



# Board of Administration Educational Day

## Action Item – Proposed Decisions of Administrative Law Judges

### 12. Rodney Rowe

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**January 17, 2023**

**Item Name:** Proposed Decision – In the Matter of the Appeal of Accepting the Late Application for Disability Retirement of RODNEY ROWE, Respondent, and VENTURA UNIFIED SCHOOL DISTRICT, Respondent.

**Program:** Disability and Survivor Benefits Division

**Item Type:** Action

#### **Parties' Positions**

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

Respondent Rodney Rowe'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's last day on payroll was May 5, 2020. On May 29, 2020, his employer, Respondent Ventura Unified School District (Respondent District), submitted an Employer-Originated Disability Retirement Application on his behalf. Respondent never followed through with the required supporting information, so the Application was canceled. On June 25, 2020, Respondent submitted a Service Retirement Application online. He retired for service effective May 5, 2020. On January 27, 2021, Respondent submitted a Service Pending Disability Retirement Application, which CalPERS treated as a request to change from service to disability retirement.

CalPERS determined that the disability retirement application was filed beyond the statutory time limits required by Government Code section 21154, and Respondent failed to establish his late filing was due to a correctable mistake pursuant to Government Code section 20160. Respondent appealed this determination and the matter was heard by the Office of Administrative Hearings on October 31, 2022. Respondent District did not appear at the hearing, and the matter proceeded as a default against Respondent District pursuant to Government Code section 11520. A Proposed

Decision was issued on December 6, 2022, denying CalPERS' determination and granting 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 December 6, 2022, concerning the appeal of Rodney Rowe; 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 December 6, 2022, concerning the appeal of Rodney Rowe, 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 December 6, 2022, concerning the appeal of Rodney Rowe, 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 Rodney Rowe, 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 Rodney Rowe.

**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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Customer Services and Support