



## Board of Administration

# Agenda Item 9a7

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**June 17, 2020**

**Item Name:** Proposed Decision – In the Matter of the Appeal Regarding Public Employees' Pension Reform Act of 2013 Enrollment in The Judges' Retirement System II of HONORABLE DIEGO J. EDBER, Respondent.

**Program:** Retirement Benefits Services Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Honorable Diego J. Edber's (Respondent) 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 submitted an appeal of The Judges' Retirement System II's (JRS II) determination that he would be enrolled as a new member" of JRS II and thus be subject to the Public Employees' Pension Reform Act of 2013 (PEPRA), instead of being enrolled as a "classic member" and not subject to PEPRA's reforms. The matter was heard by the Office of Administrative Hearings using a set of stipulated facts and documents as well as a briefing schedule. A Proposed Decision was issued on April 6, 2020, 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 April 6, 2020, concerning the appeal of the Honorable Diego J. Edber; 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 April 6, 2020, concerning the appeal of the Honorable Diego J. Edber, 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 April 6, 2020, concerning the appeal of Honorable Diego J. Edber, 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 Honorable Diego J. Edber, 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 Honorable Diego J. Edber.

**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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Customer Services and Support