ATTACHMENT B

STAFF'S ARGUMENT

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STAFF'S ARGUMENT TO DENY THE PETITION FOR RECONSIDERATION

Cameron K. Handley (Respondent) and County of Yolo (Respondent County) petition the Board of Administration to reconsider its adoption of the Administrative Law Judge's (ALJ) Proposed Decision dated May 29, 2025. For reasons discussed below, staff argues that the Board should deny the Petition for Reconsideration and uphold its decision.

Respondent worked for Respondent County as the Multi-Disciplinary Interview Center (MDIC) Director until 2015. In 2015, a consortium of agencies created the Yolo County Family Justice Center (FJC). Respondent County initiated a Family Violence Coordination Pilot Project (FVCPP) under the Yolo County District Attorney to create and manage the FJC. Respondent was named the FVCPP Coordinator. Respondent continued to direct the MDIC, but effective October 4, 2015, her job classification was reclassified as "Family Justice Center Director," and she was paid an "out of class" 10% salary differential. Respondent County reported the 10% salary differential as special compensation – Management Incentive Pay (MIP) – from July 2017 through December 2021.

CalPERS reviewed the Memorandum of Understanding (MOU) between Respondent County and the Yolo County Management Association ("YCMA") dated June 27, 2017. The MOU covers the period July 1, 2017, through June 30, 2020. Article 1 of the MOU provides a salary adjustment for the Management Unit, stating "[c]lassifications shall be adjusted as needed to provide a salary range differential between them and their closest subordinate of no less than ten percent (10%)."

CalPERS determined that Respondent belonged in the management group and class. CalPERS also determined that the 10% salary adjustment did not comply with California Code of Regulations (CCR), Title 2, section 571, subdivisions (a) and (b) and could not be used in the calculation of her final compensation because it (1) did not meet the definition of special compensation, (2) was not paid for normally required duties during normal work schedules, (3) was not available to Respondent's whole group or class, and (4) was not paid due to the unique nature of her job. Therefore, CalPERS did not include the MIP when calculating Respondent's retirement allowance.

Following the appeal, Respondent County provided CalPERS with the MOU between the County and the YCMA for July 1, 2024, through June 30, 2028 (2024-2028 MOU). Section 1.11, titled Management Incentive Pay (MIP), of the 2024-2028 MOU provides that "[e]ffective January 1, 2015, to address unique circumstances in which managers are asked to take on additional duties outside of their essential duties, the County Administrative Officer, at their sole discretion, may adjust the salary of any employee up to a maximum of ten percent (10%) of base salary. . ."

CalPERS reviewed the 2024-2028 MOU and determined that the MIP did not qualify as special compensation because (1) it did not meet the definition of “Management Incentive Pay” in CCR section 571, subdivision (a); (2) it compensates managers for performing additional duties outside of their essential duties; and (3) the MIP was not available to the whole group or class.

Respondent County’s Petition for Reconsideration:

Respondent County petitions the Board for reconsideration, claiming the work performed by Respondent was part of her required job duties and the 10% salary adjustment was available to the management class.

As the ALJ held in the Proposed Decision, the 10% salary adjustment was for work performed outside of Respondent’s job duties, and it was not available to the management group or class. The County’s Personnel Action Form notes that the 10% salary adjustment is for out-of-class duties, labeling it as an “out of class 10% FJC Director differential.” Furthermore, the 10% salary adjustment was reported by the County as MIP, and the County’s MOU defines the MIP as 10% salary adjustment for managers who are asked to “take on additional duties outside of their essential duties.” Therefore, the definition of MIP in Respondent County’s MOU contradicts its assertions that the 10% salary adjustment was for normally required duties. Moreover, the 10% salary adjustment was unavailable to the management group or class. As the ALJ explained in the Proposed Decision, the MOU fails to indicate the eligibility criteria for the 10% salary adjustment, instead giving the County Administrative Officer the sole discretion to “adjust the salary of any employee up to the maximum” of 10% percent of base pay.

Respondent’s Petition for Reconsideration:

Respondent also petitions the Board for reconsideration on the following basis: (1) the ALJ misstated the facts and contradicted the evidence; (2) the ALJ abandoned the reason given by CalPERS for denying the benefits and drafted his own argument; (3) CalPERS’ Senior Attorney potentially tainted the Board’s Decision regarding acceptance of the ALJ’s Proposed Decision; and (4) the ALJ ignored the denial of due process. Respondent’s basis for reconsideration lacks support, and the Decision should stand for the reasons discussed below.

1) The ALJ did not misstate the facts or contradict the evidence.

Respondent claims that the ALJ misstated the facts on four different occasions.

A. Under section I.A. of her Petition for Reconsideration (Petition), Respondent claims that the ALJ contradicted his own evidence because the ALJ notes in paragraph 6 on page 3 that the “out of class” notation is crossed out on the Personnel Action Form (PAF); but then, in paragraph 13 on page 15, the ALJ relies on this crossed out language to conclude that Respondent’s “out of class” pay cannot be part of normally required duties. Respondent's assertion is incorrect because Respondent fails to consider the ALJ's factual finding in paragraph 7 on page 4, which states that "[n]ear the bottom of the PAF, there is a 'Comments' section that reads: 'Out-of-class 10% FJC Director differential – 2 years.' Below that is the sentence: '100% of all compensation will be reported to CalPERS with all Special Project pay reported as "Supplemental Income."'" Therefore, the ALJ's conclusion, that Respondent was working "out of class," was not based on the language that was crossed out at the top of the PAF but on the language that remained intact at the bottom of the PAF. Thus, the ALJ did not contradict his own statement of the evidence.

