

**ATTACHMENT A**  
**THE PROPOSED DECISION**

BEFORE THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' SYSTEM  
STATE OF CALIFORNIA

In the Matter of the Application for Death  
Benefits Payable on Account of J.D. Jones,  
by:

SHARON RENEE JONES, LUTRICE  
MONIQUE JONES, ROXIA ANN  
FLENTROY, ROLISA M. JONES, J.D.  
JONES III, FLORIA JONES,

Respondents,

and

KATHLEEN STRICKLAND,

Respondent.

Case No. 2013-1037

OAH No. 2014120340

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of  
Administrative Hearings, heard this matter on June 11, 2015, in Oakland, California.

Preet Kaur, Staff Attorney, represented complainant Anthony Suine, Chief of the  
Benefit Services Division of CalPERS.

Respondent Kathleen Strickland appeared and represented herself.

Respondents Floria Jones and Roxia Ann Flentroy appeared and represented  
themselves. Sharon Renee Jones, Lutrice Monique Jones, Rolisa M. Jones and J.D. Jones III  
did not appear; respondents Floria Jones and Roxia Ann Flentroy stated that they were  
representing the interests of Sharon Renee Jones, Lutrice Monique Jones, Rolisa M. Jones  
and J.D. Jones III at hearing.

The record was left open for complainant to file an amended statement of issues. The  
amended statement of issues was timely received, marked as Exhibit 21 and received in  
evidence for jurisdictional purposes. The matter was deemed submitted for decision on June  
23, 2015.

CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM  
FILED 29 June 15  
*[Signature]*

## FACTUAL FINDINGS

1. Anthony Suine, Chief of the Benefit Services Division of the California Public Employees' System (CalPERS), filed the statement of issues in his official capacity.

2. J.D. Jones (decedent) became a local miscellaneous member of CalPERS on October 3, 1983, by virtue of his employment with the Oakland Unified School District. Decedent retired for service on September 1, 2004.

3. On decedent's service retirement election application, dated July 2, 2004, he elected the Option 1 monthly allowance and designated respondent Kathleen Strickland as his beneficiary for the lump sum Option 1 Return of Contributions Benefit and Retired Death Benefit. CalPERS received an undated post-retirement lump sum beneficiary designation from decedent, again naming Strickland his beneficiary; on November 30, 2004, CalPERS notified decedent that the post-retirement lump sum beneficiary designation could not be processed because it did not contain his signature or social security number.

4. On September 7, 2012, respondent J.D. Jones III reported decedent's death of August 16, 2012, to CalPERS. The benefits payable consist of the lump sum Option 1 Return of Contributions Benefit of \$22,116.22, the Retired Death Benefit of \$2,000, and pro-rated allowance of \$900.

5. Decedent was married to respondent Floria Jones on March 29, 1965. A petition for dissolution of marriage was filed by decedent against respondent Floria Jones on January 27, 1993.

6. From November 1999 to June 2010, decedent lived with respondent Strickland.

7. Decedent was survived by five adult children: respondents Sharon Renee Jones, Lutrice Monique Jones, Roxia Ann Flentroy, Rolisa M. Jones and J.D. Jones III.

8. On February 8, 2013, CalPERS sent a letter to respondent Strickland advising her that she was decedent's death benefit beneficiary and she needed to complete the application for survivor benefits prior to the benefits being paid. On March 5, 2013, respondent Strickland submitted an application for decedent's survivor benefits.

9. On April 4, 2013, CalPERS notified respondents Sharon Renee Jones, Lutrice Monique Jones, Roxia Ann Flentroy, Rolisa M. Jones and J.D. Jones III that their father had designated a beneficiary in 2004, and did not include them in the beneficiary designation. On April 18, 2013, respondents Sharon Renee Jones, Lutrice Monique Jones, Roxia Ann Flentroy, Rolisa M. Jones and J.D. Jones III appealed the decision. On February 25, 2014, complainant filed a statement of issues alleging that the death benefits were owed to respondent Strickland.

10. In May 2015, CalPERS learned that the petition for dissolution of marriage filed by decedent against respondent Floria Jones was abandoned and did not result in a final judgment. As a result, CalPERS determined that Floria Jones is a surviving spouse with a community property interest in decedent's death benefits.

11. On May 19, 2015, CalPERS determined that 50 percent of the lump sum Option 1 Return of Contributions Benefit of \$22,116.22 and the prorated allowance of \$900 were payable decedent's spouse, respondent Floria Jones. At hearing, complainant amended the statement of issues to add Floria Jones as a respondent, and to allege that she should receive 50 percent of the lump sum Option 1 Return of Contributions Benefit of \$22,116.22 and the prorated allowance of \$900. None of the respondents contest this determination.

### LEGAL CONCLUSIONS

1. Pursuant to Government Code section 21490, subdivision (a), a member may designate a beneficiary to receive the benefits payable upon his or her death. Pursuant to Government Code section 21490, subdivision (b), no designation may be made in derogation of the community property interest of any nonmember spouse when any benefit is derived in whole or part from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Family Code section 2610.

In this matter, decedent designated respondent Strickland as his beneficiary in 2004. However, because decedent and respondent Floria Jones remained legally married until his death, respondent Floria Jones has a community property interest in the lump sum Option 1 Return of Contributions Benefit of \$22,116.22, and the Prorated Allowance Benefit of \$900. Respondent Floria Jones shall receive 50 percent of those benefits.

Respondent Strickland is entitled to the non-community property portion (50 percent) of the Option 1 Return of Contributions Benefit and the Prorated Allowance Benefit, and the entire Retired Death Benefit of \$2,000.

### ORDER

The appeal is denied.

DATED: June 25, 2015

  
JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings