

ATTACHMENT E

THE PROPOSED DECISION

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

**In the Matter of the Appeal of Reinstatement from Disability
Retirement of Application for Disability Retirement of:**

EDGARDO SILVA-VALDOVINOS,

Respondent,

and

**CALIFORNIA DEPARTMENT OF TRANSPORTATION –
DISTRICT 07,**

Respondent.

Agency Case No. 2025-1011

OAH No. 2025110706

PROPOSED DECISION

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings,
State of California, heard this matter via videoconference on April 9, 2026.

Sean Stowers, Senior Attorney, represented the California Public Employees' Retirement System (CalPERS).

Respondent Edgardo Silva-Valdovinos (respondent) represented himself.

There was no appearance on behalf of respondent California Department of Transportation – District 07 (CalTrans). CalPERS proved it properly served CalTrans with a notice of hearing. Therefore, this matter proceeded as a default against respondent CalTrans only under Government Code section 11520, subdivision (a).

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on April 9, 2026.

SUMMARY

In 2021, CalPERS approved respondent's request for a disability retirement from his position as an Electrician II for CalTrans due to orthopedic issues. In 2023, CalPERS conducted a review of respondent's disability benefits and, in 2024, determined he was no longer disabled and should return to work. CalPERS has demonstrated that respondent is no longer substantially incapacitated from performing the duties of an Electrician II. Accordingly, reinstatement is warranted.

FACTUAL FINDINGS

Background and Procedural History

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

CalTrans as an Electrician II until he applied for disability retirement to CalPERS in August 2021. (Ex. 1.) By virtue of his employment for CalTrans as an Electrician II, respondent was a local miscellaneous member of CalPERS.

2. Respondent retired for disability based on orthopedic conditions (lumbar spine and right shoulder), effective September 21, 2021. (Ex. 2.) At the time of his disability retirement, respondent was under the age of 50.

3. CalPERS notified respondent by letter dated December 26, 2023, that his disability benefits were under review, pursuant to Government Code section 21192, to determine whether he continued to meet the qualifications to receive disability retirement benefits. (Ex. 3.)

4. In connection with CalPERS's review of respondent's condition, CalPERS obtained an independent medical examination (IME) to review the status of his disabling orthopedic conditions. By letter dated November 14, 2024, CalPERS informed respondent that, as a result of its review of the IME report and his medical records, it determined that he was no longer disabled or incapacitated from the performance of his duties as Electrician II and thus he was being reinstated to that position with CalTrans. (Ex. 4.)

5. Respondent timely filed an appeal of CalPERS's determination that he is no longer disabled. (Ex. 5.)

6. On November 17, 2025, Sharon Hobbs, in her official capacity as Chief of the CalPERS Disability and Survivor Benefits Division, signed and subsequently filed an Accusation for the purpose of respondent's appeal. This hearing followed. (Ex. 6.)

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Duties of an Electrician II

7. CalPERS submitted two documents explaining the job duties of an Electrician II: a "Physical Requirements of Position/Occupational Title" (Physical Requirements) and a "Job Description." (Exs. 11, 12.) The Physical Requirements describe the frequency of an Electrician II's tasks. An Electrician II is required to, among other things, constantly lift and carry loads up to 10 pounds and drive, frequently lift loads of 11 to 25 pounds, sit, stand, walk, run, kneel, squat, bend with the neck and waist, twist with the neck and waist, push and pull, walk on uneven ground, and receive exposure to excessive noise. An Electrician II must occasionally lift loads between 25 and 50 pounds, occasionally lift loads greater than 50 pounds, must reach above and below the shoulder, perform power grasping and fine fingering, operate heavy machinery, and work at heights. (Ex. 11.)

8. The Job Description describes the duties an Electrician II is expected to perform. Specifically, they (1) work independently or as part of a crew to install, repair, maintain or check portions of traffic signals, highway lighting, illuminated signs, and heating and air conditioning, among other apparatuses; (2) operate equipment and make minor repairs or adjustments to that equipment; (3) make detailed checks of ramp meters and highway lighting systems; (4) respond to electrical emergencies; and (5) make daily work reports and draft schematics, among other minor tasks. (Ex. 12.)

