



## Board of Administration

# Agenda Item 8a1

---

**February 19, 2025**

**Item Name:** Proposed Decision – In the Matter of the Appeal for Disability Retirement of NATALIE M. CUNNINGHAM, Respondent, and COUNTY OF RIVERSIDE, Respondent.

**Program:** Disability and Survivor Benefits Division

**Item Type:** Action

### **Parties' Positions**

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Natalie M. Cunningham'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**

On April 13, 2023, Respondent County of Riverside (County) submitted an application for disability retirement on Respondent's behalf, based on a psychological condition. On November 15, 2023, Respondent submitted her own application for disability retirement based on a psychological condition. CalPERS denied the applications, and Respondent appealed. The matter was heard by the Office of Administrative Hearings on November 18, 2024. Due to the County's failure to appear, the case proceeded as a default under Government Code section 11520, subdivision (a) as to the County only. A Proposed Decision was issued on December 17, 2024, denying Respondent's appeal.

### **Alternatives**

- A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517, subdivision (c)(2)(C), which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision, by changing the heading "Thomas Pyo, M.D., Qualified Medical Examination" to "Thomas Pyo, M.D., Independent Medical Examination" on page 4, as well as replacing the words "a qualified medical examination" to "an independent medical examination" on page 4, paragraph number 7. The Board also

eliminates the references to *Hosford* and *English* on pages 9 and 10, paragraph number 6 as they relate to “industrial disability retirement” and corrects the case citation on page 10, paragraph number 6 to “*Smith v. City of Napa*” instead of “*Hawpe v. City of Napa*” of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated December 17, 2024, as modified, concerning the appeal of Natalie M. Cunningham; RESOLVED FURTHER that this Board Decision shall be effective 30 days following the mailing of the Decision.

B. 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 17, 2024, concerning the appeal of Natalie M. Cunningham; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

C. 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 17, 2024, concerning the appeal of Natalie M. Cunningham, 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.

D. 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 17, 2024, concerning the appeal of Natalie M. Cunningham, 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.

E. 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 Natalie M. Cunningham, 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 Natalie M. Cunningham.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

---

Kimberly A. Malm  
Deputy Executive Officer  
Customer Services and Support