

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

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Additional Information:

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

In the Matter of the Appeal of:

[REDACTED], Petitioner

v.

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent

CalPERS Case No.: [REDACTED]

OAH Case No.: [REDACTED]

PETITION FOR RECONSIDERATION
(Government Code § 11521)

TO THE BOARD OF ADMINISTRATION OF CALPERS:

Petitioner, [REDACTED], hereby petitions the Board of Administration for reconsideration of the Proposed Decision issued on January 20, 2025, which upheld the denial of Industrial Disability Retirement Benefits. This Petition is timely filed pursuant to Government Code section 11521.

The Proposed Decision must be rejected because it is not supported by substantial evidence, is based upon legal error, is arbitrary in its rejection of probative medical evidence, and is contrary to Government Code section 21151 and controlling California case law.

I. MISAPPLICATION OF GOVERNMENT CODE § 21151

Government Code section 21151 requires only that a member be "incapacitated for the performance of duty" as a result of industrial injury. The statute does not require total disability, permanent helplessness, or proof that the condition will never improve.

As held in *Mansperger v. Public Employees' Retirement System* (1970) 6 Cal.3d 614 and *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, the relevant inquiry is whether the employee can perform the usual duties of her position, not speculation regarding potential improvement. The Proposed Decision improperly

focuses on speculative recovery rather than Petitioner's actual functional capacity at the time of application, which constitutes legal error.

II. CONTEMPORANEOUS QUALIFIED MEDICAL EVIDENCE ESTABLISHED INCAPACITY

On March 2, 2023, Dr. G. Sunny Uppal performed a Qualified Medical Evaluation. After reviewing the official job description for Correctional Counselor II Supervisor, Dr. Uppal determined Petitioner was permanent and stationary, imposed permanent medical restrictions, and concluded Petitioner could not return to her usual occupation.

This evaluation occurred approximately three months before Petitioner filed her application on June 1, 2023. Dr. Uppal's opinion was contemporaneous and job-specific. No contemporaneous medical opinion established that Petitioner could perform her duties as of the application date. The Proposed Decision rejects this probative evidence without legally sufficient justification.

III. IMPROPER RELIANCE ON A LATER IME

The Proposed Decision relies upon an Independent Medical Evaluation (IME) conducted on November 10, 2023—more than five months after the application date. The IME opined that Petitioner's condition "should have resolved" within twelve weeks. However, speculation regarding expected recovery does not establish capacity on June 1, 2023. Under *Curtis v. Board of Retirement* (1986) 177 Cal.App.3d 293, an administrative decision cannot rest on medical opinions that fail to address actual job performance at the relevant time.

IV. EMPLOYER DENIAL OF RETURN TO WORK CONFIRMS INCAPACITY

The administrative record establishes that Petitioner was denied return to work because her permanent restrictions could not be accommodated within the essential functions of her position. An employer's inability to accommodate permanent restrictions is direct evidence of incapacity. The Proposed Decision fails to meaningfully analyze this material evidence.

V. THE DECISION IS CONTRARY TO LAW AND NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

The record establishes:

- 1. Permanent and stationary status prior to application;
- 2. Permanent restrictions incompatible with essential duties;
- 3. A job-specific medical conclusion that Petitioner could not return to her occupation;
- 4. Employer confirmation of inability to accommodate; and
- 5. No contemporaneous medical evidence establishing capacity.

This satisfies the statutory requirements of Government Code section 21151.

VI. REQUEST FOR RELIEF

Petitioner respectfully requests that the Board of Administration:

- 1. Grant this Petition for Reconsideration pursuant to Government Code § 11521;
- 2. Reject the Proposed Decision;
- 3. Issue a decision finding Petitioner incapacitated within the meaning of Government Code § 21151; and
- 4. Grant Industrial Disability Retirement benefits.

Petitioner reserves all rights to seek judicial review should reconsideration be denied.

Respectfully submitted,

Ronette Strown
Petitioner, In Pro Per

Date: February 19, 2026