



Board of Administration Offsite

Action Item – Proposed Decisions of Administrative Law Judges Item d

July 13, 2022

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation Calculation of RAUL M. ROJAS, Respondent, MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, Respondent, and COUNTY OF MARIN, Respondent

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Raul M. Rojas' (Respondent Rojas) position is included in Attachment C, if any.

Respondent Marin County Employees' Retirement Association's (Respondent MCERA) and Respondent County of Marin's (Respondent County) positions are 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 Rojas submitted an appeal regarding CalPERS' determination that the Auto Allowance he received from Respondent County could not be included in the calculation of his final compensation for purposes of determining his CalPERS retirement allowance. The matter was heard by the Office of Administrative Hearings on May 2, 2022. A Proposed Decision was issued on June 1, 2022, 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 (c)(2)(C) which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision, by replacing "May 6, 1994" with "May 5, 1994" in paragraph 1 on page 2

of the Proposed Decision; replacing “Los Angeles County Employees Retirement Association” with “Los Angeles County Employees’ Retirement Association” in paragraph 15 on page 5 of the Proposed Decision; striking “and County Employees Retirement Law (CERL)” from line 14 in paragraph 15 on page 5 of the Proposed Decision; striking “Special compensation and pay rate specifically do not include: ‘Compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobiles, and bonuses for duties performed after the member’s regular work shift.’ (Gov. Code, § 20636, subd. (g)(4)(I) (emphasis added).)” from paragraph 10 on page 12 of the Proposed Decision; replacing “anu” with “any consecutive” in paragraph 11 on page 12 of the Proposed Decision; and replacing “Gov. Code, § 20636, subd. (g)(4)(I)” with “Gov. Code, § 20636, subd. (c)” in paragraph 16 on page 14 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated June 01, 2022, as modified, concerning the appeal of Raul M. Rojas; 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 June 01, 2022, concerning the appeal of Raul M. Rojas; 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 June 01, 2022, concerning the appeal of Raul M. Rojas, 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 June 01, 2022, concerning the appeal of Raul M. Rojas, 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 Raul M.

Rojas, 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 Raul M. Rojas.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
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Customer Services and Support