



## Board of Administration

# Agenda Item 2a4

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**June 20, 2023**

**Item Name:** Proposed Decision – In the Matter of the Reinstatement from Disability Retirement of AMY M. EDELEN, Respondent, and DEPARTMENT OF CONSUMER AFFAIRS, 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 Amy M. Edelen'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**

On September 21, 2010, Respondent submitted an application for disability retirement based on rheumatological (fibromyalgia) and neurological (headache) conditions. On December 10, 2010, CalPERS approved her application for disability retirement based on her rheumatological condition, and she retired for disability effective immediately.

On December 28, 2020, Respondent was informed that CalPERS was reviewing her disability retirement benefits for continued eligibility. In July of 2021, CalPERS notified Respondent that it had completed its reevaluation of her continued eligibility and determined she was no longer substantially incapacitated from the performance of her duties as an Associate Governmental Program Analyst due to her rheumatological condition.

Respondent appealed this determination, and the matter was heard by the Office of Administrative Hearings on February 1 and March 13, 2023. Due to Respondent Department of Consumer Affairs' (Respondent DCA) failure to appear, the case proceeded as a default under Government Code section 11520 as to Respondent DCA only. A Proposed Decision was issued on April 3, 2023, affirming CalPERS' determination, and denying Respondent's 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 correcting the spelling error by replacing "not" with "no" on page 14, paragraph 35 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated April 3, 2023, as modified, concerning the appeal of Amy M. Edelen; 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 April 3, 2023, concerning the appeal of Amy M. Edelen; 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 April 3, 2023, concerning the appeal of Amy M. Edelen, 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 April 3, 2023, concerning the appeal of Amy M. Edelen, 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 Amy M. Edelen, 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 Amy M. Edelen.

**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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