



## **Agenda Item 8p**

February 18, 2016

**ITEM NAME:** Proposed Decision – In the Matter of the Request to Purchase Additional Retirement Service Credit of MEI E. KWEE, Respondent, and CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent.

**PROGRAM:** Member Account Management Division

**ITEM TYPE:** Action

### **PARTIES' POSITIONS**

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

Respondent Mei E. Kwee (Respondent Kwee) 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**

On May 2, 2012, Respondent Kwee submitted a request to CalPERS to purchase five years of Additional Retirement Service Credit (ARSC). On September 6, 2012, CalPERS processed and sent Respondent Kwee an ARSC cost packet, and an Election to Purchase Service Credit form, which was valid for 60 days. No completed election form was received by CalPERS. Respondent Kwee contacted CalPERS in March 2013 to inquire about the status of her request. She was informed by CalPERS of the offer to purchase on September 6, 2012, that the offer had expired, and that ARSC was no longer available to purchase. Respondent Kwee requested that CalPERS permit her to accept the September offer or allow her to resubmit the request. CalPERS denied this request and Respondent Kwee timely filed an appeal. A hearing was held on October 28, 2015, and a proposed decision granting the appeal was issued on November 13, 2015.

### **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 November 13, 2015, concerning the appeal of Mei E. Kwee; 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 November 13, 2015, concerning the appeal of Mei E. Kwee, 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 November 13, 2015, concerning the appeal of Mei E. Kwee, 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 concerning the appeal of Mei E. Kwee, 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 appeal of Mei E. Kwee.

**BUDGET AND FISCAL IMPACTS:** Not applicable

**ATTACHMENTS**

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

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DONNA RAMEL LUM  
Deputy Executive Officer  
Customer Services and Support