

ATTACHMENT A

THE PROPOSED DECISION

**BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA**

**In the Matter of the Appeal for an Earlier Effective Date of
Industrial Disability Retirement of:**

MARIA V. MILLER, Respondent,

and

**CALIFORNIA INSTITUTION FOR WOMEN, CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION,
Respondent.**

Agency Case No. 2024-0254

OAH No. 2025040615

PROPOSED DECISION

Michelle C. Hollimon, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 7, 2025.

Preet Kaur, Senior Attorney, represented complainant Sharon Hobbs, Chief, Disability and Survivor Benefits Division, California Public Employees' Retirement System (CalPERS), State of California.

Maria V. Miller, respondent, represented herself.

There was no appearance by respondent California Institution for Women (CIW), California Department of Corrections and Rehabilitation (CDCR).

Oral and documentary evidence was received. The record was closed, and the matter submitted for decision on July 7, 2025.

ISSUE

Is respondent¹ entitled to an earlier effective retirement date of July 1, 2018, due to a correctable error resulting from mistake, inadvertence, or excusable neglect under Government Code section 20160?

¹ The term respondent used hereafter throughout this proposed decision refers to Maria V. Miller only, and not CIW, CDCR.

FACTUAL FINDINGS

Jurisdictional Matters

1. Respondent was employed as a correctional officer at CIW until she separated from employment. By virtue of her employment, respondent is a state safety member of CalPERS.

2. On July 8, 2023, respondent signed an application for industrial disability retirement. Respondent requested a retirement effective date of July 1, 2018.

3. By letter dated December 26, 2023, CalPERS notified respondent that her request for an earlier retirement was denied because no correctable mistake was made. CalPERS notified respondent of her right to appeal this decision.

4. By letter dated January 5, 2024, CalPERS notified respondent she had been approved for industrial disability retirement, effective July 1, 2023.

5. On January 23, 2024, respondent exercised her right to appeal CalPERS denial of her request for an earlier retirement date.

6. On April 14, 2025, complainant executed the Statement of Issues in this matter, noting that the issue on appeal is limited to whether respondent made a mistake, which was the result of inadvertence, mistake, surprise or excusable neglect, correctable by Government Code section 20160, which would have entitled her to an effective retirement date retroactive to July 1, 2018.

Complainant's Evidence

TESTIMONY OF EVELYN MURILLO-SORIA

7. The testimony of Evelyn Murillo-Soria is summarized as follows: Ms. Murillo-Soria is employed by CalPERS as an analyst in the disability retirement division. Her duties include reviewing disability retirement applications, including IDR applications, as well as appeals of CalPERS's decisions on disability retirement applications. Ms. Murillo-Soria is familiar with respondent's case as she was assigned to review respondent's appeal request.

8. Ms. Murillo-Soria explained that a CalPERS member can file for disability retirement when the member can no longer perform the job duties of their employment position. Ms. Murillo-Soria explained that a member discontinues his or her state service for purposes of filing for disability retirement when they are no longer on payroll. In respondent's case, her last day on payroll was June 30, 2018.

9. Ms. Murillo-Soria stated that if a member submits their retirement application within nine months after he or she discontinues their state service, the effective date of the member's retirement will be the last day they were on payroll. If the member submits their application for retirement more than nine months after his or her last date on payroll, the effective date of the member's retirement will be the first day of the month in which the member's application was received.

10. CalPERS received respondent's application for industrial disability retirement on July 12, 2023. On her application, respondent listed her last day on payroll as June 30, 2018, and her retirement date as July 1, 2018. Since respondent applied for industrial disability retirement more than nine months after she discontinued her state service, CalPERS further investigated to determine if there is a

correctable error due to mistake, inadvertence, or excusable neglect by the member that would allow for the requested earlier retirement date. CalPERS requested additional information from respondent, including when she first learned about disability retirement. Respondent told CalPERS she first learned about disability retirement on May 16, 2018, when she received an “options letter” from her employer. This letter provided a detailed description of potential options available to respondent while she was out of work and receiving treatment for a workers’ compensation injury, including IDR. Respondent received additional options letters on August 9, 2018, March 11, 2019, and September 20, 2019, all of which provided a detailed description of potential options available to respondent, including IDR.

