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Agenda Item 9a-b

August 21, 2013

TO: MEMBERS OF THE BOARD OF ADMINISTRATION

I. SUBJECT: PETITION FOR RECONSIDERATION

PROHIBITION AGAINST EX PARTE COMMUNICATIONS BETWEEN THE BOARD AND PARTIES TO THIS PROCEEDING

Government Code section 11430.10 prohibits Board members from communicating with any party to a pending proceeding, including CalPERS counsel and staff, on any matters relating to the substance of a pending case, unless all parties have been given notice and an opportunity to appear.

In order to fully comply with this statute and to avoid even the appearance of impropriety, there should be no discussion between the Board and legal staff regarding any facts or issues raised by these cases.

The written arguments of CalPERS staff and of the respondent(s) are before the Board. If the Board believes that further information is needed in order to make a decision in any of these cases, it should request a full hearing. If there is a full hearing, all parties will be given an opportunity to appear.

PUBLICATION AND DEPUBLICATION OF PRECEDENTIAL DECISIONS

Pursuant to Government Code section 11425.60, the Board of Administration adopted a resolution providing for adoption of precedential decisions, effective July 1, 1997. Once an appeal decision has been designated as precedential, it will bind all future appeals to the extent that the disputed law and issues are the same, or until such time as the Board of Administration depublishes the decision, thereby rescinding its designation as binding. Requests for depublication may be submitted in writing to the CalPERS Legal Office. Staff will present any such request to the Board, along with a recommendation, at a subsequent meeting of the Board of Administration