



# Appeals Committee

## Item Number 4 – Open Session

**Subject:** Education: Overview of Precedential Decisions and Designation Process

**Presenter(s):** Reina G. Minoya

**Item Type:** Information

**Date & Time:** March 7, 2022 – 15 minutes

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**Attachment(s):** None

**PowerPoint(s):** Overview of Precedential Decisions and Designation Process

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### **PURPOSE**

The purpose of this item is to provide the Appeals Committee with an overview of the process to designate all or a part of an administratively adjudicated decision as a Precedential Decision, as well as to review the current index of designated Precedential Decisions.

### **DISCUSSION/SUMMARY**

The Appeals Committee Charter provides authority to the committee to “designate all or a part of an administratively adjudicated decision as a Precedential Decision pursuant to the board policy on Designating Precedential Decisions and Government Code section 11425.60.” It also delineates the committee’s responsibility to “hear, deliberate upon, and expeditiously decide to designate all or part of an administratively adjudicated decision as a Precedential Decision pursuant to the board policy on Designating Precedential Decisions and Government Code section 11425.60.”

Government Code section 11425.60 authorizes a state agency to designate as a Precedential Decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. The effect of this allows a decision to be expressly relied on as precedent in future administrative proceedings.

The process for designating Precedential Decisions is outlined in Section 7.D. of the Board Governance Manual. Upon recommendation from the assistant general counsel, the Appeals Committee may designate all or part of an administratively adjudicated decision adopted by the Appeals Committee as a Precedential Decision when all of the following criteria are met:

1. The decision or part of the decision contains a significant legal or policy determination;

2. The decision or part of the decision reflects a rule of general application; and
3. The decision or part of the decision relates to a legal or policy issue that is likely to recur in the future.

After the Appeals Committee has designated a decision as a Precedential Decision, the following statement shall be attached to the bottom of the decision: “Pursuant to Government Code section 11425.60, this decision [or “the following part of this decision”] is designated as a Precedential Decision.” If only a portion of the decision is designated as a Precedential Decision, this statement should end with a colon and then specify which part is designated as a Precedential Decision.

The Precedential Decision shall be added to an index containing all of CalSTRS’ Precedential Decisions. This index shall be updated at least annually, unless there have been no Precedential Decisions designated since the last update. The index shall be made available to the public on the CalSTRS website, and its availability shall be publicized annually in the California Notice Registry.

Once a decision or part of a decision has been designated as a Precedential Decision, it is binding in future administrative adjudications unless the Appeals Committee has rescinded the designation.

As of January 31, 2022, the Appeals Committee has designated seven decisions, or parts of decisions, as precedential:

1. In the Matter of the CalSTRS’ Denial to Base One Year Final Compensation on Earnings for the Period of February 1, 2003, through January 31, 2004, of Michael Janvier (effective June 5, 2014)
  - Final compensation for members with less than 25 years of credited service is calculated per Education Code section 22134 (final compensation is the highest average annual compensation earnable during any period of 3 consecutive school years). Final compensation for members with more than 25 years of credited service is calculated per Education Code section 22134.5 (final compensation is the highest average annual compensation earnable during any period of 12 consecutive months).
  - If service credit for a school year is less than 1.000, compensable earnable shall be the quotient obtained when creditable compensation paid in that year is divided by the service credit for that year pursuant to Education Code section 22115, subdivision (c).
2. In the Matter of the Retirement Benefits of Margaret Deetz (effective September 4, 2014)
  - Under Education Code section 22119.2, subdivision (f), an increase in compensation that is inconsistently treated throughout a member’s career or for

