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:

TIJERAS J. HUDSON and CALIFORNIA STATE PRISON, SOLANO, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILIATION, Respondents

Agency Case No. 2024-1010

OAH No. 2025050208

PROPOSED DECISION

Patrice De Guzman Huber, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 8, 2026, from Sacramento, California.

Austa Wakily, Senior Attorney, represented the California Public Employees' Retirement System (CalPERS).

Tijeras J. Hudson (respondent) appeared and represented himself.

There was no appearance on behalf of California State Prison, Solano (CSP-Solano), California Department of Corrections and Rehabilitation (CDCR). The matter

proceeded as a default proceeding, as to CDCR only, pursuant to Government Code section 11520.

Evidence was received, the record closed, and the matter submitted for decision on July 8, 2026.

ISSUE

At the time of his industrial disability retirement (IDR) application, was respondent substantially incapacitated from performing his usual and customary duties as a Correctional Sergeant for CDCR at CSP-Solano based on hypertension and/or an orthopedic condition in his wrists, hands, knees, or back?

FACTUAL FINDINGS

Jurisdictional Matters

1. Respondent is a Correctional Sergeant for CDCR at CSP-Solano. By virtue of his employment, he is a state safety member of CalPERS subject to Government Code section 21151. On June 26, 2024, respondent signed and thereafter submitted an IDR application to CalPERS. In the application, respondent claimed disability on the basis of "left wrist & hand disabled per workers' comp[,] heart, knees, right wrist & hand, back pending workers' comp" (grammar in original).

2. By letter dated December 3, 2024, CalPERS denied respondent's IDR application. The denial was based on CalPERS's review of medical evidence and subsequent determination that respondent's "orthopedic (bilateral wrists, bilateral hands, bilateral knees, low back) and internal (hypertension) conditions are not

disabling." Therefore, CalPERS concluded that respondent is not substantially incapacitated from the performance of his duties as a Correctional Sergeant.

3. By letter dated December 17, 2024, respondent appealed CalPERS's denial of his IDR application. On April 4, 2025, Sharon Hobbs, Chief of CalPERS's Disability and Survivor Benefits Services Division, in her official capacity, signed and thereafter filed a Statement of Issues for purposes of the appeal. The matter was set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Correctional Sergeant Duties

4. CDCR's duty statement listing for the position of Correctional Sergeant groups the essential functions into an "Administrative Tasks" category and a "Physical / Mental Peace Officer Tasks" category. The "Administrative Tasks" category includes enforcing policies, providing training to officers, conducting health and safety inspections, reviewing inmate grievances, and reviewing disciplinary actions. This category also encompasses preventing inmate escapes or injury and searching for and recapturing escaped inmates.

The "Physical / Mental Peace Officer Tasks" category includes the ability to wear stab-proof vests, swing a baton, disarm or subdue inmates, defend self or others against an inmate, and inspect inmates for contraband. As a peace officer, a Correctional Sergeant is also required to "range qualify" with a handgun, rifle, and shotgun and be able to fire a weapon in a combat or emergency situation.

5. Respondent submitted a Physical Requirements of Position/Occupational Title form wherein he notes that as a Correctional Sergeant, he lifts, carries, bends, and twists "Constantly" (more than five hours); stands, walks, pushes, and pulls "Frequently"

(two and a half to five hours); and crawls, reaches, and squats "Occasionally" (31 minutes to two and a half hours).

Independent Medical Evaluation (IME)

6. There is no evidence CalPERS referred respondent to a cardiologist for an IME. Specific to respondent's claim of disability due to a heart condition, CalPERS's denial letter explains it reviewed medical evidence and determined respondent's "internal (hypertension) condition[] [is] not disabling." (Exhibit 4 at p. A46.)

7. However, with respect to respondent's claim of disability due to an orthopedic condition in his hands, wrists, knees, and back, CalPERS referred him to Harry A. Khasigian, M.D., for an IME. Dr. Khasigian is board-certified in orthopedic medicine. In 1974, he earned his medical degree and, in 1979, completed an orthopedic residency. Since 1979, he has operated a private practice on orthopedic surgery. He has been performing IMEs for CalPERS for more than a decade.

