



MEMORANDUM

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To: Members of the Board of Administration, Police and Fire Department Retirement Plan

Copy: Roberto L. Pena, Chief Executive Officer

File No.: 363429.60002

Date: August 26, 2021

Subject: **Disability Application of Member James R. Mason**

Police and Fire Plan member James R. Mason has filed an application for a service-connected disability retirement. Mr. Mason was formerly a member of the Board of Administration, serving as an active member. Given the unique relationship that Mr. Mason has had with the Board, and to avoid any appearance of actual or perceived bias for or against granting his application, we believe it would be prudent and appropriate to refer consideration of the merits of his application to another neighboring public employee retirement system for developing the record and making a recommendation to this Board.

It has become customary for California public employee retirement systems at the state, county and city levels to extend the courtesy of considering disability applications for neighboring systems when the originating system believes such a referral will help to assure complete independence and neutrality in determining whether to grant or deny the applications. In the 20 county systems governed by the County Employees Retirement Law of 1937 ("CERL"), referrals are usually made to other CERL systems, since they generally operate under the same rules governing disability applications. San Jose is a charter city, with its principal disability rules appearing uniquely in its own Municipal Code, so another system may not be as familiar with our standards and definitions as our own Board might be; however, our review of those standards indicates that on the primary factual issues of permanent incapacity, service connection, accommodation, etc., most California systems' terms are quite comparable to San Jose's.

The Board could seek to refer this application to any number of neighboring systems: The cities of San Francisco and Oakland have their own safety member codes like San Jose; Santa Clara County is in the statewide PERS system (but then CalPERS would conduct the proceeding, perhaps not the most administratively efficient); San Mateo is a CERL system. Any one of these systems are equipped to make the factual determinations necessary to recommend granting or denying Mr., Mason's application to this Board. Ultimately this Board will make the final determination, since that is a non-delegable act under the San Jose Municipal Code.

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Any neighboring system that extends to us the courtesy of taking this referral likely will need to be reimbursed its costs associated with considering the application, such as medical evaluation fees and other costs of administration. We believe these are appropriate and reasonable expenses of administering the Police and Fire Plan.

Based upon the foregoing, we recommend that the Board approve the referral of Mr. Mason's application to a neighboring system in order to have that system determine the merits of the application and make a final recommendation to the Board whether to grant or deny the application. Please let us know if you have any questions.

HLL:nm