

**ATTACHMENT A**  
**THE PROPOSED DECISION**

BEFORE THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA

In the Matter of the Appeal Regarding the  
Public Employees' Pension Reform Act of  
2013 by:

ANN J. STANFIELD,

Respondent.

Case No. 2015-1150

OAH No. 2016050016

**PROPOSED DECISION**

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, on September 19, 2016, in Sacramento, California.

Christopher C. Phillips, Senior Staff Attorney, represented the California Public Employees' Retirement System (CalPERS).

Ann J. Stanfield (respondent) represented herself.

Evidence was received, the record was closed, and this matter was submitted for decision on September 19, 2016.

**ISSUE**

1. Did CalPERS properly invoke OAH's jurisdiction in this matter?
2. If so, is respondent's final compensation subject to the provisions of the California Public Employees' Pension Reform Act of 2013 (PEPRA)?

**FACTUAL FINDINGS**

1. Respondent was employed by Tuolumne County (County) from January 9, 1991, until January 3, 2004. She was employed by Area 12 Agency on Aging from January 5, 2004, until August 13, 2005. She was again employed by the County on August 15, 2005.

She separated from County employment on January 1, 2009. She service retired effective September 5, 2010. By virtue of her employment with the County and Area 12 Agency on Aging, respondent was a miscellaneous member of CalPERS.

2. PEPRA was signed into law on September 12, 2012, and became effective on January 1, 2013.

3. On September 24, 2013, respondent signed an application for reinstatement from service retirement, which was approved.

4. Effective October 1, 2013, respondent reinstated from service retirement to the State of California. She is currently employed by the Department of State Hospitals – Stockton as a Supervising Registered Nurse (Safety). By virtue of this employment, respondent is a state safety member of CalPERS.

5. On or about July 13, 2015, respondent submitted a request to CalPERS for a retirement allowance estimate. On July 29, 2015, CalPERS sent an estimate of service retirement (Retirement Estimate) to respondent. In calculating the Retirement Estimate, CalPERS used a projected retirement date of December 5, 2015, and an age at retirement of 60. CalPERS determined that respondent had a total of 16.504 years of service with the County, 1.656 years of service with Area 12 Agency on Aging, and 1.823 years of service with the State of California. CalPERS applied the provisions of PEPRA and determined that respondent's final compensation from her employment with the County and Area 12 Agency on Aging was \$4,885.10, and that her final compensation from her employment with the state was \$7,063.49.

6. By letter dated August 11, 2015, respondent appealed from the Retirement Estimate, asking that CalPERS use her final state compensation for all her service when calculating her retirement benefit. On September 18, 2015, CalPERS responded to respondent's appeal. In the September 18, 2015 letter, CalPERS, in relevant part, stated:

... a member who permanently separated from employment and returns to a different employer after six months or more and after January 1, 2013, is subject to the provisions under PEPRA. You were separated from Tuolumne County on January 1, 2009. You returned to CalPERS-covered employment with the State of California on October 1, 2013. Regardless of your decision to retire, you would have been subject to the provisions of PEPRA.

Under California Code of Regulations 579.24(b), CalPERS will apply one final compensation amount for the service credit accrued as a Pre-PEPRA member and a second final compensation for service credit accrued as a PEPRA member.

7. Respondent did not retire effective December 5, 2015, as set forth in the Retirement Estimate. Instead, she has continued to work as a state employee. Because respondent did not retire, the Retirement Estimate from which she appealed is moot.

8. At the hearing, both parties recognized that the Retirement Estimate was moot, but they requested that a decision be issued on respondent's appeal.

### *Discussion*

9. On March 28, 2016, after the Retirement Estimate had become moot, CalPERS filed a Statement of Issues in this matter, seeking to invoke the provisions of Government Code section 11504, which in relevant part provides:

A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues.

10. In this case, because the Retirement Estimate from which respondent appealed was already moot by the time CalPERS filed the Statement of Issues, there is no "right, authority, license, or privilege" that can be granted or issued in this matter. Consequently, there is no relief available under the Statement of Issues. Because there is no relief that may be granted under the Statement of Issues, this matter must be dismissed.

11. From the arguments made at hearing, it appeared that what both parties were seeking was declaratory relief regarding the application of PEPRA to respondent's situation. If the parties wish to obtain declaratory relief, they must comply with the provisions of the Administrative Procedure Act and the regulations promulgated thereunder to seek such relief. (Gov. Code, § 11465.10 et seq.; Cal. Code Regs., tit. 1, § 1260 et seq.) As set forth in California Code of Regulations, title 1, section 1262, subdivision (a), "An application for a Declaratory Decision may be filed to determine the applicability of Agency rules, orders, statutes, or final administrative decisions to a matter within the Agency's primary jurisdiction."

### LEGAL CONCLUSIONS

As set forth Finding 10, because the Retirement Estimate from which respondent appealed is moot, there is no "right, authority, license, or privilege" that can be granted or issued in this matter. Consequently, there is no relief available under the Statement of Issues filed pursuant to Government Code section 11504. Because there is no relief that may be granted or issued under the Statement of Issues, this matter must be dismissed.

ORDER

The appeal of respondent Ann J. Stanfield is DISMISSED.

DATED: September 26, 2016

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*Karen Brandt*  
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**KAREN J. BRANDT**  
Administrative Law Judge  
Office of Administrative Hearings