

March 15, 2017

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation of GEORGE A. PEREZ, and CITY OF CUDAHY, Respondents.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent George A. Perez (Respondent Perez) argues that the Board of Administration should decline to adopt the Proposed Decision.

Respondent City of Cudahy 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 Perez retired for service effective March 29, 2011, and has been receiving his retirement allowance from that date. During a review of information provided by Respondent City of Cudahy (City), it was discovered that Respondent City was reporting a payrate not published on a publicly available pay schedule for Respondent Perez during Respondent Perez's final compensation period. CalPERS reviewed the payrate reported by Respondent City on behalf of Respondent Perez and determined that the reported monthly payrate is not eligible to be included in the calculation of Respondent Perez's final compensation.

Respondent Perez appealed this determination and the matter was heard by the Office of Administrative Hearings on November 8, 2016. A Proposed Decision was issued on January 30, 2017, 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 January 30, 2017, concerning the appeal of George A. Perez; 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 January 30, 2017, concerning the appeal of George A. Perez, 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 January 30, 2017, concerning the appeal of George A. Perez, 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 George A. Perez, 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 George A. Perez.

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

