

**ATTACHMENT C**

**RESPONDENT'S ARGUMENT**

**Respondent's Argument**

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Dear Board of Administration:

The following narrative is my response to the Proposed Decision by the Administrative Law Judge in the matter of the Appeal of Accepting the Application for Industrial Disability Retirement of Lincoln D. Johnson. I am submitting this written argument for the Proposed Decision to be considered at the regular meeting of the Board of Administration on April 16, 2024. I am asking the Board to designate this decision as precedent because 1) this determination is likely to recur, and 2) it includes a clear and complete analysis of the issues in sufficient detail so that interested parties can understand why the finding was made.

**RESPONSE**

As an employee of the California Department of Corrections and Rehabilitation, I excelled at my jobs. I increased enrollment and General Education Development (GED) attainment at both Centinela State Prison and California City Correctional Facility. I brought Imperial Valley College into Centinela State Prison BEFORE SB1391 was passed, managed one of the largest college programs inside a prison in the country at California City Correctional Facility, and I increased educational achievement at both prisons significantly. I loved my job and I worked very hard to make sure that the students under my care earned the skills to reduce recidivism and the ability to have a positive impact on their families and communities. These gains were documented monthly on comprehensive statistics reports and shared with the prison executive staff and the Office of Correctional Education (OCE). At one point, we were running 42 to 45 college classes from Cerro Coso Community College INSIDE the prison, with approximately 20 graduates earning their Associates of Arts degrees every semester while in prison. I had 1,000 students in college at California City Correctional Facility, and I helped to break GED records for students in state prison in California two years in a row (2018 and 2019). My programs were mentioned in the governor's state of the state addresses multiple times.

In January 2019, during an education program inspection by the Office of Inspector General of the State of California, I mentioned to the Assistant Attorney General about some concerns I had at California City Correctional Facility. She referred me to the Attorney General who explained that he would speak to the Warden on my behalf. Approximately two weeks after this conversation, I was told that I was going to be investigated for a lost test from 2017 that was resolved to completion through OCE, and for mistakenly forgetting to include a day off on a timesheet from the same time period. I knew this was not a coincidence, and I reached out to the Inspector General to invoke "whistle blower" status. In July 2019, I was walked out of the institution for these matters. In September 2019, we had a hearing about this issue before the State Personnel Board, where during the settlement process the Administrative Law Judge admonished those representing California City Correctional Facility (CAC) to stop saying I was dishonest and told them they "had to give... [me my]... job back." The warden said I

could come back as a teacher but not principal, and I agreed to this stipulation because I did my job for the purpose of educating/rehabilitating people, and not for a title.

As a teacher, I was teaching Adult Basic Education I (ABE I) for students reading between the kindergarten and fourth grade level. Many of the students were English Language Learners, so I designed, developed, wrote and implemented a second language acquisition program curriculum that was based on the dual immersion model where students who were learning English (primarily Spanish-speaking students) as well as native English speakers would work together to share language and learn dual languages together. Over 60% of my students promoted to ABE II, the best matriculation rate for ABE I students in the history of CAC as a state prison. I loved my job. I was proud of myself and my students, and I worked very hard to meet the Secretary of CDCR's goal of reducing recidivism and providing my students the 21<sup>st</sup> century skills needed to be successful – all without technology or any of the tools the schools outside of prison use.

