

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Linda Disney (Respondent) applied for disability retirement based on an ophthalmological condition (macular retinoschisis). By virtue of her employment as a Staff Services Analyst for Respondent California Department of Corrections and Rehabilitation (Respondent CDCR), Respondent was a state industrial member of CalPERS. CalPERS determined that Respondent was not disabled, and Respondent appealed. A hearing was completed on December 6, 2016.

As part of CalPERS' review of her medical condition, Respondent was sent for an Independent Medical Examination (IME) to board-certified Ophthalmologist Christian Serdahl. Dr. Serdahl interviewed Respondent, obtained a personal and medical history, conducted a physical exam, reviewed Respondent's medical records and the duty statement and physical requirements of her position. Dr. Serdahl determined that Respondent was not substantially incapacitated from the performance of her job duties based on a loss of vision if the Respondent were using "screen magnification with variable lighting." Without the proper accommodation, Dr. Serdahl agreed that Respondent would be substantially incapacitated from the performance of her job duties.

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


At the hearing, Respondent testified that she lost vision in her right eye as a teenager due to complications from premature birth. She has low vision (20/60) in her left eye and suffers from extreme glare sensitivity. As a Staff Services Analyst, Respondent testified she spent the majority of her day working on the computer. Respondent tried several different options to reduce the glare on her computer screen and to provide magnification but none were successful and, as a result, Respondent made significant errors in her work.

The Administrative Law Judge concluded that Respondent's appeal should be granted because the "Respondent established that appropriate accommodations were never made available to her so she could perform her usual job duties, which were heavily dependent on her near visual acuity." Dr. Serdahl agreed that without proper accommodations, Respondent was substantially incapacitated for the performance of the duties of a Staff Services Analyst.

The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision is in favor of Respondent, it is unlikely she will appeal the decision. Therefore, the risks of adopting the Proposed Decision are minimal.

March 15, 2017



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