

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 Industrial Disability
Retirement of:**

SHERRY R. FRAZIER, Respondent,

and

**PLEASANT VALLEY STATE PRISON, CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION,
Respondent.**

Agency Case No. 2024-1008

OAH No. 2025070112

PROPOSED DECISION

Sharon Lahey, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on February 5, 2026.

Austa Wakily, Senior Attorney, represented Complainant Sharon Hobbs, Chief, Disability and Survivor Benefits Division, California Public Employees' Retirement System (CalPERS), State of California.

Sherry R. Frazier, respondent, represented herself.

Pleasant Valley State Prison, California Department of Corrections and Rehabilitation (CDCR), respondent, did not appear, despite proper notice. This matter proceeded by default as to CDCR. (Gov. Code, §11520, subd. (a).)

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on February 5, 2026.

ISSUE

Whether respondent¹ was substantially incapacitated from performing the usual and customary duties of a case records technician due to neuropsychological conditions (cognitive, encephalopathy, and sleeping disorder), pulmonological conditions (pulmonary issues and post-COVID-19 syndrome), and/or otolaryngological conditions (balance and dizziness) at the time she filed her application for industrial disability retirement.

FACTUAL FINDINGS

Jurisdictional Matters

1. CalPERS is the state agency responsible for administering retirement benefits to eligible employees. (Gov. Code, § 20000 et seq.)

¹ Hereinafter, "respondent" refers to Sherry R. Frazier only, and not CDCR.

2. CDCR employed respondent as a case records technician at the Pleasant Valley State Prison. By virtue of her employment, respondent is a state safety member of CalPERS. (Gov. Code, § 21151.)

3. On June 24, 2024, respondent applied for industrial disability retirement based on alleged neuropsychological conditions (cognitive, encephalopathy, and sleeping disorder), pulmonological conditions (pulmonary issues and post-COVID-19 syndrome), and otolaryngological conditions (balance and dizziness).

4. By letter dated November 19, 2024, CalPERS notified respondent of its denial of her application and advised her of her appeal rights.

5. By letter dated December 18, 2024, respondent appealed the denial of her application.

6. On June 19, 2025, complainant, acting in her official capacity, signed the Statement of Issues. The sole issue identified on appeal is whether respondent was substantially incapacitated from the performance of her usual and customary duties as a case records technician due to neuropsychological, pulmonological, and otolaryngological conditions at the time she filed her application.

Complainant's Evidence

TESTIMONY AND INDEPENDENT MEDICAL EXAMINATION REPORTS

Geoffrey A. Smith, M.D., F.A.C.S.

7. The testimony of Geoffrey A. Smith, M.D., F.A.C.S., and his independent medical examination (IME) report, which was received into evidence and consistent with his testimony, are summarized as follows: Dr. Smith is a board-certified

otolaryngologist. He graduated from medical school in 1972 and completed his residency in head and neck surgery in 1977. He has several academic appointments and has authored various medical publications in his field. He retired from practice in 1999. He currently serves as a qualified medical expert (QME) and forensic consultant, performing IMEs and testifying as an expert witness. He is familiar with CalPERS disability standards and the usual and customary duties of a case records technician, and he reviewed respondent's medical records. On October 7, 2024, he conducted an IME to evaluate respondent's otolaryngological conditions.

8. Respondent identified her chief otolaryngological complaints as: asthma, tinnitus, lightheadedness, and hearing loss in the left ear. She attributed her conditions to a January 2022 COVID-19 infection. She stated that she worked in a loud environment and had some preexisting hearing loss in her left ear, however, it significantly worsened after she contracted COVID-19. She stated that immediately after contracting COVID-19, she experienced dizziness; the dizziness had since resolved, however, she still became lightheaded if she got up too quickly.

9. On examination, respondent's face, head, eyes, nose, ears, oropharynx, teeth, larynx, and neck appeared normal. Dr. Smith performed audiometric testing, which revealed mild hearing loss in the right ear and 13-percent high-frequency hearing loss in the left ear caused by noise exposure. Dr. Smith performed impedance testing, which ruled out dizziness caused by fluid in the inner ear.

10. Dr. Smith concluded that respondent did not have an otolaryngological condition (balance, dizziness) rising to the level of substantial incapacity to perform her usual and customary duties as a case records technician. Respondent's physical examination was entirely normal, except for some hearing loss in the left ear that

would not impair her ability to perform the usual and customary duties of a case records technician.

Syed Omar Tirmizi, M.D., F.C.C.P.

