

**ATTACHMENT B**  
**STAFF'S ARGUMENT**

## STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Chelsea DePhillips (Respondent) is the daughter of Cathleen Kidd (Decedent). Decedent was employed as a Psychiatric Technician by the California Department of State Hospitals, Metropolitan. By virtue of her employment, Decedent was a state safety member of CalPERS.

Decedent submitted her retirement application with CalPERS on September 24, 2012, and chose the "Unmodified Allowance" option relating to the monthly benefit amount. This benefit option does not provide for a return of member contributions to a beneficiary upon a member's death. Ms. Kidd died on November 28, 2012.

Respondent DePhillips appealed CalPERS' determination that only the \$2,000 lump sum death benefit was payable to Decedent's beneficiaries. Respondent asserted that her mother was incompetent at the time Decedent submitted the retirement application and that pursuant to Government Code section 20160, CalPERS had an obligation to correct the mistake Decedent made and change the allowance option.

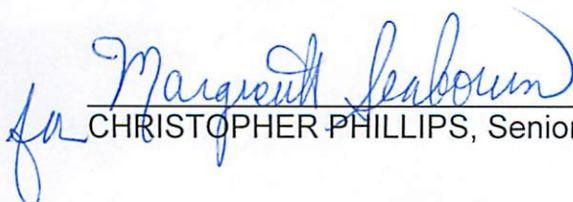
Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent's questions and clarified how to obtain further information on the process. Despite proper notice being given to Respondent, she failed to appear at the hearing and her default was taken pursuant to Government Code section 11520.

At the hearing, CalPERS introduced evidence that Decedent met personally with a CalPERS representative at the time Decedent submitted the retirement application. The CalPERS representative counseled Decedent regarding her application and Decedent made selections consistent with her desire to receive the highest monthly benefit. The CalPERS representative documented that Decedent presented herself as an informed individual who understood her rights.

The Administrative Law Judge (ALJ) found that the medical evidence around the time of Decedent's application does not support the inference that Decedent was not competent. 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 Respondent 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 PHILLIPS, Senior Staff Counsel