11. In addition to the options letters, CalPERS also considered any additional communication between CalPERS and respondent. CalPERS keeps detailed records of all contacts CalPERS representatives have with members and their representatives. These contacts are detailed in a “Customer Touch Point Report” (CTP). Respondent’s CTP indicates that respondent spoke with a CalPERS representative on November 26, 2018, who explained to her that she could apply for IDR. Respondent’s CTP further indicates that she had an in-person appointment on August 30, 2022, to discuss retirement options and what would be needed to backdate her retirement date.

12. Ms. Murillo-Soria testified that respondent’s participation in the interactive process with her employer regarding her return to work did not impact respondent’s right and ability to apply for IDR. Further, an employer can apply for IDR on an employee’s behalf, but the member is ultimately responsible to apply for IDR.

13. CalPERS determined there was no correctable error that would allow for the earlier retirement date requested as respondent knew about the IDR option and

her right to apply for it in May 2018. Ms. Murillo-Soria stated that respondent should have applied for IDR in 2018 because she was aware of her right to apply in 2018.

TESTIMONY OF RESPONDENT

14. Respondent did not provide direct testimony on her own behalf. She was called as a witness and cross-examined by complainant's counsel. Her testimony is summarized as follows: Respondent was informed by her employer as early as July 2018 of her ability to apply for IDR. Respondent testified that she chose not to apply for IDR at that time because she was told [she] was going to get a job. Respondent then stated that she asked her employer to file for IDR on her behalf in 2018 because "they did not provide a job for me." When asked why she asked her employer to file for IDR but she did not apply herself, she responded that she was looking for a light duty position. Respondent went on to state that she did not know how to apply for IDR. When asked if she reached out to her employer to explain how she could apply for IDR, she responded that she "was hopeful for another job."

COMPLAINANT'S DOCUMENTARY EVIDENCE

15. Complainant provided several documents that were received into evidence, including but not limited to respondent's application for disability retirement; copies of various correspondence from CalPERS to respondent; correspondence from CalPERS to CIW regarding respondent's request for an earlier retirement date, and CDCR's response; respondent's January 23, 2024, appeal request; CalPERS guide to completing a Disability Retirement (DR) application, and respondent's CalPERS CTP, some of which are discussed in further detail below.

16. Complainant provided respondent's Disability Retirement Election Application, received by CalPERS on July 12, 2023. Respondent lists her last day on payroll as June 30, 2018, and her retirement date as July 1, 2018.

17. Complainant provided an October 18, 2023, letter from CalPERS to respondent acknowledging her request for an earlier retirement date and requesting additional information to determine if there was a correctable error that would allow for the requested date. Complaint provided respondent's October 28, 2023, response to the request, which indicated, among other things, that respondent learned about disability retirement on May 16, 2018, when she received an options letter from her employer. Respondent went on to say that she didn't know if CDCR would be able to find a job for her, they explored options but could not find a job that could accommodate her disability, and that "Therefore, [she] truly became aware that [she] could file for disability retirement on or about July 1, 2023."

18. Complainant provided an October 18, 2023, letter from CalPERS to CIW regarding respondent's request for an earlier retirement date and requesting additional information to determine if there was a correctable error that would allow for the requested date. Complaint provided CDCR's October 30, 2023, response to the request. In the response, Brianne Glasspiegel, Section Chief, Return to Work Services Section, Office of Employee Health Management wrote, among other things, that CDCR engaged in the interactive process with respondent and provided her options letters on May 16, 2018, August 9, 2018, March 11, 2019, and September 20, 2019. These letters provided detailed descriptions of the potential options available, including IDR. CDCR also provided a copy of the January 8, 2019, notice of medical action sent to respondent confirming that medical limitations would not allow her to return to her prior position, that a medical demotion was being arranged per

respondent's request, and that a position was available in her new classification. A January 25, 2019, letter sent to respondent about the position identified for her and the attempts to contact respondent about it was also provided. Per this letter, two voice messages were left for respondent that went unanswered, correspondence was sent to respondent to her home address regarding a "meet and greet" between respondent and her new supervisor to which no response was received (and the meeting not attended by respondent), and another date and time for respondent to meet with her new supervisor was provided.