11. The testimony of Syed Omar Tirmizi, M.D., F.C.C.P., and his IME report, which was received into evidence and consistent with his testimony, are summarized as follows: Dr. Tirmizi is a board-certified physician in internal medicine, pulmonary medicine, critical care medicine, and sleep medicine. He graduated from medical school in 1988 and completed his residency in 1994. He has been an assistant clinical professor of medicine and has authored various publications in his fields. He has been in private practice specializing in internal medicine and pulmonology since 1999. He has also served as a medical expert and QME in civil litigation since 2001. He is familiar with CalPERS disability standards and the usual and customary duties of a case records technician, and he reviewed respondent's medical records. On October 2, 2024, he conducted an IME to evaluate respondent's pulmonological conditions.

12. Respondent identified her chief respiratory complaints as: mild shortness of breath and fatigue resulting from her January 2022 COVID-19 infection. She reported that she was tired most of the time but able to perform activities of daily living such as laundry, cooking, bathing, and cleaning. Dr. Timrizi noted that respondent's medical records showed her breathing had improved, but she continued to use corticosteroid and rescue inhalers.

13. Dr. Timrizi's physical examination of respondent was normal. Among other normal findings, respondent's chest and lungs revealed clear, normal, and symmetrical breath sounds with normal expansion. Her cardiovascular examination

revealed normal sounds, with no murmurs, rubs, or clicks. Her gait was normal, with no ataxia.

14. Dr. Timrizi concluded that respondent did not have a pulmonary or internal medicine condition rising to the level of substantial incapacity to perform the usual and customary duties as a case records technician. While respondent reported mild shortness of breath and fatigue, there was no objective medical evidence supporting her claims. To the contrary, her examination was “completely normal,” with no signs of tachypnea, rhonchi, or wheezing. Diagnostic testing was similarly normal; pulmonary function testing revealed normal pulmonary functioning and lung capacity. While medical records from respondent’s treating physician documented a computed tomography (CT) showing some inflammation in respondent’s chest walls, the CT also showed that there was no evidence of any pulmonary abnormalities.

Dominique Kinney, Ph.D., A.B.P.P., Q.M.E.

15. The testimony of Dominique Kinney, Ph.D., A.B.P.P., Q.M.E., and her IME report, which was received into evidence and consistent with her testimony, are summarized as follows: Dr. Kinney is a licensed psychologist, board-certified clinical neuropsychologist, and QME. She obtained a Ph.D. in clinical psychology in 2002 and became a licensed psychologist in California in 2003. In 2003, she completed a postdoctoral fellowship in neuropsychology at Patton State Hospital, where she went on to work as a neuropsychologist until June 2021. She has authored various publications and given various lectures in her field. She currently serves as the Director of Neuropsychology Services, Co-Director of the Neuropsychology Postdoctoral Fellowship, and Primary Lecturer for Advanced Neuropsychology Seminars at Patton State Hospital. She has also worked as a forensic neuropsychologist and medical expert in medical-legal and workers’ compensation matters since 2015. She is familiar

with CalPERS disability standards and the usual and customary duties of a case records technician, and she reviewed respondent's medical records. On September 27, 2024, she conducted an IME to evaluate respondent's alleged neuropsychological conditions.

16. Respondent identified her chief neuropsychological complaints as: difficulties with memory, learning, attention, concentration, language (word finding), comprehension, executive functioning, depression, and anxiety. She reported experiencing these difficulties on a daily basis and attributed them to a January 2022 COVID-19 infection. She stated that she could not perform work of any kind due to her cognitive problems.

17. On examination, respondent was alert and oriented, with clear and coherent thinking and normal thought content. She maintained normal behavior. She became tearful at some points but was able to compose herself and continue the examination. She was able to understand and remember test instructions, provide thoughtful responses to questions, and persist with cognitive tasks for 1.5 hours at a time without a break. Her speech was coherent, fluent, and goal-directed, with normal prosody, volume, and articulation and no signs of paraphasia or circumlocution.

18. Cognitive testing yielded exceptionally low performance scores, however, Dr. Kinney concluded that the scores were invalid due to "overwhelming objective evidence" of malingering. Multiple validity tests showed the results were "unequivocally invalid," respondent gave "very unusual" responses associated with noncredible reporting, and respondent's test results were "markedly inconsistent" with her reported capabilities and mental-status examination findings. Dr. Kinney noted that respondent's performance on cognitive tasks, especially memory, was consistent

with severe traumatic brain injuries, dementia, and strokes. Respondent's scores were so low that they indicated a need for supervised care.

