

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Sandra Lombella Adams (Respondent Adams) service retired effective December 31, 2011. At the time of her retirement, Respondent Adams was employed by the Department of General Services (DGS) as a Data Processing Manager IV. By virtue of her employment with DGS, Respondent Adams is a state miscellaneous member of CalPERS.

On December 22, 2011, nine days before Respondent Adams service retired, she submitted a Request for Service Credit Cost Information for Service Credit Prior to Membership (SPM) relating to work as a student assistant for DGS from 1975 to 1980. At the time Respondent Adams submitted the request, she was told by CalPERS staff that the processing times for service credit purchases were delayed due to the launch of my|CalPERS.

On August 13, 2013, CalPERS sent Respondent Adams the SPM Cost Packet and Election form to purchase 4.015 years of service credit for a lump sum payment of \$7,084.42. and informed Respondent Adams that in order to complete the SPM purchase the election form must be returned to CalPERS within 60 days.

Respondent Adams was represented by counsel and testified at the hearing. Respondent Adams testified that she reviewed the SPM cost packet and election on September 20, 2013, when she had returned home from an extended vacation. Rather than completing the election form and returning it to CalPERS, Respondent Adams sent a form to Savings Plus to request funds to purchase the SPM. Respondent Adams then left town to care for an elderly parent.

On October 7, 2013, Savings Plus sent Respondent Adams a letter notifying her of an issue on the form she submitted to Savings Plus and that her request for the funds could not be completed. Although Respondent Adams was not home when the Savings Plus letter arrived, her son picked up her mail and read her the letter. Respondent Adams did not contact CalPERS until October 22, 2013, after the 60 day deadline to submit the SPM election form had expired. She was informed that the deadline had passed.

Thereafter, on December 31, 2013, Respondent Adams submitted a second SPM request. On January 3, 2014, CalPERS informed Respondent Adams that her second request could not be completed because it was submitted after her retirement date. Respondent Adams timely appealed CalPERS determination that her first SPM request was not completed and that she was ineligible to make the second SPM request because she had already retired.

The Administrative Law Judge (ALJ) found that the August 2013, cost package contained sufficient information for Respondent Adams to be informed that her request to Savings Plus for the funds to purchase the SPM was not an effective election to CalPERS. The ALJ further found that Respondent Adams was informed by Savings Plus that her request for the funds could not be completed prior to the SPM election deadline and despite that, Respondent Adams did not contact CalPERS until after the SPM election deadline expired.

The ALJ determined that when all the evidence is considered, Respondent Adams did not establish that her failure to submit the SPM election form within 60 days after the Cost Package was sent to her should be excused and corrected pursuant to Government Code section 20160 and that the second SPM request could not legally be accepted by CalPERS because it was submitted after she retired.

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 Writ Petition in Superior Court seeking to overturn the Decision of the Board.

February 18, 2016



CHRISTOPHER PHILLIPS
Senior Staff Attorney