During this time of my return to CAC, I was met with issue after issue. My health insurance, dental insurance and benefits would be cancelled without warning, even though it would be deducted from my check monthly. For example, I got braces for my child in January 2020 and in February 2020 my dental benefits were cancelled for a month, causing me to pay out of pocket for these services almost three thousand dollars for which I was never reimbursed. In addition, I would go see my orthopedic specialist and my insurance would be invalid, with the personnel department only saying either it was an accident or some other false “good faith” response. I was being singled out and picked on for my previous interaction with the Inspector General; it was evident. Because I could not see my doctors for my health issues, my right leg started deteriorating very quickly. At this point I had 13 surgeries already on my right leg, and would have these intermittent periods where I could not see any doctors or specialists, no pain management and no care for an ongoing health issue. I ended up being on crutches for 11 months of that year because I could no longer use my leg. This treatment continued. My payroll checks would be taken by personnel and then I would be printed a counter check in accounting for less than the amount of my check from the State Controller's Office. That money has never been accounted for. I complained to CDCR headquarters, the Department of Investigative Services, the Department of Fair Employment and Housing, the Civil Rights Office as well as to everyone from the Warden up. It was a nightmare for me. I begged them to stop this treatment as I was close to losing my leg, which I eventually lost and became an amputee.

What California City Correctional Facility leaves out in their responses is that they did focus very heavily on my disability. For example, while other employees were allowed to work from home during the pandemic, I was ordered to report to work every day. I would be subjected to how long it took me to enter the institution on a prosthesis and crutches and was told by the Supervisor of Academic Instruction that it takes “normal people” about four minutes to enter the institution, so it should only take me about seven minutes – even though I had medical accommodations of extra time to ambulate. There was an expectation that I would hand deliver packets of work to the students' cell doors, which I could not do, and would utilize prison mail to make sure my students received their work in a timely manner. I was learning to walk on a prosthesis and still using a walker, crutches and a cane to ambulate, so there was no way I could physically carry boxes of work to the housing units and I enlisted help, but they still dishonestly report that I was not delivering work to students because I was unable to hand carry these items.

When I was cleared to return to work and before even entering the facility again, the conversation about medical retirement was broached. I was told by CAC I could elect to medically retire and was never told that I was under any investigation or being disciplined for any matter. I was off work from August 25, 2020 through April 19, 2021 and had not had any other contact with CAC during that time as I was losing my leg and my life was altered permanently, so that was an adjustment. On the day I arrived at work (April 19, 2021), I contacted personnel and CalPERS and began the medical retirement process. There was no chance to be in trouble and for what reason would I be disciplined? I had only been back one day. If the records and evidence are reviewed, you will see that CAC tried to retroact dates to fit a narrative, but it does not make sense. Why would they provide me with retirement information if they knew I would not be entitled to it? And furthermore, why would they allow me to resign and sign me out completely, including the Lieutenant of the Investigative Services Unit, as free and clear to resign if I was under an active investigation? Because I was not. It was not until I resigned pending retirement that CAC decided my resignation was unfavorable. This was three months AFTER I resigned, in October 2021. I applied for medical retirement because I do not have a leg, it is never growing back, and I am still trying to learn to navigate the world as this new, incomplete person. I have done great work for the state and excelled beyond my peers with student learning outcomes and educational achievement. During my time at work, I was lauded for my work with students, even in a written nomination/recommendation for a statewide leadership committee from the warden himself. I do not understand the *ex post facto* decision to try and vilify me after I left. This was all retaliation from my initial interaction with the Inspector General's Office and continued Equal Employment Opportunity (EEO) reports against CAC for their treatment of me during my time there.

As a matter of fact, not only did I resign in good standing as referenced by my ability to sign out and be cleared to leave by the institution, but the institution cleared me to come in and work with Cerro Coso Community College as an English Instructor on August 24, 2021, a month after I resigned. I continued that work through May 2023. I was cleared by both the warden and the Investigative Services Unit as having no issues at CAC. I do hope that the Board of Administration approves my ability to apply for medical retirement. My life has been changed forever. I will never have a leg, no matter how many prostheses I have. I am not seeking rehire by CAC, but am confident that my experience, exposure and education make me a great educator candidate and I have no doubt that many other prisons would hire me with my background immediately. I have three education credentials and a doctorate in education, which I do not take lightly and work very hard to meet and exceed the expectations of my profession. I have worked very hard to make sure that my students succeed. I thank you for your time and attention to this response and look forward to your decision.