ATTACHMENT B

STAFF’S ARGUMENT
STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Laura Haupert (Respondent) applied for disability retirement based on orthopedic (neck and wrists) conditions. By virtue of her employment as an Account Technician for Respondent Ripon Unified School District (Respondent RUSD), Respondent was a local miscellaneous member of CalPERS.

As part of CalPERS' review of Respondent's medical condition, Daniel D'Amico, M.D., a board-certified Orthopedic Surgeon, performed an Independent Medical Examination (IME). Dr. D'Amico interviewed Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. D'Amico opined that Respondent was not substantially incapacitated from performing the usual and customary duties of an Account Technician for Respondent RUSD.

In order to be eligible for disability retirement, competent medical evidence must demonstrate that an individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis of the claimed disability must be permanent or of an extended and uncertain duration.

After reviewing all medical documentation and the IME reports, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of her position.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on October 3, 2017. Respondent did not appear at the hearing. Respondent RUSD did not appear at the hearing.

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 clarified how to obtain further information on the process.

At the hearing, the ALJ received documentary evidence demonstrating that CalPERS had provided both Respondent and Respondent RUSD with proper notice of the date, time and place of the hearing. The ALJ found that the matter could proceed as a default against Respondent and Respondent RUSD, pursuant to Government Code section 11520(a).

The ALJ received and considered a written description of the usual and customary duties of an Account Technician with Respondent RUSD. The typical job duties included financial recordkeeping, budget review and preparation, preparation of reports and the maintenance of fiscal and statistical data. The physical requirements of the position were minimal. The position was essentially a sedentary position.
At the hearing, Dr. D'Amico testified in a manner consistent with his examination of Respondent and the IME report. On examination, Respondent had normal range of motion in her cervical spine. Shoulder range of motion was normal bilaterally. In her upper extremities, bilaterally, Respondent had normal muscle strength, reflexes, and sensation. There was no evidence of any neurological deficits or impingement of any nerve roots in the cervical spine. MRI studies indicated that Respondent had age appropriate degenerative disc disease in her cervical spine, again, without any evidence of neurological significance. EMG and nerve conduction studies confirmed that Respondent did not have carpal tunnel syndrome. Dr. D'Amico concluded that there were no physical abnormalities and that the diagnostic studies (MRI and EMG), indicated no basis for cervical radiculitis or radiculopathy. Dr. D'Amico's medical opinion was that Respondent was not substantially incapacitated from performing the usual and customary duties of the Account Technician position.

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 failed to present competent medical evidence in support of her claim for disability retirement. The competent medical evidence, in the form of the written reports and testimony of Dr. D'Amico, established that Respondent was not substantially incapacitated.

For all the above reasons, staff argues that the Proposed Decision be adopted by the Board.

December 20, 2017

RORY J. COFFEY
Senior Attorney