



Board of Administration

Agenda Item 8a6

November 16, 2022

Item Name: Proposed Decision – In the Matter of the Appeal of Retirement Benefit Formula of TYLER DIAMOND; ALEX DUNCAN; RYAN P. LAWRENCE, Respondents, and CITY OF BEVERLY HILLS, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondents Tyler Diamond; Alex Duncan; Ryan P. Lawrence's (Respondents) position is included in Attachment C, if any.

Respondent City of Beverly Hills' (Respondent City) 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 City first contracted with CalPERS to provide safety members retirement benefits using a 3% at 50 retirement benefit formula in 2009. In 2012, Respondent City and Beverly Hills Police Officers' Association (Association) renegotiated the Memorandum of Understanding (MOU) governing police officers' employment with the City. The MOU provides a 3% at 50 retirement formula for all current sworn police personnel hired prior to July 1, 2012; and a new retirement formula, 3% at 55, for all employees sworn in after July 1, 2012.

After amending the MOU, Respondent City amended its contract with CalPERS to revise the retirement benefit formula applicable to safety members entering membership in the safety classification on or prior to the effective date of the Amendment. Under the 2012 Amendment, the retirement formula for local safety members entering membership for the first time in a safety classification after the effective date of the contract amendment would be 3% at 55, which was a reduced benefit from the 2009 contract providing a 3% at 50 formula. All Respondents in this case became sworn officers on December 13, 2012, well after the effective date of the Amendment.

Respondents requested that CalPERS enroll them in the 3% at 50 retirement formula. CalPERS determined that Respondents were not eligible to be enrolled in the 3% at 50 retirement formula because they were not sworn in and enrolled in the safety classification as of the effective date of the Amendment.

Respondents submitted an appeal requesting the higher retirement benefit formula which they do not qualify for. The matter was heard by the Office of Administrative Hearings on February 1, April 13, and April 22, 2022. A Proposed Decision was issued on September 12, 2022, affirming CalPERS' determination and denying Respondents' 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 September 12, 2022, concerning the appeal of Tyler Diamond; Alex Duncan; Ryan P. Lawrence; 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 September 12, 2022, concerning the appeal of Tyler Diamond; Alex Duncan; Ryan P. Lawrence, 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 September 12, 2022, concerning the appeal of Tyler Diamond; Alex Duncan; Ryan P. Lawrence, 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 Tyler Diamond; Alex Duncan; Ryan P. Lawrence, 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 Tyler Diamond; Alex Duncan; Ryan P. Lawrence.

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