

**ATTACHMENT B**

**STAFF'S ARGUMENT**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION**

Sabrina Snyder (Respondent) worked part-time for Solano County Water Agency (Respondent SCWA) as an intern from 2012 through 2014 when she was in college. In September 2016, she accepted a full-time regular position at Respondent SCWA as a Senior Water Resource Specialist. By virtue of that employment, Respondent was enrolled as a member of CalPERS on September 20, 2016.

On November 19, 2018, CalPERS received Respondent's Request for Service Credit Cost Information – Service Prior to Membership (SPM), for services rendered to Respondent SCWA during her internship. By letter dated January 3, 2019, CalPERS provided Respondent with cost information to purchase SPM service credit. On February 15, 2019, CalPERS received Respondent's election to purchase SPM. CalPERS processed Respondent's election to purchase SPM and credited her account with additional service due to her internship.

On February 25, 2021, Respondent contacted CalPERS seeking information on whether Respondent SCWA should have enrolled her in CalPERS membership when she began her internship in 2012. On May 28, 2021, CalPERS informed Respondent she was not eligible for CalPERS membership enrollment in 2012 because she was hired part-time as a nonpermanent intern.

By letter dated June 1, 2021, Respondent requested that CalPERS provide her with an earlier enrollment date in 2012.

On September 9, 2021, CalPERS sent a letter to Respondent SCWA seeking Respondent's payroll details and employment information for her internship. Respondent SCWA submitted the requested information to CalPERS on October 5, 2021. After reviewing the information, CalPERS confirmed its determination that Respondent did not qualify for CalPERS membership for her work as an intern from 2012-2014.

CalPERS informed Respondent and Respondent SCWA of its determination that Respondent did not qualify for membership when she was hired as an intern in 2012.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on December 19, 2023. Respondent was represented by counsel at the hearing. Respondent SCWA did not appear at the hearing and the matter proceeded as a default as to Respondent SCWA only.

At the hearing, Respondent acknowledged the internship did not constitute permanent, full-time employment. However, she contended the internship rendered her eligible for CalPERS membership because it was a regular, part-time position which required her to work an average of at least 20 hours per week for a period of one year or longer.

Respondent's schedule at Respondent SCWA was flexible and varied from week-to-week based on her academic schedule and project needs. Sometimes, she worked up to 40 hours per week. Other times she would work fewer than 20 hours per week. Respondent calculated the average hours she worked at Respondent SCWA, and testified that she averaged 21.51 hours during her first calendar year. Respondent was never explicitly told she was ineligible for CalPERS membership, and she was never asked to sign any document acknowledging she was ineligible. Respondent testified that when she received the 2012 internship offer from Respondent SCWA, she understood she could not work more than 1,000 hours and that overtime was not a possibility.

CalPERS presented evidence and testimony to show that public employees generally become eligible for CalPERS membership when they are hired by public agencies for full-time positions exceeding six months in duration. However, there are exceptions to the general rule. The exception relevant here is that part-time employees are not excluded from membership if their position requires regular service of at least an average of 20 hours per week or its equivalent for a period of one year or longer.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent was hired to work as a student intern at Respondent SCWA for a term of approximately 15 months, so she met the requirement of service for one year or longer. However, Respondent's internship cannot be categorized as a regular part-time position. Her schedule varied from week-to-week. While she was prohibited from working more than 40 hours per week, she presented no evidence that Respondent SCWA required her to work a minimum of 20 hours per week. Moreover, she was informed when she was hired that she was "not eligible for any regular employee benefits." When all the evidence is considered, the ALJ found that Respondent did not establish by a preponderance of the evidence that she was eligible for CalPERS membership by virtue of her student internship with Respondent SCWA.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

February 21, 2024

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