

**ATTACHMENT A**

**RESPONDENT'S PETITION FOR RECONSIDERATION**

## Respondents argument

Hello, in consideration of my appeal calendared for July 2023, regarding an industrial disability retirement IDR that is the best benefit for myself or future CalPERS members. I designate the decision of a precedent, in whole, or in part, if adopted.

As a state industrial member of CalPERS at the time of my retirement, the current government code section 20048 would only apply to an IDR if a non-custody staff member/ state industrial member be violently attacked by an inmate, or parolee as a direct result of their work related injury, and disability.

Although I was not violently attacked by an inmate, the result remains the same and led to my disability and retirement subsequently. A custody staff member does not even have to be violently attacked by an inmate, or Parolee, to get their best benefit and industrial retirement. Working in the prison, you would think that would my only worry was to be attacked by an inmate, my worry was being violently attacked by supervisors and management in my department. I went and wrote countless memos, went to countless administrative staff to try and rectify the situation to figure out exactly what I had done to warrant such aggression and mistreatment towards me. I was never given a response. Administrative staff knew of our treatment in personnel, and did nothing to protect us. After the IPO left CMF she was spotted in the parking lot and upper Administrative Staff sent my supervisor to come and walk me to my vehicle, although she no longer worked there I still had to fear for my safety and still do. I'm still unsure as to why the police weren't called, why they weren't involved. Administrative Management knew enough to call my supervisor and contact her and let her know to walk me to my vehicle, that let me know right then they knew I was in danger, and they did nothing to try to protect me. I live in fear every single day every single day that I could be attacked I just recently was outside in town and saw my previous supervisor, I immediately left where I was. This is not something that is to be taken lightly this has completely changed the course of my career I'm not the same person that I was before I worked at CMF. I now walk with a cane or a walker, yes I fear if someone were to try to attack me right now, I could not defend myself. It's exhausting living in fear constantly not knowing if your job is still coming after you. I still have nightmares of my Manager trying to run me over in the parking lot and play dodgeball with me as I running in between cars. I don't think that people understand how much of a hostile work environment alters your brain, your life your daily activities on top of all of my disabilities, which are a direct result of my on the job work related injuries. I am pleading with the Board to adapt some government code to add staff of your employer to the government code above. I was unprepared to deal with and defend myself against Management, something has to be done to protect staff. It is upsetting and appalling knowing how many times and instances these issues arise.

Again, someone has to protect people. It starts at the top, the board legislation rules, regulations and policies have to be put into place to ensure that this never happens to anyone again the torture that we endured while working for California Department of corrections, specifically California medical facility. CMF is absolutely ridiculous and life altering.

I would like to appeal to the board to look at cases, individually, or place a clause in the government code outside of those two circumstances, employees have worked in some instances, put their health at risk, trying to work for their retirement, and are disabled, but still a work related injury/disability. CalPERS on website states a difference between a disability retirement and industrial disability retirement as a job related, illness or injury.

Even the entire workers compensation has been an uphill battle. I've had to fight for every test doctor all to find out what's wrong with me. I have done everything the doctors have asked of me and all I've ever asked is to find out what's wrong with me? I'm just now getting to those answers. I don't know if I'll ever be the same. I don't know if my my body will ever work the way that it did before but I know that after working for the state of California specifically the California Department of corrections CDCR CMF I would never wish this result on anyone, no one deserves to be tortured while trying to earn a living and provide for themselves and family,

## Respondents Argument page 2 of 2

In conclusion I would request that the Board consider any and all mitigating circumstance in an instance where the CalPERS member has extenuating circumstances. When their work related injury is a direct consequence of an act perpetuated on his or her person where their disability is directly impacted by work related injuries.

I testified at hearing. I started working for CDCR in January 2011. In 2012 I was injured while moving offices at work. Additionally, here are the circumstances I was told by the Chief Support Executive (CSE) to pack my office by myself, I had been packing for three-four weeks until the day of the move. I was told to pack several large wardrobe boxes and the inmates would come and move the office day of. The day of the move, there was a inmate freeze and there was no inmate movement therefore myself and two additional employees would move the office on our own. The carts were loaded, and moved by us. I moved into the new wing not far from the previous office, boxes and office equipment dropped into the new office and I unpacked everything on my own and set up the new office.

Thereafter, I sustained further cumulative injury from repetitive keyboarding and mouse use, eventually rendering me unable to perform my job duties in November 2017. I then took extended leave until I applied for IDR. I have not worked in any job since November 2017 and I'm still being treated by Workers Comp physicians, recently I was diagnosed with rheumatoid arthritis as a result of a Workers Comp surgery in 2018. The rheumatologist has determined that the metal put in my arm and seven pens triggered an autoimmune disease. I have recently started medication to address the symptoms of the rheumatoid arthritis, and I'm hopeful to gain any amount out of relief.

I am presently 47 years old. My condition has worsened substantially, I am often unable to get out of bed. I am completely reliant on my three adult children to help care for myself. I am following the advice and recommended treatment of my doctors, who are unsure why my condition has deteriorated so significantly. So far treatment has rendered little success.

I do not dispute that I was never violently attacked by an inmate or parolee. However, I do not understand why CalPERS limits IDR for state industrial members to disability caused by violent acts of inmates or parolees. The CalPERS representative, who assisted me with the IDR application, told me to check the box for IDR on the basis that my disability arose from my employment. My disability has deprived me of completing sufficient years of service to earn a full retirement, and the non-IDR benefits that I currently receive are woefully insufficient to support myself. Moreover, although I was never attacked by an inmate or parolee, I was harassed by a former CDCR manager, to the point where I had to be escorted to my vehicle at times, and I have PTSD. I am also depressed and have anxiety.

As the applicant, I was a state industrial member of CalPERS. There is no evidence that my disability resulted from an injury that was a direct consequence of a violent act by an inmate or parolee. I concede that I wasn't violently attacked by an inmate or parolee. Any harassment, as of now by a former manager, does not qualify as violent act by an inmate or parolee. Additionally, any erroneous representation by CalPERS Frontline employee regarding potential eligibility for IDR cannot override the statutory eligibility requirements. Thus I do not qualify for IDR.

To be sure, my testimony about my disability, and the impact it has had on my life, was credible and sympathetic for the court. It's also true that a state safety member potentially qualifies for IDR if their disability merrily results from an injury or disease arising out of in the course of their employment. See government code 20046. However, the decision to treat state safety members differently from State industrial members for purposes of IDR is a policy decision by

the legislature. Neither CalPERS, nor this tribunal/court has discretion to depart from the plain language of a state statute enacted by the legislature. Any concerns regarding perceived, unfairness, or inadequacy, must be addressed to the legislative branch of government. I am appealing this decision to the board based on these findings.

Thank you in advance for your time and attention regarding IDR and potential policy changes.