to clarify that governmental plans that do not provide for in-service distributions before age 62 do not need to have a definition of normal retirement age and to modify the age-50 safe harbor rule for qualified public safety employees. The notice also provides that the IRS and Treasury intend to amend the normal retirement age regulations to extend the effective date for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published in the Federal Register.	Changes made to Board of Retirement Regs under Tab H-3(b)	June 9, 2015
3		✓	Revenue Ruling 2012-4, 2012-8 I.R.B. 386, describes whether a qualified defined benefit pension plan that accepts a direct rollover of an eligible rollover distribution from a qualified defined contribution plan maintained by the same employer satisfies §§ 411 and 415 in a case in which the defined benefit plan provides an annuity resulting from the direct rollover.		
4		✓	Notice 2012-61, 2012-42 I.R.B. 479, provides that certain provisions in the 2010 final hybrid plan regulations will not be effective for plan years beginning before January 1, 2014.		
5		✓	Final Regulations under § 411(d)(6), which provide an additional limited exception to the anti-cutback rules in the case of a plan sponsor who is a debtor in a bankruptcy proceeding, were published on November 8, 2012 (77 Fed. Reg. 66915).		

2012 Reference List

	✓	N/A	2012 Cumulative List (Notice 2012-76) New Provisions	Plan Section Reference	Date Amendment Signed
6		✓	Revenue Ruling 2012-3, 2012-6 I.R.B. 383, describes how the qualified joint and survivor annuity ("QJSA)") and the qualified preretirement survivor annuity ("QPSA") rules, described in §§ 401(a)(11) and 417, apply when a deferred annuity contract is purchased under a profit sharing plan.		
7		✓	MAP-21 §§ 40241 and 40242 amend IRC § 420 to extend the provisions relating to transfers of excess pension assets to retiree health accounts and to expand those provisions to allow transfers to retiree group term life insurance accounts.		
8		✓	Treasury Regulation Section 1.436-1 provides guidance on the application of § 436, which provides a series of limitations on the accrual and payment of benefits under underfunded single employer defined benefit plans.		
9		✓	Notice 2011-3, 2011-2 I.R.B. 263, provides guidance on the special rules relating to the relaxation of § 436 rules that were included in the funding relief for single employer defined benefit pension plans under PRA 2010.		
10		✓	Notice 2011-96, 2011-52 I.R.B. 915, provides a sample plan amendment that plan sponsors may adopt to satisfy § 436 regarding limitations on the accrual and payment of benefits. The notice also extends both the deadline to amend a plan to satisfy § 436 and the period during which such an amendment is eligible for relief from the anti-cutback requirements of § 411(d)(6).		
11		✓	Notice 2012-70, 2012-51 I.R.B. 712, extends the deadline, as set forth in Notice 2011-96, to amend a defined benefit plan to satisfy the requirements of § 436 and provides associated relief from the requirements of § 411(d)(6).		

Plan name Mendocino County Employees' Retirement Association EIN 94-6116617 Plan number 001

2013 Reference List

	✓	N/A	2013 Cumulative List (Notice 2013-84) New Provisions	Plan Section Reference	Date Amendment Signed
1	✓		United States v. Windsor, 570 U.S. ___, 133 S. Ct. 2675 (2013). The Supreme Court found that Section 3 of the Defense of Marriage Act (DOMA), which provides that in determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife, is unconstitutional because it violates the principles of equal protection.	Changes made to Board of Retirement Regulations under Tab H-3 (b)	June 9, 2015
2	✓		Revenue Ruling 2013-17, 2013-38 I.R.B. 201, provides that for federal tax purposes, the terms "spouse," "husband and wife," "husband," and "wife" include an individual married to a person of the same sex if the individuals are lawfully married under state law; the term "marriage" includes such a marriage between individuals of the same sex; and the IRS adopts a general rule recognizing a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.	Changes made to Board of Retirement Regulations under Tab H-3 (b)	June 9, 2015
3		✓	Notice 2013-17, 2013-20 I.R.B. 1082, provides relief from anti-cutback rules for an amendment to an ESOP that becomes subject to the diversification requirements of § 401(a)(35) to eliminate all in-service distribution options previously used to satisfy the diversification requirements of § 401(a)(28)(B)(i).		

2013 Reference List

	✓	N/A	2013 Cumulative List (Notice 2013-84) New Provisions	Plan Section Reference	Date Amendment Signed
4		✓	Final regulations that provide guidance on permitted mid-year reductions or suspensions of safe harbor nonelective contributions in certain circumstances for amendments adopted after May 18, 2009, and revise the requirements for permitted mid-year reductions or suspensions of safe harbor matching contributions for plan years beginning on or after January 1, 2015, were published on November 15, 2013 (78 Fed. Reg. 68735).		
5		✓	ATRA § 902 added § 402A(c)(4)(E), which provides that rollovers from a plan account to the plan's designated Roth account can include a rollover of an otherwise nondistributable amount.		
6		✓	Notice 2013-74 provides guidance regarding § 402A(c)(4)(E) and also provides guidance that applies to all in-plan Roth rollovers under § 402A(c)(4).		

Plan name Mendocino County Employees' Retirement Association EIN 94-6116617 Plan number 001

2014 Reference List

	✓	N/A	2014 Cumulative List (Notice 2014-77) New Provisions	Plan Section Reference	Date Amendmen Signed
1	✓		Revenue Ruling 2014-9, 2014-17 I.R.B. 975, provides procedures a plan administrator may use in order to reasonably conclude that an amount is a valid rollover contribution.	Changes made to Board of Retirement Regs under Tab H-3(b)	June 9, 2015
2	✓		Notice 2014-19, 2014-17 I.R.B. 979, provides guidance on the application (including the retroactive application) of the decision in United States v. Windsor, and the holdings of Revenue Ruling 2013-17, to retirement plans qualified under § 401(a).	Changes made to Board of Retirement Regs under Tab H-3(b)	June 9, 2015
3		✓	Revenue Ruling 2014-24, 2014-37 I.R.B. 529, modifies the list of group trust retiree benefit plans eligible to participate in group trusts described in Revenue Ruling 81-100, as modified by Revenue Ruling 2011-1 and Notice 2012-6, to include trusts of certain retirement plans qualified only under the Puerto Rico Code, clarifies that assets held by certain separate accounts maintained by insurance companies may be invested in those group trusts, and provides limited transition relief.		
4		✓	Notice 2014-5, 2014-2 I.R.B. 276, provides temporary nondiscrimination relief for certain "closed" defined benefit pension plans.		
5		✓	Notice 2014-66, 2014-46 I.R.B. 820, provides a special nondiscrimination rule for a qualified defined contribution plan that provides lifetime income by offering, as investment options, a series of target date funds (TDFs) that include deferred annuities among their assets, even if some of the TDFs within the series are available only to older participants.		
6		✓	Final regulations that provide a limited modification of the required minimum distribution rules for tax-qualified defined contribution plans holding qualifying longevity annuity contracts were published on July 2, 2014 (79 Fed. Reg. 37633).		
7		✓	Notice 2014-37, 2014-24 I.R.B. 1100, provides guidance on a mid-year amendment to a § 401(k) safe harbor plan or § 401(m) safe harbor plan to reflect the outcome of United States v. Windsor, pursuant to Notice 2014-19.		

2014 Reference List

	✓	N/A	2014 Cumulative List (Notice 2014-77) New Provisions	Plan Section Reference	Date Amendment Signed
8		✓	Final regulations clarifying the rules regarding the tax treatment of payments by qualified retirement plans for accident or health insurance were published on May 12, 2014 (79 Fed. Reg. 26838).		
9		✓	Notice 2014-54, 2014-41 I.R.B. 670, provides rules for allocating pretax and after-tax amounts among disbursements that are made to multiple destinations under tax-favored retirement plans.		
10		✓	Proposed regulations under § 402A were published on September 19, 2014 (79 Fed. Reg. 56310) with respect to the tax treatment of distributions from designated Roth accounts under tax-favored retirement plans.		
11		✓	Amendments to the final regulations under § 411(a)(13) (which were included in the 2010 C. L.) were published on September 19, 2014 (79 Fed. Reg. 56442).		
12		✓	Final regulations under § 411(b)(1) with respect to a variable interest crediting rate that potentially can be negative in any given year were published on September 19, 2014 (79 Fed. Reg. 56442).		
13		✓	Amendments to the final regulations under § 411(b)(5) (which were included in the 2010 C. L.) were published on September 19, 2014 (79 Fed. Reg. 56442).		
14		✓	Proposed regulations under § 415 were published on November 15, 2013 (78 Fed. Reg. 68780) with respect to amounts paid to an Indian tribe member as remuneration for services performed in a fishing rights-related activity.		
15		✓	CSEC Act § 202 exempted certain cooperative and small employer charity pension plans from the limitations of §§ 436 and 401(a)(33), and provided new funding rules for these plans.		

TAB E

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JAN 29 2014

BOARD OF RETIREMENT OF MENDOCINO
COUNTY EMPLOYEES RETIREMENT
ASSOCIATION
C/O JUDITH W BOYETTE
HANSON BRIDGETT LLP
425 MARKET ST 26TH FL
SAN FRANCISCO, CA 94105

Employer Identification Number:
94-6116617
DLN:
601072018
Person to Contact:
MAXINE B TERRY ID# 50016
Contact Telephone Number:
(202) 283-9644
Plan Name:
MENDOCINO COUNTY EMPLOYEES
RETIREMENT ASSOCIATION
Plan Number: 001

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provides examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This determination letter gives no reliance for any qualification change that becomes effective, any guidance published, or any statutes enacted, after the issuance of the Cumulative List (unless the item has been identified in the Cumulative List) for the cycle under which this application was submitted.

This letter may not be relied on after the end of the plan's first five-year remedial amendment cycle that ends more than twelve months after the application was received. This letter expires on January 31, 2014. This letter considered the 2009 Cumulative List of Plan Qualification Requirements.

This determination letter is applicable for the plan adopted on 01/01/1948.

BOARD OF RETIREMENT OF MENDOCINO

This determination is subject to your adoption of the proposed amendments submitted in your letter dated 12/30/2013. The proposed amendments should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This determination letter is based solely on your assertion that the plan is entitled to be treated as a Governmental plan under section 414(d) of the Internal Revenue Code.

This determination letter is applicable to the plan and related documents submitted in conjunction with your application filed during the remedial amendment cycle ending 2009.

This is not a determination with respect to any language in the plan or any amendment to the plan that reflects Section 3 of the Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (DOMA) or U.S. v. Windsor, 133 S. Ct. 2675 (2013), which invalidated that section.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely,

Andrew E. Zuckerman
Director, EP Rulings & Agreements

Enclosures:
Publication 794

TAB F

We'll insert a copy of the 2015 version of the CERL.

TAB G

TAB H

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001

Tab H - Statement of Effect of Amendments Made Since the Last Determination Letter

Changes to the Plan made since the last determination letter, and the effect of the changes on the Plan are described in the documents behind Tab H of this filing.

The CERL is the statutory basis for retirement plan benefits and plan administration for MCERA. The CERL is contained in provisions of the California Government Code. Some CERL provisions are mandatory while others are only operative in the counties that adopt them. The mandatory CERL provisions, adopted optional CERL provisions, together with any adopted regulations, resolutions, policies and other relevant documents make up each county's plan document. In Tabs H-1 through H-6, we have included explanations of changes in any of these documents that make up MCERA's Plan document since our prior filing in 2011.

The California Legislature and the Governor control the CERL. They do not, however, have operational responsibility for tax compliance, which falls to the MCERA Board of Retirement. To the extent that the CERL must be amended for tax compliance, this must occur in the usual – often difficult and lengthy – California legislative process, led by appropriate legislators with the support of the 20 county retirement systems operating under the CERL. The CERL does provide that the Board of Retirement, with the County board of supervisors, can adopt operational regulations within the limits of the CERL. Much of the detailed tax compliance provisions are included in MCERA' regulations that have been adopted and are included under Tab H-3.

TAB H-1

SUBTAB H-1(a)

Summary of California Public Employees' Pension Reform Act of 2013 ("PEPRA")

MCERA operates under the authority of the County Employees Retirement Law of 1937 ("CERL") (California Government Code §31450 et seq.) On January 1, 2013, the California Public Employees' Pension Reform Act of 2013 ("PEPRA") (California Government Code §7520 et seq.) came into effect. PEPRA applies to California public retirement plans, including MCERA, and it applies to all employers participating under MCERA. Accordingly, MCERA now operates under both CERL and PEPRA. MCERA understands that at least one California public retirement system that is subject to PEPRA and the CERL, submitted the PEPRA statutes to the IRS as part of their Cycle C filing.

PEPRA revises existing contribution and benefit formulas for any "new member" of a California public retirement system hired on or after January 1, 2013. With a few exceptions, most provisions for members hired prior to that date are not affected. MCERA employers are restricted to offering only PEPRA-compliant defined benefit plans to all "new members" of MCERA as defined below.

Under PEPRA, a "new member" of MCERA means: (1) an individual who becomes a member of MCERA for the first time on or after January 1, 2013, and who was not a member of any other California public retirement system prior to that date, or (2) an individual who becomes a member of MCERA on or after January 1, 2013, who was a member of another California public retirement system prior to that date, but who is not subject to reciprocity under MCERA. PEPRA further provides that employees who first become members of MCERA on or after January 1, 2013, but who establish reciprocity under MCERA, are entitled to the same benefit plans that were available to employees hired by a participating employer under MCERA which were in effect on or before December 31, 2012.

Among other things, PEPRA creates a new benefit tier of "new members." PEPRA has a single general member benefit formula and one applicable safety member benefit formula. PEPRA requires all new members to have the same single contribution rate of at least 50% of the normal cost rate or the current contribution rate of similarly situated employees, whichever is greater. The normal cost contribution rate, as calculated by the MCERA actuary, covers the cost of a current year of service. PEPRA prohibits employers from paying any of a PEPRA member's contribution on the employees' behalf, with certain exceptions. PEPRA also limits the types of compensation that can be used and caps the total amount of compensation that can be used to calculate a pension. PEPRA members under MCERA must have at least a 36 consecutive month final compensation period for the calculation of their final average annual compensation.

There are certain provisions of PEPRA that apply across the membership regardless of whether or not the employees are "new members." These provisions include limitations on retirees returning to work, a requirement that the combined employer and member contributions may not be lower than the total year's normal cost, a prohibition of retroactive benefit enhancements, a prohibition of purchase of nonqualified service credit, forfeiture of certain benefits for conviction of certain felonies, and a prohibition of replacement benefit plans for new employees. Many of these provisions already existed under CERL.

In order to assist you in your review, we have created the chart located under TAB H-1(b), listing the key provisions of PEPRA and how those provisions compare to CERL. A complete copy of the current PEPRA statutes can be found in TAB H-1(c) and a complete version of the

CERL statutes can be found in TAB F. The MCERA Board of Retirement took several actions in order to implement PEPRA. A summary of these actions along with copies of the Board resolutions can be found in TAB H-4.

SUBTAB H-1(b)

Key Areas of PEPRA

Item	PEPRA	Comparison to CERL
Determination of PEPRA Plan Membership	PEPRA members are new members hired on or after January 1, 2013 who are first time members in California public retirement system or were members but are not eligible for reciprocity GC §7522.04(f)	Non-PEPRA members were hired on before December 31, 2012 or are new members hired on or after January 1, 2013, who are eligible for reciprocity
Pension Formulas	All PEPRA Plan Members Safety: 2.7%@57 General: 2%@62 GC §7522.20 ,7522.25	Depending on date of hire: Safety: 3% @50, 3% @55, 2% at 50 General: 2% @55.5, 2%@61.25
Minimum Age for Retirement	Safety: Age 50 with 5 years of service General: Age 52 with 5 years of service credit GC §7522.20 ,7522.25	Safety: Age 50 with 5 years of service and 10 years of membership or 20 years of service at any age. General: Age 50 with 5 years of service and 10 years of membership or 30 years of service at any age.
Contributions	Required employee contributions of 50% normal cost of the PEPRA plan. No pick-up of employee contributions unless this would be impaired by an MOU or other agreement in existence as of Jan 1, 2013 that has not been amended on or after Jan 1, 2013. Employee contributions may be more than 50% normal cost if: • Agreed through collective bargaining without impasse and •Employer is not contributing at a greater rate to the plan for non-represented, managerial, or supervisory employees than it contributes for other employees in related retirement membership classifications. GC §7522.30	Employee contribution rates calculated as set forth in formulas with pickups of employee share and payment by employee of employer share set forth in MOU with labor units and resolutions for other employee groups. As of Jan 1, 2018, employers may require members to pay 50% of the normal cc except the contribution by the member shall not be greater than: 14% above applicable normal rate of contribution for general members; 33% above applicable normal rate of contribution for safety members. If no agreement reached, employer can impose after completing the good faith bargaining process as required by law and other requirements.
Final Compensation period	Highest 3 consecutive years GC §7522.32	Depending upon date of hire: Highest 1 year Highest 3 years
Compensation Earnable Pensionable Compensation	PEPRA specifically excludes 13 types of pay that cannot be counted toward pensionable compensation, such as bonuses, vacation time, uniform allowances, overtime allowances, housing or transportation reimbursements, or any one-time or ad hoc payments. For MCERA the following pay items are included for CERL and excluded for PEPRA: on call hours; stand-by pay uniform allowance; transportation allowance; miscellaneous special pay; cash out of leave; and certain housing pay items. GC §7522.34	CERL excludes from compensation earnable payments for unused vacation, annual leave, personal leave, sick leave, and compensatory time off, as well as payments made at the termination of employment, except what may be earned and payable in each 12-month period during the final average salary period.
Board of	Can exclude any compensation determined by the Board to	Can exclude any compensation

Key Areas of PEPRA

Item	PEPRA	Comparison to CERL
Retirement Authority	have been paid to enhance a member's retirement benefit. GC §7522.34	determined by the Board to have been paid to enhance a member's retirement benefit. The following applies in regards to all members including PEPRA Plan members: Audit the county or district regarding benefit enhancement determination. Can require the employer, in its compensation report to the retirement system, to identify the pay period in which compensation was earned regardless of when it was reported or paid.
Limits on Compensation Earnable and Pensionable Compensation	Amount of annual pensionable compensation used to collect contributions and calculate benefits is capped by the lower of existing IRS limits or: Members who participate in Social Security, 100% of the Social Security contribution and benefit base as specified on January 1, 2013 ($117,020 for 2015). Members who do not participate Social Security, 120% of the Social Security contribution and benefit base as specified on January 1, 2013 ($140,424 for 2015). The cap will be adjusted annually based on changes to the CPI for All Urban Consumers as calculated by the California Actuarial Advisory Panel. Legislature may modify the requirements of the cap, but cannot decrease benefits accrued prior to the effective date of the modification. GC §7522.10	Amount of annual compensation earnable used to collect contributions and calculate benefits capped by applicable IRS limits depending on date of hire pre/post 1996.
Federal Compensation Limits under Internal Revenue Code (IRC) 401 (a) (17).	Limits compensation taken into account when determining a benefit paid to a member who joins the retirement system on or after January 1, 2013, consistent with Section 401(a)(17) of Title 26 of the United States Code. No exceptions. Prohibits employers from making contributions that exceed the limit. GC §7522.42	Limits compensation taken into account when determining a benefit paid to a member who joins the retirement system on or after July 1, 1996, (or January 1, 1996, for systems operating on a calendar basis such as MCERA). The compensation shall not exceed the limitations in Section 401(a)(17) of Title 26 of the United States Code which may be adjusted by the Commissioner of Internal Revenue for increases in cost of living.
Replacement	No replacement benefits for employees hired on or after	This provision also applies to members

Key Areas of PEPRA

Item	PEPRA	Comparison to CERL
Benefit Plans	January 1, 2013, who are subject to the federal benefit limitations under Internal Revenue Code Section 415(b). GC §7522.43	covered by CERL. No replacement benefits for employees hired on or after July 1, 1996 who are subject to the federal benefit limitations under Internal Revenue Code. Replacement benefits for non-PEPRA employees who are covered by the County's Replacement Benefits Plan for 415(b) limitations on benefits.
Limit On Total Benefits For New Members	Employer can't offer a defined benefit, including any offered by a private provider, in excess of the pensionable compensation cap. Employer can provide a defined contribution plan with contributions in excess of the cap. •An employee shall not have a vested right to employer contributions. •Contributions shall not, when combined with the employer's contribution to the employee's retirement benefits below the compensation limit, exceed the employer's contribution level, as a percentage of pay, required to fund the retirement benefits of employees with income below the compensation limits. GC §7522.10	
Post Retirement Employment	No re-employment of MCERA retirees by participating employers in MCERA without reinstatement from retirement except if: there is an emergency and retiree is needed to prevent stoppage of public business or the retiree has skills needed to perform work of limited duration. Retiree is not eligible for re-employment if retiree received any unemployment insurance compensation arising out of prior employment during the 12-month period prior to reemployment. There must be 180-day break in service for general members unless: Employer certifies that the appointment is necessary to fill a critically needed position before 180 days has passed and the appointment has been approved by the governing body of the employer in a public meeting and not on a consent calendar. A retiree is a public safety officer or firefighter and is hired to perform a function regularly performed by a public safety officer or a firefighter. A retiree who accepted a retirement incentive (golden handshake, cash incentive) is subject to the 180-day requirement, without exception.	This provision also applies to members covered by CERL.

Key Areas of PEPRA

Item	PEPRA	Comparison to CERL
	Any retiree hourly rate of compensation must be within salary range, and duration of work shall be limited to 960-hour limit per fiscal year. GC §7522.56	
Contributions	Requires that the combined employer and member contributions, in any fiscal year, not be lower than the total year's normal cost. GC §7522.52	This provision also applies to members covered by CERL.
Retroactive Pension Benefit Enhancements	No retroactive pension benefit enhancements that would apply to service performed prior to the date of the enhancement. If a change in a member's membership classification or employment results in a benefit enhancement, that enhancement can only be applied to service performed on or after the operative date of the change. Annual cost-of-living adjustments are excluded from this prohibition. GC §7522.54	This provision also applies to members covered by CERL.
Service Purchases	No purchases of "nonqualified service credit, as defined by Section 415(n)(3)(C) of the Internal Revenue Code of 1986" unless an official application to purchase nonqualified service credit was received by MCERA prior to January 1, 2013. GC §7522.46	This provision also applies to members covered by CERL.
Felony Forfeiture	If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in the retirement system earned or accrued from the earliest date of the commission the felony to the forfeiture date, and shall not accrue further benefits in that public retirement system, effective on the date of the conviction. GC §7522.72, 7522.74	This provision also applies to members covered by CERL.

SUBTAB H-1(c)

2015 EDITION
CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA)

GOVERNMENT CODE
Sections 7522-7522.74

The 2015 edition of the California Public Employees' Pension Reform Act of 2013 (PEPRA) contains all amendments made by the legislature in 2014. Additions and amendments are identified by a vertical line along the outside margin on affected pages.

- Legislative Updates
- Table of Contents
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- PEPRA sections

2015 Edition

California Public Employees' Pension Reform Act of 2013

Legislation enacted in 2014 *amended* the following section of the California Public Employees' Pension Reform Act of 2013. These amendments became effective January 1, 2015, unless otherwise indicated.

Article/Section	Added/Amended	Bill	Effective Date	Page
7522.02	Amended	AB 1783	09/28/2014	1
7522.02	Amended	SB 1251	01/01/2015	1
7522.56	Amended	AB 2476	01/01/2015	15
7522.70	Amended	AB 2476	01/01/2015	17
7522.72	Amended	AB 2476	01/01/2015	18
7522.74	Amended	AB 2476	01/01/2015	20

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CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013

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2015 Edition

CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013

Sections 7522-7522.74

§7522. Short title

This article shall be known as the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.02. Construction and application of article

(a)(1) Notwithstanding any other law, except as provided in this article, on and after January 1, 2013, this article shall apply to all state and local public retirement systems and to their participating employers, including the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, the Judges' Retirement System, the Judges' Retirement System II, county and district retirement systems created pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), independent public retirement systems, and to individual retirement plans offered by public employers. However, this article shall be subject to the Internal Revenue Code and Section 17 of Article XVI of the California Constitution. The administration of the requirements of this article shall comply with applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code.

(2) Notwithstanding paragraph (1), this article shall not apply to the entities described in Section 9 of Article IX of, and Sections 4 and 5 of Article XI of, the California Constitution, except to the extent that these entities continue to be participating employers in any retirement system governed by state statute. Accordingly, any retirement plan approved before January 1, 2013, by the voters of any entity excluded from coverage by this section shall not be affected by this article.

(3)(A) Notwithstanding paragraph (1), this article shall not apply to a public employee whose interests are protected under Section 5333(b) of Title 49 of the United States Code until a federal district court rules that the United States Secretary of Labor, or his or her designee, erred in determining that the application of this article precludes certification under that section, or until January 1, 2016, whichever is sooner.

(B) If a federal district court upholds the determination of the United States Secretary of Labor, or his or her designee, that application of this article precludes him or her from providing a certification under Section 5333(b) of Title 49 of the United States Code, this article shall not apply to a public employee specified in subparagraph (A).

(4) Notwithstanding paragraph (1), this article shall not apply to a multiemployer plan authorized by Section 302(c)(5) of the federal Taft-Hartley Act (29 U.S.C. Sec. 186(c)(5)) if the public employer began participation in that plan prior to January 1, 2013, and the plan is regulated by the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.).

(b) The benefit plan required by this article shall apply to public employees who are new members as defined in Section 7522.04.

(c)(1) Individuals who were employed by any public employer before January 1, 2013, and who became employed by a subsequent public employer for the first time on or after January 1, 2013, shall be subject to the retirement plan that would have been available to employees of the subsequent employer who were first employed by the subsequent employer

on or before December 31, 2012, if the individual was subject to concurrent membership for which creditable service was performed in the previous six months or reciprocity established under any of the following provisions:

(A) Article 5 (commencing with Section 20350) of Chapter 3 of Part 3 of Division 5 of Title 2.

(B) Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3.

(C) Any agreement between public retirement systems to provide reciprocity to members of the systems.

(D) Section 22115.2 of the Education Code.

(2) An individual who was employed before January 1, 2013, and who, without a separation from employment, changed employment positions and became subject to a different defined benefit plan in a different public retirement system offered by his or her employer shall be subject to that defined benefit plan as it would have been available to employees who were first employed on or before December 31, 2012.

(d) If a public employer, before January 1, 2013, offers a defined benefit pension plan that provides a defined benefit formula with a lower benefit factor at normal retirement age and results in a lower normal cost than the defined benefit formula required by this article, that employer may continue to offer that defined benefit formula instead of the defined benefit formula required by this article, and shall not be subject to the requirements of Section 7522.10 for pensionable compensation subject to that formula. However, if the employer adopts a new defined benefit formula on or after January 1, 2013, that formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the retirement board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the defined benefit plan may only participate in the lower cost defined benefit formula that was in place before January 1, 2013, or a defined benefit formula that conforms to the requirements of this article or is approved by the Legislature as provided in this subdivision.

(e) If a public employer, before January 1, 2013, offers a retirement benefit plan that consists solely of a defined contribution plan, that employer may continue to offer that plan instead of the defined benefit pension plan required by this article. However, if the employer adopts a new defined benefit pension plan or defined benefit formula on or after January 1, 2013, that plan or formula must conform to the requirements of this article or must be determined and certified by the retirement system's chief actuary and the system's board to have no greater risk and no greater cost to the employer than the defined benefit formula required by this article and must be approved by the Legislature. New members of the employer's plan may only participate in the defined contribution plan that was in place before January 1, 2013, or a defined contribution plan or defined benefit formula that conforms to the requirements of this article. This subdivision shall not be construed to prohibit an employer from offering a defined contribution plan on or after January 1, 2013, either with or without a defined benefit plan, whether or not the employer offered a defined contribution plan prior to that date.

(f)(1) If, on or after January 1, 2013, the Cities of Brea and Fullerton form a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5), that joint powers authority may provide employees the defined benefit plan or formula that those employees received from their respective employers on December 31, 2012, to any employee of the City of Brea, the City of Fullerton, or a city described in paragraph (2) who is not a new member and subsequently is employed by the joint powers authority without a break in service of more than 180 days.

(2) On or before January 1, 2017, a city in Orange County that is contiguous to the City of Brea or the City of Fullerton may join the joint powers authority described in paragraph

(1) but not more than three cities shall be permitted to join.

(3) The formation of a joint powers authority on or after January 1, 2013, shall not act in a manner as to exempt a new employee or a new member, as defined by Section 7522.04, from the requirements of this article. New members may only participate in a defined benefit plan or formula that conforms to the requirements of this article.

(g) The Judges' Retirement System and the Judges' Retirement System II shall not be required to adopt the defined benefit formula required by Section 7522.20 or 7522.25 or the compensation limitations defined in Section 7522.10.

(h) This article shall not be construed to provide membership in any public retirement system for an individual who would not otherwise be eligible for membership under that system's applicable rules or laws.

(i) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this article and may adopt regulations or resolutions for this purpose.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 527 (AB 1222), Sec. 1, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 2, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2014, Ch. 724 (AB 1783), Sec. 1, urgency eff. September 28, 2014)

(Amended by Stats. 2014, Ch. 757 (SB 1251), Sec. 2)

§7522.04. Definitions

(a) "Defined benefit formula" means a formula used by the retirement system to determine a retirement benefit based on age, years of service, and pensionable compensation earned by an employee up to the limit defined in Section 7522.10.

(b) "Employee contributions" means the contributions to a public retirement system required to be paid by a member of the system, as fixed by law, regulation, administrative action, contract, contract amendment, or other written agreement recognized by the retirement system as establishing an employee contribution.

(c) "Federal system" means the old age, survivors, disability, and health insurance provisions of the federal Social Security Act (42 U.S.C. Sec. 301 et seq.).

(d) "Member" means a public employee who is a member of any type of a public retirement system or plan.

(e) "New employee" means either of the following:

(1) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was not employed by any other public employer prior to that date.

(2) An employee, including one who is elected or appointed, of a public employer who is employed for the first time by any public employer on or after January 1, 2013, and who was employed by another public employer prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(f) "New member" means any of the following:

(1) An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date.

(2) An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under subdivision (c) of Section 7522.02.

(3) An individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer. For purposes of this subdivision, a change in employment between state entities or from one school employer to another shall not be considered as service with a new employer.

(g) "Normal cost" means the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation. For the purpose of determining normal cost, the system's actuary may use a single rate of contribution or an age-based rate of contribution as is applicable to that retirement system.

(h) "Public employee" means an officer, including one who is elected or appointed, or an employee of a public employer.

(i) "Public employer" means:

(1) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.

(2) Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, a charter city, a charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

(3) Any charter school that elects or is required to participate in a public retirement system.

(j) "Public retirement system" means any pension or retirement system of a public employer, including, but not limited to, an independent retirement plan offered by a public employer that the public employer participates in or offers to its employees for the purpose of providing retirement benefits, or a system of benefits for public employees that is governed by Section 401(a) of Title 26 of the United States Code.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 3, Effective October 4, 2013, as an urgency statute)

§7522.10. Public retirement systems; modification of plans; use of pensionable compensation in calculation of benefit; contributions in excess of limitation; limitation on pensionable compensation used to calculate required contributions

(a) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this section for each public employer that participates in the system.

(b) Whenever pensionable compensation, as defined in Section 7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the limitations set forth in subdivision (c).

(c) The pensionable compensation used to calculate the defined benefit paid to a new member who retires from the system shall not exceed the following applicable percentage of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code on January 1, 2013:

(1) One hundred percent for a member whose service is included in the federal system.

(2) One hundred twenty percent for a member whose service is not included in the federal system.

(d) (1) The retirement system shall adjust the pensionable compensation described in subdivision (c) based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban

Consumers: U.S. City Average, for the month of September in the calendar year preceding them adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September of the previous year rounded to the nearest thousandth. The adjustment shall be effective annually on January 1, beginning in 2014.

(2) The Legislature reserves the right to modify the requirements of this subdivision with regard to all public employees subject to this section, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(e) A public employer shall not offer a defined benefit or any combination of defined benefits, including a defined benefit offered by a private provider, on compensation in excess of the limitation in subdivision (c).

(f) (1) Subject to the limitation in subdivision (c) of Section 7522.42, a public employer may provide a contribution to a defined contribution plan for compensation in excess of the limitation in subdivision (c) provided the plan and the contribution meet the requirements and limits of federal law.

(2) A public employee who receives an employer contribution to a defined contribution plan shall not have a vested right to continue receiving the employer contribution.

(g) Any employer contributions to any employee defined contribution plan above the pensionable compensation limits in subdivision (c) shall not exceed the employer's contribution rate, as a percentage of pay, required to fund the defined benefit plan for income subject to the limitation in subdivision (c) of Section 7522.42.

(h) The retirement system shall limit the pensionable compensation used to calculate the contributions required of an employer or a new member to the amount of compensation that would be used for calculating a defined benefit as set forth in subdivision (c) or (d).

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 4, Effective October 4, 2013, as an urgency statute)

§7522.15. Public employers and public retirement systems offering defined benefit plans; defined benefit formulas available to new members

Except as provided in subdivisions (d) and (e) of Section 7522.02, each public employer and each public retirement system that offers a defined benefit plan shall offer only the defined benefit formulas established pursuant to Sections 7522.20 and 7522.25 to new members.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.18. Supplemental defined benefit plans; allowable offerings

(a) A public employer that does not offer a supplemental defined benefit plan before January 1, 2013, shall not offer a supplemental defined benefit plan for any employee on or after January 1, 2013.

(b) A public employer that provides a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, before January 1, 2013, shall not offer a supplemental defined benefit plan to any additional employee group to which the plan was not provided before January 1, 2013.

(c) Except as provided in Chapter 38 (commencing with Section 25000) of Article 1 of Part 13 of Title 1 of the Education Code, a public employer shall not offer or provide a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, to any employee hired on or after January 1, 2013.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.20. Defined benefit plan for nonsafety members; calculation of benefit

(a) Each retirement system that offers a defined benefit plan for nonsafety members of the system shall use the formula prescribed by this section. The defined benefit plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a nonsafety member. A member may retire for service under this section after five years of service and upon reaching 52 years of age.

Age of retirement	Fraction
52	1.000
52 1/4	1.025
52 1/2	1.050
52 3/4	1.075
5 3	1.100
53 1/4	1.125
53 1/2	1.150
53 3/4	1.175
54	1.200
54 1/4	1.225
54 1/2	1.250
54 3/4	1.275
55	1.300
55 1/4	1.325
55 1/2	1.350
55 3/4	1.375
56	1.400
56 1/4	1.425
56 1/2	1.450
56 3/4	1.475
57	1.500
57 1/4	1.525
57 1/2	1.550
57 3/4	1.575
58	1.600
58 1/4	1.625
58 1/2	1.650
58 3/4	1.675
59	1.700
59 1/4	1.725
59 1/2	1.750
59 3/4	1.775
60	1.800
60 1/4	1.825
60 1/2	1.850
60 3/4	1.875
61	1.900
61 1/4	1.925
61 1/2	1.950
61 3/4	1.975

Age of retirement	Fraction
62	2.000
62 1/4	2.025
62 1/2	2.050
62 3/4	2.075
63	2.100
63 1/4	2.125
63 1/2	2.150
63 3/4	2.175
64	2.200
64 1/4	2.225
64 1/2	2.250
64 3/4	2.275
65	2.300
65 1/4	2.325
65 1/2	2.350
65 3/4	2.375
66	2.400
66 1/4	2.425
66 1/2	2.450
66 3/4	2.475
67	2.500

(b) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(c) A new member of the State Teachers' Retirement System shall be subject to the formula established pursuant to Section 24202.6 of the Education Code.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 74)

§7522.25. Defined benefit plan for safety members; calculation of benefit

(a) Each retirement system that offers a defined benefit plan for safety members of the system shall use one or more of the defined benefit formulas prescribed by this section. A member may retire for service under any of the formulas in this section after five years of service and upon reaching 50 years of age.

(b) The Basic Safety Plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age of retirement	Fraction
50	1.426
50 1/4	1.447
50 1/2	1.467
50 3/4	1.488
51	1.508
51 1/4	1.529
51 1/2	1.549
51 3/4	1.570
52	1.590

Age at retirement	Fraction
52 1/4	1.611
52 1/2	1.631
52 3/4	1.652
53	1.672
53 1/4	1.693
53 1/2	1.713
53 3/4	1.734
54	1.754
54 1/4	1.775
54 1/2	1.795
54 3/4	1.816
55	1.836
55 1/4	1.857
55 1/2	1.877
55 3/4	1.898
56	1.918
56 1/4	1.939
56 1/2	1.959
56 3/4	1.980
57 and over	2.000

(c) The Safety Option Plan One shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at retirement	Fraction
50	2.000
50 1/4	2.018
50 1/2	2.036
50 3/4	2.054
51	2.071
51 1/4	2.089
51 1/2	2.107
51 3/4	2.125
52	2.143
52 1/4	2.161
52 1/2	2.179
52 3/4	2.196
53	2.214
53 1/4	2.232
53 1/2	2.250
53 3/4	2.268
54	2.286
54 1/4	2.304
54 1/2	2.321
54 3/4	2.339
55	2.357
55 1/4	2.375

Age at retirement	Fraction
55 1/2	2.393
55 3/4	2.411
56	2.429
56 1/4	2.446
56 1/2	2.464
56 3/4	2.482
57 and over	2.500

(d) The Safety Option Plan Two shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at retirement	Fraction
50	2.000
50 1/4	2.025
50 1/2	2.050
50 3/4	2.075
51	2.100
51 1/4	2.125
51 1/2	2.150
51 3/4	2.175
52	2.200
52 1/4	2.225
52 1/2	2.250
52 3/4	2.275
53	2.300
53 1/4	2.325
53 1/2	2.350
53 3/4	2.375
54	2.400
54 1/4	2.425
54 1/2	2.450
54 3/4	2.475
55	2.500
55 1/4	2.525
55 1/2	2.550
55 3/4	2.575
56	2.600
56 1/4	2.625
56 1/2	2.650
56 3/4	2.675
57 and over	2.700

(e) On and after January 1, 2013, an employer shall offer one or more of the safety formulas prescribed by this section to new members who are safety employees. The formula offered shall be the formula that is closest to, and provides a lower benefit at 55 years of age than, the formula provided to members in the same retirement classification offered by the

employer on December 31, 2012.

(f) On and after January 1, 2013, an employer and its employees subject to Safety Option Plan One or Safety Option Plan Two may agree in a memorandum of understanding to be subject to Safety Option Plan One or the Basic Safety Plan, subject to the following:

(1) The lower plan shall apply to members first employed on or after the effective date of the lower plan, and shall be agreed to in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) A retirement plan contract amendment with a public retirement system to alter a retirement formula pursuant to this subdivision shall not be implemented by the employer in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) An employer shall not use impasse procedures to impose the lower plan.

(4) An employer shall not provide a different defined benefit for nonrepresented, managerial, or supervisory employees than the employer provides for other public employees, including represented employees, of the same employer who are in the same membership classifications.

(g) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 5, Effective October 4, 2013, as an urgency statute)

§7522.30. Sharing of normal costs

(a) This section shall apply to all public employers and to all new members. Equal sharing of normal costs between public employers and public employees shall be the standard. The standard shall be that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(b) The "normal cost rate" shall mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member and shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits shall include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system.

(c) New members employed by those public employers defined in paragraphs (2) and (3) of subdivision (i) of Section 7522.04, the Legislature, the California State University, and the judicial branch who participate in a defined benefit plan shall have an initial contribution rate of at least 50 percent of the normal cost rate for that defined benefit plan, rounded to the nearest quarter of 1 percent, unless a greater contribution rate has been agreed to pursuant to the requirements in subdivision (e). This contribution shall not be paid by the employer on the employee's behalf.

(d) Notwithstanding subdivision (c), once established, the employee contribution rate described in subdivision (c) shall not be adjusted on account of a change to the normal cost rate unless the normal cost rate increases or decreases by more than 1 percent of payroll above or below the normal cost rate in effect at the time the employee contribution rate is first established or, if later, the normal cost rate in effect at the time of the last adjustment to the employee contribution rate under this section.

(e) Notwithstanding subdivision (c), employee contributions may be more than one-half of the normal cost rate if the increase has been agreed to through the collective bargaining process, subject to the following conditions:

(1) The employer shall not contribute at a greater rate to the plan for nonrepresented, managerial, or supervisory employees than the employer contributes for other public employees, including represented employees, of the same employer who are in related retirement membership classifications.

