



Board of Administration Agenda Item 8d

August 17, 2016

Item Name: Proposed Decision – In the Matter of the Calculation of Final Compensation of JOSE A. FERNANDEZ, Respondent; CENTINELA VALLEY UNION HIGH SCHOOL DISTRICT, Respondent; and LOS ANGELES COUNTY OFFICE OF EDUCATION, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Jose A. Fernandez (Respondent Fernandez) 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 Fernandez, through an employment agreement with the Governing Board of Respondent Centinela Valley Union High School District (District), became the Superintendent effective July 1, 2009. Respondent Fernandez retired for service effective February 1, 2015, with 28.276 years of service credit, and has been receiving his retirement allowance from that date. CalPERS conducted an investigation into the payroll/compensation reported by the District on behalf of Respondent Fernandez, and determined that the Payrates, Longevity Pay, Management Incentive Pay, Educational Incentive, and Bonus/Extended Work Year Pay were not in compliance with the California Public Employees' Retirement Law (PERL). Respondent Fernandez appealed this determination and the matter was heard by the Office of Administrative Hearings on February 10, 2016 and April 26, 2016. A Proposed Decision was issued on May 18, 2016, 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 May

18, 2016, concerning the appeal of Jose A. Fernandez; 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 May 18, 2016, concerning the appeal of Jose A. Fernandez, 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 May 18, 2016, concerning the appeal of Jose A. Fernandez, 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 Jose A. Fernandez, 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 Jose A. Fernandez.

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