

Tulare County

Defined Contribution Committee

ByLaws

Adopted October 27, 1981

Revised	October 22, 1985	March 14, 1994
	September 12, 1994	June 9, 2003
	March 13, 1995	September 8, 2003
	September 11, 1995	December 13, 2004
	September 25, 1995	March 14, 2005 (Proxies clarified)
	March 8, 1999	June 17, 2005
	June 14, 1999	March 13, 2006
	December 13, 1999	March 19, 2007
	March 13, 2000	September 10, 2007
	March 11, 2002	

Restated April 5, 2011

Revised September 30, 2013
September 29, 2014
June 15, 2015

1.0 **FORMATION**

1.1 The Tulare County Employees Deferred Compensation Committee was formed October 27, 1981, by Resolution 81-2183 of the Tulare County Board of Supervisors, and changed to the Tulare County Employees Defined Contribution Committee (“Committee”) on September 18, 2007, by Resolution 2007-0625. The operation, governance and appointments shall continue according to these ByLaws.

2.0 **PURPOSE**

2.1 The Defined Contribution Plan (commonly referred to as the “457(b) Plan” based upon the Internal Revenue Code section 457(b)) is designed to permit Eligible Employees of Tulare County to defer a portion of their Eligible Earnings in order to provide for themselves and their Beneficiaries supplemental defined contribution retirement benefits. The 457(b) Plan is intended to meet the requirements for an eligible deferred compensation plan under IRS Code Section 457(b). The benefit under the 457(b) Plan shall at all times be limited to those payable from each Participant’s Investment Accounts.

2.2 It is the intent of the County of Tulare Board of Supervisors and the Committee that the Plan conform to the authority set forth in Sections 53212-53214 of the Government Code of the State of California. The Plan is intended to qualify as an eligible State Defined Contribution Plan within the meaning of Section (b) of the Internal Revenue Code of 1954 as amended.

2.3 While the County intends to continue the Plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with these ByLaws.

2.4 Except as provided in these ByLaws, limits on amounts deferred, trust fund allocation and valuation, benefit distributions and withdrawals, timing for minimum distribution retirements, voluntary in-service distributions, vesting and forfeitures, temporary suspension of plan provisions, rollovers and plan to plan transfers into and out of the 457 Plan, electronic media, rights of an alternate payee under qualified domestic relations orders, facility of payment and military service shall be governed by the relevant provisions of the Internal Revenue Code and implementing regulations.

2.5 To the fullest extent possible, these ByLaws shall be construed to be consistent with the Internal Revenue Code and implementing regulations, and nothing herein shall be interpreted or construed to be inconsistent with such Code or Regulations.

3.0 **DEFINITIONS**

3.1. **“Agent”** shall mean any agent duly authorized to perform specified duties by its respective principal.

- 3.2. **“Alternate Payee”** means any spouse or former spouse of a Participant who is recognized under a QDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.
- 3.3. **“Beneficiary”** means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant’s death. The designation may be made and may be revoked or changed, only by a written instrument (in a form acceptable to the Committee) signed by the Participant and filed with the Committee before his or her death.
- 3.4. **“Board”** means the Tulare County Board of Supervisors
- 3.5. **“Chair” or “Chairperson”** means the Committee member duly voted by a majority of the Committee to serve as Chair of the Committee
- 3.6. **“Code”** means the Internal Revenue Code of 1986, as amended.
- 3.7. **“Committee”** means the Administrative Committee serving as the administrator of the plan, which may delegate all or part of its powers, duties, and authority in such capacity.
- 3.8. **“County”** means the County of Tulare, a political subdivision of the State of California, or other governmental agency that has “opted into” the Tulare County 457(b) Plan and agrees to abide by the terms of the Plan as administered by the Committee.
- 3.9. **“Eligible Earnings”** means any compensation for service performed for the County which is currently includable in gross income under the Code.
- 3.10. **“Eligible Employee”** means a full-time or part-time permanent employee, who is within an employment classification established by the County.
- 3.11. **“Employee”** means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income or employment tax purposes.
- 3.12. **“Investment Accounts”** means the accounts established by the trustee for a Participant
- 3.13. **“Investment Fund”** means any investment alternative made available under the plan. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.
- 3.14. **“Participant”** means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.

3.15. **“Plan”** means the Tulare County Defined Contribution program as set forth in the Plan Document, Adoption Agreement, these Bylaws, Investment Policy and Committee actions consistent therewith.

