



Board of Administration

Agenda Item 9a14

April 22, 2020

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation Calculation of JENNIFER L. BARRETT, Respondent, and COUNTY OF SONOMA, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

Staff argues that it is not opposed to the Board of Administration adopting the Proposed Decision.

Respondent Jennifer L. Barrett's (Respondent Barrett) position is included in Attachment C, if any.

Respondent County of Sonoma's (Respondent County) 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

CalPERS determined that compensation reported on behalf of Respondent Barrett by the Sonoma County Employees' Retirement Association (SCERA) did not meet the definition of compensation earnable. Specifically, CalPERS determined that the compensation, identified as "Cash Allowance," "One Time Lump Sum Pensionable Payment," and "Status Quo Preservation Allowance," did not qualify as reportable special compensation. Accordingly, CalPERS excluded these items of compensation when calculating respondent Barrett's final compensation. Respondent Barrett appealed CalPERS' determination and the matter was heard by the Office of Administrative Hearings on January 28, 2020. Respondent County did not appear at the hearing. A Proposed Decision was issued on February 10, 2020, partially granting Respondent Barrett's appeal with respect to the compensation identified as "Cash Allowance" and "One Time Lump Sum Pensionable Payment," and denying the appeal with respect to the compensation identified as "Status Quo Preservation Allowance."

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 February 10, 2020, concerning the appeal of Jennifer L. Barrett; 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 February 10, 2020, concerning the appeal of Jennifer L. Barrett, 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 February 10, 2020, concerning the appeal of Jennifer L. Barrett, 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 Jennifer L. Barrett, 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 Jennifer L. Barrett.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
Deputy Executive Officer
Customer Services and Support