ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)

Attachment C

October 26, 2026

OAH Case No.: 2026011090
CalPERS Case No: 2025-1092

Via Email and Certified Mail – Return Receipt Requested

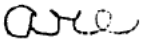
Board Services Unit Coordinator California
Public Employees' Retirement System
Post Office Box 942701
Sacramento, CA 94229-2701
Email: Board@CalPERS.ca.gov
Facsimile: (916) 795-3972

RE: In the Matter of the Application for Disability Retirement by Amy M. Edelen

Dear Board Services Unit Coordinator,

Enclosed please find Respondent's Argument in Support of Rejection of Proposed Decision with attachments.

Respectfully submitted,



Amy Edelen, Respondent

Enclosure

RECEIVED

OCT 3 0 2026

CalPERS Legal Office

Amy Edelen, Respondent

[redacted]

BEFORE THE BOARD OF ADMINISTRATION

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

In the Matter of the Application for Disability Retirement by: AMY EDELEN, Respondent, and DEPARTMENT OF CONSUMER AFFAIRS, Respondent.	OAH Case No.: 2026011090 CALPERS Case No.: 2025-1092 RESPONDENT'S ARGUMENT IN SUPPORT OF REJECTION OF PROPOSED DECISION

Respondent respectfully requests that the CalPERS Board of Administration ("Board") reject the Administrative Law Judge's ("ALJ") Proposed Decision denying Respondent's eligibility to apply for disability retirement.

The ALJ committed reversible errors of both law and fact. The sole issue at this stage is whether the Respondent is ***eligible to apply*** for disability retirement.

At the time the applications were submitted, Respondent was actively employed in state service placed by her employer on an approved and continuous medical leave of absence during which she received employment compensation, made retirement contributions, and accumulated service credit.

Respondent was blocked from returning from medical leave by the employer's denial of reasonable accommodations.

As such, Respondent was eligible to apply for disability retirement under Government Code (Govt Code) § 21154 subsection (a) and/or subsection (c). The Board should reject the Proposed Decision and allow Respondent's application to proceed to a medical determination.

I. TIMELINE AND SUMMARY OF RELEVANT FACTS

1. 2010–2023: Respondent was previously disability retired from state service.

2. October 13, 2023: Respondent was lawfully and formally reinstated to her previous position of Associate Governmental Program Analyst with the Department of Consumer Affairs (DCA) into active state civil service employment, plus explicitly restored to active CalPERS membership by Govt Code § 21193.

3. October 18, 2023, forward: After Respondent submitted medical documentation to her employer and engaged in the interactive process, Respondent was placed on an official, employer-approved medical leave of absence.

4. October 2024: As per direction by DCA and CalPERS, Respondent submitted an application for disability retirement based in part on a new medical condition that arose outside of the 2010 disability retirement parameters. That application was cancelled by CalPERS in December 2024 then timely appealed by Respondent.

5. April 14, 2025 to May 1, 2025: During the active period of employment, regular pay was issued, employer-sponsored health coverage was provided, retirement contributions were processed, and service credit was properly reported to CalPERS. (Please see Attachments A, B)

6. May 2, 2025: Respondent was returned to approved medical leave of absence by her employer.

7. September 18, 2025: CalPERS Disability & Survivor's Section sent a letter to Respondent directing that if back on payroll with DCA, a new disability application may be filed, even while the appeal of the December 24, 2024 determination continued to be processed by the Legal Office. (Please see Attachment C)

8. April 6, 2026: The Department of Consumer Affairs reconfirmed employment and medical leave status.

9. During the active period of employment, Respondent requested and tried to return from medical leave and engaged in the interactive process with the state employer to facilitate that return. The employer denied the requested and needed reasonable accommodations, creating a structural barrier to performance of job duties. The most recent denial of request for reasonable accommodation occurred **April 20, 2026.**

10. May 2026: As per the earlier direction by CalPERS, Respondent filed another application for disability retirement. That application was subsequently cancelled by CalPERS on July 24, 2026 then incorporated into the July 29, 2026 hearing via amendment to the Statement of Issues on July 27, 2026 – just 2 days before the hearing and after evidentiary and final witness list deadlines had passed.

