



# Appeals Committee

## Item Number 3 – Open Session

**Subject:** Consideration of the Proposed Decision: In the Matter of the Disability Retirement Benefit Effective Date of: Diane Danielian

**Presenter(s):** Jaismin Kaur; Ian Coen

**Item Type:** Action

**Date & Time:** June 7, 2024 – 15 minutes

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**Attachment(s):** Attachment 1 – Proposed Decision

**PowerPoint(s):** None

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### **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) Wim van Rooyen received evidence at an administrative hearing on February 28, 2024, for the above-referenced matter. The record was held open to allow Respondent Diane Danielian to submit her handwritten statement read at the hearing as an exhibit. The record closed and the matter was submitted for decision on March 1, 2024.

On March 22, 2024, ALJ van Rooyen delivered a proposed decision changing Ms. Danielian's benefit effective date (BED) from October 1, 2021, to September 1, 2021, thereby granting in part and denying in part her appeal for an earlier BED (Attachment 1).

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

### **Background**

Diane Danielian became a CalSTRS member on May 1, 2003. Upon membership, Ms. Danielian received various CalSTRS publications and annual Retirement Progress Reports which advised her of the availability of disability retirement benefits. The publications also advised Ms. Danielian to apply for disability retirement as soon as she believed she would qualify because

her BED could not be earlier than the first day of the month in which CalSTRS receives her completed disability retirement application.

Ms. Danielian's eyesight significantly deteriorated in March 2020, and she was considered legally blind and unable to work at least since July 2, 2020. Ms. Danielian's former employer, Clovis Unified School District, told her she did not have any disability retirement benefits available to her by virtue of her prior employment with the district.

On March 8, 2021, Ms. Danielian and her sister, Karen Sproul, contacted CalSTRS to schedule a telephonic benefits planning appointment for April 9, 2021. Before the CalSTRS representative could get Ms. Danielian's contact number for the appointment, she disconnected the call. Ms. Danielian did not call back and thus, the April 9, 2021 benefits planning appointment did not occur. Ms. Danielian and Ms. Sproul again contacted CalSTRS on July 16, 2021, and scheduled another telephonic benefits planning appointment for August 16, 2021. During the August 16, 2021 call, Ms. Danielian discussed service retirement, disability retirement, and applying for service retirement during evaluation of a disability retirement application. Following the call, upon Ms. Danielian's request, CalSTRS provided her with hard copies of the Your Disability Benefits Guide publication and the disability retirement application. On September 10, 2021, Ms. Danielian and Ms. Sproul called CalSTRS and worked with a CalSTRS representative to apply for service retirement. Three days later, they learned that they completed the wrong application and were provided with the disability retirement application.

CalSTRS received Ms. Danielian's disability retirement application on October 19, 2021. CalSTRS approved Ms. Danielian for disability retirement benefits with a BED of October 1, 2021, the first day of the month in which CalSTRS received her disability retirement application. Subsequently, Ms. Danielian requested an earlier BED. When CalSTRS denied her request, Ms. Danielian requested an administrative hearing.

The issue at the hearing was whether Ms. Danielian was entitled to a BED earlier than October 1, 2021. Ms. Danielian argued that her disability retirement application was delayed based on erroneous advice from Clovis Unified School District; the COVID-19 pandemic; her visual impairment; and incorrect advice from CalSTRS during the September 10, 2021 call advising her to file a service retirement application. Ms. Danielian requested a BED of July 1, 2020, because she was first deemed legally blind and unable to work on July 2, 2020. Alternatively, Ms. Danielian requested a BED of February 1, 2021 because that was when she claims she first initiated contact with CalSTRS to inquire about disability retirement benefits.

ALJ van Rooyen held that CalSTRS correctly computed Ms. Danielian's BED to be October 1, 2021. Education Code section 24105, subdivision (a)(3), states that "[a] disability retirement allowance under this part shall become effective upon any date designated by the member, provided that all of the following conditions are met... (3) The effective date is no earlier than either the first day of the month in which the application is received at the system's headquarters office or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent..." There was no evidence that Ms. Danielian

was ever mentally incompetent, and it was undisputed that CalSTRS received Ms. Danielian’s disability retirement application on October 19, 2021. Thus, pursuant to Education Code section 24105, subdivision (a)(3), Ms. Danielian’s BED would be October 1, 2021.

ALJ van Rooyen then considered whether Ms. Danielian made a correctable error or omission that could entitle her to an earlier BED pursuant to Education Code section 22308. ALJ van Rooyen found that any erroneous advice by the district was not a correctable error or omission since Ms. Danielian waited until March 2021 to contact CalSTRS. He also found that neither the COVID-19 pandemic nor her visual impairment delayed her from filing a disability retirement application. On the other hand, ALJ van Rooyen found that Ms. Danielian applied for service retirement on September 10, 2021 based on incorrect advice from a CalSTRS representative, and that it was reasonable for her to rely on such advice. He held this to be a correctable error. Had Ms. Danielian applied for disability retirement on September 10, 2021, she would have received a September 1, 2021 BED. Accordingly, ALJ van Rooyen ordered that Ms. Danielian’s BED be changed from October 1, 2021, to September 1, 2021, with all appropriate adjustments.

### **Recommendation**

Staff disagrees with the proposed decision to the extent that it divests the statutory discretion provided to the Teachers’ Retirement Board pursuant to Education Code section 22308 and *Welch v. State Teachers' Retirement System* (2012) 203 Cal.App.4th, to correct any errors or omissions. However, staff does not take issue with the conclusion that Ms. Danielian’s BED could be September 1, 2021. 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 4, paragraph 7, line 5, change “SSA representative” to “lawyer.”
2. On page 4, paragraph 8, line 9, change “April” to “March.”
3. On page 5, paragraph 14, line 2, change “15” to “14,” and change “submitted” to “signed.”
4. On page 6, paragraph 14, lines 1-2, change “her completed disability retirement application to CalSTRS, which received it” to “her completed disability retirement application and submitted it to CalSTRS, which it received.”
5. On page 8, paragraph 4, line 7; page 8 between paragraphs 4 and 5; and page 9, paragraph 7, line 5, change “correctible” to “correctable.”

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

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