

## **ATTACHMENT B**

### **Staff Argument**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION, AS MODIFIED**

Danielle M. L. Wade (Respondent) applied for service pending industrial disability retirement (SR pending IDR) based on orthopedic conditions (right hand, elbow, wrist, back, hip, and left hand) on February 15, 2024. She retired for service effective May 1, 2024. By virtue of her employment as a Correctional Officer for California Institution for Men, California Department of Corrections and Rehabilitation (Respondent CDCR), Respondent is a state safety member of CalPERS.

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

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 duration which is expected to last at least 12 consecutive months or will result in death.

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

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 April 22, 2025. Respondent represented herself at the hearing. Respondent CDCR did not appear at the hearing, and a default was taken as to Respondent CDCR only pursuant to Government Code section 11520.

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, answered Respondent's questions, and clarified how to obtain further information on the process.

At the hearing, Respondent testified on her own behalf that she worked for Respondent CDCR for 29 years, during which time she made several workers' compensation claims for wrist and back injuries. Respondent also introduced excerpts from various medical records from 2023 and 2024.

Dr. Suzuki also testified at the hearing, in a manner consistent with his examination of Respondent and his IME report. Dr. Suzuki testified that there were no job duties that Respondent could not perform as a result of her orthopedic conditions. Dr. Suzuki testified that while Respondent does suffer from carpal tunnel syndrome and back pain, she kept working until she chose to voluntarily retire. The medical records indicate that her primary care physicians and the workers' compensation physician all arrived at the same conclusion as Dr. Suzuki: Respondent is not substantially incapacitated from performing her duties as a Correctional Officer due to her claimed orthopedic conditions. Dr. Suzuki reviewed some additional medical records provided to him after his initial IME report was prepared, and nothing in those records changed his opinion.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent had the burden to prove her orthopedic conditions rendered her substantially incapacitated to perform her usual job duties, and she failed to meet her burden. The ALJ found Dr. Suzuki's testimony to be credible and forthright, and that Respondent had failed to produce any competent medical evidence to the contrary. Thus, Respondent does not qualify for IDR on the basis of her orthopedic conditions and CalPERS' denial of her IDR application was correct.

Pursuant to Government Code section 11517, subdivision (c)(2)(C) the Board is authorized to "make technical or other minor changes in the Proposed Decision." To avoid ambiguity, staff recommends inserting the word "industrial" before the words "disability retirement" on page five, paragraph 10; page seven, paragraph 18; page eight, paragraphs 19 and 20; and page seventeen, paragraph 21 of the Proposed Decision.

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

July 16, 2025

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