ATTACHMENT B

STAFF'S ARGUMENT
STAFF'S ARGUMENT TO DENY THE PETITION FOR RECONSIDERATION

Karin Cervantes (Respondent) petitions the Board of Administration to reconsider its adoption of the Administrative Law Judge’s (ALJ) Proposed Decision dated June 1, 2017. For reasons discussed below, staff argues the Board deny the Petition and uphold its decision.

No new evidence, or argument, has been presented by Respondent that would alter the analysis of the ALJ. The Proposed Decision that was adopted by the Board at the August 16, 2017 meeting was well reasoned and based on the credible evidence presented at hearing.

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent’s appeal. The ALJ found that Respondent did not meet her burden of demonstrating that she was entitled to disability retirement. Since Respondent did not present evidence that the doctors who authored Respondent’s medical reports evaluated her based on the CalPERS disability standard, the opinions in those reports were given little weight.

And contrary to Respondent’s Petition, the ALJ found Dr. Ha’Eri’s IME Report to be detailed and thorough. The ALJ also found Dr. Ha’Eri’s testimony at hearing to be comprehensive. In finding Dr. Ha’Eri’s opinion to be persuasive, the ALJ determined that the results of his physical examination and review of the medical records supported his opinion.

The ALJ thus concluded that Respondent did not meet her burden of proof, and is not eligible for disability retirement. The Board adopted the ALJ’s proposed decision.

The Petition for Reconsideration is simply an almost identical repetition of the Argument submitted by Respondent previously with regard to the Proposed Decision. The Board has already considered, and rejected, all of the arguments made by Respondent. Therefore, Respondent’s Petition should be denied.

September 20, 2017

Charles Glauberman
Senior Attorney