(2) The employer shall not increase an employee contribution rate in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) The employer shall not use impasse procedures to increase an employee contribution rate above the rate required by this section.

(f) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on January 1, 2013, would be impaired by any provision of this section, that provision shall not apply to the public employer and public employees subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)
(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 6, Effective October 4, 2013, as an urgency statute)

7522.32. Determination of benefit paid to new member of public retirement system; final compensation; restrictions on plan modification

For the purposes of determining a retirement benefit to be paid to a new member of a public retirement system, the following shall apply:

(a) Final compensation shall mean the highest average annual pensionable compensation earned by the member during a period of at least 36 consecutive months, or at least three consecutive school years if applicable, immediately preceding his or her retirement or last separation from service if earlier, or during any other period of at least 36 consecutive months, or at least three consecutive school years if applicable, during the member's applicable service that the member designates on the application for retirement.

(b) On or after January 1, 2013, an employer shall not modify a benefit plan to permit a calculation of final compensation on a basis of less than the average annual compensation earned by the member during a consecutive 36-month period, or three school years if applicable, for members who have been subject to at least a 36-month or three-school-year calculation prior to that date.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)
(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 7, Effective October 4, 2013, as an urgency statute)

§7522.34. Pensionable compensation

(a) "Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to the limitations of subdivision (c).

(b) Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

(c) Notwithstanding any other law, "pensionable compensation" of a new member does not include the following:

(1) Any compensation determined by the board to have been paid to increase a

member's retirement benefit under that system.

(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

(3) Any one-time or ad hoc payments made to a member.

(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

(9) Employer contributions to deferred compensation or defined contribution plans.

(10) Any bonus paid in addition to the compensation described in subdivision (a).

(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a).

(12) Any other form of compensation a public retirement board determines should not be pensionable compensation.

(13) (A) Any form of compensation identified that has been agreed to be nonpensionable pursuant to a memorandum of understanding for state employees bound by the memorandum of understanding. The state employer subject to the memorandum of understanding shall inform the retirement system of the excluded compensation and provide a copy of the memorandum of understanding.

(B) The state employer may determine if excluded compensation identified in subparagraph (A) shall apply to nonrepresented state employees who are aligned with state employees subject to the memorandum of understanding described in subparagraph (A). The state employer shall inform the retirement system of the exclusion of this compensation and provide a copy of the public pay schedule detailing the exclusion.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 8, Effective October 4, 2013, as an urgency statute)

§7522.40. Health benefit vesting schedule

(a) A public employer shall not provide to a public employee who is elected or appointed, a trustee, excluded from collective bargaining, exempt from civil service, or a manager any vesting schedule for the employer contribution payable for postretirement health benefits that is more advantageous than that provided generally to other public employees, including represented employees, of the same public employer who are in related retirement membership classifications.

(b) This section shall not require an employer to change the vesting schedule for the employer contribution payable for postretirement health benefits of any public employee who was subject to a specific vesting schedule pursuant to statute, collective bargaining agreement, or resolution for these employer contributions prior to January 1, 2013, or who had a

contractual agreement with an employer prior to January 1, 2013, for a specific vesting schedule for these employer contributions.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 9, Effective October 4, 2013, as an urgency statute)

§7522.42. Additional limitations on compensation used for determination of public retirement benefit and employer contributions; exemption

(a) In addition to any other benefit limitation prescribed by law, for the purposes of determining a public retirement benefit paid to a new member of a public retirement system, the maximum salary, compensation, or payrate taken into account under the plan for any year shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of Title 26 of the United States Code or its successor.

(b) A public employer shall not seek an exception to the prohibition in subdivision (a) on or after January 1, 2013.

(c) For employees first hired on or after January 1, 2013, a public employer shall not make employer contributions to any qualified retirement plan or plans on behalf of an employee based on that portion of the amount of total pensionable compensation that exceeds the amount specified in Section 401(a)(17) of Title 26 of the United States Code, or its successor.

(d) This section shall not apply to salary, compensation, or payrate paid to individuals who, due to their dates of hire, are not subject to the limits specified in subdivision (a).

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.43. Replacement benefits; allowable offerings

(a) A public employer shall not offer a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 of Title 26 of the United States Code. This section shall apply to new members.

(b) A public retirement system may continue to administer a plan of replacement benefits for employees first hired prior to January 1, 2013.

(c) A public employer that does not offer a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan for any employee on or after January 1, 2013.

(d) A public employer that offers a plan of replacement benefits prior to January 1, 2013, shall not offer such a plan to any additional employee group to which the plan was not provided prior to January 1, 2013.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 10, Effective October 4, 2013, as an urgency statute)

§7522.44. Enhancements to retirement formula or retirement benefit; application

This section shall apply to all public employers and to all public employees:

(a) Any enhancement to a public employee's retirement formula or retirement benefit adopted on or after January 1, 2013, shall apply only to service performed on or after the operative date of the enhancement and shall not be applied to any service performed prior to the operative date of the enhancement.

(b) If a change to a member's retirement membership classification or a change in employment results in an enhancement in the retirement formula or retirement benefit applicable to that member, that enhancement shall apply only to service performed on or after the operative date of the change and shall not be applied to any service performed prior to the operative date of the change.

(c) For purposes of this section, "operative date" in a collective bargaining agreement means one of the following:

(1) The date that the agreement is signed by the parties.

(2) A date agreed to by the parties that will occur after the date that the agreement is signed by the parties.

(3) A date designated by the parties that occurred prior to the date the agreement was signed if the most recent collective bargaining contract was expired at the time of the agreement and the date designated is not earlier than 12 months prior to the date of the agreement or the day after the last day of the expired bargaining contract, whichever occurred later.

(d) For purposes of this section, an increase to a retiree's annual cost-of-living adjustment within existing statutory limits shall not be considered to be an enhancement to a retirement benefit.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.46. Purchase of nonqualified service credit prohibited; exemption

(a) A public retirement system shall not allow the purchase of nonqualified service credit, as defined by Section 415(n)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(n)(3)(C)).

(b) Subdivision (a) shall not apply to an official application to purchase nonqualified service credit that is received by the public retirement system prior to January 1, 2013, that is subsequently approved by the system.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.48. Final compensation

(a) Final compensation of a member for the purpose of determining any pension or benefit resulting from service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership of a public retirement system shall be based on the highest average annual pensionable compensation earned by the member during the period of service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

(b) Any final compensation calculation shall otherwise be subject to this article except that if any individual period of elective service is less than 36 months or three years, then the entire period of that individual's elected service shall be used to determine the final compensation for that period of service.

(c) This section shall apply to a member first elected or appointed to a city council or a county board of supervisors on or after January 1, 2013.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.52. Employer contributions; suspension of contributions; conditions

(a) In any fiscal year, a public employer's contribution to a defined benefit plan, in combination with employee contributions to that defined benefit plan, shall not be less than the normal cost rate, as defined in Section 7522.30, for that defined benefit plan for that fiscal year.

(b) The board of a public retirement system may suspend contributions when all of the following apply:

(1) The plan is funded by more than 120 percent, based on a computation by the retirement system actuary in accordance with the Governmental Accounting Standards Board requirements that is included in the annual valuation.

(2) The retirement system actuary, based on the annual valuation, determines that

continuing to accrue excess earnings could result in disqualification of the plan's tax-exempt status under the provisions of the federal Internal Revenue Code.

(3) The board determines that the receipt of any additional contributions required under this section would conflict with its fiduciary responsibility set forth in Section 17 of Article XVI of the California Constitution.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

§7522.56. Retired persons; service and employment restrictions

(a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.

(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(e)(1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2)(A) Except as otherwise provided in this paragraph, for state employees, the state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the

process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(B) For legislative employees, the Senate Committee on Rules or the Assembly Rules Committee certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree of the Judges' Retirement System or the Judges' Retirement System II who is assigned to serve in a court pursuant to Section 68543.5.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)
(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 75)
(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 11, Effective October 4, 2013, as an urgency statute)
(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 1)

§7522.57. Retired persons appointed to board or commission after January 1, 2013; service limitations

(a) This section shall apply to any retired person who is receiving a pension benefit from a public retirement system and is first appointed on or after January 1, 2013, to a salaried position on a state board or commission. This section shall supersede any other provision in conflict with this section.

(b) A person who is retired from a public retirement system may serve without reinstatement from retirement or loss or interruption of benefits provided that appointment is to a part-time state board or commission. A retired person whose employment without reinstatement is authorized by this subdivision shall acquire no benefits, service credit, or retirement rights with respect to the employment. Unless otherwise defined in statute, for the purpose of this section, a part-time appointment shall mean an appointment with a salary of no more than $60,000 annually, which shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by

this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.

(d) A person retired from a public retirement system other than the Public Employees' Retirement System who is appointed on a full-time basis to a state board or commission shall choose one of the following options:

(1) The person may serve as a nonsalaried member of the board or commission and continue to receive his or her retirement allowance, in addition to any per diem authorized to all members of the board or commission. The person shall not earn service credit or benefits in the Public Employees' Retirement System and shall not make contributions with respect to the service performed.

(2) (A) The person may suspend his or her retirement allowance or allowances and instate as a new member of the Public Employees' Retirement System for the service performed on the board or commission. The pensionable compensation earned pursuant to this paragraph shall not be eligible for reciprocity with any other retirement system or plan.

(B) Upon retiring for service after serving on the board or commission, the appointee shall be entitled to reinstatement of any suspended benefits, including employer provided retiree health benefits, that he or she was entitled to at the time of being appointed to the board or commission.

(e) Notwithstanding subdivisions (c) and (d), a person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment to a full-time state board pursuant to Section 5075 of the Penal Code.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 76)

§7522.66. (Repealed by Stats. 2013, c. 528 (SB 13), Sec. 12, eff. Oct 4, 2013, as an urgency statute)

§7522.70. Elected public officers convicted of certain felonies; forfeiture of rights and benefits; contributions returned; notice by agency

(a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006.

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

(c)(1) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.

(2) Paragraph (1) shall apply to the extent permissible by law.

(d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer.

(e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.

(g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.

(i) On and after January 1, 2013, this section shall not apply in any instance in which Section 7522.72 or 7522.74 applies.

(Renumbered §7522.70 and amended by Stats. 2012, Ch. 296 (AB 340), Sec. 9)

(Formerly §1243, added by Stats. 2005, Ch. 322 (AB 1044), Sec. 1)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 2)

§7522.72. Public employees first employed, elected or appointed before Jan. 1, 2013; conviction of certain felonies; forfeiture of rights and benefits; contributions returned; notifications upon conviction; cost reimbursement; remedies upon final decision reversing conviction; conflicting provisions; provisions applicable to public employees first elected or appointed on or after Jan. 1, 2013

(a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, and, on and after that date, Section 7522.70 shall not apply.

(b)(1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c)(1) A member shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the member's conviction.

Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the member was convicted shall not be forfeited as a result of this section.

(2) Paragraph (1) shall apply to the extent permissible by law.

(3) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d)(1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e)(1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.

(i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in Section 75033.2, 75062, 75526, or 75563. If there is a conflict between this section and Section 75033.2, 75062, 75526, or 75563, the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.

(j) A public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, shall be subject to Section 7522.74.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 76 (AB 383), Sec. 77)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 13, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 3)

§7522.74. Public employees first employed, elected or appointed on or after Jan. 1, 2013; conviction of certain felonies; forfeiture of rights and benefits; contributions returned; notifications upon conviction; cost reimbursement; remedies upon final decision reversing conviction; conflicting provisions; provisions applicable to public employees first elected or appointed before Jan. 1, 2013

(a) This section shall apply to a public employee first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, and on and after that date, Section 7522.70 shall not apply.

(b)(1) If a public employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement, or other benefits, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(2) If a public employee who has contact with children as part of his or her official duties is convicted of a felony that was committed within the scope of his or her official duties against or involving a child who he or she has contact with as part of his or her official duties, he or she shall forfeit all accrued rights and benefits in any public retirement system in which he or she is a member to the extent provided in subdivision (c) and shall not accrue further benefits in that public retirement system, effective on the date of the conviction.

(c)(1) A member shall forfeit all the rights and benefits earned or accrued from the earliest date of the commission of any felony described in subdivision (b) to the forfeiture date, inclusive. The rights and benefits shall remain forfeited notwithstanding any reduction in sentence or expungement of the conviction following the date of the member's conviction. Rights and benefits attributable to service performed prior to the date of the first commission of the felony for which the member was convicted shall not be forfeited as a result of this section.

(2) Paragraph (1) shall apply to the extent permissible by law.

(3) For purposes of this subdivision, "forfeiture date" means the date of the conviction.

(d)(1) Any contributions to the public retirement system made by the public employee described in subdivision (b) on or after the earliest date of the commission of any felony described in subdivision (b) shall be returned, without interest, to the public employee upon the occurrence of a distribution event unless otherwise ordered by a court or determined by the pension administrator.

(2) Any funds returned to the public employee pursuant to subdivision (d) shall be disbursed by electronic funds transfer to an account of the public employee, in a manner conforming with the requirements of the Internal Revenue Code, and the public retirement system shall notify the court and the district attorney at least three business days before that disbursement of funds.

(3) For the purposes of this subdivision, a "distribution event" means any of the following:

(A) Separation from employment.

(B) Death of the member.

(C) Retirement of the member.

(e)(1) Upon conviction, a public employee as described in subdivision (b) and the prosecuting agency shall notify the public employer who employed the public employee at the time of the commission of the felony within 60 days of the felony conviction of all of the following information:

(A) The date of conviction.

(B) The date of the first known commission of the felony.

(2) The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(f) The public employer that employs or employed a public employee described in subdivision (b) and that public employee shall each notify the public retirement system in which the public employee is a member of that public employee's conviction within 90 days of the conviction. The operation of this section is not dependent upon the performance of the notification obligations specified in this subdivision.

(g) A public retirement system may assess a public employer a reasonable amount to reimburse the cost of audit, adjustment, or correction, if it determines that the public employer failed to comply with this section.

(h) If a public employee's conviction is reversed and that decision is final, the employee shall be entitled to do either of the following:

(1) Recover the forfeited rights and benefits as adjusted for the contributions received pursuant to subdivision (d).

(2) Redeposit those contributions and interest that would have accrued during the forfeiture period, as determined by the system actuary, and then recover the full amount of the forfeited rights and benefits.

(i) The forfeiture of rights and benefits provided in this section, with respect to judges, are in addition to and supplement the forfeitures and other requirements provided in Section 75033.2, 75062, 75526, or 75563. If there is a conflict between this section and Section 75033.2, 75062, 75526, or 75563, the provisions that result in the greatest forfeiture or provide the most stringent procedural requirements to the claim of a judge shall apply.

(j) A public employee first employed by a public employer or first elected or appointed to an office before January 1, 2013, shall be subject to Section 7522.72.

(Added by Stats. 2012, Ch. 296 (AB 340), Sec. 15)

(Amended by Stats. 2013, Ch. 528 (SB 13), Sec. 14, Effective October 4, 2013, as an urgency statute)

(Amended by Stats. 2014, Ch. 238 (AB 2476), Sec. 4)

TAB H-2

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001

Tab H-2 - Statement of Effect of Amendments Made Since the Last Determination Letter

Tab H-2 contains a summary of the amendments adopted to the CERL since the last determination letter. Please note that included in these amendments are those required to be adopted as a condition of the last determination letter and related voluntary compliance statement received from the IRS. These amendments are presented in more detail under Tab I.

SUBTAB H-2(a)

BRIEF SUMMARY OF LEGISLATIVE PLAN CHANGES APPLICABLE TO MCERA

Effective 2011

Government Code Section 31485.17: Part of tax compliance clean up. Adds language so that CERL complies with the HEART Act addressing death or disability while performing military duties.

Government Code Section 31527: Changes the provision that a new employee must become a member of the retirement system no later than six weeks after entrance into service to 12 weeks after entrance into service to insure no overlapping service.

Government Code Section 31538: Part of tax compliance clean up. Prohibits cost of living allowance payments in excess of 415 limits.

Government Code Section 31580.2: Changes measure from 18 basis points of assets to 25 basis points of approved actuarial liability for cap on administrative expenses of the system.

Government Code Section 7513.8 (amended), 7513.86 (added), 7513.87 (added): Amended the definition of a "Placement Agent" to exclude an employee of a manager who devotes 1/3 or more of his or her time to managing assets controlled or invested by the manager. Prohibits a person from acting as a Placement Agent unless he or she is registered as a lobbyist in compliance with the Political Reform Act of 1974. Requires a Placement agent to file reports with a local government agency as required by that agency.

Effective 2012

Government Code Section 31520.1 (amended), 31520.2 (amended), 31520.4 (amended), 31520.5 (amended), 31523 (added), 31523.1 (added): Revokes authority of boards to prohibit by resolution or regulation the ability of an alternate member to participate in deliberations, holding positions on committees and access to closed sessions. Requires the board to hold an election to fill vacancies in the elected positions at the earliest possible date. Requires the board to appoint a replacement alternate retired board member in the same manner as the original alternate retired member was appointed.

Government Code Section 7513.8: Defines external manager to include a person who is retained by an "investment vehicle" to manage a portfolio of securities or other assets for compensation or a person who manages an "investment fund" and who offers or sells an ownership interest in the investment fund to a board or investment vehicle. Defines investment fund as various pooled funds. Defines investment vehicle as an entity managed by an external manager with a board as a majority investor organized to invest with or retain investment management services of other external managers. Refines definition of placement agent to include those hired by an investment fund managed by an external manager. Extends to local retirement systems the PERS/STRS exclusions for Placement Agents that work for external managers that are registered with the SEC as investment advisors or broker-dealers, or if exempt from registration, the external manager participated and was awarded a contract through the competitive bidding process and has agreed to a fiduciary standard of care when managing retirement system assets.

Effective 2013

Government Code Sections 7522 *et seq*, (added) - Article 4 to Chapter 21 of Division 7 of Title 1 of the Government Code entitled "Article 4 California Public Employees' Pension Reform Act of 2013 (PEPRA)." See TAB H-1(a) for a summary of PEPRA.

Government Code Section 31542 (added)- Requires the Board of Retirement to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit and it provides for an administrative process and judicial review.

Government Code Section 31542.5 (added) - Requires employers to identify the pay period in which an employee's reported compensation was earned regardless of when it was reported or paid. Requires compensation to be reported in accordance with Section 31461 and the amount shall not exceed compensation earnable, as defined in Section 31461. Authorizes the Board of Retirement to audit employer records.

Government Code Section 31543 (added) - Authorizes the Board of Retirement to audit employers to determine the correctness of retirement benefits, reportable compensation, and enrollment in, and reinstatement to, the retirement system. During an audit, the Board may require the employer to provide information, make records and personnel available.

Government Code Section 31631 (added) - Authorizes employers, after completing the applicable negotiation process, to require that members pay all or part of the contributions of a member or employer, or both, for any retirement benefits. The contributions shall be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within safety or general classifications.

Government Code Section 31631.5 (added)-Authorizes employers to require members to pay 50 percent of the normal cost of benefits. However, that contribution shall be no more than 14 percent above the applicable normal rate of contribution for general members and no more than 33 percent above the applicable normal rate of contribution for safety members. Employers must use its negotiation process but is authorized to impose the contribution requirement following an impasse.

Government Code Section 31522.8 (added)-Requires members of the Board of Retirement to complete 24 hours of education for trustees of the Board of Retirement, identifies the required areas of training and required compliance reporting.

Government Code Section 31527 (amended)-Authorizes the retirement system's use and acceptance of a document requiring a signature that is submitted by a member using an electronic signature, if the document and electronic signature are submitted using technology that the Board deems sufficient to ensure its integrity, security, and authenticity.

Effective 2014

Government Code Section 7514.2 (amended)-Authorizes the Board of Retirement to prioritize investment in an in-state infrastructure project over a comparable out-of-state project.

Government Code section 7522.04 (amended)-Clarifies the application of PEPRA to employees who were employed prior to January 1, 2013, who have service credit in a different retirement system or who change positions for the same employer without a break in services. For the purpose of determining normal cost, the system's actuary may use a single rate of contribution or an age-based rate of contribution as is applicable to that retirement system.

Government Code section 7522.03 (amended)-Authorizes the Board of Retirement to adopt regulations and resolutions in order to modify its retirement plan or plans to conform to PEPRA.

Government Code section 7522.10 (amended) - Specifies the method by which adjustments are to be to the pensionable compensation limit and which consumer price index is to be used for this purpose. Specifies how limits on an employer's contributions to a defined contribution plan are to be determined and authorizes MCERA to limit the pensionable compensation used to calculate contributions.

Government Code section 7522.30 (amended) - Authorizes the retirement system's actuary when calculating normal cost rate, to use either of two rates of contribution, as may be applicable and requires that, for purposes of calculating the normal cost rate, the actuarial valuation of retirement benefits to include any elements that impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments.

Government Code section 7522.34 (amended)- Clarifies that "pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to the limitations set forth in subdivision (c) of 7522.34.

Government Code section 7522.56 (amended) - Requires a retired public safety officer or a firefighter, who returns to work less than 180 days following retirement, be hired to perform a function or functions regularly performed by a safety officer or firefighter.

Government Code sections 7522.02, 7522.20, 7522.25, 7522.32, 7522.40, 7522.42, 7522.43, 7522.56, 7522.57, 7522.66, 7522.72, 7522.74: Indicates it is declaratory of existing law set forth in PEPRA, and that it should be applied concurrently with the initial operation of that Act. Added to the definition of new member the exemption of concurrent membership within 6 months of beginning employment with a new employer. Added the ability of a retirement system to adopt resolutions or regulations to modify its plans in accordance with PEPRA. Clarifies that an employer is not precluded from offering a defined contribution plan on or after January 1, 2013, if the employer did not offer one prior to that date. Clarifies the calculation of normal cost to include either a single rate of contributions or age based rates. Added the ability of a state employer to exclude from pensionable compensation those items agreed to in an MOU as excludable and determine whether that exclusion applies to unrepresented employees in similar job classifications. Clarifies the pensionable compensation limit CPI adjustment to be calculated each September and compared to the September of the prior year. Clarifies that the retirement system may limit the contributions to pensionable compensation. Clarifies that the calculation of the normal cost rate shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation, including retirement formula, eligibility and vesting criteria, ancillary benefit provisions and automatic cost of living adjustments. Clarifies that a new member may be required to pay more than 50% of normal

cost if the greater contribution rate has been agreed to through the collective bargaining process. Removes the safety member industrial disability benefit from the PEPRA section 7522.66 (thereby ensuring it is not applied to system members other than PERS). Clarifies the PERS industrial disability section to reference an annuity from a member's accumulated *additional* contributions. Clarifies that the exemption from the 180 day waiting period for a retiree to return to work for an agency covered under the same retirement system without reinstatement for a public safety officer or firefighter only applies if the retiree is hired for functions regularly performed by a safety officer or firefighter. Clarifies that the forfeiture provisions for a felony conviction arising out of performing public agency job duties for judicial officers are in addition to other forfeiture provisions for judges. Excludes federally bargained plans from PEPRA until Secretary of Labor or Federal District Court determine coverage or January 1, 2015, whichever is sooner. Excludes certain Taft Hartley plans if governed by ERISA. [PEPRA Statutes, including these changes made in 2013 technical amendment, are included behind Subtab H-1(c).)

Government Code Sections 31452, 31454.2, 31452.6, 31454, 31455, 31461.6, 31462.1, 31462.2, 31479.1, 31482.5, 31490.6, 31499.11, 31551, 31581.1, 31581.2, 31625.2, 31625.3, 31630, 31639.85, 31658, 31662.2, 31663.25, 31663.26, 31664.5, 31670, 31671, 31672, 31672.1, 31672.2, 31678.2, 31678.3, 31678.31, 31680, 31680.1, 31680.2, 31680.3, 31680.6, 31705, 31835, 31836, 31839, 31873, 31873.1, 31874.5, and 31899 (amended)- These provisions of CERL were amended to coordinate with and be subordinate to PEPRA and to clarify that certain provisions of CERL do not apply to PEPRA members. [The following provisions become operative only if the County's board of supervisors adopts a resolution to make the section applicable: 31454, 31479.1, 31490.6, 31658, 31663.26]

Government Code Section 31462 (amended) -Clarifies that members with less than three years of service credit will have pensionable compensation which is determined by averaging out the pay received over the members' entire service.

Government Code Section 31462.05 (added) - Clarifies that for an employee who was a PEPRA member for all or any portion of his or her membership, "final compensation" as defined in Section 7522.32, shall apply. If a member has less than three years of service, that member's final compensation shall be determined by dividing the total compensation by the number of months of service credited to the member and multiplying by 12.

Government Code Section 31672.3 (added) - Clarifies that a member who is a PEPRA for all or a portion of the member's membership and who has completed five years of service and has reached the minimum retirement age applicable to that member, or has reached 70 years of age, may be retired.

Government Code Section Section 31685.01 (added)-Clarifies that CERL benefits shall be determined in accordance with CERL or PEPRA whichever is applicable.

Effective 2015

Government Code Section 31485.19 (added)-Requires a member's accrued retirement benefits to be nonforfeitable in accordance with federal law in effect on the date of the termination of, or discontinuance of contributions under, the retirement system.

Government Code Section 31485.20 (added)- Prohibits the distribution of funds prior to the time that the distribution may be made in compliance with the requirements of Section 401(a) of Title 26 of the United States Code that are applicable to public employee plans, including, but not limited to, requirements relating to the distribution of amounts prior to the earlier of a member's death, disability, separation from service with all employers that maintain the retirement system, or attainment of normal retirement age, as defined by the retirement system.

Government Code Section 31485.21 (added) - Requires that a member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by Section 401(a) of Title 26 of the United States Code before reemployment with a MCERA employer. The Board shall establish, by regulation, the criteria under which a bona fide separation is satisfied. To the extent required or permitted by Section 401(a) of Title 26 of the United States Code, no amount shall be paid to any member before the date the member has attained normal retirement age or has had a bona fide separation from service, whichever is earlier. To the extent that PEPRA would provide for greater restrictions with regard to separation from service, the provisions of that act shall prevail.

Government Code Section 31485.22 (added) -Authorizes a member who has reached normal retirement age and met the benefit requirements to receive a pension. Requires the forfeiture of certain member benefits pursuant to the applicable felony forfeiture provisions contained in sections 7522.70, 7522.72, or 7522.74.

Government Code Section 31564 (amended) –Prohibits a refund, distribution or transfer of contributions or other funds to a district employee, if a district withdraws from the system unless such withdrawals of funds are in compliance with federal law.

Government Code Section 31592.2 (amended) – Authorizes the payment of healthcare premiums from county advance reserves under certain circumstances and requires such payments to comply with Section 401 of title 26 of the United States Code.

Government Code Section 31592.4 (amended) – Authorizes the payment of healthcare premiums from "excess earnings" in certain circumstances and further conditioned upon the Board of Supervisors and the retirement system compliance with all applicable federal and state income tax laws and compliance with Section 401(h) of Title 26 of the United States Code and Section 1.401-14(c) of the Code of Federal Regulations.

Government Code Section 31649.5 (amended) – Authorizes a member who resigned, or obtained a leave of absence for military service and who returns to county service within one year after separation from military service under honorable conditions, to receive credit for the military service upon payment of contributions and interest.

Government Code Section 31671 (amended) – Requires that the amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of the retirement system on or after July 1, 1996 (or January 1, 1996, for systems operating on a calendar year basis) shall not exceed the limitations in Section 401(a)(17) of Title 26 of the United States Code and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. PEPRA member compensation limitations are also subject to Section 7522.10.

Government Code Section 31691 (amended) Authorizes the employer to pay for life and health insurance premiums from non-retirement system funds. If such a program is set up, it authorizes the retirement system to pay for premiums for a retiree, or an eligible surviving spouse of if no spouse, surviving unmarried children of the member who are under 18 years of age, or under 22 years of age and full-time students, from "excess earnings" consistent with Section 401(h) of Title 26 of the United States Code.

Government Code Section 31691.1 (amended) – Authorizes the Board of Retirement to pay, in lieu of the benefits in Section 31691, a retiree, or an eligible surviving spouse, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under 22 years of age and full-time students, for an equivalent increase in allowance from" excess earnings". Any benefit provided by this section shall be subject to Section 31692.

Government Code Section 31694.6 (added) – Requires that if the Post-Employment Benefits Trust Account is established under Section 31694 as a part of the retirement fund, then that account shall be established for the sole purpose of providing health benefits for retired members, their spouses, and dependents, and shall comply with all requirements, including the limitations on contributions, of Section 401(h) of Title 26 of the United States Code, as applicable. If the Post-Employment Benefits Trust Account is established, assets shall not be transferred or otherwise paid from the funds held by the retirement system for retirement benefits to a medical benefits account. Assets shall not be transferred or otherwise paid from a medical benefits account to the funds held by the retirement system for retirement benefits.

Government Code Section 31696.3 (amended) Requires that any the Long-Term Care Fund that is intended to be a part of the retirement system trust fund be operated in compliance with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title and related federal regulations. If the Long-Term Care Fund is intended to be separate from and not a part of the retirement system, then no assets attributable to that fund shall be commingled for investment or any other purpose, with the assets of the retirement system and shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system to the extent commingling of assets for investment purposes satisfies the requirements of the federal tax laws. The Board shall indicate, as a part of establishment of the Long-Term Care Fund, whether the separate fund is intended to be a part of, or separate from, the retirement system.

Government Code Section 31698.5 (added) - Requires that any vision care program that is intended to be part of the retirement system trust fund, be operated in compliance with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title, and related federal regulations. If the vision care program is intended to be separate from and not a part of the retirement system, then no assets attributable to that program shall be commingled for investment, or any other purpose, with the assets of the retirement system. Assets attributable to the program shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system except to the extent that the commingling of assets for investment purposes satisfies the requirements of the federal tax laws. The sponsor of the vision care program shall indicate as part of the establishment of the program whether that separate fund is intended to be a part of, or separate from, the retirement system.

Government Code Section 31462.05 (amended)- Clarifies that the definition of final compensation for members whose services is on a tenure that is temporary, seasonal,

intermittent, or part time in the CERL, as described, also applies to those members meeting the same service criteria who are subject to PEPRA.

Government Code Section 31462.2 (amended) - Requires, when determining final compensation for a member subject to PEPRA who does not have 3 consecutive years of earned pensionable compensation due to an absence, the compensation for any absence to be based on the pensionable compensation of the position held by the member immediately prior to the absence.

Government Code Section 31563 (amended) -A person ceases to be a member for any portion of his or her service that is forfeited under the felony pension forfeiture statutes set forth in Sections 7522.70, 7522.72, and 7522.74.

Government Code Section 31631 (amended) –Requires that for non-PEPRA members that employee payment of employer's share of contributions be uniform either (1) with respect to all members of a recognized bargaining unit or (2) within each of the following classifications: general members or safety members pursuant to specified provisions in PEPRA.

Government Code Section 31781 (amended) – Clarifies that certain death benefits paid to surviving spouses of deceased members under this section be calculated using annual compensation earned by a non-PEPRA member and pensionable compensation earned by a PEPRA member.

Government Code Section 31781.3 (amended) - Clarifies that certain death benefits paid to surviving spouses of deceased members under this section be calculated using annual compensation earned by a non-PEPRA member and pensionable compensation earned by a PEPRA member.

Government Code Section 31781.31 (amended) - Clarifies that certain death benefits paid to surviving spouses of deceased members under this section be calculated using annual compensation earned by a non-PEPRA member and pensionable compensation earned by a PEPRA member.

Government Code Section 31787.6 (amended) - Clarifies that certain death benefits paid to surviving spouses of deceased members under this section be calculated using annual compensation earned by a non-PEPRA member and pensionable compensation earned by a PEPRA member.

Government Code Section 31649.6 (amended)- Clarifies that rights to certain benefits for members who reenter county service after an absence due to serving in the Armed Forces, and requires the contributions for those benefits to be calculated or determined using his or her compensation earnable (non-PEPRA member) or pensionable compensation (PEPRA member) at the commencement of the absence.

Government Code Section 31653 (amended) – Prohibits employers on behalf of any PEPRA member who reenters county service after an absence from serving in the Armed Forces, from contributing the required contributions to obtain service credit for the military time. Authorizes an employer to make payments of such contributions for non-PEPRA members.

Government Code Section 31760.8 (added) – Authorizes, if the county makes the section applicable, a retired member to revise certain his or her designated beneficiary for certain specified optional settlements if, at retirement, the retired member was unmarried or had been married less than one year, the retired member had retired before the county adopted other specified optional retirement settlements, and the application to revise includes the signature of the designated beneficiary of the optional settlement or a written declaration, as specified.

SUBTAB H-2(b)

The various legislative changes described under Subtab H-2(a) were adopted into the CERL as restated in the form that is included under Tab F.

TAB H-3

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001

Tab H-3 - Statement of Effect of Amendments Made Since the Last Determination Letter

Tab H-3 contains a summary of the amendments adopted to the Board of Retirement Bylaws, Regulations and Charters since the last determination letter. Please note that included in these amendments are those adopted in October 2011 and June 9, 2015, which included those required for tax law compliance. The provisions of the Regulations were amended as required by Notice 2014-19 to ensure compliance with *United States* v. *Windsor*. The amendment to comply with Notice 2014-19 was the only interim amendment; all other amendments adopted since the last determination letter were discretionary. That amendment was adopted on June 9, 2015.

SUBTAB H-3(a)

Summary of Board of Retirement By-Laws, Regulations, and Charter Changes

Government Code section 31525 authorizes the Board of Retirement to adopt regulations that are consistent with the County Employees Retirement Law ("CERL"). Section 31525 further provides that the regulations become effective when approved by the Board of Supervisors. The following is a summary of the regulation changes that were approved by the Board of Retirement and the Mendocino County Board of Supervisors from January 2011 to the date of this filing. In addition, changes to the Bylaws and Charters adopted by the Board of Retirement are also summarized below.

Date of Amendment: November 2013

Subject Area(s): Bylaws

MCERA adopted Bylaws of the Board of Retirement, effective November 5, 2013, to revise and amend previously adopted Bylaws.

Date of Amendment: October 2014

Subject Area(s): Tax Compliance

MCERA adopted Model Regulations for:

Code Section 401(a)(9) (Required Minimum Distributions)

Code Section 401(a)(17) (Compensation Limits)

Code Section 401(a)(31) and 402(c) (Rollovers)

Code Section 415 (Annual Additions Limits)

Code Section 401(a) (Distribution Limitations)

Code Section 401(a)(36) (Normal Retirement Age)

Code Section 401(h) (Medical Benefit Accounts)

Copies of the Regulations are provided behind Subtab H-3(b).

Date of Amendment: March 2013

Subject Area(s): Retirement Board

MCERA adopted a Retirement Board Charter regarding the duties and responsibilities of the Board.

Date of Amendment: March 2013

Subject Area(s): Retirement Administrator

MCERA adopted a Retirement Administrator Charter regarding the duties and responsibilities of the Retirement Administrator.

Date of Amendment: April 2014

Subject Area(s): Audit and Budget Committee

MCERA adopted an Audit and Budget Committee Charter regarding the duties and responsibilities of the Audit and Budget Committee.

SUBTAB H-3(b)

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION BYLAWS OF THE BOARD OF RETIREMENT

ARTICLE I. ADMINISTRATION

Section 1. The name of this Association organized in accordance with Government Code Section 31550 is: "Mendocino County Employees' Retirement Association."

Section 2. The Board of Retirement shall consist of the number of members required in the County Employees' Retirement Law of 1937, Government Code, Article 3, as provided for in the amended section of 31520.1.

Section 3. At the First Regular Meeting in December the Board of Retirement shall elect one of its members Chairman; one of its members Vice Chairman, and one of its members Secretary, each to hold office for a term of one year or until a successor is duly elected and qualified. Should any officer for any reason fail to complete this term the Board of Retirement shall select a successor for the balance of the unexpired term at its next Regular Meeting. The County Treasurer shall act as Treasurer of the Retirement Board.

ARTICLE II. MEETINGS

Section 1. Regular Meetings shall be held on the third Wednesday in each month at the hour of 8:30 a.m. in the Conference Room of the Retirement System building or such other place and time as the Chairman may designate.

Section 2. Special Meetings may be called at any time by the Chairman or any officer of the Association, or by any five (5) members of the Board of Retirement upon notice, not less than 48 hours, given to each member.

Section 3. Roberts' Rules of Order, except as otherwise provided herein, shall guide the Board of Retirement in its proceedings.

Section 4. Five members of the Board of Retirement shall constitute a quorum. No motion may be passed or business transacted without a majority vote of the quorum present.

Section 5. Communications and requests to the Board of Retirement shall be made in writing, and the substance of each request, and the action of the Board of Retirement thereon noted in the minutes.

Section 6. The Secretary shall cause to be recorded in the minutes, the time and place of each meeting of the Retirement Board, the names of members present and absent, all official acts of the Retirement Board, the vote given by members of the Board

except where action is unanimous, and when requested, a member's dissent or approval with his reasons, and shall cause the minutes to be written up forthwith and presented for approval at the next Regular Meeting. The minutes or a true copy thereof, submitted by the Secretary and signed by the Chair, or Vice Chair, shall form part of the permanent records of the Retirement Board.

ARTICLE III. MEMBERSHIP

Section 1. Full Time Employees: Each person entering the County or Special District employ becomes a member of the Mendocino County Employees' Retirement Association on the first day of the pay period following their entrance into County or Special District service.

(a) Continuous Service: Continuous service for full time employees shall be as defined in the Mendocino County Code Section 3.04.100 "Hours of Work." Not more than one (1) year of credit shall be allowed for any service in any one (l) fiscal year. Credit for service of less than one (1) year, as defined in the above section, in any one (l) fiscal year shall be allowed on a prorated basis.

(b) Break in Continuous Service Forfeits Membership: When any full time employee fails to remain in continuous service as defined herein, he shall no longer be entitled to be classified as a permanent employee, and upon such failure becomes ineligible for membership in the Mendocino County Employees' Retirement Association.

Section 2. Temporary, Seasonal, Intermittent, and Part-Time Employees: Each person whose service for the County or Special District requires the performance of duties less than 80% of the full standard of hours required in County or Special District service, shall be excluded and exempted from membership in the Mendocino County Employees' Retirement Association.

Section 3. Newly Hired Employees Who Have Attained the Age of Sixty (60): May request, in writing, a waiver of membership in the Mendocino County Employees Retirement Association. In all cases where there is such a waiver, said employee upon attaining the age of 70 shall thereafter be employed from year to year at the discretion of the County. (Section 31552 Government Code)

ARTICLE IV. CONTRIBUTIONS

Section 1. Basis of Contributions: The normal rates of contributions of all members shall be based on age at the time of entrance into the Retirement System and contributions shall be calculated upon the basis of twenty six (26) pay periods per year.

Section 2. Deduction of Past Due Contributions: Where a member returns to active service following an absence for sickness or other cause and claims that deducting the total contributions due from the first salary, or wage warrant, drawn would cause

practical difficulty and unnecessary hardship, such deductions shall be so apportioned that the total deducted from each warrant will be the current monthly contribution plus two (2) of the past due monthly contributions.

Section 3. Redeposit of Contributions Withdrawn: Any member may redeposit in the retirement fund, within one (1) year after reentrance into County or Special District service, an amount equal to all of the accumulated contributions withdrawn, plus regular interest thereon from the date of separation from the retirement system, except that upon application of the member the Retirement Board may grant an extension of time. (Section 31652, County Employees Retirement Law of 1937).

Section 4. Withdrawals: When a member, because of termination of his membership in the Mendocino County Retirement Association, withdraws accumulated contributions, he/she shall be permitted to withdraw all such contributions with all such accrued interest thereon credited to his/her account subsequent to the effective date. No additional contributions in excess of those provided in the County Employees' Retirement act of 1937 can be made by any member of the Retirement Association.

ARTICLE V. SWORN STATEMENT

Section 1. Every Employee of the County of Mendocino or of Special Districts within said County eligible for membership in the Mendocino County Retirement Association shall fill out and properly execute a sworn statement showing date of birth, nature and duration of employment, compensation received, and such other information as is required by the Board, which shall be adopted as the official Mendocino County Employees' Retirement Association's sworn statement. (Section 31526, County Employees' Retirement Law of 1937).

