

COMMITTEE DUTIES, RESPONSIBILITIES AND PROCESS FOR CONSIDERATION OF PROPOSED DECISIONS

CALSTRS APPEALS COMMITTEE

SEPTEMBER 1, 2022

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What We'll Cover Today:

- Brief Overview of CalSTRS' Administrative Remedy Process from Start to Finish
- Focus on Committee's Role and Responsibilities Within that Process

OVERVIEW OF CALSTRS ADMINISTRATIVE REMEDY PROCESS

- Member expresses concern with action taken by CalSTRS
- If Member not satisfied with initial response, may request written Decision
- If Member not satisfied with Decision, may request Executive Review of Decision by Program Executive
- If Member disagrees with Program Executive's Determination, Member may request an administrative hearing
- Hearing Conducted by Administrative Law Judge (ALJ)
- Appeals Committee considers and acts on ALJ's Proposed Decision
- If Member dissatisfied with Committee decision, may request judicial review

What Happens When the ALJ Issues a Proposed Decision?

- Once ALJ issues the Proposed Decision, Appeals Committee has 100 days to act on it
- When the Committee meeting is scheduled, CalSTRS legal staff will prepare a memorandum for the Committee
 - Procedural background
 - Positions of the parties
 - Summary of findings of fact and conclusions of law by the ALJ
 - Recommendation for Committee action

Staff Memorandum

- Per Board Governance Manual, §7.C:
 - DCEO shall recommend adoption proposed decision when it “adequately reflects the issues and evidence presented at the hearing and the determination is adequately supported within the body of the decision
 - Action other than adoption may be recommended as to a proposed decision that does not meet this standard

Staff Memorandum-- Continued

- Per the Board Governance Manual, in recommending action other than adoption of the proposed decision, staff must consider:
 - The significance of any error or omission of law or fact in the proposed decision
 - Presence of actual or potential “program abuse” which should be a matter of Board concern that is not visible from the proposed decision
 - Whether proposed decision is supported by the substantial weight of the testimony presented at the hearing

Committee Member Meeting Preparation

- ***READ:***

- CalSTRS Legal staff memorandum
- Proposed Decision

- ***Come prepared with:***

- Questions
- Suggested technical or other minor changes

At the Committee Meeting (In Open Session)

- CalSTRS staff attorney presents staff memorandum
- Committee asks questions of staff attorney and program staff
- If Member is present, may offer public comment

What Happens After Open Session?

- Committee moves into closed session to deliberate
- Following deliberation, there is a motion, second and vote for its decision
- Committee comes back into open session to announce its decision

What Are the Committee's Options?

- Adopt the proposed decision as its own, with or without technical or other minor changes
- Reject the proposed decision and refer it back to the ALJ to take additional evidence
- Reject the proposed decision and decide the matter itself based upon the record, including the hearing transcript
- Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision
- ***IF* the Committee does not act on a Proposed Decision within 100 days, it is deemed by law to be the final decision of CalSTRS**

What are “Technical or Other Minor Changes”?

- Limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision
- More than correcting typos; Less than adding 15 pages of detailed new factual findings and conclusions of law to what had been a four-page proposed decision

Reject and Refer Back to the ALJ

- Can't be based solely on Committee belief that ALJ should adjust rationale or conclusion of proposed decision
- Appeals Committee is responsible for making decisions based upon the evidentiary record and findings of fact developed by the ALJ. If the Committee has reason to believe that an evidentiary point requires further development before it can make a decision, "reject and refer" is appropriate

Reject and Decide Itself

- Infrequent-- five instances in last nine years
- Staff recommendation in some, but not all
- Different reasons in each case

Reject and Decide Itself– Continued

- Process
 - Transcript and administrative record ordered from Office of Administrative Hearings
 - Committee must issue its decision within 100 days of receipt of the transcript
 - Committee requests written argument from the parties
 - Committee meets in closed session to deliberate and provide direction to Committee counsel regarding desired decision and rationale
 - Committee counsel prepares draft decision; Committee reviews, directs modifications, and ultimately adopts a final version

QUESTIONS?