



Appeals Committee

Item Number 3 – Open Session

Subject: Consideration of the Proposed Decision: In the Matter of the Retirement Benefits of: Patricia McLain

Presenter(s): Jaismin Kaur and Jody Cozad

Item Type: Information

Date & Time: November 2, 2023 – 15 minutes

Attachment(s): Attachment 1 – Proposed Decision

Attachment 2 – Statement from Patricia McLain

PowerPoint(s): None

Item Purpose

The purpose of this item is to consider the proposed decision issued in the above-referenced matter.

Executive Summary

Administrative Law Judge (ALJ) Holly M. Baldwin received evidence at an administrative hearing on May 22, 2023, for the above-referenced matter. The record was held open for submission of post-hearing briefs. The record closed and the matter was submitted for decision on July 5, 2023.

On August 2, 2023, ALJ Baldwin delivered a proposed decision denying Respondent Patricia McLain's appeal to credit her compensation for the 2014-2015 and 2015-2016 school years to her Defined Benefit account (Attachment 1). Ms. McLain submitted a written statement in response to the proposed decision (Attachment 2).

Ms. McLain's statement does not change staff's recommendation that the Appeals Committee adopt the proposed decision with the technical or other minor changes identified below, as the arguments raised in the written statement are similar to those considered by ALJ Baldwin during the hearing.

Background

CalSTRS member Patricia McLain worked for the Reed Union School District (the “District”) prior to retirement. In July of 2004, Ms. McLain became the principal of Bel Aire Elementary School (“Bel Aire”). She was paid according to the Management Salary Schedule. Ms. McLain’s salary in the 2012-2013 school year was \$139,119.15.

In the 2013-2014 school year, after the principal position at Reed Elementary School (“Reed”) became vacant, Ms. McLain served as interim principal at Reed in addition to her position as principal at Bel Aire. The District added a “Dual Elementary School Principal” position to the Management Salary Schedule, placed Ms. McLain in that category, and increased her salary to \$151,981.65.

In the 2014-2015 school year, the District implemented a new Leadership Team Model that consisted of a single lead administrator of both Bel Aire and Reed (a “Dual Principal”), and three assistant principals overseeing the daily operations of both schools. Ms. McLain served as Dual Principal for the 2014-2015 school year, and her salary increased by approximately 20 percent to \$182,239.05, to compensate her for the new and increased responsibilities.

The District ended the Leadership Team Model in the 2015-2016 school year, and Ms. McLain later signed a contract to return to only working as principal of Bel Aire. Because the District did not timely notify Ms. McLain that she would no longer serve as Dual Principal in the 2015-2016 school year pursuant to the requirements of Education Code section 44951, Ms. McLain continued to receive the higher compensation for the Dual Principal position in the amount of \$191,566.60, despite serving as only principal of Bel Aire. No one held the Dual Principal position after Ms. McLain.

Ms. McLain retired on July 1, 2016, with 35.623 years of service credit. Her final compensation was based on her highest one-year salary from the 2015-2016 school year when she worked as principal of Bel Aire but earned the Dual Principal salary as a result of the District’s untimely notification of her being released from the Dual Principal position. Ms. McLain began receiving her retirement benefits in August of 2016.

In March of 2019, Ms. McLain’s account was reviewed by the CalSTRS’ Compensation Review Unit. The review resulted in the November 13, 2019, Decision letter informing Ms. McLain that the pay increases she received in the 2013-2014 through 2015-2016 school years were in excess of her full-time position, and therefore creditable to her Defined Benefit Supplement account, not her Defined Benefit account. Furthermore, CalSTRS found that Ms. McLain’s pay increases for the three school years were inconsistent and therefore not creditable under Education Code section 22119.2. Ms. McLain requested an Executive Review of the Decision but did not dispute the finding that the increased compensation she received in the 2013-2014 school year was paid for service in excess of her full-time position as principal of Bel Aire.

CalSTRS issued its Determination letter on March 24, 2021, upholding its Decision that the compensation Ms. McLain received in the 2014-2015 and 2015-2016 school years was for an entirely new position, and her compensation increases for those years were inconsistent. Ms. McLain subsequently requested an administrative hearing.

The issue at the hearing was whether CalSTRS properly determined that Ms. McLain's compensation in the 2014-2015 and 2015-2016 school years should be reported to her DBS account. CalSTRS produced evidence demonstrating that Ms. McLain's pay increases were inconsistent under California Code of Regulations, title 5, section 27600, subdivisions (a)(4) and (a)(5) because those subdivisions require that the changed duties and/or responsibilities of the position be incorporated into the first contract for the immediate successor to the position, and there was no successor to Ms. McLain in the Dual Principal position. CalSTRS also produced the precedential decision of *In the Matter of the Statement of Issues Against: Barbara Pahre* to support its position. In response, Ms. McLain argued that her pay was not inconsistent under California Code of Regulations, title 5, section 27600, subdivisions (a)(4) and (a)(5) because there was no requirement for a successor.

Additionally, Ms. McLain argued that her compensation was consistent under Section 27600, subdivision (a)(7) because the District increased her compensation to establish pay parity. CalSTRS' interpretation of that section is that it requires contemporaneous evidence of the employer's reason for the pay increase, and CalSTRS received no such documentation in this case.

ALJ Baldwin held that Ms. McLain's pay increase was not consistent under California Code of Regulations, title 5, section 27600, subdivisions (a)(4) and (a)(5), rejecting Ms. McLain's contention as contrary to the plain language of the regulation, and finding *Pahre* to be pertinent and persuasive. The ALJ provided deference to CalSTRS' interpretation that California Code of Regulations, title 5, section 27600, subdivision (a)(7) requires contemporaneous evidence to establish pay parity and found that the evidence presented by Ms. McLain was insufficient to demonstrate that her compensation was increased to establish pay parity.

ALJ Baldwin also rejected Ms. McLain's argument that CalSTRS was barred by the statute of limitations in Education Code section 22008, ruling that CalSTRS did not discover the District's incorrect reporting until 2019 and then timely filed the statement of issues in 2021, less than three years later. The ALJ rejected Ms. McLain's laches defense on similar grounds. Ms. McLain's equitable estoppel argument failed because even if the estoppel elements were met, CalSTRS cannot be compelled to pay incorrect benefits. Lastly, the ALJ agreed with CalSTRS that Assembly Bill 1667 was irrelevant to this case, as it became effective January 1, 2023, and operates only prospectively.

Accordingly, ALJ Baldwin denied Ms. McLain's appeal to credit her compensation for the 2014-2015 and 2015-2016 school years to her DB account and affirmed CalSTRS' determination.

Recommendation

Pursuant to Government Code section 11517, subdivision (c)(2)(C), staff recommends that the Appeals Committee adopt the proposed decision with the following technical or other minor changes:

1. On page 2, paragraph 2, line 2, change “is reported” to “can be reported.”
2. On page 2, paragraph 2, lines 4-5, change “calculate” to “initially pay.”
3. On page 17, paragraph 1, line 5, change “*In the Matter of: Stanislaus County Office of Education*” to “*In the Matter of Whether the Stanislaus County Office of Education Incorrectly Reported Compensation to CalSTRS: Stanislaus County Office of Education.*”
4. On page 18, paragraph 5, lines 1-2, change “*In the Matter of: Barbara Pahre*” to “*In the Matter of the Statement of Issues Against: Barbara Pahre.*”

Strategic Plan Linkage: Goal 1 (trusted stewards) to ensure a well-governed, financially sound trust fund

Board Policy Linkage: Section 7.C. [Guidelines for Consideration of Proposed Decisions in Appeals](#)
