

**ATTACHMENT B**  
**STAFF'S ARGUMENT**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION**

J.D. Jones (Decedent) was employed by the Oakland Unified School District. Decedent retired for service on September 1, 2004.

Respondent Floria Jones was Decedent's wife. They married on March 29, 1965. Decedent separated from Respondent Floria Jones at some point and filed for Dissolution of Marriage on January 27, 1993.

Respondent Kathleen Strickland (Respondent Strickland) was Decedent's girlfriend. Decedent lived with Respondent Strickland from November 1999 to June 2010.

Respondents Sharon Renee Jones, Lutrice Monique Jones, Roxia Ann Flentroy, Rolisa M. Jones, and J.D. Jones III (Respondent Children) are Decedent's natural born adult children.

On July 2, 2004, Decedent elected Option 1 monthly allowance and designated respondent Strickland as the beneficiary of the Option 1 Return of Contributions Benefit and the Retired Death Benefit. Decedent also designated Respondent Strickland as the post retirement lump sum beneficiary; however, that designation was rejected by CalPERS as incomplete. All documents provided to CalPERS, by Decedent, stated that Decedent was divorced.

Decedent died on August 16, 2012, entitling his beneficiaries to receive the lump sum Option 1 Return of Contributions Benefit in the amount of \$22,116.22, Prorated Allowance of \$900 and the Retired Death Benefit of \$2,000. Decedent's death certificate stated that he was divorced.

Based on Decedent's statements and the death certificate, CalPERS determined that Decedent was not married to Respondent Floria Jones at the time of death; thus, respondent Strickland was entitled to all death benefits as the named beneficiary.

On April 4, 2013, CalPERS notified Respondent Children and Respondent Strickland of its determination. The Respondent Children appealed CalPERS' determination on April 18, 2013. CalPERS filed the Statement of Issues on February 25, 2014, and the matter was scheduled for a hearing on May 7, 2015.

Shortly prior to the hearing, however, CalPERS discovered new evidence demonstrating Decedent's divorce with Respondent Floria Jones was not finalized. The hearing was continued to June 11, 2015, and CalPERS issued a new determination.

CalPERS determined that, as a surviving spouse, Respondent Floria Jones had the right to fifty percent of the Option 1 Return of Contributions Benefit of \$22,116.22 and the Prorated Allowance of \$900. CalPERS amended the Statement of Issues on June 18, 2015, to reflect this change. The respondents did not contest the amendments.

The matter was heard before an Administrative Law Judge (ALJ) on June 11, 2015. Prior to the hearing, CalPERS explained the hearing process to all respondents and the need to support their cases with witnesses and documents, particularly the dissolution documents. CalPERS provided each of the respondents with a copy of the administrative hearing process pamphlet. CalPERS answered respondents' questions and explained how to obtain further information on the process.

Respondent Strickland was present at the hearing and represented herself. Respondents Floria Jones and Roxia Flentroy appeared at the hearing. Respondents Sharon Jones, Lutrice Jones, Rolisa Jones, and J.D. Jones III did not appear at the hearing. Respondents Floria Jones and Roxia Flentroy informed the ALJ that they were representing the interests of the other Respondent Children. A CalPERS staff member testified at the hearing regarding CalPERS' case review process and the basis for CalPERS' determination.

The ALJ determined that pursuant to Government Code section 21490, subdivision (a), a member may designate the beneficiary to receive the death benefits provided such designation does not derogate the community property interest of a nonmember spouse. The ALJ upheld CalPERS' amended determination because Respondent Floria Jones remained legally married to the Decedent until Decedent's death, entitling her to half of the death benefits as a surviving spouse.

The ALJ found that Respondent Floria Jones is entitled to fifty percent of the Option 1 Return of Contributions Benefit of \$22,116.22 and the Prorated Allowance Benefit of \$900. The ALJ further found that, as the designated beneficiary, respondent Strickland is entitled to the non-community property portion of these benefits and the entire portion of the Retired Death Benefit of \$2,000. The ALJ concluded that Respondent Children's appeal should be denied.

The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. Respondents are not likely to file a Writ Petition in Superior Court seeking to overturn the Decision of the Board, since they agreed with the amended CalPERS determination.

August 19, 2015



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PREET KAUR  
Staff Attorney