April 17, 2019


Program: Benefit Services Division

Item Type: Action

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

Respondent Kenneth I. McCarthy’s (Respondent McCarthy) position is included in Attachment C, if any.

Respondent Mary K. Watson’s (Respondent Watson) 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
James P. McCarthy (Decedent) passed away on April 1, 2017, as an active member of CalPERS. Decedent left no will or writing expressing his beneficiary designation and was not survived by a spouse or children. Because Decedent was survived by his mother, Respondent Watson, and his father, Respondent McCarthy, CalPERS determined that pursuant to Government Code section 21493(a) they are entitled to equal shares of Decedent’s Basic Death Benefit. Respondent Watson appealed the determination and the matter was heard by the Office of Administrative Hearings on January 17, 2019. A Proposed Decision was issued on March 6, 2019, affirming CalPERS’ determination and denying Respondent Watson’s 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 11517 (c)(2)(C), the Board is authorized to “make technical or other minor changes in the proposed decision.” In order to avoid ambiguity, staff recommends that “Country of Riverside” be changed to “County of Riverside” on page two, paragraph five, of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated March 6, 2019, as modified, concerning the appeal of Mary K. Watson; 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 March 6, 2019, concerning the appeal of Mary K. Watson; 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 March 6, 2019, concerning the appeal of Mary K. Watson, 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 March 6, 2019, concerning the appeal of Mary K. Watson, 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 Mary K. Watson, 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 Mary K. Watson.

**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