3.16. **“Plan Administrator”** means the Auditor-Controller/Treasurer-Tax Collector.

3.17. **“Plan Year”** means a calendar year.

3.18. **“Proxy”** means a formal power of attorney document that may be signed and voted on by a representative of the Committee, which authorizes the vote on behalf of the shareholders.

3.19. **“DRO”** or **“Qualified Domestic Relations Order”** or **“ODRO”** means a domestic relations order that satisfies the requirements of Code Section 414(p)(1) and is consistent with the terms of the Plan.

3.20. **“Retirement”** means separation from employment after having met or exceeded the minimum age and service requirements for an unmodified service benefit under the County Employees’ Retirement Law of 1937 (the ’37 Act).

3.21. **“Separation from Employment”** or **“Separated from Employment”** means any termination of a Participant’s relationship with the County as an Employee, including termination due to death or retirement.

3.22. **“Trust Fund”** means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

4.0 **DEFERRED COMPENSATION COMMITTEE**

4.1 **Composition:** The Defined Contribution Committee shall consist of 11 members, or their designees who must be permanent appointees and who must be members of the office or department of the appointing officer, except that the County Administrative Officer may appoint a designee who is not a member of his or her office, as follows:

4.1.1. County Auditor-Controller/Treasurer-Tax Collector

4.1.1.1. The Auditor-Controller/Treasurer-Tax Collector shall be the Plan Administrator. The Plan Administrator duties are as set forth in the Plan.

4.1.2. County Assessor

4.1.3. County Director of Human Resources & Development

4.1.4. County Administrative Officer

4.1.5. Five (5) active full-time County employees, one (1) nominated by each member of the Board of Supervisors and approved by the Board of Supervisors.

4.1.5.1. The Chairperson is to contact the Supervisor of each district requesting that they appoint designees.

4.1.6. One (1) retired County employee appointed at large by the Board of Supervisors.

4.1.6.1. The retiree member must be a current participant in the Plan, or must have previously participated in the Plan.

4.1.7. County Counsel

4.2 Membership: Upon appointment, each Committee Member shall have all rights, powers, privileges, liabilities and duties established by these ByLaws.

4.3 Alternates: Committee Members may each designate one Alternate Committee Member who will have all rights, powers, privileges, liabilities and duties established by these ByLaws when attending a meeting in the absence of a full member, or conducting business as directed by that member. Alternates must be appointed and approved by the Committee to serve as the designated alternate to a specifically named Committee Member.

4.4 Term: Each member holding office due to their identified position shall serve by virtue of and only so long as he/she holds the identified position. All members shall serve Four (4) year terms and the terms shall be staggered.

4.5 Resignations: Any elected or appointed Committee member who becomes ineligible to serve based on an inability to meet the eligibility requirements of the position or incapacity to attend meetings and participate fully in the Committee's deliberations shall resign from the Committee by submitting a letter to the Chairperson indicating the effective date of his/her resignation. An elected or appointed Committee member who chooses to resign for any other reason shall similarly submit a letter to the Chairperson indicating the effective date of his/her resignation.

4.6 Authority Re: Bylaws

4.6.1. Board of Supervisors: The Committee has the delegated authority of the Tulare County Board of Supervisors to amend these ByLaws and Delegations and any subsequent amendments thereto.

4.6.2. Committee: The Committee has the authority to adopt rules, regulations, or procedures consistent with these ByLaws, the Plan Document and Regulatory Law. The Committee may also interpret, alter, amend and revoke any rules,

regulations and procedures that are inconsistent with these ByLaws, the Plan Document and Regulatory Law.

4.7 Duties & Responsibilities

4.7.1. Administer and exercise its authority under the Plan for the exclusive benefit of Plan participants and their beneficiaries

4.7.2. Rule on all questions arising out of the administration, interpretation and application of the Plan, which determination shall be conclusive and binding on all Participants

4.7.3. Provide a diverse array of investment options providing Plan participants opportunities to devise investment strategies appropriate for their individual investment objectives and risk tolerance

4.7.4. Exercise prudence and diligence in the selection of contractors providing support services to the Plan

4.7.5. Exercise prudence and diligence in all matters regarding the collection of and expenditure of participant fees

4.7.6. Adopt and administer a Plan Document which shall provide for the appropriate administration of the Plan consistent with Internal Revenue Code Section 457, the regulations promulgated thereunder, and other applicable and related portions of Federal and State law.