8. Dr. Khasigian authored an IME report in October 2024 concerning his evaluation of respondent's condition and records. The purpose of the evaluation was to determine whether respondent suffered from an actual and present orthopedic condition which rose to the level of substantial incapacity to perform his job duties. Dr. Khasigian opined respondent was not substantially incapacitated, based on his review of respondent's medical records and surveillance videos and his physical examination of respondent. At hearing, Dr. Khasigian testified consistently with his report.

9. During the evaluation, respondent complained of "popping, grinding, locking" in his left wrist and a "sharp pain from hand, wrist[,] down to elbow." He told Dr. Khasigian that he has a "widening of the wrist." There was no specific injury that

caused the issues to respondent's wrist. In his IDR application, respondent states his condition was caused by "cumulative injury over [the] course of [his] career."

Respondent also complained of a knot in the lower left side of his lumbar spine. He described it as sciatica. He has not seen a chiropractor to address the knot. He explained the pain "started with standing and sitting[,] and he cannot lay [*sic*] on his stomach." Respondent also complained of pain in his knees but has not received treatment specific to that pain aside from pain medication. He wears a brace on his right knee. He experiences pain kneeling down and cannot get up from a kneeling position. Generally, respondent complained of pain with lifting, climbing, pushing, and pulling. However, he is able to perform activities of daily living.

10. Dr. Khasigian physically examined respondent's spine and upper and lower extremities and found them to be normal. Respondent was able to squat and had normal ranges of motion in his hands, wrists, and knees. During the neurological examination, respondent's results were also normal overall, with the exception of his sensory testing results. Respondent reported decreased sensation in his lower right leg, upper left leg, and from the right arm to the fingertips. However, Dr. Khasigian explained at hearing that the variation in sensitivity reported by respondent was "non dermatomal" or inconsistent with the ribbon-like, longitudinal nerve pattern in the body. He opined respondent must have been confabulating the variation during sensation testing.

11. Dr. Khasigian's physical examination was consistent with respondent's physical ability as depicted in surveillance videos. Complainant did not produce the surveillance videos at hearing. Dr. Khasigian testified to and described in his report respondent's activities depicted in these videos, including walking dogs using a leash, retrieving mail from a mailbox, manipulating a license plate bumper, pushing a

shopping cart, holding tools with both hands, carrying two cases of water with both hands, and walking and jogging. Based on Dr. Khasigian's review of the essential functions of a Correctional Sergeant, which he described as "primarily administrative," he opined respondent's physical abilities would allow him to perform the functions of his position.

12. Dr. Khasigian also reviewed respondent's medical records, including records from Kaiser Permanente and respondent's Qualified Medical Evaluation reports. He testified nothing in respondent's medical records support a substantial incapacitation for the performance of respondent's duties as a Correctional Sergeant. Dr. Khasigian noted "the only problem [or outlier] is the MRI" showing "[a]bnormal scapholunate interval and ligament concern for chronic tear and degeneration." However, in Dr. Khasigian's opinion, the abnormality and concern for future tear and degeneration do not appear to currently result in any physical incapacity.

13. Upon considering respondent's physical examination, the medical records, surveillance videos, and the essential functions of the position, Dr. Khasigian opined respondent is not substantially incapacitated from performing the duties of a Correctional Sergeant.

Respondent's Evidence

14. Respondent testified. He was offended by Dr. Khasigian's characterization of the Correctional Sergeant position as "primarily administrative." While true that a Correctional Sergeant, as a supervisor, spends some time at a desk performing administrative tasks, a Correctional Sergeant is still expected to physically respond to emergencies, physically subdue inmates if necessary, fire a weapon, and use a baton. He last worked in this capacity in January 2023.

15. Respondent recently learned that he has a mass on his heart. Dean Rider, M.D., evaluated respondent pursuant to his workers' compensation claim. In Dr. Rider's September 2024 report, he notes respondent's diagnosis of hypertension. He further explained:

> With respect to the hypertension, the purpose of the cardiac testing was to determine if there was any injury to the heart. That cardiac testing has been completed. The cardiac testing included a stress EKG and echocardiogram. These studies revealed no evidence of coronary artery disease. The echo revealed no concentric remodeling and borderline LVH [left ventricular hypertrophy]. However, it did reveal increased mass, which was mild. The increased mass, with reasonable probable certainty, was caused by longstanding hypertension and thus the heart is in a troubled state because of it.

