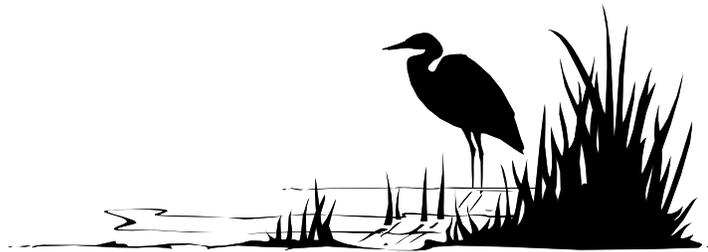


**Merced County Employees' Retirement  
Association**

**MCERA**



**BOARD OF RETIREMENT BY LAWS**

# TABLE OF CONTENTS

<b>I. Administration</b>	
1. Name	1
2. Purpose of Association	1
3. Definitions	1
4. Management	1
5. Communication and Requests to the Board	1
6. Officers	1
7. Elections and Appointment of Board Members	2
<b>II. Meetings</b>	
1. Regular Meetings	2
2. Special Meetings	2
3. Attendance	3
4. Training	3
5. Rules of Order	3
6. Quorum	3
7. Minutes	3
8. Disability Hearings	4
9. Confidentiality	4
<b>III. Membership</b>	
1. Membership Defined	4
2. Mandatory Membership	4
3. Exempt	5
4. Eligibility for Service Retirement	5
<b>IV. Evidence of Birth</b>	
1. Sworn Statement	6
2. Birth Certificate	6
3. Evidence of Beneficiary	6
<b>V. Election of Benefits</b>	6
<b>VI. Member Contributions</b>	
1. Normal contributions	7
2. Refund of Contributions	7
3. Re-deposits	7
4. Acceptance of Plan-to-Plan Transfers and Rollovers	7
5. Correction of Errors or Omissions	8

## **TABLE OF CONTENTS (Continued)**

<b>VII. Service</b>	
1. Current Service	9
<b>VIII. Compensation Earnable</b>	9
<b>IX. Additional Contributions</b>	10
<b>X. Interest on Employees Accounts</b>	10
<b>XI. Mortality Tables</b>	10
<b>XII. Amendments</b>	10
<b>XIII. Repeals</b>	11

**By Laws  
Of  
The Board of Retirement of  
Merced County Employees' Retirement Association**

**I. Administration**

- 1. Name**  
The name of this association is: “**Merced County Employees' Retirement Association**”
- 2. Purpose of Association**  
This Association is established pursuant and subject to the County Employee's Retirement Law of 1937, California Government Code Sections 31450 et seq., (1937 Act). For the purposes of carrying out the provisions of said Act, this Association is governed by the Act as supplemented by these bylaws. These bylaws are intended to implement the Act, and not to conflict with the Act and shall be interpreted accordingly.
- 3. Definitions**  
Words, terms and phrases used in these bylaws shall be as defined in the Act unless otherwise specified in these bylaws
- 4. Management**  
The Management of the Retirement Association shall be vested in the Board of Retirement.  
The routine day to day operation of the Retirement System is delegated to the Plan Administrator.
- 5. Communication and Requests to the Board**  
Unless brought personally to the Board at its regular meeting, all communication and requests to the Board, whether addressed to the Chair or to any individual member, shall be in writing and such requests and actions of the Board in response shall be noted in the minutes. Such communications should be sent to MCERA Board, 3199 M Street, Merced, California 95348.
- 6. Officers**  
Annually at the regular meeting in July, the Board of Retirement shall elect one of the members, pursuant to open nomination and roll call, Chair, Vice Chair and Secretary, each to hold office for a term of one year or until his successor is duly elected and qualified. Should any officer fail to for any reason to complete the term, the Board shall elect a successor for the balance of the unexpired term at its next regular meeting. Officers may be removed by a two-thirds vote of the entire Board.

