MENDOCINO COUNTY EMPLOYEES RETIREMENT ASSOCIATION

RESOLUTION 2018 - 01

TO SUPERSEDE RESOLUTION 2017 – 01 DEFINING COMPENSATION EARNABLE PURSUANT TO GOVERNMENT CODE §31461 FOR MEMBERS WHO ARE NOT SUBJECT TO GOVERNMENT CODE §7522.34 (NON-PEPRA MEMBERS)

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 (PEPRA), 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RESOLVED that effective September 19, 2018, resolution number 2017 – 08 is superseded, and pursuant to Government Code §31461 as interpreted by the courts, the Board hereby makes the following determinations as to what is included in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 as of July 1, 2018:

1. Compensation earnable shall include:

Pay Code	Description
303	Vacation Pay-Out Non Management
304	Vacation Pay-Out Management
330	3% NC Rtd
331	5% Cert Rtd
406	Shift PM
407	Shift AM
409	Supervisor Shift
417	10% Bilingual
418	18.00 Bilingual
422	Confidential 5%
424	On Call 3.50 Per Hour
427	On Call 4.50 Weekends
432	Insurance Stipend

434	Clothing Allowance
435	Supplemental Pay to similarly situated members in the same grade or class.
437	Retroactive Longevity
438	2.5% Longevity
439	5% Longevity
440	On Call Regular
441	On Call Weekends/Holidays
443	7.5% Longevity
444	10% Longevity
445	Car Allowance
452	Retroactive Salary Adjustment
456	Board Of Supervisor Auto Allowance
457	BA Incentive
481	Longevity Yrs of Svc 1
482	Longevity Yrs of Svc 3
506	Shift PM – DSA $2
514	Standby Pay – Weekday
515	Animal Handler
516	Standby Pay – Weekend
520	Field/Specialized Training
521	Special Assignment
523	5% Bilingual – Probation
525	Uniform Allowance
528	Housing
529	Resident Deputy Bonus
530	Officer In Charge
531	Officer In Charge Level 2
532	Detective/Investigator Premium
556	AA/AS/Supv Incentive MCLEMA
557	Supv Incentive MCLEMA
558	10% BA Cert Incentive – MCLEMA
559	5% Regional
561	Hourly 5% Regional
567	3% Bilingual
581	Longevity Yrs of Svc 2
926	Uniform Non-Cash

2. Compensation Earnable, at a minimum, shall not include, in any case, the following pay items.

A. The following pay codes are not included:

Pay Code	Description
430	MERP Txble Reimb - Inactive

B. Pursuant to Government Code §31461(b) compensation earnable, shall not include in any case the following:

1. Any compensation determined by the Board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

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 in the final average salary period.

3. 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.

4. 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.

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, 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.

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

7. 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 any pay codes not specifically listed in this Resolution as included in compensation earnable shall be excluded from compensation earnable. In the event a new pay item is created by a plan sponsor, the new pay item shall be excluded from compensation earnable unless, and until, this resolution is amended by the Board of Retirement to include the pay item in compensation earnable.

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 Mr. Knudsen, seconded by Ms. Harris, and carried this 19th day of September, 2018, by the following vote:

Ayes: 8

Noes: 0

Abstain: 0

Absent: 1

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

Dan Gjerde
Board of Retirement Chair

Attest:

James R. Wilbanks, Ph.D.
Executive Director