ATTACHMENT B

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

Irene E. Ramos (Respondent) applied for industrial disability retirement based on orthopedic (cervical herniation, cervical radiculopathy, neck strain, thoracic strain, left trapezius strain) conditions. By virtue of her employment as a Casework Specialist for the California Department of Corrections and Rehabilitation (Respondent CDCR), Respondent is a state safety member of CalPERS.

On December 22, 2015, Respondent filed an application for industrial disability retirement.

As part of CalPERS’ review of Respondent’s medical condition, Robert K. Henrichsen, M.D., a board-certified Orthopedic Surgeon, performed an Independent Medical Examination (IME). Dr. Henrichsen performed a physical examination of Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. Henrichsen opined that Respondent was not substantially incapacitated from the performance of her usual job duties.

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 September 12, 2017. Respondent represented herself at the hearing. Respondent CDCR 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, Dr. Henrichsen testified in a manner consistent with his examination of Respondent and the IME report. Dr. Henrichsen testified that in his medical opinion Respondent is not substantially incapacitated from the performance of her usual job duties. Therefore, the only competent medical evidence presented at the hearing is that Respondent is not entitled to an industrial disability retirement.
Respondent testified at the hearing and submitted documentary evidence. Both CalPERS' IME and Respondent's medical reports found that she had normal posture and gait, range of motion in neck, shoulders and arms, and was capable of performing her job duties. She had no nerve impingement, and her neck and shoulder were improved. After considering all of the evidence introduced the ALJ denied Respondent's appeal.

The ALJ concluded that Respondent is not eligible for industrial disability retirement.

Pursuant to Government Code section 1517 (c)(2)(C), the Board is authorized to "make technical or minor changes in the Proposed Decision." In order to avoid ambiguity, staff recommends that the name of Carole M. Allen on pages 1 and 11 of the Proposed Decision be replaced with the name of Respondent, Irene E. Ramos.

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

December 20, 2017

CYNTHIA RODRIGUEZ
Senior Attorney