

Adopted: June 22, 2016

Policy 490-L  
Original 2016

Revised: \_\_\_\_\_

## 490-L LOOK BACK ACA MEASUREMENT METHOD POLICY

*[Note: The 2010 Federal Affordable Care Act (ACA) requires employers to track employee hours for the purpose of determining an employee's full-time status.]*

### I. PURPOSE

The purpose of this **Look Back Measurement Method Policy** (the “Policy”) is to describe the method by which this Employer will determine an Employee’s status as a Full-Time or Part-Time Employee for purpose of Section 4980H. This policy is intended to be interpreted and applies in a manner consistent with Section 4980H.

### II. DEFINITIONS

A. **Break in Service** means a period during which an Employee or former Employee is not credited with any Hours of Service due to a termination of employment, leave of absence, etc. For special rules regarding the impact of a Break in Service, see Section III.D(1) hereof.

B. **Employee** means a common law employee of the Employer.

C. **Employer** means Freshwater Education District No. 6004.

D. **Full-Time Employee** means an Employee who has been determined, in accordance with this Policy, to satisfy the definition of “full-time employee” that applies for purposes of Section 4980H.

E. **Hour of Service** means, subject to the exceptions and special rules contained in Section 4980H, each hour for which an Employee is paid or entitled to payment for (i) the performance of duties for the Employer, or

- (ii) a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military leave, or leave of absence.
- F. **Initial Administrative Period** means the period following the end of an Initial Measurement Period (and preceding the beginning of an Initial Stability Period) during which the Employer can perform administrative tasks, such as calculating the average hours for the Initial Measurement Period, determining eligibility for coverage, providing enrollment materials to eligible Employees, and conducting enrollment. The Initial Administrative Period shall run for a period of one calendar month
- G. **Initial Measurement Period** means the period over which Hours of Service are accrued by certain New Employee in accordance with Section III.B hereof. The Initial Measurement Period shall be a period of 12 months running from Employee's first day of the calendar month following the Employee's first day of employment with the Employer.
- H. **Initial Stability Period** means the period during which the status as a Full-Time Employee or Part-Time Employee of an Employee who has completed an Initial Measurement Period is fixed, provided that the Employee continues to be an Employee during this period and subject to the exceptions described in Section III.B hereof. The Initial Stability Period begins on the day following the close of the Initial Administrative Period and shall run for a period of 12 months.
- I. **New Employee** means an Employee (1) who has not been employed by the Employer for at least one full Standard Measurement Period, or (2) who has had a Break in Service and, as a result, is treated as a New Employee upon return to service as provided in Section III.D(1).
- J. **Ongoing Employee** means any Employee who (1) has been employed by the Employer for at least one full Standard Measurement Period, and (2) cannot be treated as a New Employee due to a Break in Service.
- K. **Part-Time Employee** means an Employee who has been determined in accordance with this Policy to not satisfy the definition of "full-time employee" that applies for purposes of Section 4980H.

- L. **Seasonal Employee** means an Employee who is hired by the Employer into a position for which the customary annual employment period (1) is six months or less, and (2) begins each calendar year at approximately the same part of the year. In general, a position will be considered to have customary annual employment of six months or less if, due to the nature of the position, an employee in the position typically works for a period of six months or less.
- M. **Section 4980H** means Section 4980H of the Internal Revenue Code and the regulations issued thereunder, as amended, and all applicable IRS guidance interpreting such statute and regulations.
- N. **Standard Administrative Period** means the period following the end of the Standard Measurement Period (and preceding the beginning of the Standard Stability Period) during which the Employer can perform administrative tasks, such as calculating the average hours for the Standard Measurement Period, determining eligibility for coverage, providing enrollment materials to eligible Employees and conducting enrollment. The Standard Administrative period shall run from May 1<sup>st</sup> each calendar year to the following June 30<sup>th</sup>. However, effective November 1<sup>st</sup>, 2016 the Standard Administrative period shall run from November 1<sup>st</sup> each calendar year to the following December 31<sup>st</sup>.
- O. **Standard Measurement Period** means the period over which Hours of Service are accrued by Ongoing Employees in accordance with Section III.C hereof. The Standard Measurement Period shall be a period of twelve months running from May 1<sup>st</sup> each calendar year to the following April 30<sup>th</sup>. However, effective for the Standard Stability Period beginning on January 1, 2017, and all subsequent Standard Stability Periods, the Standard Measurement Period shall run from November 1<sup>st</sup> each calendar year to the following October 31<sup>st</sup>.
- P. **Standard Stability Period** means the period during which an Ongoing Employee's status as a Full-Time Employee or Part-Time Employee is fixed, provided that the Employee continues to be an Employee during this period and subject to the exceptions described in Section III.D hereof. The Standard Stability period shall run from July 1<sup>st</sup> each calendar year to the following June 30<sup>th</sup>. However, effective January 1<sup>st</sup>, 2017 the Standard Stability period shall run from January 1<sup>st</sup> each calendar year to the following December 31<sup>st</sup>.

Q. **Variable Hour Employee** means an Employee with respect to whom, based upon the facts and circumstances at the Employee's start date with the Employer, the Employer cannot determine whether the Employee is reasonably expected to be employed on average at least 30 Hours of Service per week during the Initial Measurement Period because the Employee's Hours of Service are variable or otherwise uncertain.

### III. DETERMINING FULL-TIME STATUS

A. **New Full-Time Employees.** A new Employee who, based upon the facts and circumstances at the Employee's start date with the Employer, is reasonably expected to be employed on average at least 30 Hours of Service per week during the Initial Measurement Period shall be considered a Full-Time Employee as of his/her start date. Until he/she becomes an Ongoing Employee, such Employee's status as a Full-Time Employee or Part-Time Employee will be determined in accordance with the "monthly measurement method" as described in Section 4980H (i.e., the Employee is a Full-Time Employee for any calendar month in which he/she was employed for at least 130 Hours of Service determined after the end of the month).

