



Board of Administration

Agenda Item 8a1

November 15, 2023

Item Name: Proposed Decision – In the Matter of the Appeal of Benefit Formula of DIETER C. DAMMEIER, Respondent.

Program: Retirement Benefit Services Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent Dieter C. Dammeier's (Respondent) position is included in Attachment C, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent established membership in CalPERS while working for the City of Claremont from 1989 to 1999, as a "classic" member of CalPERS. Respondent separated from the City of Claremont and worked the next 22 years in private practice. In 2022, he accepted employment with the State, this time as a "new" member of CalPERS under PEPRA. Respondent is still working for the State.

In 2022, Respondent requested that CalPERS prepare retirement estimates based on an anticipated retirement date of March 7, 2023. CalPERS provided him with estimates that calculated his benefits with two different formulas, "classic" and "new" member. Respondent appealed CalPERS' computation of his retirement benefits using two different formulas, arguing that his last highest final compensation amount should be used to calculate his retirement benefit for both his classic and PEPRA time. The matter was heard by the Office of Administrative Hearings on May 25, 2023. A Proposed Decision was issued on August 22, 2023, dismissing Respondent's appeal as moot.

Alternatives.

A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated August 22, 2023,

concerning the appeal of Dieter C. Dammeier; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 22, 2023, concerning the appeal of Dieter C. Dammeier, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 22, 2023, concerning the appeal of Dieter C. Dammeier, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. Precedential Nature of Decision (two alternatives; either may be used):

- 1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Dieter C. Dammeier, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

- 2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Dieter C. Dammeier.

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Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Kimberly A. Malm
Deputy Executive Officer
Customer Services and Support