

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Gracie Jimenez (Respondent Jimenez) applied for disability retirement on the basis of psychological (bipolar disorder, attention deficit disorder) conditions. By virtue of her employment as a Disability Insurance Program Representative with Respondent Employment Development Department (EDD), Respondent Jimenez was a state miscellaneous member of CalPERS. EDD did not participate in Respondent Jimenez' appeal.

As part of CalPERS' review of her medical condition, Respondent Jimenez was examined by Independent Medical Examiner (IME) Matthew Carroll, M.D., a board-certified Psychiatrist, to perform a disability evaluation. Dr. Carroll reviewed Respondent Jimenez' job description, all relevant medical records and performed an examination. Dr. Carroll opined that Respondent Jimenez is not substantially incapacitated from performing the duties of her job. CalPERS denied Respondent Jimenez' disability retirement application. Respondent Jimenez appealed.

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 Jimenez with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Jimenez's questions and clarified how to obtain further information on the process.

Respondent Jimenez appeared and represented herself on the first day of hearing. On the second day of hearing, Respondent Jimenez did not appear and the matter proceeded as uncontested pursuant to Government Code section 11520.

At the hearing, Dr. Carroll testified that Respondent Jimenez' chief complaints related to how she had been treated in the workplace; that, while Respondent Jimenez loved the work she did and her colleagues, she complained about her managers. Dr. Carroll further testified that Respondent Jimenez never said her job duties were a problem for her to perform. Dr. Carroll also noted that Respondent Jimenez was treating with mental health care providers, but none of them found that she could not perform her job.

The Administrative Law Judge determined that the evidence did not demonstrate that Respondent Jimenez was permanently disabled or incapacitated from performing her job duties because of her condition. The evidence demonstrated that Respondent Jimenez has mental health diagnoses, but has received treatment for those conditions and they are in remission.

The ALJ concluded that Respondent Jimenez'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.

April 20, 2016



CHRISTOPHER PHILLIPS
Senior Staff Attorney