II. PROCEDURAL AND FACTUAL AMENDMENTS TO ERRONEOUS FINDINGS

A. The ALJ Erred in Stating Respondent "Never Actually Returned to Her Position"

Respondent was lawfully and formally reinstated to her previous position of Associate Governmental Program Analyst with the Department of Consumer Affairs (DCA) into active state civil service employment,

effective October 13, 2023, plus explicitly restored to active CalPERS membership by Govt Code § 21193.

In the California State Civil Service system, an official employment appointment — defined as the formal offer and acceptance of a position — is the sole legal mechanism that secures state employment and establishes active CalPERS membership. Under California Govt Code § 18525, an appointment requires a valid offer and acceptance of the position, which officially triggers the employee's civil service status and initiates their eligibility for retirement benefits.

Per the court decision in Michaels v. State Personnel Board (2022), the official appointment date is the date the person accepts the formal offer, rather than the later date when they physically report to work or begin performing job duties.

Thus Respondent actually and legally returned to her position on October 13, 2023 as evidenced by the signed Notice of Personnel Action.

B. The ALJ Erred in Stating Respondent Was Not In State Service Thus Not Eligible To Apply for Disability Retirement under Govt Code § 21154(a)

Respondent was an active CalPERS member legally employed in state service consistent with Govt Code § 21154(a) as supported by GC §§ 18522, 18524, 18525, 18526, 18528, 20028, 20030, and California Constitution, Article VII, Section 1.

As explained previously, being in state service does not require that the employee be physically performing job duties or receiving pay at all times. Under long-standing California law, the employee-employer relationship is maintained continuously until a permanent separation occurs.

The legal status of being in state service is not dissolved by an employee's disability retirement, temporary physical absence, medical leave, or an inability to perform daily tasks due to illness or injury. (Govt Code § 19996, Cal. Code Regs. Tit. 2, § 599.826 and § 446, and CalPERS Precedential Decision 99-03, CalHR Human Resources Manual Section 2122 – Leave of Absence)

No permanent separation occurred between 2010 and 2026 thus the Respondent met the requirements of Govt Code § 21154(a).

C. The ALJ Erred in Holding That Paid Administrative Time Off (ATO) is Not State Service

CalHR Manual Section 2121 – Administrative Time Off (ATO) provides that ATO is a form of paid administrative leave status which appointing authorities are authorized to approve up to 5 days under Govt Code §

19991.10 and up to 30 days under delegated authority. ATO is officially assigned the code "AT" for standard usage transactions, reporting and approval thresholds set by both the State Controller's Office and CalHR and is specifically tracked in the California Leave Accounting System.

As an employer-directed, fully compensated leave utilization where an employee receives their regular salary directly out of state-controlled funds, ATO meets the definition of "compensation" in Govt Code § 20630. An employee placed on approved ATO remains in active employment in state service on payroll in full-pay status, maintains an uninterrupted employer-employee relationship with the State of California, and continues to meet the definition of a "member" under Govt Code § 20370. Consequently, **hours logged under ATO count as "state service" legally rendered for compensation** under Govt Code § 20069 and satisfy the baseline criteria for the continuous accumulation of CalPERS retirement service credit under Govt Code § 20960.

Accordingly, periods of ATO must be recognized by CalPERS as active, compensated state employment when determining a disability retirement applicant's eligibility date, membership status, and total service credit for disability retirement processing.

D. The ALJ Erred in Finding a Discontinuance of State Service

Discontinuance of state service refers strictly to the point at which an employee has severed active state employment through a permanent separation, resignation, or termination.

There was **no discontinuance of state service** at the time either application was submitted because Respondent had not permanently separated from her position or employment in state service.

At the time both applications for disability retirement were submitted, Respondent was employed in the position of Associate Governmental Program Manager/Analyst II by the Department of Consumer Affairs on an official payroll status documented by the state as "Temporarily Off Payroll." This is a legally recognized, formal, and distinct payroll transaction status defined in the State Controller's Office Personnel Action Manual (PAM) Section 3.246 and is assigned Transaction Code S57. The State of California explicitly uses this formal status for employees who are placed on involuntary leave pending disability retirement or whose illness or injury is pending investigation. As an approved medical leave without pay is an active employment and payroll status and Respondent's employer formally authorized the medical leave, Respondent's employment was never severed thus there was no discontinuance of state service.

