

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
RESOLUTION 2016-06**

PERTAINING TO REGULATIONS FOR IRC CODE SECTION 415 – ANNUAL LIMITS

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, on October 1, 2015, the Board of Retirement submitted to the Internal Revenue Service ("IRS") a request for a favorable determination that MCERA meets the applicable requirements of the Code; and

WHEREAS, the plan documents, including Regulations of MCERA Board of Retirement, were submitted for review with MCERA's determination letter application; and

WHEREAS, items of pay that are included in a member's "Total Compensation" for purposes of Code section 415 is defined in Section III.I.1 of Regulations for IRC Section 415(c), subsections 1.a through 1.f; and

WHEREAS, Section III.I.3 of Regulations for IRC Section 415(c) provides that payments the description of which meet the definition of "differential wage payments" provided in Internal Revenue Code section 3401(h)(2) are included in a member's Total Compensation, even if paid more than 2½ months after severance from employment or after the end of the Limitation Year, if later; and

WHEREAS, the IRS has requested that Regulations for IRC Section 415(c) be clarified to provide that the definition of compensation for purposes of Code section 415 includes "differential wage payments" as defined in Code section 3401(h)(2), pursuant to Section 105(b) of the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"); Therefore be it

RESOLVED that the Board of Retirement hereby amends Section III.I.1 of Regulations for IRC Section 415(c), to add new subsection "g." thereto, to read in its entirety as follows:

"Differential wage payments as defined in Internal Revenue Code section 3401(h)(2)."

The foregoing resolution introduced by Board Member Shari Schapmire, seconded by Board Member Patrick Sullivan, and carried this 14th day of December, 2016 by the following vote:

Ayes: Kathryn Cavness, John Sakowicz, Dan Gjerde, Ted Stephens, Craig Walker, Tim Knudsen, Jeri Harris, Shari Schapmire, and Patrick Sullivan.

Noes: 0

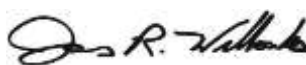
Absent: 0

Abstain: 0

WHEREUPON, the Chair declared said Resolution adopted, and SO ORDERED.



Dan Gjerde
Board of Retirement Chair

Attest: 

James R. Wilbanks, Ph.D.
Retirement Administrator