

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

The City of Arroyo Grande (Respondent City) applied for disability retirement on behalf of Respondent Jeffrey H. Cadwell (Respondent Cadwell) on the basis of an orthopedic (neck) condition. By virtue of his employment as a Maintenance Worker III for Respondent City, he is a local miscellaneous member of CalPERS. CalPERS denied the application and a hearing was held on August 31, 2016.

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

As part of CalPERS review of his medical condition, Respondent Cadwell was sent for an Independent Medical Examination (IME) to Brendan V. McAdams, M.D., a board-certified Orthopedic Surgeon. Dr. McAdams interviewed Respondent Cadwell, reviewed pertinent medical history, treatment, work history, present complaints and performed a physical examination. Dr. McAdams prepared an IME report and testified at the hearing.

Upon examination, Dr. McAdams did not find any definitive sensory deficits in Respondent Cadwell's upper extremities and the range of motion of the cervical spine was appropriate. Dr. McAdams noted excellent strength of the arms and wrist muscles. Dr. McAdams concluded that Respondent Cadwell's prior neck surgery resulted in no neurological deficit, atrophy, or reduction in strength, and that there were no residual deficits or work restrictions. With specific reference to the CalPERS criteria for disability, Dr. McAdams opined that Respondent Cadwell was not incapacitated for the performance of his usual duties as a Maintenance Worker III.

Respondent Cadwell represented himself at the hearing and offered testimony describing his injury, subsequent treatment and current limitations. Respondent City was represented by Karen Sisko, Human Resources Manager. Ms. Sisko offered testimony and documentary evidence including medical records from Respondent Cadwell's Workers' Compensation claim. Testimony relating to the position of Maintenance Worker III was also received from Geoffrey English, the Public Works Director for Respondent City.

The Administrative Law Judge (ALJ) determined that the credible medical evidence and opinion of Dr. McAdams established that Respondent Cadwell is not incapacitated for the performance of duty by reason of an orthopedic neck condition. Dr. McAdams presented the only direct medical opinion and evidence of Respondent Cadwell's condition, and was the only examiner who testified at the hearing.

The ALJ concluded that Respondent Cadwell'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 Writ Petition in Superior Court seeking to overturn the Decision of the Board.

November 16, 2016



CHRISTOPHER PHILLIPS
Senior Staff Attorney