

ATTACHMENT B

Staff Argument

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

On or about June 1, 2023, Ronette O. Strown (Respondent) applied for Industrial Disability Retirement (IDR) based on orthopedic conditions (neck, back, elbow, wrists, and hands). By virtue of her employment as a Correctional Counselor II Supervisor for North Kern Valley State Prison, California Department of Corrections and Rehabilitation (Respondent CDCR), Respondent is a state safety member of CalPERS.

Subsequently, on January 2, 2024, Respondent informed CalPERS that she no longer wished to pursue IDR based on her alleged bilateral elbow and wrist orthopedic conditions. Therefore, CalPERS did not consider those complaints when evaluating her IDR application.

As part of CalPERS' review of Respondent's medical conditions, Paul Edward Kaloostian, M.D., a board-certified Neurosurgeon and Diplomate of the American Board of Neurological Surgery, performed an Independent Medical Examination (IME) concerning her orthopedic conditions. Dr. Kaloostian interviewed Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. Kaloostian opined that Respondent was not substantially incapacitated for the performance of her usual and customary duties as a Correctional Counselor II Supervisor with Respondent CDCR.

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. Further, 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 report, CalPERS determined that Respondent was not substantially incapacitated from performing the usual duties of her position. Respondent was notified of CalPERS' decision and her right to appeal the determination by letter dated January 16, 2024.

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 October 7, 2025. Respondent represented herself at the hearing. Respondent CDCR did not appear at the hearing, and a default was taken as to Respondent CDCR 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, Respondent testified on her own behalf, stating that since the initial injury on March 5, 2021, she has had pain and discomfort near her left shoulder blade and the left side of her neck, and that sometimes the pain and numbness radiates down her left arm. She expressed that she has had “significant challenges” due to these symptoms and that she has tried acupuncture, aqua therapy, physical therapy, and cervical injections, all to no avail.

Respondent produced results from a magnetic resonance imaging (MRI) taken in April 2025, by Glade Roper, M.D. Dr. Roper did not testify at the hearing. There was also no explanation of the MRI results or an opinion as to whether Respondent is substantially incapacitated from Dr. Roper. Respondent also produced a letter penned by Alexandre Rasouli, M.D. stating that an authorization for a disc replacement has been submitted and is “currently pending review from work comp at this time.” Dr. Rasouli did not testify at the hearing. There was no explanation from Dr. Rasouli as to why the disc replacement procedure is necessary or an opinion on whether Respondent is substantially incapacitated from performing the usual and customary duties of her position. Respondent did not call any witnesses to testify on her behalf. The medical records were admitted as administrative hearsay. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but cannot be used as the sole evidence to support a finding.

Dr. Kaloostian testified at the hearing in a manner consistent with his examination of Respondent and the IME report. Dr. Kaloostian testified that her strength and reflexes were “normal,” that she had pain in her mid-back and sacroiliac tenderness in her left side and that her range of motion of the cervical spine was diminished by 25 percent due to neck pain. Dr. Kaloostian further testified that he disagrees with Respondent’s medical records diagnosing her with radiculopathy, disc displacement, and spinal issues because clinical findings did not support these diagnoses. Dr. Kaloostian’s diagnosis is posterior cervical trapezial, and thoracic myofascial strain, and he believes that a 12-week regimen of “conservative care” would heal the sprain.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent’s appeal. The ALJ found that Respondent did not prove by competent medical evidence that she was substantially incapacitated from the performance of her usual job duties at the time she applied for IDR. Therefore, Respondent does not qualify for IDR on the basis of her orthopedic conditions and CalPERS’ denial of her IDR application is correct.

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 inserting the word “industrial” in front of the words “disability retirement” on page 6, paragraph number 16; page 7, paragraph number 1; page 8, paragraph numbers 1 and 2 (where not quoted); page 9, paragraph number 4; and replacing “a” to “the” in the first line on page 8 of paragraph 1 under Legal Conclusions. Further, to correct typographical errors in the Proposed Decision, staff recommends replacing the word “Associational” with the word “Association” and the word “Survey” with the word “Surgery” on page 5, paragraph number 12.

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

January 20, 2026

Sean Stowers
Senior Attorney