

ATTACHMENT A

THE PROPOSED DECISION

**BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA**

In the Matter of the Application for Disability Retirement of:

JUWAN A. AUSTIN,

and

MID-PENINSULA WATER DISTRICT,

Respondents.

Agency Case No. 2025-1083

OAH No. 2025080876

PROPOSED DECISION

Administrative Law Judge Carl D. Corbin, State of California, Office of Administrative Hearings, heard this matter on January 15, 2026, by videoconference.

Senior Attorney Bryan Delgado represented the California Public Employees' Retirement System (CalPERS).

Respondent Juwan A. Austin represented himself at hearing.

Administrative Services Manager Alison Bell represented the Mid-Peninsula Water District, but did not call or cross-examine any witnesses and did not introduce any exhibits into evidence.

The record closed and the matter was submitted for decision on January 15, 2026.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 25, 2024, respondent Juwan A. Austin signed and subsequently submitted an application for disability retirement with CalPERS (application). At the time respondent submitted his application, he was employed by the Mid-Peninsula Water District (MPWD) as a Maintenance Technician. By virtue of this employment, respondent was a local miscellaneous member of CalPERS subject to Government Code section 21150. Respondent has the minimum service credit necessary to qualify for retirement.

2. In respondent's application, he identified his disability as "traumatic brain injury, chronic fatigue, hypersomnia, anxiety, depression," with a date of injury of "cumulative."

3. On December 4, 2024, CalPERS notified respondent that his application was denied, based on its determination that his conditions, set forth in Factual Finding 2, did not render him substantially incapacitated from the performance of his duties as a Maintenance Technician.

4. On December 17, 2024, respondent appealed CalPERS's denial.

5. On June 20, 2025, a statement of issues was issued by CalPERS. This hearing followed.

Requirements of a Maintenance Technician

6. Respondent's duties as a Maintenance Technician included: reading water meters; performing water meter maintenance; responding to service calls and customer complaints; connecting and disconnecting water services; maintaining, flushing, and repairing fire hydrants; performing ground maintenance in and around MPWD facilities; operating and maintaining equipment such as backhoes; and operating a variety of hand and power tools.

7. MPWD filled out a CalPERS form describing the physical requirements of a Maintenance Technician. On February 13, 2024, respondent signed the form indicating that he agreed with MPWD's assessment of the job's physical requirements. Respondent's duties most frequently (between 2.5 and five hours per day) require communicating with others, standing, and walking. Respondent's duties occasionally (between 31 minutes and 2.5 hours per day) and infrequently (between five minutes and 30 minutes per day) require lifting no more than 50 pounds, sitting, kneeling, squatting, bending, twisting, turning, and similar physical requirements.

Independent Medical Evaluations

8. CalPERS obtained two independent medical evaluations (IME's) of respondent based on his conditions set forth in Factual Finding 2.

ALBERTO G. LOPEZ, M.D.

9. On August 14, 2024, CalPERS retained Alberto G. Lopez, M.D., a psychiatrist, to perform an IME of respondent regarding his reported anxiety and

depression conditions. Dr. Lopez received his M.D. in 1979, received his Diplomate from the American Board of Psychiatry and Neurology in 1986, served as a clinical professor at a school of medicine in its department of psychiatry from 1986 through 2012, and for over 40 years has evaluated and treated many patients. Dr. Lopez interviewed respondent, reviewed his medical records, reviewed the duties and essential functions of his position, and performed a clinical examination of him. Dr. Lopez wrote a report with his findings dated October 2, 2024, and wrote a supplemental report dated February 26, 2025, after receiving additional information. Dr. Lopez concluded that respondent is not substantially incapacitated from performing his usual duties as a Maintenance Technician for MPWD.

10. Dr. Lopez testified at hearing consistent with his reports. During respondent's clinical evaluation, he presented with "an essentially normal mental status examination." Respondent was neither objectively nor subjectively depressed and did not have any actual present psychiatric anxiety. Dr. Lopez noted that "there is no indication in the medical records that [respondent] is disabled on a psychiatric basis." Dr. Lopez's opinion was uncontroverted by competent medical opinion.

11. Dr. Lopez noted that respondent informed him that respondent injured his back while working for MPWD on March 1, 2021; he was taken off work; he was released on work limitations, but the limitations could not be observed; he stopped working; and he filed for and received Social Security disability benefits.

JAMES C. STODY, M.D.

12. On September 25, 2024, CalPERS retained James C. Stody, M.D., a neurologist, to perform an IME of respondent regarding his reported traumatic brain injury, chronic fatigue, and hypersomnia conditions. Dr. Stody received his M.D. in

1975, received his Diplomate from the American Board of Psychiatry and Neurology in 1981, and for over 45 years has evaluated and treated many patients. Dr. Stody interviewed respondent, reviewed his medical records, reviewed the duties and essential functions of his position, and performed a clinical examination of him. Dr. Stody wrote a report with his findings dated October 28, 2024. Dr. Stody concluded that respondent is not substantially incapacitated from performing his usual duties as a Maintenance Technician for MPWD.