While an employee who is temporarily off payroll does not accumulate new service credit under Govt Code § 20960, their underlying employment contract and membership status remain active and unbroken. As per Govt Code § 20024, the employee's "current service" also includes all service rendered from the date the employee first became a CalPERS member, which for Respondent was June 1, 1995.

Regardless, Respondent's employer did issue pay including employer-sponsored health coverage from which retirement contributions were made and service credit was properly reported to CalPERS for the period of April 14, 2025, to May 1, 2025. This was confirmed by CalPERS and is evidenced in the 2025 CalPERS Statement of Account, State of California Warrant Number 02-735483 (Attachments A, B). CalPERS staff recently re-confirmed that the pay was properly reported by the State Controller's Office and DCA.

Consequently, when Respondent was subsequently placed on an approved medical leave on May 2, 2025, the timeline for any potential discontinuance of service was legally reset. This establishes absolute eligibility to apply for disability retirement under the standalone "approved leave of absence" safe harbor of Govt Code § 21154(c).

III. LEGAL ARGUMENT

A. The ALJ Misinterpreted Govt Code § 21154(c) by Conflating Unpaid Leave with Discontinuance of Service

The ALJ erroneously concluded that Respondent's service had "discontinued" solely because Respondent was placed on an uncompensated leave of absence. In doing so, the ALJ conflated a temporary, employer-authorized protective status with a formal severance of employment. Under the plain language of Govt Code § 21154, a member on an employer-approved leave of absence is legally insulated from the post-separation deadlines governed by the discontinuance of service timeline.

The ALJ also erred by inserting an unwritten restriction into the Public Employees' Retirement Law (PERL). Under the Plain Meaning Rule, Govt Code § 21154(c) protects a member's right to apply "while on an approved leave of absence." The Legislature chose not to qualify this statement with the words "paid" or "compensated." Under standard rules of statutory construction, administrative agencies cannot add qualifying words to a clear statute.

Govt Code § 21154 explicitly governs the timelines under which a disability application may be made. It states in relevant part that the application shall be made only (a) while the member is in state service, or (c) within

four months after the discontinuance of state service of the member, **or** while on an approved leave of absence. The Legislature's use of the disjunctive word "or" establishes that **being on an approved leave of absence is a distinct, standalone safe harbor completely independent of a discontinuance of service.** By treating Respondent's approved leave as a discontinuance, the ALJ impermissibly read an unwritten limitation into the statute—effectively rewriting it to read "approved leave of absence with pay."

IV. CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Board reject the ALJ's proposed decision, find that the Respondent is legally eligible to apply for disability retirement, and direct CalPERS staff to process Respondent's application(s) on the medical merits.

Dated: this 26th day of October, 2026

Respectfully Submitted,



Amy Edelen, Respondent

ATTACHMENTS:

A – 2025 CalPERS Statement of Account

B – State of California Warrant Number 02-735483showing pay for April 15 to May 2, 2025

C – Directive Letter from CalPERS Disability & Survivor's Section dated September 18, 2025

CalPERS

P.O. Box 942715, Sacramento, CA 94229-2715
888 CalPERS (or 888-225-7377) | Fax: (800) 959-6545
TTY: (877) 249-7442
www.calpers.ca.gov

California Public Employees' Retirement System

September 18, 2026

2025 CalPERS Statement of Account

Amy M. Edelen
[redacted]

CalPERS ID: [redacted]

Your CalPERS Contributions:

	After Tax Contributions	Tax Deferred Contributions	Interest	Total	Service Credit (yrs)
Beginning Balance July 1, 2024	$0.00	$1,049.33	$567.31	$1,616.64	12.464
Changes Fiscal Year 2024-2025	$0.00	$324.41	$100.11	$424.52	0.064
Ending Balance June 30, 2025	**$0.00**	**$1,373.74**	**$667.42**	**$2,041.16**	**12.528**

These funds cannot be borrowed against and are available to you only upon permanent separation from all CalPERS-covered employment. The interest credited to your account was computed based upon the annual interest crediting rate of 6%.

Your Service Credit Details:

Your total CalPERS service credit of **12.528** years consists of:

Benefit Formula	Service Credit (yrs)	Employer
State Misc 2% @ 55	**5.956**	State of California
State Misc 1.25% @ 65	**4.670**	State of California
State Safety 2.5% @ 55	**1.902**	State of California

You may view your current account balance and employment history online. Log on to your account at **my.calpers.ca.gov.** If you have any questions regarding this statement of account, please contact CalPERS.

