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RESOLUTION

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1 **WHEREAS**, In early 1998, FCERA, the Board of Retirement, and the County were
2 sued in three separate, and later consolidated, actions (the "Fresno *Ventura* 2 Cases") by a
3 class of members consisting of all retirees, deferred retirees, beneficiaries and employees
4 who were at that time members of FCERA ("FCERA Class Members").

5 **WHEREAS**, On December 15, 2000, the San Francisco Superior Court issued a
6 Judgment in the Fresno *Ventura* 2 Cases approving a Revised Settlement Agreement that
7 resolved all outstanding issues relating to the determination of "compensation earnable,"
8 pursuant to CERL Section 31461, as between the County, FCERA Class Members, FCERA
9 and the Board of Retirement ("Settlement Agreement").

10 **WHEREAS**, on December 16, 2009, the Board of Retirement first adopted this
11 Resolution regarding "compensation earnable" reported to FCERA by the FMAAA. .

12 **WHEREAS**, Effective January 1, 2013, the Legislature amended CERL section
13 31461. The Board of Retirement has determined that such amendment to CERL section
14 31461 does not require any changes to the FMAAA's reporting of "compensation earnable" to
15 FCERA.

16 **WHEREAS**, This Earn Code Resolution is not intended to limit the Board's statutory
17 authority and responsibility to exclude from "compensation earnable" "any compensation
18 determined by the board to have been paid to enhance a member's retirement benefit under
19 that system," as set forth in CERL section 31461(b)(1).

20 **WHEREAS**, After considering all of the information available to the Board, and
21 exercising its judgment in the matter,

22 **NOWHEREFORE BE IT RESOLVED,**

- 23 (A) That the Board of Retirement hereby determines that only those FMAAA earn
24 codes set forth in the list attached hereto as Exhibit A shall be included in
25 "compensation earnable" and all other FMAAA earn codes are excluded from
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1 "compensation earnable." Exhibit A shall supersede the earn code lists
2 attached to the December 16, 2009 earn code resolution.

3 (B) That the Board of Retirement hereby adopts the following Policies and
4 Guidelines, which shall be separate from the Board's Bylaws and the Board's
5 Regulations:

6 1. Elements to be Included in "Compensation Earnable".

7 Remuneration earned and received in cash by the employee for working
8 the ordinary time required of other employees in the same grade/class
9 during normal working hours shall be included in "compensation
10 earnable," including but not limited to the following items of
11 compensation, and others substantially similar to them:

12 Base Salary

13 "Differential" Pay and other similar additional compensation paid to
14 employees for special skills or services they provide or special
15 circumstances of their employment during normal working hours

16 Bilingual Premium Pay

17 Uniform Allowance (paid in cash, not in-kind)

18 Educational Incentive Pay

19 Longevity Incentive

20 Payoffs of Vacation and Sick Leave and Holiday, to the extent earned
21 and payable before termination under the applicable MOU

22 Employee Contributions to Deferred Compensation Plan

23 "Overtime" required to be worked that is ordinarily worked by all others in
24 the same grade/class/rate of pay

25 Compensatory Time (if not excluded as "true overtime" (see definition
26 below) and to the extent in excess of minimum required reserve)

1 Flexible Benefits to the extent paid in cash

2 Such additional elements as the Board may determine in the future.

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4 2. Elements to be Excluded From "Compensation Earnable".

5 Remuneration or other value received by the employee that is not
6 earned and paid in cash to the employee for working the ordinary time
7 required of other employees in the same grade/class during normal
8 working hours shall be excluded from "compensation earnable,"
9 including but not limited to the following items, and others substantially
10 similar to them:

11 True Overtime (amounts paid for working in excess of the time required
12 and ordinarily worked by all others in the same grade/class)

13 Employer Contributions to Deferred Compensation Plan

14 Employer Contributions to Retirement System

15 Employer "Pick-up" of Employee Contributions to Retirement System

16 Flexible Benefits provided in-kind (payments to 3d-party providers or
17 otherwise)

18 Terminal Pay

19 Expense Reimbursements

20 In-kind Advantages (e.g., food, lodging, laundry, fuel)

21 Fees, Licenses, Memberships provided to FCERA members by their
22 employers

23 Standby and On Call

24 Such additional elements as the Board may determine in the future.

25 3. This Earn Code Resolution does not, in any way, limit the Board's
26 statutory authority and responsibility to exclude from "compensation
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earnable” “any compensation determined by the board to have been paid to enhance a member’s retirement benefit under that system,” as set forth in Government Code section 31461(b)(1). Thus, amounts reported to the Board pursuant to this Earn Code Resolution are subject to exclusion from a member’s “compensation earnable,” pursuant to Government Code section 31461(b)(1).

(C) That this Resolution shall be effective immediately upon adoption.

1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002

This Resolution was adopted by the Board of Retirement of the Fresno County Employees' Retirement Association at a meeting of the Board on December 16, 2009 and was amended and restated at a meeting of the Board, held on this 18th day of December, 2013 by the following vote, to wit:

Ayes:

Nays:

Abstain:

Absent:

BOARD OF RETIREMENT

By: Dr. Rod Coburn III, Chairman

Attest: 
Phillip Kapler, Retirement Administrator

Exhibit A

Eligible Earn Codes - FMAAA - Pre-PEPRA Members

Code	Payroll System Description	Notes
01	REGULAR HOURS	
03	VACATION (TAKEN) - OLD A\L	Hired prior to October 19, 2000
04	VACATION (TAKEN) - NEW A\L	Hired on or after October 19, 2000
05	VACATION BUYOUT (Every 5 Yrs)	Allowed by Employer once every 5 years. <u>Not</u> retirement eligible for Tier V members. <u>Eligible</u> for Tiers I and II, but <u>limited</u> to the amount accrued and payable in the final compensation period for benefit determination purposes.
07	SICK LEAVE (taken) SELF	
08	SICK LEAVE (taken) FAMILY	
09	HOLIDAY (Paid, not worked)	Regular rate of pay for Observed Holiday not worked.
10	JURY DUTY	
11	BEREAVEMENT LEAVE (taken)	
12	JOB INJURY - ANNUAL LEAVE	
13	JOB INJURY - DAY OF INJURY ONLY	
17	DOCK TIME	Included at this time for all Tiers, subject to future review for consistency with all employer units.
18	ADMINISTRATIVE LEAVE WITH PAY PENDING INVESTIGATION	
19	CONTINUING EDUCATION CREDITS	Regular Pay while member is in training. Used for tracking of time spent in training, but not a "premium pay" element.
20	MERIT - SALARY INCREASE	Regular Pay. A category used for tracking compensation changes. Not a "premium pay" element or "one-time".
21	MERIT - ONE-TIME PAYMENT	<u>Eligible</u> for Tier I and II. (<u>not</u> eligible under Tier V, not regular or recurring)