**7. Election and Appointment of Board Members**

- a. Pursuant to Government Code Section 31520.1, and Section 31520.5 the Board shall be composed of nine (9) members, one alternate safety member and one alternate retired member.
- b. The following procedure shall be established for the election of the second, third, seventh, eighth members, the alternate safety member and the alternate retired member:
  - 1. The election shall be conducted by the County Registrar of Voters who shall establish the filing dates for candidates, the method of election, all election rules, the election date, and who also shall conduct the election and certify the results.
  - 2. The candidate who receives the highest number of votes of the ballots cast shall be declared the winner and new member of the Retirement Board to assume the seat for which the candidate ran at any Board of Retirement meeting following the expiration of the term of the incumbent.
  - 3. Approval of these bylaws by the Board of Supervisors shall be deemed approval of the election method for the retired members.
- c. Pursuant to Government Code Section 31521, the fourth, fifth, sixth, eighth, ninth and alternate eighth members of the Board shall receive compensation at the rate of one hundred dollars (\$100) per meeting, however limited to three meetings per month. A member must be an appointed member of a committee to receive compensation for attendance at a committee meeting. All members of the Board shall receive reimbursement for actual and necessary expenses consistent with Merced County travel and reimbursement policy.

**Article I amended September 13, 2007.**

**Article I, section 7(b) 2, amended February 11, 2009**

**Article I, section 7(a), (b), (c), amended July 8, 2010**

**Article I, section 2, amended September 9, 2010**

**II. Meetings**

**1. Regular Meetings**

Regular meetings of the Board of Retirement shall be held on the second and fourth Thursday in each month at 8:15 a.m. at the Retirement Office in Merced unless the place of the meeting is changed by order of the Board of Retirement and timely noticed. The first meeting shall be for administrative matters and the second meeting shall be for investment matters.

**2. Special Meetings**

Special meetings of the Board of Retirement may be called at any time by the Chair or Secretary or by any three members. A notice of not less than twenty-four hours as required by the Brown Act shall be given to each member except that requirement of notice is waived for any special meeting at which all members are present.

**3. Attendance**

Members are required to attend all meetings of the Board. The Board shall determine whether a member's absence from a meeting is excused or unexcused, the Board's determination shall be noted in the minutes. Members who have three consecutive unexcused or five unexcused absences in a calendar, year shall be deemed to have resigned their membership.

**4. Training**

The Merced County Employee Retirement Association Board of Retirement recognizes the importance of training for all trustees to enable them to perform the duties of their position. All Board of Retirement members shall be required to attend the CALAPRS Training course held annually at Stanford during their first term of office or any equivalent course sponsored by SACRS, CALAPRS or other educational organization. Equivalent shall mean a course similar in hours and subject matter as the Stanford course. Failure to attend such training without good cause shall subject a member to public censure.

**5. Rules of Order**

Roberts' "Rules of Order," except as otherwise provided herein, shall guide the Board of Retirement in its proceedings. The order of business shall be:

- a. Roll Call
- b. Reading of the Minutes
- c. Public Input
- d. Closed Session
- e. Applications for Disability Retirement
- f. Board Action/Discussion
- g. Consent Calendar
- h. Reports
- i. Other Business Information
- j. Correspondence

**6. Quorum**

Five members of the Board of Retirement constitute a quorum. No motions may be passed or business transacted without five affirmative votes.

**7. Minutes**

The Secretary shall cause to be recorded in the minutes, the date, time and place of each meeting of the Retirement Board, the names of members present, whether a Board member's absence is excused or unexcused, all official acts of the Retirement Board, the motions and seconds, the votes given by members of the Board, except where the action is unanimous, and when requested, a member's dissent or approval with reasons, and shall cause the minutes to be written up forthwith and presented for approval at the next regular meeting. The minutes or a true copy thereof, submitted by the Secretary and signed by the Chair shall form part of the permanent records of the Retirement Board; tape recordings of Board Meetings will be kept for 180 days from the date of taping.

**8. Disability Hearings**

Disability hearings shall be scheduled and conducted as provided under MCERA'S Disability Rules and Regulations.

