



Board of Administration Educational Day  
**Action Item – Proposed Decisions of  
Administrative Law Judges  
8. Kenneth C. Graves**

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**January 16, 2024**

**Item Name:** Proposed Decision – In the Matter of the Reinstatement from Disability Retirement of KENNETH C. GRAVES, Respondent, KERN COUNTY SCHOOLS, Respondent, and FRUITVALE ELEMENTARY 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 Kenneth C. Graves' (Respondent Graves) position is included in Attachment C, if any.

Respondent Fruitvale Elementary School District's (Respondent District) position is included in Attachment C, if any.

Respondent Kern County Schools' (Respondent Superintendent) 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 February 4, 2021, Respondent Graves submitted an application for disability retirement based on an orthopedic (left hand, psoriatic arthritis and osteoarthritis) condition. CalPERS approved the application for disability retirement and Respondent Graves retired for disability effective June 5, 2021.

On November 4, 2022, CalPERS determined that Respondent Graves was no longer substantially incapacitated from performing the duties of a Lead Custodian. Respondent Graves appealed this determination and the matter was heard by an Administrative Law Judge with the

Office of Administrative Hearings on November 13, 2023. A Proposed Decision was issued on December 5, 2023, reversing 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 5, 2023, concerning the appeal of Kenneth C. Graves; 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 5, 2023, concerning the appeal of Kenneth C. Graves, 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 5, 2023, concerning the appeal of Kenneth C. Graves, 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 Kenneth C. Graves, 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 Kenneth C. Graves.

**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