

**RESOLUTION NO. 2024-2**

**RESOLUTION OF THE RETIREMENT BOARD OF ALLEGHENY COUNTY RE:  
BONUS PAYMENTS TO HIGHLY COMPENSATED EMPLOYEES**

WHEREAS the Retirement Board of Allegheny County is vested with the authority to adopt rules and regulations to administer the Allegheny County Employees' Retirement System ("Plan") under 16 P.S. § 4705.

WHEREAS the Plan is administered in accordance with the governing statutory provisions set forth in 16 P.S. §§ 4701-4716 ("Retirement Law") and applicable provisions of the Internal Revenue Code and the regulations thereto.

WHEREAS the Retirement Law defines "County employee" to include "any person employed by an authority formed after January 1, 1998" (16 P.S. § 4701).

WHEREAS the Allegheny County Airport Authority (ACAA) was formed after January 1, 1998, and its employees participate in the Plan.

WHEREAS the ACAA has a performance bonus policy whereby upper management and executive level personnel are eligible to receive bonus compensation equal to a percentage of the employee's annual compensation for the prior calendar year if the ACAA meets certain organizational goals and/or budget outcomes.

WHEREAS highly compensated employees of the ACAA are eligible for bonus compensation as described above.

WHEREAS this Resolution is promulgated to clarify the scope of "compensation" for purposes of the Plan and its administration; and

WHEREAS this regulation shall apply to highly compensated employees as defined herein whether employed by the ACAA or the County of Allegheny or any other authority or second class county entity participating in the Plan.

NOW THEREFORE, be it RESOLVED, and it is hereby RESOLVED, that the following regulations apply to the Plan:

## SECTION ONE

### *Definitions*

When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise:

1.01 “**Applicable Year**” shall mean the calendar year that was reviewed to determine whether to pay a Bonus.

1.02 “**Board**” or “**RBAC**” shall mean the Retirement Board of Allegheny County.

1.03 “**Bonus**” shall mean payment(s) by the Employer to an Employee that is in addition to the Employee’s regular wages or salary and is issued for services previously rendered during the Applicable Year for which the Employee received wages or salary that were treated as Compensation under the Plan for the prior Plan Year.

1.04 “**Compensation**” is defined generally and for Plan purposes in 16 P.S. § 4701 and Board Resolution and excludes HCE Bonuses in accordance with this Resolution.

1.05 “**Compensation for HCE Purposes**” is defined as the “participant’s compensation” as set forth in Section 3.03 below.

1.06 “**Employee**” shall mean any person employed by the Allegheny County Airport Authority or the County of Allegheny or any other authority or second class county entity recognized as a “County Employee” under 16 P.S. § 4701 and a participant in the Plan.

1.07 “**Employer**” shall mean the Allegheny County Airport Authority or the County of Allegheny or or any other authority or second class county entity participating in the Allegheny County Employee’s Retirement System.

1.08 “**Highly Compensated Employee**” or “**HCE**” shall mean any Employee who had compensation in the Applicable year from the Employer in excess of the amount identified in 26 U.S.C.A. § 414(q)(B)(i) as adjusted annually by the Secretary of Labor.

1.09 “**HCE Bonus**” shall mean a Bonus payable to a Highly Compensated Employee.

1.10 “**Participant**” shall mean an Employee or former Employee who is accruing benefits under the Plan or who is or will be receiving benefits.

1.11 “**Participant’s compensation**” refers to the compensation received from the Employer for the year, as defined in 26 U.S.C.A. § 415(c)(3)(A), (D).

1.12 “**Plan**” is the pension plan administered by the RBAC and is synonymous with the Allegheny County Employees’ Retirement System.

1.12 “**Plan Year**” shall mean the twelve (12) consecutive-month period ending on December 31.

