

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Maria V. Miller (Respondent) was employed as a Correctional Officer by California Institution for Women, California Department of Corrections and Rehabilitation (Respondent CDCR). By virtue of her employment, Respondent was a state safety member of CalPERS. Respondent stopped working for Respondent CDCR on June 30, 2018.

From May 2018 through September 2019, Respondent's employer sent her Options letters, which informed Respondent of her right to file for industrial disability retirement (IDR). In November 2018 and August 2022, CalPERS informed Respondent that she could apply for IDR. In September 2022, Respondent obtained an IDR estimate.

On July 8, 2023, Respondent signed an application for IDR. Respondent requested a retirement effective date of July 1, 2018.

On December 26, 2023, CalPERS approved Respondent's application for IDR, effective July 1, 2023. CalPERS denied Respondent's request for an earlier effective retirement date because Respondent applied for IDR more than nine months after she left employment, and the review of her file revealed no evidence of a correctable mistake. Based on Respondent CDCR and CalPERS' history of informing Respondent of her right to file for IDR and the disability retirement process between May 2018 and September 2022, CalPERS concluded that Respondent had knowledge of the application process and, therefore, no correctable mistake existed.

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 July 7, 2025. Respondent represented herself at hearing. Respondent CDCR did not appear at the hearing.

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.

Pursuant to Government Code section 20160, Respondent had the burden to present sufficient evidence to establish that she is entitled to an earlier effective retirement date due to her commission of an error or omission that resulted from her mistake, inadvertence, surprise, or excusable neglect, as those terms are used in Section 473 of the Code of Civil Procedure. She also had the burden to present sufficient evidence that any correction of her error or omission would not provide her with a status, right, or

obligation she would not have, but for that error or omission. (Gov. Code, § 20160, subd. (e).)

At the hearing, CalPERS presented documentary evidence and testimony of a CalPERS analyst to explain its decision. CalPERS' witness testified that Respondent had knowledge of the disability retirement application process since at least 2018. Customer Touch Point Notes showed that CalPERS informed Respondent about IDR in November 2018 and later in August 2022. In addition, Respondent CDCR had a long history of communicating with Respondent about her right to apply for IDR, going back to May 2018. Respondent also requested and received an estimate of her IDR retirement allowance amounts. Considering this history, CalPERS determined that Respondent did not make a correctable mistake pursuant to Government Code section 20160 that would allow it to accept her late application for IDR.

Respondent testified that Respondent CDCR informed her of her right to file for IDR as early as July 2018, but she chose not to apply for IDR because she hoped to obtain another position with Respondent CDCR. Furthermore, in 2018, Respondent asked Respondent CDCR to apply for IDR on her behalf, which Respondent CDCR refused to do.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that it was undisputed CalPERS received Respondent's application five years after she separated from state service. Consequently, Respondent is entitled to an earlier retirement date only if she can prove she delayed submitting her application due to "mistake, inadvertence, surprise, or excusable neglect." (Gov. Code, § 20160, subd. (a)(2).) The ALJ found Respondent was fully aware, through four Options letters and communications with CalPERS, of her right to file for IDR. Yet, Respondent failed to timely file her IDR application. The ALJ found that Respondent did not meet her burden of demonstrating she delayed submitting her IDR application due to mistake, inadvertence, surprise, or excusable neglect. As a result, the ALJ held that CalPERS correctly denied Respondent's request for an earlier effective date of retirement.

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

September 17, 2025

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Senior Attorney