



COUNTY OF TULARE  
**BOARD OF RETIREMENT**

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**Tulare County Employees' Retirement Association**

**Resolution Regarding Pay Codes Included as Pensionable Income**

In accordance with the provisions of the California Public Employees' Pension Reform Act of 2012 (AB 340), the Board of Retirement for the Tulare County Employees' Retirement Association finds as follows:

- 1) 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
- 2) 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 pensionable compensation is governed by Government Code §7522.34; and
- 3) 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
- 4) The pension compensation for those 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
- 5) Government Code §31461 provides that this Board shall determine which items of remuneration earned by members constitute "compensation earnable"; and
- 6) 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

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:

**TULARE COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**  
**PAY CODES INCLUDED AS COMPENSATION EARNABLE PURSUANT TO GOVERNMENT**  
**CODE §31461 AND §7522.34**

	DESCRIPTION	Current Treatment	As of 1/1/2013 Legacy EE	As of 1/1/2013 New EE
21	Extended Clinic	Y	Y	Y
62	Hazard Pay	Y	Y	Y
65	Mgmt Pay – Drs1	Y	Y	Y
67	Ret 30 year member	Y	Y	Y
69	K-9 Pay	Y	Y	Y
73	Blood Draws	Y	Y	Y
74	License Pay	Y	Y	Y
101	Bilingual 5%	Y	Y	Y
118	Encounter Incentive	Y	Y	Y
119	Committee Assignment	Y	Y	Y
120	Adv Career Development	Y	Y	Y
121	Sr Career Development	Y	Y	Y
122	Lev III Career	Y	Y	Y
124	Sr Career Dev2	Y	Y	Y
125	Lev III Career2	Y	Y	Y
126	Midwife 15%	Y	Y	Y
130	Special Pay – Advance Career Develop	Y	Y	Y
131	Special Pay – Senior Level Career Dev	Y	Y	Y
132	Special Pay – Level III Career Develop	Y	Y	Y
134	Special Pay – Senior Level Career Dev	Y	Y	Y
135	Special Pay – Level III Career Develop	Y	Y	Y
136	Masters Degree Stipend in CWS	Y	Y	Y
140	Out-of-Class 5%	Y	Y	Y
141	Out-of-Class10%	Y	Y	Y
150	Limited Dual License	Y	Y	Y
151	Dual License	Y	Y	Y
160	Mgmt Pay – BOS	Y	Y	Y
161	Mgmt Pay – Drs2	Y	Y	Y
162	Mgmt Pay – Capt	Y	Y	Y
177	Bilingual .50/hr	Y	Y	Y
178	Acting Chief Pay	Y	Y	Y
179	Acting Officer Pay	Y	Y	Y
180	Certification Pay	Y	Y	Y
182	Fire FLSA Pay	Y	Y	Y
20	BOS C/VC	Y	Y	Y
201	BOS Chair Pay	Y	Y	Y
202	BOS Vice Chair	Y	Y	Y
361	Shift Differential - 4%	Y	Y	Y
362	Shift Differential - 6%	Y	Y	Y
48	Retro Pay Adjustment	Y	Y	Y
63	Field Training Officer	Y	Y	Y
66	Additional Pay: Y-rate	Y	Y	Y
68	STEP Pay	Y	Y	Y
70	Detective Pay	Y	Y	Y
71	Bomb Pay	Y	Y	Y
72	Shift Differential Adjustment	Y	Y	Y
77	Bilingual	Y	Y	Y
D	Dr Patient Satisfaction	Y	Y	Y
H	RVU Incentive	Y	Y	Y
M	Criminal Justice 15%	Y	Y	Y

**PAY CODES EXCLUDED AS COMPENSATION EARNABLE PURSUANT TO GOVERNMENT  
CODES §31461 AND §7522.34**

10	Benefits Taxable	Y	Y	Y
181	Order to Cover (for EE out of County)	Y	N	N
183	Out of County/Office (Emergency Services)	Y	N	N
19	BOS Car Allow	Y	Y	N
22	Benefits Non-Taxable	N	N	N
434	Non-Tax Assign Pay (Div Chief Acting as Chief)	Y	N	N
435	Non-Tax Acting Pay (Company Officer)	Y	N	N
436	Non-Tax Pay (Education Incentive)	Y	N	N
438	Non-Tax Order to Cover Pay	Y	N	N
45	Car Allowance	Y	Y	N
46	Sick Leave Buy Back	Y	Y	N
79	Uniform Allow	Y	Y	N
L	K-9 Feed	Y	N	N

The TCERA Board further determines that payments associated with the provision of insurance benefits, or other third party payments, such as professional membership dues, that are not received in cash by a member, shall be excluded from compensation earnable.

Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code shall be excluded from compensation earnable.

Employer contributions, if any, to deferred compensation or defined contribution plans shall be excluded from compensation earnable.

For those employees subject 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 the pension 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.

E. Pursuant to Government Code §31461(c), terms listed above 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.4<sup>th</sup> 734 and *In re Retirement Cases* (2003)110 Cal.App.4<sup>th</sup> 426.

Those employees who are subject to Government Code §7522.34 shall, in addition to those elements of pay described above, have the following excluded from compensation earnable:

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

B) Any bonus paid in addition to the compensation described in subdivision (a) of Government Code §7522.34.

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 Regulation was adopted by the Board of Retirement upon motion of Board member Roland Hill, seconded by Board member Gary Reed, at a regular adjourned meeting of this Board held on November 7, 2012, by the following vote:

Ayes: Cox, Woodard, Henry, Reed, Hill, Lippincott

Noes: Crawford, Bennett

Abstain: None

Absent: Watson