ARTICLE VI. PRIOR SERVICE

Section 1. Prior Service shall be all service rendered to the County of Mendocino for compensation prior to January 1, 1948. Periods during which a member was not employed for compensation shall not be allowed as prior service, but such breaks will not deprive of service rendered prior to such date. If the employee worked at a lesser salary than eighty dollars ($80.00) per month, credit for prior service shall be given in proportion that the lesser salary bears to eighty dollars ($80.00) per month. If it is at a larger salary than eighty dollars ($80.00) per month, credit shall be given in proportion that that salary bears to the average earnable salary.

ARTICLE VII. ALLOWANCE FOR PUBLIC SERVICE

Section 1. Board of Supervisors Resolution 3108, passed May 6, 1958, provided for the Code Sections of the County Employees' Retirement Law of 1937 allowing retirement credit for prior public service in other public agencies to be applicable in Mendocino County.

Section 2. Exception to Board of Supervisors Resolution 3108: By Memorandum of Understanding for Fiscal Year 1979-80, the purchase of Public Service or Military Service shall not be allowed for employees entering County or Special District service after the date of July 3, 1979. (Board of Supervisors Resolution No. 79-216)

ARTICLE VIII. DISABILITY RETIREMENT

Disability Retirement Procedures were revised by the Board of Retirement on July 17, 2013.

Section 1. The Board of Retirement of the Mendocino County Employees' Retirement Association (MCERA or Association) may promulgate disability retirement procedures for the purpose of handling applications for disability retirement benefits submitted to the Association by a member of MCERA or by any other person, including the head of the department or office employing the member.

Section 2. The purpose of the disability retirement procedures is to process these applications expeditiously, and when a hearing is held, the applicant will have notice of the hearing and an opportunity to present his/her case.

Section 3. The Association will periodically review the procedures so that the members are treated fairly and with due process of law.

Section 4. The Association will ensure that the disability procedures and a disability retirement application handbook are readily available to members of MCERA and any member of the public.

ARTICLE IX. HEALTH INSURANCE

Effective September 1, 1998, Retiree Health Insurance coverage became the responsibility of the County; please refer to County Resolution 98-147.

ARTICLE X. BOARD OF RETIREMENT ELIGIBILITY AND ELECTION

Section 1. Subject to the provisions of Article 3, Section 31520.1 of the Government Code, County Employees' Retirement Law of 1937, any active member of the Mendocino County Employees' Retirement Association shall be eligible to serve on the Board of Retirement of said Association unless prohibited by law.

Section 2. On or prior to September 1, of each year, the Retirement Administrator shall notify the Board of Supervisors of the County of Mendocino and the County Clerk of said County of the name or names of the Retirement Board Members for whom successors must be appointed or elected. The Retirement Administrator shall provide a list of the members of this Association as of the First Pay Period in October of said year who shall be entitled to vote in said election.

(a) As provided in Section 31520.1 of the Government Code, County Employees' Retirement Laws of 1937, the Board of Retirement shall consist of nine (9) members and two (2) alternates, as follows:

(1) The First member shall be the County Treasurer.

(2) The Second and Third members shall be non-safety members of the Mendocino County Retirement Association, other than safety members, elected by such non-safety members who are eligible to vote for such officers.

(3) The Fourth, Fifth, Sixth, and Ninth members shall be qualified electors of the County of Mendocino who are not connected with Mendocino County government in any capacity, except one (1) may be a Mendocino County Supervisor, and shall be appointed by the Board of Supervisors.

(4) The Seventh member shall be a safety member of the Mendocino County Employees' Retirement Association, elected by the safety members who are eligible to vote for such officers.

(5) The Eighth member shall be a retired member elected by the retired members of the Mendocino County Employees' Retirement Association in a manner to be determined by the Board of Supervisors.

(6) The Alternate Seventh member shall be that candidate, if any, for the seventh member from the group under Section 31470.2, or any other eligible safety member if there is no eligible candidate from the groups under Section 31470.2, which is not represented by a Board Member who received the highest number of votes of all candidates in that group. If there is no such candidate there shall be no Alternate Seventh member.

(7) The Alternate Eighth member shall be elected separately by the retired members of the association in the same manner and at the same time as the Eighth member is elected.

Section 3. Not less than thirty (30) days prior to the election, the Retirement Administrator shall mail or cause to be distributed to each member who is entitled to vote at the forthcoming election, a Notice of Election, which shall include an election timeline and a statement of the place where Declaration of Candidacy by Candidate forms can be obtained.

Section 4. A qualified member may be nominated for one of the positions to be filled by filing a Declaration of Candidacy by Candidate form. The Declaration of Candidacy shall be made by Candidate upon forms prepared by the Retirement Administrator. A supply of such forms shall be maintained in the Retirement office.

(a) The Declaration of Candidacy by Candidate forms shall be filed on the date specified within the Notice of Election, not more than forty-five (45) days or less than twenty-five (25) days prior to the election.

Section 5. The Retirement Administrator shall cause the names and department of those persons nominated for the Board of Retirement to be printed upon ballots of such form as may be determined by the Retirement Administrator.

(a) There shall be no provisions for write-in Candidates.

Section 6. As provided in Section 31523, Government Code, County Employees Retirement Law of 1937, if an election to fill a vacancy for the Second, Third, Seventh, or Eight member has been called and only one member has been duly nominated in accordance with the rules established for the holding of such election, the Board of Supervisors shall order that no election be held and shall direct the Retirement Administrator to cast a unanimous ballot in favor of such nominated member.

Section 7. Not less than ten (10) days prior to the election date in October of each year, the Retirement Administrator shall mail, or cause to be distributed to each member authorized to vote at said election, one of said ballots together with a ballot envelope and instructions for return of same.

(a) Instructions shall indicate that the voted ballot shall be placed in the envelope marked "Return Ballot" or words of like effect, which shall then be sealed. The Return Ballot envelope shall contain provision for the signature of the Member and the name of the County Department or Special District to which the member belongs in addition to the return address of the Retirement Administrator. Said instructions shall further indicate that said Return Ballot, in order for the ballot to be counted, must be returned to the Retirement Administrator's Office by 12:00 noon on the date specified prior to the election.

Section 8. Following the date of election the Retirement Administrator shall publicly canvass the returns of said election and shall certify the results thereof to the Board of Retirement and to the Board of Supervisors of the County of Mendocino at the soonest possible board meetings following the election. The Candidate receiving the highest number of votes shall be declared elected.

Section 9. It is required that the successful candidate complete a statement pursuant to the Conflict of Interest Code. This form is available in the office of the Registrar of Voters and should be filed within thirty (30) days after date of election with the Registrar of Voters with a copy of said statement filed with the Retirement Administrator.

Section 10. Whenever a deadline for a procedure associated with a Retirement Board election falls on a holiday or weekend, the final day for completion of the procedure affected by the deadline shall be the last business day preceding such deadline.

ARTICLE XI. AMENDMENTS

These Bylaws may be amended from time to time by Six-ninths (6/9) vote of the Board of Retirement.

The foregoing Bylaws revise and amend those Bylaws which were adopted previously by the Board of Retirement on the 9th day of February, 1973;
First Amendment adopted the 11th day of October, 1974;
Second Amendment adopted the 10th day of June, 1977;
Third Amendment adopted the 14th day of September, 1979;
Fourth Amendment adopted the 11th day of May, 1983;
Fifth Amendment adopted the 13th day of March, 1985;
Sixth Amendment adopted the 12th day of March, 1986;
Seventh Amendment adopted the 9th day of April, 1986;
Eighth Amendment adopted the 10th day of June, 1987;
Ninth Amendment adopted the 9th day of March, 1988;
Tenth Amendment adopted the 17th day of November, 1999;
Eleventh Amendment adopted the 11th day of April, 2003, Article II, Meetings and Article VIII, Sec. 3, Application;
Twelfth Amendment adopted the 17th day of July, 2013, Article VIII. Disability Retirement;
Thirteenth Amendment adopted the 21st day of August, 2013, Article X. Board of Retirement Eligibility and Election.

All of which have been included in and have become a part of the Mendocino County Employees' Retirement Association Bylaws of the Board of Retirement, approved by the Board of Supervisors the 5th day of November, 2013.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
REGULATIONS FOR IRC SECTION 401(h)
MEDICAL BENEFITS ACCOUNTS

SECTION I. GENERAL RULES

A. Purpose and Effective Date

In accordance with sections 31691 and 31694 of the California Government Code, the regulations set forth herein are effective as of October 19, 2011 and reaffirm and clarify the existing practices of the Mendocino County Employees Retirement Association (the "Association") with respect to the requirements under section 401(h) of the Internal Revenue Code (the "Code").

These regulations are intended to be in accordance with the Code and the applicable Treasury Regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish reasonable procedures for complying with the requirements under section 401(h) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

SECTION II. COMPLIANCE WITH THE TAX CODE SECTION 401(h) REQUIREMENTS

A. General Rule

All retiree medical benefit payments made by the system will comply with all applicable federal laws, including Code § 401(h). To the extent there may be a conflict between these regulations and Code § 401(h) or the Treasury Regulations issued hereunder, the Code and Treasury Regulations shall govern.

B. Compliance with Provisions of the Code

1. The Board of Supervisors must specify the medical benefits which will be available and the Board of Retirement must set out the amount that will be paid for those benefits.

2. Medical benefits must be subordinate to the retirement benefits, when added to any life insurance benefits. Contributions shall be limited to the extent necessary to ensure that the retiree health benefits are subordinate to the retirement benefits provided by the system as required by Code § 401(h).

3. A separate account must be maintained for contributions to fund the medical benefits.

Resolution No: 11-1019

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF RETIREMENT ADOPTING MODEL REGULATIONS FOR A 401(h) ACCOUNT CONSISTENT WITH ITS VOLUNTARY CORRECTION PROGRAM FILING

WHEREAS, the Internal Revenue Service (IRS) is conducting a review of retirement systems nationwide, including the retirement systems governed by the County Employees Retirement Law of 1937 (CERL, or 1937 Act); and

WHEREAS, the Mendocino County Employees' Retirement Association (MCERA) is governed by the 1937 Act and subject to said review; and

WHEREAS, the Board of Retirement engaged the law firm of Hanson Bridgett to assist in preparing an application for a Determination Letter on the qualified status of the plan and a Voluntary Correction Program (VCP) filing; and

WHEREAS, on January 19, 2011, the Board of Retirement approved the submission of a request for a favorable determination letter under Revenue Procedure 2010-6 and for a VCP correction under Revenue Procedure 2008-50; and

WHEREAS, the VCP, TAB Q, contained the correction, "MCERA will adopt the model regulations for a 401(h) account in TAB M. Additionally, the County will contribute to that account in accord with section 401(h) to pay retiree health benefits up to August 1, 2011. MCERA will also comply with CERL Section 31592.4 to facilitate those contributions."

NOW, THEREFORE, BE IT RESOLVED that the Board of Retirement adopts the model regulations for a 401(h) account attached and incorporated herein for the purposes of compliance with MCERA's VCP filing and for establishing a procedure that is consistent with Internal Revenue Code 401(h) and CERL Section 31592.4.

Upon motion by Trustee Kendall Smith, seconded by Trustee Randall Goodman, the foregoing Resolution is hereby approved and adopted by the Mendocino County Board of Retirement the 19th day of October 2011 by the following roll call vote:

Ayes:	7
Noes:	0
Absent:	3

Shari Schapmire FOR
Bob Mirata, Chair 10-19-11
Mendocino County Board of Retirement

Attest: Judy Zeller
Clerk to the Board

Judy Zeller

Mendocino County Employees' Retirement Association

REGULATIONS FOR IRC CODE § 401(a)(9)

REQUIRED MINIMUM DISTRIBUTION RULES

REGULATIONS FOR IRC SECTION 401(a)(9) MINIMUM REQUIRED DISTRIBUTIONS

SECTION I. GENERAL RULES

A. Purpose and Effective Date

In accordance with sections 31485.14, 31525 and 31706 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014 and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the minimum distribution requirements under section 401(a)(9) of the Internal Revenue Code (the "Code").

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish reasonable procedures for complying with the minimum distribution requirements under section 401(a)(9) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

B. Reasonable Good Faith Interpretation of Code

In accordance with section 823 of the Pension Protection Act of 2006 ("PPA"), these regulations are promulgated in accordance with a reasonable good faith interpretation of section 401(a)(9) of the Code, and the Treasury regulations thereunder, as applicable to a governmental plan within the meaning of section 414(d) of the Code. For purposes of section 401(a)(9), Code means the Code and applicable Treasury regulations as they apply under a reasonable good faith interpretation of section 401(a)(9).

C. Elections Under TEFRA § 242(b)(2)

Notwithstanding the other requirements of this regulation to the contrary, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act.

Capitalized terms used in this Regulation are defined in Section VI. Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. TIME AND MANNER OF DISTRIBUTION

A. Required Beginning Date

The Member's entire interest will be distributed, or begin to be distributed, no later than the Member's Required Beginning Date.

B. Forms of Distribution

1. Periodic And Other Forms Of Payments

A Member's entire interest in the Association shall be distributed in the form of RMD Annuity payments that meet the requirements of paragraph 2 of this subsection or in the form of a single sum or an insurance company annuity contract that meets the requirements of paragraph 3.a of this subsection. Payments may be made in a combination of these forms of payment and may include lump sum refunds or withdrawals of Member contributions or death benefits as provided in the CERL provided that these forms comply with a reasonable good faith interpretation of Code section 401(a)(9).

2. General Rules Regarding RMD Annuities

If the Member's interest is to be paid in the form of an RMD Annuity, the RMD Annuity must meet the following requirements:

a. Periodic

RMD Annuities must be paid over equal payment intervals which may not be longer than one year.

b. Distribution Period

RMD Annuities will be paid over the life or lives of the Member and a beneficiary or over a period certain that does not exceed the maximum length of the period described in Section III or Section IV of this regulation.

c. Increases

RMD Annuities may not increase over time except in accordance with the rules in Section V.A.

d. Change in Period Paid

The period over which an RMD Annuity is paid can be changed only in accordance with Q&A-13 of section 1.401(a)(9)-6 of the Treasury regulations.

e. Commencement

Payment of the RMD Annuity must start no later than the Required Beginning Date.

3. Other Forms

a. Annuity Contract

If the Member's interest is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code.

b. Individual Account

Any part of the Member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code that apply to individual accounts.

C. Amount Required to be Distributed by Required Beginning Date and Later Payment Intervals.

The amount that must be distributed on or before the Member's Required Beginning Date is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. All of the Member's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date. If the Member dies before distributions begin, the same rules apply with reference to the date distributions are required to begin under section IV.A.1 or IV.A.2.

SECTION III. RMD ANNUITY DISTRIBUTIONS BEGINNING DURING MEMBER'S LIFE

The following rules must be met to comply with the requirements of the Code and this regulation for RMD Annuities that begin during the Member's lifetime.

A. Single Life RMD Annuity

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime only, with no benefits paid to any other person, meets the requirements of the Code and this regulation.

B. Joint and Survivor RMD Annuity - Death of Member After Benefits Begin

If Member dies after RMD Annuity payments have commenced to the Member, then distributions must continue to be made over the remaining period over which distributions commenced in accordance with the schedule of payments made to the Member. Reasonable delay for administration may occur, but in this case payments that should have been made in accordance with the original payment schedule must be made with the first resumed payment.

C. Joint and Survivor RMD Annuity With Spouse as the Sole Beneficiary

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of the Member's surviving Spouse, with no benefits paid to any other person, meets the requirements of the Code and this regulation regardless of the difference in age of the Member and the Member's Spouse.

D. Joint and Survivor RMD Annuity When the Sole Beneficiary Is Not the Member's Spouse

1. Limit on Percentage of Member's RMD Annuity Paid to Non-Spouse Beneficiary

The survivor annuity percentage of an RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of a beneficiary other than the Member's surviving Spouse must not at any time exceed the applicable percentage of the RMD Annuity payment during the Member's lifetime, using the table set forth in Treasury regulation section 1.401(a)(9)-6, Q&A-2(c)(2), as determined in the manner described in Q&A-2(c)(1). This Treasury Regulation requires that the RMD Annuity payable to the Member's beneficiary after the Member's death not exceed the percentage of the RMD Annuity payable to the Member during the Member's life specified in the table if the adjusted age difference between the Member and the beneficiary is more than 10 years.

2. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a surviving child of the Member for a limited period of time (such as until the child reaches the age of 22), the survivor benefit shall be treated as payable solely to the surviving Spouse of the Member.

3. Rule Regarding Other Beneficiaries

Solely to the extent required by section 401(a)(9) of Title 26 of the United States Code and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a person other than a surviving Spouse of the Member (or surviving child under paragraph 2 of this subsection D), then the present value (if any) of any benefit that would be in excess of the amount that can be paid in accordance with such regulation shall be paid to such person in a lump sum payment no later than one year after such person becomes entitled to survivor benefits.

E. Period Certain RMD Annuity

1. Spouse is the Sole Beneficiary

If the Member's sole beneficiary is the Member's surviving Spouse, and the form of distribution is a period certain with no life annuity, the period certain may not exceed the joint life and last survivor expectancy of the Member and Spouse as determined in accordance with the Joint and Last Survivor Table set forth in section 1.401(a)(9)–9, Q&A-3, of the Treasury Regulations, using the Member's and Spouse's ages as of the Member's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

2. Spouse is Not the Sole Beneficiary

When the Member's surviving Spouse is not the sole beneficiary then the period certain may not exceed the period established under the Uniform Lifetime Table in Q&A-2 of Treasury regulations section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Member is younger than age 70 in that year, then the distribution period for the Member is the distribution period for age 70 increased by the difference between 70 and the age of the Member in the year of the Annuity Starting Date. Also see below regarding Designated Beneficiaries.

3. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, the period certain distribution rules shall not apply to survivor benefits payable to children of the Member but the rules of section III.D above shall apply.

4. Rule Regarding Other Beneficiaries

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a period certain survivor benefit is payable to a person other than a surviving Spouse of the Member, then the present value (if any) of any benefit that would be in excess of the amount that can be paid in accordance with such regulation shall be paid to such person in a lump sum payment no later than one year after such person becomes entitled to a survivor benefit.

SECTION IV. DISTRIBUTIONS WHEN MEMBER DIES BEFORE BENEFITS BEGIN

If a Member dies before distributions begin, distributions after the death of the Member must meet the following requirements:

A. When Distributions Must Begin

1. Spouse is the Sole Designated Beneficiary

If the Member's sole Designated Beneficiary is the Member's surviving Spouse, then, except as provided in paragraph 5 of this subsection A, distributions to the surviving Spouse must begin by December 31 of the calendar year immediately following the calendar year in which the Member died or, if later, by December 31 of the calendar year in which the Member would have reached age 70 1/2.

2. Spouse is not the Sole Designated Beneficiary

If the Member's sole Designated Beneficiary is not the Member's surviving Spouse, then, except as provided in paragraph 5 of this subsection A, distributions to the Designated Beneficiary must begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

3. No Designated Beneficiary

If there is no Designated Beneficiary as of September 30 of the year following the year of the Member's death, then distributions of the Member's entire interest must be completed by December 31 of the calendar year that contains the fifth anniversary of the Member's death.

4. Death of Surviving Spouse Who Is the Sole Designated Beneficiary

If the Member's surviving Spouse is the Member's sole Designated Beneficiary and the surviving Spouse dies after the Member but before distributions to the surviving Spouse are required to begin, then this section IV.A, other than section IV.A.1 applies as if the surviving Spouse were the Member.

5. Election of Five Year Rule

A Designated Beneficiary may elect, at the time and in the manner determined by the System, to have the five year rule of section IV.A.3 apply, but solely to the extent that the Designated Beneficiary may elect, under the CERL, a benefit which will be paid in the required time period.

B. When Distributions Are Considered to Begin

For purposes of this Section IV, unless Section IV.A.4 applies, distributions are considered to begin on the Member's Required Beginning Date. If Section IV.A.4 applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section IV.A.1. If distributions under an RMD Annuity meeting the requirements of this regulation commence to the Member before the Member's Required Beginning Date (or to the Member's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section IV.A.1), the date distributions are considered to begin is the date distributions actually commence.

C. Length of Distribution Period

1. Member Is Survived by a Designated Beneficiary

   a. General Rule

   If the Member is survived by a Designated Beneficiary, the Member's entire interest in the System shall be distributed over the life of the Designated Beneficiary or over a period certain that does not exceed the period specified in C.1.b

   b. Period Certain

   The period certain in C.1.a may not exceed the Designated Beneficiary's life expectancy determined using the Single Life Table in Treasury regulations section 1.401(a)(9)-9, Q&A-1. If the Annuity Starting Date is in the first Distribution Calendar Year, the life expectancy shall be determined using the Designated Beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death. If the Annuity Starting Date is before the first Distribution Calendar Year, then the life expectancy is determined using the Designated Beneficiary's age in the calendar year that contains the Annuity Starting Date.

2. No Designated Beneficiary

   If there is no Designated Beneficiary as of the September 30 of the year following the year of the Member's death, distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

3. Death of Surviving Spouse Before Distributions To Spouse Begin

   If the Member's surviving Spouse is the Member's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section IV.C shall apply as if the surviving Spouse were the Member, except that the time that distributions are required to begin is determined without regard to Section IV.A.1.

SECTION V. SPECIAL RULES

A. RMD Annuity Payment Increases

RMD Annuity payments will either not increase over time or increase only as follows:

1. Cost of Living Adjustments

   a. Annual COLA Increases

RMD Annuity payments may increase by an annual percentage that does not exceed the percentage increase in an eligible cost-of-living index, as defined in Q&A-14(b) of section 1.401(a)(9)-6 of the Treasury regulations, for a 12-month period ending in the year during which the increase occurs or a prior year.

b. Cumulative COLA Increases

RMD Annuity payments may increase by a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index, as defined in the preceding paragraph since the Annuity Starting Date, or if later, the date of the most recent percentage increase.

c. Additional COLA Increases

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b) and taking into account the vested rights in retirement benefits created by the California Constitution, RMD Annuity payments may increase by a percentage or amount that is determined by the System, in accordance with the CERL, to represent an appropriate amount to take account of cost of living increases affecting retirees or beneficiaries.

2. "Pop-Up's"

RMD Annuity Payments may increase to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit, but only if there is no longer a survivor benefit because the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to a domestic relations order under applicable state law.

3. Single Sum Distribution

RMD Annuity Payments may increase to the extent necessary to allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Member's death or under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-14(a)(5) and taking into account the vested rights in retirement benefits created by the California Constitution, to allow a beneficiary to select a lump sum distribution of all or part of the Member's interest under the System as provided in the CERL.

4. Plan Amendment

Benefits may increase if they result from an amendment to, or interpretation of, the CERL, the California Government Code or any other applicable law

governing benefits for Members or from an ordinance, resolution or regulation pursuant to such law.

5. Other Benefits

Benefits may increase (i) to the extent increases are permitted in accordance with paragraph (c) or (d) of Q&A-14 of section 1.401(a)(9)-6 of the Treasury regulations dealing with additional permitted increases for annuity payments under annuity contracts purchased from an insurance company and additional permitted increases for annuity payments from a qualified trust; (ii) pursuant to Article 5.5 of the CERL dealing with the Supplemental Retiree Benefit Reserve; (iii) pursuant to Section 31691.1 of the CERL; and (iv) pursuant to sections 31681.1 et. seq., and 31739 et. seq. of the CERL.

B. Additional Accruals After First Distribution Calendar Year

Any additional benefits accruing to the Member in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such benefit accrues.

C. Domestic Relations Orders

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if Article 8.4 of the CERL applies (relating to the establishment of separate accounts under domestic relations orders), then both the Member and the Member's former Spouse shall be deemed to be separate Members of the Association for purposes of these regulations and section 401(a)(9) of the Code.

D. Reciprocal Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a deferred Member is a current employee and a member of another retirement system with which the Association has reciprocity under California law, then for purposes of determining the Required Beginning Date under the Association the Member shall be treated as a current employee of the Association and as such, as if he or she had not retired, even if he or she has attained age 70½.

E. Public Safety Member Killed In Line of Duty

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, any additional retirement benefits paid under CERL section 31787.5 to the surviving Spouse of a public safety Member killed in the line of duty shall not be limited by Code section 401(a)(9) because they shall be treated as incidental death benefits.

F. Rollovers

Amounts that are required minimum distributions cannot be rolled over to another qualified retirement plan or other tax-favored vehicle. The amount that cannot be rolled over shall be determined in accordance with Treasury regulations section 1.402(c)-2, Q&A-7.

G. Payments to Surviving Child Treated as Made to Surviving Spouse

Solely to the extent required by section 401(a)(9) of Title 26 of the United States Code and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, for purposes of Code section 401(a)(9) and these regulations, payments to a Member's surviving child in accordance with the requirements of Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations shall be treated as if such payments had been made to the Member's surviving Spouse to the extent the payments become payable to the surviving Spouse upon the child's attainment of the age of majority, as determined in accordance with Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or upon the occurrence of such other event specified in Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or as otherwise specified in IRS guidance under section 401(a)(9) of the Code.

SECTION VI. DEFINITIONS

A. Annuity Starting Date

"Annuity Starting Date" means the first day of the first period for which a retirement benefit is payable as an RMD Annuity or, in the case of a retirement benefit not payable in the form of an RMD Annuity, the first day on which all events have occurred which entitle the Member to payment.

B. Designated Beneficiary

"Designated Beneficiary" means the individual who is designated by the Member (or the Member's surviving Spouse) as the beneficiary of the Member's interest under the Association and who is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury regulations. Accordingly, entities other than individuals, such as the Member's estate or a trust, cannot be a Designated Beneficiary of a Member's interest in the Association. However, the individuals who are beneficiaries under a designated trust shall be treated as Designated Beneficiaries for purposes of determining the distribution period under this regulation and Code section 401(a)(9) if all of the applicable requirements of Treasury regulation section 1.401(a)(9)-4, Q&A-5(b) are met. If all of such applicable requirements are not met, then the distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

C. Distribution Calendar Year

"Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section IV.A of this regulation.

D. Required Beginning Date

"Required Beginning Date" means April 1 of the calendar year following the later of the calendar year in which the Member attains age 70½ or the calendar year in which the Member retires.

E. RMD Annuity

"RMD Annuity" means, for purposes of the required minimum distribution rules in section 401(a)(9) of the Code, a distribution form providing for periodic payments for a specified period of time.

F. Spouse

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

MENDOCINO COUNTY EMPLOYEES'

RETIREMENT ASSOCIATION

CODE § 401(a)(36)

NORMAL RETIREMENT AGE

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR IRC SECTION 401(a)

NORMAL RETIREMENT AGE

SECTION I. PURPOSE AND SCOPE

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the normal retirement age applicable for the Association in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish any reasonable procedures for determining and applying the normal retirement age requirements that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. NORMAL RETIREMENT AGE

1. Normal Retirement Age for general members is age 62 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than age 70 years.

2. Normal Retirement Age for safety members is age 50 years, or if later, the date at which a Member vests in his or her right to receive a monthly retirement allowance from the Association. In accordance with the CERL, normal retirement age is not later than age 70 years.

3. The normal retirement age for general Members is based on safe harbor provisions in Treasury Regulation Section 1.401(a)-1(b)(2)(ii). The normal retirement age for Safety Members is based on safe harbor provisions in Treasury Regulation Section 1.401(a)-1(b)(2)(v) applicable to qualified public safety employees.

4. The Board of Retirement for the Association may change the normal retirement age determined herein to the extent required to comply with section 401(a) of Title 26 of the United States Code or for any other reasons determined by the

Board. The normal retirement age determined herein does not create any "vested rights" under California or federal law including but not limited to the contracts clause of the California Constitution.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR

IRC CODE § 401(a)(31) & 402(c)

ROLLOVERS

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR IRC SECTION 402(c) ROLLOVERS

SECTION I. PURPOSE AND SCOPE

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to rollovers into and out of the Association in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish any reasonable procedures for paying rollover distributions or accepting rollover contributions that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. ROLLOVER DISTRIBUTIONS FROM THE ASSOCIATION

A. Rollovers

1. Direct Rollover

A "Direct Rollover" is that portion of an Eligible Rollover Distribution that the Association pays directly to an Eligible Retirement Plan, and may also be referred to as a trustee-to-trustee transfer to an Eligible Retirement Plan, at the direction of an Eligible Individual.

2. Indirect Rollover

An "Indirect Rollover" is that portion of an Eligible Rollover Distribution that the Association pays directly to an Eligible Individual.

B. Eligible Individuals

1. Eligible Individual

Only an "Eligible Individual" may elect a Direct Rollover. An "Eligible Individual" is:

a. Terminated From Employment

A Member who has terminated employment from the County (or other agency participating in the Association) and who is eligible to withdraw his or her accumulated Member contributions under the Association;

b. Surviving Spouse

A deceased Member's surviving Spouse;

c. Alternate Payee

A Member's or former Member's Spouse or former Spouse who is the alternate payee under a domestic relations order, as defined in Code section 414(p), with regard to the interest of the Spouse or former Spouse; and

d. Non-Spouse Beneficiary

A deceased Member's non-spouse beneficiary who is a "designated beneficiary" under Code section 401(a)(9)(E), subject to the non-spouse beneficiary provisions in Section II.G.

2. Spouse

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

C. Payments that Can and Cannot be Rolled Over

1. Eligible Rollover Distribution Required

The Association will pay a Direct Rollover on behalf of an Eligible Individual only if the payment is an "Eligible Rollover Distribution."

2. Eligible Rollover Distribution Defined

An "Eligible Rollover Distribution" is any distribution to an Eligible Individual of all or any portion of the amount credited to the Eligible Individual under the Association. These amounts may include (a) refunds of Member contributions plus accumulated interest, or (b) one-time lump sum death benefit payments.

3. After-Tax Portion

The portion of a distribution that consists of after-tax Member contributions may be rolled over if the after-tax funds are transferred in a direct trustee-to-trustee transfer to (a) a qualified trust or (b) an annuity contract described in Code Section 403(b). After-tax Member contributions may also be rolled over to an individual retirement account or annuity described in Code Section 408(a) or (b). The qualified trust or annuity contract must separately account for the transferred after-tax amounts, and must also separately account for the earnings on the after-tax amounts.

4. Exclusions From Eligible Rollover Distributions

An Eligible Rollover Distribution does not include the following kinds of payments:

a. Periodic Payments

Payments that are part of a series of substantially equal periodic payments (i) made at least once per year over the life (or life expectancy) of the Eligible Individual or the life (or life expectancy) of the Eligible Individual and his or her designated beneficiary, or (ii) made for a period of 10 years or more; or

b. Required Distributions

Payments that are "required minimum distributions" under Code Section 401(a)(9).

D. Eligible Retirement Plans

1. Payment to Eligible Retirement Plan

The Association will pay an Eligible Rollover Distribution directly to an "Eligible Retirement Plan."

2. Eligible Retirement Plan Defined

An "Eligible Retirement Plan" is:

a. An annuity plan described in Code Section 403(a);

b. An annuity contract described in Code Section 403(b);

c. A governmental eligible deferred compensation plan described in Code Section 457(b) that agrees to separately account for amounts transferred into such plan from the Association;

d. An individual retirement annuity described in Code Section 408(a);

e. An individual retirement account described in Code Section 408(b);

f. A Roth IRA described in Code Section 408A; or

g. A qualified trust described in Code section 401(a) (including defined benefit pension plans and defined contribution plans such as 401(k) plans, profit sharing plans, and money purchase plans).

3. Certain Exclusions

An Eligible Retirement Plan does not include, and a rollover cannot be made to, a SIMPLE IRA or a Coverdell Education Savings Account.

E. Direct Rollovers

1. Withholding and Direct Rollovers

The Association will not withhold any federal or state income taxes from a Direct Rollover. The only exception is that the Association will withhold federal or state income taxes from a Direct Rollover to a Roth IRA if the Eligible Individual requests that withholding on a form and in the manner prescribed by the Association.

2. Administrative Requirements, In General

An Eligible Individual who requests a Direct Rollover must complete a distribution form in the manner and form that the Association prescribes. The Association may require the Eligible Individual to provide any reasonable information and/or documentation for purposes of administering the Direct Rollover in accordance with the Code.

3. Rollover Check

The Eligible Individual must provide the Association with the name of the Eligible Retirement Plan to which the rollover check will be made payable for his or her benefit. If the Eligible Individual so chooses, the Association will provide this rollover check directly to the Eligible Individual who will be responsible for delivering the check to the recipient IRA or plan.

4. Eligible Individual's Responsibility Re Recipient Plan

The Eligible Individual is responsible for ensuring that any Eligible Retirement Plan that he or she has designated to receive the Eligible Individual's distribution from the Association in a Direct Rollover is an Eligible Retirement Plan that will accept and receive the rollover on his or her behalf in accordance with the applicable tax rules.

5. Time of Payment

The Association will pay a Direct Rollover on behalf of an Eligible Individual as soon as is reasonably and administratively practicable in accordance with its withdrawal and/or death benefit payment processes.

F. Indirect Rollovers

1. Choice of Indirect Rollover

An Eligible Individual, other than a non-spouse beneficiary, may also choose to receive a rollover payment as an Indirect Rollover.

2. Indirect Rollover Withholding

An Indirect Rollover is subject to 20% federal income tax withholding and any applicable state withholding. The Association will withhold and deduct these taxes on behalf of the Eligible Individual as prescribed by federal and applicable state law.

3. Eligible Individual's Responsibility Re Recipient Plan

It is the responsibility of the Eligible Individual to roll over all or some portion of his or her Indirect Rollover payment to an IRA or eligible employer plan within 60 days if he or she wants the payment to qualify as a rollover for tax purposes. If an Eligible Individual wants to roll over 100% of the payment, the Eligible Individual must replace the 20% that was withheld for federal income taxes (and any applicable state withholding) with other money.

G. Direct Rollover of a Non-Spousal Distribution

1. Trustee-To-Trustee Transfer Required

A rollover on behalf of a non-spouse beneficiary must be a direct or trustee-to-trustee transfer and may not be paid in the form of an Indirect Rollover.

2. Non-Spouse Beneficiaries Who May Rollover and Rollover to Inherited IRA Only

A non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E) may roll over all or any portion of the non-spouse beneficiary's Eligible Rollover Distribution to an IRA that is established by the non-spouse beneficiary for purposes of receiving the distribution and that is treated as an "inherited IRA" under the Code. The IRA must be established in a manner that identifies it as an IRA with respect to a deceased individual and it must identify the deceased individual and the beneficiary (for example, "Tom Smith as beneficiary of John Smith").

3. Trust as Beneficiary

If the non-spouse beneficiary is a trust, the Association may make a Direct Rollover to an IRA on behalf of the trust, provided the beneficiaries of the trust satisfy the requirements to be designated beneficiaries within the meaning of Code Section 401(a)(9)(E). The IRA on behalf of the trust must be established in a manner that identifies it as an IRA with respect to a deceased

individual and it must identify the deceased individual and the trust beneficiary (for example, "The Smith Family Trust as beneficiary of John Smith").

H. Notice Requirements

1. 402(f) Notice From the Association

The Association will provide the tax notice required under Code Section 402(f) to each Eligible Individual who requests a withdrawal from the Association.

2. Time Periods

The Association will not process any withdrawals from the Association until 30 days after the date such notice is received by the Eligible Individual requesting the withdrawal. If, however, the Eligible Individual waives this 30-day period on a form and in the manner prescribed by the Association, the Association may process the withdrawal before the 30-day period expires.

SECTION III. ROLLOVER CONTRIBUTIONS TO THE ASSOCIATION

Adoption of regulations providing for the acceptance of certain rollover contributions as determined below does not create any continuing entitlement for Eligible Members to make rollover contributions to the Association in the future and the right to make rollover contributions to the Association may be amended or terminated at any time and for any reason.

If the Association has determined to permit any rollover contributions, the Association will permit Eligible Members to make a rollover contribution to the Association subject to the limitations and conditions described in this Section III.

A. General Rules

1. Eligible Member

An "Eligible Member" is (1) an active Member of the Association, or (2) a Member of the Association that has elected a deferred retirement.

2. Rollovers Allowed

The Association will permit an Eligible Member to make a rollover contribution to the Association for (a) a purchase of service credit (to the extent a purchase of service credit is not prohibited under the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), or (b) a redeposit of previously withdrawn funds plus accumulated interest.

3. Separate Accounting

The Association will separately account for all rollover contributions.

4. Certification to the Association By Member

Only eligible rollover distributions as defined by Code Section 402(c)(4) can be contributed to the Association. In addition to any requirements under subsections B, C, and D below, each Eligible Member making a rollover contribution to the Association must certify in writing the source of the rollover funds and that the rollover contribution is an eligible rollover distribution under the Code. The Association will not accept rollovers of any after-tax contributions or amounts attributable to designated Roth contributions, amounts that represent minimum required distributions, or any rollover that is an indirect rollover.

5. Elections and Association Discretion

An Eligible Member must make an election to purchase service credit or redeposit previously withdrawn contributions with a rollover contribution in the manner and form that is prescribed by the Association. The Association has final discretionary authority to determine whether any required information or documentation is satisfactory, whether a purchase of service credit would be prohibited under PEPRA, and whether the Association will accept an Eligible Member's rollover contribution.

6. Correction of Errors

If the Association accepts a rollover contribution that it later determines was not eligible to be rolled over to the Association, the Association will distribute, as soon as administratively possible, the amount of the rollover contribution back to the Eligible Member, plus accumulated interest.

B. Rollovers from Qualified Plans

1. Acceptance of Rollover

The Association may accept a rollover from another plan that is qualified under Code Section 401(a) and exempt from tax under Code Section 501(a).

2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the sending plan's tax-qualified status and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from a Code section 401(a) qualified plan, contains no after-tax or designated Roth contributions or earnings, or

any amounts representing a required minimum distribution under Code section 401)(a)(9); or

(ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code section 401(a)(9). .

If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the former 401(a) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

c. Association Verification That the Plan is a Tax-Qualified Plan

The Association must take reasonable steps to verify that the rollover will be from a tax-qualified plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

(i) The Association may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The Association will check the entry on the line for characteristics indicating that the plan is intended to be a qualified plan (e.g. examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the Association may reasonably conclude that the plan is qualified, unless the Association has any direct evidence to the contrary.

(ii) If the qualified plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the Association demonstrating that the source of the rollover contribution is a qualified plan: (a) a copy of the plan's most recent favorable determination letter from the Internal Revenue Service stating that the plan is tax-qualified and a written certification from the plan's administrator that the plan continues to be tax-qualified, or (b) a written and signed certification from the plan's administrator that the source of the eligible rollover distribution is a qualified plan under Code Section 401(a).

C. Rollovers from an IRA

1. Acceptance of Rollover

The Association may accept a rollover from an individual retirement account or annuity (IRA) described in Code Section 408(a) or Code Section 408(b).

2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the IRA's status and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from his or her IRA and contains no after-tax or designated Roth contributions or earnings, nor any amounts representing a required minimum distribution under Code section 401(a)(9)or ; or

(ii) If the Eligible Member cannot certify, with respect to the after-tax or designated Roth contributions, a signed certification from an accountant or tax advisor or the IRA trustee/custodian providing the amount of pre-tax contributions and after-tax or designated Roth contributions in the IRA .

The Association will only accept a rollover contribution from the IRA in the amount of the pre-tax contributions and earnings. If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take reasonable steps to verify that the payment source (on the incoming check or wire transfer) is the IRA of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

D. Rollovers from Other Plans: 457(b) and 403(b)

1. Acceptance of Rollover

The Association may accept rollover contributions from an eligible plan under Code section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (a "governmental 457(b) plan"), and an annuity contract described in Code section 403(b).

2. Required Due Diligence Procedure

The Association must take reasonable steps to confirm the sending plan's status as an eligible 457(b) plan or an eligible Code section 403(b) annuity or custodial account and that the rollover contribution is valid. The Association may rely on IRS guidance such as that provided in Revenue Ruling 2014-9 and any

successor guidance with respect to simplified due diligence processes that may be allowed by the Internal Revenue Service.

a. Eligible Member Certification

The Eligible Member must provide the following additional information to the Association:

(i) A statement signed under penalty of perjury by the Eligible Member certifying that the rollover contribution is from an eligible 457(b) or 403(b) plan and contains no after-tax or designated Roth contributions or earnings; or

(ii) A signed certification from the transferring plan's administrator that the rollover contribution contains no after-tax or designated Roth contributions or earnings.

