Item Name: Proposed Decision on Remand – In the Matter of Accepting the Late Application for Disability Retirement of SIGRID O. LINTAG, Respondent, and DIVISION OF ADULT PAROLE OPERATIONS, 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 on Remand. Respondent Sigrid O. Lintag’s (Respondent Lintag) position is included in Attachment C, if any.

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 Lintag submitted an application for disability retirement based on orthopedic (neck, back, shoulders, knees) conditions. CalPERS rejected the application because it was not timely due to the fact that Respondent Lintag had service retired twenty-one months earlier and there was no excusable error or omission. Respondent Lintag appealed this determination and the matter was heard by the Office of Administrative Hearings on November 6, 2017. Due to Respondent California Department of Corrections and Rehabilitation’s failure to appear, the case proceeded as a default under Government Code section 11520(a) as to that party only. A Proposed Decision was issued on November 21, 2017, affirming CalPERS determination and denying the appeal.

The Board at its February 14, 2018, meeting voted to remand the matter back to the Office of Administrative Hearings for the taking of additional evidence. The matter was heard by the Office of Administrative Hearings on July 16, 2018. A Proposed Decision on Remand was issued on August 14, 2018, again affirming CalPERS’ determination and denying the appeal.
Alternatives

A. For use if the Board decides to adopt the Proposed Decision on Remand 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 on Remand dated August 14, 2018, concerning the appeal of Sigrid O. Lintag; 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 on Remand, 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 on Remand dated August 14, 2018, concerning the appeal of Sigrid O. Lintag, hereby rejects the Proposed Decision on Remand 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 on Remand dated August 14, 2018, concerning the appeal of Sigrid O. Lintag, hereby rejects the Proposed Decision on Remand 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 Sigrid O. Lintag, 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 Sigrid O. Lintag.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**
- Attachment A: Proposed Decision on Remand
- 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