



Board of Administration

## Agenda Item 8a6

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**November 15, 2023**

**Item Name:** Proposed Decision – In the Matter of the Appeal to Purchase Additional Retirement Service Credit of TERRY C. MONDAY, Respondent.

**Program:** Member Account Management Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Terry C. Monday'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**

In 2011, Respondent submitted a Request for Service Credit Cost Information - Additional Retirement Service Credit (ARSC). An ARSC Confirmation of Intent Election packet was sent to him in 2012, with the requirement that he must complete and return the required forms within 30 days. Respondent never submitted the required forms. In 2021, Respondent requested that CalPERS process the 2011 Request. CalPERS determined that he was not eligible to purchase ARSC because he had not submitted his purchase election documents within 30 days, and because ARSC was eliminated as a service credit purchase option in 2013. Respondent submitted an appeal, and the matter was heard by the Office of Administrative Hearings over three days on March 16, March 30, and July 12, 2023. A Proposed Decision was issued on September 22, 2023, affirming CalPERS' determination and denying 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 September 22, 2023, concerning the appeal of Terry C. Monday; 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 22, 2023, concerning the appeal of Terry C. Monday, 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 22, 2023, concerning the appeal of Terry C. Monday, 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 Terry C. Monday, 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 Terry C. Monday.

**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