

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Jennifer L. Brooks (Respondent) was a Plant Quarantine Inspector for the California Department of Food and Agriculture (Respondent CDFA). By virtue of her employment with Respondent CDFA, Respondent was a state miscellaneous member of CalPERS. On June 24, 2024, Respondent applied for disability retirement based on neurological conditions (aphasia, apraxia of speech, mild cognitive impairment, and migraines).

As part of CalPERS' review of Respondent's medical condition, Khaled Anees, M.D., a board-certified neurologist, performed an Independent Medical Examination (IME) of Respondent. Dr. Anees interviewed Respondent, reviewed her work history and job description, obtained a history of her past and present complaints, and reviewed her medical records. During the examination, Dr. Anees observed Respondent speaking with an intermittent slow hesitant stutter and a telegraphic speech pattern but Respondent lacked any objective medical findings to support the presence of each of these symptoms. On that basis, Dr. Anees did not diagnose Respondent with aphasia, apraxia of speech or mild cognitive impairment, each of which are neurological conditions. Accordingly, Dr. Anees opined that Respondent was not substantially incapacitated based on any neurological condition for the performance of her usual and customary job duties as a Plant Quarantine Inspector for Respondent CDFA.

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 medical documentation and the IME reports prepared by Dr. Anees, CalPERS determined that Respondent was not substantially incapacitated from performing the usual and customary duties of her position.

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 October 6, 2025. Respondent represented herself at the hearing. Respondent CDFA 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.

At the hearing, Dr. Anees testified in a manner consistent with his examination of Respondent and his IME reports. His examination and review of Respondent's medical records showed normal findings of her mental status, comprehension, cranial nerve function, reflexes, motor and sensory function, and coordination and gait. The neurological examination did not show any objective findings consistent with physical or cognitive loss of function and were similarly supported by other neurological evaluators within Respondent's medical records. Dr. Anees identified during the examination that Respondent spoke with a stutter and telegraphic speech pattern.

Like Respondent's other treating physicians, Dr. Anees questioned the nature of the stutter and telegraphic speech pattern as it was inconsistent throughout the examination and there were no objective findings that would support the presence of those symptoms. Dr. Anees opined that the stutter and speech symptoms were without any medical cause and were not caused by any neurological pathology, or in other words, a physical or mental disease. Dr. Anees concluded in his testimony that Respondent is not substantially incapacitated for the performance of her usual and customary job duties due to any neurological conditions.

Respondent testified at the hearing that she cannot retain information, speak with the public, or perform her job duties. Respondent testified that her physical symptoms began after she suffered a workplace injury on March 6, 2023. During the hearing, Respondent reported that she had difficulty speaking and utilized a text to speech device. Respondent submitted medical records from her treating physicians to support her appeal. 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 to directly support a finding. Respondent did not call upon any medical professionals to testify in support of her case.

Respondent's spouse also testified at the hearing in support of Respondent's case. Her spouse testified that he has observed Respondent having difficulty completing many different tasks of daily living, and thereby Respondent would be unable to complete her usual job duties.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ granted Respondent's appeal. The ALJ found that although Dr. Anees was the only physician to testify at the hearing, that his opinion was not supported by Respondent's medical records. The ALJ identified that at the hearing, Respondent exhibited substantial deficits in communication and reasoned that Dr. Anees's medical explanation on how those symptoms were not substantially incapacitating were unconvincing. Accordingly, the ALJ granted Respondent's appeal and concluded that Respondent is substantially incapacitated for the performance of her usual and customary duties as a Plant Quarantine Inspector with Respondent CDFA.

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

January 20, 2026

Bryan Delgado
Senior Attorney