

**MENDOCINO COUNTY EMPLOYEES'  
RETIREMENT ASSOCIATION**

**REGULATIONS FOR**

**IRC CODE § 401(a)**

**DISTRIBUTION RESTRICTIONS**

# **Mendocino County Employees' Retirement Association**

## **REGULATIONS FOR IRC SECTION 401(a) RETURN TO WORK AND SEPARATION FROM SERVICE**

### **SECTION I. PURPOSE AND SCOPE**

In accordance with section 31485.15 and section 31525 of the California Government Code, the regulations set forth herein are effective as of December 31, 2014, and reaffirm and clarify the existing practices of the Mendocino County Employees' Retirement Association (the "Association") with respect to the return to work of retired Members and a bona fide separation from service prior to such return to work applicable for the Association in accordance with the Internal Revenue Code (the "Code"). For these regulations, Code includes the Treasury regulations issued under the Code.

These regulations are intended to be in accordance with the Code and the applicable Treasury regulations. To the extent there is a conflict between these regulations and the Code and Treasury regulations, the applicable federal law will govern.

The Association may establish any reasonable procedures dealing with the return to work of Members following retirement under the Association and the requirement for a bona fide separation of service that it deems necessary or desirable for complying with applicable tax laws or for administrative purposes.

Terms defined in the County Employees' Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

### **SECTION II. RETURN TO WORK AND BONA FIDE SEPARATION FROM SERVICE**

For purposes of employment with the County or a participating employer under the Association after retirement for service, a Member who has not attained normal retirement age shall have a bona fide separation from service to the extent required by section 401(a) of Title 26 of the United States Code. A bona fide separation from service is defined as follows:

1. The Member has not entered into any predetermined agreement (either written or unwritten) with the County or a participating employer under the Association prior to retirement to return to work for a participating employer under the Association after retirement, regardless of the length of the separation.
2. Prior to entering into an agreement to return or returning to employment with the County or a participating employer under the Association while retired, the Member must have a separation from service of at least the greater of (a) any required separation from service prior to return to work required under the terms of the California Public Employees' Pension Reform Act of 2013 or (b) a 60 calendar day separation from service.

## **Mendocino County Employees' Retirement Association**

3. The Member may be employed by the County or a participating employer under the Association prior to the time in sections 1 and 2 for emergency situations as defined in Government Code section 8558.