

ATTACHMENT C

RESPONDENT'S ARGUMENT



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December 30, 2025

Board Services Unit Coordinator
California Public Employees' Retirement System
Post Office Box 942701
Sacramento, CA 94229-2701

Subject: In the Matter of the Appeal of Accepting the Application for Industrial Disability Retirement of JACOB DIPIERO, Respondent, and CITY OF CAMPBELL, Respondent.

RESPONDENT'S ARGUMENT

On October 31, 2025, a Proposed Decision issued in which the Administrative Law Judge summarized the issues as follows:

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California Public Employees' Retirement System
DiPiero's employment relationship with the City had not ended when he applied for industrial disability retirement in January 2023, and still has not ended. CalPERS currently may not deem DiPiero ineligible for disability retirement on the ground that his employment has terminated or inevitably will terminate for cause that does not relate to his alleged disability.

When DiPiero applied for industrial disability retirement in January 2023, his right to such retirement had not yet matured. Instead, and before DiPiero applied to retire, the City had initiated an Internal Affairs investigation that might have resulted and that might yet result in termination of his employment without right to reinstatement. After the City has determined whether it will terminate DiPiero's employment, and if so for what cause, CalPERS may reevaluate DiPiero's eligibility to retire for industrial disability.

The Administrative Law Judge ordered that “[t]he appeal by Jacob DiPiero and the City of Campbell from cancellation of DiPiero's application for industrial disability retirement is granted in part and denied in part. At this time, DiPiero is neither conclusively eligible nor conclusively ineligible for such retirement.”

Subsequent to the issuance of the Proposed Decision, the City Manager of the City of Campbell, Brian Loenthal, issued a Notice of Final Decision to Terminate Employment dated December 5, 2025. In this notice, the City Manager stated that “it is my final decision to terminate your employment as a police officer with the City of Campbell. While my decision is final, the effective date of your termination will be *held in abeyance* and subject to PERS' final

decision on your eligibility to apply for an IDR. You will remain on an unpaid leave of absence pending receipt of PERS' final decision." A copy of this notice is attached.

In light of this subsequent development, Respondent DiPiero asserts that CalPERS must now reevaluate his eligibility to retire for industrial disability, consistent with the Proposed Decision that issued on October 31, 2025. Accordingly, the Board of Administration should remand this matter for consideration of Respondent DiPiero's eligibility to retire for industrial disability.

Respectfully submitted,



Kenneth M. Sheppard

:kms
encl.

cc:

Jacob L. DiPiero

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CITY of CAMPBELL

City Manager's Office

TO: **Jacob Dipiero, Police Officer**

FROM: **Brian Loventhal, City Manager**

DATE: **December 5, 2025**

RE: **Notice of Final Decision to Terminate Employment**

This Notice of Final Decision to Terminate Employment is to advise you of my final decision to terminate your employment as a police officer with the City of Campbell ("City").

By written Notice of Intent to Terminate, dated October 16, 2024 ("NOID"), I advised you of my intention to terminate your employment based on sustained violations of City policies and regulations determined through the Police Department's internal affairs investigation. Thereafter, I, along with Police Chief Gary Berg, met with you and your legal representative to receive your pre-discipline response to the NOID. I then placed my final decision in this matter in abeyance pending clarification from the Public Employees' Retirement System ("PERS") concerning your eligibility to file an application for an industrial disability retirement ("IDR"). The timeline for my decision in this matter was also tolled by operation of Government Code Section 3304(d)(2)(a).

By written notice dated October 31, 2025, State of California Administrative Law Judge Juliet E. Cox issued her proposed decision in PERS Case No. 2024-0649, in which she made numerous and significant factual findings and conclusions. Most relevant here, Judge Cox found that the findings supporting your termination do not arise from or relate in any way to the medical basis for your application for an IDR. Judge Cox further found that PERS may reevaluate your eligibility to apply for an IDR after the City determines whether it will terminate your employment for the reasons outlined in the NOID. Based on Judge Cox's findings and conclusions, it is now necessary and appropriate to issue my final decision in this matter, as specified below.

For each and all of the reasons provided in the NOID, it is my final decision to terminate your employment as a police officer with the City of Campbell. While my decision is final, the effective date of your termination will be *held in abeyance* and subject to PERS' final decision on your eligibility to apply for an IDR. You will remain on an unpaid leave of absence pending receipt of PERS' final decision.



DECLARATION OF SERVICE BY MAIL OR EMAIL

I declare, under penalty of perjury, that I served a NOTICE OF FINAL DECISION TO TERMINATE EMPLOYMENT, dated December 5, 2025, by enclosing a true copy in a sealed envelope, addressed to the person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the U.S. Mail at Campbell, California.

Jacob DiPiero

[REDACTED]

I further declare, under penalty of perjury, that I also served the aforementioned notice via email to the person listed below at the email address shown below.

Jacob DiPiero

[REDACTED]

Dec. 3, 2025

Date Served:

By: 
Angelique Gaeta, Assistant City Manager
CITY OF CAMPBELL