13. Dr. Stody testified at hearing consistent with his report. Dr. Stody noted in his report that respondent sustained a traumatic brain injury in 1996 when he was 22 years old as a result of a motor vehicle accident. Limited information was available regarding the care and treatment of respondent associated with the accident. Respondent did receive a ventriculoperitoneal shunt and has not had any problems with the shunt since it was placed. Respondent subsequently performed various kinds of employment such as driving a bus and working as a cable technician prior to working for MPWD. Medical records state that respondent was seen by a neurologist on February 25, 2021, for hypersomnia and sleep apnea. Respondent was placed on modified duty at MPWD from March 3, 2021, through December 21, 2021, with restrictions against driving, climbing, and scaffold use. However, respondent was evaluated and deemed able to return to full-duty work on January 1, 2022, and he is currently able to operate a motor vehicle at will without difficulty. Dr. Stody reported that respondent's complaints of traumatic brain injury, chronic fatigue, and hypersomnia were:

longstanding chronic complaints noting that [respondent] had demonstrated adequate job performance with [MPWD] as well as other employers with these conditions.

[Respondent] did not provide to the examiner an adequate explanation as to why he was unable to perform his work with [MPWD] when these issues were taken into consideration, specifically the duration of these conditions.

Dr. Stody concluded that respondent, "does not have an actual and present neurological (traumatic brain injury, chronic fatigue, hypersomnia) impairment that arises to the level of substantial incapacity to perform his usual job duties."

Dr. Stody's opinion was uncontroverted by competent medical opinion.

14. Dr. Stody noted that respondent informed him that he is currently not working due to musculoskeletal complaints and that he qualified for Social Security disability benefits in 2023 retroactive to March 2, 2021. Dr. Stody further noted that "there are no medical records regarding this issue [musculoskeletal complaints]."

Respondent's Additional Evidence

15. Respondent and his wife testified at hearing in a sincere and heartfelt manner. They described their opinions as to the conditions he has, which include those set forth in Factual Finding 2 and additional conditions including anemia and posttraumatic stress disorder, and the effects of those conditions on his ability to perform his duties as a Maintenance Technician for MPWD. Respondent did not call any witnesses or introduce any documentary evidence that provided competent medical opinion that disputed the opinions of Dr. Lopez and Dr. Stody.

16. Respondent provided evidence that he is no longer employed in any capacity and that effective February 1, 2021, the Social Security Administration (SSA)

determined that he became disabled for purposes of that agency.¹ However, the basis of the SSA's eligibility determination was not established. Moreover, disability determinations made by the SSA are not controlling in CalPERS matters.

Ultimate Factual Finding

17. It was not established by the preponderance of the evidence that, at the time respondent applied for CalPERS disability retirement, he was incapacitated from the performance of his duties as a Maintenance Technician on the basis of the conditions listed in his application. Rather, the competent medical evidence persuasively established that respondent's traumatic brain injury, chronic fatigue, hypersomnia, anxiety, and depression conditions do not render him incapacitated from the performance of his duties as a Maintenance Technician.

LEGAL CONCLUSIONS

1. A CalPERS member who becomes incapacitated for the performance of duty shall be retired for disability, if the member is credited with five years of state service. (Gov. Code, § 21150.) To qualify for disability retirement, respondent must prove that, at the time he applied, he was "incapacitated physically or mentally for the performance of [his] duties in the state service." (Gov. Code, § 21156.) The burden of proof is on the employee to establish that he is incapacitated, by a preponderance of

¹ The exact date respondent stopped working at MPWD was not established by the evidence.

the evidence. (*Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, 691; Evid. Code, § 115.)

2. The terms “disability” and “incapacity for the performance of duty” mean “disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board, . . . on the basis of competent medical opinion.” (Gov. Code, § 20026.) An applicant is “incapacitated for performance of duty” if he is substantially unable to perform the usual duties of his position. (*Mansperger v. Public Employees’ Retirement System* (1970) 6 Cal.App.3d 873, 876; accord *Hosford v. Board of Administration* (1978) 77 Cal.App.3d 854, 859-860.)

3. As set forth in Factual Finding 17, respondent has not met his burden of establishing by competent medical evidence that, at the time respondent applied for CalPERS disability retirement, he was incapacitated from the performance of his duties as a Maintenance Technician. Accordingly, his application must be denied.

ORDER

The application of Juwan A. Austin for disability retirement is denied.

DATE: 01/26/2026

Carl D. Corbin

CARL D. CORBIN

Administrative Law Judge

Office of Administrative Hearings