CalPERS has made every effort to ensure the accuracy of this report. This document does not have the force and effect of law, rule, or regulation governing the payment of benefits. Should any difference or error occur, the law will take precedence

[redacted]

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - VIEW AT AN ANGLE

STATE OF CALIFORNIA

SACRAMENTO

WARRANT NUMBER [redacted]

CD40 REV 28/00) WARRANT

THE TREASURER OF THE STATE WILL PAY OUT OF THE STATE PAYROLL REVOLVING FUND [redacted]

ISSUE DATE	DOLLARS	CENTS
07 | 07 | 2025	$*3398	14

TO A M EDELEN

635-110
AGENCY UNIT

Malia Cohen
MALIA M. COHEN
CALIFORNIA STATE CONTROLLER

This warrant is void one (1) year from issue date.

[redacted]

STATE OF CALIFORNIA — STATEMENT OF EARNINGS AND DEDUCTIONS — OFFICE OF STATE CONTROLLER

A M EDELEN 7895
AGY/UNIT 635-110 PAY PERIOD VARIOUS WARRANT NO 02-735483
TAX YEAR 25 ISSUE DATE 07/07/25
ST H03 CA FD H OTHIN 0.00 DED 0.00 DEP 0.00

	GROSS PAY	TAXABLE GROSS	DEDUCTIONS	NET PAY
CURRENT	4662.64	4198.35	1264.50	3398.14
YEAR-TO-DATE[1]	4662.64			

EARNINGS	DAYS	HOURS	GROSS
05/25			
REGULAR	1		333.05
04/25			
REGULAR	13		4329.59

DEDUCTIONS	AMOUNT
FEDERAL TAX	211.70
STATE TAX	4.24
*RETIREMENT	324.41
*OPEB	139.88
SOC SEC	280.41
MEDICARE	65.58
CASDI	54.28
*UNHCALNCE	.00
2 DEDS	
SEIU1000D	184.00

EMPLOYER CONTRIBUTIONS (current and adjustments)

RETIREMNT	SOC SEC	HLTH/FLEX
1226.75	280.41	1922.70
MEDICARE	OPEB	
65.58	139.88	

	4/25 BEGIN BAL	CREDIT	USED	MISC	5/25 BEGIN
HOL ITO	4.00	0.00	0.00	0.00	4.00

*SCO ENCOURAGES YOU TO SIGN UP FOR CAL EMPLOYEE CONNECT. VIEW, PRINT, OR SAVE TAX INFO, LEAVE BALANCES, AND PAY STUBS. ACCESS EARNINGS AND MORE SECURELY AT HTTPS://CONNECT/.

CD 39 (Rev 08/00)

[1] Year-to-date gross on final earnings statement may not agree with W-2.
* Amounts which affect taxable gross

California Public Employees' Retirement System
Disability & Survivor Benefits Division
P.O. Box 2796 Sacramento, CA 95812-2796

www.calpers.ca.gov
888 CalPERS (or 888-225-7377)
TTY (877) 249-7442, Fax 800-959-6545

CalPERS

Amy Edelen
[redacted]

CalPERS ID [redacted]

September 18, 2025

Dear Amy Edelen

This letter concerns your request for an appeal of our December 24, 2024 determination, that CalPERS could not accept your disability retirement application dated October 3, 2024, since you did not return to work and did not suffer a new injury.

The additional medical information that you provided and employment information your employer submitted was reviewed, and December 24, 2024 determination remains the same because there is no evidence demonstrating you were on the payroll of Department of Consumer Affairs when you filed your application in October 2, 2024. Your request for an appeal of the December 24, 2024 determination will continue to be processed by our legal office. They will be in contact with you.

If you are now back on payroll with the Department Of Consumer Affairs payroll and if you feel you are substantially incapacitated, you may file a new disability /industrial disability retirement application. Once CalPERS receives your application and the required documents, CalPERS will determine whether you are eligible to apply for disability /industrial disability retirement based on the new application.

We are here to assist you. If you have any questions, please visit our website at www.calpers.ca.gov, or you may call us toll free at 888 CalPERS (or 888-225-7377).

