



Appeals Committee

Item Number 3 – Open Session

Subject: Consideration of the Proposed Decision: In the Matter of the Retirement Benefits of: Betty Forrester

Presenter(s): Jaismin Kaur / Jody Cozad

Item Type: Action

Date & Time: January 25, 2023 – 15 minutes

Attachment(s): Attachment 1 – Proposed Decision

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) Ji-Lan Zang received evidence at an administrative hearing on October 12, 2022, for the above-referenced matter. The record was left open for the parties to submit written closing and reply briefs. The record was closed and the matter submitted for decision on November 14, 2022. On December 12, 2022, ALJ Zang delivered a proposed decision denying Respondent Betty Forrester's appeal to calculate her retirement benefit based on a 12-month pay schedule for her tenure as an elected union officer (Attachment 1).

Ms. Forrester was given the opportunity to submit a written statement in response to the proposed decision, but she did not submit one.

Staff recommends that the Appeals Committee adopt the proposed decision with the technical or other minor changes identified below.

Background

CalSTRS member Betty Forrester was a certificated teacher for the Los Angeles Unified School District ("District") from 1974 to June 30, 2008. The District paid Ms. Forrester based on a 10-month pay schedule, also known as a C-Basis rate. From July 1, 2008 until her retirement on

June 30, 2017, Ms. Forrester held various elected officer positions with the United Teachers Los Angeles (“UTLA”), the labor union for certificated teachers of the District. As an elected UTLA officer, Ms. Forrester took a leave of absence from the District and worked 40 hours per week, 12 months per year with UTLA, and the District paid her based on a 12-month pay schedule, also known as an A-Basis rate. During the period Ms. Forrester served as an UTLA elected officer, the District reported both employer and employee contributions to CalSTRS based on the 12-month pay schedule rather than the 10-month pay schedule. Ms. Forrester began receiving her retirement benefit from CalSTRS on July 1, 2017, in the monthly amount of \$7,749.21.

CalSTRS conducted an audit of the District and issued a Final Audit Report on April 8, 2016, finding that the District had misreported creditable compensation for two members sampled in the audit, Warren Fletcher and Michael Caputo-Pearl, both of whom served as UTLA elected officers. Specially, the audit determined that the District should have reported the members’ contributions based on the 10-month pay schedule they would have made as certificated teachers instead of based on the 12-month pay schedule pursuant to Education Code section 22711. The Final Audit Report also requested the District review its records and correct misreported compensation for any additional members outside the audit sample. The District and the two sampled members jointly appealed the audit finding, which culminated in the CalSTRS Appeal Committee adopting the ALJ’s proposed decision affirming the audit finding in *In the Matter of Whether Los Angeles Unified School District Incorrectly Reported Compensation for Elected Officers to CalSTRS* (“2019 Decision and Order”). No further judicial review was requested. CalSTRS published the 2019 Decision and Order on its website, making it available for public inspection and copying.

In accordance with the 2019 Decision and Order, the District identified additional members outside of the audit sample who had served as elected officers and for whom the District had also reported creditable compensation based on the 12-month pay schedule. Ms. Forrester was identified as one of those members. In August 2019, the District re-reported Ms. Forrester’s compensation during her tenure as an UTLA elected officer based on the 10-month pay schedule, and in a letter dated August 17, 2019, CalSTRS informed Ms. Forrester of the benefit adjustments based on the District’s rereporting.

Ms. Forrester requested an administrative hearing to appeal the benefit reduction and overpayment, which was denied because the then-current appeals regulations did not allow systemic members such as Ms. Forrester administrative hearings. Ms. Forrester filed a writ of mandate seeking administrative appeal rights. On August 9, 2021, the superior court issued an order granting Ms. Forrester’s writ and allowing her an administrative hearing.

The issue at hearing was whether Ms. Forrester’s contributions to the Defined Benefit Program during the time she worked as an elected officer for the UTLA should have been reported based on the 10-month pay schedule or the 12-month pay schedule. CalSTRS argued Ms. Forrester’s contributions should have been based on the 10-month pay schedule because: (1) Education Code section 22711, subdivision (a)(2), required the District to report Ms. Forrester’s compensation based on the 10-month pay schedule for creditable service as a certificated teacher,

not the 12-month pay schedule for non-creditable service as an UTLA elected officer; (2) this issue was decided in the 2019 Decision and Order and that decision was binding on Ms. Forrester pursuant to Government Code section 11519, subdivision (f); and (3) the doctrine of collateral estoppel barred Ms. Forrester from relitigating the same issue decided in the 2019 Decision and Order. Ms. Forrester contended the 2019 Decision and Order was not binding; collateral estoppel did not apply; and she is entitled to retirement benefits based on the 12-month pay schedule.

ALJ Zang held the 2019 Decision and Order was not binding on Ms. Forrester and collateral estoppel did not apply. However, based on the plain language and legislative history of Education Code section 22711, ALJ Zang found that the District misreported Ms. Forrester's earnings based on the 12-month pay schedule, and that CalSTRS had correctly determined that Ms. Forrester's retirement benefit should have been calculated based on the 10-month schedule during her tenure as an UTLA elected officer. Accordingly, ALJ Zang denied Ms. Forrester's appeal to recalculate her retirement benefit based on a 12-month pay schedule.

Recommendations

Staff disagrees with the proposed decision that the 2019 Decision and Order is not binding on Ms. Forrester pursuant to Government Code section 11519, subdivision (f) and that collateral estoppel did not bar her from relitigating the same issue. However, staff agrees with the ultimate conclusion and the finding that the District misreported Ms. Forrester's earnings based on the 12-month pay schedule. Thus, 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 1, line 5, change "Teacher's" to "Teachers'."
2. On page 3, paragraph 3, line 3, change "art. XIV, 5 17" to "Art. XVI § 17."
3. On page 4, paragraph 3, lines 3-4, change "the appropriate crediting of contributions to the Defined Benefit Program" to "the appropriate crediting of contributions...[to] the Defined Benefit Program."
4. On page 8, paragraph 17, line 1, change "2019" to "2020."
5. On page 8, paragraph 19, line 1, change "April 12" to "April 13."
6. On page 9, paragraph 20, line 7, change "Ex. 23" to "Ex. 22."
7. On page 10, paragraph 23, line 3, change "Pearl-Caputo" to "Caputo-Pearl."
8. On page 18, paragraph 18, line 1, change "(b)" to "(a)(2)."

9. On page 18, paragraph 18, line 5, change “21119.5” to “22119.5.”
10. On page 18, paragraph 18, line 8, change “2119.5” to “22119.5.”
11. On page 21, paragraph 22, line 8, change “exiting” to “existing.”
12. On page 23, paragraph 26, line 3, change “adjustment” to “adjustments.”
13. On page 23, paragraph 26, lines 4 and 5, change “22208” to “22008.”

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](#)
