

ATTACHMENT C
RESPONDENT'S ARGUMENT

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0021
(916) 319-2021
FAX (916) 319-2121

DISTRICT OFFICE
690 W. 16TH STREET
MERCED, CA 95340
(209) 726-5465
FAX (209) 726-5469

E-MAIL

Assemblymember.Gray@assembly.ca.gov

Assembly California Legislature



ADAM C. GRAY
ASSEMBLYMEMBER, TWENTY-FIRST DISTRICT

DISTRICT OFFICE
1010 TENTH STREET, SUITE 5800
MODESTO, CA 95354
(209) 521-2111
FAX (209) 521-2102

COMMITTEES

CHAIR: GOVERNMENTAL ORGANIZATION
AGING AND LONG-TERM CARE
WATER, PARKS, AND WILDLIFE
ENVIRONMENTAL SAFETY AND TOXIC
MATERIALS

FAX TO: Cheree Swendensky, Asst. to Bnd.
ORGANIZATION: CalPERS Bnd. of Administration
PHONE: _____ FAX: 916-795-3972
DATE: 2/3/16
NUMBER OF PAGES (INCLUDING COVER): 3

SENT BY:

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|--|---|
| <input type="checkbox"/> Lisa Mantarro Moore | <input type="checkbox"/> Alicia De Los Santos |
| <input type="checkbox"/> Mike Lynch | <input type="checkbox"/> Domenic Longarini |
| <input checked="" type="checkbox"/> Robin Adam | <input type="checkbox"/> Ryan Heller |
| <input type="checkbox"/> Chance Condit | |



COMMENTS:

Please acknowledge receipt of
this letter by phone: 209-726-5465
or email: robin.adam@asm.ca.gov
Robin Adam



ATTACHMENT C

February 2, 2016

Mike Perez

CalPERS Board of Administration
c/o Cheree Swedensky, Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701

RE: Respondent's arguments in regard to the Proposed Decision of the Administrative Law Judge to be considered by the Board on February 18, 2016.

Members of the Board:

I agree with the Proposed Decision of the Administrative Law Judge in regard to the Purchase Redeposit of Withdrawn Contributions. As detailed in the Proposed Decision:

- Factual Findings #8: My 11/29/07 Request for Service Credit Cost Information – Redeposit of Withdrawn Contributions was for ALL CalPERS employment including the 1975/76 Merced employment.
- Factual Findings #9: The 12/17/07 Cost Packet did not include the 1975/76 Merced employment.
- Factual Findings #11: In April of 2008 an employee of CalPERS discovered the mistake and informed the Member Services Division of the omission. I was never informed of the mistake until I received the May 31, 2013 letter from CalPERS (#29).
- Factual Findings #12: CalPERS records state that they sent a 2008 cost Packet for the 1975/76 .7 years of Merced employment.
- Factual Findings #15: I never saw nor was aware of this packet which was not sent Certified or Registered Mail.
- Factual Findings #28: "A review of the participant notes reveals that respondent was diligent about communicating with CalPERS after he received important documents."
- Factual Findings #29: "There were also multiple communications reflected in the participant notes relating to the May and June 2013 letters from CalPERS regarding respondents .7 years of Merced employment. The existence of these communications supports respondent's assertion that the May 31, 2013 letter was the first time that he was made aware that there was a problem regarding his .7 years of service with Merced in 1975/76."
- Factual Findings #30: "There was no evidence that respondent's failure to receive the 2008 Cost Packet and to submit the Election to Purchase Service Credit form within 60 days after that packet was sent to him was due to any fault of respondent's. Instead, it was the result of mistake, inadvertence, surprise or excusable neglect, as each of these terms is used in Code of Civil Procedure section 473. Accordingly, respondent established that this error or omission should be corrected by allowing him to purchase .7 years of Redeposit of Withdrawn Contributions service credit relating to his 1975/76 Merced employment in a manner that is consistent with Government Code section 20160, subdivision (e).

I therefore respectfully request that the Board correct the CalPERS error in this by approving the Proposed Decision in regard to the Purchase Redeposit of Withdrawn Contributions of .7 years for 1975/76 Merced employment.

I disagree with the Proposed Decision of the Administrative Law Judge in regard to the Purchase of Military Service Credit for the following reasons:

- The Government code section 21029 (b) states, "An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member."
- I now understand that the military service purchase of service credit provision went into effect as of December 31, 1981. Neither at that time when I worked for Turlock Schools nor when I began employment with Livingston Schools nor when I retired from that employment in 2008 was I informed that there was a Purchase of Military Service Credit option or that the service credit purchase option was only extended for those who retired immediately following service as a covered employee.
- I submitted a Service Retirement Election Application on August 11, 2011 at CalPERS Regional Office in Fresno and was asked by the CalPERS employee assisting me if I had served in the military and if so I could submit a Request to Purchase Military Service Credit. I did so immediately upon learning of that option as I would have previously.
- I believe it would be a reasonable policy that state and school employees and CalPERS members should be clearly advised of such a credit and asked if they are eligible at least by the time they vest or after any rehire or Redeposit request or are prepared to retire.

I therefore respectfully request that the Board reconsider the Proposed Decision in regard to the Purchase of Military Service Credit.

Sincerely,



Mike Perez

Cc: Assemblymember Adam Gray
Senator Anthony Cannella