If an Eligible Member does not provide such evidence, the Association will not accept the rollover.

b. Association Verification of Payment Source

The Association must take steps to verify that the payment source (on the incoming check or wire transfer) is the former eligible 457(b) or 403(b) plan of the Eligible Member as represented by the Eligible Member on his or her request to make a rollover.

c. Association Verification That the Plan is an Eligible Plan

The Association must take reasonable steps to verify that the rollover will be from an eligible 457(b) plan or 403(b) plan which can include the following or any other methods allowed in guidance issued by the Internal Revenue Service.

(i) The Association may look up the transferring plan's latest Form 5500 filing, if any, in the Department of Labor's EFAST2 database for assurance that the plan is intended to be a qualified plan. The System will check the entry on the line for characteristics indicating the plan is intended to be an eligible 457(b) or 403(b) plan (e.g., examining line 8a on the current Form 5500 or line 9a on Form 5500-SF). If Code 3C is not entered on these lines, the Association may reasonably conclude that the plan is an eligible plan, unless the Association has any direct evidence to the contrary.

(ii) If the 457(b) or 403(b) plan is not required to file Form 5500 or Form 5500-SF, then the Eligible Member must provide one of the following to the Association demonstrating that the source of the rollover contribution is an eligible governmental 457(b) plan or a Code section 403(b) plan: (a) a copy of the transferring plan's most recent private letter ruling from the Internal Revenue Service stating that the transferring plan qualifies as an eligible governmental 457(b) plan or a Code section 403(b) plan, as applicable, and a signed certification from the transferring plan's administrator that the transferring plan continues to be so qualified, or (b) a signed certification from

the transferring plan's administrator that the rollover distribution source is an eligible governmental 457(b) plan or a Code section 403(b) plan, as applicable.

If the above verification cannot be made, the Association will not accept the rollover.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR

IRC CODE § 415

ANNUAL LIMITS

REGULATIONS FOR IRC SECTION 415(b)

LIMITS ON ANNUAL BENEFITS

SECTION I. PURPOSE AND SCOPE

In accordance with section 31525 and section 31899 et. seq. of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the limits on benefits under section 415(b) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under section 415(b). To the extent there is a conflict between these regulations and the Code, the Code governs.

The Association may establish reasonable procedures for complying with the limits on benefits under section 415(b) of the Code that it deems necessary or advisable for complying with applicable tax laws or for administrative purposes.

Capitalized terms used in this Regulation are defined in Section VII. Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. ANNUAL BENEFIT LIMIT

A. Annual Benefit Limit, In General

1. Annual Limit

   Unless the alternative limit described in subsection E of this Section applies, the Annual Benefit payable to a Member under the Association at any time shall not exceed $210,000 (for 2014) or such other dollar limit specified under section 415(b)(1)(A) of the Code), automatically adjusted under § 415(d) of the Code, effective January 1 of each year, as provided by the Internal Revenue Service

2. Maximum Payment

   If the benefit the Member would otherwise be paid in a Limitation Year would be in excess of the limit in A.1, the benefit shall be limited to a benefit that does not exceed the limit.

3. COLA Adjustment

   In the case of a Member who has had a severance from employment with the Employer, the Annual Benefit Limit applicable to the Member in any Limitation Year beginning after the date of severance shall be automatically adjusted under § 415(d) of the Code.

4. Multiple Annuity Starting Dates

a. For a Member who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of these regulations as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates.

b. For this purpose, the determination of whether a new starting date has occurred shall be made in accordance with section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Treasury regulations.

5. Actuarial Adjustment For Forms Of Benefit

Except as provided in paragraph 6 of this Section II.A, if the Member's benefit is payable in a form other than a Straight Life Annuity, then solely for purposes of applying the limits of Code section 415 and of this regulation, the actuarially equivalent Straight Life Annuity shall be determined in accordance with paragraph a or b below, whichever is applicable.

a. Annuities. If the Member's benefit is payable in the form of a non-decreasing life annuity or other form of benefit described in Treasury regulation section 1.417(e)-1(d)(6) (e.g., other than a lump sum, installments, a decreasing annuity or a term certain), then the actuarially equivalent Straight Life Annuity is equal to the greater of:

i. The Straight Life Annuity (if any) payable to the Member under the Association commencing at the same annuity starting date as the form of benefit payable to the Member, or

ii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using:

A. The Applicable Mortality Table; and

B. A 5% interest assumption.

b. Lump sums, installments, etc. If the Member's benefit is payable in the form of a lump sum, installments, a decreasing annuity, term certain or other form of benefit not described in Treasury regulations section 1.417(e)-1(d)(6), then the Straight Life Annuity that is actuarially equivalent to the Member's form of benefit is equal to the greatest of:

i. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the

same actuarial present value as the form of benefit payable to the Member computed using the interest rate and the mortality table specified in the Association for adjusting benefits in the same form;

ii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using a 5.5 percent interest rate and the Applicable Mortality Table; or

iii. The annual amount of the Straight Life Annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member computed using the Applicable Interest Rate and the Applicable Mortality Table divided by 1.05.

6. No Actuarial Adjustment (Or Limitation) Required For Certain Benefits.

In determining the Annual Benefit, no actuarial adjustment to the benefit shall be made for the following benefits or benefit forms:

a. Qualified joint and survivor annuity. Survivor benefits payable to a surviving Spouse under a joint and survivor annuity that would qualify as a qualified joint and survivor annuity defined in section 417(b) of the Code. If benefits are paid partly in the form of a qualified joint and survivor annuity and partly in some other form (such as a single sum distribution), the rule of this paragraph applies only to the survivor annuity payments under the portion of the benefit that is paid in the form of a qualified joint and survivor annuity.

b. Benefits that are not "retirement benefits". Benefits that are not directly related to retirement benefits (such as pre-retirement qualified disability benefits, preretirement incidental death benefits, and postretirement medical benefits). Additionally, these benefits shall not be subject to the Annual Benefit Limit.

c. Certain automatic benefit increases. Benefits that meet the following requirements: (i) the Association provides for automatic periodic increases such as a form of benefit that automatically increases the benefit paid according to a specified percentage or objective index (but not a benefit that is increased on an ad hoc basis or a basis that is separately determined by action of the Association's Board of Retirement or the County's Board of Supervisors) and (ii) the form of benefit complies with Code section 415(b) without regard to the automatic benefit increase.

In no event shall the amount payable to the Member under the form of benefit in any Limitation Year be greater than the Annual

Benefit Limit applicable at the Annuity Starting Date increased by the amounts provided in Code section 415(d). Also if the form of benefit without regard to the automatic benefit increase is not a Straight Life Annuity, then the Annual Benefit at the Annuity Starting Date is determined by converting the form of benefit to an actuarially equivalent Straight Life Annuity, as provided in section II.B.1 of this regulation.

7. Rules for Determining Annual Benefit.

a. Social Security Supplements, Etc. The determination of the Annual Benefit shall take into account social security supplements described in § 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c), of the Treasury regulations.

b. Member Contributions. The determination of the Annual Benefit shall disregard benefits attributable to Member contributions or rollover contributions. Benefits attributable to Member contributions do not include any benefits that are made on a pre-tax basis such as pickups under Code section 414(h)(2) or such as Member contributions that are actually paid by the Member's employer.

c. Rollovers. The amount of any benefits attributable to Member contributions and to rollover contributions shall be determined in accordance with Code section 415.

d. Voluntary Contributions. Member contributions that are defined as "voluntary" contributions under Code section 415 (such as certain contribution under California Government Code section 31627) are not subject to the limits of this regulation but are subject to the limits of Code section 415(c) concerning defined contribution plans.

B. Reduction for Less Than 10 Years of Participation

1. Reduction

If the Member has less than 10 Years of Participation in the Association, the Annual Benefit Limit shall be multiplied by a fraction -- (i) the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the Association, and (ii) the denominator of which is 10.

2. Counting Years of Participation

The Member is credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (i) the Member is credited with at least the number of hours of service or period of service for benefit accrual purposes, required

under the terms of the Association in order to accrue a benefit for the accrual computation period, and (ii) the Member is included as a Member under the eligibility provisions of the Association for at least one day of the accrual computation period. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the portion of a year of benefit accrual service credited to the Member for such accrual computation period. A Member who is permanently and totally disabled within the meaning of § 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In no event shall more than one Year of Participation be credited for any 12-month period. For example, if under the Association, a Member receives 1/10 of a year of benefit accrual service for an accrual computation period for each 200 hours of service, and the Member is credited with 1,000 hours of service for the period, the Member is credited with 1/2 year of participation for purposes of this subsection.

3. Disability and Death Benefits

The reduction described in paragraph 1 of this subsection shall not apply to disability benefits or death benefits as provided in the Code.

C. Reduction for Commencement Before Age 62 For Certain Members

1. No Reduction For Certain Safety Members

The adjustment described in this subsection shall not apply if the Member's benefit is based on at least 15 years as a full-time employee of any police or fire department of an Employer that maintains the Association or as a member of the armed forces of the United States. Such police or fire department must be organized to provide police protection, firefighting services or emergency medical services for any area within the jurisdiction of such Employer.

2. Reduction For Benefits Commencing Before Age 62

If the Member's benefits commence before the Member attains age 62, the Annual Benefit Limit is equal to the lesser of:

a. The Annual Benefit Limit reduced in accordance with Code section 415(b) to its actuarial equivalent using:

i. The Applicable Mortality Table; and

ii. A 5% interest rate; or

b. The Annual Benefit Limit multiplied by the ratio of the immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the Straight Life Annuity under the Association commencing at age 62, both determined without applying the limitations of this regulation.

3. Probability of Death

No adjustment will be made to the annual benefit limit to reflect the probability of death between the Annuity Starting Date and age 62 unless the Member's benefit is forfeited at death before the Annuity Starting Date.

4. Death and Disability

The adjustment described in paragraph 1 of this subsection shall not apply to disability benefits or death benefits.

D. Increase for Commencement After Age 65

1. Increase For Benefits Commencing After 65

If the Member's benefits commence after the Member attains age 65, the Annual Benefit Limit is equal to the lesser of:

a. The Annual Benefit Limit increased in accordance with Code section 415(b) to its actuarial equivalent using:

i. The Applicable Mortality Table; and

ii. A 5% interest rate; or

b. The Annual Benefit Limit multiplied by the ratio of the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing Straight Life Annuity under the Association at age 65, both determined without applying the limitations of this regulation. For this purpose, the adjusted immediately commencing Straight Life Annuity under the Association at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing Straight Life Annuity under the Association at age 65 is the annual amount of such annuity that would be payable under the Association to a hypothetical Member who is age 65 and has the same accrued benefit as the Member.

2. Probability of Death

No adjustment will be made to the Annual Benefit Limit to reflect the probability of death between age 65 and the Annuity Starting Date unless the Member's benefit is forfeited at death before the Annuity Starting Date.

E. Minimum Benefit Permitted

The benefit otherwise accrued or payable to a Member under the Association is treated as not exceeding the Annual Benefit Limit if:

1. Minimum Benefit Limit Allowed

   The sum of the retirement benefits payable under any form of benefit with respect to the Member for the Limitation Year or for any prior Limitation Year under the Association and all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Member's Employer does not exceed $10,000 multiplied by a fraction – (i) the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the Member's Employer or an Affiliated Employer, and (ii) the denominator of which is 10; and

2. Condition

   The Member has never participated in any qualified defined contribution plan maintained by the Member's Employer or an Affiliated Employer.

SECTION III. PARTICIPATION IN MULTIPLE DEFINED BENEFIT PLANS

A. Application of Limit to Aggregate Benefits

If the Member is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the Member's Employer, the sum of the participant's Annual Benefits from all such plans may not exceed the Annual Benefit Limit.

B. Multiple Plan Benefit Limit Coordination

Where the Member's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the Annual Benefit Limit applicable at that age, the benefits accrued under all such other plans shall be reduced first in order to avoid exceeding the limit and shall be reduced under the Association only to the extent that the reduction under such other plans is insufficient to avoid exceeding the limit.

SECTION IV. MULTIPLE EMPLOYER PLAN

Benefits attributable to the Member attributable to all of the Employers participating in the Association are taken into account for purposes of applying the Annual Benefit Limit.

SECTION V. GRANDFATHER RULES

A. Annual Benefit Limit Equals Accrued Benefit

Notwithstanding anything herein to the contrary, the Annual Benefit Limit with respect to a Qualified Member shall not be less than the accrued benefit of the Qualified Member under the Association determined without regard to any amendment made after October 14, 1987.

B. Qualified Participant

For purposes of this section, the term "Qualified Member" means a Member who first became a Member in the Association before January 1, 1990.

C. Election

Pursuant to Section 31899 et. seq. of the California Government Code, the election has been made to have this Section apply.

SECTION VI. PURCHASE OF PERMISSIVE SERVICE CREDIT

A. General Rule

To the extent a Member is not prohibited by the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), if a Member makes one or more contributions to the Association to purchase Permissive Service Credit under the Association, then the requirements of this regulation will be treated as met only if:

1. The requirements of this regulation are met, determined by treating the accrued benefit derived from all such contributions as an Annual Benefit for purposes of this regulation; or

2. The requirements of the Association's regulation governing the limits on annual additions applicable to defined contribution plans are met by treating all such contributions as annual additions.

B. Permissive Service Credit

1. <u>Permissive Service Credit Defined</u>

For purposes of this Section, "Permissive Service Credit" means:

a. Credit recognized by the Association for purposes of calculating a Member's benefit under the Association;

b. Credit which such Member has not received under the Association; and

c. Credit which the Member may receive only by making a voluntary additional contribution in an amount determined under the

Association, which does not exceed the amount necessary to fund the benefit attributable to the service credit purchased.

Permissive Service Credit also includes service credit for periods for which there is no performance of service and, notwithstanding subparagraph b of this paragraph, may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the Association, but only to the extent not prohibited by PEPRA.

2. Limitation on Nonqualified Service Credit

The Association will fail to satisfy the requirements of this regulation if

a. More than 5 years of Nonqualified Service Credit is taken into account for purposes of this Section; or

b. Any Nonqualified Service Credit is taken into account under this Section before the Member has at least 5 Years of Participation under the Association.

3. Nonqualified Service Credit

For purposes of paragraph 2 of this subsection, the term "Nonqualified Service Credit" means permissive service credit other than that allowed with respect to:

a. Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, an State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of repayment described in subsection C of this Section);

b. Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (a) of this paragraph) of an educational organization described in Code section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

c. Service as an employee of an association of employees who are described in subparagraph (a) of this paragraph; or

d. Military service (other than qualified military service under Code section 414(u)) recognized by the Association.

In the case of service described in subparagraphs a, b or c of this paragraph, such service will be nonqualified service if recognition of such

service would cause a Member to receive a retirement benefit for the same period of service under more than one plan.

Even if any proposed service credit purchase meets the above requirements, to the extent such proposed service credit purchase is prohibited under the terms of PEPRA, the Association will not process such service credit purchase.

4. Trustee-to-Trustee Transfers

In the case of a trustee-to-trustee transfer to the Association to which Code section 403(b)(13)(A) or 457(e)(17)(A) applies, (without regard to whether the transfer is made from a plan that is maintained by the same Employer):

a. Tthe limitations of paragraph 2 of this subsection shall not apply in determining whether the transfer is for the purchase of Permissive Service Credit; and

b. The distribution rules applicable under the Code to the Association shall apply to such amounts and any benefits attributable to such amounts.

C. Repayment of Cashouts

In the case of any repayment of contributions (including interest) to the Association with respect to an amount previously refunded upon a forfeiture of service credit under the Association or under another governmental plan maintained by a state or local government employer within the State of California, any such repayment shall not be taken into account for purposes of this regulation.

SECTION VII. DEFINITIONS

A. Annual Benefit

"Annual Benefit" means a benefit that is payable annually in the form of a Straight Life Annuity. Except as provided in Section II.A.5, where a benefit is payable in a form other than a Straight Life Annuity, the benefit shall be adjusted (solely for purposes of applying the limits of Code section 415 and of this regulation) pursuant to Section II.A.7 to an actuarially equivalent Straight Life Annuity that begins at the same time as such other form of benefit and is payable on the first day of each month.

B. Annual Benefit Limit

"Annual Benefit Limit" means the limit described in Section II.A.1 of this regulation.

C. Annuity

"Annuity" for purposes of this regulation does not mean "annuity" as defined in the CERL but instead means a retirement benefit that is payable by the Association, as provided in section 415 of the Code.

D. Annuity Starting Date

"Annuity Starting Date" means the first day of the first period for which a retirement benefit is payable as an annuity or, in the case of a retirement benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Member to payment under the Association.

E. Applicable Interest Rate

"Applicable Interest Rate" means the "applicable interest rate" defined in section 417(e)(3)(C) of the Code and shall be such rate of interest determined as of the first month preceding the stability period, which shall be the month containing the Annuity Starting Date for the distribution and for which the Applicable Interest Rate shall remain constant.

F. Applicable Mortality Table

"Applicable Mortality Table" means the "applicable mortality table" defined in section 417(e)(3)(B) of the Code.

G. Employer

"Employer" means the participating County or other governmental employer that participates in the Association and employs the Member. The term "Employer" also includes any Affiliated Employer. Solely to the extent provided in the Code with respect to public agencies, the term "Affiliated Employer" means all members of a controlled group of an Employer.

H. Limitation Year

"Limitation Year" means the calendar year.

I. Spouse

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

J. Straight Life Annuity

"Straight Life Annuity" means an Annuity payable in equal installments for the life of the member and terminating on the Member's death.

REGULATIONS FOR IRC SECTION 415(c)

DEFINED CONTRIBUTION LIMITS

SECTION I. PURPOSE AND SCOPE

In accordance with section 31525 and section 31899 et. seq. of the California Government Code, the regulations set forth herein are effective as of [_____], and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the limits on annual additions under section 415(c) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under section 415(c). To the extent there is a conflict between these regulations and the Code, the Code governs.

The Association may establish reasonable procedures for complying with the limits on annual additions under section 415(c) of the Code that it deems necessary or advisable for complying with applicable tax laws or for administrative purposes.

Capitalized terms used in this Regulation are defined in Section III. Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. ANNUAL ADDITIONS LIMITATION

A. Annual Additions Limit, In General

Notwithstanding anything to the contrary contained in the Association, the total Annual Additions allocated to a Member's Account under the Association, when added to the Annual Additions allocated to the Member's accounts under all other Aggregated Plans maintained by the Employer or an Affiliate for any Limitation Year, shall not exceed the Maximum Permissible Amount; provided, however, that the limit described in III.G.2 shall not apply to an individual medical benefit account (as defined in section 415(l) of the Code).

SECTION III. DEFINITIONS

Solely for purposes of this regulation, the following definitions shall apply:

A. Account

"Account" means the separate Member account provided under the Association for benefits that are separate and apart from the retirement benefits (annuity and pension) otherwise provided under the CERL.

B. Affiliate

Solely to the extent provided in the Code with respect to public agencies, the term "Affiliate" means all members of a controlled group of an Employer.

C. Aggregated Plan

"Aggregated Plan" means any defined contribution plan which is aggregated with the Association pursuant to Section III of this regulation.

D. Annual Additions

"Annual Additions" means the sum of the following amounts credited to a Member's Accounts under the Association and any Aggregated Plans for the Limitation Year:

1. Employer contributions allocated to the Member's Account that is separate and apart from any pension or annuity benefits provided under the CERL;

2. Employee contributions (after-tax), including mandatory contributions (as defined in section 411(c)(2)(C) of the Code and Treasury regulations issued thereunder), as well as voluntary employee contributions used to purchase permissive service credit (as defined in Code section 415(n)(3)), to the extent such service credit purchase is not prohibited under PEPRA, if an election is made to treat those amounts as Annual Additions in the year contributed pursuant to Code section 415(n)(1).

3. Forfeitures;

4. Amounts allocated to the Member's individual medical account (within the meaning of section 415(l)(2) of the Code), which is part of a pension or annuity plan maintained by the Employer or Affiliate, except that such amounts are not included in Annual Additions for purposes of applying the 100% of compensation limit.

The term "Annual Additions" excludes:

1. Repayments of cash-outs as described in Code section 415(k)(3) (for example, to purchase restoration of an accrued benefit that was lost when employee contributions were previously cashed out) for the limitation year in which the restoration occurs;

2. Catch-up contributions made in accordance with Code section 414(v);

3. Restorative payment described in Treasury regulations section 1.415(c)-1(b)(2)(ii)(C);

4. Excess deferrals that are distributed in accordance with Treasury regulations section 1.402(g)-1(e)(2) or (3);

5. Rollover contributions (as described in Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d) and 457(e)(16) of the Code);

6. Loan repayments;

7. Employee contributions to a qualified cost-of-living arrangement described in Code section 415(k)(2)(B);

8. Employee contributions picked up by the Employer under Code section 414(h)(2);

9. Make-up contributions attributable to a period of qualified military service, as defined in Code section 414(u), with respect to the year in which the contribution is made (but not with respect to the year to which the contribution relates); and

10. Employee contributions to purchase permissive service credit (as defined in Code section 415(n)(3)) to the extent such service credit purchase is allowed under PEPRA and if an election is made to treat the accrued benefit derived from all such contributions as an annual benefit subject to the limits of Code section 415(b).

E. Employer

"Employer" means the participating County or other governmental employer that participates in the Association and employs the Member.

F. Limitation Year

"Limitation Year" means the calendar year.

G. Maximum Permissible Amount

"Maximum Permissible Amount" means the lesser of:

1. $52,000 (for 2014), as adjusted for increases in the cost-of-living under section 415(d) of the Code; or

2. 100 percent of the Member's Total Compensation for the Limitation Year.

H. Severance From Employment

"Severance From Employment" means the Member ceases to be an employee of the Employer. A Member does not have a Severance From Employment if, in connection with a change of employment, the Member's new employer maintains the Association with respect to the Member.

I. Total Compensation

"Total Compensation" means all items of remuneration described in paragraph (1) and excludes all items of remuneration described in paragraph (2), below.

1. Items Included

Total Compensation includes all of the following items of remuneration for services:

a. A Member's wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an

amount is paid in cash) for personal services actually rendered in the course of employment with the Employer and any Affiliate to the extent that the amounts are includible in gross income (or to the extent that amounts would have been includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements, or other expense allowances under a non-accountable plan, as described in Treasury regulations section 1.62-2(c);

b. Amounts described in Code section 104(a)(3), 105(a), or 105(h), but only to the extent that these amounts are includible in the gross income of the Member;

c. Amounts paid or reimbursed by the Employer or an Affiliate for moving expenses incurred by a Member, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are not deductible by the Member under Code section 217;

d. The amount includible in the gross income of an Member upon making the election described in Code section 83(b);

e. Amounts that are includible in the gross income of a Member under the rules of Code section 409A or Code section 457(f)(1)(A), or because the amounts are constructively received by the Member; and

f. An amount that is excludable under Code section 106 that is not available to a Member in cash in lieu of group health coverage because the Member is unable to certify that he or she has other health coverage; provided, however, that the Employer does not request or collect information regarding the Member's other health coverage as part of the enrollment process for the health plan.

2. Items Excluded

The following items are excluded from Total Compensation:

a. Employer contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) to a deferred compensation plan (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent such contributions are not includable in the Member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a deferred compensation plan (whether or not qualified) other than amounts received during the year by a Member pursuant to a nonqualified unfunded

deferred compensation plan to the extent includible in gross income;

b. Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are excludible from the gross income of the Member, and are not salary reduction amounts that are described in Code section 125);

c. Other items of remuneration that are similar to any of the items listed in a and b, above.

3. Timing

a. In order to be taken into account for a Limitation Year, Total Compensation must be paid or made available (or, if earlier, includible in the gross income of the Member) during the Limitation Year. For this purpose, compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election under Code section 125, 132(f)(4), 401(k), 403(b), 408(k), 408(p)(2)(A)(i), or 457(b)).

b. In order to be taken into account for a Limitation Year, Total Compensation must be paid or treated as paid to the Member prior to the Member's Severance From Employment with the Employer; provided, however, that Total Compensation includes amounts paid to the Member by the later of 2½ months after Severance From Employment or the end of the Limitation Year if the amounts are regular compensation for services during the Member's regular working hours, compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation that absent a Severance From Employment would have been paid to the Member while the Member continued in employment with the Employer.

c. Total Compensation does not include amounts paid after Severance From Employment that are severance pay, unfunded nonqualified deferred compensation, or any other payment that is not described in the preceding paragraph, even if paid within 2½ months, except for:

i. Payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service to the extent that these payments do not exceed the amounts that the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service; and

ii. Payments to a Member who is permanently and totally disabled; provided, however that salary continuation applies to all Members who are permanently and totally disabled for a fixed or determinable period. For this purpose, a Member is permanently and totally disabled only if the Member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months.

4. Limit

A Member's Total Compensation shall not include compensation in excess of the limitation of Code section 401(a)(17) that is in effect for the calendar year in which such Limitation Year begins.

SECTION III. AGGREGATION WITH OTHER DEFINED CONTRIBUTION PLANS

All defined contribution plans (as defined in section 1.415(c)-1(a)(2) of the Treasury regulations and whether or not terminated) maintained by the Employer or an Affiliate shall be aggregated with the Association, and all plans so aggregated shall be considered as one plan in applying the limitations of this regulation.

SECTION IV. COORDINATION WITH OTHER DEFINED CONTRIBUTION PLANS

In the event that a Member participates in another defined contribution plan of the Employer or of an Affiliate that is a tax-qualified defined contribution plan, contributions or allocations that would otherwise be made on behalf of the Member to the Association shall be reduced to the extent necessary to avoid exceeding the limitations of this regulation when contributions are aggregated as described above.

SECTION V. CORRECTION

Any excess Annual Additions shall be corrected using the methods specified in guidance promulgated by the Secretary of the Treasury describing the procedures for correcting excess Annual Additions under the Employee Plans Compliance Resolution System ("EPCRS") or its successor.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR

IRC CODE § 401(a)

DISTRIBUTION RESTRICTIONS

REGULATIONS FOR IRC SECTION 401(a)
RETURN TO WORK AND SEPARATION FROM SERVICE

SECTION I. PURPOSE AND SCOPE

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the return to work of retired Members and a bona fide separation from service prior to such return to work applicable for the Association in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish any reasonable procedures dealing with the return to work of Members following retirement under the Association and the requirement for a bona fide separation of service that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. RETURN TO WORK AND BONA FIDE SEPARATION FROM SERVICE

For purposes of employment with the County or a participating employer under the Association after retirement for service, a Member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by section 401(a) of Title 26 of the United States Code. A bona fide separation from service is defined as follows:

1. The Member has not entered into any predetermined agreement (either written or unwritten) with the County or a participating employer under the Association prior to retirement to return to work for a participating employer under the Association after retirement, regardless of the length of the separation.

2. Prior to entering into an agreement to return or returning to employment with the County or a participating employer under the Association while retired, the Member must have a separation from service of at least the greater of (a) any required separation from service prior to return to work required under the terms of the California Public Employees' Pension Reform Act of 2013 or (b) a 60 calendar day separation from service.

3. The Member may be employed by the County or a participating employer under the Association prior to the time in sections 1 and 2 for emergency situations as defined in Government Code section 8558.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR

IRC CODE § 401(a)(17)

COMPENSATION LIMIT

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

REGULATIONS FOR IRC SECTION 401(a)(17) COMPENSATION LIMIT

SECTION I. PURPOSE AND SCOPE

In accordance with section 31525 and section 31671 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the limit on annual compensation under section 401(a)(17) of the Internal Revenue Code (the "Code"). For these regulations, the Code includes Treasury regulations issued under section 401(a)(17).

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish reasonable procedures for complying with the limit on annual compensation under section 401(a)(17) of the Code that it deems necessary or desirable to comply with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

SECTION II. LIMITATION ON ANNUAL COMPENSATION EARNABLE

A. In General

1. Annual Compensation Earnable Limit

   The annual amount of compensation that is taken into account in determining all benefits provided by the Association to affected Members for any year, which is referred to in the CERL and in these Regulations as "Compensation Earnable", shall in no event be greater than the amount allowed by Code section 401(a)(17) adjusted in accordance with the Code for increases in the cost of living. This limit has been increased by cost of living adjustments to $260,000 for 2014. This limit is called the Annual Compensation Earnable Limit in these regulations. (Certain Members may also be subject to the limitation on Compensation Earnable under Government Code Section 7522.10(c) and (d) which would produce a lower limit than the limit under section 401(a)(17) of the Code.)

2. Members Affected By the Annual Limit

   a. Not Applicable to Pre-July 1, 1996 Association Members

      The Annual Compensation Earnable Limit does not apply to any individual who first became a Member of the Association prior to July 1, 1996.

b. Applies to New Members of the Association On and After July 1, 1996

In accordance with Government Code section 31671, the Annual Compensation Earnable Limit shall apply to all individuals who first become Members of the Association on or after July 1, 1996.

c. Date First Becomes a Member

An individual first becomes a Member on the date that a Member first became a Member in the Association, regardless of whether the Member terminated and resumed participation in the Association at a later date.

B. Operational Rules, In General

This section applies to Members who are not grandfathered under section A,2,a.

1. Limited Compensation Earnable

All Compensation Earnable that would be taken into account for determining benefits provided by the Association without regard to these regulations is subject to the Annual Compensation Earnable Limit. Such Compensation Earnable is not limited to salary or to base salary.

2. Benefits Affected by the Limit

The Annual Compensation Earnable Limit applies to the determination of all benefits provided by the Association including pensions, annuities, retirement allowances, death benefits, disability benefits, refunds and withdrawals that are determined by member contributions (including such contributions that are or may have been in the past "picked up" by the employer) and earnings thereon.

3. Compensation Earnable from More Than One Employer

If Compensation Earnable from more than one employer that participates in the Association is taken into account in determining a Member's benefits, the Annual Compensation Earnable Limit shall apply separately to the Compensation Earnable from each employer. For example, if the Compensation Earnable Limit is $260,000 for the year and the Member has Compensation Earnable of $200,000 from one participating employer and $100,000 from another participating employer, the unreduced total Compensation Earnable from each employer may be taken into account. The Annual Compensation Earnable Limit does not apply to the aggregate of Compensation Earnable earned from all employers that participate in the Association.

4. Proration for Short Plan Year

If a plan year consists of fewer than 12 months, the Annual Compensation Earnable Limit is an amount equal to the otherwise applicable Annual Compensation Earnable Limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12. No proration is required for participation of less than a full plan year.

5. Reciprocity and New Membership in the Association

An individual who becomes a Member of the Association on or after July 1, 1996, and who has reciprocity with another public sector retirement plan nevertheless is a new Member of the Association for purposes of this regulation. Membership before July 1, 1996 in another retirement plan with which the Association has reciprocity does not create pre-July 1, 1996 Association membership for purposes of the Annual Compensation Earnable Limit.

6. Reciprocity and Prior Membership In the Association

A person who was a grandfathered Member of the Association prior to July 1, 1996 under section A,2,a, who terminated employment with an employer that participated in the Association, remains a Member of the Association prior to July 1, 1996. Therefore, if the Member established reciprocity between another public sector retirement plan and the Association, any higher Compensation Earnable that is earned under the other plan shall be taken into account by the Association in accordance with the rules of reciprocity and that Compensation Earnable shall not be limited by the Annual Compensation Earnable Limit.

7. Relationship Between Section 415 Limit and Compensation Earnable Limit

The limits of Code section 415 and Code section 401(a)(17) are separate and independent. Each limit is operated according to its own rules and applies separately. Therefore, the Annual Compensation Earnable Limit may apply to a Member and the Code section 415 limit may not apply. Similarly, the Code section 415 limit may apply to a Member and the Annual Compensation Earnable Limit may not apply. Also, both of these limits may apply to the same Member.

8. Clarification Concerning Member Contributions

Because Member contributions are the basis for benefits provided by the Association, Member contributions shall not be made by taking into account Compensation Earnable in excess of the Annual Compensation Earnable Limit. To the extent the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA"), including Government Code Section 7522.10(h) include greater limitations on the manner in which Member contributions may be calculated, such limits shall apply to the calculation of Member contributions.

9. General Plan Year Rule for Determining the Limit

If Compensation Earnable for any prior plan year is taken into account in determining a Member's benefits for the current plan year, the Compensation Earnable for such prior plan year is subject to the applicable Annual Compensation Earnable Limit in effect for that prior plan year. In addition, in determining benefits for plan years beginning on or after January 1, 2002, the Annual Compensation Earnable Limit in effect for plan years beginning before that date is $200,000.

SECTION III. PLAN YEAR AND COST OF LIVING ADJUSTMENTS

A. Annual Adjustment for Cost-of-Living Increases

The Annual Compensation Earnable Limit may be adjusted annually by the Internal Revenue Service for cost of living changes in accordance with the Code.

B. General Rule--Application of Limit to a Plan Year

In general, the Annual Compensation Earnable Limit is applied to the Compensation Earnable for the plan year on which accruals of benefits from the Association are based.

C. Plan Year Compensation Earnable

1. General Rule

To the extent that the Association determines Compensation Earnable for benefit accruals for a plan year based on Compensation Earnable for the plan year, then the Annual Compensation Earnable Limit that applies for that plan year is the limit in effect for the calendar year in which the plan year begins. Since the Association's plan year corresponds to the fiscal year beginning on the first day of July, the Compensation Earnable used to determine all benefit accruals for each plan year is limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year begins.

2. Member Contributions

Since the Association's plan year is the fiscal year beginning on the first day of July, Compensation Earnable used to determine Member contributions for each plan year shall be limited to the Annual Compensation Earnable Limit in effect as of January 1 of the calendar year in which the plan year begins.

D. Examples

1. Example - Retirement Allowance

The retirement allowance provided by the Association for certain Members is based on the highest 12 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was $250,000 for the 2012 calendar year and $255,000 for the 2013 calendar year. A Member retires in May, 2013. The Member's highest 12 consecutive months of Compensation Earnable is for the period May 1, 2012 through April 30, 2013. The annual Compensation Earnable used for determining this Member's benefits for the 2013 year is limited to $250,000, not $255,000, because this is the limit in effect for the calendar year in which the 12-consecutive month period began.

For some Members of the Association, including Members subject to the requirements enacted under the Public Employees' Pension Reform Act of 2013 ("PEPRA"), the retirement allowance provided by the Association is based on the highest 36 consecutive months of Compensation Earnable ending within the plan year. The Annual Compensation Earnable Limit was $245,000 for 2011, $250,000 for 2012, and $255,000 for 2013. A Member retires in May 2014. The Member has $300,000 per year ($25,000 per month) of Compensation Earnable during the Member's highest 36 consecutive months of Compensation Earnable for the period May 1, 2011 through April 30, 2014. The Association may not base the Member's benefits for 2014 on annual Compensation Earnable in excess of $250,000, the average of the limits in effect for each of the three 12-consecutive month periods: the May 1, 2011 through April 30, 2012 period is capped at $245,000, the 2011 limit; the May 1, 2012 through April 30, 2013 is capped at $250,000, the 2012 limit; and the May 1, 2013 through April 30, 2014 is capped at $255,000, the 2013 limit. The average of these capped amounts is the Annual Compensation Earnable Limit for determining benefits for the 2014 plan year for a Member who retires in May, 2014 because that is the limit for the calendar year in which the Member's average compensation earnable begins.

2. Example: Member Contributions

The refund or withdrawal benefits from Member contributions are accrued on an annual basis. The Annual Compensation Earnable Limit was $245,000 for the 2011 calendar year; $250,000 for the 2012 calendar year; and $255,000 for the 2013 calendar year.

Since the Association's plan year corresponds to the fiscal year, the Annual Compensation Earnable Limit was $245,000 for the entire plan year beginning July 1, 2011 and ending June 30, 2012; $250,000 for the entire plan year beginning July 1, 2012 and ending June 30, 2013; and $255,000 for the entire plan year beginning July 1, 2013 and ending June 30, 2014.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

RETIREMENT BOARD CHARTER

I. INTRODUCTION

A. To ensure that the accountability and authority for the governance and management of MCERA are clearly stated, the Board has established policies describing the roles and responsibilities of the key decision-making bodies within MCERA.

B. All authority granted by the California State Constitution and the County Employees' Retirement Law (CERL) to the Board is retained, except as delegated by the Board. Consistent with its fiduciary role, the Board's principal duty is to ensure that MCERA is appropriately governed and managed. The overriding goal of the Board is to serve the best interests of members and beneficiaries and to protect the assets of the Association.

II. DUTIES AND RESPONSIBILITIES

A. Governance

1. The Board will:
   a. Approve the Mission Statement and Core Values of MCERA;
   b. Adopt regulations or by-laws consistent with the CERL;
   c. Approve and amend, as necessary, policies and charters to ensure appropriate governance practices;
   d. Approve policies describing the roles and responsibilities of the Board, the officers of the Board, each committee of the Board, and the Retirement Administrator, and amend these policies as appropriate;
   e. Annually elect a Chair and Vice Chair of the Board;
   f. Provide for the election of employee and retired trustees to the Board;
   g. Establish the committee structure and annually appoint members to each Committee.

B. Investments

1. The Board has exclusive control of the investments of the Fund. The assets of MCERA are trust funds and, as such, the Board will manage the Fund (§31595):
   a. Solely in the interest of, and for the exclusive purpose of providing benefits to participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering MCERA.
   b. With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and
   c. By diversifying the investments of MCERA so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

B. Investments (Continued)

2. The Board will conduct a study of the relationship between the assets and liabilities of MCERA not less than every three (3) years.
3. The Board will approve a written statement of investment policy and will review and confirm or amend the investment policy at least every two (2) years.
4. The Board will approve a written statement of investment philosophy describing the principles, beliefs and assumptions underlying the investment policy and program.
5. The Board will approve investment objectives and strategies for achieving the investment objectives.

C. Benefits Administration

1. The Board will:
   a. Approve policies necessary to ensure effective administration of member benefits;
   b. Approve all members who apply and qualify for service retirement (§31670);
   c. Review and determine the merits of applications for disability benefits, making determinations with respect to permanency of injury and, if necessary, service and causation (§31720);
   d. Provide for, and act on, member appeals of decisions made by MCERA staff; and
   e. Annually review potential cost-of-living adjustments, as provided for in the County Employees' Retirement Law (CERL).

D. Operations

1. The Board will:
   a. Approve the annual Administrative Budget, including any budget amendments;
   b. Ensure that all required contributions to the Fund are collected in a timely manner;
   c. Ensure that all required distributions from the Fund are made in a timely manner;
   d. Approve the location of MCERA's office and the associated leases or purchase agreements;
   e. Ensure that appropriate operational control policies are in place to provide secure, efficient, and accurate delivery of member services; and
   f. Ensure that appropriate and sufficient insurance coverage is in place.

E. Financial, Actuarial and Accounting

1. The Board will:
   a. Ensure that appropriate accounting, actuarial and internal financial control policies and reporting systems are established.
   b. Approve the actuarial valuation and the actuarial assumptions, upon the advice of the actuary and other experts as required, and recommended to the Board of Supervisors such changes in the rates of interest, in the rates of contributions of members, and in county and district appropriations, as necessary;
   c. Approve the annual financial statements;

E. Financial, Actuarial and Accounting (Continued)

d. Ensure that a financial audit is conducted at least annually (§31593), and oversee all external and internal audits;
e. Ensure that an actuarial experience study is conducted at least every three (3) years; and
f. Ensure that an actuarial audit or equivalent analysis is conducted at least every 5-7 years unless there has been a recent change or a change is contemplated in the Actuary.

F. Human Resources

1. The Board will:
   a. Appoint and terminate the Retirement Administrator (§31522.2)
   b. Establish the compensation of the Retirement Administrator;
   c. Review the Retirement Administrator's Job performance; and
   d. Ensure that appropriate succession provisions are in place to provide continuity among MCERA management and staff.

G. Legal Affairs

1. The Board will establish Board policies and guidelines regarding proposed state and federal legislation and will initiate, support or oppose legislative proposals affecting MCERA as it deems appropriate.
2. The Board will provide direction concerning lawsuits that may affect the investments, benefits or funding of MCERA.

H. Communications

1. The Board will:
   a. Approve a Communications Policy designed to ensure effective communications with plan members and all significant interest groups;
   b. Ensure that an annual financial report is issued to members and interested parties; and
   c. Ensure the timely distribution of the Annual Member Statement to all members, and periodically review the format of the statement.