(Exhibit 12 at p. A92.)

16. In Dr. Rider's January 2025 report, he clarified that left ventricular mass index was "normal." He emphasized that "the findings on the echocardiogram of concentric modeling and mild LVH are suggestive of a heart in a troubled state, secondary to longstanding hypertension," but "[o]ther factors of cardiac injury [] were not present." (Exhibit A at p. B3.) With respect to treatment:

> [Respondent] will require monitoring of his hypertension and cardiac status. Visits every three to four months for blood pressure and cardiac monitoring in an outpatient

> setting would be appropriate. Cardiac stress testing, including echocardiogram, will also be recommended every two to three years. Also recommended are the hypertensive medications required to control his blood pressure.

(Exhibit 12 at p. A93.) Dr. Rider concluded that respondent's "current hypertension is not an issue with respect to his ability to be employed." (*Ibid.*)

17. Vincent Chen, M.D., evaluated respondent's orthopedic condition pursuant to his workers' compensation claim. In Dr. Chen's April 2025 report, he summarized his findings, in pertinent part, as follows (grammar and formatting in original):

> **Bilateral Wrists:** The applicant experiences sharp pain between the wrists and the thumb area. The pain is more severe in the left wrist. The pain radiates into the forearm. Other symptoms include constant cracking, popping, and grinding of the wrist with bending motions. There is swelling and discoloration (red around the hand) of the wrists. There is constant numbness. The pain is worse after repetitive use of the hands, pulling, and pushing motions. The pain is better after taking medications (ibuprofen), using a brace, and doing exercises for the hands. The applicant rates the pain in the right wrist as 5 - 6 and in the left wrist as 8 on the 0-10 pain scale, with a 10 at its worst.
>
> **Lumbar Spine:** The applicant experiences sharp pain. Other symptoms include soreness. The pain radiates into the

> buttock, both legs, and there is occasionally numbness in the legs, feet, and toes. The pain is worse after extended laying down periods of time sitting, standing. The pain is better after taking medications (ibuprofen), massage with topical pain relief crema, and resting. The applicant rates a 3 on the 0-10 pain scale and an 8 at its worst.
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> **Bilateral Knees:** The applicant experiences throbbing in both knees. The pain is more severe in the left knee. There is some swelling in the sides of the knees. The pain is worse after bumping the knee, in cold weather, and with bending or kneeling. The pain is better after using a brace. The applicant rates a 0 on the 0-10 pain scale and a 4 at its worst.

(Exhibit A at pp. B9–10.) Dr. Chen did not evaluate respondent's hands specifically. The copy of Dr. Chen's report that respondent produced at hearing does not appear complete as it ends after the section "Activities of Daily Living." (*Id.* at p. B10.) Consequently, Dr. Chen's opinion based on his evaluation of respondent is not in the record.

18. In June 2025, the State Compensation Insurance Fund approved respondent's workers' compensation claim of liability based on his heart, hypertension, elbows, right hand, right wrist, shoulders, knees, and lower back. (Exhibit A at p. B11.) Accordingly, respondent believes his orthopedic injuries are documented in his medical history and support his IDR application.

19. Respondent has served as a peace officer at CDCR for 21 years. Despite his injuries, he is not unwilling to work and would actually like to work. However, he does not believe he can return to work as a peace officer. He is most concerned about his heart. He testified that responding to emergencies is difficult on his heart because of the constant increase and decrease in blood pressure. He knows of too many instances of other peace officers whose health was detrimentally affected by stress. At 47 years old, respondent would like to spend his remaining time relatively healthy, with his family. For over a year thus far, he has been asking CDCR to find him a placement that would accommodate his restrictions, including decreased stress to avoid aggravating his heart condition. Unfortunately, CDCR has not yet identified an alternative position or assignment.

Analysis

20. Respondent seeks disability retirement based on hypertension and/or an orthopedic condition in his wrists, hands, knees, or back. He bears the burden to prove, by competent medical evidence, that he is entitled to disability retirement. Respondent produced some medical evidence, including reports by Drs. Rider and Chen, detailing his heart condition and orthopedic conditions. However, neither of them testified. Respondent did not produce any medical testimony to support his position he is substantially incapacitated.

