Item Name: Proposed Decision, as modified – In the Matter of the Application for Industrial Disability Retirement of MAXIMILLIAN J. SEBOLINO, Respondent, and SALINAS VALLEY STATE PRISON, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

Program: Disability and Survivor Benefits Division

Item Type: Action

Parties’ Positions
Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Maximillian J. Sebolino’s (Respondent Sebolino) 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 Sebolino submitted an application for industrial disability retirement based on an orthopedic (neck) and psychological post-traumatic stress disorder (PTSD) conditions. CalPERS denied the application. Respondent Sebolino appealed this determination and the matter was heard by the Office of Administrative Hearings on April 10, 2019. A Proposed Decision was issued on July 16, 2019, affirming CalPERS’ determination and denying the appeal.

Alternatives
A. For use if the Board decides to modify and adopt the Proposed Decision, as modified 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) which authorizes the Board to “make technical or other minor changes in the proposed decision,” hereby modifies the Proposed Decision, by changing “existed” to “exited” and “January 6, 2017” to
“November 6, 2017” on paragraph 2, page 18 of the Proposed Decision, as modified and hereby adopts as its own Decision the Proposed Decision dated July 16, 2019, as modified, concerning the appeal of Maximillian J. Sebolino; 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 modified 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, as modified dated July 16, 2019, concerning the appeal of Maximillian J. Sebolino; 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, as modified, 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, as modified dated July 16, 2019, concerning the appeal of Maximillian J. Sebolino, hereby rejects the Proposed Decision, as modified 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, as modified 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, as modified dated July 16, 2019, concerning the appeal of Maximillian J. Sebolino, hereby rejects the Proposed Decision, as modified 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 Maximillian J. Sebolino, 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 modified as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision, as modified, 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, as modified concerning the appeal of Maximillian J. Sebolino.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**
Attachment A: Proposed Decision, as modified
Attachment B: Staff’s Argument
Attachment C: Respondent(s) Argument(s)

Donna Ramel Lum  
Deputy Executive Officer  
Customer Services and Support