



Agenda Item 8r

February 18, 2016

ITEM NAME: Proposed Decision – In the Matter of the Application to Purchase Service Credit Prior to Membership of DIANE D. EUER, Respondent.

PROGRAM: Member Account Management Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Diane D. Euer (Respondent Euer) argues that the Board of Administration should decline to 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 Diane D. Euer (Respondent Euer) submitted a request for service credit cost information for the purchase of Service Credit Prior to Membership (SPM) for a period of time that she was employed as a seasonal clerk for EDD. On May 19, 2014, CalPERS mailed Respondent Euer a SPM Cost Packet that provided the cost of purchasing the 1.005 years of service credit (\$1,408.70) and informed Respondent Euer that in order to complete the SPM purchase the election form must be returned to CalPERS within 60 days. Respondent Euer failed to return the completed SPM purchase election form within 60 days. On September 5, 2014, Respondent Euer contacted CalPERS about her failure to timely purchase the SPM. Respondent Euer had already retired by this time and she was informed by CalPERS staff that pursuant to Government Code section 21073.7, an election to purchase SPM must be made prior to retirement. Respondent Euer timely appealed and the matter was heard by the Office of Administrative Hearings on October 19, 2015. A Proposed Decision was issued on October 30, 2015, denying the appeal.

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 October 30, 2015, concerning the appeal of Diane D. Euer; 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 October 30, 2015, concerning the appeal of Diane D. Euer, 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 October 30, 2015, concerning the appeal of Diane D. Euer, 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 Diane D. Euer, 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 Diane D. Euer.

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
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Customer Services and Support