



Board of Administration

Agenda Item 2a

April 18, 2022

Item Name: Further Consideration – In the Matter of the Appeal Regarding Full-Time Payrate Reporting of TUSTIN UNIFIED SCHOOL DISTRICT, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Tustin Unified School District's position is included in Attachment B, 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 Tustin Unified School District (Tustin) submitted an appeal to CalPERS' determination regarding reporting of classified employees' final compensation. The matter was heard by the Office of Administrative Hearings on September 2 and 3, 2021. A Proposed Decision was issued on December 13, 2021, rejecting CalPERS' determination and granting Tustin's appeal.

At its February 15, 2022 meeting, the Board considered the Proposed Decision of the Administrative Law Judge and concluded not to adopt it, but instead to decide the matter itself on the record after affording the parties the opportunity for further argument. The complete hearing record is attached, along with any written arguments submitted by the parties. Additionally, all parties have been notified of their right to present oral argument at the meeting on April 18, 2022.

Alternatives

- A. 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 reviewing the record produced before the Administrative Law Judge and considering written and oral argument presented by the parties, hereby determines to adopt its own Decision concerning the appeal of Tustin Unified School District; RESOLVED

FURTHER that this Board Decision shall be prepared in accordance with the Board's direction and presented to the Board for adoption at the Board's April 19, 2022 meeting.

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 13, 2021, concerning the appeal of Tustin Unified School District; RESOLVED FURTHER that this Board's Decision shall be effective April 19, 2022.

C. 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 Tustin Unified School District, 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 Tustin Unified School District.

Attachments

Attachment A: Staff's Argument

Attachment B: Respondent(s) Argument(s)

Attachment C: Full Board Hearing Procedures, Notice of Full Board Hearing and Proof of Service

Attachment D: September 2-3, 2021 Administrative Hearing Transcripts

Attachment E: February 15, 2022 Board Agenda Item

Attachment F: February 15, 2022 Board Meeting Transcript

Attachment G: CalPERS' Hearing Exhibits

Attachment H: Respondent's Hearing Exhibits

Attachment I: CalPERS' Post Hearing Brief, Reply Brief and Request for Official Notice

Attachment J: Respondent's Post Hearing Brief and Reply Brief

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Customer Services and Support