

ATTACHMENT B

Staff Argument

STAFF'S ARGUMENT TO DENY THE PETITION FOR RECONSIDERATION

Ronette O. Strown (Respondent) petitions the Board of Administration (Board) to reconsider its adoption of the Administrative Law Judge's (ALJ) Proposed Decision dated October 16, 2025. For reasons discussed below, staff argues that the Board should deny the Petition and uphold its decision.

Respondent was employed as a Correctional Counselor II Supervisor for North Kern Valley State Prison, California Department of Corrections and Rehabilitation (Respondent CDCR). By virtue of her employment, Respondent is a state safety member of CalPERS. On or about June 1, 2023, Respondent applied for Industrial Disability Retirement (IDR) based on orthopedic conditions (neck, back, elbow, wrists, and hands).

On January 2, 2024, Respondent informed CalPERS that she no longer wished to pursue IDR based on her alleged bilateral elbow and wrist orthopedic conditions. Therefore, CalPERS did not consider those complaints when evaluating her IDR application.

As part of CalPERS' review of Respondent's medical conditions, Paul Edward Kaloostian, M.D., a board-certified Neurosurgeon and Diplomate of the American Board of Neurological Surgery, performed an Independent Medical Examination (IME) concerning her orthopedic conditions. Dr. Kaloostian interviewed Respondent, reviewed work history and job descriptions, obtained a history of past and present complaints, and reviewed medical records. Dr. Kaloostian opined that Respondent was not substantially incapacitated for the performance of her usual and customary duties as a Correctional Counselor II Supervisor with Respondent CDCR.

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. Further, 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 the medical documentation and the IME report, CalPERS determined that Respondent was not substantially incapacitated from performing the usual duties of her position. Respondent was notified of CalPERS' decision and her right to appeal the determination by letter dated January 16, 2024.

Respondent appealed this determination and exercised her right to a hearing before an ALJ with the Office of Administrative Hearings (OAH). A hearing was held on October 7, 2025. Respondent represented herself at the hearing. Respondent CDCR did not appear at the hearing, and a default was taken as to Respondent CDCR only.

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, Respondent testified on her own behalf, stating that since the initial injury on March 5, 2021, she has had pain and discomfort near her left shoulder blade and the left side of her neck, and that sometimes the pain and numbness radiates down her left arm. She expressed that she has had "significant challenges" due to these symptoms and that she has tried acupuncture, aqua therapy, physical therapy, and cervical injections, all to no avail.

Respondent produced results from a magnetic resonance imaging (MRI) taken in April 2025, by Glade Roper, M.D. Dr. Roper did not testify at the hearing. There was also no explanation of the MRI results or an opinion as to whether Respondent is substantially incapacitated from Dr. Roper. Respondent also produced a letter penned by Alexandre Rasouli, M.D. stating that an authorization for a disc replacement has been submitted and is "currently pending review from work comp at this time." Dr. Rasouli did not testify at the hearing. There was no explanation from Dr. Rasouli as to why the disc replacement procedure is necessary or an opinion on whether Respondent is substantially incapacitated from performing the usual and customary duties of her position. Respondent did not call any witnesses to testify on her behalf. 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 as the sole evidence to support a finding.

Dr. Kaloostian testified at the hearing in a manner consistent with his examination of Respondent and the IME report. Dr. Kaloostian testified that her strength and reflexes were "normal," that she had pain in her mid-back and sacroiliac tenderness in her left side and that her range of motion of the cervical spine was diminished by 25 percent due to neck pain. Dr. Kaloostian further testified that he disagrees with Respondent's medical records diagnosing her with radiculopathy, disc displacement, and spinal issues because clinical findings did not support these diagnoses. Dr. Kaloostian's diagnosis is posterior cervical trapezial, and thoracic myofascial strain, and he believes that a 12-week regimen of "conservative care" would heal the sprain.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent did not prove by competent medical evidence that she was substantially incapacitated from the performance of her usual job duties at the time she applied for IDR. Therefore, Respondent does not qualify for IDR on the basis of her orthopedic conditions and CalPERS' denial of her IDR application is correct.

Respondent's Petition for Reconsideration argues that: (1) the Proposed Decision misapplies Government Code section 21151; (2) Respondent supported her position via

“qualified medical evidence”; (3) the IME’s opinion cannot be relied upon, because he examined Respondent approximately five months after her application date; (4) Respondent CDCR’s refusal to allow Respondent to return to work proves her substantial incapacity; and (5) the Proposed Decision is otherwise contrary to law and not supported by substantial evidence. However, Respondent’s arguments ignore the foundational requirement that she prove her entitlement to IDR by “competent medical opinion” under Government Code section 21156. At hearing, Respondent offered medical evidence only in the form of the Qualified Medical Examination report of Dr. Sunny Uppal. Dr. Uppal’s report was admitted as administrative hearsay, which, under Government Code section 11513, “may be used for the purpose of supplementing or explaining other evidence but... shall not be sufficient in itself to support a finding....” Accordingly, Respondent failed to offer “competent medical opinion” at hearing and did not carry her burden of proof.

No new evidence has been presented by Respondent that would alter the analysis of the ALJ. The Proposed Decision that was adopted by the Board at the January 20, 2026, meeting was well reasoned and based on the credible evidence presented at hearing.

For all the above reasons, staff argues that the Board should deny the Petition for Reconsideration and uphold its decision.

March 18, 2026

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