

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

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

Respondent Lori Lueckfeld (Respondent Lueckfeld) applied for service pending Industrial Disability Retirement on the basis of a psychological condition. By virtue of her employment as a Correctional Officer with Respondent California Department of Corrections, Pelican Bay State Prison (Respondent CDCR), Respondent Lueckfeld was a state safety member of CalPERS.

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

Despite proper notice being given to Respondent Lueckfeld and Respondent CDCR, no appearances were made at the March 15, 2016, hearing by either respondent. Due to the failure to appear at the hearing, defaults of the respondents were taken by the Administrative Law Judge (ALJ).

As part of CalPERS' review of her medical condition, Respondent Lueckfeld was sent for an independent medical examination (IME) to psychiatrist Andrea Bates, M.D. Dr. Bates interviewed Respondent Lueckfeld, reviewed her work history and job descriptions, obtained a history of her past and present complaints, reviewed medical records, and performed a comprehensive IME examination.

At the hearing, CalPERS made arguments, called Dr. Bates as a witness, and introduced documentary evidence, including medical reports. Dr. Bates testified to her examination and reports.

The ALJ found that Dr. Bates' credible testimony and report established that while Respondent Lueckfeld would experience some stress upon returning to her job, she is not disabled from doing so. Dr. Bates concluded that Respondent Lueckfeld is not substantially incapacitated for the performance of her usual duties as a Correctional Officer.

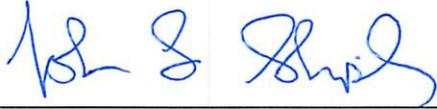
The ALJ also found that Respondent Lueckfeld bears the burden to prove by a preponderance of evidence (based on competent medical evidence) that her psychological condition renders her unable to perform her usual job duties. The ALJ found that Respondent Lueckfeld failed to carry her burden of proof.

The ALJ concluded that Respondent Lueckfeld is not permanently and substantially disabled or incapacitated from the performance of her job duties, and therefore, is not entitled to industrial disability retirement.

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. Respondent Lueckfeld 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.

May 18, 2016



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