

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Susan E. Schmidt (Respondent Schmidt) was employed by the State Center Community College District (District) as an Administrative Secretary I. By virtue of her employment, Respondent Schmidt was a miscellaneous member of CalPERS. On August 11, 2014, Respondent Schmidt applied for Disability Retirement based on rheumatologic (fibromyalgia) and psychiatric conditions. CalPERS sent Respondent Schmidt to two IME evaluations and reviewed her submitted medical records. CalPERS determined that Respondent Schmidt was not permanently incapacitated from performance of the substantial duties of her position. Respondent Schmidt appealed that determination. A hearing was held on September 15, 2016.

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

At the hearing, Respondent Schmidt did not appear. Respondent Schmidt offered no witnesses or documents in evidence. CalPERS submitted and the Administrative Law Judge (ALJ) received into evidence multiple documents, including the jurisdictional documents, explanations of Respondent Schmidt's job duties, and the medical reports of CalPERS' Independent Medical Examiners (IMEs) Dr. Andrea Bates, Psychiatrist, and Dr. Scott Anderson, who specializes in internal medicine.

Dr. Bates testified at the hearing, as did Dr. Anderson. The ALJ found Dr. Anderson's report to be persuasive as to the issue of permanent disability. Dr. Anderson's testimony and report stated that when he evaluated Respondent Schmidt she had no physical or mental obstacles to performing her job duties. She had no evidence of arthritis, deformities of her limbs, or a back condition which created a substantial incapacity to perform her work. She was in generally good health, without any substantial incapacity to carrying out her work for the District.

After considering all of the documentary evidence and testimony of witnesses, the ALJ found that Respondent Schmidt failed to establish the requisite permanent medical requirements for a disability retirement. Accordingly, the ALJ found that the weight of the competent evidence supported the conclusion that Respondent Schmidt is ineligible for a disability retirement.

The ALJ concluded that Respondent Schmidt'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, as modified, to correctly indicate that both Independent Medical Examiners appeared and testified.

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.

November 16, 2016



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