

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Romeo B. Balanza (Respondent) applied for service pending disability retirement on the basis of a psychological (depression, anxiety) condition. By virtue of his employment as a Senior Transportation Planner with Respondent Department of Transportation – District 08 (DOT), Respondent was a state miscellaneous member of CalPERS.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support his case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent's questions and clarified how to obtain further information on the process.

Despite proper notice being given to DOT and Respondent, neither appeared at the hearing on January 21, 2015. CalPERS introduced medical testimony and documentary evidence at the hearing.

As part of CalPERS' review of his medical condition, Respondent was examined by Independent Medical Examiner (IME) Lawrence H. Warick, M.D., a Diplomate of the American Board of Psychiatry and Neurology. Dr. Warick reviewed Respondent's job description, all relevant medical records, a pre-appointment questionnaire, and performed an examination and in-person interview.

Dr. Warick ascertained that Respondent played tennis three times per week, that he was under financial pressure relating to the acquisition of real property, that he suffered grief from the death of a son in 2013, and that he suffered anxiety from the drug use of another son. In the opinion of Dr. Warick, Respondent was coping well with his circumstances and had a high level of functioning. Dr. Warick prepared and issued a written report in which he concluded that Respondent was not substantially incapacitated from performing his job duties.

The Administrative Law Judge (ALJ) found that Dr. Warick was qualified to render expert opinions as set forth in his report and testimony at the hearing. The ALJ further determined that competent medical evidence was offered to establish that Respondent was not substantially incapacitated to perform his usual job duties.

The ALJ concluded that Respondent's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a motion with the Board under Government Code section 11520(c), requesting that, for good cause shown, the Decision be vacated and a new hearing be granted.

March 18, 2015



CHRISTOPHER C. PHILLIPS
Senior Staff Attorney