



Board of Administration

Agenda Item 8a10

November 20, 2024

Item Name: Proposed Decision – In the Matter of the Appeal of Accepting the Late Request to Change from Service Retirement to Industrial Disability Retirement of JESUS CASTILLO, Respondent, and PAROLES AND COMMUNITY SERVICES DIVISION, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

Program: Disability and Survivor Benefits Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Jesus Castillo'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 retired for service effective December 31, 2013. On February 8, 2023, Respondent applied for industrial disability retirement (IDR) and requested that CalPERS change his service retirement to disability retirement retroactive to December 31, 2013. CalPERS denied Respondent's request to file a late application for IDR and to change his retirement status from service to IDR. Respondent appealed CalPERS' determination. The matter was heard by the Office of Administrative Hearings on September 12, 2024. Due to Respondent Paroles and Community Services Division, California Department of Corrections and Rehabilitation's (Respondent CDCR) failure to appear, the case proceeded as a default under Government Code section 11520 as to Respondent CDCR only. A Proposed Decision was issued on October 7, 2024, affirming CalPERS' determination, and denying the appeal.

Alternatives

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

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517, subdivision (c)(2)(C), which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision, by removing 20160, 20340 and 21453, and adding

21151 in the parentheses at the top of page 3; removing “and uncertain” on page 14, paragraph 6; and replacing “(§ 20340, subd. (a))” with “(§ 21152, subd. (d))” on page 14, paragraph 8 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated October 7, 2024, as modified, concerning the appeal of Jesus Castillo; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. 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 October 7, 2024, concerning the appeal of Jesus Castillo; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

C. 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 October 7, 2024, concerning the appeal of Jesus Castillo, 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.

D. 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 October 7, 2024, concerning the appeal of Jesus Castillo, 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.

E. 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 Jesus Castillo, 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 Jesus Castillo.

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
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Customer Services and Support