



Board of Administration Offsite

Action Item – Proposed Decisions of Administrative Law Judges Item c

July 19, 2023

Item Name: Proposed Decision – In the Matter of the Appeal Regarding Final Compensation Calculation of BRYAN F. GLASS, Respondent, and CITY OF COSTA MESA, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Bryan F. Glass' (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 submitted an appeal of CalPERS' determination to exclude Holiday Pay and the associated value of employer paid member contributions from the calculation of his final compensation. The appeal was heard by the Office of Administrative Hearings on May 11, 2023. Respondent appeared and represented himself. Due to Respondent City of Costa Mesa's failure to appear, the case proceeded as a default under Government Code section 11520 as to the City only. A Proposed Decision was issued on June 15, 2023, affirming CalPERS' determination and denying the appeal.

Alternatives

A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517, subdivision (c)(2)(C) which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision by changing "assisted value" to "associated value" in the first full paragraph on page 2, paragraph 8 on page 4, paragraph 10 on page 5,

paragraph 23 on page 10, paragraph 28 and 29 on page 12, paragraph 2 on page 14, and paragraph 19 on page 23; change “November 10, 2020” to “November 10, 2019” in paragraph 9 on page 18 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated June 15, 2023, as modified, concerning the appeal of Bryan F. Glass; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. 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 June 15, 2023, concerning the appeal of Bryan F. Glass; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

C. 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 June 15, 2023, concerning the appeal of Bryan F. Glass, 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.

D. 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 June 15, 2023, concerning the appeal of Bryan F. Glass, 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.

E. 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 Bryan F. Glass, 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 Bryan F. Glass.

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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