B. **New Variable Hour, Seasonal and Part-Time Employees.** A New Employee who is (1) a Variable Hour Employee, (2) a Seasonal Employee, or (3) an Employee who was not determined to be a Full-Time Employee under Paragraph A above shall be subject to an Initial Measurement Period. If he/she remains employed by the Employer upon the start of the Initial Stability Period and if he/she was employed on average at least 30 Hours of Service per week during the Initial Measurement Period, such Employee will be a Full-Time Employee during the Initial Stability Period (subject to the exceptions described in Section III.D hereof). If he/she remains employed by the Employer upon the start of the Initial Stability Period and if he/she was employed on average less than 30 Hours of Service per week during the Initial Measurement Period, such Employee will be considered a Part-Time Employee during the Initial Stability Period (subject to the exceptions described in Section III.D hereof).

C. **Ongoing Employees.** An Ongoing Employee's status as a Full-Time Employee or Part-Time Employee shall be determined based upon such Ongoing Employer's average Hours of Service during each Standard Measurement Period. If he/she is employed by the Employer upon the start

of a particular Standard Stability Period and if he/she was employed on average at least 30 Hours of Service per week during the preceding Standard Measurement Period, such Employee will be a Full-Time Employee during such Standard Stability Period (subject to the exceptions described in Section III. D hereof). If he/she is employed by the Employer upon the start of a particular Standard Stability Period and if he/she was employed on average less than 30 Hours of Service per week during the preceding Standard Measurement Period, such Employee will be considered a Part-Time Employee during such Standard Stability Period (subject to the exceptions described in Section III. D hereof).

#### **D. Special Rules**

- (1) **Employees Returning from Breaks in Service.** If an Employee experiences a Break In Service, the rules described in this Section III.D(1) and the applicable rules found in Section 4980H (including, but not limited to, the rules regarding special unpaid leave) shall apply.
  - (a) An Employee who experiences a Break in Service of at least 26 consecutive weeks may be treated as a New Employee upon returning to active service with the Employer (or otherwise being credited with an Hour Service).
  - (b) An Employees who experiences a Break in Service of at least 4 consecutive weeks but less than 26 consecutive weeks may be treated as a New Employee upon returning to active service with the Employer (or otherwise being credited with an Hour Service) if such Employee's Break in Service was longer than his/her most recent period of active service with the Employer.
  - (c) An Employee who experiences a Break in Service and who may not be treated as a New Employee upon return to active service with the Employer in accordance with the foregoing rules shall be treated as a continuing Employee upon return to active service with the Employer (or otherwise being credited with an Hour Service). Such Employee shall retain the status he/she had prior to the Break in Service with respect to the remainder of any applicable Initial Stability Period or Standard Stability Period.

**(2) Changes in Employment Status.** If an Employee experiences a change in employment status, the rules described in this Section III.D(2) and the applicable rules found in Section 4980H shall apply.

(a) If an Employee who is subject to an Initial Measurement Period experiences a change in employment position or status during such Initial Measurement Period such that, if the Employee had been hired in the new position or status, the Employee would have reasonably been expected to be employed average at least 30 Hours of Service per week (and would not have been a Seasonal Employee), such Employee will be treated as a Full-Time Employee as of the effective date of the change in employment status, unless an earlier date applies under Section III.B.

(b) Notwithstanding anything herein to the contrary, if a Full-Time Employee experiences a change in employment position such that, if the Employee had been hired in that new position, he/she would have been (based upon the facts and circumstances) reasonably expected not to be employed by the Employer on average at least 30 Hours of Service per week, then the Employer shall determine such Employee's future status as a Full-Time Employee or Part-Time Employee using the monthly measurement method described in Section 4980H beginning with the fourth full calendar month following the Employee's change in status until the end of the first full Standard Measurement Period (and the associated Standard Administrative Period) that would have applied had the Employee remained subject to the look-back measurement method described herein. For any month during such period in which such Employee was not employed at least 130 Hours of Service, such Employee will be treated as a Part-Time Employee. The special rule described in this Section III.D(2)(b) shall apply only (i) with respect to an Employee to whom the Employer offered minimum value coverage no later than the first day of the calendar month following the Employee's initial three full calendar months of employment with the Employer and continued to offer such coverage through the calendar month in which the Employee's employment status changed, and (ii) if such Employee actually averages less than 30 Hours of

Service per week for each of the three full calendar months following the change in employment status.

(3) **Transition from New Employee to Ongoing Employee.** When an Employee who was subject to an Initial Measurement Period first completes a Standard Measurement Period, such Employee's status as a Full-Time Employee or Part-Time Employee shall be determined in accordance with Section 4980H. In general, if such Employee was determined to be a Full-Time Employee during either his/her Initial Measurement Period or the first applicable Standard Measurement Period, such Employee shall be a Full-Time Employee for the entire associated stability period.

(4) **Less than 12-Month Employees.** A special rule applies with respect to employees of educational organizations that work *solely* during the academic year (i.e., less than 12 months). Hours of service are calculated for the months of the academic year. The average monthly hours for that period are imputed to the months of the year that are not part of the academic year. Alternatively, hours of service are calculated for the months of the academic year and they are averaged only over the months of the academic year. The resulting average is used as the monthly average hours of service. The intention is that the months that are not part of the academic year are neutral; they do not improve a person's average monthly hours and they do not lower a person's average monthly hours.

***Legal References:*** 2010 Affordable Care Act. Section 4980H.