ATTACHMENT A

THE PROPOSED DECISION

BEFORE THE
BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

In the Matter of the Appeal of Accepting the Late Application for Industrial Disability Retirement of:

RAQUEL N. GREEN, Respondent,

and

CALIFORNIA STATE PRISON—LOS ANGELES COUNTY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

Agency Case No. 2024-0795

OAH No. 2025100083

PROPOSED DECISION

Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on July 27, 2026.

Bryan Delado, Senior Attorney, represented the California Public Employees' Retirement System (CalPERS)

Respondent Raquel N. Green represented herself.

No one appeared on behalf of or represented respondent California State Prison-Los Angeles County (CSP-LAC), Department of Corrections and Rehabilitation (CDCR).

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing on July 27, 2026.

ISSUE PRESENTED

As framed by the Statement of Issues, this appeal "is limited to the issue of whether [respondent] made an error or omission as a result of mistake, inadvertence, surprise, or excusable neglect correctable by Government Code section 20160, which would allow CalPERS to accept her Second SPIDR Application and request to change from service retirement to industrial disability retirement." (Exh. 1.) Whether respondent is substantially incapacitated for the performance of her usual duties is not at issue and is not addressed in this decision.

FACTUAL FINDINGS

Jurisdictional Matters

1. The CDCR employed respondent as a Supervising Registered Nurse II at the California State Prison-Los Angeles County. By virtue of that employment, respondent is a state safety member of CalPERS.

2. On April 26, 2023, respondent filed a Disability Retirement Election Application seeking a service retirement pending industrial disability (First SPIDR Application).

3. On April 28, 2023, CalPERS headquarters received the First SPIDR Application.

4. On May 30, 2023, CalPERS cancelled the industrial disability retirement portion of the First SPIDR Application.

5. On May 1, 2024, respondent reapplied for a service retirement pending industrial disability retirement (Second SPIDR Application).

6. On May 20, 2024, CalPERS received the Second SPIDR Application.

7. By letter dated August 21, 2024, CalPERS notified respondent it could not accept the Second SPIDR Application and denied respondent's request to change from a service retirement to an industrial disability retirement.

8. By letter dated September 23, 2024, respondent appealed and requested an administrative hearing.

9. On a date not established by the evidentiary record, Sharon Hobbs, Chief of Disability and Survivor Benefits Division, in her official capacity, signed and filed the Statement of Issues.

10. On February 13, 2026, CalPERS served respondents a Notice of Hearing setting the matter for hearing by videoconference on March 9, 2026. The hearing was continued to July 27, 2026.

11. All jurisdictional requirements are satisfied.

12. With respect to respondent CDCR, the hearing proceeded as a default proceeding pursuant to Government Code section 11520, subdivision (a), which, in pertinent part, provides, "If the respondent . . . fails . . . to appear at the hearing, the

agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent[.]"

Background

13. Respondent earned a Master of Science in Nursing from Drexel University. Over her career, respondent worked as a surgical technician, licensed vocational nurse, registered nurse, and nurse practitioner. Respondent worked 14 years as a CDCR employee.

14. The CDCR, on its *Report of Separation and Advance Payroll Information*, identifies respondent's last day on pay status as January 14, 2022. Respondent's separation date is identified as May 14, 2023. (Exh. 15.)

15. Respondent contacted CalPERS about disability and industrial disability retirement on multiple occasions before she applied for benefits, including on November 15, 2017, December 1, 2017, January 6, 2023, and February 14, 2023. On each occasion, CalPERS explained the application process, provided timeframes, and offered or mailed to respondent its publication titled *A Guide to Completing Your CalPERS Disability Retirement Election Application (PUB35)*. A November 15, 2017 CalPERS' note documents respondent was told "if documents are not submitted timely, the application may be cancelled," and if cancelled "members needs to re-apply and submit a new application including all required documents which may affect requested retirement date." (Exh. 16.)