I. Appointment of Service Providers

1. The Board will either appoint or ratify the appointment of each of the following vendors, as deemed necessary by the Board, as specified in the Service Provider Selection Policy:
   a. Actuarial firms;
   b. The financial auditor;
   c. Outside legal counsel;
   d. Investment consultants;
   e. The custodian;
   f. Investment managers (including transition managers);
   g. Securities lending managers;
   h. Directed commission brokers;
   i. Proxy-voting advisors; and
   j. Other service providers, as may be determined by the Board.

J. Monitoring and Reporting

1. The Board will ensure that appropriate monitoring and reporting practices are established within MCERA. In support of this task, the Board will establish a Reporting and Monitoring Policy that sets out the routine reporting requirements of the board.
2. The Board will regularly:
   a. Monitor compliance with Board policies;
   b. Review the funded status of MCERA;
   c. Review progress toward the implementation of the MCERA business plan;
   d. Review the implementation of MCERA's internal financial and operating controls;
   e. Review the investment performance of the Fund and the performance of the investment managers of the Fund;
   f. Annually review the performance of the Board;
   g. Review the appropriateness of the actuarial assumptions, methods and related matters;
   h. Review the accuracy of the actuarial valuation process through an actuarial audit;
   i. Review, on a regular basis, the performance of the Board's advisors and vendors, including, at a minimum, the Actuary, the Financial Auditor, the Investment Consultant, and the Custodian;
   j. Monitor compliance with the Administrative Budget; and
   k. Monitor the cost effectiveness of the administration and investment programs.
3. The Board will review Board policies at a frequency to be set out in each policy.
4. The Board will provide for appropriate monitoring of compliance with applicable laws and regulations.
5. The Board will maintain appropriate minutes of its meetings.

III. POLICY REVIEW

The Board shall review this charter at least every three (3) years.

IV. HISTORY

The Board adopted this charter on March 20, 2013.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

RETIREMENT ADMINISTRATOR CHARTER

I. INTRODUCTION

A. The Board of Retirement will appoint a Retirement Administrator who will serve at its pleasure. The Retirement Administrator is the most senior executive of MCERA and is not subject to county civil service and merit system rules (GC 31522.2). This charter sets out the roles and responsibilities of the Retirement Administrator.

B. The Board has delegated to the Retirement Administrator responsibility for the administration and management of MCERA consistent with the policies of the Board. The Retirement Administrator's executive responsibilities extend to all aspects of MCERA, including but not limited to:

1. Administrative support to the Board;
2. Investment administration;
3. Funding and actuarial activities;
4. Human resource management;
5. Operations and member services;
6. Financial, budget and audit functions;
7. Governmental affairs/media relations;
8. Legal affairs; and
9. Service provider selection.

C. The Retirement Administrator will provide leadership for MCERA staff in implementing the programs necessary to achieve the mission, goals and objectives established by the Board. The Retirement Administrator will manage the day-to-day affairs of MCERA in accordance with policies established by the Board, and may delegate duties to staff as necessary.

D. The Retirement Administrator will provide support to the Board and its committees in establishing all policies of the board. Such support will include identifying and analyzing issues requiring Board policy, and providing policy recommendations for consideration by the Board or its Committees. The Retirement Administrator will be responsible for ensuring that all policies are implemented.

E. The Retirement Administrator will provide the Board with relevant, appropriate and timely information to enable it to properly carry out its oversight responsibilities. Furthermore, the Retirement Administrator will apprise the Board in a timely manner of all significant issues, problems, or developments pertaining to the MCERA, and provide recommended courses of action.

II. DUTIES AND RESPONSIBILITIES

A. Administrative Support to the Board

1. The Retirement Administrator will:
   a. Recommend to the Board, as necessary, policies to ensure appropriate governance practices;
   b. Assist the Board in developing and implementing its governance policies and by-laws;
   c. Provide all support in arranging and coordinating Board and committee meetings, and related presentations and materials; and
   d. Coordinate board member education and travel.

B. Investment Administration

1. The Retirement Administrator will be responsible for the following:
   a. Recommending to the Board an Investment Policy Statement which will include investment objectives;
   b. Recommending to the Board strategies for achieving the investment objectives;
   c. Implementing board-approved strategies by developing investment manager structures with respect to:
      1) The number of investment manager mandates to be established; and
      2) The size of each investment manager mandate.
   d. Coordinating studies of the relationship between the assets and liabilities of MCERA;
   e. Ensure execution of portfolio rebalancing, portfolio transitions and cash rebalancing;
   f. Ensure that necessary research is performed into investment trends, issues, and opportunities that may have implications for the investment program of MCERA and ensure that the Board receives necessary information and education;
   g. Ensuring that all necessary investment manager due diligence is being performed in accordance with the Service Provider Selection Policy and related policies of the Board.
   h. Recommend to Board, for ratification, the appointment of the following core service providers, if deemed necessary by the Board:
      1) The custodian;
      2) Investment managers, including transition managers;
      3) Securities lending managers;
      4) Proxy-voting advisors;
      5) Directed commission brokers; and
      6) Other service providers determined by the Board.

C. Benefits Administration

1. The Retirement Administrator will:
   a. Recommend to the Board policies to ensure effective administration of member benefits;
   b. Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
   c. In consultation with medical evaluators and legal counsel, make recommendations to the Board for approval or denial of disability applications.
   d. Present to the Board any benefit applications or provisions that require a board interpretation or decision, along with supporting analysis and recommendations;
   e. Discuss annual cost-of-living adjustments with the Board;
   f. Maintain accurate records of member accounts;
   g. Develop staff policies and procedures to ensure effective and efficient administration of member benefits.
   h. Provide the Board recommendations concerning potential discretionary benefits allowed under the County Employees' Retirement Law (CERL); and
   i. Ensure delivery of high standards of service to members including calculations and counseling.

D. Operations

1. The Retirement Administrator will:
   a. Recommend to the Board policies to ensure effective and secure operations;
   b. Recommend an annual operating Budget to the Board and provide quarterly Budget reviews;
   c. Authorize payments related to the administration of MCERA, consistent with delegated authority, the Operating Budget and internal controls of MCERA
   d. Account for and ensure appropriate collection, deposit, and distribution of funds as required;

e. Implement internal operational control policies;
f. Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer MCERA;
g. Maintain the records of MCERA in a permanent, secure, and readily accessible format; and
h. Coordinate staff travel in accordance with applicable policy.

E. Finance, Actuarial and Accounting

1. The Retirement Administrator will:
   a. Recommend to the Board, as appropriate, financial, accounting, and actuarial policies;
   b. Implement appropriate internal financial controls to safeguard the assets of MCERA;
   c. Coordinate the actuarial valuation, and periodic actuarial experience studies and audits; and
   d. Before June 30th of each year, file in the office of the County Auditor and with the board of supervisors a report on the financial condition of MCERA at the close of the preceding December 31 and its financial transactions for the year ending on that day.

F. Human Resources

1. Retirement Administrator will:
   a. Regularly assess the human resource needs of MCERA and establish appropriate human resource programs and procedures, consistent with the human resources and compensation policies of the Board or when appropriate, of the County of Mendocino;
   b. Oversee the hiring, management, and termination of staff; and
   c. Ensure appropriate staff succession provisions are in place to ensure continuity in all MCERA operations.
   d. Develop training and job development programs for MCERA staff.

G. Legislation and Litigation

1. The Retirement Administrator will:
   a. Recommend for Board approval, legislative proposals to be initiated, supported, or opposed by the Board;
   b. Coordinate with legal counsel all legal proceedings involving MCERA and provide recommendations to the Board;
   c. Consult with legal counsel on all legal proceedings involving MCERA; and
   d. Develop and implement plans to comply with legislation and court rulings.

H. Communications

1. The Retirement Administrator will:
   a. Ensure effective and timely communications and working relationships with members and stakeholders on benefits and other appropriate matters relating to the administration of MCERA. Such communications may include press releases, newsletters, presentations, and internet communications; and
   b. In situations that call for an official spokesperson to speak on behalf of the MCERA, jointly determine with the Chair, on an issue-by-issue basis, who will act in such capacity.

III. REVIEW

The board shall review this charter at least every three (3) years.

IV. HISTORY

This charter was adopted by the Board on March 20, 2013.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

AUDIT AND BUDGET COMMITTEE CHARTER
(As Amended April 16, 2014)

INTRODUCTION

1. The Board of Retirement has established an Audit and Budget Committee to assist it in overseeing the Audit and Budget functions within MCERA.

2. The Audit and Budget Committee will make recommendations on matters pertaining to the annual financial audit and budget of MCERA to the Board of Retirement.

3. The Board Chair will appoint four members of the Board to the Audit and Budget Committee and designate one member to serve as the committee chair.

DUTIES AND RESPONSIBILITIES

1. The Audit and Budget Committee will, form time to time, as determined to be in the Best interest of MCERA:

    a. Examine and recommend to the Board for approval the objectives and scope of annual financial Audit and Budget, including the audit plans of the external financial auditor, the duties and responsibilities of the external financial auditor, and the timing and engagement fee of the annual financial audit;

    b. Meet with the external financial auditor to review and discuss the annual financial statements;

    c. Review the findings of the external financial auditor and review of Management Letter, and any response thereto;

    d. Recommend the approved annual financial statements to the Board of Retirement for approval;

    e. Meet at least annually with the Retirement Administrator to discuss the effectiveness of the internal financial and operational control policies and receive an independent report of Review of Service Agreements;

    f. Review the engagement of the external financial auditor at least every three years and make recommendations to the Board as to the appointment or recruitment of the external financial auditor;

DUTIES AND RESPONSIBILITIES (continued)

g. Review the findings or comments of any regulatory agencies concerning financial statements or other information of MCERA;

h. Review the proposed fiscal year budget prior to presentation to the Board of Retirement

MONITORING AND REPORTING

1. The Audit and Budget Committee will:

   a. Review, at least every three years, the performance and independence of the external financial auditor, including the impact of any non-audit services performed for MCERA by the auditors, or any affiliate thereof, on such independence;

   b. Review any significant changes in accounting practices or policies that may have an impact on MCERA or the Fund;

   c. Report regularly and make recommendations as deemed appropriate.

2. The Committee will perform any other duties that are assigned to it by the Chair of the Board.

CHARTER HISTORY

1. This Charter was originally adopted by the Board of Retirement on February 20, 2013 and amended on April 16, 2014.

TAB H-4

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001

Tab H-4 - Statement of Effect of Amendments Made Since the Last Determination Letter

Tab H-4 contains copies of various resolutions adopted by the Board of Retirement since the last determination letter. These resolutions are considered amendments to MCERA's plan document.

SUBTAB H-4(a)

Resolution Defining Compensation Earnable Non-PEPRA - 2014

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2014-05

TO SUPERSEDE RESOLUTION 2012-06 DEFINING COMPENSATION EARNABLE PURSUANT TO GOVERNMENT CODE §31461 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §7522.34

WHEREAS, for those current members who became active members prior to January 1, 2013, and those members who became active members on or after January 1, 2013, but who are not subject to Government Code §7522.34 of the California Public Employees' Pension Reform Act, the determination of compensation earnable for remuneration earned by those members is governed by Government Code §31461; and

WHEREAS, Government Code §31461 provides that compensation earnable by a member means the average compensation as determined by the Board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay; and

WHEREAS, Government Code §31461 provides that this Board determine which items of remuneration earned by members shall constitute "compensation earnable"; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in "compensation earnable" and which items are not to be included; and

WHEREAS, it is necessary for this Board from time to time to amend its determinations of compensation earnable due to changes in the compensation schedules of MCERA employers or changes in the law; Therefore be it

RESOLVED that effective September 17, 2014, resolution number 2012-06 is superseded, and pursuant to Government Code §31461 as interpreted by the courts, the Board hereby makes the following determinations as to what is included in "compensation earnable" and items of remuneration that are not included:

1. Compensation earnable shall include:

Pay Code	Description
(303)	Vacation Pay-Out Non Management.
(304)	Vacation Pay-Out Management
(406)	Shift PM
(407)	Shift AM
(409)	Supervisor Shift
(417)	32.50 Bilingual
(418)	18.00 Bilingual
(422)	Confidential 5%
(435)	Supplemental Pay to similarly situated members in the same grade or class.
(438)	2.5% Longevity
(439)	5% Longevity

Pay Code	Description
(440)	On Call Regular
(441)	On Call Prior PP
(443)	7.5% Longevity
(444)	10% Longevity
(445)	Car Allowance
(456)	Board Of Supervisor Auto Allowance
(457)	BA Incentive
(514)	Standby Pay
(515)	Animal Handler
(520)	Field/Specialized Training
(523)	Bilingual 5% MCLEMA
(525)	Uniform Allowance
(528)	Covelo Housing
(529)	Covelo Bonus
(530)	Officer In Charge
(531)	Officer In Charge Level 2
(532)	Detective/Investigator Premium
(556)	AA/AS/Supv Incentive MCLEMA
(558)	10% B/A Incent
(559)	AA/AS DSA 3%
(567)	Bilingual 3% MCLEMA
(926)	Uniform Non-Cash

2. Pursuant to Government Code §31461(b) compensation earnable, shall not include in any case the following:

A. Any compensation determined by the Board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

B. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

C. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

D. Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

3. Pursuant to Government Code §31641(c), the terms listed above in paragraph 2 are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003)110 Cal.App.4th 426.

FURTHER RESOLVED that the above listed determinations by the Board of what is included or not included in compensation earnable, shall be in effect until such time as action taken by the Board or action by the Legislature or the Courts as a matter of law requires a different determination.

The foregoing resolution introduced by Board Member J. McGowen, seconded by Board member B. Mirata, and carried this 17th day of September, 2014, by the following vote:

ayes: 8
noes: 0
absent: 1

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

Shari Schapmire
Board of Retirement Chair

Jim Andersen
Interim Retirement Administrator

SUBTAB H-4(b)

Resolution Defining Pensionable Compensation PEPRA

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2014-06

TO SUPERSEDE RESOLUTION 2012-07 DEFINING PENSIONABLE COMPENSATION PURSUANT TO GOVERNMENT CODE §7522.34 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §31461

WHEREAS, for those members who became active members on or after January 1, 2013, and who are subject to the California Public Employees' Pension Reform Act contained in Government Code §7522 et seq., the determination of their pensionable compensation is governed by Government Code §7522.34; and

WHEREAS, the pensionable compensation for those employee members who are subject to Government Code §7522.34 shall be the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in "pensionable compensation" and which items are not to be included; and

WHEREAS, it will be necessary for this Board, from time to time, to amend its determinations of pensionable compensation due to changes made by MCERA employers in their compensation schedules as well as changes in the law; Therefore be it

RESOLVED, that effective September 17, 2014, resolution number 2012-07 is superseded and pursuant to Government Code §7522.34, the Board hereby makes the following determinations as to what is included in "pensionable compensation" and items of remuneration that are not included:

1. Pensionable compensation shall include:

Pay Code	Description
(406)	Shift PM
(407)	Shift AM
(409)	Supervisor Shift
(417)	32.50 Bilingual
(418)	18.00 Bilingual
(422)	Confidential 5%
(438)	2.5% Longevity
(439)	5% Longevity
(443)	7.5% Longevity
(444)	10% Longevity
(457)	BA Incentive
(515)	Animal Handler
(520)	Field/Specialized Training

Pay Code	Description
(523)	Bilingual 5% MCLEMA
(529)	Covelo Bonus
(530)	Officer In Charge
(531)	Officer In Charge Level 2
(532)	Detective/Investigator Premium
(556)	AA/AS/Supv Incentive MCLEMA
(558)	10% B/A Incent
(559)	AA/AS DSA 3%
(567)	Bilingual 3% MCLEMA

2. Pensionable compensation, at a minimum, shall not include, in any case, the following pay items.

A. The following pay codes are not included:

Pay code	Description
(303)	Vacation Pay-Out Non Management
(304)	Vacation Pay-Out Management
(435)	Supplemental Pay to Similarly Situated Members in the Same Grade or Class
(440)	On Call Reg
(441)	On Call Prior PP
(445)	Car Allowance
(456)	BOS Auto Allowance
(514)	Standby Pay
(525)	Uniform Allowance
(528)	Covelo Housing
(926)	Uniform Non-Cash

B. Pursuant to Government Code §7522.34, pensionable compensation does not include the following:

1. Any compensation determined by the Board to have been paid to increase a member's retirement benefit.

2. Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

3. Any one-time or ad hoc payments made to a member.

4. Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

6. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

7. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

8. Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

9. Employer contributions to deferred compensation or defined contribution plans.

10. Any bonus paid in addition to the compensation described in subdivision (a) of Government Code §7522.34.

11. Any other form of compensation the Board determines is inconsistent with the requirements of subdivision (a).

12. Any other form of compensation that this Board determines should not be pensionable compensation.

3. Pursuant to Government Code §7522.10, whenever pensionable compensation, as defined in §7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the monetary limitations set forth in subdivision §7522.10.

FURTHER RESOLVED that the above listed determinations by the Board of what is included or not included in pensionable compensation, shall be in effect until such time as this Board, the Legislature or the Courts take action that as a matter of law requires a different determination.

The foregoing resolution introduced by Board Member J. McCowen, seconded by Board member B. Mirata, and carried this 17th day of September, 2014, by the following vote:

ayes: 8
noes: 0
absent: 1

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

Shari Schapmire
Shari Schapmire
Board of Retirement Chair

Jim Andersen
Jim Andersen
Interim Retirement Administrator

SUBTAB H-4(c)

Resolution Defining Compensation Earnable Non-PEPRA - 2012

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2012-06

RESOLUTION DEFINING COMPENSATION EARNABLE PURSUANT TO GOVERNMENT CODE §31461 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §7522.34.

WHEREAS, for those current members who became active members prior to January 1, 2013, and those members who became active members on or after January 1, 2013, but who are not subject to Government Code §7522.34 of the California Public Employees' Pension Reform Act, the determination of compensation earnable for remuneration earned by those members is governed by Government Code §31461; and

WHEREAS, Government Code §31461 provides that compensation earnable by a member means the average compensation as determined by the Board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay; and

WHEREAS, Government Code §31461 provides that this Board determine which items of remuneration earned by members shall constitute "compensation earnable"; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in "compensation earnable" and which items are not to be included; and

WHEREAS, it is necessary for this Board from time to time to amend its determinations of compensation earnable due to changes in the compensation schedules of MCERA employers or changes in the law; Therefore be it

RESOLVED that effective January 1, 2013, resolution number 97-98 as amended is rescinded, and pursuant to Government Code §31461 as interpreted by the courts, the Board hereby makes the following determinations to be effective January 1, 2013, as to what is included in "compensation earnable" and items of remuneration that are not included:

1. Compensation earnable shall include:

Pay Code	Description
(303)	Vacation Pay-Out Non Management.
(304)	Vacation Pay-Out Management
(406)	Shift PM
(407)	Shift AM
(409)	Supervisor Shift
(417)	32.50 Bilingual
(418)	18.00 Bilingual
(422)	Confidential 5%
(438)	2.5% Longevity
(439)	5% Longevity
(440)	On Call Regular

Pay Code	Description
(441)	On Call Prior PP
(443)	7.5% Longevity
(444)	10% Longevity
(445)	Car Allowance
(456)	Board Of Supervisor Auto Allowance
(457)	BA Incentive
(514)	Standby Pay
(515)	Animal Handler
(520)	Field/Specialized Training
(523)	Bilingual 5% MCLEMA
(525)	Uniform Allowance
(528)	Covelo Housing
(529)	Covelo Bonus
(530)	Officer In Charge
(531)	Officer In Charge Level 2
(532)	Detective/Investigator Premium
(556)	AA/AS/Supv Incentive MCLEMA
(558)	10% B/A Incent
(559)	AA/AS DSA 3%
(567)	Bilingual 3% MCLEMA
(926)	Uniform Non-Cash

2. Pursuant to Government Code §31461(b) compensation earnable, shall not include in any case the following:

A. Any compensation determined by the Board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

B. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

C. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

D. Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

3. Pursuant to Government Code §31641(c), the terms listed above in paragraph 2 are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003)110 Cal.App.4th 426.

FURTHER RESOLVED that the above listed determinations by the Board of what is included or not included in compensation earnable, shall be in effect until such time as action taken by the Board or action by the Legislature or the Courts as a matter of law requires a different determination.

The foregoing resolution introduced by Board Member Schapmire, seconded by Board member Wear, and carried this 7th day of November, 2012, by the following vote:

ayes: 8
noes: 0
absent: 1

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

Bob Mirata, Chairman
Mendocino County Board of Retirement

Attest: Judy Zeller, Clerk to the Mendocino County Board of Retirement

SUBTAB H-4(d)

Resolution Defining Pensionable Compensation PEPRA - 2012

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2012-07

RESOLUTION DEFINING PENSIONABLE COMPENSATION PURSUANT TO GOVERNMENT CODE §7522.34 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §31461

WHEREAS, for those members who became active members on or after January 1, 2013, and who are subject to the California Public Employees' Pension Reform Act contained in Government Code §7522 et seq., the determination of their pensionable compensation is governed by Government Code §7522.34; and

WHEREAS, the pensionable compensation for those employee members who are subject to Government Code §7522.34 shall be the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules; and

WHEREAS, the Board has reviewed the current pay items and has determined which of those items are to be included in "pensionable compensation" and which items are not to be included; and

WHEREAS, it will be necessary for this Board, from time to time, to amend its determinations of pensionable compensation due to changes made by MCERA employers in their compensation schedules as well as changes in the law; Therefore be it

RESOLVED, pursuant to Government Code §7522.34, the Board hereby makes the following determinations to be effective January 1, 2013, as to what is included in "pensionable compensation" and items of remuneration that are not included:

1. Pensionable compensation shall include:

Pay Code	Description
(406)	Shift PM
(407)	Shift AM
(409)	Supervisor Shift
(417)	32.50 Bilingual
(418)	18.00 Bilingual
(422)	Confidential 5%
(438)	2.5% Longevity
(439)	5% Longevity
(443)	7.5% Longevity
(444)	10% Longevity
(457)	BA Incentive
(515)	Animal Handler
(520)	Field/Specialized Training

Pay Code	Description
(523)	Bilingual 5% MCLEMA
(529)	Covelo Bonus
(530)	Officer In Charge
(531)	Officer In Charge Level 2
(532)	Detective/Investigator Premium
(556)	AA/AS/Supv Incentive MCLEMA
(558)	10% B/A Incent
(559)	AA/AS DSA 3%
(567)	Bilingual 3% MCLEMA

2. Pensionable compensation, at a minimum, shall not include, in any case, the following pay items.

A. The following pay codes are not included:

Pay code	Description
(303)	Vacation Pay-Out Non Management
(304)	Vacation Pay-Out Management
(440)	On Call Reg
(441)	On Call Prior PP
(445)	Car Allowance
(456)	BOS Auto Allowance
(514)	Standby Pay
(525)	Uniform Allowance
(528)	Covelo Housing
(926)	Uniform Non-Cash

B. Pursuant to Government Code §7522.34, pensionable compensation does not include the following:

1. Any compensation determined by the Board to have been paid to increase a member's retirement benefit.

2. Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.

3. Any one-time or ad hoc payments made to a member.

4. Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.

6. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

7. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.

8. Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code.

9. Employer contributions to deferred compensation or defined contribution plans.

10. Any bonus paid in addition to the compensation described in subdivision (a) of Government Code §7522.34 .

11. Any other form of compensation the Board determines is inconsistent with the requirements of subdivision (a).

12. Any other form of compensation that this Board determines should not be pensionable compensation.

3. Pursuant to Government Code §7522.10, whenever pensionable compensation, as defined in §7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the monetary limitations set forth in subdivision §7522.10.

FURTHER RESOLVED that the above listed determinations by the Board of what is included or not included in pensionable compensation, shall be in effect until such time as this Board, the Legislature or the Courts take action that as a matter of law requires a different determination.

The foregoing resolution introduced by Board Member Sakowicz, seconded by Board member Knudsen, and carried this 7th day of November, 2012, by the following vote:

ayes: 8
noes: 0
absent: 1

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

Bob Mirata, Chairman
Mendocino County Board of Retirement

Attest: Judy Zeller, Clerk to the Mendocino County Board of Retirement

SUBTAB H-4(e)

Resolution Pertaining to Cost of Living Adjustment

RESOLUTION NO. 2014-04 OF THE BOARD OF RETIREMENT MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION PERTAINING TO THE DETERMINATION OF COST OF LIVING ADJUSTMENTS PAYABLE ON UNMODIFIED SURVIVOR ALLOWANCES

WHEREAS, the Mendocino County Employees' Retirement Association ("MCERA") and the MCERA Board of Retirement ("Board") are governed by the County Employees Retirement Law of 1937 (Gov. Code sections 31450, et seq.) ("CERL"); and

WHEREAS, Government Code section 31760.1 of CERL provides, in pertinent part, that "Upon the death of any member after retirement for service or non-service-connected disability . . . 60 percent of his or her retirement allowance, if not modified in accordance with one of the optional settlements specified in this article, shall be continued throughout life to his or her surviving spouse. . . ." ("unmodified survivor allowance" or "unmodified death allowance"); and

WHEREAS, Government Code section 31870.1 of CERL provides, in pertinent part, that "[E]very retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1 of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st[st] of each year [based on the CPI for All Urban Consumers in Mendocino County], but such change shall not exceed 3 percent per year . . ." ("COLA benefit").

WHEREAS, by Ordinance No. 747 A, which the Mendocino County Board of Supervisors adopted on February 23, 1971, the Mendocino County Code was amended to grant a COLA benefit under CERL. Such Ordinance stated that the COLA benefit would be provided under "Article 16.5 of the [CERL], including Section 31870.1 of the Government Code, which authorizes a maximum annual increase or decrease of cost of living allowance of 3 per cent [sic]." The Ordinance did not state how the COLA should apply to survivor allowances, except that payments were to be provided as authorized by CERL.

WHEREAS, MCERA records reflect that from the early 1970s to the early 1990s, MCERA interpreted the above-quoted provisions of CERL as providing that unmodified survivor allowances are to be based upon 60% of the member's total monthly allowance at death (basic plus COLA) ("60% COLA Approach"). Such records also reflect that MCERA's interpretation of said CERL provisions changed in the early 1990s, and since then unmodified survivor allowances have been calculated based on 60% of the unmodified basic allowance that the retired member received upon death, plus 100% of the COLAs added to it as of the member's retirement ("100% COLA Approach").

WHEREAS, MCERA's Board has received advice from counsel that is reflected in a nonprivileged letter to the Board dated September 17, 2014, and MCERA staff understands from its current actuary that the 60% COLA Approach is the prevailing interpretation of the applicable CERL provisions among systems governed by them.

WHEREAS, MCERA's Board understands that many MCERA beneficiaries currently receiving unmodified survivor allowances, and MCERA members who retired with an unmodified retirement allowance, were counseled by MCERA when the members made irrevocable retirement elections that the 100% COLA Approach would apply to their spouse should he or she outlive the member, and thus had a reasonable expectation to receive such a benefit based upon MCERA's interpretation of the CERL at that time.

WHEREAS, the Board seeks to treat the unmodified survivor allowances of all similarly situated MCERA members in the same manner, concludes that it should change its interpretation of the CERL prospectively to reflect a better reading of the applicable statutes, and concludes that it should not change its statutory interpretation retroactively to this change to survivors of members who already have died, retired or made an irrevocable election with MCERA to retire.

NOW, THEREFORE, BE IT RESOLVED that the MCERA Board of Retirement declares the following:

1. The foregoing Recitals are incorporated herein by this reference.

2. All unmodified survivor allowances paid by MCERA as a result of MCERA members' irrevocable retirement elections, which are based on applications to retire filed with MCERA on or after the effective date of this Resolution, will be calculated based on the 60% COLA Approach.

3. This Resolution will not change the 100% COLA Approach that is applicable to survivor allowances, if any, paid on behalf of members who already have died, retired or filed an application to retire under which they timely retire.

4. This Resolution shall be effective on the date of its adoption by MCERA's Board.

ADOPTED AND APPROVED by the Board of Retirement of the Mendocino County Employees' Retirement Association on the 17th day of September, 2014.

Shari Schapmire

Shari Schapmire, Chair of the Board
Attest:

Jim Andersen

Jim Andersen, Interim Retirement Administrator

SUBTAB H-4(f)

Resolution Adopting Model IRC Regulations

Resolution No: 2014-08

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF RETIREMENT ADOPTING TAX COMPLIANCE REGULATIONS FOR THE MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

WHEREAS, the Board of Retirement for the Mendocino County Employees' Retirement Association ("MCERA") administers MCERA for the benefit of its members and their beneficiaries; and

WHEREAS, MCERA is intended to comply with the requirements of the Internal Revenue Code of 1986 (the "Code"), as amended or replaced from time to time and the regulations issued thereunder as applicable; and

WHEREAS, the Internal Revenue Service ("IRS") issued to MCERA on January 29, 2014, a favorable determination letter regarding its continued tax-qualified status and a related compliance statement under the voluntary correction program ("VCP"); and

WHEREAS, such favorable determination letter and VCP compliance statement are conditioned on the adoption of model tax compliance regulations submitted previously to the IRS by MCERA; and

WHEREAS, it is desirable that the tax-qualified status of MCERA be maintained through compliance with the IRS requirements;

THEREFORE BE IT RESOLVED, that effective as of December 31, 2014, the following regulations in the form attached hereto are adopted for MCERA:

Regulation for Code Section 401(a)(9) (Required Minimum Distributions)

Regulation for Code Section 401(a)(17) (Compensation Limits)

Regulation for Code Section 401(a)(31) and 402(c) (Rollovers)

Regulation for Code Section 415 (Annual Additions Limits)

Regulation for Code Section 401(a) (Distribution Limitations)

Regulation for Code Section 401(a) (36) (Normal Retirement Age)

Upon motion by Trustee Mirata, seconded by Trustee Goodman, the foregoing Resolution is hereby approved and adopted by the Mendocino County Board of Retirement the 15th day of October 2014 by the following vote:

Ayes: 8

Noes: 0

Absent: 1

Shari Schapmire

Shari Schapmire, Chair
County Board of Retirement

Jim Andersen

Jim Andersen, Interim Retirement
Administrator

TAB H-5

Mendocino County Employees' Retirement Association
EIN: 94-6116617
Plan No.: 001

Tab H-5 - Statement of Effect of Amendments Made Since the Last Determination Letter

Tab H-5 contains copies of various resolutions adopted by the Board of Supervisors of Mendocino County since the last determination letter. These resolutions are considered amendments to MCERA's plan document.

RESOLUTION NO. 15-084

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADOPTING TAX COMPLIANCE REGULATIONS FOR THE MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

WHEREAS, the Board of Supervisors for Mendocino County sponsors the Mendocino County Employees' Retirement Association ("MCERA") for the benefit of its employees and their beneficiaries; and

WHEREAS, MCERA is intended to comply with the requirements of the Internal Revenue Code of 1986 (the "Code"), as amended or replaced from time to time and the regulations issued thereunder as applicable; and

WHEREAS, the Internal Revenue Service ("IRS") issued to MCERA on January 29, 2014, a favorable determination letter regarding its continued tax-qualified status and a related compliance statement under the Voluntary Correction Program ("VCP"); and

WHEREAS, such favorable determination letter and VCP compliance statement are conditioned on the adoption of model tax compliance regulations submitted previously to the IRS by MCERA.

WHEREAS, it is desirable that the tax-qualified status of MCERA be maintained through compliance with these IRS requirements;

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors adopts the following tax compliance regulations, previously adopted by MCERA and effective as of December 31, 2014, in the form attached hereto:

Regulation for Code Section 401(a)(9) (Required Minimum Distributions)

Regulation for Code Section 401(a)(17) (Compensation Limits)

Regulation for Code Section 401(a)(31) and 402(c) (Rollovers)

Regulation for Code Section 415 (Annual Additions Limits)

Regulation for Code Section 401(a) (Distribution Limitations)

Regulation for Code Section 401(a) (36) (Normal Retirement Age)

The foregoing Resolution introduced by Supervisor McCowen, seconded by Supervisor Gjerde, and carried this 9th day of June, 2015, by the following vote:

AYES: Supervisors Brown, McCowen, Woodhouse, Gjerde, and Hamburg
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
DOUGLAS L. LOSAK, Interim County Counsel

MENDOCINO COUNTY BOARD OF SUPERVISORS
ONLINE AGENDA SUMMARY

BOARD AGENDA # 4 (s)

-Arrangements for public hearings and timed presentations must be made with the Clerk of the Board in advance of public/media noticing
-Agenda Summaries must be submitted no later than *noon* Monday, 15 days prior to the meeting date (along with electronic submittals)
-Send 1 complete original single-sided set and 1 photocopy set – Items must be signed-off by appropriate departments and/or Co. Co.
Note: If individual supporting document(s) exceed 25 pages each, or are not easily duplicated, please provide 7 hard-copy sets)
-Transmittal of electronic Agenda Summaries, records, and supporting documentation must be emailed to: bosagenda@co.mendocino.ca.us
-Electronic Transmission Checklist: ☐ Agenda Summary ☐ Records ☐ Supp. Doc. ☐ If applicable, list other online information below
-Executed records will be returned to the department within one week. *Arrangements for expedited processing must be made in advance*

TO: Board of Supervisors **DATE:** May 20, 2015

FROM: Board of Retirement **MEETING DATE:** June 9, 2015

DEPARTMENT RESOURCE/CONTACT: James Wilbanks **PHONE:** 463-4328 Present ☒ On Call ☐

Consent Agenda ☒ Regular Agenda ☐ Noticed Public Hearing ☐ Time Allocated for Item: N/A

■ **AGENDA TITLE:** Adoption of Resolution Adopting Tax Compliance Regulations for the Mendocino County Employees Retirement Association

■ **PREVIOUS BOARD/BOARD COMMITTEE ACTIONS:** None

■ **SUMMARY OF REQUEST:** In 2011, the Mendocino County Employees Retirement Association (MCERA) Board of Retirement submitted a tax qualification determination letter request and a related compliance statement under the voluntary correction program (VCP) to the Internal Revenue Service (IRS). The IRS issued a favorable determination letter regarding the tax-qualified status of MCERA and a related compliance statement under the VCP. The favorable determination letter and VCP compliance statement were conditioned upon adoption of model tax compliance regulations submitted to the IRS by MCERA. In response to this condition, MCERA approved Resolution Number 2014-08 on October 15, 2014 adopting the specified model regulations.

According to the County Employees Retirement Law (CERL) Section 31525, the Board of Retirement may make regulations that are consistent with the CERL. Such regulations adopted by the Board of Retirement become effective when adopted by the Board of Supervisors.

■ **SUPPLEMENTAL INFORMATION AVAILABLE ONLINE AT:** www.co.mendocino.ca.us/retirement/
■ **ADDITIONAL INFORMATION ON FILE WITH THE CLERK OF THE BOARD (CHECKED BY COB IF APPLICABLE):** ☐

FISCAL IMPACT:

Source of Funding	Current F/Y Cost	Annual Recurring Cost	Budgeted in Current F/Y
None	None	None	Yes ☐ No ☐

■ **SUPERVISORIAL DISTRICT:** 1☐ 2☐ 3☐ 4☐ 5☐ All☒ ■ **VOTE REQUIREMENT:** Majority☒ 4/5ths☐

■ **RECOMMENDED ACTION/MOTION:** Adopt Resolution adopting Tax Compliance Regulations for the Mendocino County Employees Retirement Association, and authorize Chair to sign same.

■ **ALTERNATIVES:** None

■ **CEO REVIEW (NAME):** Alan D. Flora, ACEO **PHONE:** 463-4441

RECOMMENDATION: Agree ☒ Disagree ☐ No Opinion ☐ Alternate ☐ Staff Report Attached ☐

BOARD ACTION (DATE: 6/9/15**):** ☑ Approved ☐ Referred to _____ ☐ Other _____

RECORDS EXECUTED: ☐ Agreement: _____ ☑ Resolution: 15-084 ☐ Ordinance: _____ ☐ Other _____

Revised-01/09

RESOLUTION NO. 12-149

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADOPTING NEW PEPRA (PUBLIC EMPLOYEES PENSION REFORM ACT OF 2012) COMPLIANT RETIREMENT TIER(S) IN MENDOCINO COUNTY FOR NEW GENERAL MEMBERS; SAFETY MEMBERS; AND PROBATION SAFETY MEMBERS, AND APPLICABLE PROVISIONS FOR EXISTING MEMBERS OF THE MENDOCINO COUNTY RETIREMENT SYSTEM, EFFECTIVE JANUARY 1, 2013, PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 20516 AND 31461 ET SEQ. AS AMENDED

WHEREAS, on August 31, 2012, the California Legislature passed AB 340 and AB 197, relating to public employees' retirement; and

WHEREAS, Governor Brown signed the legislation on September 12, 2012, enacting PEPRA, known as the Public Employee Pension Reform Act of 2013, effective January 1, 2013; and

WHEREAS, pursuant to the provisions of Government Code §20516 and §31461, et seq., all California public employee pension systems must enact PEPRA compliant retirement tiers for new members, as well as applicable provisions for existing employees/members, effective January 1, 2013; and

WHEREAS, during the 2011/2012 labor negotiations meet and confer process, bargaining units agreed to implementation of a new retirement tier for new employees; and

WHEREAS, the Mendocino County Board of Supervisors has the necessary legal authority to create and apply new retirement benefit formula tiers to all new members of the Mendocino County Employees Retirement System on and after January 1, 2013; and

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors hereby adopts the following new PEPRA compliant retirement tiers, pursuant to Government Code §20516 and §31461 et seq. as amended, effective January 1, 2013, for new members of the Mendocino County Employees' Retirement Association (MCERA):

TIER	PEPRA	
General Tier 4	Option 1	2.5% @ 67 0% COLA
Safety Tier 3	Option 1	2.7% @ 57 0% COLA
Safety Probation Tier 3	Option 1	2.7% @ 57 0% COLA

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors hereby enacts the provisions of Government Code §20516 and §31461 et seq. as amended, effective January 1, 2013, enacting PEPRA provisions for existing members of the Mendocino County Employees' Retirement Association (MCERA) as mandated.

The foregoing Resolution introduced by Supervisor Pinches, seconded by Supervisor Brown, and carried this 11th day of December, 2012, by the following vote:

AYES: Supervisors Brown, McCowen, Pinches, Smith, and Hamburg
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
THOMAS R. PARKER, County Counsel

JOHN MCCOWEN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

TAB H-6

SUBTAB H-6(a)

Assessment and Determination of Compensation Enhancement Policy

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

ASSESSMENT AND DETERMINATION OF COMPENSATION ENHANCEMENTS POLICY

PURPOSE:

This policy establishes a procedure for assessing and determining whether an element of compensation was paid to enhance a MCERA member's benefit, pursuant to Government Code Section 31542 [1] and all adopted Compensation Earnable Resolutions.

I. STAFF REVIEW, ASSESSMENT AND DETERMINATION

With respect to payroll transmittals after January 1, 2013 and retirement applications with an effective date of retirement on or after January 1, 2013, the Board authorizes MCERA staff to review compensation included within the calculation of the member's final compensation within the meaning of California Government Code Sections 7522.32, 7522.34,31461,31462,31462.1,31462.11, and 31462.2 and all adopted Compensation Earnable Resolutions, as applicable, for the purpose of making an initial assessment as to whether any item of compensation included in final compensation was paid to enhance a member's retirement benefit.

When reviewing items of compensation, MCERA staff will audit pay items to identify those that may have a primary purpose to enhance retirement benefits (e.g. conversion of pay items from in-kind to cash payment in the FAS period), involve the manipulation of compensation by MCERA members or employers to enhance benefits, receipt of ad hoc payments or any other compensation considered to be inconsistent with the pension reform legislation provisions.

In conducting such review and making such initial assessment, staff shall consider:

a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;

---

[1] Government Code Section 31542 provides:

(a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.

(b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.

(c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

b. Whether the pay codes reported are retirement compensable;
c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and

d. Information and explanation provided by the member and/or the employer in response to MCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

Staff may conduct such written and oral follow-up communication as staff believes is appropriate in the exercise of reasonable diligence.

If after conducting the initial assessment described above, MCERA staff believes that an item of compensation was paid to enhance a member's retirement benefit, MCERA staff will notify the member and the employer in writing of the staff determination and of the member's and/or the employer's option to have that determination reconsidered by the MCERA Board of Retirement. Failure to exercise that option by the member or the employer as specified in this Policy shall constitute a waiver of further administrative or judicial review.

A member and the employer shall have 15 calendar days within which to respond to such a written notification by indicating the choice to have the Board of Retirement reconsider the staff determination and by providing the evidence in support of reconsideration to be presented to the Board of Retirement.