CalPERS's Evidence

9. Nasser Heyrani, M.D., received his medical degree from the University of California, Los Angeles David Geffen School of Medicine in 2013. Dr. Heyrani completed an Orthopedic Residency at UC Davis Medical Center and an Orthopedic Foot and Ankle Fellowship at Harvard-Massachusetts General Hospital. Dr. Heyrani is a

Board Certified Orthopedic Surgeon and currently works as an Associate Orthopedic Surgeon in Corona, California.

10. CalPERS retained Dr. Heyrani to perform respondent's IME. That examination took place on September 19, 2024, in Los Angeles, California. Dr. Heyrani performed that examination using the CalPERS substantial incapacity standard. He obtained respondent's history and symptomology, reviewed respondent's medical records, and physically examined respondent. These medical records included those submitted by respondent as evidence in this case. (See Ex. B.) Dr. Heyrani then issued an IME report, dated September 23, 2024, and testified at the hearing about his findings, consistent with his IME report. (Ex. 10.)

11. Upon examination of respondent's right shoulder, Dr. Heyrani found it had normal anatomical alignment, no deformity, normal range of motion, and 5/5 strength in the tested muscle groups, with arm circumference measurements showing no evidence of atrophy. Dr. Heyrani concluded that although respondent has some right-shoulder pathology, there is no substantial incapacity, noting improvement in pain and motion since 2021 and an MRI showing no tear or significant structural abnormality that would prevent lifting.

12. Upon examination of respondent's lumbar spine, Dr. Heyrani found it showed normal alignment, no deformity, no guarding, and normal range of motion in all planes, with 5/5 strength in the lower extremities and normal bilateral reflexes. Dr. Heyrani opined that respondent's lumbar spine condition does not substantially incapacitate him, citing maintained strength, normal electrodiagnostic studies, absence of radiculopathy, and improvement in symptoms since September 2021.

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13. Overall, Dr. Heyrani found no objective orthopedic impairment that would substantially incapacitate respondent from performing the essential functions of the Electrician II, even taking into account respondent's subjective complaints.

Respondent's Evidence

RESPONDENT'S TESTIMONY

14. Respondent takes issue with CalPERS's determination that he is no longer substantially incapacitated for work because, according to him, Dr. Heyrani's IME examination was less than 10 minutes long. Respondent does not believe that such a brief examination is sufficient to assess his incapacitating conditions.

15. Although respondent can move and perform some tasks, working a full day causes severe impairment the next day, making regular work activity unsustainable. Respondent maintains he cannot perform the required job duties of an Electrician II—especially tasks involving lifting arms overhead—without restrictions. Respondent describes his condition as experiencing persistent, whole-body pain rated at a baseline level of 7 out of 10, sometimes reaching 10, and he often has difficulty performing simple household tasks. Respondent reiterated that his pain is not localized solely to his lower back and right shoulder, but it affects his whole body. Respondent can walk for a few minutes, but then his feet begin to hurt, and he experiences pain throughout his body.

16. Respondent introduced into evidence a "Work Status" report from the doctor he sees relating to a worker's compensation claim. (Ex. A.) That report states that respondent saw the doctor in early April 2026 and that, at that time, respondent was authorized to "return to work with modified duty" as of April 3, 2026, with restrictions such as no lifting, pushing, or pulling of loads greater than 10 pounds,

avoiding repetitive or prolonged bending, stooping, twisting, kneeling, squatting, gripping, or grasping, and avoiding above the shoulder activity.

SUSANA SILVA

17. Susana Silva is respondent's wife. Silva testified that respondent suffers from long-term back and shoulder pain that she observes daily and which significantly altered his behavior and his quality of life. Respondent's chronic pain has affected their household functioning, as she must take on the majority of those responsibilities while also working because his disability payments are not enough to sustain their household. Respondent experiences anxiety and depression relating to his inability to work and the emotional impact of no longer being the primary provider for the household.

18. Silva testified that respondent's physical limitations are severe—he cannot sit for long periods, often lies in bed, goes to sleep early due to pain, and cannot engage in normal activities such as going for a walk. Silva emphasized that they are not trying to "take advantage of the system," because they both wish respondent could return to work, but his chronic pain prevents him from doing so.

