

ATTACHMENT B

Staff Argument

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

Respondent Kimberly L. Bryan (Respondent) was employed by Glendora Unified School District (Respondent District) as a School Office Manager. By virtue of her employment, Respondent was a local miscellaneous member of CalPERS. On April 5, 2021, Respondent submitted an application for disability retirement on the basis of a neurological condition (Complex Regional Pain Syndrome-Type 1). Respondent's application was approved by CalPERS, and she retired effective April 16, 2021.

In 2023, CalPERS staff notified Respondent that CalPERS conducts reexaminations of persons on disability retirement, and that she would be reevaluated for purposes of determining whether she remains substantially incapacitated and is entitled to continue to receive a disability retirement.

To remain eligible for disability retirement, competent medical evidence must demonstrate that the individual remains substantially incapacitated from performing the usual and customary duties of her former 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.

As part of CalPERS' review of Respondent's medical condition, Respondent was sent for an Independent Medical Examination (IME) to Khaled Anees, M.D. who interviewed Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. Anees also performed a comprehensive IME. Dr. Anees opined that Respondent does not have a neurological impairment that rises to the level of substantial incapacity to perform her usual job duties. Dr. Anees determined Respondent's extremities were normal, with no changes in skin color or temperature, no hyperalgesia or allodynia, no sweating changes and no swelling or trophic changes.

After reviewing all medical documentation and the IME reports, CalPERS determined that Respondent was no longer substantially incapacitated, was no longer eligible for disability retirement, and should therefore be reinstated to her former position as a School Office Manager.

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 9, 2025. Both Respondent and Respondent District appeared at the hearing. Respondent represented herself, and the District was represented by counsel.

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, Dr. Anees testified in a manner consistent with his examination of Respondent and his IME report. Dr. Anees' medical opinion is that Respondent can perform the duties of School Office Manager and is therefore no longer substantially incapacitated.

Respondent testified on her own behalf, testifying to pain and weakness in her limbs, back, neck, and shoulder. She also testified to the various types of pain management and interventions that she has tried. Respondent testified that her symptoms are not consistent in location or intensity, varied in range from moderate to severe, and impact her sleep and daily life activities. Respondent testified that she rests often, and her pain prevents her from engaging in many activities of daily living, including caring for her children. Respondent testified that the pain she experiences impacts all aspects of her body, energy level, stamina, and mental health. Respondent believes that she is not physically capable of engaging in her usual job duties on a consistent basis because of her CRPS.

After considering all the evidence introduced and arguments by the parties at the hearing, the ALJ granted Respondent's appeal primarily due to review of Dr. Anees' summary of Respondent's prior medical treatment. The ALJ found the "overwhelming majority" of Respondent's medical records support Respondent's appeal. The medical records demonstrate years of medical treatment by a variety of physicians, invasive testing and invasive treatments. The ALJ opined that there is no indication from Respondent's medical records that she has recovered sufficiently to perform her job duties, including the physical demands of her position. The ALJ concluded that Respondent continues to be substantially incapacitated from performing her duties as a School Office Manager for Respondent District.

Government Code section 11517, subdivision (c)(2)(C) authorizes the Board to "make technical or other minor changes in the Proposed Decision." To avoid ambiguity, staff recommends changing "Industrial Disability Retirement" to "Disability Retirement" in the title on page 1; changing "locks" to "blocks" in paragraph 15, page 5; changing "industrial disability benefits" to "disability retirement benefits" in paragraph 4, page 12; and changing "industrial disability retirement benefits" to "disability retirement benefits" in paragraphs 12, 13 and 16, on pages 15 and 16.

Although CalPERS does not agree with the reasoning of the ALJ, based on all the facts and circumstances of this case, staff does not oppose adoption of the Proposed Decision, as modified.

September 17, 2025

Vanessa Rose
Attorney