II. REVIEW OF STAFF DETERMINATION

a. In addition to a member's or employer's evidence in support of reconsideration, staff shall prepare a written report to the Board of Retirement in support of the staff determination that any item not be included in compensation earnable or pensionable compensation. The report shall contain a description of the reasons for staff's determination, including the specific facts and circumstances in support.
b. The report shall be noticed and agendized for a regular meeting of the Board, at which time the Board will act upon staffs administrative recommendation. Before the Board acts, MCERA staff, the member, and the employer shall be given an opportunity to be heard by the Board.
c. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no later than 6 days before the recommendation is presented to the Board for action.
d. At the meeting, the Board will make a final determination as to whether the item of compensation was paid to enhance the member's retirement benefit.
e. MCERA will provide the member and the employer written notice of the Board's final determination, which will inform the member and the employer of their right to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the date of mailing of that notice.
f. If payment of the member's benefit would be delayed by seeking resolution through the administrative or judicial processes set forth herein, MCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, MCERA will adjust the benefit retroactive to the effective retirement date.

III. POLICY REVIEW

The Board shall review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

IV. POLICY HISTORY

The Board adopted this policy on 03/20/2013.

SUBTAB H-6(b)

Statement of Actuarial Funding Policy

SEGAL

100 Montgomery Street Suite 500 San Francisco, CA 94104-4308
T 415.263.8200 F 415.263.8290 www.segalco.com

VIA E-MAIL & USPS

June 26, 2013

Mr. Richard A. White
Retirement Administrator
Mendocino County Employees' Retirement Association
625-B Kings Court
Ukiah, CA 95482

Re: Mendocino County Employees' Retirement Association
Statement of Actuarial Funding Policy – Second Draft

Dear Rich:

Following the Board's direction provided at the meeting on June 19, we have updated the first draft of the actuarial funding policy statement attached to our letter dated May 30 to include a new feature to anticipate the contribution rate impact that would result from the 12-month lag between the date of the valuation and the date of the contribution rate implementation. That change can be found on page 3 of the policy under subcategory A. of the "Other Policy Considerations".

The updated statement is provided as Attachment A to this letter.

Please give us a call if you have any questions.

Sincerely,

Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President and Actuary

Andy Yeung, ASA, MAAA, FCA, EA
Vice President and Associate Actuary

/hy
Enclosure

5258128v1/13459.105

Attachment A

Mendocino County Employees' Retirement Association

Statement of Actuarial Funding Policy – Second Draft

Introduction

The purpose of this Statement of Actuarial Funding Policy is to record the funding objectives and policies set by the Board of Retirement (Board) for the Mendocino County Employees' Retirement Association (MCERA). The Board establishes this Statement of Actuarial Funding Policy to help ensure future benefit payments for members of MCERA. In addition, this document records certain policy guidelines established by the Board to assist in administering MCERA in a consistent and efficient manner.

This Statement of Actuarial Funding Policy supersedes any previous statements. It is a working document and may be modified as the Board deems necessary.

Goals of Actuarial Funding Policy

1. To achieve long-term full funding of the cost of benefits provided by MCERA;

2. To seek reasonable and equitable allocation of the cost of benefits over time; and,

3. To minimize volatility of the plan sponsor's contribution to the extent reasonably possible, consistent with other policy goals.

Funding Requirement and Policy Components

MCERA's annual funding requirement is comprised of a payment of the Normal Cost and a payment on the Unfunded Actuarial Accrued Liability (UAAL). The Normal Cost and the amount of payment on UAAL are determined by the following three components of this funding policy:

I. Actuarial Cost Method: the techniques to allocate the cost/liability of retirement benefit to a given period;

II. Asset Smoothing Method: the techniques that spread the recognition of investment gains or losses over a period of time for the purposes of determining the Actuarial Value of Assets used in the actuarial valuation process; and

III. Amortization Policy: the decisions on how, in terms of duration and pattern, to reduce the difference between the Actuarial Accrued Liability and the Valuation Value of Assets in a systematic manner.

I. Actuarial Cost Method:

The Entry Age[1] actuarial cost method shall be applied to the projected retirement benefits in determining the Normal Cost and the Actuarial Accrued Liability.

II. Asset Smoothing Method:

The investment gains or losses of each valuation period, as a result of comparing the actual market return and the expected return on Valuation Value of Assets, shall be recognized in level amount over 5 years in calculating the Actuarial Value of Assets. Deferred investment gains or losses cannot exceed 25% of the Market Value of Assets.

The Board acknowledges the occasional need for and reserves the right to consider future ad-hoc adjustments to the asset smoothing method to achieve a more level pattern of recognition of the net deferred investment gains or losses after a period of significant market change followed by a period of market correction, upon receiving the necessary analysis from its actuary.

III. Amortization Policy:

- The UAAL, (i.e., the difference between the Actuarial Accrued Liability and the Valuation Value of Assets), as of June 30, 2012 shall continue to be amortized over its declining 30-year schedule (with 27 years remaining as of June 30, 2012);
- Any new UAAL as a result of actuarial gains or losses identified in the actuarial valuation as of June 30, 2013 or later will be amortized over a period of 18 years;
- Any new UAAL as a result of change in actuarial assumptions or methods, effective with the actuarial valuation as of June 2013 or later will be amortized over a period of 18 years;
- Unless an alternative amortization period is recommended by the Actuary and accepted by the Board based on the results of an actuarial analysis:
    a. with the exception noted in b. below, the increase in UAAL as a result of any plan amendments will be amortized over a period of 15 years;
    b. the increase in UAAL resulting from a temporary retirement incentive will be funded over 5 years;
- UAAL shall be amortized over "closed" amortization periods so that the amortization period for each layer decreases by one year with each actuarial valuation;
- UAAL shall be amortized as a level percentage of payroll so that the amortization amount in each year during the amortization period shall be expected to be a level percentage of estimated covered payroll, based on the current actuarial assumption for general payroll increase;

[1] This method has also been referred to as the Entry Age Normal method but following recent guidance from both GASB and the California Actuarial Advisory Panel, it is referred to as the Entry Age actuarial cost method in this policy.

- In addition to the UAAL contribution rate, an amortization amount equal to the UAAL contribution rate times the covered payroll (as estimated in the actuarial valuation that establishes such UAAL contribution rate) shall be calculated for each employer. The final UAAL payment by each employer shall be equal to the UAAL contribution rate times the actual covered payroll or the above amortization amount, if greater; and
- If an overfunding exists (i.e., the total of all UAAL becomes negative so that there is a surplus and the amount of such surplus is in excess of 20% of the AAL per Section 7522.52 of CalPEPRA), such actuarial surplus and any subsequent surpluses will be amortized over an "open" amortization period of 30 years. Any prior UAAL amortization layers will be considered fully amortized, and any subsequent UAAL will be amortized as the first of a new series of amortization layers, using the above amortization periods.

Other Policy Considerations

A. Lag between Date of Actuarial Valuation and Date of Contribution Rate Implementation

In order to allow the employer to more accurately budget for pension contributions and for other practical considerations, the contribution rates determined in each valuation (as of June 30) will apply to the fiscal year beginning 12 months after the valuation date. However, the UAAL contribution rates in the current actuarial valuation are adjusted to account for the delay in implementing any changes in contribution rates during this 12-month period.

Any change in contribution rate requirement that results from plan amendment is generally implemented as of the effective date of the plan amendment or as soon as administratively feasible.

B. Actuarial Assumptions Guidelines

The actuarial assumptions directly affect only the timing of contributions; the ultimate contribution level is determined by the benefits and the expenses actually paid offset by actual investment returns. To the extent that actual experience deviates from the assumptions, experience gains and losses will occur. These gains (or losses) then serve to reduce (or increase) the future contribution requirements.

Actuarial assumptions are generally grouped into two major categories:

- Demographic assumptions – including rates of withdrawal, service retirement, disability retirement, mortality, etc.
- Economic assumptions – including price inflation, wage inflation, investment return, salary increase, etc.

The actuarial assumptions represent the Board's reasonable estimate of anticipated experience under MCERA and are intended to be long term in nature. Therefore, in developing the actuarial assumptions, the Board considers not only past experience but also trends, external forces and future expectations.

C. Glossary of Terms

Actuarial Funding Method – A technique to allocate present value of projected benefits among past and future periods of service.

Actuarial Accrued Liability – The portion of the present value of projected benefits that is attributed to past service by the actuarial funding method.

Normal Cost – The portion of the present value of projected benefits that is attributed to current service by the actuarial funding method.

Entry Age Actuarial Cost Method – A funding method that calculates MCERA's Normal Cost as a level percentage of pay over the working lifetime of the plan's members.

Actuarial Value of Assets – The market value of assets less the deferred investment gains or losses not yet recognized by the asset smoothing method.

Valuation Value of Assets – The value of assets used in the actuarial valuation to determine contribution rate requirements. It is equal to the Actuarial Value of Assets reduced by the value of any non-valuation reserves.

Unfunded Actuarial Accrued Liability – The portion of the Actuarial Accrued Liability that is not currently covered by plan assets. It is calculated by subtracting the Actuarial Accrued Liability from the Valuation Value of Assets.

Valuation Date – June 30 of every year.

SUBTAB H-6(c)

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PROCEDURES
For
Disability Retirement Applications
And
Formal Hearings

The purpose of these procedures are to expeditiously process applications for disability retirement benefits under the County Employees' Retirement Law of 1937 (CERL) and when a hearing is to be held, the APPLICANT will have notice of the hearing and an opportunity to appear and present his or her case.

Rule 1. Definitions

In these Rules, unless the context or subject matter otherwise requires:

(a) "APPLICANT" means a member of the Mendocino County Employees' Retirement Association claiming disability retirement benefits under the County Employees' Retirement Law of 1937, or any person or persons entitled to claim such benefits as a result of the death of a member.

(b) "Board" means the Board of Retirement of the Mendocino County Employees' Retirement Association.

(c) Deny or dismiss the application "with prejudice" means the application is denied and the member will not be allowed to refile a disability application as to that injury or impairment.

(d) "Disability" or "disabled", whether used singly or in combination with other words, means permanent incapacity for performance of duty.

(e) "Medical Advisor" to the Board shall mean the County Health Officer, his or her designee, or a third party medical professional designated by the Association.

(f) "Permanent incapacity for the performance of duty" means an impairment of the member's body and/or mind, which causes the member to be unable to perform those duties essential to the performance of the job classification last held by the member, or the duties of a permanent light duty position within the member's abilities and within the member's department or a successor department, when it is determined by competent medical evidence that the impairment is permanent or of such prolonged and uncertain duration as to be considered permanent. A member need not be able to perform each and every duty of the member's position, but if the member is permanently unable to perform any essential duty of the former classification, the member shall be deemed to be incapacitated. A member is not considered to be permanently incapacitated when the member unreasonably refuses medical treatment (including surgery) or other remedial treatment available in California if the probabilities are great that such treatment will restore the member to capacity within a reasonable period of time and the risk of harm from such treatment would not deter a reasonable person from submitting to the same.

(g) "Retirement Administrator" means the person designated by the Board as its Retirement Administrator or his/her designee.

(h) "Retirement Association" or "Association" means the Mendocino County Employees' Retirement Association.

(i) "Duties" means the essential functions of the job that are functions which the individual who holds the position must be able to perform, with or without reasonable accommodations.

Rule 2. Forms

All forms to be used in proceedings under these Rules shall be first approved by the Retirement Administrator. Whenever forms are available for use, they shall, insofar as

possible, be used by all interested parties. Most of the forms used in the disability process can be found in the MCERA Disability Retirement Application Handbook. .

Rule 3. Filing Of Application

The Retirement Administrator shall furnish a copy of these Rules and a copy of the Disability Retirement Application Handbook to any person upon request. An application will not be accepted for filing until all forms, as described in these Rules and the disability retirement APPLICANT handbook have been completely filled out in accordance with these Rules and the instructions stated in the application forms; verified under oath or penalty of perjury by the person making the application in the presence of the Retirement Administrator or the Retirement Administrator's designated staff member or verified by a notary public; and submitted to the Retirement Administrator. Any attempt to file an application or document in support of the application that is incomplete or illegible shall not be accepted by the Retirement Administrator. An application must include the member's home address and telephone number, an attorney's address and telephone number is not sufficient. It is the responsibility of the APPLICANT and Applicant's attorney to notify the Board of Retirement of any change of address and/or telephone number. The Retirement Administrator will also not accept an application for filing unless it is accompanied by the Attending or Forensic Physician's Report pursuant to Rule 5.

The Board is interested in receiving and reviewing all competent and relevant evidence including medical reports filed by physicians in Workers' Compensation proceedings, but it is emphasized that in light of the different considerations involved in retirement proceedings as distinguished from Workers' Compensation proceedings, the Board of Retirement and its hearing officer are not bound or precluded in any way by Workers' Compensation evidence, admissions, stipulations, findings or conclusions.

Any application filed more than four months after a member's discontinuance of service must include a statement by the member's attending physician on the Attending or Forensic Physician's Report that indicates the member has been continuously physically or mentally incapacitated to perform his or her duties since the date of the member's discontinuance of service to the time of the application.

Rule 4. Administrative Processing

At the time of furnishing the application forms, the Retirement Administrator shall notify the APPLICANT of the following requirements:

(a) The APPLICANT is required to obtain and to file with the Retirement Administrator, in the form prescribed in Rule 5 and an "Attending Physician's Report", which states that in the physician's opinion the APPLICANT is permanently incapacitated from doing those duties which are essential to the performance of the position last held by the APPLICANT, together with any and all other relevant evidence in the form of written medical reports, certificates or other documents which the APPLICANT wishes the Board to consider in support of the application. Processing the application will not commence until the application is both complete and timely as determined by the Retirement Administrator, and has been properly filed as described in Rule 3 above.

(b) The APPLICANT is required to report at times and places specified by the Retirement Administrator for one (1) or more medical examination(s) by a physician or physicians selected by the Board or the Retirement Administrator.

(c) If the application contends that the permanent incapacity for the performance of duties is the result of injury or disease arising out of and in the course of employment, the APPLICANT may be required by the Retirement Administrator or his/her designee, to be interviewed relative to the factual circumstances of the cause of such

injury or disease.

The APPLICANT shall authorize the release of all medical records, personnel records and Workers' Compensation files.

The Retirement Administrator shall: (1) Forward a "Department Statement of Facts and Circumstances" to the APPLICANT'S employer for completion. The Department Statement of Facts and Circumstances shall include a detailed statement of all action and efforts undertaken to find alternative employment for the employee within the department within the capacity of the employee to perform, and the results of such action and efforts, or a detailed explanation as to why such efforts were not undertaken; and;

(2) Request, from County Human Resources copies of all claims and medical reports filed by the APPLICANT for Workers' Compensation benefits; and

(3) Forward an "Immediate Supervisor Statement" to the APPLICANT'S last known supervisor.

The Retirement Administrator will, if appropriate, notify the APPLICANT at the address given in the application of the date, time and place the APPLICANT shall report for medical examination and advise the APPLICANT of the name of the person who will arrange to interview the APPLICANT.

The failure of an APPLICANT to diligently pursue or prosecute an application may result in the dismissal of the application. Diligently pursuing or prosecuting an application includes, but is not limited to: timely submission of any and all written documentation requested by the Board; compliance with lawful instructions of the Board; and cooperation with the staff in obtaining information pertinent to the application. Prior to dismissal of an application for failure to diligently pursue or prosecute, APPLICANT shall be given notice and an opportunity to respond.

Rule 5. Attending Physician's Report

The APPLICANT, at his own expense, shall obtain a medical examination by a duly licensed physician of APPLICANT'S choice. When the Retirement Association notifies the APPLICANT of the requirements in Rule 4, it shall also provide the APPLICANT with the following documents which are to be delivered by the APPLICANT to his/her physician as follows:

(a) "Attending Physician's Report";

(b) Letter of instruction to physicians for APPLICANT and physician guidelines;

(c) Job Class specification and/or job description and essential functions list from the APPLICANT'S employer for the position held by APPLICANT.

Rule 6. Medical Evaluation By Board Physician and/or Medical Advisor

The Retirement Administrator may arrange an appointment(s) with the physician or physicians so selected by the Board of Retirement for an examination of the APPLICANT and notify the APPLICANT as specified in Rule 4(b).

The Medical Advisor shall advise the Board on medical matter; as requested.

Rule 7. Application Filed On Behalf Of A Member

Pursuant to the authority provided in Government Code section 31721(a), an application may be filed on behalf of a member of the Mendocino County Employees' Retirement Association by any other person, including the head of the department or office employing the member. For purposes of this section, 'APPLICANT" shall mean the person or entity filing the application claiming disability benefits on behalf of a member of MCERA.

The application must be accompanied by other medical documentation identifying the nature and extent of the disability (including physical limitations, if the disability is a result of physical limitation); evidencing the existence of a permanent incapacity which

incapacitates the member on whose behalf the application is filed from the performance of the normal job duties of his/her classification; and describing the professional capacity of the author of the documentation in rendering the opinions (e.g., treating physician, fitness for duty evaluator, Agreed Medical Examiner, Qualified Medical Examiner, etc.), together with any and all other relevant evidence in the form of written medical reports, certificates, or other documents which the APPLICANT wishes the Board to consider in support of the application.

As provided in Government Code section 31721(b), the APPLICANT (the person filing on behalf of the member) has the burden of proving that the member is permanently incapacitated for the performance of his or her job duties. Thereafter, the member has the burden of proving job causation

(a) Upon receipt of an application filed on behalf of a member by any person other than the member, the Retirement Administrator shall, within five (5) calendar days, mail a copy of the application to the member at the member's home address on file with the Retirement Administrator and a statement advising the member of the procedures that will be followed in processing the application and further advising the member of his or her rights, including:

1) The right to provide medical and other evidence contesting the assertion that the member is permanently incapacitated for the performance of his or her job duties; and

2) The right to provide medical and other evidence showing that, if the Board determines that the member is permanently incapacitated, the disability arose out of and in the course of his or her job duties. The member specifically shall be advised that it is his or her burden to prove job causation.

The Retirement Administrator may require the member to be examined by an independent medical examiner appointed by the Board of Retirement. However, if the member refuses or fails to be examined, the Board may make its determination based on those medical reports provided by the APPLICANT and the member, notwithstanding the provisions of Rule 6, herein; or the Board may deny the application.

(b) It shall be the responsibility of the person filing the application to provide to the Board medical reports supporting its application. At the request of the person filing the application, the Retirement Administrator shall issue subpoenas or subpoenas duces tecum pursuant to Government Code section 31535 and Rule 12.

(c) The member on whose behalf benefits are claimed shall be advised of the time and place of the Board's initial determination review on the application. Hearings on applications filed pursuant to this Rule 6 shall be held in closed session.

(d) Within five (5) calendar days after the Board action on the application, the Retirement Administrator shall notify the person filing the application and the member on whose behalf disability retirement benefits are claimed of the Board action. Both the APPLICANT and the member shall have the right to request a hearing as provided in Rule 11.

Rule 8. Investigation Of Facts

When it is contended by the APPLICANT that a permanent incapacity for the performance of the APPLICANT'S duties resulted from an injury or disease arising out of and in the course of employment, the Retirement Administrator may arrange for an appointment with a staff member or an investigator to interview the APPLICANT and notify the APPLICANT as required in Rule 4(c). The investigator shall be employed to make a factual investigation of the factual circumstances surrounding the cause of the injury or

disease. Any APPLICANT has the right to have a representative present during any interview of the APPLICANT by the investigator retained by the Board of Retirement. The investigation shall not necessarily be limited to the interview with the APPLICANT and records of employment. The investigator shall make a report to the Retirement Administrator of the result of that investigation.

Rule 9. Administrative Reports

After receipt of all requested documents, the Retirement Administrator shall make a written report to the Board as follows:

(a) Whether or not the file is sufficient to support a finding by the Board as to whether or not the APPLICANT is permanently incapacitated for the performance of his/her duties.

(b) In the case of an application for a service connected disability, that the file is sufficient to support a finding by the Board as to whether or not the incapacity was the result of an injury or disease arising out of and in the course of employment.

(c) In the case of an application for non-service connected disability retirement, the Retirement Administrator shall report to the Board whether or not the APPLICANT has served the required period of time that entitles the APPLICANT to a non-service connected disability benefit and, if so, that the disability is not due to: intemperate use of alcoholic liquor or drugs, willful misconduct or violation of law; and for APPLICANTs who become members of the system on or after January 1, 1988, that this disability is not due to conviction of a felony or criminal activity which caused or resulted in APPLICANT's disability. See Government Code sections 31726, 31726.5.

The report of the Retirement Administrator shall be in writing and shall include all reports and records, including but not limited to, medical evidence in support of the

application as evaluated by the Board's Medical Advisor. When the medical records and other documents submitted in support of the application are insufficient or in conflict or if the Retirement Administrator is not satisfied with the investigative report and other pertinent documents, he/she shall report to the Board in what respects the application is deemed to be insufficient.

Rule 10. Board Initial Determination

(a) Disability retirement applications shall be considered by the Board in a four-step process, based on the evidence presented.

1) Determination of whether the member is permanently incapacitated for the performance of assigned duties, and, if so, the injury or disease that constitutes the permanent incapacity. If permanent incapacity is not found, the application shall be denied.

2) Determination of whether the incapacity is a result of injury or disease arising out of and in the course of the member's employment for the County or district.

3) Determination of whether a medical examination following retirement shall be required. This determination shall be made for members under age 55. See Government Code section 31729.

4) Determination of the effective date of disability retirement, see Government Code section 31724.

Within three (3) calendar days after the initial Board action on the application, the Retirement Administrator shall notify the APPLICANT at the address shown in the application of the Board action and, if the action of the Board denies in whole or part any of the benefits sought in the application, the notice shall advise the APPLICANT of his/her right to request a hearing.

Upon request, an applicant may address the Board at the initial determination review regarding his/her disability retirement application either personally or through counsel.

Rule 11. Hearings

When requested by an APPLICANT, hearings shall be scheduled and conducted in the following manner:

(a) Request by APPLICANT. An APPLICANT may request a hearing of an initial determination by filing a request for a hearing with the Board of Retirement not later than the thirtieth (30th) day following the determination of the Board. Such request must be in writing and contain a statement indicating the retirement benefit(s) which the APPLICANT or the member is seeking to obtain through the administrative review process.

(b) Selection of Hearing Officer. The Board may designate a panel of hearing officers at the beginning of each calendar year. . New cases will be assigned to the hearing officer on a rotational basis.. When a timely request for a hearing is filed by an APPLICANT and the case is ready for formal hearing as determined by the Board's counsel, written notice of the hearing officer assignment, from the predetermined panel, shall be sent by the Board, to the Board's counsel and to the APPLICANT'S attorney, or the APPLICANT if not represented by counsel. The APPLICANT and the Board's counsel shall have ten (10) calendar days from the date of mailing of the notice of the hearing officer assignment to exercise, in writing, a peremptory challenge. If either party exercises its challenge, the hearing officer's card is placed in the back of the card file and the hearing officer whose card is next in the file shall be assigned the case. The other party will then have ten (10) calendar days from the date of mailing of the notice of the new assignment

to exercise, in writing, a peremptory challenge. Only one peremptory challenge may be exercised by a party. When the hearing officer selection is finally made the hearing officer will be notified of his/her selection. The hearing officer's card will then be placed in the back of the card file.

(c) Setting of Hearing Date. The hearing officer has 180 calendar days from the date of notification of selection as hearing officer to hold and complete the formal hearing. The hearing officer will coordinate the hearing date with all parties and set the dates when the prehearing statements are due, consistent with Rules 12 and 13, and set the cut-off date for requests to subpoena witnesses, consistent with Rule 14.

(d) Continuances. Once a hearing date has been set by the hearing officer, any request for a continuance must be in writing to the hearing officer.

(e) Reporter. The proceedings of all hearings for disability retirement shall be reported by a stenographic reporter unless waived in writing by all interested parties. The stenographic report of the proceedings shall be transcribed only if requested by a party and, if so, the party requesting the same shall pay for the cost. In addition to stenographic reporting, any party may video tape all or part of the proceedings, and, if so, that party shall pay the cost thereof.

(f) Representation by Counsel. An APPLICANT may be represented by legal counsel at any hearing. Before an attorney appears on behalf of an APPLICANT, a written authorization from the APPLICANT shall be filed with the Retirement Administrator. After an attorney appears on behalf of an APPLICANT pursuant to the written authorization of representation, all notices and evidence shall thereafter be served upon such counsel.

Rule 12. Board of Retirement's Prehearing Statement

The Board's counsel shall serve upon the hearing officer and the APPLICANT a

prehearing statement no later than sixty (60) calendar days before the date of the hearing. The prehearing statement shall contain the following:

(a) A statement of the contested issues;

(b) A list and copies of all documentary evidence that respondent will offer into evidence;

(c) The names, business addresses and telephone numbers of any lay witnesses whose testimony the Board's counsel intends to present at the hearing, and a synopsis of the expected testimony of each witness;

(d) The names of any medical witnesses the Board's counsel intends to call for oral testimony at a hearing or hearings for that purpose and a synopsis of the expected testimony;

If APPLICANT'S prehearing statement, as described below in Rule 13, raises issues or identifies witnesses not in the Board's counsel's prehearing statement, the Board's counsel, in that event shall then serve upon the hearing officer and the APPLICANT a supplemental prehearing statement no later than fifteen (15) calendar days from the date of mailing of APPLICANT'S prehearing statement (no later than thirty (30) days before the hearing) in the format prescribed above.

A request for an extension of time to submit a prehearing statement or a supplemental prehearing statement should only be granted upon a showing of good cause and should be granted for no more than five (5) calendar days. A request for an extension of time should be served on the hearing officer and opposing counsel, or, if no counsel, then served on the opposing party.

Rule 13. APPLICANT'S Prehearing Statement

The APPLICANT shall serve upon the hearing officer and the Board's counsel a prehearing statement no later than fifteen (15) calendar days from the date of mailing of respondent's prehearing statement (no later than forty-five (45) days before the hearing). The prehearing statement shall contain the following:

(a) A statement of the contested issues;

(b) A list and copies of all documentary evidence that APPLICANT will offer into evidence;

(c) The names, business addresses and telephone numbers of any lay witnesses whose testimony the APPLICANT intends to present at the hearing, and a synopsis of the expected testimony of each witness;

(d) The names of any medical witnesses the APPLICANT intends to call for oral testimony at a hearing or hearings set for that purpose and a synopsis of the expected testimony;

(e) The names of any medical witnesses the APPLICANT intends to depose, consistent with Rule 18.

If the APPLICANT alleges in the prehearing statement or at any time during the administrative appeal process that the incapacity is the result of an injury or disease not listed on the application submitted to the Board, or if listed, upon which the APPLICANT submitted no medical evidence for the Board's review when it considered the application, the administrative appeal shall be suspended, the allegation shall be treated as an amendment to the application and the matter shall be referred back to the Board for its original determination on the application. In all other respects an application returned to the Board of Retirement shall be processed in accordance with these rules, as if it were a

new application consistent with the scheduling and prehearing statement requirements of Rules 11, 12, 13 and 14.

A request for an extension of time to submit a prehearing statement should only be granted upon a showing of good cause and should be granted for no more than five (5) calendar days. A request for an extension of time shall be served on the hearing officer and opposing counsel, or, if no counsel, then served on the opposing party.\

Rule 14. Subpoena Cut-Off Date

Any party may request that the Board issue a subpoena for a witness, but such requests must be made in writing, consistent with Rule 24. Written requests for subpoenas must be received by the Board no less than thirty (30) calendar days before the date of the hearing. No subpoena will issue upon a request received after this date. All subpoenas shall be served upon the prospective witness no later than fifteen (15) calendar days before the hearing.

Rule 15. Time And Place Of Hearings

Unless the parties and the hearing officer agree otherwise, a hearing shall be deemed set for one full day (i.e., a morning session and an afternoon session). Morning sessions shall begin at 9:30 A.M. and end at 12:00 noon, and afternoon sessions shall begin at 1:30 P.M. and end at 5:00 P.M. Hearings which are not concluded within either the full day (i.e. a morning and an afternoon) session, or whatever other time period to which there has been a stipulation, shall be continued to the next agreeable hearing date. When the hearing date and time have been selected, the Board of Retirement staff shall arrange for a reporter and use of a hearing room and shall in writing notify the parties and the hearing officer of the time and place of the hearing.

Rule 16. Penalties For Failure To Comply With Requirements Of The Rules

(a) Failure of the APPLICANT to submit to medical examinations by a physician or physicians selected by the Board of Retirement, as prescribed in Rule 4 above, shall be treated as noncooperation may result in dismissal of the application.

(b) Failure of a party to raise an issue in the prehearing statement as prescribed in Rules 12 and 13 shall be treated as a waiver of that issue for further consideration by the hearing officer and the Board.

(c) Failure of the APPLICANT to cooperate in completing the formal hearing record, consistent with Rule 11, including, but not limited to: submitting all testimonial and documentary evidence and closing the record within 180 days of the selection of the hearing officer, will result in the case being returned to the Board. If the Board subsequently determines that the APPLICANT did not cooperate in completing the formal hearing record, as described above, the Board may dismiss the application. (d) Failure of a party to make a written request to subpoena a witness no less than thirty (30) calendar days before the hearing date, consistent with Rule 14, shall be treated as a waiver of the right to compel the attendance of that witness to the hearing.

(e) Failure of a party to serve a subpoena on a witness no later than fifteen (15) calendar days before the hearing may be treated by the hearing officer and Board as a waiver of the right to compel the attendance of that witness to the hearing.

(f) Failure of a party to advance the expert witness fee, consistent with Rule 18, shall be treated by the hearing officer and the Board as a waiver of the right to compel the attendance of that expert witness to the hearing.

(g) Failure of a party to serve a subpoena on a witness no less than fifteen (15) calendar days before the hearing, consistent with Rule 14, shall be treated by the hearing

officer and the Board as a waiver of the right to compel attendance of that witness at the hearing.

(h) Failure of the APPLICANT, after appeal from the Board's initial decision, to comply with the requirements set forth in these rules as to time and discovery, shall be treated as non-cooperation. In that event, no formal hearing shall be scheduled or conducted and the application will be returned to the Board. If the Board subsequently determines that the APPLICANT did not cooperate in the appeal process, as described above, the Board may dismiss the application.

(i) No testimony of a witness or documentary evidence not identified in a prehearing statement shall be allowed into evidence at the formal hearing, except as prescribed in Rules 12, 17 or 19.

(j) Failure of the APPLICANT to submit to an interview by the Board's investigator, as prescribed in Rule 8 above, shall be treated as non-cooperation and the application shall be sent to the Board. If the Board subsequently determines that the APPLICANT did not cooperate with the Board of Retirement's Investigator in completing the interview, as prescribed in Rule 8, the Board may dismiss the application.

(k) If the Board determines that an APPLICANT has offered an incomplete application and has failed to complete the application pursuant to these Rules, within 12 months of offering an incomplete application to Retirement Administrator or the Retirement Administrator's designee, the Board shall dismiss the application..

(l) Any dismissal of an application with prejudice by the Board pursuant to Rule 16 is a final administrative decision and subject to judicial review as proscribed in Rule 35.

Rule 17. Written Medical Reports As Evidence

(a) Statement of Policy: It is policy of the Board that production of medical evidence shall be in the form of written medical reports attached to the parties' prehearing statements. A written medical report bearing the signature of the medical witness shall be admissible in evidence as the author's direct testimony and shall support findings made by the Board or the hearing officer. Such medical reports shall not be inadmissible on the basis that they constitute hearsay, but each party shall have the right to cross-examine the authors of medical reports. In addition, such medical reports when offered as expert opinions shall not be inadmissible on the basis that the author of the medical report was called as a percipient witness and not as an expert witness and did not attend the hearing.

(b) "Medical Witness" Defined: A medical witness is a person who by profession is a physician, surgeon, holding an M.D. or D.O. degree, psychologist, optometrist, dentist, podiatrist, or chiropractic practitioner, licensed by the State of California.

(c) Late Submission Of Medical Reports: Submission of a medical report subsequent to the filing of the party's prehearing statement shall be allowed only upon a showing of good cause. The party requesting submission of such a medical report shall address the request to the hearing officer assigned the case and send a copy of the request to opposing counsel, or, if no counsel, then to the opposing party. The request shall state the reason the medical report was not timely produced. The hearing officer shall have the power to rule on such a request.

"Good Cause" shall include an opportunity to have a medical witness comment in a written report on testimony produced at a hearing.

Approved by Board: August 21, 2013

However, if the medical report is allowed to be submitted into evidence, the other party shall have the right to a continuance to engage in further discovery, obtain rebuttal medical evidence and/ or to cross-examine the medical witness.

Rule 18. Oral Testimony Of Medical Witnesses

(a) Hearings: Oral testimony of a medical witness on direct or cross-examination, for purpose of the hearing, may be taken at a hearing set at a reasonable time as requested by the medical witness in the office of the medical witness, or such other reasonable place requested by the medical witness. If the parties and the hearing officer so agree, the hearing officer need not attend such a hearing and the hearing officer shall consider the transcript of the testimony of a medical witness as evidence in reaching the recommended decision. Hearings for oral testimony of medical witnesses for any purpose shall take place before the first day of the formal hearing.

(b) Depositions: The deposition of a medical witness may be taken before the hearing officer. The deposition shall be scheduled at a reasonable time as requested by the medical witness. The deposition shall take place in the office of the medical witness, or such other reasonable place as requested by the medical witness. Depositions of medical witnesses for any purpose shall be taken before the first day of the formal hearing.

(c) Subpoenas and Fees: (1) Issuance of a subpoena for a medical witness's attendance at a hearing or deposition shall be contingent on the party accepting the obligation to pay the medical witness.

The party requesting the oral testimony shall contact the office of the medical witness and determine the witness's reasonable and customary hourly fee and shall advise the office of the medical witness of the anticipated length of the deposition or hearing as to hours in duration. An agreement on the medical witness's fee, based on the

witness's reasonable customary rate and anticipated length of the testimony, shall be entered into with the medical witness at least ten (10) days in advance of the deposition or hearing. If a balance is due following the testimony, the party requesting the oral testimony shall pay the balance upon receipt of an itemized statement. Disputes as to fees between the medical witness and the party requesting the oral testimony shall be resolved by the hearing officer.

2) Failure to serve a subpoena and/or pay the prescribed witness fee in advance may be treated by the hearing officer and Board as a waiver of the right to question such witness. Failure to enter into an advance agreement to pay to an expert witness fee may be deemed a waiver of the right to question the expert witness or to require the expert witness's appearance at the deposition or hearing and any subpoena which may have been issued to compel the expert witness's attendance shall be canceled and shall be of no further force or effect. Service of the subpoena and payment of the fee may be made by mail if the witness so agrees.

Rule 19. Testimony of Witnesses Without Notice

Upon written request made to the hearing officer with a copy sent to opposing counsel, or, if no counsel, then to the opposing party, a witness not listed in the prehearing statement may be called to testify provided the party making the request presents a synopsis of the expected testimony and a showing that this witness will testify to matters the party did not know about or could not have reasonably known about at the time the prehearing statement was due.

The hearing officer shall have the power to rule on the request. If the witness is allowed to testify, the adverse party shall have the right to a continuance to obtain rebuttal evidence and/or to cross examine the witness. The party originally calling the witness to

testify shall bear the responsibility of insuring the witness's attendance at a further hearing set for the witness's cross-examination. But even if a continuance is granted, the hearing officer's jurisdiction to hear and complete the case will not extend past 180 days from the notification of selection as hearing officer.

Rule 20. Depositions Of Lay Witnesses

Any party to the proceeding may cause the depositions of lay witnesses to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state. Attendance of lay witnesses and the production of records in regard to depositions may be required and appropriate subpoenas will be issued by the Board. The parties shall bear their own costs for such depositions. Depositions of lay witnesses must be scheduled and taken before the formal hearing. Depositions of medical witnesses shall be governed by Rule 18.

Rule 21. Resolution Of Disputes In Regard To Discovery And Hearing Procedure

Disputes in regard to depositions and other discovery and hearing procedure shall be resolved by the hearing officer. If not made at a hearing, a request for resolution of a dispute shall be made in writing and may be supported by declarations, a copy of the deposition transcript if appropriate, a memorandum of points and authorities and a proposed resolution. The other party and the witness involved shall have ten (10) calendar days from the date of the mailing of such a request in which to respond. The response may be accompanied by declarations, a copy of the deposition transcript if appropriate, a memorandum of points and authorities and a proposed resolution.

The hearing officer shall notify the parties and the witness involved of the hearing officer's resolution of the dispute within twenty (20) calendar days from the date of mailing

of the request for resolution of the dispute.

Rule 22. Enforcement Of Right Of Discovery And Compelling Testimony

If a deponent or witness refuses to appear at a deposition or hearing, refuses to answer questions or otherwise obstructs discovery contrary to the resolution made by the hearing officer, upon the request of either party supported by a declaration as to the facts with proof of service on the adverse parties and the deponent or witness, and upon the hearing officer's determination that good cause has been shown therefore, the hearing officer shall refer the matter to the Board with a recommendation that the deponent or witness be held in contempt and that a report of the fact be made by the chairman to a judge of the superior court under the provisions of California Government Code sections 31535 and 25170 - 25175. The hearing officer shall serve his/her recommendation on the parties and the deponent or witness. The deponent or witness shall be personally served with a subpoena to attend the hearing before the Board in regard to contempt, a copy of the request of the moving party, the hearing officer's recommendation, and a notice that the Board will consider the hearing officer's recommendation following the deponent or witness being given an opportunity to be heard.

Rule 23. Prehearing Conferences; Unrepresented APPLICANTS

If either the Board's counsel, the APPLICANT, or the hearing officer so desires, there may be a prehearing conference by telephone for the purpose of conducting a general discussion of the formal hearing procedures, and attempting a reconciliation of any dispute to include attempting to agree or to obtain the hearing officer's ruling on a dispute as to the admissibility or inadmissibility of evidence.

Rule 24. Subpoenas

The chair of the Board or the Retirement Administrator are authorized to issue and sign subpoenas for attendance at Board hearings on disability retirement applications, upon request of the APPLICANT or member, the APPLICANT'S or member's attorney, the person filing on behalf of the member pursuant to Rule 7, and the Board's counsel.

Rule 25. Further Medical And Lay Evidence On Behalf Of Respondent

At the request of the Board's counsel and with concurrence of the Retirement Administrator, the Board of Retirement 's disability retirement staff may obtain independent medical examinations and/or investigations. The fees for these medical examinations and/or investigations shall be paid by the Board.

The APPLICANT shall submit to examinations by physicians appointed by the Board's disability retirement staff. Such examinations shall be scheduled with due consideration to the APPLICANT'S convenience and ability to attend. If examinations occur further than 75 miles from the home of the Applicant, the Applicant can request reimbursement of reasonable travel expenses, as determined and approved by the Board of Retirement.

Rule 26. Evidence

(a) An APPLICANT has the burden of going forward and the burden of proving, by a preponderance of the evidence, that the APPLICANT is entitled to the requested benefit.

(b) Oral evidence shall be taken only on oath or affirmation.

(c) Each party shall have these rights: to call and examine witnesses; to introduce exhibits, to include reports and depositions of medical witnesses; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter

was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut adverse evidence. If the APPLICANT does not testify, the APPLICANT may be called and examined as if under cross-examination. Refusal of any APPLICANT to submit to examination for the purpose of answering relevant questions shall be grounds for dismissing the application with prejudice.

(d) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This section shall not be applicable to written medical reports received into evidence pursuant to Rule 17.

(e) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(f) Affidavits. A party may include as part of the party's prehearing statement a copy of any affidavit which the party proposes to introduce in evidence. The affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after timely subpoena is requested and served as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

Approved by Board: August 21, 2013

(g) Official Notice. In reaching a decision, the hearing officer shall take official notice of those matters which must be judicially noticed pursuant to section 451 of the California Evidence Code, may take official notice of those matters which may be judicially noticed pursuant to section 452 of the California Evidence Code, and shall take official notice of any matter specified in said section 452 if the provisions of section 453 of the California Evidence Code are complied with by a party.

Rule 27. Order Of Business For Hearings

Unless the hearing officer rules that it is unnecessary, all hearings shall proceed as follows:

(a) The hearing officer shall call the case and ask for appearances by or for all parties, which shall be recorded. After all of the appearances are made, the parties may make opening statements, orally or in writing, except the respondent may delay its opening statement until after APPLICANT'S presentation of evidence.

