



## Board of Administration

# Agenda Item 2a3

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**June 20, 2023**

**Item Name:** Proposed Decision – In the Matter of the Appeal of Forfeiture of Benefits of ROBERT F. SANCHEZ, Respondent, and CITY OF SAN LEANDRO, Respondent.

**Program:** Retirement Benefit Services Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Robert F. Sanchez'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 was employed as a Police Sergeant with the San Leandro Police Department (Respondent City). On October 27, 2020, a felony criminal complaint was filed against Respondent alleging violation of Penal Code section 504 (embezzlement of public funds) and three violations of Penal Code section 424 (public officer crimes), all felonies. On June 14, 2021, upon his plea of no contest, Respondent was convicted of violating Penal Code section 487, subdivision (a) (grand theft), a felony. On August 18, 2021, CalPERS notified Respondent that his felony conviction mandated removal of 1.328 years of service credit. Respondent submitted an appeal to the determination. The matter was heard at the Office of Administrative Hearings on December 8, 2022. Due to Respondent City's failure to appear, this matter proceeded as a default under Government Code section 11520 against Respondent City only. A Proposed Decision was issued on March 30, 2023, affirming CalPERS' determination and denying the appeal.

### **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 March 30, 2023,

concerning the appeal of Robert F. Sanchez; 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 March 30, 2023, concerning the appeal of Robert F. Sanchez, 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 March 30, 2023, concerning the appeal of Robert F. Sanchez, 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 Robert F. Sanchez, 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 Robert F. Sanchez.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

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