



## Board of Administration

# Agenda Item 8a3

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**February 14, 2023**

**Item Name:** Proposed Decision – In the Matter of the Appeal of Lifetime Monthly Benefit Payable Upon the Death of Joseph R. Garcia by KAREN D. OLSON, Respondent, and MARIAN D. DANFORTH, also known as (aka) MARIAN DAVIS, aka MARIAN KUBICEK, Respondent.

**Program:** Disability and Survivor Benefits Division

**Item Type:** Action

### **Parties' Positions**

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

Respondent Karen D. Olson's (Respondent Olson) position is included in Attachment C, if any.

Respondent Marian Davis' (Respondent Davis) 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**

On November 11, 2017, CalPERS member, Joseph R. Garcia (Decedent) passed away. After reviewing Decedent's file and information provided by Respondent Davis and Respondent Olson, CalPERS determined that Respondent Davis is Decedent's lifetime beneficiary and Respondent Olson is entitled to the lump-sum retired death benefit.

Respondent Olson appealed CalPERS' determination regarding the lifetime monthly benefit payable upon the Decedent's death. The appeal was heard by the Office of Administrative Hearings on September 20 and 21, 2022. A Proposed Decision was issued on December 23, 2022, 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 December 23, 2022, concerning the appeal of Karen D. Olson; 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 December 23, 2022, concerning the appeal of Karen D. Olson, 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 December 23, 2022, concerning the appeal of Karen D. Olson, 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 Karen D. Olson, 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 Karen D. Olson.

**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  
Deputy Executive Officer  
Customer Services and Support