(b) If the parties are ready to proceed, the hearing officer will describe the documentary file before the hearing and ensure that all parties have identical document sets.

(c) APPLICANT'S full presentation, including any witness testimony, is given. During this presentation, the hearing officer and the Board's counsel have the right to ask questions.

(d) Board's full presentation, including any witness testimony, is given. During this presentation, the hearing officer and the APPLICANT have the right to ask questions.

(e) Rebuttal evidence may then be presented in the same order.

(f) APPLICANT'S summary and closing statements are made followed by Board's summary and closing statements. Upon the request of either party, the summary

and closing statements may be made in writing and submitted by all parties to the hearing officer, no later than fifteen (15) calendar days after the close of the hearing or as otherwise agreed to by the parties and the hearing officer.

Rule 28. Service Of Proposed Findings Of Fact And Recommended Decision

At the conclusion of the hearing, proposed findings of fact and recommendations of the hearing officer shall be sent to the Board by the hearing officer who presided at the hearing, no later than sixty (60) calendar days after the submission of the summary and closing statements. The Board will serve the findings and recommendations on the parties.

Rule 29. Objections To Proposed Findings Of Fact And Recommended Decision

Any party objecting to the proposed findings of fact and recommended decision has ten (10) calendar days from the date of mailing of the proposed finding of fact and recommended decision to submit written objections to the hearing officer and the other party. Within thirty (30) calendar days from the date of mailing the objections to the hearing officer, or the time for filing objections expires, whichever is earlier, the hearing officer shall:

(a) Adopt the proposed findings and recommended decision originally submitted, or

(b) Make such changes in the proposed findings and recommended decision as the hearing officer deems appropriate in light of the evidence, the objections submitted by the unsuccessful party, and any response, or

(c) Serve notice of the final proposed findings and recommended decision of the Board, together with a summary of the evidence, the pleadings of the parties, and their attachments.

Rule 30. Action By The Board

(a) The Hearing Officer's Proposed Findings of Fact and Recommended Decision on an application for disability retirement benefits will be placed on the Board's Closed Session Agenda for determination.

(b) Upon receipt of the Proposed Findings of Fact and Recommended Decision, the Board may:

(1) Approve and adopt the proposed findings and the recommendations of the hearing officer, or

(2) Require a transcript or summary of all the testimony, plus all other evidence received by the hearing officer. Upon the receipt thereof, the Board shall take such action as in its opinion is indicated by such evidence, or

(3) Refer the matter back with or without instructions to the hearing officer for further proceedings.

(4) Set the matter for hearing before itself. At such hearing the Board shall hear and decide the matter as if it had not been referred to the hearing officer.

Rule 31. Board's Decision After Review Of the Record

In any case where the Board makes a decision based upon a transcript or summary of all the testimony, plus all other evidence received by the hearing officer, the Board may approve and adopt proposed findings and recommended decision or, the Board shall direct the prevailing party to prepare proposed findings of fact and conclusions of law consistent with its tentative decision. The proposed findings of fact and conclusions

of law shall be served on the unsuccessful party who shall have ten (10) calendar days from the date of mailing of the proposed findings to serve and file written objections thereto. Thereafter, the Board shall consider such written objections, if any, and shall adopt such findings of fact and conclusions of law as it deems appropriate.

Rule 32. Alteration Of Time Requirements

Nothing in these procedures is to be construed as preventing the parties from stipulating to lesser intervals than those prescribed above. The hearing officer may for good cause shown, after giving both parties an opportunity to be heard, shorten or lengthen the times specified above, except that the hearing officer may not lengthen the one hundred eighty (180) days to close the record, the sixty (60) days to submit a recommended decision, or the thirty (30) days for reconsideration.

Rule 33. Dismissal For Lack Of Prosecution

If, as a result of the APPLICANT'S failure to comply with the procedures specified above, the matter is not heard within two (2) years after a request for hearing is granted by the Board, the case may be dismissed with prejudice, except that where these procedural rules have been served on APPLICANT or APPLICANT'S counsel, and APPLICANT continues to fail to follow the rules, the case shall be dismissed in accordance with Rule 16, above.

Rule 34. Service Of Documents

Unless otherwise provided, service of documents provided for in these rules may be made by mail or by personal service. The time requirements of California Code of Civil Procedure section 1013 shall govern all service by mail.

Rule 35. Judicial Review

Judicial review of final retirement decisions shall be subject to Code of Civil Procedure section 1094.6. Following each final decision, the Retirement Administrator shall send to the APPLICANT and the APPLICANT'S attorney written notice as follows:

A judicial review of this decision is governed by the provisions of section 1094.6 of the Code of Civil Procedure of the State of California. You are advised that any such petition must be filed not later than the ninetieth (90th) day following the date a decision becomes final.

Rule 36. Access to Board Records

(a) Prior to the Board's administrative action in Rule 10, the APPLICANT is given, at no cost to the APPLICANT, a copy of all the material, including administrative reports and medical records, which is presented by the Retirement Administrator to the Board for its consideration of the application.

(b) Pursuant to Rule 12, the APPLICANT is given, at no cost to the APPLICANT, a copy of all the Board's exhibits which are presented to the hearing officer.

(c) Prior to the Board's final decision on the application under Rule 30, or Rule 31, the APPLICANT is given, at no cost to the APPLICANT, a copy of all documents which are presented by the Retirement Administrator to the Board for its final consideration of the application.

(d) Due to the sensitive nature of psychiatric or psychological records, these records will only be given to APPLICANT'S attorney. If APPLICANT is in pro per, that is not represented by counsel, the Retirement Administrator will send copies of the APPLICANT'S psychiatric or psychological records to APPLICANT'S treating physician.

(e) In addition to (a)-(c) above, the APPLICANT may, in writing, at any time

request a copy of all the material in his or her retirement file at the Board of Retirement. The APPLICANT will be charged for copying the file. All copying charges must be paid before the records are released. In the alternative, APPLICANT may hire a copy service to make copies of part or all of his or her file.

SUBTAB – H-6(d)

Cash Management and Rebalancing Policy

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

CASH MANAGEMENT AND REBALANCING POLICY

I. PURPOSE

The Cash Management and Rebalancing Policy is intended to expand upon the Investment Policy Statement and provide staff with clear cash management and asset rebalancing guidance for the Mendocino County Employees' Retirement Association (MCERA). As fiduciaries, the Board desires to maintain sufficient cash to pay the administrative and investment expenses of MCERA while endeavouring to meet assumed investment returns by maintaining targeted asset diversification within the total portfolio.

II. OBJECTIVES

A. Maintain sufficient cash to pay three months (one calendar quarter) of member benefits, administrative and investment expenses, as well as intermittent expenses, i.e., semi-annual transfers to the County's Debt Service Reserve collected through court payroll, fiscal year-end closing of the Retirement Budget Unit (1920), etc.

B. Ensure a reasonable contingency of cash is maintained to address minor volatility in cash flows and to maintain a positive cash balance and positive quarterly interest apportionment from the County treasury.

C. Notwithstanding OBJECTIVES A and B, maximize invested assets to provide the best opportunity to achieve investment returns from asset classes with a higher likelihood of appreciation in market value.

D. Create a disciplined cycle of rebalancing assets classes to targets.

III. POLICY GUIDELINES

A. Not later than the Board's May meeting, staff will prepare a draft cash management plan for the following fiscal year. The plan will include sufficient cash to pay three months of ongoing member benefits, administrative and investment expenses, as well as known intermittent expenses.

B. The projected balance of cash at the end of any calendar quarter will not fall below $1 million.

C. Primary sources of cash will be employer and employee contributions, dividends paid from bond funds, and quarterly sales of investments consistent with these Policy

Guidelines. Primary uses of cash disbursements will be member benefit payments, refunds of contributions, administrative and investment expenses. As fiduciaries, the Board understands that quarterly sales of investments to maintain a sufficient cash balance will occur during downward and upward trends in the market value of assets being sold, but believes it is prudent to assume that over the long-term the trends will be neutral.

D. The Board will adopt a final cash management plan for the following fiscal year not later than its June meeting.

E. A cash flow report comparing estimated to actual cash flows, as well as beginning and ending balances, will be prepared for each monthly Board meeting.

F. Not later than thirty (30) days after the end of a calendar quarter, staff will review the percentage of the total investment portfolio by asset class to the target range of each asset class as established in the Investment Policy Statement. Asset classes that fall outside the target range will be rebalanced.

G. While staff should understand the potential for an accounting gain or loss resulting from rebalancing asset classes, the primary purpose for rebalancing is to align the asset allocation with the Investment Policy Statement to achieve the long-term investment return contained in the Investment Policy Statement.

H. At the same time staff evaluates the need to rebalance asset classes to target ranges, they will evaluate the need to sell assets to establish the cash balance in the cash management plan.

V. POLICY REVIEW

The Board shall review the Cash Management and Rebalancing Policy at least every three (3) years to ensure that it remains relevant and appropriate.

VI. POLICY HISTORY

The Board adopted this policy on 02/15/2012.

SUBTAB H-6(e)

Trustee Education and Travel Policy

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

TRUSTEE EDUCATION AND TRAVEL POLICY

I. PURPOSE

A. This Policy is intended to provide the trustees of the Mendocino County Employees' Retirement Association (MCERA) with guidelines and procedures that recognize and affirm the central role of education in the successful discharge of their duties.

B. This Policy is not intended to dictate that trustees attend only specific conferences or programs. Instead, it represents a framework for the types of opportunities that trustees may utilize in furthering their fiduciary education. Trustees are encouraged to seek additional education in public pension matters.

C. Effective January 1, 2013, Section 31522.8 was added to the Government Code. This policy is intended to comply with this section, which requires trustees to complete a minimum of 24 hours of education within the first two years of assuming office and for every subsequent two-year period in which the board member continues to hold office.

II. OBJECTIVES

A. That trustees gain the knowledge they need to effectively carry out their fiduciary duties.

B. That trustees possess a common base of knowledge to facilitate group discussion, debate and effective decision-making.

C. To encourage trustees to seek and maintain a level of familiarity with public pension issues.

D. That all newly appointed or elected trustees are provided with the general introductory knowledge they need to enable them to actively and effectively participate in board and committee deliberations.

III. ASSUMPTIONS

A. The Policy rests on the following important assumptions:

1. The role of a trustee is distinct from that of management; therefore the knowledge and educational needs of a trustee may also be distinct.

2. Trustees are responsible for making policy decisions affecting all major aspects of plan administration. Therefore, trustees must acquire a level of knowledge in all significant facets of the plan that is appropriate to policy determination.

3. No single method of educating trustees is optimal. Instead, a variety of methods may be necessary and appropriate.

IV. POLICY GUIDELINES

A. General Provisions

1. Goal. All MCERA trustees agree to develop and maintain an adequate level of knowledge and understanding of relevant issues involved in the administration of the MCERA throughout their terms as trustees of the MCERA.

2. Educational topics. Trustees agree to pursue an appropriate level of training across a broad spectrum of pension-related areas, rather than limiting their education to particular areas. Accordingly, trustees shall endeavour to gain knowledge that is consistent with the Board's role as a high level, policy-setting and oversight body.

   Section 31522.8(a) identifies appropriate topics for Board education which may include, but not be limited to, the following pension related areas:

   a. Fiduciary responsibilities

   b. Ethics

   c. Pension fund investments and investment program management

   d. Actuarial matters

   e. Pension funding

   f. Benefits administration

   g. Disability evaluation

   h. Fair hearings

   i. Pension fund governance

   j. New board member orientation

3. Compliant educational opportunities. Section 31522.8(b) establishes a means for determining the programs, training, and educational sessions that qualify as Board member education. Educational seminars sponsored by the state or national pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member educational requirements.

   The following shall provide guidance with respect to attendance at conferences with preference given to conferences sponsored by educational institutions, Callan Associates, or pension industry associations such as SACRS and CALAPRS.

   Appropriate educational tools for trustees may include, but are not limited to:

   a. State Association of County Retirement Systems (SACRS):

      1. The Semi-Annual Conferences of the State Association of County Retirement Systems (SACRS);

      2. SACRS Public Pension Investment Program

   b. California Association of Public Retirement Systems (CALAPRS):

      1. Board Leadership Institute

      2. Principles of Pension Management Program

      3. The General Assembly

      4. Trustee Roundtables

   c. CALLAN Associates:

      1. Callan College

      2. Callan National Conference

4. Compliance reporting. Section 31522.8(d) requires each Board to maintain a record of Board member compliance with the Policy. The Policy and an annual report on board member compliance shall be placed on MCERA's Internet Website.

B. Role of MCERA Management

1. Management shall identify appropriate educational opportunities and include such information in Board meeting information packages for trustees' consideration, as early in the year as possible to facilitate scheduling on the part of board members.

2. Staff will organize or deliver at least one special in-house education session each

year covering one or more topics that would be beneficial for all board members. An example of such a topic would be the Brown Act.

3. Other required training. In addition to the above, mandatory training is required for trustees regarding:

   a. AB 1234 – Ethics Training: every two years; and

   b. AB 1825 – Sexual Harassment Prevention Training: within six months of becoming a Trustee and every two years thereafter.

C. Conferences and Seminars

1. The Board will allocate sufficient funds annually in its budget to enable trustees to attend specified conferences. Accordingly, Board approval is not required for attendance at such conferences, provided they are held within California. Trustees, however, shall confirm with the Retirement Administrator that there is sufficient space and funding.

2. If a conference is not listed in the budget, or is to be held outside the State of California, attendance at that conference shall require Board approval. In approving a particular educational opportunity, the Board shall consider:

   a. The extent to which an opportunity is expected to provide trustees with the understanding and information they need to carry out their responsibilities;

   b. The extent to which the opportunity meets the requirements of this policy;

   c. The cost-effectiveness of the program in light of travel, lodging and related expenses.

   d. The timeliness and relevance of the opportunity.

3. Reimbursement for travel and associated expenses relating to educational conferences shall be in accordance with the provisions of the County Travel Policy, unless superseded by a MCERA travel policy.

4. In cases where attendance at a particular conference is limited:

   a. The Chair and Retirement Administrator shall jointly determine whether it is necessary for management to participate; and then

   b. The Chair shall determine which interested trustees shall attend, on a rotating basis.

c. If a limited number of trustees attend a particular conference, they will report back to the Board on the conference and provide an evaluation of the conference.

5. Trustees may provide the Retirement Administrator with copies of any educational material acquired at conferences that they deem to be useful. The Retirement Administrator shall in turn make said materials available to the Board for reference purposes.

V. ORIENTATION PROGRAM

A. A formal orientation program shall be developed by the Retirement Administrator for the benefit of new trustees. The aim of the orientation program shall be to ensure that new trustees are in a position to contribute fully to board and committee deliberations, and effectively carry out their fiduciary duties as soon as possible upon joining the Board.

B. As part of the orientation process, new trustees shall, within 45 days of their election or appointment to the Board:

1. Be briefed by the Retirement Plan Administrator on the history and background of the MCERA;

2. Be briefed by the Board Chair;

3. Be introduced to staff of MCERA;

4. Be provided a tour of MCERA offices by management;

5. Be briefed on their fiduciary duties, conflict of interest guidelines and *The Brown Act*;

6. Receive the following from the Retirement Administrator:

a. The *37 Act*, the *Brown Act,* and the MCERA By-Laws;

b. Most recent plan description and member handbook;

c. Copies of MCERA Board policies;

d. Most recent actuarial valuation and financial statements;

e. Most recent asset/liability study;

f. Most recent investment performance report;

g. Most recent budget;

h. Organizational chart;

i. Names and phone numbers of the other trustees and the Retirement Administrator;

j. Listing of current committee assignments;

k. Listing of current MCERA service providers;

l. List of current educational opportunities (including dates of Callan College/Investment Institutes, SACRS and CALAPRS conferences); and

m. A copy of the Board's liability insurance policy; and

n. Other relevant information and documentation from management or the Chair; for example, disability process guidelines/information.

C. The Retirement Administrator shall review and if necessary update all orientation material as needed.

D. During the course of their first year on the Board, new trustees shall endeavour to attend the SACRS New Trustee Training Program and/or the CALAPRS Principles of Pension Management Program.

E. Prior to their first official meeting of the Board, new trustees shall endeavour to attend a meeting of the Board or a standing committee as an observer.

F. Within 30 days of being appointed or elected to the Board, trustees must complete a Form 700 *Statement of Economic Interests*. Management shall provide new trustees with all the necessary assistance in properly completing the Statement.

VI. POLICY REVIEW

The Board shall review the Board Education policy at least every three (3) years to ensure that it remains relevant and appropriate.

VII. POLICY HISTORY

The Board adopted this policy on 12/16/09.

The policy was amended and adopted on 12/12/2012.

SUBTAB H-6(f)

Budget Adoption Policy

BACKGROUND AND PURPOSE

1. The Board of Retirement annually adopts a budget covering the expenses of administering the retirement system. The administration expenses incurred in any year will be charged against the earnings of the retirement fund and will not exceed twenty-one hundredths of one percent (0.21%) of MCERA's actuarial accrued liability, unless authorized by a separate vote of the Board of Retirement.
2. The purpose of the Budget Adoption Policy is to establish the process by which the MCERA annual budget is adopted by the Board of Retirement.

ROLES

1. The preparation and presentation of the budget is the responsibility of the Retirement Administrator.
2. The recommendation for the adoption of the annual budget is the responsibility of the Audit and Budget Committee.
3. The adoption of an annual budget is the responsibility of the Board of Retirement.

GUIDELINES

General Provisions

1. The Retirement Administrator will present to the Board of Retirement a proposed budget for the next fiscal year that supports the initiatives set out in the Strategic Plan. The Budget will be presented for review and recommendation by the Budget and Audit Committee during April and for adoption by the Board during the month of May.
2. The format of the proposed budget will organize expenditures within MCERA into the following categories:
   a. Personnel;
   b. Administrative;
   c. Disability;
   d. Building Expenses (625 Kings Court);
   e. Technology;
   f. Investments;
   g. Such other functions that may be adopted by MCERA in the future.

3. The Retirement Administrator is granted the authority to determine which purchases not exceeding $5,000.00 are to be treated as capital expenses and which are to be expensed in the year of purchase and shall be reported to the Board in a timely manner.

4. The Retirement Administrator is granted authority to shift funds not to exceed a limit of $10,000 within a category to accomplish the goals set forth in the Strategic Plan and shall be reported to the Board in a timely manner. Funds may not be moved from one category to another without approval of the Board of Retirement.

5. The Retirement Administrator may request that the Board amend the budget for the current fiscal year by presenting reasons for the budget amendment, its expected impact, and the cost of the amendment for the remainder of the budget year.

6. The Retirement Administrator shall endeavor not to exceed expenditure levels specified in the approved or amended budget.

7. The Retirement Administrator shall provide quarterly budget reports to the Board of Retirement.

POLICY REVIEW

1. The Board shall review this policy at least every three years to ensure that it remains relevant and appropriate.

POLICY HISTORY

1. This policy was adopted by the Board of Retirement on February 20, 2013.

SUBTAB H-6(g)

Overpayment Policy

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

OVERPAYMENT POLICY

I. PURPOSE

The purpose of this policy is to establish criteria and a framework for resolving overpayments made to members.

II. BACKGROUND

While rare, overpayments to members can be caused in a variety of ways, including death related overpayment, incorrect computation and other miscellaneous causes.

III. OBJECTIVES

The primary objective is to preserve and protect fund assets and collect contributions in accordance with applicable law. If an overpayment has been identified, it should be corrected as soon as possible. When reasonable to do so, the overpayment should be recovered as discussed below.

IV. PROCESS FOR RESOLVING OVERPAYMENTS

A. Staff shall verify the overpayment, notify the member and correct future payments with the next available payroll and report the correction on the next Retirement Board agenda.

B. Staff shall initiate collection efforts which shall include the notice setting forth the amount owed, an explanation of the cause of and calculation of the amount owed, and the alternatives for repayment.

C. The procedure for collection of overpayments will be as follows.

1. For amounts up to the CA Small Claims Court Limit, the Retirement Administrator has discretion, after the completion of reasonable collection efforts, to either commence further efforts such as negotiation or the intent to recommend litigation to the Board, or cease collection efforts. In exercising this discretion, the estimated cost of further negotiation and/or litigation will be considered against the amount due and any actions taken will be reported to the Board.

2. For amounts over the CA Small Claims Court Limit, the Retirement Administrator shall, after reasonable collection efforts as well as negotiations have been completed, seek direction from the Board to either commence litigation or cease collection efforts.

V. POLICY REVIEW

The Board shall review the Overpayment Policy at least every three (3) years to ensure that it remains relevant and appropriate.

VI. POLICY HISTORY

The Board adopted this policy on February 15, 2012.
The Board reviewed and revised this policy on March 20, 2013.

SUBTAB H-6(h)

Placement Agent Disclosure Policy

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

PLACEMENT AGENT DISCLOSURE POLICY

I. PURPOSE

This Policy describes the circumstances under which the Mendocino County Employees' Retirement Association ("MCERA") shall require the disclosure of payments to Placement Agents in connection with MCERA investments in or through External Managers. This Policy is intended to apply broadly to all of the types of investment partners with whom MCERA does business. MCERA adopts this Policy to require broad, timely, and updated disclosure of all Placement Agent relationships, compensation and fees. The goal of this Policy is to help ensure that MCERA's investment decisions are made solely on the merits of the investment opportunity, are reasonable and prudent from a fiduciary perspective, and are consistent with MCERA'S investment policy objectives.

II. GLOSSARY OF TERMS

Consultant

Person(s) or firm(s) including key personnel of such firm(s), who are contractually retained by MCERA to provide advice to MCERA on investments, External Manager selection and monitoring, and other services, but who do not exercise investment discretion, generally.

External Manager (As defined in Government Code section 7513.8(b))

(1) A person who is seeking to be, or is, retained by [The MCERA Board of Retirement or an Investment Vehicle] to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an Investment Fund and who offers or sells, or has offered or sold an ownership interest in the Investment Fund to [The MCERA Board of Retirement or an Investment Vehicle].

Investment Fund (As defined in Government Code section 7513.8(c))

(c) (1) "Investment Fund" means a private equity fund, public equity fund, venture capital fund, hedge fund, fixed income fund, real estate fund, infrastructure fund, or similar pooled investment entity that is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, owning, holding, or trading securities or other assets.

(2) Notwithstanding paragraph (1), an investment company that is registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) and that makes a public offering of its securities is not an Investment Fund.

Investment Vehicle (As defined in Government Code section 7513.8(d))

A corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, constituting or managed by an External Manager in which [The MCERA Board of Retirement] is the majority investor and that is organized in order to invest with, or retain the investment management services of, other External Managers.

Placement Agent (As defined in Government Code section 7513.8(f))

(1) Any person directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager, or an Investment Fund managed by an External Manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to [The MCERA Board of Retirement] or an Investment Vehicle, either of the following:

(A) In the case of an External Manager within the meaning of paragraph (1) of 7513.8(b), the investment management services of the external manager.

(B) In the case of an External Manager within the meaning of paragraph (2) of 7513.8(b), an ownership interest in an Investment Fund managed by the External Manager.

(2) Notwithstanding paragraph (1), an individual who is an employee, officer, director, equity holder, partner, member, or trustee of an External Manager and who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the External Manager is not a Placement Agent.

III. APPLICATION

This Policy shall apply to all current MCERA investment managers and all investment managers being considered by MCERA for an investment management engagement.

IV. RESPONSIBILITIES

A. Each External Manager is responsible for:

1. Providing the following information (collectively, the "Placement Agent Disclosure Form") to Staff promptly upon request.

   a. A statement whether the External Manager, or any of its principals, employees, agents or affiliates has compensated or agreed to compensate, directly or indirectly, any person (whether or not employed by the External Manager) or entity to act as a Placement Agent in connection with any investment by MCERA.

   b. A resume for each officer, partner or principal of the Placement Agent (and any employee providing similar services) detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former MCERA Board member, employee or Consultant, or a member of the immediate family of any such person, this fact shall be specifically noted.

   c. A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent, including the general structure and timing of such compensation.

   d. A description of the services to be performed by the Placement Agent.

   e. A copy of any and all agreements between the External Manager and any third-party (non-employee) Placement Agent(s).

   f. A statement as to whether the Placement Agent is utilized by the External Manager with all clients or prospective clients or with only a subset of clients or prospective clients.

   g. Whether any current or former MCERA Board Member, employee or Consultant suggested the retention of the Placement Agent.

   h. A statement whether the Placement Agent or any of its affiliates are registered as a lobbyist with any state or national government, or with the Securities and Exchange Commission or the Financial Industry Regulatory Association or any similar regulatory agent in a country other than the United States and the details of such registration or explanation of why no registration is required.

   i. Representing to MCERA that the External Manager is solely responsible for any fees, compensation or expenses for any

Placement Agent and that MCERA will not pay any such items.

j. A statement that the External Manager agrees and understands that, for two years after leaving their position, former board members or administrators shall not receive compensation for appearing before or communicating with a MCERA Board member or staff for the purpose of influencing the Board to take certain action regarding investments.

k. Representing to MCERA that the External Manager understands and agrees that all of the information provided to MCERA pursuant to this Policy is public information and subject to disclosure under the Public Records Act.

2. Providing an update of any changes to any of the information included in the Placement Agent Disclosure Form within 30 days of the occurrence of the change in information.

3. Causing its engaged Placement Agent, prior to acting as a Placement Agent with regard to MCERA, to disclose to Staff any campaign contribution, gift or other item of value made or given to any member of the MCERA Board or Staff or Consultant during the prior twenty-four month period.

4. Causing its engaged Placement Agent, during the time it is receiving compensation in connection with a MCERA investment, to disclose to Staff any campaign contribution, gift or other item of value made or given to any member of the MCERA Board or Staff or Consultant, during such period.

B. Staff is responsible for all of the following:

1. Assure that an agreement to comply with this Policy is incorporated in all current and future investment management agreements.

2. Assure that all existing External Managers complete and submit the Placement Agent Information Disclosure to MCERA in a timely manner.

3. Assure that an External Manager candidate completes and submits the disclosure information to MCERA before consideration by the Investment Committee for an investment management engagement.

4. Provide the Board with the disclosure information before any investment decision by the MCERA Board with respect to that manager.

5. Promptly advise the Board of any material violation of this Policy.

C. Sanctions in the event of a material omission or inaccuracy in the Disclosure can include, but are not limited to:

1. For failure to disclose a relationship with a third party Placement Agent the reimbursement to MCERA of an amount equal to the amounts paid or promised to be paid to that Placement Agent in connection with any investment by MCERA.

2. Immediate termination of the investment management engagement without penalty, or withdrawal without penalty from the limited partnership, limited liability company, or other investment vehicle, or suspension of any further capital contributions (and any fees on these re-called commitments) to limited partnership, limited liability company, or other investment vehicle.

3. A prohibition on the External Manager or Placement Agent from soliciting new investment from MCERA for five (5) years. This prohibition may be reduced by a majority vote of the Board upon a showing of good cause.

4. The MCERA Board shall determine which, if any, sanctions will apply in a given case based on the nature of the violation and any other relevant legal parameters.

D. All parties responsible for implementing, monitoring and complying with this Policy should consider the spirit as well as the literal expression of the Policy. In cases where there is uncertainty whether a disclosure should be made, the Policy should be interpreted to require such disclosure.

V. POLICY REVIEW

The Board shall review this Policy at least every three years.

VI. HISTORY

This policy was adopted by the Board on November 9, 2011.

TAB I

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JAN 29 2014

Judith W. Boyette, Esq.
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

Re: Compliance Statement for: Mendocino County Employees' Retirement Association
Control Number: 911705511
Employer Identification Number: 94-6116617
Plan No.: 001

Dear Ms. Boyette:

The enclosed documents are sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

The determination letter issued with respect to your client's recent application as part of their Voluntary Correction Program submission is also enclosed for your reference.

If you have any questions, please contact Danielle Norris, ID# 1002853909 by phone at 202-317-8726 or by fax at 202-317-8811.

Sincerely,

Carlton A. Watkins

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Copy of Letter to Taxpayer
Copy of signed Compliance Statement
Copy of Determination letter
Publication 794

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JAN 29 2014

Board of Retirement of Mendocino County
Employees' Retirement Association
c/o James M. Anderson
Administrator
625B Kings Court
Ukiah, CA 95482

Re: Compliance Statement for: Mendocino County Employees' Retirement Association
Control Number: 911705511
Employer Identification Number: 94-6116617
Plan No.: 001

Dear Mr. Anderson:

Enclosed is your compliance statement. A compliance statement constitutes an enforcement resolution solely with respect to certain failures of an employee retirement plan that is intended to satisfy the requirements of the Internal Revenue Code. It does not constitute a ruling letter within the meaning of Revenue Procedure 2013-4, 2013-1 I.R.B. 126, or a determination letter within the meaning of Revenue Procedure 2013-6, 2013-1 I.R.B. 198. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

The determination letter issued with respect to your recent application as part of your Voluntary Correction Program submission is also enclosed for your reference.

At a later date, you may be required to verify that the correction of the failures and any modification of administrative procedures (upon which your enforcement resolution is conditioned) have been timely made.

Copies of this compliance statement and of this letter have been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions, please contact please contact Danielle Norris, ID# 1002853909 by phone at 202-317-8726 or by fax at 202-317-8811.

Sincerely,

Carlton A. Watkins

for Manager, Employee Plans Voluntary Compliance

Enclosures:
Compliance statement
Determination letter
Publication 794

cc: Judith W. Boyette Esq. & Nancy G. Hilu, Esq.

INTERNAL REVENUE SERVICE
VOLUNTARY CORRECTION PROGRAM
COMPLIANCE STATEMENT

Date: JAN 29 2014

Re: Mendocino County Employees' Retirement Association
SE:T:EP:RA Control Number: 911705511
Employer Identification Number: 94-6116617
Plan No.: 001

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURES

Board of Retirement of the Mendocino County Employees' Retirement Association ("Applicant") administers the Mendocino County Employees' Retirement Association ("MCERA") as established under the County Employees' Retirement Law of 1937 ("CERL") (together referred to as the "Plan"), and has submitted a request to the Internal Revenue Service ("the Service") under the Voluntary Correction Program for a compliance statement relating to qualification failures under section 401(a) of the Internal Revenue Code ("Code"). The Plan uses the twelve-month period that ends on December 31 as its plan year.

Failure #1: ("CERL Failure")

The Plan does not include language required under section 401(a)(7) of the Code that members must become 100% vested in benefits accrued upon plan termination or the complete discontinuance of employer contributions.

Failure #2: ("CERL Failure")

The Plan provides for a reasonable good faith interpretation of section 401(a)(9) of the Code as permitted by the Pension Protection Act of 2006 as applicable to governmental plans. With respect to payments of survivor benefits to other than the surviving spouse and the surviving child of the member, the Plan does not include the basic rules under 401(a)(9) as they apply to governmental plans since CERL does not include provisions that comply with Treasury Regulation 1.401(a)(9)-6, Q&A-2 addressing how life annuities must be paid in these survivor situations in order to satisfy the required minimum distribution requirements.

Failure #3: ("CERL Failure")

The Plan provides the required limitation under section 401(a)(17) on the amount of compensation that can be taken into account for purposes of computing benefits. The language used in the CERL to adopt the grandfathered section 401(a)(17) rules did not take into account that a retirement system could operate on a calendar year basis.

Failure #4: ("CERL Failure")

The Plan was not amended to comply with the requirements of section 401(a)(31) of the Code under the Unemployment Compensation Amendments of 1992 ("UCA") regarding rollover distributions or the requirements of section 402(c) of the Code regarding accepting eligible rollovers in the Plan or the Economic Growth and Tax Relief

Reconciliation Act of 2001 ("EGTRRA") regarding the expansion of the definition of eligible retirement plans to include 403(b) and 457(b) plans until 2009.

CERL § 31685.2 allows nonmembers who are a party to a domestic relations order to obtain a refund of the accumulated contributions in his or her separate account under the plan but does not provide that these alternate payees may make rollovers from a system as required by section 402(c) and Treasury Regulation § 1,402(c)(2), Q&A-12(a).

Failure #5: ("CERL Failure")
The Plan provides health benefits to retirees but does not contain the plan language required by section 401(h) of the Code.

Failure #6: ("CERL Failure")
The Plan includes a provision that may violate the Uniformed Services Employment and Reemployment Rights Act ("USERRA") rules regarding granting service credit applicable to qualified military service in a plan that does not provide for mandatory employee contributions.

Failure #7: ("CERL Failure")
The Plan incorporates section 415 of the Code by reference but does not set out the detailed provisions of section 415 that are required or optional under section 415, including not explicitly providing the actuarial equivalence factors, which plan will be "primary" in the case of where a member participates in more than one defined benefit plan of the employer, and the treatment of any benefits that may be subject to the defined contribution limits.

Failure #8: ("CERL Failure")
The Plan does not comply with the restrictions on distributions before the earliest of death, disability, normal retirement age, severance from employment or plan termination. The following CERL provisions permit distributions prior to these events in certain circumstances: CERL §§ 31486.2, 31489, 31496.7 and 31499.2 (refunds): CERL § 31553 (withdrawals by elective officers): CERL § 31564 (participating district withdrawals): CERL § 31627.2 (refunds of supplemental member contributions): CERL § 31653 (refunds of contributions for military credit): CERL § 31680.1 (temporary reemployment of judges): CERL §§ 31680.2 and 31680.3 (reemployment limitations).

Failure #9: ("CERL Failure")
The Plan contains a provision (CERL § 31656) that permits a party other than the employer to make a contribution to the Plan on behalf of an employee who is on authorized leave to serve as an official of a recognized employee bargaining unit.

Failure #10: ("CERL Failure")
The Plan permits a refund of contributions in violation of the exclusive benefit rule which requires that plan assets must be used for the exclusive benefit of employees and their beneficiaries (CERL § 31564).

Failure #11: ("MCERA Failure")
The Plan did not comply the requirements of Section 401(h) of the Code and did not pay benefits from an account structured to comply with 401(h). In addition, from June 30, 2002 through June 30, 2006, MCERA credited amounts to retiree health insurance reserves even where MCERA had no excess earnings in violation of CERL 31592.4, which increased MCERA's unfunded actuarial liability by $9,557,912.

Failure #12: ("MCERA Failure")
The Plan failed to revise its 402(f) notices to reflect the law changes made by EGTRRA and the Pension Protection Act of 2006 ("PPA").

Failure #13: ("MCERA Failure")
The Plan failed to comply with the minimum distribution requirements of section 401(a)(9) of the Code with regard to two Plan members.

Failure #14 ("MCERA Failure")
The Plan established incorrect contributions rates for Plan Years ending June 30, 2010, June 30, 2011 and June 30, 2012, which led to member overpayments and employer underpayments of approximately $290,000, $275,000 and $200,000 in the aggregate, respectively, for each of those years. The member contributions consisted of pre-tax salary reduction contributions (employer pick-up contributions under section 414(h)(2) of the Code) and pre-tax contributions made by employers on behalf of members without any reduction in the members' salary.

II. APPLICANT'S CORRECTION

Failure #1: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendments to the CERL that satisfy the requirements of section 401(a)(7) of the Code.

Failure #2: ("CERL Failure")
The Applicant will correct the failure by adopting proposed model regulations in accordance with a reasonable good faith interpretation of section 401(a)(9) of the Code and the Treasury regulations thereunder, as applicable to a governmental plan.

Failure #3: ("CERL Failure")
The Applicant will correct the failure by adopting the proposed amendments to the CERL and the proposed model regulations which will ensure that compliance with 401(a)(17) of the Code as applicable to a governmental plan.

Failure #4: ("CERL Failure")
The Applicant has corrected the qualification failures by adopting CERL § 31485.15, effective January 1, 2009. It will also adopt proposed model regulations, which provide the rules regarding rollover distributions and accepting rollover contributions and satisfy the requirements of sections 401(a)(31) and 402(c) of the Code.

Failure #5: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendments to the CERL and the proposed model regulations that satisfy the requirements of section 401(h) of the Code.

Failure #6: ("CERL Failure")
The Applicant will correct the qualification failure by adopting an amendment to the CERL deleting the provision not in compliance with USERRA.

Failure #7: ("CERL Failure")
The Applicant will correct the failure by adopting the proposed model regulations that comply with the Code and Treasury regulations issued under section 415(b) and (c) of the Code that are required or optional under section 415 as applicable to a governmental plan.

Failure #8: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL and adopting the proposed model regulations that satisfy the distribution requirements of section 401(a) of the Code.

Failure #9: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL to provide that only the employer may make contributions to the retirement system on behalf of his or her employee who is on authorized leave to serve as an official of a recognized employee bargaining unit.

Failure #10: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL to remove the provision permitting refunds of contributions in violation of the exclusive benefit rule.

Failure #11: ("MCERA Failure")
The Applicant has indicated that it ceased providing retiree health benefits as of August 1, 2011. Up to that date, the Applicant complied with the proposed model regulations that satisfy the requirements of section 401(h) of the Code. The Applicant will ensure that the $9,557,912 in unfunded actuarial accrued liability improperly credited to retiree health reserves (and not to pension reserves) shall be repaid to the Plan by: 1) crediting the $658,653 in unused health reserves as of June 30, 2012 to the Plan, and 2) using employer contributions to pay off the remaining balance in amortized installments.

Failure #12: ("MCERA Failure")
The Applicant will correct the operational failure by utilizing "safe harbor" 402(f) notices prescribed by IRS Notice 2009-68 for all future distributions.

Failure #13: ("MCERA Failure")
The Applicant corrected the failure by distributing the required minimum distributions plus interest to the affected Plan members.

Failure #14: ("MCERA Failure")
The Applicant corrected the failure by: 1) correcting the rates effective January 1, 2012, 2) crediting the excess member contributions to the participating employers with affected members, and 3) reducing required future contributions for those contributing employers with affected members on a dollar-for-dollar basis, provided that these employers directly repay affected members the amount attributable to deductions from the affected members' salaries.

III. APPLICANT'S REVISION OF ADMINISTRATIVE PROCEDURES
The State Association of County Retirement Systems ("SACRS") has established an ad hoc task force to deal with tax compliance. SACRS intends to establish an on-going committee (or modify the charter of an existing committee) to monitor tax compliance issues for all SACRS member plans such as the Plan. This committee will meet at least annually and more often if necessary. It will be tasked to review tax compliance issues and make recommendations for any new CERL or model regulation provisions or changes.

IV. APPLICANT'S PAYMENT
The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Service any compliance fee paid in connection with this compliance statement, nor receive any Federal tax benefit on account of payment of such compliance fee.

V. ENFORCEMENT RESOLUTION
The Service will not pursue the sanction of plan disqualification on account of the qualification issues described above.

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission, (2) the completion of all corrections described within one hundred fifty (150) days of the date of the compliance statement, and (3) the issuance of a favorable determination letter with respect to the plan as a result of determination letter application control number 601072018 submitted to the Service in relation to the qualification failures covered by this submission. If one or more of the failures described in this submission are being corrected via proposed plan amendments and such amendments are associated with the above referenced determination letter application then the Applicant may adopt such amendments by the later of: 150 days of the date of the compliance statement or ninety-one (91) days after the issuance of a favorable determination letter by the Service. For governmental plans within the meaning of § 414(d) the deadline to adopt these amendments is further extended to the 91st day after the close of the first legislative session that begins more than one hundred twenty (120) days after a favorable determination letter is issued for the plan.

Mendocino County Employees' Retirement Association

This compliance statement considers only the acceptability of the correction method(s) and the revision(s) of administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application. In no event may this compliance statement be relied on for the purpose of concluding that the Plan or Plan Sponsor (as defined in the applicable revenue procedure setting forth the Employee Plans Compliance Resolution System) was not a party to an abusive tax avoidance transaction. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

Approved: Carlton A. Watkins
for Manager, Employee Plans Voluntary Compliance
Tax Exempt and Government Entities Division

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

February 20, 2014

VIA FACSIMILE AND REGULAR MAIL

Nancy G. Hilu, Esq.
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

Re: Compliance Statement for: Mendocino County Employees' Retirement Association ("Plan")
Control Number: 911705511
Employer Identification Number: 94-6116617
Plan No.: 001

Dear Nancy:

As we discussed, enclosed please find a replacement page for the Plan's previously-issued compliance statement. The enclosed page corrects page 4 of the compliance statement to revise the proposed correction for failure #11.