19. Dr. Kinney concluded that respondent did not have a neuropsychological or psychological impairment rising to the level of substantial incapacity to perform the usual and customary duties of a case records technician. The evidence did not establish a neuropsychological impairment; to the contrary, magnetic resonance imaging (MRI) in 2023 and 2024 was normal and devoid of signs one would expect to see from COVID-19-related impairments, such as brain atrophy, shrinking of brain cells, and poor oxygen. While the evidence supported a psychological impairment, to wit, adjustment disorder with mixed anxiety and depressed mood, normal mental-status examination findings by both Dr. Kinney and respondent's treating medical providers showed that respondent maintained normal cognitive functioning.

Respondent's Evidence

RESPONDENT'S TESTIMONY

20. Respondent's testimony is summarized as follows: In or around 2015, respondent started working for CDCR as an office assistant at Avenal State Prison. Respondent, a quick learner who sought increased responsibility, worked her way up the ranks. In February 2022, CDCR promoted her to a case records technician position at Pleasant Valley State Prison.

21. In January 2022, respondent's last month at Avenal State Prison, she contracted COVID-19 at work; she tested positive on or about January 18, 2022, after experiencing headaches and joint pain.

22. In February 2022, respondent started working full-time as a case records technician at Pleasant Valley State Prison. The transition to her new job was difficult, as she was experiencing ongoing COVID-19 symptoms. For example, she got headaches that made it difficult to find her words and recall and retain information. Hoping that her condition would improve, respondent sought medical care and worked intermittently, using sick leave for her absences. In October 2022, Sanjay J. Chauhan, M.D., a physician respondent saw in connection with a workers' compensation matter, took her off work. He completed paperwork for her, and she began receiving temporary disability benefits from the state. In January 2023, she retired from CDCR.

23. Respondent testified that case records technicians act as liaisons between inmates, staff, and outside entities. Case records technicians perform a variety of tasks, including scheduling appointments, arranging transportation, tracking records, maintaining electronic records, scanning documents, communicating through an electronic phone system, processing paperwork, and preparing inmates for release. The case records technician position is a full-time, sedentary-exertional position that requires effective communication and critical thinking on a daily basis.

24. Respondent's medical condition has hugely impacted her life. Before getting sick, she maintained a full-time job, ran half marathons, hiked, taught dance classes, and had a wonderful life. After getting sick, she gained weight and is still struggling to resolve her ongoing symptoms. She is doing everything she can to get better, but navigating medical treatment has been difficult. She has followed prescribed treatment, taken medication, and gone to physical therapy, but she still has great strides to make in her recovery. She feels medical retirement is necessary for her future.

DOCUMENTARY EVIDENCE

25. Respondent provided a pre-printed, fill-in-the-blank "work status" form, signed by Dr. Chauhan. In pertinent part, the form states that respondent was "permanently totally disabled" as of May 6, 2025.

Usual and Customary Duties of a Case Records Technician

26. A form entitled, "Physical Requirements of Position/Occupational Title," sets forth the maximum physical, social, and environmental capabilities necessary to perform the case records technician position as follows: lifting and/or carrying 10 pounds frequently, 25 pounds occasionally; constant sitting, fine manipulation, bending and twisting of the neck, and interacting or communicating with coworkers; frequent pushing, pulling, grasping, bending, and twisting at the waist; occasional standing, walking, reaching, and telephonic communication; and infrequent kneeling, squatting, walking on uneven ground, and face-to-face interaction or communication with the public.²

27. A form entitled, "Department of Corrections and Rehabilitation Division of Adult Institutions Case Records Technician (CRT) Essential Functions," sets forth the duties, responsibilities, and exertional activities of a case records technician as follows: ordering, loading, and unloading stock supplies weighing up to 25 pounds; lifting, carrying, moving, pushing, and pulling items weighing up to 5 pounds; processing and distributing mail and documents; operating office machines; maintaining alertness to

² The form provides the following definitions: "infrequently" means 5 to 30 minutes; "occasionally" means 31 minutes to 2.5 hours; "frequently" means 2.5 to 5.0 hours; and "constantly" means over 5 hours.

the institutional environment at all times; identifying and reporting security risks; serving as lead contact for projects; providing technical oversight; utilizing automated tracking systems; and completing 40 hours of training annually.

LEGAL CONCLUSIONS

Applicable Law

1. An applicant seeking industrial disability retirement has the burden of proving she is entitled to such benefits. (Evid. Code, § 500; *McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051 fn. 5.) She must make this showing by a preponderance of the evidence, meaning simply, her entitlement to benefits is “more likely than not.” (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387–1388.)