16. Respondent requested retirement allowance estimates over several years, including a Retirement Allowance Request received September 7, 2021, and industrial disability retirement estimate distributed September 15, 2021, a disability retirement

estimate distributed September 16, 2021, a service retirement estimate distributed March 9, 2023, and an industrial disability retirement estimate distributed May 13, 2023. (Exhs. 6 and 16.)

First SPIDR Application and 21-Day Notice

17. On April 24, 2023, respondent emailed J. Liza Reyes, a personnel specialist at CSP-LAC, stating, "I'm medically retiring." Reyes replied, "Yes, you can do medical or disability retirement[.] CALPERS would have to approve it." (Exh. 13 at p. 11 [A290].)

18. Also on April 24, 2023, Kate Saechao, CDCR's Return to Work Coordinator in the Disability Management Unit, emailed respondent, "I understand that you are off work and have medical notes to take you off work through August 31, 2023." Saechao enclosed an options letter and check list for respondent to return by May 9, 2023. (Exh. 13 at p. 8 [A287].)

19. On April 26, 2023, respondent appeared in person at CalPERS' Glendale Regional Office. A CalPERS representative verified respondent's identification, witnessed respondent's signature, obtained respondent's authorization to disclose protected health information, and accepted respondent's First SPIDR Application. The contemporaneous Customer Touch Point note documents CalPERS "discussed time frame up to 120 days for processing/determination for IDR and supporting docs must be rec'd within the next 21 days." (Exh. 16 at p. 14 [A385].) The application bears the regional office analyst's stamp and signature dated April 26, 2023. The application was mailed to headquarters and received their on April 28, 2023. On the application, respondent checked both the "Industrial Disability Retirement" and the "Service Pending Industrial Disability Retirement" boxes. (Exh. 9.)

20. Respondent requested, and CalPERS approved, a change in respondent's retirement date from May 1, 2023 to May 15, 2023, with a May 14, 2023 last day on payroll. (Exh. 16 at pp. 13-14 [A384-385].)

21. By letter dated May 1, 2023, CalPERS notified respondent five categories of documents were required "for CalPERS to begin the disability application review process." Those document include a job description/duty statement; a Physical Requirements of Position/Occupational Title form to be completed with her employer; a Workers' Compensation Carrier Request form, page 1 of which respondent was to complete, sign, and then "forward the entire form to your carrier," which would "complete page 2 and return the form to CalPERS with copies of your medical records"; an Authorization to Disclose Protected Health Information form; and medical records. The letter states, "This will be your only written notification. **If we do not receive these documents within 21 days from the date of this letter, your application will be canceled**." (Exh. 10; original bold emphasis.) A copy of the May 1, 2023 letter was sent to "Department of Corrections California State Prison Los Angeles County."

22. May 22, 2023 is the last day of the 21-day period.

EFFORTS TO OBTAIN WORKERS' COMPENSATION CARRIER REQUEST FORM

23. On May 10, 2023, a CalPERS analyst noted, "I spoke to [respondent] and advised her of the deadline to submit IDR forms. She said she would be submitting them today." (Exh. 16 at p. 13 [A384].)

24. On May 11, 2023, Saechao emailed respondent, "Please complete the employee portion and send it back to me." (Exh. 13 at p. 16 [A295].)

25. On May 15, 2023, respondent's retirement date, respondent telephoned CalPERS and spoke to an analyst. The contemporaneous note CalPERS generates from each interaction with its members known as a Customer Touch Point note documents respondent "stated [she] thought [she] had documents still required for [her] DR." The analyst directed respondent to a "CalPERS letter dated 05/01/23 providing the outstanding documents needed." Respondent informed the analyst she was driving but would read the letter when she arrived at her destination. (Exh. 16 at p.12 [A383].)

26. On May 16, 2023, at 2:10 p.m., respondent emailed Saechao, "please call me ..... I can't follow this email thread and need to get this paperwork done[.] My official retirement date was yesterday." On the same day, at 7:10 p.m., respondent emailed Saechao the CalPERS packet asking, " Are these the same forms you need[?] Please call me[,] my retirement was yesterday." (Exh. 13.)