21. Dr. Khasigian's opinion that respondent is not substantially incapacitated from the performance of his duties as a Correctional Sergeant is persuasive. Dr. Khasigian did not dispute the pain respondent reported he experiences in his wrists, hands, knees, and back. However, based on his physical examination of respondent and review of records, in light of a Correctional Sergeant's essential functions, Dr. Khasigian's ultimate conclusion is that respondent's physical abilities do

not prevent him from performing his duties. Consistent with Dr. Khasigian's opinion, respondent testified he can return to work.

22. That respondent experiences pain and is concerned about his heart is reasonable. It is also reasonable that to prioritize his health, he would prefer or require a position with less stress. Nevertheless, pain is insufficient to establish substantial incapacity, and respondent's preference for decreased stress, although reasonable, cannot form the basis for disability retirement.

23. When all the evidence is considered, respondent failed to establish that at the time he filed his IDR application he was substantially incapacitated from performing his usual and customary duties as a Correctional Sergeant, on the basis of hypertension and/or an orthopedic condition in his wrists, hands, knees, or back. Accordingly, his IDR application must be denied. With respect to the specific position or assignment to which he would return, respondent may discuss that directly with CDCR.

LEGAL CONCLUSIONS

1. Respondent is applying for disability retirement pursuant to Government Code section 21151, subdivision (a), which provides, any state safety member "incapacitated for the performance of duty as a result of an industrial disability shall be retired for disability . . . regardless of age or amount of service." As the applicant, respondent bears the burden of proving by a preponderance of the evidence that he is entitled to disability retirement benefits. (*McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044, 1051; Evid. Code, § 115 ["Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence."].) A

preponderance of the evidence means "evidence that has more convincing force than that opposed to it." (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

2. To qualify for disability retirement, competent medical evidence must establish that at the time the applicant applied, he was "incapacitated physically or mentally for the performance of his . . . duties." (Evid. Code, § 115; Gov. Code, § 21156, subd. (a)(1); *Harmon v. Bd. of Retirement of San Mateo County* (1976) 62 Cal.App.3d 689, 697; *Glover v. Bd. of Retirement* (1980) 214 Cal.App.3d 1327, 1332.) As defined in Government Code section 20026:

> "Disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended 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.

3. Incapacity for the performance of duty "means the substantial inability of the applicant to perform his usual duties." (*Mansperger v. Public Employees' Retirement System* (1970) 6 Cal.App.3d 873, 876.) An inability to perform a function that is a remote occurrence does not establish substantial incapacity. (*Id.* at pp. 876–877.)

4. A substantial inability to perform usual duties must be measured by considering an applicant's abilities. "[T]he actual and usual duties of the applicant must be the criteria upon which any impairment is judged. Generalized job descriptions and physical standards are not controlling, nor are actual but infrequently performed duties to be considered." (*In the Matter of the Application for Reinstatement from*

Industrial Disability Retirement of Willie Starnes and California Highway Patrol (*Starnes*), Case No. 2530, OAH No. L-1999060537, Precedential Decision 99-03.)

5. Discomfort, which makes it difficult to perform, is insufficient to establish permanent incapacity. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207, citing *Hosford v. Bd. of Admin. of the Public Employees' Retirement System* (1978) 77 Cal.App.3d 854, 862.) Furthermore, an increased risk of further injury is insufficient to constitute a present disability, and prophylactic restrictions on work duties cannot form the basis of a disability retirement. (*Hosford v. Board of Admin.*, *supra*, 77 Cal.App.3d. at p. 863.)

6. Respondent failed to establish he was substantially incapacitated from the performance of his duties as a Correctional Sergeant for CDCR at CSP-Solano, at the time he filed his IDR application. Therefore, he is not entitled to disability retirement pursuant to Government Code section 21151.

ORDER

Tijeras J. Hudson's application for industrial disability retirement is DENIED.

DATE: July 24, 2026

PATRICE DE GUZMAN HUBER
Administrative Law Judge
Office of Administrative Hearings