



## Board of Administration Agenda Item 8v

September 21, 2016

**Item Name:** Proposed Decision – In the Matter of the Reinstatement from Industrial Disability Retirement of LEONARD B. DETERS, Respondent, and PELICAN BAY STATE PRISON, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

**Program:** Benefit Services Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Leonard B. Deters (Respondent Deters) 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**

On April 23, 2010, Respondent Deters submitted an application for Industrial Disability Retirement. Respondent's application was approved based on an orthopedic condition (low back). His Industrial Disability Retirement was effective September 1, 2010. In July 2013, CalPERS initiated a re-examination of Respondent Deters pursuant to Government Code section 21192 to assess his ability to perform his former job duties. After reviewing Respondent Deters' medical and employment information, CalPERS determined that Respondent Deters was no longer substantially incapacitated from performing the duties of a Correctional Lieutenant.

Respondent Deters appealed this determination and the matter was heard by the Office of Administrative Hearings on July 20, 2016. A Proposed Decision was issued on August 18, 2016, granting CalPERS' request to involuntarily reinstate Respondent Deters from Industrial Disability Retirement.

## 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 August 18, 2016, concerning the appeal of Leonard B. Deters; 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 August 18, 2016, concerning the appeal of Leonard B. Deters, 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 August 18, 2016, concerning the appeal of Leonard B. Deters, 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 Leonard B. Deters, 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 Leonard B. Deters.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

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DONNA RAMEL LUM  
Deputy Executive Officer  
Customer Services and Support