

SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION

HEALTH CARE – CODE SECTION 401(h) POLICY

I. PURPOSE

To affirm that the San Diego County Employees Retirement Association (the "Association") will comply with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended (the "Code") and to clarify the provisions of Sections 31592.2, 31592.4, 31691, 31691.1, 31694-31694.3, 31694.6, and 31696.3 of the California Government Code.

II. POLICY

A. General Rule

Notwithstanding any provision of the Association to the contrary, to the extent benefits are payable from a Code section 401(h) account, the Association shall comply with the requirements of Code section 401(h) and the Treasury Regulations thereunder. Except to the extent permitted by Code section 401(h) and Code section 420, no assets shall be transferred or otherwise paid from the fund held by the Association for retirement benefits to a Code section 401(h) benefits account (a "Code section 401(h) Account"). For the purpose of clarity, employee contributions "picked-up" by an employer, if any, shall not be used to provide any benefits from the Code section 401(h) Account. No assets shall be transferred or otherwise paid from a Code section 401(h) Account to the funds held by the Association for retirement benefits.

B. Code Section 401(h) Requirements

For purposes of clarity, the Association shall comply with the following requirements to the extent set forth in Code section 401(h) and Treasury Regulation section 1.401-14:

1. All benefits provided out of a Code section 401(h) Account shall be subordinate to the retirement benefits provided by the plan,
2. A separate account shall be established and maintained for benefits provided pursuant to Code section 401(h) although, as set forth in Treasury Regulation section 1.401-14, separate investing is not required,
3. Contributions to a Code section 401(h) Account shall be reasonable and ascertainable,
4. It shall be impossible, at any time prior to the satisfaction of all liabilities under the Association to provide such benefits, for any part of the corpus or income of a Code section 401(h) Account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits and the expenses thereof,
5. Notwithstanding the provisions of Code section 401(a)(2), upon the satisfaction of all liabilities under the Association to provide such benefits, any amount remaining in such separate account shall, under the terms of the Association, be returned to the contributing employer,

C. In the case of an employee who is a key employee as defined in Code section 401(h), a separate account shall be established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a key employee) are only payable to such employee (and his spouse and dependents) from such separate account,

1. The Association shall specify the benefits which will be available and the amount that will be paid, and
2. If a Member's interest in the Code section 401(h) Account is forfeited prior to the termination of the Plan, the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the Code section 401(h) Account.

REVIEW

This policy shall be reviewed by the Board at least every three (3) years and may be amended at any time.

HISTORY

June 7, 2012	Adopted, effective immediately
June 5, 2014	Adopted, effective as of the date Code Section 401(h) first became applicable to the Association
February 5, 2015	Adopted, effective as of the date Code Section 401(h) first became applicable to the Association