Ms. Glasspiegel also stated in CDCR's response that respondent requested CDCR file for IDR on her behalf in July 2019, but CDCR could not determine if it was possible to do so "as the Worker's Compensation claim was ongoing and medical information was pending" and "medical information continued to be provided that placed [respondent] off work." Ms. Glasspiegel notes that respondent filed an IDR application with CalPERS in June 2023.

19. Complainant provided a December 26, 2023, letter from CalPERS to respondent that stated CalPERS denies respondent's request for an earlier retirement date of July 1, 2018, based on their determination that respondent did not make a correctable mistake and had knowledge of the application process, based on the following:

- On 5/16/2018, 8/9/2018, 3/11/2019, and 9/20/2019, your employer sent you Options letters which included the option to apply for disability retirement (DR) or industrial disability retirement (IDR).

- On 11/26/2018, you called CalPERS and were informed that you could apply for IDR.
- On 1/25/2019, your employer notified you they identified a medical placement position for you, as your doctor indicated you could no longer perform the essential functions of a Correctional Officer.
- On 8/30/2022, you came to CalPERS for a scheduled appointment and inquired about your options for retirement. CalPERS went over the DR application and supporting documents with you, you were informed that you had 21 days to turn in all the documents including medical records. You were also told that you will have to provide a reason for why you hadn't applied for IDR since 2018.
- CalPERS received your IDR estimate request on 9/22/2022.
- You submitted your IDR application on 7/12/2023.

20. Complainant provided respondent's appeal request to CalPERS, dated January 23, 2024. Respondent requests that CalPERS reconsider their decision to deny her earlier retirement date for several reasons, including but not limited to: (1) CDCR led her to believe that there were employment possibilities for her, and that she had not officially separated from state service as she was on an involuntary unpaid leave of absence; (2) she was led to believe that if CDCR did not have a position they would file for IDR on her behalf without interruption in pay or benefits; (3) CDCR was required to but did not apply for IDR benefits for her; and (4) she had no other choice but to file

for IDR as a “last resort and option.” Respondent wrote that she believed CDCR’s actions were “a form of retaliation” because she filed a worker’s compensation claim.

Respondent states in this letter she does not recall any CalPERS representative informing her that she needed to provide a reason for not applying for IDR since 2018. Respondent also states that when she called CalPERS in November 2019, she was not informed that she could apply for IDR, but was advised to make an appointment to speak with a CalPERS representative.

Respondent states that she submitted a request for an IDR compensation estimate on September 22, 2022, and wrote that she received it late October to early November 2023.

21. Complainant provided respondent’s CTP which indicated, among other things, the following: (1) on 11/26/2018, respondent called CalPERS and was informed that she could apply for IDR; (2) On 8/30/2022, respondent came to CalPERS for a scheduled appointment and discussed retirement options, CalPERS went over the DR application and supporting documents with respondent, respondent advised that she stopped working four years ago and has tried to separate from employment but her employer won’t allow her to separate and she remains “on the books” and will communicate with employer regarding an end date, respondent was informed she will have to provide a reason for why she hadn’t applied for IDR since 2018 and there would need to be proof of an error to back date retirement to 2018; (3) IDR estimate distributed on 9/22/2022; and (4) respondent submitted her IDR application on 7/12/2023.

Respondent's Evidence

TESTIMONY OF BERNARD MILLER

22. The testimony of Bernard Miller, respondent's husband, is summarized as follows: Mr. Miller is employed by CDCR as a Parole Agent III. He has worked for CDCR for approximately 20 years and is currently assigned to division headquarters in the sex offender unit.

23. Mr. Miller is aware of respondent's work-related injuries. He has assisted her in various aspects with regard to her employment related issues, including her requests for alternate employment with CDCR, her worker's compensation claim, and her retirement claim. Mr. Miller has assisted respondent with writing emails, speaking with CDCR legal representatives, and attending doctor's appointments.

24. CDCR acknowledged in a letter dated October 30, 2023, sent to CalPERS, that accommodation options were explored in late 2018 and early 2019, but respondent was then placed back off work due to a secondary condition that was accepted under her worker's compensation claim, and medical information continued to be provided that placed her off work.

