

**COUNTY OF TULARE
BOARD OF RETIREMENT**

TULARE COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**RESOLUTION PERTAINING TO REGULATIONS
FOR INTERNAL REVENUE CODE SECTION 415 – ANNUAL LIMITS**

WHEREAS, the Board of Retirement for the Tulare County Employees' Retirement Association ("TCERA") administers TCERA for the benefit of its members and their beneficiaries; and

WHEREAS, TCERA 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 November 23, 2015, the Board of Retirement submitted to the Internal Revenue Service ("IRS") a request for a favorable determination that TCERA meets the applicable requirements of the Code; and

WHEREAS, the plan documents, including Regulations of TCERA Board of Retirement, were submitted for review with TCERA'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 action was adopted by the Board of Retirement upon motion of Board member Young, seconded by Board member Vander Poel, at a regular meeting of this Board held on February 10, 2021, by the following vote:

Ayes:	Cook, Hernandez, Ross, Reed, Young, Kehler, Vander Poel, Vasquez, Finney
Noes:	None
Abstain:	None
Absent:	Hill, Polk