

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

William Varnado (Decedent) was employed by the Los Angeles Unified School District (LAUSD). By virtue of his employment, he was a school miscellaneous member of CalPERS. Decedent died on March 30, 2014. Decedent was survived by five adult children. Two of these children are disputing payment of his death benefits. The others are not parties to this appeal.

On April 5, 2001, Decedent signed an application for service retirement electing Option 1 monthly allowance and designating his daughter Respondent Nicole Isaac (Respondent Isaac) as his sole beneficiary of the Option 1 Balance and Retired Death Benefit. On April 5, 2001, Decedent also signed a beneficiary designation form naming Respondent Isaac as his sole beneficiary for the Lump Sum Death Benefit and Option 1 balance. CalPERS never received any subsequent beneficiary designation from Decedent prior to his death.

Decedent's payable benefits consist of lump sum pro-rated allowance benefit of \$1,912.16 and the Retired Death Benefit of \$2,000.

On August 8, 2014, Decedent's daughter Respondent Crystal Bickford (Respondent Bickford) provided CalPERS a copy of Decedent's holographic will dated February 22, 2014 (Will), which bequeathed Decedent's estate to Respondent Bickford.

CalPERS conducted a review of the Will and other documents provided by Respondent Bickford. CalPERS determined that the language in the Will was insufficient to establish Decedent's intent to change his previously-filed beneficiary designation because: (1) the CalPERS benefits were not listed in the Will; (2) there was no reference made to CalPERS benefits in the Will; and (3) the Will did not specifically revoke the previously-filed beneficiary form.

On October 8, 2014, CalPERS notified Respondent Bickford that the Will was not acceptable as a change of beneficiary designation for payment of the death benefits. On October 22, 2014, Respondent Bickford appealed.

A hearing in the matter was held on July 9, 2015. Post-hearing briefs were submitted, and the matter closed on December 28, 2015. The issue was whether CalPERS was correct in its determination that Respondent Isaac is the eligible beneficiary to receive the pro-rated allowance benefit of \$1,912.16 and the \$2,000 Retired Death Benefit.

Prior to the hearing, CalPERS explained the hearing process to both Respondents and the need to support their cases with witnesses and documents. CalPERS provided Respondents with a copy of the administrative hearing process pamphlet. CalPERS answered Respondents' questions and clarified how to obtain further information on the process.

The Administrative Law Judge (ALJ) found that Decedent executed a valid CalPERS Beneficiary Designation on April 5, 2001, which named Respondent Isaac as his sole beneficiary. The ALJ also found that CalPERS must distribute the benefits according to that valid designation, unless the designation was revoked or a different beneficiary or beneficiaries were later designated. Citing the Government Code and case law, the ALJ found in order to effect a change of beneficiary of a retirement benefit, there must be a clear manifestation in writing of intent of the member to make such change. That clear manifestation in writing may be found in a will or trust which specifically bequeaths the benefits to a beneficiary.

The ALJ concluded in this case there was no clear manifestation in writing of Decedent's intent to change the CalPERS beneficiary designation or to revoke it. Decedent did not take any affirmative steps to change his previously filed beneficiary form. Although Decedent indicated in his Will that he wanted Respondent Bickford to inherit his entire estate, he never identified the CalPERS death benefits as part of the property which Respondent Bickford would inherit. Since there was no clear manifestation in writing of any intent to change the beneficiary designation or to revoke it, the ALJ found that the April 5, 2001 beneficiary designation remains valid.

The ALJ concluded that Respondent Bickford'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. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

February 18, 2016


ELIZABETH YELLAND
Senior Staff Attorney