ATTACHMENT B

STAFF'S ARGUMENT

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

Alicia R. Deal (Respondent) was last employed as a Motor Vehicle Representative for California Department of Motor Vehicles (Respondent DMV). By virtue of this employment, Respondent is a state miscellaneous member of CalPERS subject to Government Code section 21150. Respondent has the minimum service credit necessary to qualify for disability retirement.

On May 6, 2024, Respondent applied for service pending disability retirement based on her orthopedic (back) and rheumatological (inflammatory polyarthritis) conditions. She retired for service effective March 7, 2024.

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

Scott T. Anderson, M.D., is board-certified in rheumatology, internal medicine, and geriatrics. Dr. Anderson also performed an IME. Dr. Anderson interviewed Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. Anderson opined that Respondent was not incapacitated from performing her job duties based on her rheumatological condition.

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 the medical documentation and the IME reports, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of a Motor Vehicle Representative for Respondent DMV based on her orthopedic (back) and rheumatological (inflammatory polyarthritis) conditions. CalPERS informed Respondent and Respondent DMV of its determination and their right to appeal.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. A hearing was held on August 27, 2025. Respondent represented herself at the hearing. Respondent DMV did not appear and a default was taken as to Respondent DMV only.

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. Henrichsen testified in a manner consistent with his examination of Respondent and the IME report. On the date of the IME, Respondent was 50 years old. She is five feet tall, and her stated weight was 197 pounds. She told Dr. Henrichsen she began experiencing lower back pain in 2016 which has worsened over time. According to Respondent, the pain is “severe” and limits her mobility. She also experiences pain in her knees and feet.

Dr. Henrichsen put Respondent through a series of warm-up exercises before proceeding with the physical examination. He found her to have adequate strength when standing on her heels and toes, and she walked with a slow but normal tandem heel-to-toe gait. She was able to squat 70 percent of normal, which is common for people her age. Neither her knees nor ankles had any evidence of arthritis, although she reported pain when bending at the knees. Respondent had normal strength in both hips and the hip joints appeared normal, although she reported pain and limited motion when standing as opposed to sitting.

Dr. Henrichsen examined Respondent and found that she had limited range of motion in her spine, but none of her spine motions produced radicular pain or sciatic nerve irritation. Dr. Henrichsen’s examination also included having Respondent straighten and raise both her legs while seated and while lying down. She was able to do so while seated. However, while lying down, she was hardly able to lift her legs. Dr. Henrichsen attributed this to a lack of effort, and believes it is likely that her complaints of pain were somewhat exaggerated. Based on his examination, Dr. Henrichsen opined that the objective findings did not support Respondent’s claim of disability from her orthopedic conditions.

Dr. Anderson also testified at the hearing in a manner consistent with his examination of Respondent and his IME report. Respondent told Dr. Anderson she had been experiencing blurred vision, joint pain, undesired weight gain, muscle cramps, and pain in her lower back, hips and buttocks, difficulty with memory, difficulty thinking clearly, chronic fatigue, skin rash, and easy bruising.

During the physical examination, Dr. Anderson noted that Respondent appeared to have mild psoriasis on her elbow and chest. Respondent’s hands had normal digital alignment. Dr. Anderson did not detect any thickening in the lining of her joints, and she had full range of motion in both hands and wrists. There were no rheumatoid nodules present. Respondent had full range of motion in her elbows, shoulders, hips, knees and ankles. He did not detect any ligament instability. In his IME report, Dr. Anderson wrote that “there is no inflammation and full painless range of motion of both upper and lower extremities.”

Dr. Anderson found Respondent’s spine to generally be in good condition, except for the lower portion of the spinal column. When he rotated Respondent’s legs, she reported tenderness in the joints between the hip and the pelvis. At the hearing, Dr. Anderson explained that sacroiliac joint pain can be affected by psoriasis and can be very uncomfortable. However, it can be treated with medication and does not typically render a person substantially incapacitated.

Respondent testified on her own behalf and submitted medical records at hearing. She has dealt with lower back pain for many years. She was initially diagnosed with chronic low back pain with lumbar disc degeneration and lumbar spondylosis. However, in October 2023, she also began feeling pain in her hips and feet. The pain was usually worse in the morning and took approximately three hours to improve. Respondent began having difficulty walking after making the 45-minute drive to and from work. She received pain-killing injections in her sacroiliac joints on March 28, 2024, but the benefit from the injections only lasted for several days. She also began to develop rashes, which resulted in a diagnosis of psoriasis. Respondent asked her supervisor to limit her to performing certain tasks so she could periodically rest her back at work. He initially agreed but did not accommodate her in the long term.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent failed to prove, through competent medical opinion, that she was substantially incapacitated from performing her job duties when she applied for disability retirement. None of Respondent's physicians testified at hearing. The medical records received in evidence include several different diagnoses, most of which are undisputed. However, Respondent's testimony that she is in severe, debilitating pain every day, is simply inconsistent with the objective findings of both Dr. Henrichsen and Dr. Anderson.

Under the applicable CalPERS standard, discomfort or difficulty performing certain tasks is insufficient to establish substantial incapacity. The ALJ concluded that Respondent is not eligible for disability retirement.

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 removing the word "uncertain" and changing "employees" to "employing" from the quote on page 12, paragraph 3.

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

November 19, 2025

Austa Wakily
Senior Attorney