B. Under section I.B. of her Petition, Respondent argues that the ALJ's finding that she was being paid for "…work [that] was not part of the normally required duties of the position," (paragraph 15 on page 16) contradicts the evidence. This argument is incorrect. Respondent worked for Respondent County as the MDIC Director until 2015. In 2015, Respondent was named the FVCPP Coordinator. Respondent continued to direct the MDIC, but effective October 4, 2015, her job classification was reclassified as FJC Director, and she was paid an "out of class" 10% salary adjustment. Respondent County reported the 10% salary adjustment as special compensation – MIP from July 2017 through December 2021.

As the ALJ discussed in paragraph 14 on page 15, even Respondent County characterized the special compensation as compensation for managers who take on "additional duties outside of their essential duties." The ALJ also notes that even Respondent argued in her prehearing brief that she took on extra duties – FJC work – and her extra responsibilities resulted in increased compensation. Also, her successor did not take on FJC work and was not paid the 10% salary adjustment, which demonstrates that the additional duties were not part of the position.

C. Under section I.C. of her Petition, Respondent argues that the ALJ's statement in paragraph 14, pages 15-16 – that the 10% salary adjustment was paid for work performed outside of Respondent's normal work duties – is contradicted by the ALJ's statement in paragraph 16 on page 16 – that the 10% salary adjustment cannot be included as a basis for retirement because it was for essential duties. Respondent claims the ALJ ruled that the compensation must be excluded because it was not for normally required duties and because it was for essential duties. Respondent misstates the ALJ's analysis. The ALJ did not find that the FJC work was part of Respondent's essential duties. The ALJ was merely analyzing Respondent's argument and pointing out the inconsistencies in it – her argument, that the performance evaluations demonstrate the additional duties were part of her essential duties, is contradicted by the County's MIP language, which states that the additional duties are outside of her essential duties. Ultimately, the ALJ held that the additional duties were <u>not</u> part of the essential duties and thus the 10% salary adjustment in compensation could not be reported as compensation earnable.

D. Under section I.D. of her Petition, Respondent takes issue with the ALJ's holding that just because the extra pay was due to the unique nature of Respondent's job did not mean that the County "was justified in not paying the special compensation to all members of her group or class." Respondent argues that the special compensation is available to the other management employees. But that is not so. As the ALJ determined, the 10% salary adjustment was not available to the group or class because the County had sole discretion to provide the special compensation to whomever the officials desired and in the amount they desired. The item of special compensation, as defined in the MOU, did not state any eligibility criteria for the 10% salary adjustment.

2) The ALJ did not abandon CalPERS' reasoning for denying benefits.

Respondent claims in her Petition that CalPERS denied the 10% salary adjustment on the basis that it was provided to maintain a salary range differential between Respondent and her closest subordinate when needed. Respondent notes that the ALJ did not rely on this reasoning, and instead relied on another basis for denying the compensation. Respondent's assertion is factually incorrect. First, CalPERS excluded the 10% salary adjustment because it was not for normally required duties and was not available to the group or class. The comment relating to the salary range differential was merely a notation, not a basis for the denial. The ALJ denied the 10% salary adjustment for the same reasons that CalPERS denied it – the item was not for normally required duties and not available to the group or class.

3) CalPERS Senior Attorney did not taint the Board's decision regarding acceptance of the ALJ's Proposed Decision.

Respondent alleges that CalPERS Senior Attorney tainted the Board's decision because the Senior Attorney indicated that Respondent's position was reclassified as the Family Justice Center Director and paid her a 10% salary adjustment. Respondent further alleges that this is a misstatement and may have tainted the decision of the Board. Rebutting Respondent's allegations, however, is the fact that this information is included as a factual finding made by the ALJ in paragraph 6 on page 3. Because the facts referenced by the Senior Attorney are referenced in the Proposed Decision, the Board's decision could not have been tainted by the Senior Attorney's reference to the position's reclassification.

4). The ALJ did not ignore Respondent's due process argument.

Respondent argues that CalPERS denied her due process by failing to "give notice of the justification" for excluding the 10% salary adjustment. Respondent further argues that the ALJ ignored CalPERS' denial of due process. Respondent's arguments lack merit. In its determination letter sent to Respondent, CalPERS provided her with a basis for denying the 10% salary adjustment – the 10% salary adjustment was not for normally required duties and not available to the group or class. Respondent was notified of the reason for the denial and given the right to appeal. Thus, Respondent was provided due process.

No new evidence has been presented by Respondent and Respondent County that would alter the analysis of the ALJ. For all the foregoing reasons, the Proposed Decision that was adopted by the Board at the July 16, 2025, meeting was well-reasoned and based on the credible evidence presented at the hearing. Accordingly, staff argues that the Board should deny the Petition for Reconsideration and uphold its decision.

September 17, 2025

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PREET KAUR
Senior Attorney