4.7.7. The duty to act always for the exclusive benefit of Plan participants and their beneficiaries shall take precedence over any other duty

4.7.8. No member of the Committee shall be entitled to vote on decisions personal to his/her own participation in the Plan.

4.6.8.1. Any issues involving a potential conflict of interest of a Committee member regarding any issue may be referred to the Committee's legal counsel for advice and determination.

4.7.9. In governing the Plan, the Committee is committed to acting in strict accordance with its fiduciary duties, including those of prudence, loyalty and care. Consistent with their fiduciary duties, Committee members will strive to meet the highest standards of ethical conduct.

4.7.10. Developing and Adoption Policies: Approve and amend as necessary policies to ensure appropriate administration of the Plan

4.7.11. Reviewing & Evaluating Performance: Monitor the performance and institutional viability of its various investment providers, incorporating where applicable appropriate performance benchmarks and peer comparisons.

4.7.12. Effectively and proactively communicate with participants to advise them of the rules, benefits and features of the Plan.

4.7.13. Establish permanent or standing Committees as appropriate to facilitate the operation of the Plan

4.8 Counsel

4.7.1. Unless legal services are otherwise contracted by the Plan, County Counsel shall provide all legal services to the Committee in connection with their administration of the Plan

4.7.2. If the Committee determines that outside legal counsel is required in connection with the administration of the Plan, or any of its components, the Committee may contract with such legal counsel. The cost for such outside legal services shall be a proper charge against the County.

4.9 Special Advisor Under 457(b) Code: If, in the discretion of the Committee, an outside consultant with specialized knowledge of Section 457 of the Code is required in connection with the Administration of the Plan, the Committee may contract with such consultant. The cost for any such outside consultant shall be a proper charge against the County.

5.0 **GOVERNANCE & ADMINISTRATION OF MEETINGS**

5.1 Committee Officers: The Committee shall elect a Chairperson and Vice-Chairperson at its last meeting prior to the first meeting of the Calendar Year; or in the event one of the individuals holding one of these titles separates from the Committee, at the earliest possible meeting following that individual's separation. Presiding over meetings shall be the responsibility of the Chairperson; or in the absence of the Chairperson, the Vice-Chairperson; or in the absence of both the Chairperson and the Vice-chairperson, the most senior Committee Member.

5.2 Chairperson Duties & Responsibilities: The Chairperson will exercise the powers and will perform the duties and functions as specified herein:

5.2.1. Recommend to the Committee for its consideration the formation, or dissolution of standing committees;

5.2.2. Preside at all Committee meetings, ensuring that such meetings are conducted in an efficient manner and in accordance with applicable public meetings laws, and relevant Committee policies.

5.3 **Vice-Chairperson Duties & Responsibilities:** The Vice Chairperson will exercise the powers and will perform the duties and function as specified herein:

5.3.1. Assume the duties of the Chairperson when the Chairperson is absent, or when the Chairperson shall designate the Vice-Chairperson to act; and

5.3.2. Assume the duties of Chairperson for the balance of the Chairperson's term or until the Committee elects a new Chairperson in the event of the death, resignation, removal from office or permanent disability of the Chairperson.

5.4 **Meeting Schedules**

5.4.1. Regular Set Meetings: The Defined Contribution Committee will meet quarterly, or as otherwise scheduled.

5.4.2. Cancellation Of Regular Meetings: If in their judgment it is determined there are insufficient matters to be discussed, the Chairperson, or a majority of the Committee may cancel and/or reschedule any of the regular quarterly meetings.

5.4.3. Special Meetings: The Committee may hold special meetings at the call of the Chairperson or upon the call of a majority of the Committee, and upon such notice as is required by law.

5.4.4. Annual Investment Fund Review Meeting: The Defined Contribution Committee will meet in May, or as otherwise scheduled, for an annual Investment Fund Review meeting.

5.5 **Compliance with Brown Act:** All meetings of the Committee shall be called, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950, et seq., of the Government Code as said Act may be amended. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the committee may briefly respond to statements made or questions posed by persons exercising their public comment rights or to ask a question for clarification, refer the matter to staff or to other resources for factual information or request staff to report back at a subsequent meeting concerning any other matter.