- the position is creditable only to the Defined Benefit Supplement account and not to the Defined Benefit account.
- An increase in compensation determined to be for the performance of additional duties is creditable to the Defined Benefit Supplement account because it is in excess of full-time salary in a full-time position.
  - Laches is inapplicable because CalSTRS acted diligently once it learned of the overpayments.
3. In the Matter of the Statement of Issues Against: Barbara Pahre (effective February 9, 2018)
- The annual salary increase received by the member represented additional compensation for services that exceeded a full-time position, and therefore should be excluded from the calculation of her Defined Benefit retirement allowance under Education Code section 22703.
  - An annual salary increase that was more than three times that which was previously received by the member did not represent consistent treatment of compensation throughout her career or for the position, and therefore should also be excluded from the Defined Benefit calculation under section 22119.2.
4. In the Matter of the Request for an Entitlement to Lynne Lowe’s Defined Benefit Account, by Eugene Stisser (effective February 9, 2018)
- A surviving spouse of a deceased CalSTRS member is not entitled to an ongoing monthly allowance in the form of an option benefit if the member did not elect the spouse as an option beneficiary prior to death.
  - A surviving spouse is not entitled to a refund of a member’s Defined Benefit account contributions if there was an option election in effect, including an option election for the member’s former spouse pursuant to a court order.
  - A surviving spouse is not entitled to a family allowance if the surviving spouse does not meet the definition of “spouse” under Education Code section 22171.
  - CalSTRS cannot assume the intent of a deceased member in electing an option beneficiary and for a specific option selection, and cannot put an option into effect, when it did not receive anything from the member evidencing a decision to elect an option beneficiary and the amount of that option. Even if there is sufficient evidence of such intent, statutory requirements, including relating to use of the appropriate form, completion, timeliness, and receipt of form, must be met.
  - CalSTRS does not have a duty to advise its members as to what decisions to make regarding their benefits or to ensure a member completed option beneficiary documents, but only to inform its members of the core elements of the pension plan.
5. In the Matter of the Statement of Issues for Retirement Benefits (Disability Retirement Effective Date): Marc Bashara (effective July 18, 2018)
- The term “mental incompetency” is not defined in the Education Code so the term should be construed using its plain-meaning definition.
  - The “mistake,” “inadvertence,” “surprise,” and “excusable neglect” utilized in

Education Code section 22308 (correction of errors or omissions) are as defined in Code of Civil Procedure section 473. Failing to timely apply for disability retirement is not an omission resulting from mistake, inadvertence, surprise, or excusable neglect.

- Education Code section 22250 (fiduciary duty towards members and beneficiaries) does not confer an affirmative duty on CalSTRS to have a mental health professional diagnose the member or to investigate whether a member is mentally incompetent. Instead, it is the responsibility of the member to establish eligibility for disability retirement and to establish mental incompetency to the satisfaction of the board.

6. In the Matter of the Statement of Issues Against: Stanislaus County Office of Education (effective March 29, 2019)

- The language of Education Code section 22905, subdivision (b)(3) is clear and requires that compensation payable for a specified number of times as limited by law, a collective bargaining agreement, or an employer agreement must be reported to the Defined Benefit Supplement account.
- The creditable compensation regulations (California Code of Regulations, title 5, section 27400 *et seq.*), which became operative in 2015, were not being applied retroactively and those regulations merely interpreted, and did not change, the law that existed at the time.
- The doctrine of equitable estoppel should only be applied against a governmental entity only in “rare circumstances” and when it would not be averse to public interest or policy.

7. In the Matter of the Statement of Issues Against: Walnut Creek School District (effective December 5, 2019)

- Education Code section 22905, subdivision (b)(3) is plain and ambiguous and requires that compensation payable for a specified number of times as limited by law, a collective bargaining agreement, or an employer agreement be reported to the Defined Benefit Supplement account.
- The creditable compensation regulations (California Code of Regulations, title 5, section 27400 *et seq.*), which became operative in 2015, were not applied retroactively and only clarified existing law on the topic.
- The doctrine of equitable estoppel cannot be invoked, even if the elements of equitable estoppel are satisfied, when doing so would contravene a statutory limitation and provide for an unauthorized benefit.
- Education Code section 22308, subdivision (c) does not vest the CalSTRS Board with the authority to correct an error in a manner that would confer a pension benefit to which a member is not entitled.

Staff will provide more information on the designation process and designated Precedential Decisions during the presentation.