27. On May 17, 2023, at 8:07 a.m., Saechao replied, "Received, thank you[.] I will complete the employer portion and send it back to you." At 8:39 a.m., Saechao forwarded the forms to Tracee Simpson and Veronica Lopez with the directive, "Please complete the attached Disability Election form for [respondent]. She has already filed Industrial Disability Retirement with CalPERS." At 9:46 a.m., Simpson forwarded the documents to Emelita Sabile, a senior personnel specialist, and to Deryk Mason at the State Compensation Insurance Fund "for completion." The documents were routed internally within CDCR and California Correctional Health Care Services throughout May 17, 2023. (Exh. 13.)

28. On May 18, 2023, at 7:41 a.m., Reyes advised Simpson the "Healthcare ERO already completed the Employer Certification." At 11:02 a.m., Simpson wrote respondent stating, "please see attached[.] The WC portion has already been sent to

the Adjuster and they have 30 days to complete and send directly over to CalPERS." At 11:58 a.m., respondent replied, "Thank you very much Tracee." (Exh. 13.)

29. On May 24, 2023, Reyes forwarded additional documents to respondent, who responded asking, "Hi, who do I need to send these to?" (Exh. 13.)

CANCELLATION OF INDUSTRIAL DISABILITY RETIREMENT PORTION

30. By letter dated May 30, 3023, CalPERS notified respondent, "Your application for Industrial Disability Retirement has been cancelled because the requested application information has not been received. If you have applied for or are currently receiving service retirement, this action will not affect that benefit. If you wish to re-apply for retirement at a later date, it will be necessary for you to complete a new application at that time." A copy of the May 30, 2023 letter was sent to "Department of Corrections California State Prison Los Angeles County." (Exh. 11.)

31. Evelyn Murillo-Soria, Analyst II, has three and one-half years' experience working in CalPERS's Disability Retirement Section. At hearing, Murillo-Soria explained the application process stating required documents are requested by letter; if the documents are timely submitted the process continues; and the application is cancelled if the documents are not received within 21 days. Murillo-Soria testified an application must be submitted within 210 days of discontinuance of service, and that after a member receives the first retirement warrant the member cannot change from a service retirement to a disability or industrial retirement more that 30 days after receipt.

32. On cross-examination, Murillo-Soria acknowledged the May 30, 2023 cancellation letter is "a general cancellation letter" that does not state a date or time frame by which a member must reapply. Murillo-Soria acknowledged the May 30, 2023

cancellation letter does not itself state the cancellation was due to a missing workers' compensation form.

POST-CANCELLATION CONTACT WITH CALPERS

33. On July 25, 2023, respondent telephoned CalPERS to check the status of her industrial disability retirement. An analyst "explained per letter dated 5/30/23 that we have mailed [respondent] her IDR was cancelled because we did not receive certain documents like the Workers' Com Carrier Request from the Disability Awaiting Complete Package Letter dated 5/1/23 on time." The analyst "[e]xplained if [respondent] wants to apply she must resubmit all documents and mail DR app package to verified address on file," gave a mailing time frame of 7 to 10 business days, and "[a]dvised may take up to 4 months from date received to complete idr [*sic*] package to make determination." (Exhs. 12 and 16.)

34. On August 24, 2023, respondent telephoned CalPERS again and was "[a]dvised that per Notification of Cancellation of Retirement Application dated 5/30/23, application was cancelled as requested information was to received[.] Advised that if mbr wishes to re-apply , then she must complete a new application." (Exh. 16.)

35. On April 17, 2024, respondent telephoned CalPERS "to find out if she can re-apply for IDR." Respondent was "informed yes," told "she has to submit the complete new package," and CalPERS "[m]ailed DR pub 35 and she also wanted a copy of DR cancellation notice. Mailed both to updated address." Respondent updated her address of record during the same call. (Exhs. 8 and 16.)

36. Customer Touch Point notes from July 25, 2023, August 24, 2023, and April 17, 2024 do not document that respondent was informed about any deadline to reapply, the six-month period in Government Code section 20160, subdivision (a)(1), or

that her ability to reapply was time-limited. Each note documents respondent was told she could reapply and she needed to submit a complete new package. (Exh. 16.)

