



Board of Administration Agenda Item 8n

March 15, 2017

Item Name: Proposed Decision – In the Matter of the Reinstatement from Industrial Disability Retirement of ANDRE J. METZLER, Respondent, and CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY AND STATE PRISON - CORCORAN, 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, as modified.

Respondent Andre J. Metzler (Respondent Metzler) 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 Metzler submitted an application for Industrial Disability Retirement (IDR) based on an orthopedic (right wrist) condition. CalPERS approved the application for IDR, and Respondent Metzler was placed on the IDR roll effective September 22, 2013. Pursuant to Government Code section 21192, CalPERS sought to have Respondent Metzler examined to determine whether he should be reinstated to his former position with CDCR. CalPERS determined that Respondent Metzler was no longer disabled from the performance of his job duties. Respondent Metzler appealed this determination and the matter was heard by the Office of Administrative Hearings on December 5, 2016. A Proposed Decision was issued on January 30, 2017, denying Respondent Metzler's appeal and granting the request of CalPERS to involuntarily reinstate Respondent Metzler to his position as a Correctional Officer for California Department of Corrections and Rehabilitation.

Alternatives

- A. For use if the Board decides to adopt the Proposed Decision, as modified, as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517(c)(2)(C), which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision by adding the word, "industrial" before the words, "disability retirement" on pages six and seven of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated January 30, 2017, concerning the appeal of Andre J. Metzler; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. 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 January 30, 2017, concerning the appeal of Andre J. Metzler; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

C. 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 January 30, 2017, concerning the appeal of Andre J. Metzler, 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.

D. 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 January 30, 2017, concerning the appeal of Andre J. Metzler, 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.

E. 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 Andre J. Metzler, 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 Andre J. Metzler.

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