



Board of Administration Agenda Item 8g

April 19, 2017

Item Name: Proposed Decision – In the Matter of the Appeal Regarding Additional Retirement Service Credit of LETICIA LOZANO, Respondent.

Program: Member Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Leticia Lozano (Respondent Lozano) argues that the Board of Administration should 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 Lozano submitted an application to purchase Additional Retirement Service Credit (ARSC) on May 24, 2011. CalPERS mailed cost documents on August 3, 2011, which required a response by September 2, 2011, to Respondent Lozano, but she never received them. CalPERS sent Respondent Lozano a second ARSC cost packet, using a significantly higher cost to purchase. Respondent Lozano requested the first, lower, cost be used. CalPERS denied Respondent Lozano's request. Respondent Lozano appealed this determination and the matter was heard by the Office of Administrative Hearings on January 26, 2017. A Proposed Decision was issued on February 17, 2017, granting the appeal.

Alternatives

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

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11`517(c)(2)(C) which authorizes the Board to "make technical or other minor changes in the proposed decision" hereby modifies the Proposed Decision, by correcting the spelling of the word "Conformation" to "Confirmation" on page 3, paragraphs 15(a) and 15(b) of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated February 17, 2017, as modified,

concerning the appeal of Leticia Lozano; 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 February 17, 2017, concerning the appeal of Leticia Lozano; 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 February 17, 2017, concerning the appeal of Leticia Lozano, 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 February 17, 2017, concerning the appeal of Leticia Lozano, 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 application of Leticia Lozano, 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 application of Leticia Lozano.

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
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Customer Services and Support