**9. Confidentiality**

The Ralph M. Brown Act or the "Act", as codified in Government Code sections 54950- 54962, allows for legislative bodies, which includes the Merced County Employees Retirement Association or "MCERA", to hold closed or private meetings in accordance and compliance with the Act and to withhold from public disclosure proper closed session discussions and exchanges of information. Disclosure of closed session discussion or information by any individual MCERA Trustee or staff member would necessarily compromise and prejudice the position of MCERA in matters properly considered confidential under the Act. Therefore, no MCERA Board of Trustee or staff member shall publicly disclose any information received and discussed at a closed session, unless the information is authorized by law or by action of the MCERA Board of Trustees to be disclosed. Public or third party disclosure, either direct or indirect, of any proper closed session information by a MCERA Trustee or staff member shall be subject to sanctions as permitted by law, including but not limited to the barring of that member from future closed sessions, and/or obtaining an injunction against the person's public disclosures, and/or filing an accusation against the person for willful misconduct in office, and/or other sanctions or disciplinary actions as permitted and deemed appropriate by the MCERA Board of Trustees.

**Article II amended September 13, 2007.**

### **III. Membership**

**1. Membership Defined**

Membership shall be as defined by the 1937 Act as supplemented by these bylaws

**2. Mandatory Membership**

Any employee of the County of Merced, Merced County Superior Court or of any District included in the Retirement Association, who is eligible for membership, shall be considered to be a member on the first day of employment (as adopted by Board Resolution 98-02 in 1998) or on a date no later than six weeks after his or her entrance into service with the county for the purpose of establishing reciprocity with a prior

public agency. Newly hired employees who have attained the age of 60 and elected officials have the option of waiving membership. Employees hired prior to 1998 became members on the first day of the next payroll period following appointment to a full time permanent position.

**3. Exempt**

An employee who is classified by his department head in any one of the following classifications shall be exempt from membership in this Retirement Association:

- a. Extra Help
- b. Seasonal Employee
- c. Intermittent Employee
- d. Part Time Employee

**4. Eligibility for Service Retirement**

**a. General Members**

Any general member in Tier I with 10 years of retirement service credit who is age 50 or older, or with 30 years of retirement service credit regardless of age, is eligible for service retirement. Any general member under Tier 2 with 10 years of retirement service credit and age 55 or with 30 years of retirement service credit regardless of age is eligible for service retirement.

**b. Safety Members**

Any safety member in either Tier 1 or 2 with 10 years of retirement service credit who is age 50 or older, or with 20 years of retirement service credit regardless of age, is eligible for service retirement.

**c. Age 70**

Any member having attained the age of 70 may retire for service, regardless of their years of retirement service credit. You may retire at 65 if you were a member prior to December 31, 1978

**d. Retirement service credit**

Retirement service credit for retirement eligibility is defined as 10 years of continuous county service for which contributions are paid or if deferred, after five years of continuous county service for which contributions are paid at any time at which the member could have retired had the member remained in county service in a full-time position.

**Article III amended September 13, 2007.**

**Article III, section 1, amended, section 4 added, September 9, 2010**

**IV. Evidence of Birth**

**1. Sworn Statement**

Every employee who is made a member of the Retirement Association shall immediately fill out and properly execute a sworn statement form that complies with Section 31526(b) of the 1937 Act. The failure to comply with this requirement shall give the Board the discretion to determine the rate of contribution.

**2. Birth Certificate**

a. Every member who applies for retirement benefits shall be required to submit a certified copy of his/her birth certificate.

b. If unable to secure a birth certificate, the following documents will be acceptable to the Retirement board:

(1) Any one item of the following:

- Infant Baptismal certificate
- Hospital birth record
- Authenticated family record

Or

(2) Any two items of the following:

- Notarized Affidavit by older member of family
- Certificate of military service
- Marriage record if age is shown
- Naturalization certificates issued by the Immigration and Naturalization Service
- Child's birth certificate showing age of parent

In the event of a discrepancy of age, the earliest birth date shall prevail. The evidence of birth shall be submitted to the MCERA staff. If the evidence of birth satisfies the criteria above, the same shall be accepted by the MCERA staff. If the evidence does not meet the criteria above or is not acceptable to the MCERA staff, same shall be submitted to the Board to determine whether evidence of birth shall be accepted by MCERA staff.

