



## Board Governance Committee

# Agenda Item 5a

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**November 15, 2022**

**Item Name:** Proposed Revisions to the Full Board Hearing Procedures

**Program:** Administration

**Item Type:** Action

### **Recommendation**

Approve the revisions to the Full Board Hearing Procedures as proposed jointly by the Board's independent counsel for administrative hearings and the CalPERS Legal Office.

### **Background**

CalPERS administers retirement and health care benefits in accordance with the Public Employees' Retirement Law (PERL) and the Public Employees' Medical and Hospital Care Act (PEMHCA). In certain circumstances, a member or employer may appeal a CalPERS decision to an administrative law judge (ALJ), who then issues a proposed decision that comes to the Board for its review.<sup>1</sup>

The Board has several options for handling these proposed decisions. One of those options is to decline to adopt a proposed decision and determine the matter itself based on the record produced at the administrative hearing and whatever additional arguments are presented at what is known as a Full Board Hearing. The Board's most recent Full Board Hearing (FBH) was in April 2022 in a case entitled, "In the Matter of the Appeal Regarding Full-Time Payrate Reporting of Tustin Unified School District."

The Board is guided in its handling of FBHs by a 1991 document entitled "Statement of Policy & Procedures For Full Hearings Before the Board" (Attachment 1). It has not been amended since September 2005. As such, the Board's independent counsel for administrative hearings, Chirag Shah, recently suggested that the Board consider revising, simplifying, and updating these procedures. Mr. Shah made several specific suggested revisions to the procedures and sent them to the CalPERS Legal Office for consideration. The Legal Office then proposed several minor additional revisions. The attached redlined version (Attachment 2) of the procedures

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<sup>1</sup> See <https://www.calpers.ca.gov/page/about/board/precedential-decisions-appeals-hearings/general-procedures-administrative-hearings> for a general overview of the procedures involved in administrative hearings.

conforms more closely to the actual procedures that have been employed in recent FBHs, eliminates some unnecessary language, and simplifies and clarifies other language.

### **Budget and Fiscal Impacts**

Revising the Full Board Hearing Procedures will have no budgetary impact.

### **Benefits and Risks**

The benefit of revising the FBH procedures is to have a simpler, more accurate document to help guide the Board and the parties in FBHs.

### **Attachments**

Attachment 1 – Existing Full Board Hearing Procedures

Attachment 2 – Redlined Version of Proposed Revisions to the Full Board Hearing Procedures

Attachment 3 – Clean Version of Proposed Revisions to the Full Board Hearing Procedures

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Matthew G. Jacobs  
General Counsel

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Marcie Frost  
Chief Executive Officer