



Agenda Item 8a

November 18, 2015

ITEM NAME: Proposed Decision – In the Matter of the Application for Reinstatement from Industrial Disability Retirement of MATTHEW E. EISENMAN, Respondent, and CALIFORNIA HIGHWAY PATROL, Respondent.

PROGRAM: Benefit Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Matthew E. Eisenman (Respondent Eisenman) argues that the Board of Administration should decline to adopt the Proposed Decision.

Respondent California Highway Patrol (CHP) argues that the Board of Administration should adopt the Proposed Decision.

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 Eisenman submitted an application for Reinstatement from Industrial Disability based on a claim that he is no longer disabled. CalPERS determined Respondent was eligible for reinstatement. CHP appealed CalPERS' determination and the matter was heard by the Office of Administrative Hearings on November 13 and 2014, and on April 7, 8, and 9, and May 15, 2015. A Proposed Decision was issued on September 14, 2015, denying the application for Reinstatement from Industrial Disability.

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 14, 2015, granting the appeal of the CHP and finding that Respondent Eisenman remains substantially incapacitated, and therefore entitled to receive Industrial Disability Retirement; 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 14, 2015, granting the appeal of the CHP and finding that Respondent Eisenman remains substantially incapacitated, and therefore entitled to receive Industrial Disability Retirement, 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 14, 2015, granting the appeal of the CHP and finding that Respondent Eisenman remains substantially incapacitated, and therefore entitled to receive Industrial Disability Retirement, 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 granting the appeal of the CHP and finding that Respondent Eisenman remains substantially incapacitated, and therefore entitled to receive Industrial Disability Retirement, 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 application of Matthew E. Eisenman, and appeal of California Highway Patrol.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

Attachment A: Proposed Decision
Attachment B: Staff's Argument
Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support