25. CDCR placed respondent on an involuntary unpaid leave of absence from 2018-2023. CDCR never provided any formal notice of separation to respondent. Respondent wanted to remain employed and wanted employment with CDCR that would pay her an amount near the amount she was earning as a correctional officer. Stephanie Pardo, Return to Work Coordinator, CIW, sent an email to respondent with three different classifications under which respondent could be employed based on qualifications, but none of them complied with the work restrictions from her doctor.

26. There were multiple emails between respondent and Stephanie Pardo, including one sent in November 2020 advising that they were attempting to find respondent another work assignment. IDR would only provide respondent about one-half of what she was being paid while employed, and respondent wanted a position that paid more than IDR offered. Respondent did request that CDCR apply for IDR on her behalf, but they did not do so. In a letter dated October 30, 2023, sent to CalPERS, CDCR stated they could not determine if CDCR applying for IDR was possible given respondent's workers' compensation claim was ongoing and medical information was pending.

27. Mr. Miller stated that there was no formal explanation provided to respondent regarding how to navigate the retirement process. Respondent has a myriad of medical issues as noted in respondent's Qualified Medical Evaluation, which still exists and for which she is undergoing care. CalPERS did not tell respondent that if she did not apply for IDR within four to nine months, she could not apply for an earlier effective retirement date. Mr. Miller believes CalPERS and CDCR showed a lack of care and understanding for respondent. Respondent was hopeful that CDCR would find her a position, but they did not, and she had no other options but to apply for IDR herself.

RESPONDENT'S DOCUMENTARY EVIDENCE

28. Respondent provided several documents that were received into evidence, including but not limited to: (1) emails to and from respondent and Stephanie Pardo, Return to Work Coordinator, California Institution for Women and Leilani Kwon, Return to Work Coordinator, California Institution for Women; (2) letters from respondent's providers regarding her disability/work status; (3) 2018 Qualified Medical Evaluation and Psychological Testing Report of respondent by Dr. David Brendel; (4) respondent's October 28, 2023, response to CalPERS request for additional

information regarding respondent's request for an earlier retirement date; (5) emails between respondent and various individuals at CDCR's Return to Work Services Section and Worker's Compensation Section/Office of Employee Wellness as well as Janssen E. Diaz, Staff Counsel, California Correctional Peace Officers' Association; (6) an excerpt from an unidentified publication entitled "Chapter 6. Working for Your Employer After Injury", (7) Bargaining Unit 6 Agreement between the State of California and California Correctional Peace Officers Association effective July 3, 2018, through July 2, 2019; (8) July 10, 2018, email from Jane Rogan, CDCR, CIW, Personnel Department regarding medical coverage and options available; (9) February 13, 2002, letter regarding State of California Involuntary Leave procedures; (10) miscellaneous CalPERS documents-a signed Employer Information for Disability Retirement and related documents-Physical Requirements of Position/Occupational Title, Essential Functions documentation, Report of Separation and Advance Payroll information (11) personnel specialist duty statement; (12) copy of Government Code section 192532.5; and (13) CalHR Human Resources manual excerpt regarding Disability Retirement, some of which are discussed further below.

29. Respondent provided multiple emails between her and Stephanie Pardo, Return to Work Coordinator, CIW. The emails extend over a period of many years. Emails in 2020 evidence respondent providing medical disability documentation to Ms. Pardo, and Ms. Pardo working on processing a limited term light duty assignment and needing additional information to do so. Ms. Pardo sent multiple follow-up emails without response and tried calling respondent in January 2021 as indicated in the emails provided. Ms. Pardo continued to send follow-up emails and again attempted to call respondent in May 2021 as indicated in the emails provided. The most recent email provided was sent on June 7, 2023, following up with respondent regarding her previous email, asking for an updated medical note, and if there were any options in

which respondent was interested. Ms. Pardo sent approximately 16 emails following her November 3, 2020, email in which she indicated she was working on processing a limited term light duty assignment and needing additional information to do so through June 2023, all without response.

30. Respondent provided a copy of the 2018 Qualified Medical Evaluation she underwent with David Brendel, Ph.D. related to her worker's compensation claim. Respondent was examined on October 30, 2018, and his report was executed on December 5, 2018. Respondent was diagnosed with post-traumatic stress disorder, anxiety disorder and depressive disorder, and greater than 51 percent of her symptomatology was determined to be attributed to work. Respondent was determined to be temporarily totally disabled.

