



Board of Administration

Agenda Item 9a4

April 19, 2022

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation Calculation of THOMAS S. BLANCO, Respondent, and DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Thomas S. Blanco's (Respondent Blanco) position is included in Attachment C, if any.

Respondent Department of Corrections and Rehabilitation's (Respondent CDCR) 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 Blanco received compensation for an out-of-class assignment while an employee of Respondent CDCR. CalPERS determined that Respondent Blanco's out-of-class assignment pay differential did not qualify as compensation earnable because it was received solely in his final compensation period. Therefore, CalPERS determined that it should not be included in Respondent Blanco's final compensation amount for purposes of determining his monthly retirement allowance. Respondent Blanco and Respondent CDCR appealed CalPERS' determination. The matter was heard by the Office of Administrative Hearings on September 15, 2021. A Proposed Decision was issued on February 23, 2022, granting Respondent Blanco and Respondent CDCR's appeals.

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 February 23, 2022, concerning the appeal of Thomas S. Blanco; 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 February 23, 2022, concerning the appeal of Thomas S. Blanco, 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 February 23, 2022, concerning the appeal of Thomas S. Blanco, 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 Thomas S. Blanco, 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 Thomas S. Blanco.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
Division Chief
Customer Services and Support