

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Melina Riebling (Respondent Riebling) was employed by Respondent California State University, Northridge (CSU) as a Collections Representative II. By virtue of her employment with CSU, Respondent Riebling was a school miscellaneous member of CalPERS. On August 9, 2013, Respondent Riebling submitted an application for Service Pending Disability Retirement, claiming disability on the basis of orthopedic (cervical spine and lumbar spine) conditions. CalPERS' staff reviewed relevant medical reports and a written description of Respondent Riebling's usual and customary job duties. Clive M. Segil, M.D., a board-certified Orthopedic Surgeon, reviewed applicable medical reports, a written job description and performed an independent medical examination (IME) of Respondent Riebling. Dr. Segil prepared a written report which contained his observations, findings, and conclusions regarding Respondent Riebling's condition. In his written report, Dr. Segil ultimately expressed his opinion that competent medical evidence did not support a conclusion that Respondent Riebling was substantially incapacitated from performing the usual and customary duties of the position of Collections Representative II for CSU. CalPERS' staff denied Respondent Riebling's application for disability retirement. Notice of CalPERS' staff determination was sent to both Respondent Riebling and CSU on December 20, 2014. Respondent Riebling appealed CalPERS' staff determination by letter dated January 22, 2015, and a hearing was held on May 17, 2016.

Respondent Riebling began receiving a service retirement allowance on June 8, 2013, and continues to receive such service retirement allowance.

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

In order to be eligible for disability retirement, competent medical evidence must demonstrate that the individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the subject of the claimed disability must be permanent or of an extended and uncertain duration.

At the hearing, the Administrative Law Judge (ALJ) received evidence demonstrating that CalPERS had provided Respondents Riebling and CSU with proper and adequate notice regarding the hearing. Neither Respondents Riebling nor CSU appeared at the hearing.

The ALJ also received into evidence a copy of the written report prepared by Dr. Segil. Dr. Segil testified at the hearing and the ALJ found Dr. Segil's testimony to be competent and credible. Dr. Segil testified that Respondent Riebling may have had a cervical and lumbar muscle sprain, but that there was no objective evidence to support

a finding of a permanent and disabling condition. Dr. Segil also stated that Respondent Riebling appeared to be exaggerating her subjective complaints. Dr. Segil stated that, in his opinion, Respondent Riebling was not substantially incapacitated from performing the usual and customary duties of her position as a Collections Representative II for CSU.

The ALJ concluded that Respondent Riebling'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.

August 17, 2016



RORY J. COFFEY
Senior Staff Attorney