Board of Administration
Agenda Item 9b1

August 21, 2019

**Item Name**: Proposed Decision – In the Matter of the Appeal of Retirement Benefits Payable Upon the Death of Floristee P. Foster by AARON L. FOSTER, Respondent, and QUINCY L. DAVENPORT, Respondent, and GLORIA O’NEAL, Respondent.

**Program**: Benefit Services Division

**Item Type**: Action

**Parties’ Positions**

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

Respondent Aaron L. Foster’s (Respondent Foster) position is included in Attachment C, if any.

Respondent Quincy L. Davenport’s (Respondent Davenport) 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**

Floristee Foster (Decedent) service retired in January 2013. At the time, she designated her sons, Respondent Aaron Foster and Respondent Quincy Davenport, as her beneficiaries for receipt of the CalPERS Death Benefit and any remaining Option 1 contributions available at the time of her death. In August 2017, Decedent signed and submitted to CalPERS a Beneficiary Designation form, changing her beneficiary to Respondent Gloria O’Neal, her sister. Decedent passed away on September 15, 2017. Following her death, CalPERS determined that Respondent O’Neal was the sole beneficiary and entitled to receive the Death Benefit and Option 1 balance of contributions. Respondent Foster appealed this determination. A hearing was held on April 24, 2017. A Proposed Decision was issued on May 16, 2019, affirming CalPERS’ determination and 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 May 16, 2019,
concerning the appeal of Aaron L. Foster; 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 May 16, 2019, concerning the appeal of Aaron L. Foster, 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 May 16, 2019, concerning the appeal of Aaron L. Foster, 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 Aaron L. Foster, 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 Aaron L. Foster.
**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