**3. Evidence of Beneficiary**

At the time of applying for a retirement benefit, the employee shall provide evidence of marriage or Domestic Partner Registration if the designated beneficiary is a spouse or domestic partner. Evidence of birth as described Section 2 above, shall be submitted for other beneficiaries.

**Article IV amended September 9, 2010**

**V. Election of Benefits**

Prior to the first payment of the retirement allowance, each member shall be furnished with a document indicating the amount of his or her retirement allowance, both on the unmodified or optional methods of payment. This document shall provide for the signature of the member, indicating the choice as to type of allowance desired. This completed document shall constitute the annuity certificate provided for in section 31526 (c) of the 1937 Act.

**Article V amended September 9, 2010**

**VI. Member Contributions**

**1. Normal Contributions**

Contributions shall be based on the compensation earnable and age of member and shall be deducted only for the pay periods during which service for compensation is rendered. Partial contributions are prohibited. A whole contribution shall be deducted during each pay period in which earnings will permit a whole contribution.

**2. Refund of Contributions**

a. A member terminating membership and employment from the plan sponsor may receive a refund of contributions, including interest last credited if any. The date of termination is the date the employee last received compensation on the payroll. A request for a refund shall be made in writing.

b. At the regular meetings immediately preceding June 30 and December 31 of each year, the Board will declare the rate of interest which shall be credited to the members' and employers' accounts prospectively in accordance with the 1937 Act.

**3. Re-deposits**

a. After a refund of contributions, if a member fails to re-deposit in cash or signify his intention to re-deposit in monthly payments, he forfeits credit for past service and his rate of contribution is then based on his age at the time of re-entrance.

b. A member who wishes to re-deposit the amount previously withdrawn plus interest may do so upon application to the Retirement Board. In its discretion the Retirement Board may allow a period of up to five years but no longer than the length of the service being purchased for such repayment. If no request is made regarding a specific duration for repayment or if re-deposit is not made in cash, the re-deposit shall be made by means of increased normal contributions each month until such re-deposit has been completed, provided, however, that this period shall not extend beyond 60 months after the date of re-entrance into the retirement system.

**4. Acceptance of Plan-to-Plan Transfers and Rollovers**

a. To the extent authorized by federal law, MCERA shall accept plan-to-plan fund transfers and accept rollover funds from qualified plans to satisfy the lump sum

payment of contributions.

- b. If a member becomes entitled to receive a distribution that constitutes an eligible rollover distribution within the meaning of section 401 and section 408 of the Internal Revenue Code, the member may elect to have the distribution or a portion thereof paid directly to MCERA.
- c. If a member becomes entitled to a distribution that constitutes a distribution within the meaning of Section 457 of the Internal Revenue Code, the member may elect to have the distribution paid directly to MCERA.

## **5. Correction of Errors or Omissions**

- a. The Board of Retirement may in its discretion and upon terms it deems just and to the extent permitted by law, correct the errors or omissions made by any active or retired member or any beneficiary of any active or retired member provided that:
  - (1) A written request for correction is filed with the Board within six months after discovery of the error or omission.
  - (2) The error or omission was a result of mistake, inadvertence, surprise or excusable neglect.
  - (3) The correction will not provide the party seeking correction with a status, right or obligation not otherwise available under the County Employees' Retirement Law of 1937.
- b. The Board of Retirement may correct prospectively all actions taken as a result of errors or omissions of the Merced County Employees' Retirement Association.
- c. Corrections of errors or omissions pursuant to this section may be implemented retroactively and shall include the collection or return of inaccurate contributions or benefits together with interest.
- d. If the Board of Retirement finds that the error or omission is due to a clerical error by MCERA the Board may in its sole discretion waive the period for the commencement of actions in order to adjust the payment due to the member. Clerical error is defined as those errors of a mechanical, mathematical or clerical nature not including judgment or discretion and not intended by MCERA.
- e. **Authority to Refrain from Collection**  
The Board may refrain from collecting an overpayment of benefits or underpayment of contributions if the Board determines in its reasonable discretion that the costs of collection would exceed any probable recovery.