Sincerely,

Disability Retirement Section


OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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Retail

U.S. POSTAGE PAID
FCM LETTER
FOLSOM, CA 95630
OCT 26, 2026

$11.31

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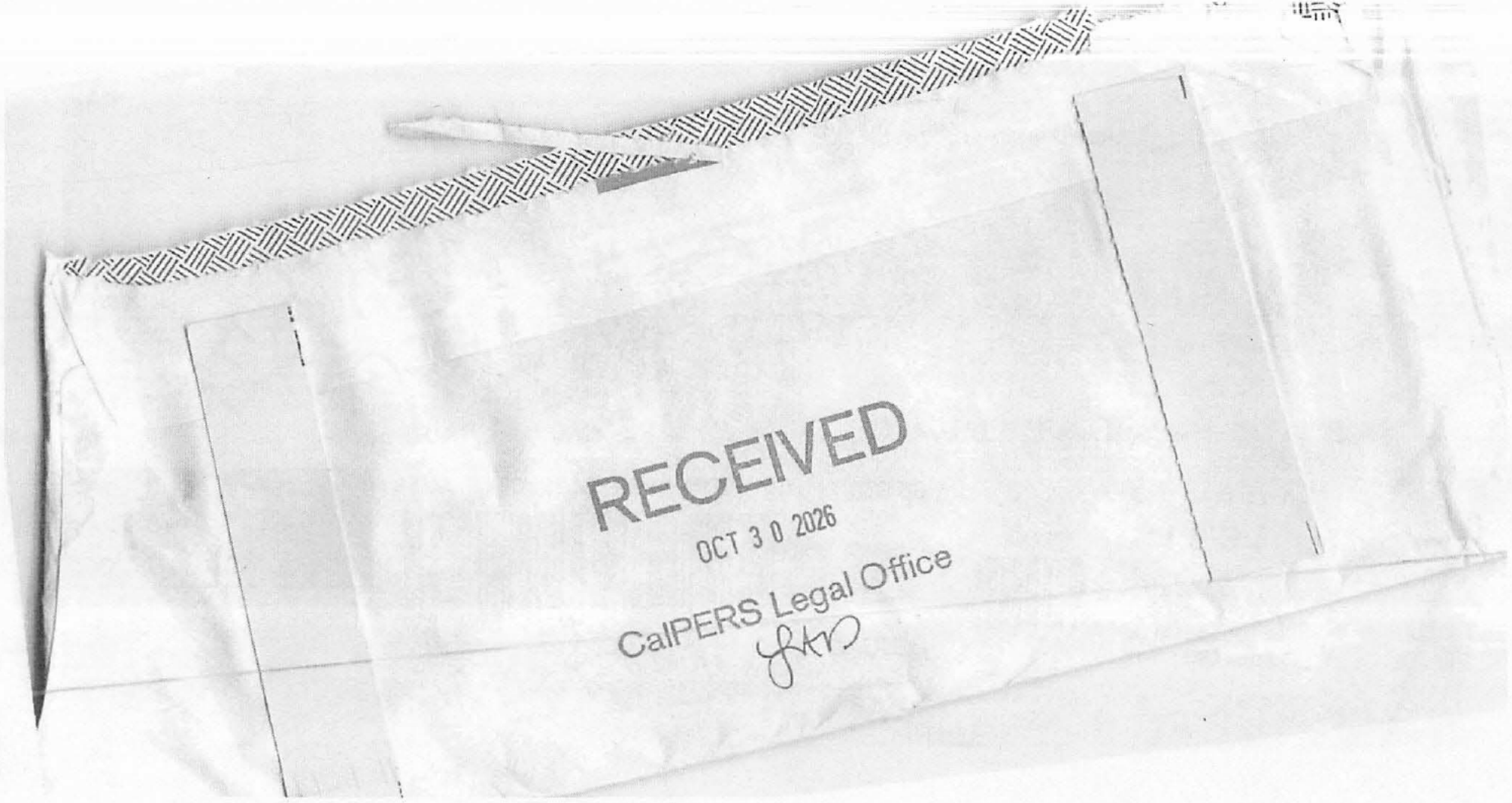
Amy Edelen

[redacted]

Exec
10/30

Board Services Unit Coordinator
CalPERS
PO Box 942701
Sacramento CA 94229-2701

94229-2701


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