5.5.1. Public Comment: Matters Not On Agenda: Members of the public may comment on any item not appearing on the agenda. Under state law, matters presented under Public Comment cannot be discussed or acted upon by the Board at that time. No person shall be permitted to speak unless he or she is recognized by the Chair and given permission by the Chair to speak.

5.5.2. Public Comment: Agendized Items: For items appearing on the agenda, the public is invited to make comments at the time the item comes up for Board

consideration. Upon being recognized by the Chair, such person may speak or present evidence relevant to the matter being heard.

5.5.3. Right to Speak: No person shall be denied the right to speak because he or she declines to disclose his or her name, address or telephone number.

5.5.4. Time Limit: Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak with a total of fifteen (15) minutes allotted for the Public Comment Period. However, the Chairperson, in his or her discretion, may extend such time as he or she may find reasonable under the circumstances or may further limit the time if the time anticipated to complete the agenda is unusually long.

5.6 Quorum, Voting Requirements & Staff Attendance

5.6.1. The Committee shall exercise the powers conferred upon it by order or resolution, adopted by a majority of its members.

5.6.2. To provide a clear record of Committee actions, roll call for voting at Committee meetings shall be taken when the vote is not unanimous.

5.6.3 The Committee shall consist of eleven (11) voting members and six (6) shall constitute a quorum for regular and special meetings of the Committee. Vacant positions shall not be counted for quorum purposes.

5.6.4. Subcommittees

5.6.4.1. All motions transacted by a sub-committee are subject to Committee approval unless the Committee has granted the subcommittee specific authority to act on its own (e.g., actions pertaining to the Committee's own operation such as approving agenda, meeting schedules, etc.)

5.6.4.2. A quorum is not required for a subcommittee to move a recommendation for the Committee

5.6.4.3. Any Committee member may attend and participate in discussions of any meeting of any subcommittee of the Committee; however, at any committee meeting (or at any committee that has become a Special Meeting of the Committee due to the presence of a quorum of the Committee), only members of the subcommittee may vote.

6.0 PROXIES

6.1 Proxies: Any proxies we receive will be reviewed and researched by the Defined Contribution Committee or its agent

6.1.1. The Committee or its consulting firm will make a recommendation based on their findings as to whether the committee should vote a proxy or not. The Chairperson has the authority to either vote the proxy or to call a special meeting of the full committee.

6.1.2. The Chairperson will make a report as to how proxies were voted at the quarterly meetings.

7.0 **PLAN & PLAN ADMINISTRATION**

7.1 **Plan Adoption & Amendment:** The Board adopted the Tulare County Defined Contribution Plan by Board Resolution 98-1086 on December 15, 1998. It was amended again on April 30, 2002 by Board Resolution 2002-0307 and on December 13, 2005, by Board Resolution 2005-0795. The Plan was most recently amended on September 14, 2010, by Board Resolution 2010-0721.

7.2 **One Full Pay Period Waiting Period For Disbursements After Termination**
There will be a one-full-pay-period waiting period following an employee's termination date that requests for full disbursement or transfers of funds will be held pending the final deferral into the deferred comp plan. This is to prevent deferred comp accounts from being closed out without a proper final reconciliation.

8.0 **FISCAL ADMINISTRATION POLICY**

8.1. **Revenue Sharing Fees:** The Committee maintains an interest bearing account with its Record Keeper which functions as a repository for administrative fees collected in order to meet the Plan's contractual obligations in running the Defined Contribution Plan. Monies maintained in the Revenue Sharing Account shall be used to pay for all administrative and operating costs of the Plan, as approved by the Committee, and under no circumstances may these Revenue Sharing monies be used for any purpose other than for plan related expenses.

8.2. **Administrative Expense Reimbursement Allowance:** The Record Keeper for the plan will track all revenue generated from the plan to offset operational expenses incurred in the administration of the Plan.

9.0 **PROCUREMENT PROCESSES AND CONTRACTING**

9.1 **Service Provider Contract**

9.1.1. Unless events reasonable dictate otherwise, no later than 18 months prior to the expiration of the term of the contract with the service provider to Defined Contribution Plan, the Committee shall determine whether to renegotiate an extension of the contract with the current provider, or whether to solicit bids from

other providers pursuant to a formal RFP process. If the Committee determines to renegotiate an extension of the contract with the current provider, this recommendation shall be taken to the Board of Supervisors for ratification. If the Committee determines to renegotiate an extension of the contract with the current service provider, the negotiation of the new contract shall be completed no less than 12 months prior to the expiration of the term of the existing provider contract to allow time to pursue a formal RFP process if necessary.

