

ATTACHMENT C
RESPONDENT(S) ARGUMENT(S)

Received

MAR - 6 2014

CalPERS Board Unit

Sylvia C. Valdez

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Respondent's Argument

This letter is to acknowledge my receipt of Judge Smith's decision. I, however, disagree with this.

I do not agree with the denial of my claim because I have provided ample proof of my inability to perform the duties as an Aide II.

I feel the judge does not understand just what I have been required to perform in my employment. The situation can change constantly in this position. There are times I need to chase unruly children, perform a catheterization, lift a student (up to grade 8) out of a wheelchair. I could also be required to push or pull a wheelchair student around campus. I could be asked to carry or push a cart loaded with classroom textbooks. There are times I might have to deal with students who are out of control or volatile. I often must respond quickly without the fear of putting my health on the line. It would be a tragedy if one of the students were hurt or emotionally damaged because I was unable to respond appropriately to a crisis situation due to my health condition.

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Judge Smith's decision is contrary to the decision of Bakersfield City School's decision to not allow me to return to work with medical restrictions. The district clearly shows their acknowledgement of my inability to perform my job and its duties, yet the judge is stating I am able to perform my job.

Another item I don't understand is Cal PERS refusal to accept other medical reports from other doctors, beside the report from Dr. Nijjar. He examined me for a total of 15-20 minutes and for him to be an important decision maker is astonishing to me. He states "lack of motivation." This is totally untrue - I loved my job. It was my support to survive in this world and brought me a great deal of accomplishment. I do not appreciate his assumptions.

Dr. Nijjar also suggests my injuries are "normal" for a person of my age (58). My ankle injury occurred when I was 45 yrs old and I have had constant pain and it has caused drastic changes in my life. Yet, this doctor irresponsibly states that this is a normal aging issue.

Dr. Nijjar also suggests that I should be able to "ask for help" to lift a child into a wheelchair or intervene in a scuffle. That is an incorrect assumption. When one is assigned to a classroom you are frequently the only aide in the classroom. There is no time or opportunity to "ask for help". When a child is going out of control or banging his head on the wall uncontrollably I am not going to be able to leave to ask for help.

Dr Nijjar has never been in a special education classroom or on the playground with the entire school population.

I totally disagree with the legal conclusions presented. The doctor reports I have provided are adequate proof of my disabilities. I ask the board to reject the denial of my application and grant my disability claim.

Sincerely,

Mrs. Sylvia C. Valdez

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