31. Respondent provided email communications between her and various CDCR employees, including Lori Mahannah, Southern Region Manager, Return to Work Services Station, Employee Health and Wellness. In an email dated March 11, 2019, Ms. Mahannah advised respondent that they could not move forward with the medical demotion process given her temporary total disability. An options letter was provided at that time and an offer to discuss other options. Respondent replied expressing her confusion and requesting assistance. Ms. Mahannah responded via email on April 4, 2019, advising she was attempting to assist, and that respondent being totally temporarily disabled meant she was unable to work and advising her to speak with her attorney. Respondent provided documentation showing her disability extended beyond the April 4, 2019, email.

32. Respondent provided her October 28, 2023, response to CalPERS request for additional information to determine if there was a correctable error that would allow for the earlier requested retirement date, which indicated, as noted above

among other things, that respondent learned about IDR on May 16, 2018, when she received an options letter from her employer. Respondent went on to write that she didn't know if CDCR would be able to find a job for her, they explored options but could not, and that "Therefore, [she] truly became aware that [she] could file for disability retirement on or about July 1, 2023."

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. An applicant for retirement benefits has the burden of proof to establish the right to the claimed benefit. (*Greator v. Bd. of Administration* (1979) 91 Cal. App. 3d 54.) Respondent therefore has the burden of proof to establish that she is entitled to the earlier effective industrial disability retirement date of July 1, 2018, due to a correctable error resulting from mistake, inadvertence, or excusable neglect under Government Code section 20160.

2. The standard of proof is a preponderance of the evidence. (Evid. Code, § 115.)

3. Preponderance of the evidence means that the evidence on one side outweighs the evidence on the other side, "not necessarily in number of witnesses or quantity, but in its effect on those to whom it is addressed." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 325.) "If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

Applicable Statutory Authority

4. Government Code section 20026 provides:

“Disability” and “incapacity for performance of duty” as a basis of retirement, mean disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board, or in the case of a local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion.

5. Government Code section 21150, subdivision (a), provides:

A member incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he or she is credited with five years of state service, regardless of age, unless the person has elected to become subject to Section 21076, 21076.5, or 21077.

6. Government Code section 21154 provides:

The application shall be made only (a) while the member is in state service . . . on receipt of an application for disability retirement of a member . . . the board shall, or of its own motion it may, order a medical examination of a member who is otherwise eligible to retire for disability to determine whether the member is incapacitated for the performance of duty. On receipt of the application with respect to a local

safety member other than a school safety member, the board shall request the governing body of the contracting agency employing the member to make the determination.

7. Government Code section 21156 provides:

(a)(1) If the medical examination and other available information show to the satisfaction of the board, or in case of a local safety member, other than a school safety member, the governing body of the contracting agency employing the member, that the member in the state service is incapacitated physically or mentally for the performance of his or her duties and is eligible to retire for disability, the board shall immediately retire him or her for disability, unless the member is qualified to be retired for service and applies therefore prior to the effective date of his or her retirement for disability or within 30 days after the member is notified of his or her eligibility for retirement on account of disability, in which event the board shall retire the member for service.

(2) In determining whether a member is eligible to retire for disability, the board or governing body of the contracting agency shall make a determination on the basis of competent medical opinion and shall not use disability retirement as a substitute for the disciplinary process.

(b)(1) The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21154 shall certify to the board its determination under this section that the member is or is not incapacitated.

(2) The local safety member may appeal the determination of the governing body. Appeal hearings shall be conducted by an administrative law judge of the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title.

8. Government Code section 21252, subdivision (a), provides:

A member's written application for retirement, if submitted to the board within nine months after the date the member discontinued his or her state service, and, in the case of retirement for disability, if the member was physically or mentally incapacitated to perform his or her duties from the date the member discontinued state service to the time the written application for retirement was submitted to the board, shall be deemed to have been submitted on the last day for which salary was payable. The effective date of a written application for retirement submitted to the board more than nine months after the member's discontinuance of state service shall be the first day of the month in which the member's application is received at an office of the

board or by an employee of this system designated by the board.