Analysis of Evidence

19. Dr. Heyrani's competent expert medical testimony established that, despite respondent's subjective complaints of pain, there is little objective medical evidence that respondent is substantially incapacitated. Although respondent and his wife testified that respondent experiences chronic pain, under the applicable legal standard discussed below, pain, as well as physical limitations associated with pain, are insufficient to establish that a person is substantially incapacitated. Moreover, the workers' compensation medical report respondent introduced into evidence notes that

respondent was fit to “return to work,” albeit with limitations, shortly before this hearing occurred. This report undermines respondent’s contention that he is substantially incapacitated from performing his duties as an Electrician II. Accordingly, CalPERS has demonstrated by a preponderance of the evidence that respondent is no longer substantially incapacitated from the performance of his duties as an Electrician II for CalTrans.

LEGAL CONCLUSIONS

Applicable Law

1. Disability as a basis of retirement means “disability of permanent or extended uncertain duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board . . . on the basis of competent medical opinion.” (Gov. Code, § 20026.)

2. According to Government Code section 21156, subdivision (a)(1), “[i]f the medical examination and other available information show to the satisfaction of the board . . . that the member in the state service is incapacitated physically or mentally for the performance of his or her duties and is eligible to retire for disability, the board shall immediately retire him or her for disability[.]”

3. CalPERS may require any recipient of a disability retirement allowance to undergo a medical evaluation at any time before reaching the minimum age for voluntary retirement from service. (Gov. Code, § 21192.) If a medical evaluation under section 21192 determines a recipient is “not so incapacitated for duty in the position held when retired for disability,” and their “employer offers to reinstate that employee,” their disability retirement allowance is canceled immediately. (Gov. Code,

§ 21193.) The minimum age for voluntary retirement from service is 50 years of age for those with at least five years of state service. (Gov. Code, § 21060, subd. (a).)

4. The analysis of whether a disability retirement recipient is “still incapacitated” from the performance of their usual job duties under Government Code section 21192 “is limited to determining whether the conditions for which disability retirement was granted continue to exist.” (*Cal. Dept. of Justice v. Board of Administration etc.* (2015) 242 Cal.App.4th 133, 141.)

5. “Incapacitated for the performance of duty” means “the substantial inability of the applicant to perform [their] usual duties.” (*Mansperger v. Public Employees’ Retirement System* (1970) 6 Cal.App.3d 873, 877.) The person does not need to be able to perform all duties. (*Schrier v. San Mateo County Employees’ Retirement Assn.* (1983) 142 Cal.App.3d 957, 961.) Mere discomfort, which may make it difficult for one to perform his duties, is insufficient to establish incapacity. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207.)

6. The standards in CalPERS disability retirement cases are different from those in workers’ compensation cases. (*Bianchi v. City of San Diego* (1989) 214 Cal.App.3d 563, 567; *Smith, supra*, 120 Cal.App.4th at p. 207 [a workers’ compensation ruling is not binding on the issue of eligibility for disability retirement because the focus of the issues and the parties are different].) Thus, any determination of disability that may have been made in respondent’s workers’ compensation case cannot be given any weight in this proceeding.

Burden and Standard of Proof

7. CalPERS has the burden of proving by a preponderance of the evidence that respondent is no longer substantially incapacitated for the performance of his

usual and customary duties as an Electrician II and should therefore be reinstated. (*In the Matter of the Application for Reinstatement from Industrial Disability Retirement of Willie Starnes* (January 22, 2000) CalPERS Precedential Decision 99-03.)

8. The term preponderance of the evidence means “more likely than not” (*Sandoval v. Bank of America* (2002) 94 Cal.App.4th 1378, 1387), or “evidence that has more convincing force than that opposed to it.” (*People ex re. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Analysis

9. Section 20026 requires evidence of disability to be proven by competent medical opinion. Applying this standard, the record contains no competent medical evidence establishing that respondent remains substantially incapacitated. Dr. Heyrani’s testimony established respondent does not demonstrate objective evidence of substantial incapacity from work due to his orthopedic conditions. Medical records respondent introduced as evidence also undermine his claim that he remains substantially incapacitated. CalPERS has therefore met its burden to show that respondent is no longer substantially incapacitated from the performance of his usual job duties as an Electrician II.

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ORDER

The appeal of respondent Edgardo Silva-Valdovinos is denied. The California Public Employees' Retirement System may involuntarily reinstate respondent Edgardo Silva-Valdovinos to his previous position.

DATE: 05/08/2026

Taylor Steinbacher

TAYLOR STEINBACHER

Administrative Law Judge

Office of Administrative Hearings