

**ATTACHMENT B**

**STAFF'S ARGUMENT**

## STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Robert L. Gonzales Jr. (Respondent) was employed by the City of Huntington Beach (Respondent City) as a Police Officer. By virtue of his employment, Respondent was a state safety member of CalPERS.

Between October 2020 and December 2021, Respondent City conducted three separate administrative investigations into three distinct incidents of alleged misconduct involving Respondent. On December 15, 2021, Respondent City and Respondent met for a *Skelly* conference regarding the proposed discipline of termination based on the investigative findings. Following the conference, on December 20, 2021, Respondent City issued a Notice of Discipline imposing termination, effective December 21, 2021. Respondent appealed the termination through an administrative proceeding before the City Council of Huntington Beach, and Respondent's termination became final on September 11, 2023. No further appeals were pursued.

On May 1, 2024, Respondent submitted the operative application for Industrial Disability Retirement (IDR) that gave rise to the appeal underlying the Proposed Decision. In his IDR application, Respondent claimed a disability on the basis of a psychiatric condition. Respondent had previously submitted an IDR application on April 12, 2023. However, that application was cancelled because CalPERS did not receive the required documentation from Respondent City regarding Respondent's separation from employment necessary to render a determination.

CalPERS reviewed Respondent's May 1, 2024, IDR application and again requested information from Respondent City. In response, Respondent City provided documentation and information regarding Respondent's termination and the underlying disciplinary action.

On August 26, 2024, CalPERS informed Respondent that he was ineligible to apply for IDR, primarily under *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292 (*Haywood*), and *Smith v. City of Napa* (2004) 120 Cal.App.4th 194 (*Smith*).

The *Haywood* court found that when an employee is terminated and the discharge is neither the ultimate result of a disabling medical condition nor preemptive of an otherwise valid claim for disability retirement, termination of the employment relationship renders the employee ineligible for disability retirement. The ineligibility arises from the fact that the discharge is a complete severance of the employer-employee relationship. A disability retirement is only a "temporary separation" from public service, and a complete severance would create a legal anomaly – a "temporary separation" that can never be reversed. Therefore, *Haywood* and subsequent courts interpreting that decision have found disability retirement and a discharge to be legally incompatible.

Building on *Haywood*, the *Smith* court explained that, to be preemptive of an otherwise valid claim, the right to a disability retirement must have matured before the employee was terminated. To be mature, there must have been an unconditional right to immediate payment at the time of termination unless, under principles of equity, the claim was delayed through no fault of the terminated employee or there was undisputed evidence of qualification for a disability retirement.

Respondent appealed CalPERS' determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on February 2, 2026. Respondent represented himself at the hearing. Respondent City appeared at the hearing and was represented by counsel.

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, CalPERS called as witnesses two employees of Respondent City. A Police Department Lieutenant testified as the custodian of records and authenticated documents related to Respondent City's internal investigation and the Notice of Decision imposing Respondent's termination. A Human Resources Manager testified regarding Respondent's administrative appeal before the City Council of Huntington Beach, which became final on September 11, 2023. The documents concerning Respondent's discipline and termination were admitted into evidence.

A CalPERS employee also testified at the hearing concerning when Respondent initiated the disability retirement application process and when his IDR applications were received. Testimony and evidence established that the soonest Respondent initiated the process was his first IDR application on April 12, 2023, which was after the events giving rise to the disciplinary action against him by Respondent City. The evidence thereby established that based on the timeline of his applications, his termination was not preemptive of a claim for IDR.

Respondent testified on his own behalf and sought to admit documents related to his workers' compensation matter. The ALJ determined that both exhibits—each pertaining to Respondent's workers' compensation claim—were not relevant to his eligibility to apply for IDR and excluded them. Respondent did not call any additional witnesses or seek to admit further evidence.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent was ineligible to apply for IDR under *Haywood* because his termination constituted a complete separation from state service. Although Respondent had appealed Respondent City's decision to terminate his employment, he did not further appeal the administrative decision, which was upheld and became final. The ALJ further found that neither of the exceptions applied as Respondent was not terminated as a result of a disabling medical

condition nor was his termination preemptive of a valid claim for disability retirement. The ALJ concluded that Respondent failed to establish his eligibility to apply for IDR by a preponderance of the evidence and denied his appeal.

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

April 14, 2026

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Bryan Delgado  
Senior Attorney