

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Lori Graffious (Respondent Graffious) was employed by the Las Virgenes Unified School District, a division of Los Angeles County Schools, as a Special Education Instructional Aide and is a miscellaneous member of CalPERS.

Respondent Graffious's employer submitted an application for disability retirement for Respondent Graffious on the basis of psychological conditions.

CalPERS reviewed written descriptions of Respondent Graffious's job duties and relevant medical reports submitted by Respondent Graffious. CalPERS also sent Respondent Graffious for an Independent Medical Examination with psychiatrist Stephan Simonian, M.D. Based on relevant medical evidence, CalPERS determined Respondent Graffious was not substantially incapacitated from performance of her duties as a Special Education Instructional Aide at the time her application for disability retirement was filed.

Respondent Graffious appealed CalPERS' determination and a hearing as to whether Respondent Graffious is substantially incapacitated from performing her usual and customary job duties was held on March 16, 2016.

To be eligible for disability retirement, competent medical evidence must demonstrate the member is substantially incapacitated from performing the usual and customary duties of her position. Furthermore, the injury and condition that is the basis for the claimed disability must be permanent or of an extended and uncertain duration.

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

Respondent Graffious testified at the hearing regarding her job duties and her inability to perform her usual and customary job duties due to mental health issues. Respondent Graffious testified concerning her medical conditions and the limitations imposed by those health issues. Respondent Graffious offered further medical notes from her therapist and the Office of Social Security Administration to substantiate her claims.

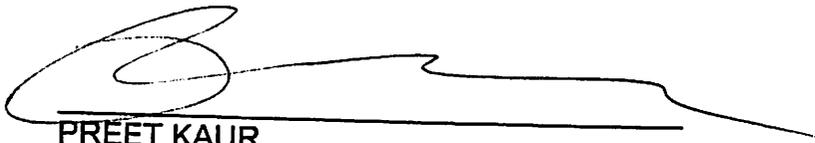
Dr. Simonian testified regarding his examination of Respondent Graffious and the diagnosis. Dr. Simonian opined that Respondent Graffious was not restricted from performing any job functions from a psychiatric point of view.

The ALJ concluded that Respondent's appeal should be denied because Respondent Graffious failed to provide competent medical evidence demonstrating she has a

disability of permanent or extended duration. 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.

June 15, 2016

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a long, horizontal, slightly wavy line that tapers to the right.

PREET KAUR
Senior Staff Attorney