2. An applicant seeking industrial disability retirement must show she was “incapacitated physically or mentally for the performance of his or her duties” at the time of her application (Gov. Code, §§ 21154, 21156, subd. (a)(1).) “Incapacitated for the performance of duty” means the “substantial inability . . . to perform [one’s] usual duties.” (*Mansperger v. Public Employees’ Retirement System* (1970) 6 Cal.App.3d 873, 876.) Such incapacity must result from a disability that is expected to result in death or last for at least 12 consecutive months. (Gov. Code, § 20026.) When evaluating an applicant’s eligibility for industrial disability retirement, CalPERS must rely on competent medical-opinion evidence. (Gov. Code, § 21156, subd. (2).)

Evaluation

3. Respondent has not met her burden of establishing that she is entitled to industrial disability retirement. Specifically, she has not presented evidence showing

she was substantially incapacitated to perform the usual and customary duties of a case records technician due to neuropsychological, pulmonological, and/or otolaryngological conditions at the time she filed her application. Most notably, she did not present competent medical-opinion evidence supporting her allegations of substantial incapacity. (Gov. Code, § 21156, subd. (2).)

4. Indeed, respondent submitted a single medical record, to wit, a pre-printed, fill-in-the-blank form from her physician, Dr. Chauhan, stating that respondent became “permanently totally disabled” on May 6, 2025. However, Dr. Chauhan did not identify respondent’s allegedly disabling condition(s) or functional limitations and/or capabilities, reference any supporting medical findings, or otherwise explain the basis for his conclusion. Further, while he states respondent is “disabled,” there is no basis to conclude he found respondent disabled under the standards and definitions applicable in this industrial disability retirement matter; he nowhere stated respondent was substantially incapacitated to perform a case records technician’s usual and customary duties. Moreover, respondent testified that she saw Dr. Chauhan in the context of a workers’ compensation matter, which is governed by a different statutory scheme with different requirements and definitions. (*Bianchi v. City of San Diego* (1989) 214 Cal. App. 3d 563, 567 [“Because of the differences in the issues, ‘[a] finding by the [Workers’ Compensation Appeals Board] of permanent disability . . . does not bind the retirement board on the issue of the employee’s incapacity to perform his duties.” [quoting *Reynolds v. City of San Carlos*, 126 Cal.App.3d 208, 215].) The

evidence from Dr. Chauhan is not a competent medical opinion establishing respondent's eligibility for industrial disability retirement.³

5. By contrast, CalPERS presented competent medical opinions from three medical experts, each specializing in an area of medicine corresponding with respondent's conditions for which she alleged substantial incapacity, to wit, otolaryngology (Dr. Smith), pulmonology (Dr. Tirmizi), and neuropsychology (Dr. Kinney). (Gov. Code, § 21156, subd. (2).) All three medical experts opined that respondent was not substantially incapacitated from performing her usual and customary duties as a case records technician. The medical experts based their medical opinions on his or her own comprehensive examination and review of respondent's medical records and usual and customary job duties.

6. Among other medical evidence supporting Drs. Smith, Tirmizi, and Kinney's medical opinions, respondent's chest and lungs revealed clear, normal, and symmetrical sounds with normal expansion, and diagnostic imaging revealed normal pulmonary functioning and lung capacity. Respondent had a normal gait, without any signs of balance issues, and impedance testing ruled out inner ear fluid as a cause of respondent's alleged dizziness. Respondent was alert and oriented, with clear and coherent thought processes and normal speech that showed no signs of aphasia; she was able to respond to questions with thoughtful responses, understand and remember instructions, and persist with cognitive tasks for an extended period; and multiple brain MRIs revealed normal findings, with no evidence of a

³ Dr. Chauhan's form also constitutes administrative hearsay pursuant to Government Code section 11513, subdivision (d), and cannot be used to make a finding of fact.

neuropsychological impairment. Respondent did not present any competent medical opinions or medical evidence refuting the medical experts' competent medical opinions.

7. Considering all the evidence, respondent has failed to meet her burden of showing she was substantially incapacitated from performing the usual and customary duties of a case records technician at the time she filed her application for industrial disability retirement. Accordingly, CalPERS properly denied the application.

ORDER

CalPERS's determination that Sherry R. Frazier was not substantially incapacitated from the performance of her usual and customary duties as a CDCR case records technician as of the date of her application for industrial disability retirement due to neuropsychological conditions (cognitive, encephalopathy, and sleeping disorder), pulmonological conditions (pulmonary issues and post COVID-19 syndrome), and/or otolaryngological conditions (balance and dizziness) is affirmed.

DATE: March 6, 2026



SHARON LAHEY

Administrative Law Judge

Office of Administrative Hearings