



## Board of Administration

# Agenda Item 9a15

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**April 22, 2020**

**Item Name:** Proposed Decisions – In the Matter of the Appeal Regarding Mandatory Contribution Adjustment of MICHAEL G. COTTLE, Respondent, and IRONWOOD STATE PRISON; and CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondents.

In the Matter of the Appeal Regarding Mandatory Contribution Adjustment of MICHELE Y. WILLIAMS, Respondent, and DIVISION OF ADULT PAROLE OPERATIONS, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

**Program:** Member Account Management Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Michael G. Cottle's (Respondent Cottle) and Respondent Michele Y. Williams's (Respondent Williams) positions are 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 Cottle and Respondent Williams were hired by Respondent CDCR in 2009 and 2007, respectively. When hired, Respondent CDCR placed both Respondent Cottle and Respondent Williams in the Second Tier retirement formula. Neither Respondent Cottle nor Respondent Williams paid contributions towards their retirements while enrolled in Second Tier. The classification of Respondent Cottle and Respondent Williams in Second Tier was a mistake, as they both should have been placed in First Tier. CalPERS corrected Respondent Cottle's tier classification in 2013, and corrected Respondent Williams' in 2011. Part of CalPERS' corrections included the determinations that both Respondent Cottle and Respondent Williams were required to pay their retroactive contributions from the time period that they were mistakenly classified as Second Tier. Originally, Respondents Cottle and Williams filed an

action in Superior Court to challenge CalPERS' determination that they owed CalPERS the back contributions for First Tier enrollment. After protracted motion practice in court, the parties stipulated to proceed with administrative appeals to resolve their disputes. On August 8, 2019, the matters were consolidated. The matters were heard by the Office of Administrative Hearings on October 23, 2019. The Proposed Decisions were issued on March 10, 2020, affirming CalPERS' determinations and denying the appeals.

### **Alternatives**

A. For use if the Board decides to adopt the Proposed Decisions as its own Decisions:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decisions the Proposed Decisions dated March 10, 2020, concerning the appeals of Michael G. Cottle and Michele Y. Williams; RESOLVED FURTHER that these Board Decisions shall be effective 30 days following mailing of the Decisions.

B. For use if the Board decides not to adopt the Proposed Decisions, 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 Decisions dated March 10, 2020, concerning the appeals of Michael G. Cottle and Michele Y. Williams, hereby rejects the Proposed Decisions and determines to decide the matters themselves, 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 Decisions shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matters 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 Decisions dated March 10, 2020, concerning the appeals of Michael G. Cottle and Michele Y. Williams, hereby rejects the Proposed Decisions and refers the matters back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decisions (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decisions as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matters concerning the appeals of Michael G. Cottle and Michele Y. Williams, as well as interested parties, to submit written argument regarding whether the Board's Decisions in these matters should be designated as precedential, and that the Board will consider the issue whether to designate its Decisions as precedential at a time to be determined.

2. For use if the Board decides to designate its Decisions 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 Decisions concerning the appeals of Michael G. Cottle and Michele Y. Williams.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

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Anthony Suine  
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Customer Services and Support