9.1.2. If in the opinion of the Committee, circumstances, economic conditions or timing exist the preclude the full RFP process, the County may extend to the same provider a one-time 2 year extension in lieu of the full RFP process. In providing the extension, performance standards must be included.

10.0 **COMMITTEE EDUCATION AND TRAVEL POLICIES**

10.1. The Committee recognizes that education and training can support the proper fulfillment of Committee/staff roles and responsibilities. The Committee further recognizes that educational expenses are paid from participant fees and therefore education must be appropriate and relevant, and the expenditure of funds judicious, such that the expenditure will result in a demonstrable benefit to Plan participants.

10.2. Education Objectives: The objectives of the Committee's education program are to promote awareness of the following subject areas involved in administering the Plan.

- The obligations and role of a fiduciary and the paramount duties of loyalty and prudence
- Ethics requirements dictated by State or Federal law as well as adopted by Board policy. Committee Members shall comply with AB1234 Ethics training requirements.
- The legal and regulatory framework for defined contribution plans generally and Section 457 Plans specifically
- The best practices of similar organizations administering similar programs
- The ongoing administrative responsibilities of the Plans' service providers and staff
- Principles of investment manager selection and performance review

10.3. Core Elements of Education Program: The core elements of the Committee's education program include the following:

- Fiduciary Training
- Ethics Training
- Legal/Regulatory Training
- Best Practices Training
- Plan Services & Administration
- Investment Training

10.4. New Committee Member Orientation: New Committee member orientation will provide a general introduction to the Plan to include a description of the Plan's

governance; plan history; service provider relationships; demographics and statistics; operational responsibilities and summary of pending issues

10.5. Travel Policies: The following policies will govern all travel in support of training and education paid for by the Plan.

- All Committee members and staff will comply with County travel guidelines and policies.
- Each attendee is required to provide a post-conference evaluation detailing what information was obtained from the conference and how the information benefited the Plan.

10.6. Delegation of Authority for Approval of Travel & Education Expenses: This Committee determines it is in the best interest of the Plan to delegate the approval of expenditures for Travel & Education to the Plan Administrator. The Plan Administrator, or his or her designee, is hereby directed to consider any requests for travel and education consistent with the guidelines set forth herein, and is authorized to consent or to withhold consent for such expenditures.

11.0 **INDEMNIFICATION & IMMUNITIES**

11.1 In the absence of other coverage, the County of Tulare shall indemnify and reimburse to the fullest extent permitted by law, members of the Committee and other employees and former employees acting for and on behalf of the Plan for any and all expenses, liabilities or losses arising out of any act or omission relating to membership on the Committee or for the management and administration of the Plan, except in instances of fraud, corruption or actual malice.

12.0 **ADDITIONAL PROVISIONS**

12.1 Non-Alienation: To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assigned by the Participant or Beneficiary, nor shall any right or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution or levy of any kind, voluntary or involuntary.

12.2 No Enlargement of Employment Rights: By accepting benefits under the Plan, a Participant does not agree to continue in the employment of the County for any period, and the County, by adopting the ByLaws of this Plan, does not obligate itself to continue the employment of any Participant for any period.

12.3 Severability Provision: If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

12.4 Construction: Except to the extent of a conflict with federal law, the Plan shall be governed, construed, and administered according to the laws of the State of California.

All person accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions. Where there is a conflict or inconsistency between the provisions of these ByLaws and the Plan, the latter will override the ByLaws to the extent of the inconsistency.

13.0 **UNFORESEEABLE EMERGENCY APPEALS**

13.1 If a request for unforeseeable emergency is denied by Great West, the applicant has the right to appeal the decision. The appeal must be in writing, with all supporting documentation attached. The appeal document must note the reason an appeal is being requested. Only the evidence or documentation submitted at the time of the original unforeseeable emergency request shall be considered in the appeal. No new information shall be considered on appeal. If the applicant wishes to submit new evidence, he/she must submit a new request for unforeseeable emergency through Great West.

The appeal should be submitted to the Plan Administrator at the address shown below and must be received within 30 days of the letter of denial.

Plan Administrator
221 S. Mooney Blvd., Room 101-E
Visalia, CA 93291

The request for appeal shall be reviewed and decided by the Plan Administrator. The decision of the Plan Administrator shall be final and binding.

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