## SECTION TWO

### *Findings in Support of Regulation Concerning HCE Bonuses*

2.01. Bonuses paid to Highly Compensated Employees are a unique form of additional and irregular compensation.

2.02. HCE Bonuses are based on the Employer's review and determination that it met organizational goals with respect to revenue and/or budget outcomes for the Applicable Year.

2.03 HCE Bonuses are paid during the calendar year following the Applicable Year, which was reviewed for purposes of determining whether such bonus will be issued.

2.04. HCE Bonuses are calculated by multiplying the Employee's salary from the Employer for the Applicable Year by a specified percentage.

2.05. HCE Bonuses are separate from, and in addition to, the Employee's regular wages or salary received during the Applicable Year.

2.06 Recipients of HCE Bonuses have already contributed to the Plan and received service credit with respect to the wages or salary received during the Applicable Year.

2.07. HCE Bonuses are not regular wages or salary and fall outside of "Compensation" as defined in 16 P.S. § 4701.

2.08. The RBAC is authorized to promulgate this regulation to address and clarify the proper treatment of HCE Bonuses under the Plan pursuant to 16 P.S. § 4705.

## SECTION THREE

### *Regulation Concerning Bonuses to HCE's for Plan Purposes*

3.01 **Regulation:** All HCE Bonuses shall be governed by this regulation and shall not be treated as "compensation" under the Plan. Accordingly, the recipients of HCE Bonuses shall not have employee contributions deducted from such payment(s).

3.02 **Applicable Standard:** For purposes of Regulation, the Board adopts the compensation test set forth in 26 U.S.C.A. § 414(q)(B)(i). The Board does not elect or adopt the clause in 26 U.S.C.A. § 414(q)(B)(ii). Under the compensation test, an Employee is highly compensated if their compensation during the Applicable year exceeded the dollar threshold in in 26 U.S.C.A. § 414(q)(B)(ii).

3.03 **HCE Dollar Threshold:** The Secretary of Labor is required to adjust the HCE threshold amount "at the same time and in the same manner as under" 26 U.S.C.A. § 415(d). This annual adjustment is published through a Notice ordinarily titled "[year] Limitations Adjusted as Provided in Section 415(d), etc."

The HCE threshold was adjusted to \$155,000 for 2024 and \$160,000 for 2025. In the preceding five years, the threshold was adjusted as follows: \$150,000 for 2023, \$135,000 for 2022, \$130,000 for 2021, \$130,000 for 2020, and \$125,000 for 2019.

The annual adjustment shall apply automatically, upon publication, under this Regulation.

**3.04 Compensation for HCE Purposes:** For purposes of determining who qualifies as a HCE, the Board adopts the definition of “participant’s compensation” under 26 U.S.C.A. § 415(c)(3)(A), (D), and including deferrals identified in § 403(b)(3)(A), (B). “Participant’s compensation” means compensation from the Employer for the Applicable Year and includes:

- (a) any elective deferral as defined in 26 U.S.C.A. § 402(g), such as “any employer contributions under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year” and “any employer contribution to purchase an annuity contract under section 403(b) under a salary reduction agreement.”
- (b) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of 26 U.S.C.A. § 457.

**3.05 Reporting Highly Compensated Employees:** The Employer shall annually, or upon request, identify to the Plan all Highly Compensated Employees who are eligible to receive or have received a Bonus.

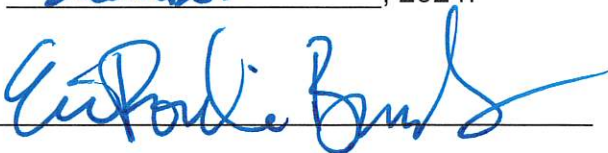
## SECTION FOUR

### *Miscellaneous*

**4.01 Amendment:** This Resolution amends and supplements the definition of “Compensation” in Article One, § 1.02 of Resolution 2024-1.

**4.02 Conflict:** This Resolution supersedes any prior resolutions, rules, or regulations to the extent that there is a conflict.

RESOLVED, this 19 day of December, 2024.

  
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