If you have any questions, please contact me at 202-317-8726.

Sincerely,

Danielle Norris

Danielle Norris
Tax Law Specialist

Enclosure:
Compliance statement replacement page

Failure #5: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendments to the CERL and the proposed model regulations that satisfy the requirements of section 401(h) of the Code.

Failure #6: ("CERL Failure")
The Applicant will correct the qualification failure by adopting an amendment to the CERL deleting the provision not in compliance with USERRA.

Failure #7: ("CERL Failure")
The Applicant will correct the failure by adopting the proposed model regulations that comply with the Code and Treasury regulations issued under section 415(b) and (c) of the Code that are required or optional under section 415 as applicable to a governmental plan.

Failure #8: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL and adopting the proposed model regulations that satisfy the distribution requirements of section 401(a) of the Code.

Failure #9: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL to provide that only the employer may make contributions to the retirement system on behalf of his or her employee who is on authorized leave to serve as an official of a recognized employee bargaining unit.

Failure #10: ("CERL Failure")
The Applicant will correct the qualification failure by adopting the proposed amendment to the CERL to remove the provision permitting refunds of contributions in violation of the exclusive benefit rule.

Failure #11: ("MCERA Failure")
The Applicant has indicated that it ceased providing retiree health benefits as of August 1, 2011. Up to that date, the Applicant complied with the proposed model regulations, except to the extent disclosed in the VCP filing, that satisfy the requirements of section 401(h) of the Code. Effective October 2011, the Applicant complied with the model regulations. The Applicant will ensure that the $9,557,912 in unfunded actuarial accrued liability improperly credited to retiree health reserves (and not to pension reserves) shall be repaid to the Plan by: 1) crediting the $658,653 in unused health reserves as of June 30, 2012 to the Plan, and 2) using employer contributions to pay off the remaining balance in amortized installments.

Failure #12: ("MCERA Failure")
The Applicant will correct the operational failure by utilizing "safe harbor" 402(f) notices prescribed by IRS Notice 2009-68 for all future distributions.

SUBTAB I-2

APPENDIX C
VCP CHECKLIST

Plan Name: Mendocino County Employees' Retirement Association EIN: 94-6116617 Plan #: 001

INSTRUCTIONS

NOTE: If you are submitting a Streamlined Application under VCP using Appendix F in accordance with section 11.02 of this revenue procedure, this Appendix C does not need to be completed. If you are submitting a VCP submission using Appendix D, then Part I of this Appendix C does not need to be completed.

The Service will be able to respond more quickly to your VCP request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. *Sign and date the checklist (as plan sponsor or authorized representative) and include it in the submission as provided in section 11.10 of Rev. Proc. 2008–50.* (Hereafter, all section references are to Rev. Proc. 2008–50)

You must submit a completed copy of this checklist with your request. If a completed checklist is not submitted with your request, substantive consideration of your submission will be deferred until a completed checklist is received.

PART I – PLAN INFORMATION

1. APPLICANT'S NAME Board of Retirement of Mendocino County Employees' Retirement Association

2. APPLICANT'S ADDRESS
625B Kings Court, Ukiah, CA 95482

3. APPLICANT'S TELEPHONE NO. 707-463-4328 (optional) 4. FAX NO. 707-467-6472 (optional)

5. APPLICANT'S EIN 94-6116617 (do not use a Social Security Number) 6. PLAN NO. 001

7. PLAN NAME Mendocino County Employees' Retirement Association

8. TYPE OF SUBMISSION

☑	REGULAR SUBMISSION
☐	REGULAR SUBMISSION — ANONYMOUS
☐	REGULAR SUBMISSION — MULTI-EMPLOYER PLAN
☐	REGULAR SUBMISSION — MULTIPLE EMPLOYER PLAN
☐	GROUP SUBMISSION

9. TYPE OF PLAN (CHECK ONE ONLY):

☐	01	PROFIT SHARING	☐	09	CASH BALANCE
☐	02	401(k)	☑	10	GOVERNMENTAL PLAN (§ 414(d))
☐	03	MONEY PURCHASE	☐	11	SEP
☐	04	DEFINED BENEFIT	☐	12	SARSEP
☐	05	ESOP	☐	13	SIMPLE
☐	06	TARGET BENEFIT	☐	14	STOCK BONUS
☐	07	403(b)	☐	15	KSOP
☐	08	457	☐	16	OTHER (specify):

10. DATE (month and day) ON WHICH PLAN YEAR ENDS 12/31.

11. NUMBER OF PARTICIPANTS IN THE PLAN AS PROVIDED ON THE MOST RECENTLY FILED FORM 5500 SERIES (See Rev. Proc. 2008–50, section 12.07.): 2613

12. ASSETS IN THE PLAN AS PROVIDED ON THE MOST RECENTLY FILED FORM 5500 SERIES (ROUND TO NEAREST DOLLAR): $ 304,209,225
See Rev. Proc. 2008–50, section 12.07.

If the Applicant is being represented by someone in connection with this matter or wishes to authorize someone to receive information from us in connection with this matter, submit a completed Form 2848 or Form 8821 and complete items 13 through 18.

13. NAME OF APPLICANT'S REPRESENTATIVE Judith W. Boyette

14. NAME OF REPRESENTATIVE'S FIRM (if applicable)
Hanson Bridgett, LLP

15. REPRESENTATIVE'S ADDRESS
425 Market Street, 26th Floor, San Francisco, CA 94105

16. REPRESENTATIVE'S PHONE NO. 415-995-5115 17. FAX NO. 415-995-3577

18. REPRESENTATIVE'S E-MAIL ADDRESS jboyette@hansonbridgett.com
(optional)

PART II – SUBMISSION REQUIREMENTS
Answer each question by answering "Yes" or "N/A" as appropriate

Yes	N/A	Question	Reference (Rev. Proc. section)
✓		1. Have you included an explanation of how and why the failure(s) arose, including a description of the applicable administrative procedures for the plan in effect at the time the failure(s) occurred?	11.03(6)

Yes	N/A	Question	Reference (Rev. Proc. section)
✓		2. Have you included a detailed description of the method for correcting the failure(s) identified in your submission? This description must include, for example, the number of employees affected and the expected cost of correction (both of which may be approximated if the exact number cannot be determined at the time of the request), the years involved, and calculations or assumptions the Plan Sponsor used to determine the amounts needed for correction. Note that each step of the correction method must be described in narrative form.	11.03(7)
	✓	3. If you are you requesting that participant loans being corrected under this revenue procedure not be treated as distributions pursuant to § 72(p), have you included the request and a detailed description of the failure? Alternatively, if you are requesting that participant loans being corrected under this revenue procedure be recognized as distributions in the year of correction instead of the year that the deemed distribution occurred under § 72(p), have you included the request and a detailed description of the failure?	11.03(13)
	✓	4. Have you described the earnings or interest methodology (indicating computation period and basis for determining earnings or interest rates) that will be used to calculate earnings or interest on any corrective contributions or distributions? (As a general rule, the interest rate (or rates) earned by the plan during the applicable period(s) should be used in determining the earnings for corrective contributions or distributions.)	11.03(8)
	✓	5. Have you submitted specific calculations for either all affected employees or a representative sample of affected employees? In lieu of providing correction calculations with respect to each employee affected by a failure, you may submit calculations with respect to a representative sample of affected employees. However, the representative sample calculations must be sufficient to demonstrate each aspect of the correction method proposed.	11.03(9)
✓		6. If you are requesting a waiver of the excise tax under § 4974 of the Code, have you included the request, and, if applicable, an explanation supporting the request for any affected owner-employee or 10 percent owner?	11.03(12)
	✓	7. If you are requesting relief of the excise tax under §§ 4972, 4973, or 4979, have you included the request and a detailed description of the failure?	11.03(12)
✓		8. Have you described the method that will be used to locate and notify former employees or, if there are no former employees affected by the failure(s) or the correction(s), provided an affirmative statement to that effect?	11.03(10)
✓		9. Have you provided a description of the administrative measures that have been or will be implemented to ensure that the same failure(s) do not recur?	11.03(11)
✓		10. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the plan is not currently under an Employee Plans examination?	11.03(14)
✓		11. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the Plan Sponsor is not under an Exempt Organizations examination?	11.03(14)
✓		12. Have you included a statement that neither the plan nor the Plan Sponsor has been a party to an abusive tax avoidance transaction? Alternatively, have you provided a statement identifying the abusive tax avoidance transaction(s) to which the plan or the Plan Sponsor has been a party?	11.03(15)

Yes	N/A	Question	Reference (Rev. Proc. section)
	✓	13. If the submission includes a failure related to Transferred Assets, have you included a description of the related employer transaction, including the date of the employer transaction and the date the assets were transferred to the plan?	11.03(16)
✓		14. Have you included a copy of the portions of the plan document (and adoption agreement, if applicable) relevant to the failure(s) and method(s) of correction?	11.04(1)
✓		15. Have you included the original signature of the sponsor or the sponsor's authorized representative?	11.07
✓		16. Have you included a *Power of Attorney* (Form 2848) or *Tax Information Authorization* (Form 8821)? Note: Authorization to represent a plan sponsor before the Service using Form 2848 is limited to attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, and enrolled actuaries.	11.08
✓		17. Have you included a Penalty of Perjury Statement signed (original signature only) and dated by the Plan Sponsor?	11.09
✓		18. Have you submitted the Appendix E acknowledgement letter?	11.12
✓		19. Where applicable, have you submitted an application for a determination letter and Form 8717 together with a check for the user fee made payable to the U.S. Treasury?	10.05 and 11.04(2)
	✓	20. If the plan is currently being considered in an unrelated determination letter application, have you included a statement to that effect?	11.03(17)
✓		21. Have you included a check for the VCP compliance fee, and, if applicable, a separate check for the determination letter fee, each made payable to the U. S. Treasury?	11.04 and 11.05
	✓	22. If your submission is for a terminating Orphan Plan, have you included a request for a waiver of the VCP fee?	11.03(22)
✓		23. Have you assembled your submission as described in section 11.15?	11.15

If you inserted "N/A" for any item, enter an explanation here:

Item 3 is N/A because none of the failures related to participant loans. Item 4 is N/A because none of the failures require earnings or interest adjustments.

Item 5 is N/A because none of failures require any type of calculation. Item 7 is N/A because we are not requesting a waiver of penalties under the sections described.

Item 13 is N/A because the failures described in the VCP do not relate to a transferred assets.

Item 20 is N/A because the plan is not currently being considered in an unrelated determination letter application.

Item 22 is N/A because the VCP does not relate to a terminating orphan plan.

Signature

Date

Administrator

Title or Authority

James Andersen

Typed or printed name of person signing checklist

SUBTABS I-3 TO I-16

(Copies of MCERA Board Regulations are behind Subtab H-3(b).)

SUBTAB I-3

Failure #1: ("CERL Failure")

The Plan does not include language required under section 401(a)(7) of the Code that participants must become 100% vested in benefits accrued upon plan termination or the complete discontinuance of employer contributions.

Required Correction of Failure #1: ("CERL Failure")

MCERA will correct the qualification failure by adopting the proposed amendments to the CERL that satisfy the requirements of section 401(a)(7) of the Code.

Evidence of Correction of Failure #1 : ("CERL Failure")

The following amendments to the CERL were made: Government Code Sections 31485.19 and 31485.22 were added.

Government Code Section 31485.19

Notwithstanding any other provision of this chapter, the rights of each member to his or her accrued retirement benefits under the retirement system shall be nonforfeitable, in accordance with the requirements of Sections 401(a) of Title 26 of the United States Code that are applicable to public employee plans, to the extent then funded, on the date of the termination of the system, the partial termination of the system, or the complete discontinuance of contributions under the system, as provided in Title 26 of the United States Code.

Government Code Section 31485.22

(a) A member who, while currently employed, has reached normal retirement age, as defined by the retirement system, and has met the benefit commencement requirements in Article 8 or Article 9, shall be fully vested in the benefits payable under the retirement system. Upon satisfying the requirements of this section, a member may be retired upon filing with the board a written application in the manner provided in Articles 8 and 9 of this chapter, as applicable.

(b) Notwithstanding subdivision (a), Articles 8 and 9 of this chapter, or any other applicable law, a member's earned and accrued benefits may be forfeited under Section 7522.70, 7522.72, or 7522.74.

SUBTAB I-4

Failure #2: ("CERL Failure")

The Plan provides for a reasonable good faith interpretation of section 401(a)(9) of the Code as permitted by the Pension Protection Act of 2006 as applicable to governmental plans. With respect to payments of survivor benefits to other than the surviving spouse and the surviving child of the member, the Plan does not include the basic rules under 401(a)(9) as they apply to governmental plans since CERL does not include provisions that comply with Treasury Regulation 1.401(a)(9)-6, Q&A-2 addressing how life annuities must be paid in these survivor situations in order to satisfy the required minimum distribution requirements.

Required Correction of Failure #2: ("CERL Failure")

MCERA will correct the failure by adopting proposed model regulations in accordance with a reasonable good faith interpretation of section 401(a)(9) of the Code and the Treasury regulations thereunder, as applicable to a governmental plan.

Evidence of Correction of Failure #2 ("CERL Failure")

The following amendment was made to the MCERA Board of Retirement Regulations: Regulation for IRC Code §409(a) was added.

SUBTAB I-5

Failure #3: ("CERL Failure")

The Plan provides the required limitation under section 401(a)(17) on the amount of compensation that can be taken into account for purposes of computing benefits. The language used in the CERL to adopt the grandfathered section 401(a)(17) rules did not take into account that a retirement system could operate on a calendar year basis.

Required Correction of Failure #3: ("CERL Failure")

MCERA will correct the failure by adopting the proposed amendments to the CERL and the proposed model regulations which will ensure compliance with 401(a)(17) of the Code as applicable to a governmental plan.

Evidence of Correction of Failure #3 : ("CERL Failure")

The following amendment to the CERL was made: Government Code Section 31671 was amended.

The following amendment was made to the MCERA Board of Retirement Regulations: Regulation for IRC Code §401(a)(17) was added.

Government Code Section 31671

(a) The amount of compensation that is taken into account in computing benefits payable to any person who first becomes a member of the retirement system on or after July 1, 1996, or January 1, 1996, for systems operating on a calendar basis, shall not exceed the limitations in Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

(b) The compensation limitations specified in Section 7522.10 shall also apply to a member who is subject to the provisions of the California Public Employees' Pension Reform Act of 2013 for all or any portion of his or her membership in the county retirement system.

SUBTAB I-6

Failure #4: ("CERL Failure")

The Plan was not amended to comply with the requirements of section 401(a)(31) of the Code under the Unemployment Compensation Amendments of 1992 ("UCA") regarding rollover distributions or the requirements of section 402(c) of the Code regarding accepting eligible rollovers in the Plan or the Economic Growth and Tax Relief Act of 2001 ("EGTRRA") regarding the expansion of the definition of eligible retirement plans to include 403(b) and 457(b) plans until 2009.

CERL Section 31685.2 allows nonmembers who are a party to a domestic relations order to obtain a refund of the accumulated contributions in his or her separate account under the plan but does not provide that these alternate payees may make rollovers from a system as required by section 402(c) and Treasury Regulation § 1.402(c)(2), Q&A- 12(a).

Required Correction of Failure #4: ("CERL Failure")

MCERA corrected the qualification failures by adopting CERL Section 31485.15, effective January 1, 2009 and it will adopt the proposed model regulations that provide the rules regarding rollover distributions and accepting rollover contributions.

Evidence of Correction of Failure #4 : ("CERL Failure")

The following amendment was made to the MCERA Board of Retirement Regulations: Regulation for IRC Code §§401(a)(31) and 402(c) was added.

Government Code Section 31485.15

In accordance with Section 401(a)(31) of Title 26 of the United States Code, a person who is entitled to a distribution under this chapter that is an eligible rollover distribution may elect to have all or a part of that distribution paid directly to an eligible, specified plan, subject to terms and conditions established by the board. If a person elects to have the eligible rollover distribution paid to an eligible, specified plan, the payment, when it is distributable, shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan.

SUBTAB I-7

Failure #5: ("CERL Failure")

The Plan provides health benefits to retirees but does not contain the plan language required by section 401(h) of the Code.

Required Correction of Failure #5: ("CERL Failure")

MCERA will correct the qualification failure by adopting the proposed amendments to the CERL and the proposed model regulations that satisfy the requirements of section 401(h) of the Code.

Evidence of Correction of Failure #5:

The following amendments to the CERL were made: Government Code Sections 31592.2 (amended), 31592.4 (amended), 31691 (amended), 31691.1 (amended), 31694.6 (added), 31696.3 (amended) and 31698.5 (added).

The following amendment was made to the MCERA Board of Retirement Regulations: Regulation for IRC Code §401(h) was added.

Government Code Section 31592.2

(a) In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter.

(b) Where the board of supervisors has provided for the payment of all, or a portion, of the premiums, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this subdivision from the county advance reserves. This payment shall comply with the requirements of Section 401 of Title 26 of the United States Code. Payment may be made directly from the county advance reserves for the benefits described in Section 31691.1.

Government Code Section 31592.4

(a) The amount of excess earnings available at the end of a fiscal year of the retirement fund, shall, subject to the limitations in this section, be treated in the immediately succeeding fiscal year, for all purposes under this chapter, as appropriations, transfers, and contributions made to the retirement fund by the county and applicable districts. That treatment shall occur only to the extent that, in the immediately succeeding fiscal year, the county and applicable districts pay for an equal amount of health benefits for members heretofore or hereafter retired and their dependents or make contributions in an equal amount to an account established under Section 401(h) of Title 26 of the United States Code solely for the purpose of providing health benefits for retired members, their spouses, and dependents, and for the associated administrative and investment expenses.

(b) For purposes of this section, "excess earnings" means earnings of the retirement fund at the end of any fiscal year that exceed the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(c) The board of supervisors or the board of retirement shall take any actions necessary and appropriate to ensure that the program provided by this section complies with all applicable federal and state income tax laws, including, but not limited to, establishing rules and procedures for establishing and maintaining an account under Section 401(h) of Title 26 of the United States Code.

(d) In accordance with Section 401(h) of Title 26 of the United States Code and Section 1.401-14(c) of the Code of Federal Regulations:

(1) The retirement system shall specify the medical benefits that will be available and shall set out the amount that will be paid.

(2) Medical benefits shall be subordinate to the retirement benefits when added to any life insurance benefits.

(3) A separate account shall be maintained for contributions to fund the medical benefits.

(4) The funds in the separate account may be invested with the funds for retirement benefits and the earnings shall be allocated to each account in a reasonable manner.

(5) Amounts contributed for medical benefits shall be reasonable and ascertainable.

(6) No part of the medical benefits account may be used for or diverted to any purpose other than providing medical benefits and paying necessary or appropriate expenses for the administration of the medical benefits account.

(7) Any amounts remaining in the medical benefits account after satisfaction of all medical benefits liabilities for all members, their spouses, and dependents shall be returned to the employer.

(8) If a member's interest in the medical benefits account is forfeited prior to plan termination, an amount equal to the forfeiture shall reduce employer contributions to fund the account.

(e) Except to the extent allowed by Sections 401 and 420 of Title 26 of the United States Code, and related federal regulations, assets shall not be transferred or otherwise paid from the funds held by the retirement system for retirement benefits to a medical benefits account. Assets shall not be transferred or otherwise paid from a medical benefits account to the funds held by the retirement system for retirement benefits.

(f) This section shall not be operative in any county until the board of supervisors and the board of retirement of the county, by resolution adopted by a majority vote of each board, make this section operative in the county.

(g) This section is not intended, and shall not be construed to, affect the validity of any agreement entered into by a county and a retirement association whereby a county has agreed to provide and fund a health insurance program for retired employees and their dependents for hospital services, medical services, dental services, and optical services, prior to the effective date of this section.

(h) This section establishes a method of providing health benefits for retired members, their spouses, and dependents to the extent allowed under Sections 31592.2 and 31691. This section does not authorize duplicate benefits.

(i) This section may be made applicable in any county that has adopted Article 5.5 (commencing with Section 31610), in which case the Supplemental Retiree Benefits Reserve shall be substituted for the excess earnings described in this section. This section also may be made applicable to any arrangement established under Article 8.6 (commencing with Section 31694).

Government Code Section 31691

(a) The board of supervisors of any county by ordinance, or the governing body of any district under the County Employees Retirement Law, by ordinance or resolution, may provide for the contribution by the county or district from its funds and not from the retirement fund, toward the payment of all or a portion of the premiums on a policy or certificate of life insurance or disability insurance issued by an admitted insurer, or toward the payment of all or part of the consideration for any hospital service or medical service corporation, including any corporation lawfully operating under Section 9201 of the Corporations Code, contract, or for any combination thereof, for the benefit of any member heretofore or hereafter retired or his or her dependents. At least one of these plans shall include free choice of physician and surgeon.

(b) The benefits provided by this section are in addition to any other benefits provided by this chapter.

(c) The board of retirement may provide on behalf of a member who has retired, or an eligible surviving spouse who was married to the member for one year prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who

are under 18 years of age, or under 22 years of age and full-time students, for the hospital and medical benefits enumerated in subdivision (a) from the earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. The board may provide for the benefits enumerated from like sources when the board of supervisors or the governing body of a district has elected to provide these benefits to its active employees, even though the benefits are not provided to those who have retired from the service of the county or district. Hospital and medical benefits provided under this section shall be provided in compliance with Section 401(h) of Title 26 of the United States Code. They may also be provided in compliance with Section 31592.2.

(d) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section, that has adopted Article 5.5 (commencing with Section 31610), the Supplemental Retiree Benefits Reserve established pursuant to Section 31618 shall be substituted for the excess earnings described in subdivision (c).

Government Code Section 31691.1

(a) In lieu of the benefits prescribed by Section 31691, the board of retirement may provide on behalf of a member who has retired, or an eligible surviving spouse who was married to the member prior to the date of retirement of the member, or, if there is no such spouse, the surviving unmarried children of the member who are under 18 years of age, or under 22 years of age and full-time students, for an equivalent increase in allowance from the earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. Any benefit provided by this section shall be subject to Section 31692.

(b) Except in a county of the first class, upon adoption by any county providing benefits pursuant to this section that has adopted Article 5.5 (commencing with Section 31610), the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefits Reserve established pursuant to Section 31618.

Government Code Section 31694.6

(a) Notwithstanding any provision to the contrary in this article, if the Post-Employment Benefits Trust Account established under Section 31694 is established as a part of the retirement fund, then that account shall be established for the sole purpose of providing health benefits for retired members, their spouses, and dependents, and shall comply with all requirements, including the limitations on contributions, of Section 401(h) of Title 26 of the United States Code, as applicable.

(b) The board of supervisors or the board of retirement shall take any actions necessary or appropriate to ensure that the program provided by this section complies with all applicable federal and state income tax laws, including, but not limited to, establishing rules and procedures for establishing and maintaining an account under Section 401(h) of Title 26 of the United States Code.

(c) If the Post-Employment Benefits Trust Account is established under Section 31694, assets shall not be transferred or otherwise paid from the funds held by the retirement system for retirement benefits to a medical benefits account. Assets shall not be transferred or otherwise paid from a medical benefits account to the funds held by the retirement system for retirement benefits.

Government Code Section 31696.3

(a) The board shall establish a trust fund designated as the Long-Term Care Fund for the purpose of the payment of the costs and administration of the long-term care plan. The Long-Term Care Fund shall be held for the exclusive benefit of enrollees and the payment of the costs and administration of the program.

(b) The board shall have exclusive control of the administration and investment of the Long-Term Care Fund, except that in a county having a board of investments, the board of investments shall have exclusive control of the investment of the fund. Funds in the Long-Term Care Fund shall be invested pursuant to the law governing the investment of the retirement fund.

(c) Income, of whatever nature, earned on the Long-Term Care Fund shall be credited to the fund.

(d) If the Long-Term Care Fund is intended to be a part of the retirement system trust fund, then the operation of the Long-Term Care Fund, including, but not limited to, its funding, governance, investment of assets, allocation of income, and payment of benefits, shall comply with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title and related federal regulations. If the Long-Term Care Fund is intended to be separate from and not a part of the retirement system, then no assets attributable to that fund shall be commingled for investment or any other purpose, with the assets of the retirement system and shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system to the extent commingling of assets for investment purposes satisfies the requirements of the federal tax laws. The board shall indicate, as a part of establishment of the Long-Term Care Fund, whether the separate fund is intended to be a part of, or separate from, the retirement system.

Government Code Section 31698.5

If the vision care program is intended to be part of the retirement system trust fund, then the operation of the vision care program, including, but not limited to, its funding, governance, investment of assets, allocation of income, and payment of benefits, shall comply with the requirements of Section 401(h) of Title 26 of the United States Code, to the extent required by that title, and related federal regulations. If the vision care program is intended to be separate from and not a part of the retirement system, then no assets attributable to that program shall be commingled for investment, or any other purpose, with the assets of the retirement system. Assets attributable to the program shall constitute a separate fund with a trust that is separate from the funds and trust of the retirement system except to the extent that the commingling of assets for investment purposes satisfies the requirements of the federal tax laws. The sponsor of the vision care program shall indicate as part of the establishment of the program whether that separate fund is intended to be a part of, or separate from, the retirement system.

SUBTAB I-8

Failure #6: ("CERL Failure")

The Plan includes a provision that may violate USERRA rules regarding granting service credit applicable to qualified military service in a plan that does not provide for mandatory employee contributions.

Required Correction of Failure #6: ("CERL Failure")

MCERA will correct the qualification failure by adopting an amendment to the CERL deleting the provision not in compliance with USERRA.

Evidence of Correction of Failure #6:

The following amendment to the CERL was made: Government Code Section 31649.5 was amended.

Government Code Section 31649.5

Notwithstanding Section 31649, any member who resigned, or obtained a leave of absence, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and returned to county service within one year after separation therefrom, under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section 31461 at the time he or she resigned or received the leave of absence, together with regular interest thereon, and if, when he or she contributes, the military service is not a basis for present or future military retirement pay.

SUBTAB I-9

Failure #7: ("CERL Failure")

The Plan incorporates section 415 of the Code by reference but does not set out the detailed provisions of section 415 that are required or optional under section 415, including not explicitly providing the actuarial equivalence factors, which plan will be "primary" in the case where a member participates in more than one defined benefit plan of the employer, and the treatment of any benefits that may be subject to the defined contribution limits.

Required Correction of Failure #7: ("CERL Failure")

MCERA will correct the failure by adopting the proposed model regulations that comply with the Code and Treasury regulations issued under section 415(b) and (c) of the Code that are required or optional under section 415 as applicable to a governmental plan.

Evidence of Correction of Failure #7: ("CERL Failure")

The following amendment was made to the MCERA Board of Retirement Regulations:
Regulation for IRC Code §415 was added to the Board of Retirement regulations.

SUBTAB I-10

Failure #8: ("CERL Failure")

The Plan does not comply with the restrictions on distributions before the earliest of death, disability, normal retirement age, severance from employment or plan termination. The following CERL provisions permit distributions prior to these events in certain circumstances: CERL §§31486.2, 31489, 31496.7 and 31499.2 (refunds); CERL § 31553 (withdrawals by elective officers); CERL § 31564 (participating district withdrawals); CERL § 31627.2 (refunds of supplemental member contributions); CERL § 31653 (refunds of contributions for military credit); CERL § 31680.1 (temporary reemployment of judges); CERL §§3168.2 and 31680.3 (reemployment limitations).

Correction of Failure #8: ("CERL Failure")

MCERA will correct the qualification failure by adopting the proposed amendment to the CERL and adopting the proposed model regulations that satisfy the distribution requirements of section 401(a) of the Code.

Evidence of Correction of Failure #8: ("CERL Failure")

The following amendments to the CERL were made: Government Code sections 31485.20 (added), 31485.21 (added), 31485.22 (added), and 31564 (amended).

The following amendment was made to the MCERA Board of Retirement Regulations: Regulation for IRC Code §401(a) was added.

Government Code Section 31485.20

Notwithstanding any other provision of this chapter, no amount shall be distributed from a retirement system established under this chapter prior to the time that the distribution may be made in compliance with the requirements of Section 401(a) of Title 26 of the United States Code that are applicable to public employee plans, including, but not limited to, requirements relating to the distribution of amounts prior to the earlier of a member's death, disability, separation from service with all employers that maintain the retirement system, or attainment of normal retirement age, as defined by the retirement system.

Government Code Section 31485.21

(a) A member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by Section 401(a) of Title 26 of the United States Code before working for the county or a district. The board shall establish, by regulation, the criteria under which a bona fide separation is satisfied.

(b) Notwithstanding any other provision of this chapter, to the extent required or permitted by Section 401(a) of Title 26 of the United States Code, no amount shall be paid to any member before the date the member has attained normal retirement age or has had a bona fide separation from service, whichever is earlier.

(c) The board may establish, by regulation, normal retirement age consistent with federal law and eligibility requirements under state law.

(d) To the extent that the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) would provide for greater restrictions with regard to separation from service, the provisions of that act shall prevail.

Government Code Section 31485.22

(a) A member who, while currently employed, has reached normal retirement age, as defined by the retirement system, and has met the benefit commencement requirements in Article 8 or Article 9, shall be fully vested in the benefits payable under the retirement system. Upon satisfying the requirements of this section, a member may be retired upon filing with the board a written application in the manner provided in Articles 8 and 9 of this chapter, as applicable.

(b) Notwithstanding subdivision (a), Articles 8 and 9 of this chapter, or any other applicable law, a member's earned and accrued benefits may be forfeited under Section 7522.70, 7522.72, or 7522.74.

Government Code Section 31564

(a) All officers and employees of any district who have become members of the association as provided in Section 31557, may be withdrawn by a resolution of the governing body declaring all of the district's employees withdrawn from the association; provided, the governing body has first received a written petition signed by a majority of its officers and employees requesting that the district's officers and employees be withdrawn from the association.

(b) Upon the adoption of any resolution to withdraw its members, all accumulated contributions held in the association shall be refunded to the district's employees upon the effective date of

their withdrawal and in the same manner as the accumulated contributions would be refunded upon the termination of their employment by the district.

(c) Upon the adoption of any resolution to withdraw its members and where there are no existing retirees from the district, the district's contributions shall be transferred to another public retirement system that meets the requirement of a tax-qualified retirement plan under Section 401(a) of Title 26 of the United States Code.

(d) A refund, distribution, or transfer of contributions or other funds shall not be made to any employee or any district unless that action complies with the requirements of Section 401(a) of Title 26 of the United States Code.

(e) In the event of the transfer of district contributions to another public retirement system, the employee contributions shall also be transferred to the other public retirement system.

(f) The effective date of withdrawal of any resolution adopted pursuant to this section shall be at the end of the calendar month during which such resolution is adopted.

SUBTAB I-11

SUBTAB I-12

SUBTAB I-13

Failure #11: ("MCERA Failure"):

MCERA did not comply with the requirements of Section 401(h) of the Code and did not pay benefits from an account structured to comply with 401(h). In addition, from June 30, 2002 through June 30, 2006, MCERA credited amounts to retiree health insurance reserves even where MCERA had no excess earnings in violation of CERL 31592.4, which increased MCERA's unfunded actuarial liability by $9,557,912.

Required Correction of Failure #11: ("MCERA Failure"):

MCERA ceased providing retiree health benefits as of August 1, 2011. Up to that date, MCERA complied with the proposed model regulations, except to the extent disclosed in the VCP filing, that satisfy the requirements of Code section 401(h). Effective October 2011, MCERA complied with the model regulations. MCERA will ensure that the $9,557,912 in unfunded actuarial accrued liability improperly credited to retiree health reserves (and not to pension reserves) is repaid to the Plan by: 1) crediting the $658,653 in unused health reserves as of June 30, 2012 to the Plan, and 2) using employer contributions to pay off the remaining balance in amortized installments.

Evidence of Correction of Failure #11: ("MCERA Failure")

Statement of Plan Administrator that process was corrected.

On behalf of the Mendocino County Employees' Retirement Association (MCERA), I represent that MCERA credited $658,653 to the Plan, and is using employer contributions to pay off the remaining balance in amortized installments.

_____ _____
Signature Date

_____
Print Name

_____
Title

SUBTAB I-14

Subtab I-14

Failure #12: ("MCERA Failure"):

The Plan failed to revise its 402(f) notices to reflect the law changes made by EGTRRA and the Pension Protection Act of 2006 ("PPA") prior to March 2011.

Required Correction of Failure #12: ("MCERA Failure"):

MCERA has corrected the operational failure by providing 402(f) notices that reflect the law changes made by EGTRRA and the Pension Protection Act effective March 2011.

MCERA further amended its 402(f) notices to address *United States v. Windsor*, along with Revenue Ruling 2013-17, regarding the definition of "spouse" including same-sex marriages.

MCERA further amended its 402(f) notices to reflect the "Guidance on Allocation of After-Tax Amounts to Rollovers" contained in Notice 2014-54 that set forth rules for allocating pretax and after-tax amounts among disbursements that are made to multiple destinations from a qualified plan described in § 401(a) of the Internal Revenue Code.

Evidence of Correction of Failure #12: ("MCERA Failure")

MCERA's current 402(f) notice is attached.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS AND FEDERAL INCOME TAX

This notice explains how you can continue to defer federal income tax on your retirement savings in the Mendocino County Employees' Retirement Association ("MCERA" or "Plan") and contains important information you will need before you decide how to receive your Plan benefits. This notice summarizes only the federal (not state or local) tax rules that might apply to your payment. Other tax rules apply for California.

You are receiving this notice because all or a portion of a payment you are receiving from the Plan is eligible to be rolled over to an IRA, Roth IRA, or an eligible employer plan. A rollover is a payment by you or MCERA (your "Plan Administrator") of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. This notice is intended to help you decide whether to do such a rollover.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

General Information About Rollovers

How can a rollover affect my taxes?

You will be taxed on a payment from the Plan that is eligible for rollover (see "*How much may I roll over?*") if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

Where may I roll over the payment?

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an eligible employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan. For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment. If you roll over your benefit, however, to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or an IRA in a direct rollover, your benefit will no longer be eligible for that special treatment. See sections below entitled "*If you were born on or before January 1, 1936*" and "*If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?*"

How do I do a rollover?

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

How much may I roll over?

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Required minimum distributions after age 70½ (or after death)

The Plan administrator or payor can tell you what portion of a payment is eligible for rollover.

If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation;
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- Payments made after you separate from service if you are a public safety employee and you are at least age 50 in the year of the separation;
- Payments made due to disability;
- Payments after your death;
- Payments made directly to the government to satisfy a federal tax levy;
- Payments made under a qualified domestic relations order (QDRO); or
- Payments up to the amount of your deductible medical expenses.

If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for qualified domestic relations orders does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to $10,000 used in a qualified first-time home purchase, and (3) payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

Will I owe state income taxes?

This notice does not describe any State or local income tax rules (including withholding rules).

If my payment is not eligible for rollover, will it be subject to mandatory withholding?

If any portion of your payment is taxable, but cannot be rolled over, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, an amount will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask MCERA for the election form and related information.

What are the consequences for failing to defer receipt of an eligible rollover distribution?

If you choose to have an eligible rollover distribution (or a distribution that is not eligible for rollover) paid to you now rather than deferring receipt, for example, by leaving the money in the Plan, or by rolling over the eligible rollover distribution to a traditional IRA or an eligible employer plan:

- You could lose your ability to defer income taxes on the distribution until a later date.
- You may be subject to the additional 10% early distribution penalty if you receive payment before age 59½.
- Your benefit may be less now than it will be if you defer receipt until a later date.
- Your retirement savings may be reduced.

How much time do I have to decide?

Generally, neither a direct rollover nor a payment can be made from the plan until at least 30 days after your receipt of this notice. Thus, after receiving this notice, you have at least 30 days to consider whether or not to have your withdrawal directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Plan administrator.

Special Rules And Options

If your payment includes after-tax contributions

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is generally included in the payment, so you cannot take a payment of only after-tax contributions.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). The Plan Administrator can tell you the amount of any after-tax contributions included in your distribution request. If you do a direct rollover to an IRA of only a portion of the amount paid from the Plan and at the same time the rest is paid to you, the portion directly rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a distribution of $12,000, of which $2,000 is after-tax contributions. In this case, if you directly roll over $10,000 to an IRA that is not a Roth IRA, no amount is taxable because the $2,000 amount not directly rolled over is treated as being after-tax contributions.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of $12,000, of which $2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over $10,000 to an IRA that is not a Roth IRA in a 60-day rollover, no amount is taxable because the $2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

If you miss the 60-day rollover deadline

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs).

If you were born on or before January 1, 1936

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance

If you retired as a public safety officer and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income Plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of $3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

If you roll over your payment to a Roth IRA

If you roll over a payment from the Plan to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover).

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to $10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs) and IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs).

If you are not a plan participant

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "*If you were born on or before January 1, 1936*" applies only if the participant was born on or before January 1, 1936.

- *If you are a surviving spouse*

If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

Under current IRS guidance, effective June 26, 2013, same-sex couples legally married in a jurisdiction with laws authorizing same-sex marriage will be treated as married for federal tax purposes and the rules described in this Notice for surviving spouses will be applicable. Note that individuals who are in registered domestic partnerships, civil unions, or other similar relationships that may be recognized under state law but are not considered a legal marriage under state law, will not be treated as married for federal tax purposes. Individuals who are not considered married spouses for federal tax purposes would be covered by the rules described under the section below titled "*If you are a surviving beneficiary other than a spouse.*"

Note that California state law recognizes same-sex spouses and, for California state tax purposes, also treats registered domestic partners in the same manner as spouses. This means that it appears there will continue to be a difference in treatment of registered domestic partners for federal and California tax purposes. This area of the law is evolving and anyone affected by these situations may wish to consult with a professional financial or tax advisor.

- *If you are a surviving beneficiary other than a spouse*

If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

If you are a nonresident alien

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Other special rules

- If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).
- If your payments for the year are less than $200, the Plan is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.
- You may not elect to have separate portions of an eligible rollover distribution directly rolled over to multiple trustees or custodians.
- You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

For More Information

You may wish to consult with MCERA, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs); IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at www.irs.gov, or by calling 1-800-TAX-FORM.

If you have additional questions after reading this notice, you can contact MCERA at (___) ___-____.

SUBTAB I-15

Failure #13: ("MCERA Failure"):

The Plan failed to comply with the minimum distribution requirements of Code section 401(a)(9) with regard to two Plan members.

Required Correction of Failure #13: ("MCERA Failure"):

MCERA corrected the failure by distributing the required minimum distributions plus interest to the affected Plan members.

Evidence of Correction of Failure #13: ("MCERA Failure")

Statement of Plan Administrator that process was corrected.

On behalf of the Mendocino County Employees' Retirement Association (MCERA), I represent that MCERA has distributed the required minimum distributions, plus interest, to the two affected employees and has changed its procedures to comply with the minimum distribution requirements of section 401(a)(9) of the Code and MCERA has implemented these procedures in its operations.

_____ _____
Signature Date

_____
Print Name

_____
Title

SUBTAB I-16

Subtab I-16

Failure #14: ("MCERA Failure"):

The Plan established incorrect contribution rates for Plan Years ending June 30, 2010, June 30, 2011 and June 30, 2012, which led to member overpayments and employer underpayments of approximately $290,000, $275,000 and $200,000 in the aggregate, respectively, for each of those years. The member contributions consisted of pre-tax salary reduction contributions (employer pick-up contributions under section 414(h)(2)) and pre-tax contributions made by employers on behalf of members without any reduction in the members' salary.

Required Correction of Failure #14: ("MCERA Failure"):

MCERA corrected the failure by: 1) correcting the rates effective January 1, 2012, 2) crediting the excess member contributions to the participating employers with affected members, and 3) reducing required future contributions for those contributing employers with affected members on a dollar-for-dollar basis, provided that the employer directly repaid affected members the amount attributable to deductions from the affected members' salaries.

Evidence of Correction of Failure #14: ("MCERA Failure")

Statement of Plan Administrator that process was corrected.

On behalf of the Mendocino County Employees' Retirement Association (MCERA), I represent that MCERA 1) corrected the contribution rates effective January 1, 2012, 2) credited the excess member contributions to the participating employers with affected members, and 3) reduced required future contributions for those contributing employers with affected members on a dollar-for-dollar basis, provided that the employer directly repaid affected members the amount attributable to deductions from the affected members' salaries.

_____ _____

Signature Date

_____

Print Name

_____

Title