Mistake, Inadvertence, Surprise or Excusable Neglect

9. Government Code section 20160 provides:

(a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar

circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20164.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in

subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

10. Mistake, inadvertence, surprise, or excusable neglect, are understood as each of those terms are used in Code of Civil Procedure section 473. Case law has also interpreted each of those terms. Mistake, for example, must be an honest mistake "where there are no elements of negligence, laxness or indifference." (*Security Truck Line v. City of Monterey* (1953) 117 Cal.App.2d 441, 445.) Mistake is not a grounds for relief when it is the result of "ignorance of the law . . . or unjustifiable negligence in discovering law." (*Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1206.) Surprise, as used in Section 473, refers to some condition or situation in which a party "is unexpectedly placed to his injury, without any default or negligence of his own, which ordinary prudence could not have guarded against." (*Ibid.*) Finally, as for inadvertence or neglect, a party's neglect "must have been such as might have been the act of a reasonably prudent person under the same circumstances." (*Ibid.*)

Evaluation

11. Respondent filed her application for IDR on July 12, 2023, and her application was granted on January 5, 2024, with the effective date of her application being the first date of the month she filed it, pursuant to Government Code Section 21252, subdivision (a). Instead of July 1, 2023, respondent asks that the effective date of retirement be deemed July 1, 2018. Respondent has the burden of proving she is entitled to this earlier effective disability retirement date. She has not met this burden.

12. The evidence established that respondent was aware of her right to apply for IDR in May 2018. Respondent was provided the first of many options letters on May 16, 2018, which respondent acknowledged receiving, and which described the various potential options available to her, including the option to apply for IDR. Respondent was provided another options letter in August 2018, which provided the same detailed information regarding IDR.

13. On November 26, 2018, respondent contacted CalPERS and was informed that she could apply for IDR at that time. Respondent testified that she chose not to apply for IDR in 2018 because she was told [she] was going to get a job. Respondent then stated that she asked her employer to file for IDR on her behalf in 2018 because "they did not provide a job for me." Respondent was placed on temporary total disability in 2018 and was therefore not able to work.

14. Respondent was provided a third options letter on March 13, 2019, again providing the same detailed information regarding IDR. Respondent was advised via email that same day that CDCR could not move forward with the medical demotion process to secure other employment because she was temporarily totally disabled.

15. A fourth options letter was provided to respondent on September 20, 2019, again providing the same detailed information regarding IDR.

16. Respondent was clearly aware of the option to apply for IDR in 2018, even expressing that she wanted CDCR to apply for IDR for her, yet respondent did not apply for these benefits.

17. Respondent then had an in-person meeting at CalPERS to discuss retirement options in August 2022. CalPERS distributed her IDR estimate request on September 22, 2022. Respondent still waited almost 10 more months before submitting her IDR application on July 12, 2023.

18. In sum, by waiting approximately five years to submit her IDR application, respondent failed to conduct the inquiry a reasonable person in her situation would have done. A reasonable person would have at least inquired with CalPERS for further information or sought additional clarification about the option to file for IDR when it first became known to her as an option. There are many resources explaining retirement options that respondent could have availed herself of, including again contacting CalPERS for clarification. Further, a reasonable person would not have requested that her employer file for IDR on her behalf and - knowing that they did not apply - wait approximately four more years to apply. Respondent was aware of the option to apply for IDR as early as 2018 and did not apply. Respondent had many opportunities to explore her options, but failed to timely do so. Ignorance of the law or unjustifiable negligence in discovering law does not equate to a mistake under Government Code section 20160.

19. Thus, pursuant to Government Code section 20160, it cannot be found that respondent's failure to file her IDR application in a timely manner seeking an

earlier effective retirement date was due to excusable neglect, mistake, inadvertence, or surprise.

ORDER

Respondent Maria V. Miller's appeal of CalPERS's decision denying her request for a retroactive effective disability retirement date of July 1, 2018, is denied.

DATE: July 23, 2025

M. C. Hollimon

M. C. Hollimon (Jul 23, 2025 13:12:58 PDT)

MICHELLE C. HOLLIMON

Administrative Law Judge

Office of Administrative Hearings