

ATTACHMENT B

STAFF'S ARGUMENT

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

Jordan M. Mendoza (Respondent) was employed by California Medical Facility, California Department of Corrections and Rehabilitation (CDCR) as a Correctional Officer. By virtue of this employment, Respondent was a state safety member of CalPERS.

On August 31, 2021, Respondent applied for industrial disability retirement based on his orthopedic conditions (right shoulder, low back, left wrist, and right knee). CalPERS approved his application and Respondent retired for industrial disability effective April 18, 2022.

In May 2024, CalPERS notified Respondent that CalPERS conducts reexaminations of persons on disability retirement. Respondent was further informed that he would be reevaluated to determine if he remains substantially incapacitated and is entitled to continue receiving disability retirement.

To remain eligible for disability retirement, competent medical evidence must demonstrate that an individual remains substantially incapacitated from performing the usual and customary duties of her former 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.

As part of CalPERS' review of Respondent's medical condition, Respondent was sent to David S. Chang, M.D., for an Independent Medical Examination (IME). As part of the IME, Dr. Chang interviewed Respondent, reviewed his work history and job descriptions, obtained a history of his past and present complaints, and reviewed medical records. Dr. Chang also performed a comprehensive IME. Dr. Chang opined that Respondent was no longer incapacitated from performing the job duties of a Correctional Officer for CDCR.

After reviewing all medical documentation and the IME reports, CalPERS determined that Respondent was no longer substantially incapacitated, was no longer eligible for industrial disability retirement, and should therefore be reinstated to his former position as a Correctional Officer.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. A hearing was held on September 25, and December 5, 2025. Respondent represented himself at the hearing. CDCR did not appear at the hearing and a default was taken as to CDCR only.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support his 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. Chang testified in a manner consistent with his examination of Respondent and the report prepared after the IME. Dr. Chang's medical opinion is that

Respondent can perform the duties of his position and is therefore no longer substantially incapacitated.

Dr. Chang testified that in his professional experience, people who have shoulder injuries and surgeries like Respondent's usually return to "full function" within about six months. Based on this experience, as well as the improvement in Respondent's range of motion, Dr. Chang concluded that several years after his right shoulder surgery, Respondent should be able to use his right shoulder and arm well enough to perform the duties of a Correctional Officer.

Dr. Chang testified that the right knee surgery Respondent had in late 2017 usually leads to "full recovery" within three to four months. Dr. Chang opined that Respondent's right knee is "amenable to conservative care with a flexibility and strengthening program and not cause for permanent impairment or substantial incapacity to perform usual duties." Dr. Chang described his examination of Respondent's low back as "unremarkable." He stated that Respondent's recurring pain and stiffness are musculoskeletal, and believes further conservative treatment can restore full function, especially after notable weight loss.

Respondent testified on his own behalf and submitted medical records from his treating physicians to support his 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 support a finding.

Respondent testified about his medical condition and treatment since retirement. In February 2023, Respondent had carpal tunnel release surgery on his left wrist. He considers this surgery to have been successful because, since the surgery he has near-normal use of his wrist and hand, and no longer experiences debilitating pain.

Respondent continued to receive treatment for his low back pain. He has undergone physical therapy and sees a pain management physician regularly. His pain management physician has performed therapeutic injections, and radiofrequency nerve ablation. Respondent had bariatric surgery, so has lost significant weight since his retirement and believes that this change has reduced his knee and low back discomfort.

Respondent testified that he has complied with all post-surgical rehabilitation recommendations, but that he still experiences pain and stiffness in his knee, especially with sudden movements or with impact such as from running. In late 2023, Respondent consulted orthopedic surgeon Craig Wiseman, M.D., due to the continued stiffness and pain in his right knee. Imaging showed further damage to Respondent's right lateral meniscus. Dr. Wiseman performed an additional arthroscopic surgery on Respondent's right knee in February 2024 and gave him a corticosteroid injection into that joint on a later date.

As recently as September 25, 2025, the physician coordinating Respondent's ongoing treatment, Navjeet Bhoparai, M.D., reported to the workers' compensation insurance adjuster overseeing Respondent's care that Respondent's activity restrictions had not changed.

The ALJ did not find Dr. Chang's opinion that Respondent's low back condition no longer incapacitates him for duty as a Correctional Officer persuasive. Dr. Chang's report and testimony did not explain why or how Respondent's condition improved since his retirement in a manner that would allow him to return to duty. The ALJ found that Respondent credibly testified that he has undergone what Dr. Chang would characterize as "conservative treatment" for several years, with little improvement.

The ALJ also did not find Dr. Chang's opinion that Respondent has recovered his ability to use his right arm and shoulder to a degree enabling a return to duty persuasive. Other than the range of motion, Dr. Chang did not address Respondent's recovery specifically and personally; and he identified no relevant changes in Respondent's condition since his retirement.

The ALJ did not find Dr. Chang's opinion that Respondent's right knee condition no longer prevents him from performing the usual duties of a Correctional Officer persuasive. Dr. Chang did not explain why he believes Respondent's current right knee condition is significantly better than it was when he retired. He also did not explain why he believes that a "flexibility and strengthening program" could return Respondent to duty today when prior programs were ineffective.

The ALJ concluded that the evidence established that Respondent is no longer incapacitated from performing the duties of a Correctional Officer based on his left wrist condition. But the evidence did not establish that Respondent is no longer incapacitated from performing the duties of Correctional Officer based on his right shoulder, right knee, and low back conditions.

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 changing "shoulder" to "knee" in the first line of paragraph 20, on page 8 of the Proposed Decision.

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

February 18, 2026

Austa Wakily
Senior Attorney