- f. **Offset against Future Benefit Payments**  
MCERA may correct an error or omission by offsetting the amount to be recovered against future benefits. A member's benefits will not be reduced by more than ten percent (10%) per month unless the member agrees to a higher amount.
- g. **Right to Appeal Board Decisions**  
Any member or beneficiary who is dissatisfied with the MCERA'S determination pursuant to this section shall upon request be entitled to a hearing before the Board of Retirement. Any such request for hearing shall be made in writing and within thirty (30) days after notice of MCERA'S action correcting the error or omission is mailed by certified or registered mail to the member or beneficiary.
- h. **Rights and Remedies Cumulative**  
The rights and remedies provided in this section are in addition to any other rights and remedies any party may have at law or equity.

## **VII. Service**

### **1. Current Service**

Credit shall be given for each hour of service rendered for compensation after July 1, 1950 for which a contribution is made by the employee to the retirement system unless the member qualifies for a thirty (30) year exemption.

When computing service, such service shall be calculated by hours. No member shall be credited with more than 2,080 hours of service in any one year.

## **VIII. Compensation Earnable**

Compensation Earnable: Effective October 1, 1997 and pursuant to Government Code section 31460 et seq. as interpreted by the California Supreme Court in *Ventura County Deputy Sheriffs' Association vs. Board of Retirement et al*, the "Compensation Earnable" of a member shall include only those items indicated by their title and pay code for which a retirement contribution is calculated and as listed in the pay code schedule maintained by the Auditor and as periodically amended, titled, Merced County Human Resources Department, Personnel Table, Attendance Special Pay and as approved by Resolution of the Retirement Board.

The Board of Retirement recognizes that compensation paid by an employer to an employee may take many different forms, some of which may not be or may not be known to the Board at this time, and some of which may change with succeeding collective bargaining agreements. Accordingly, the Board will make the determination of inclusion or exclusion in compensation earnable at such time that additional items of compensation are made known to the Board. Additionally, in the event a participating employer alters the manner in which compensation is paid, the Board will consider whether the altered benefit continues to meet the definition of “Compensation Earnable.”

### **IX. Additional Contributions**

No additional contributions in excess of those provided in the County Employees’ Retirement Act of 1937 can be made by any member of the Retirement Association.

### **X. Interest on Employees Accounts**

At the Retirement board meeting immediately preceding December 31<sup>st</sup> and June 30<sup>th</sup> of each year, the Board shall declare the rate of interest which shall be credited to the employees’ contributions. Such rate shall be adopted in conformance with the Board of Retirement Interest Crediting Policy currently in effect.

### **XI. Mortality Tables**

The Retirement Board, upon the advice of its actuary, shall adopt necessary mortality and other tables required in the operation of the system.

### **XII. Amendments**

The Retirement Board may, as it deems necessary and desirable, amend these by-laws at any regular Board meeting by an affirmative vote of at least five (5) Board members and shall become effective immediately following approval by the Merced County Board of Supervisors.

### **XIII. Repeals**

All former by-laws, regulations and resolutions of policy inconsistent with these regulations are hereby repealed.

The foregoing By-Laws were adopted by the Merced County Employees' Retirement Association Board upon motion of Board member Donnie Washburn, seconded by Board member Karen Adams at a regular meeting of the Board held on January 12, 2006.

Ayes: Adam, Busby, Crookham, Lindsey, Rodriguez, Washburn

Noes: Gilsdorf

Abstain:

Absent: Cabral and Safety Member

By \_\_\_\_\_ Date\_\_\_\_\_

Absent: Cabral & Safety Member

Approved by Board of Supervisors February 28, 2006

Amended by Board of Retirement September 13, 2007

Approved by Board of Supervisors October 16, 2007

Amended by Board of Retirement February 11, 2009

Approved by Board of Supervisors May 12, 2009

Amended by Board of Retirement July 8, 2010

Amended by Board of Retirement, September 9, 2010

Approved by Board of Supervisors, September 28, 2010