

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Al H. Ghaffari (Respondent Ghaffari) first established CalPERS membership on December 6, 1979, through his employment with the Department of Industrial Relations (DIR). After terminating his employment with DIR, Respondent Ghaffari withdrew his retirement contributions on October 9, 1987. Two months later, on December 7, 1987, Respondent Ghaffari began employment with the California Air Resources Board (CARB) and established CalPERS membership again. Respondent Ghaffari redeposited his withdrawn contributions and purchased the service credit from the DIR employment. Respondent Ghaffari service retired effective December 29, 2012, and has received his retirement allowance since that time.

From August 17, 1977, through September 30, 1979, Respondent Ghaffari worked as a full-time Safety Engineering Trainee for the City of Los Angeles under the Comprehensive Employment and Training Act (CETA). Through this employment, Respondent Ghaffari became a member of Los Angeles City Employees' Retirement System (LACERS). After being laid off, Respondent Ghaffari withdrew his LACERS retirement contributions and terminated his membership in LACERS. Respondent Ghaffari has never reestablished active membership in LACERS.

One day prior to submitting his Service Retirement Election Application on November 29, 2012, Respondent Ghaffari submitted a Request for Service Credit Cost Information-Service Prior to Membership, CETA & Fellowship (Request) to the CalPERS Regional Office in Sacramento. Regional Office staff reviewed the Request for completeness and accepted it for eligibility processing. At the time Regional Office staff accepted the Request, staff was unaware that the City of Los Angeles is a member of LACERS and not CalPERS.

On June 13, 2013, CalPERS staff from the Service Credit Section notified Respondent Ghaffari that his Request has been denied as "[s]ervice with the City of Los Angeles is not creditable because this agency is not currently under contract with the Public Employees' Retirement System." Respondent Ghaffari appealed the determination.

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

Respondent Ghaffari represented himself at the hearing, testified on his own behalf, and presented documentary evidence. While conceding that the law was not in his favor, Respondent Ghaffari argued that CalPERS provided him with inaccurate advice and that CalPERS unreasonably delayed in denying his Request.

The Administrative Law Judge (ALJ) found no legal basis under the California Public Employees' Retirement Law to grant Respondent Ghaffari's Request or appeal and held that no mistake or omission that is correctable pursuant to Government Code section 20160 was made. Further, the ALJ found that CalPERS did not mislead or otherwise harm Respondent Ghaffari by any advice or alleged delay by CalPERS in processing the Request. In fact, the ALJ noted that the evidence persuasively demonstrated that Respondent Ghaffari was repeatedly provided advice, beginning in 2005, that he should discuss the redeposit of his withdrawn LACERS contributions and the purchase of service credits for the CETA employment with LACERS.

The ALJ concluded that Respondent Ghaffari'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.

February 15, 2017



CHRISTOPHER PHILLIPS
Senior Staff Attorney