

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION, AS MODIFIED

Travis M. Giannini (Respondent) was employed by California Department of Corrections and Rehabilitation (Respondent CDCR) as a Special Agent. By virtue of his employment, Respondent was a state safety member of CalPERS.

On May 9, 2023, Respondent submitted his resignation to Respondent CDCR, which, after Respondent exhausted non-cashable leave, had the effective date of June 17, 2023. Respondent's resignation letter indicated he resigned from his position for personal reasons to care for his family. Respondent was not issued mandatory reinstatement rights, and if he wanted to return to Respondent CDCR, he would need to reapply.

On October 1, 2024, Respondent submitted an application for Industrial Disability Retirement (IDR). Respondent claimed disability on the basis of Post-Traumatic Stress Disorder (PTSD).

CalPERS reviewed Respondent's IDR application and requested information from Respondent CDCR. In response, Respondent CDCR submitted documentation and provided information concerning Respondent's resignation, the extent of his reinstatement rights, and medical records related to a workers' compensation matter.

Based on review of the resignation letter and the medical records provided, CalPERS determined that Respondent was ineligible for IDR because of his resignation, pursuant to *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292 (*Haywood*); *Smith v. City of Napa* (2004) 120 Cal.App.4th 194 (*Smith*); and *In the Matter of the Application for Industrial Disability Retirement of Robert Vandergoot*, dated February 19, 2013, and made precedential by the CalPERS Board of Administration on October 16, 2013 (*Vandergoot*).

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, the courts have found disability retirement and a "discharge for cause" to be legally incompatible.

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.

In *Vandergoot*, the Board agreed that “a necessary requisite for disability retirement is the potential reinstatement of the employment relationship” with the employer, if it is ultimately determined by CalPERS that the employee is no longer disabled. The Board adopted *Vandergoot*, which held that an employee’s resignation was tantamount to a dismissal when the employee resigned and relinquished any reinstatement rights.

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 9, 2026. Respondent represented himself at the hearing. Respondent CDCR did not appear at the hearing and a default pursuant to Government Code section 11520 was taken as to Respondent CDCR only.

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 a Human Resources Manager with Respondent CDCR, who testified as to Respondent’s employment file and circumstances surrounding his resignation. She testified that Respondent’s file indicated that he had resigned due to personal reasons with no indication whatsoever that his resignation was due to a disabling medical condition. Timesheets from the week immediately preceding Respondent’s resignation were authenticated and admitted into evidence. They showed that Respondent had worked his normal shifts and performed his regular duties. The Human Resources Manager further testified that Respondent was not on medical leave at the time of his resignation and that the report of separation confirmed his resignation was voluntary. Additionally, she stated that Respondent did not have mandatory reinstatement rights and would be required to reapply if he wished to return to employment.

A CalPERS employee also testified at the hearing concerning when Respondent initiated the IDR application process and when his IDR application was received. Testimony and evidence established that Respondent did not initiate the IDR application process before his application was received on October 1, 2024, more than a year after his resignation. The evidence thereby established that Respondent’s separation was not preemptive of a claim or that he had a matured right to an IDR before his resignation.

Respondent testified on his own behalf and sought to admit documents related to his workers’ compensation matter, which were admitted as administrative hearsay. Hearsay evidence may be used for the purpose of supplementing or explaining other admissible evidence but cannot be used to directly support a finding. 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 under *Haywood* because his resignation was a complete severance of his employment relationship with Respondent CDCR. The ALJ further found that neither exception applied because Respondent's severance was not the result of a disabling medical condition, nor did Respondent possess a matured right to IDR prior to his severance. In reaching this conclusion, the ALJ reasoned that Respondent's resignation letter conceded he was resigning to care for his family—not because of a disabling medical condition.

Additionally, the workers' compensation documents did not establish that Respondent was substantially incapacitated prior to his resignation and therefore failed to demonstrate that he had a matured right to IDR. Given the lack of supporting medical evidence regarding Respondent's eligibility, the ALJ found that the facts of the case also did not establish an equitable basis for a matured right to IDR. The ALJ concluded that Respondent failed to establish his eligibility to apply for IDR by a preponderance of the evidence and denied his appeal.

Pursuant to Government Code section 11517, subdivision (c)(2)(C), the Board is authorized to make technical or other minor changes in the proposed decision. For clarity, staff recommends the following corrections: replace "Government Code section 21154" with "Government Code section 21151" on page 2, paragraph 1; replace "pg. 8" with "pg. 10" and "*Ibid.*" with "*Id.* at p. 8" on page 9, paragraph 17; and replace "Precedential" with "Adopted" on page 9, paragraph 18 and page 13, paragraph 3.

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

June 17, 2026

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