Second SPIDR Application

37. On May 1, 2024, respondent faxed a new application to CalPERS. On May 6, 2024, CalPERS rejected the application for two defects: respondent's signature in Section 14 had not been witnessed by a CalPERS representative or notarized and respondent had not completed the retirement payment option on Section 5. A rejection letter and a copy of the original application were mailed to respondent's address of record. (Exh. 16.)

38. On May 13, 2024, respondent telephoned CalPERS, was informed the application had been rejected, stated she would complete a new application and have a CalPERS representative witness her signature, and scheduled a regional office appointment. (Exh. 16.)

39. On May 20, 2024, CalPERS received the completed Second SPIDR Application. Respondent requested a retirement date of May 15, 2023, the same retirement date established under her First SPIDR Application. The application was keyed on May 23, 2024. (Exhs. 3 and 16.)

40. Respondent cooperated with CalPERS' processing of the Second SPIDR Application. On May 30, 2024, CalPERS sent questionnaires to respondent and to CDCR. On June 6, 2024, respondent appeared in person at a regional office to review the member questionnaire. On June 10 and 13, 2024, respondent personally delivered her questionnaire responses and approximately 72 pages of medical records. On June 17 and 24, 2024, CalPERS requested a further physician's report and granted a three-

week extension. By July 12, 2024, CalPERS confirmed it had all the information it required. (Exhs. 13 and 16.)

CDCR'S RESPONSE TO EMPLOYER QUESTIONNAIRE

41. CDCR responded to CalPERS' May 30, 2024 employer questionnaire. Asked whether respondent indicated she stopped working because of a disabling condition, CDCR answered yes and identified January 14, 2022 as respondent's last day, noting respondent was on non-industrial disability insurance until benefits were exhausted. Asked what respondent stated as the reason for stopping work, CDCR answered "Disability." Asked, "Did you participate in an interactive process with ember and provide them with information regarding disability retirement?" CDCR answered "No." Asked whether the member left for any reason other than a disabling medical condition, CDCR answered, "No." Asked, "Would Department of Corrections California State Prison Los Aneles County object if CalPERS accepts this member's untimely application?" CDCR answered "No." The response was signed by Josephine Liza Reyes. (Exh. 14.)

CALPERS DETERMINATION

42. By letter dated August 21, 2024, CalPERS denied respondent's request to change from a service to an industrial disability retirement stating, "We have reviewed the industrial disability retirement application you submitted after you service retired. Based on the provisions of the law and the facts of your situation, your request to change from service to industrial disability is respectfully denied." (Exh. 4.)

43. The August 21, 2024 letter identifies the following bases for that determination: respondent submitted a service retirement pending industrial disability retirement application on April 26, 2023; respondent "received counseling regarding

the disability retirement application process and w[as] advised that all required documents needed to be submitted or [her] application would be cancelled;" respondent was placed on service retirement on June 6, 2023, with an effective retirement date of May 15, 2023; "due to a missing worker's compensation form" the industrial disability portion was cancelled on May 30, 2023; respondent was informed on July 25, 2023, and again on August 24, 2023, that the application had been cancelled and that she would need to submit a new application; and respondent "reapplied for industrial disability retirement on 05/01/2024." The August 21, 2024 letter concludes, "The evidence suggests you had knowledge of the application process and, therefore, we are unable to establish that a correctable mistake was made." (Exh. 4.)

Respondent's Testimony

44. Respondent testified she applied for a service retirement pending industrial disability retirement and "did everything in my control." She made several attempts to have the required documents submitted. On May 18, 2023, she was told the adjuster had 30 days to complete the worker' compensation document. She was never given a time frame within which to reapply, and nothing she received stated she had six months to submit a new application. Respondent explained she circled industrial disability retirement on her initial application because she intended to apply for an industrial disability retirement and she was never informed that once she received a retirement check there is nothing further she could do.

45. Respondent further testified had she obtained the workers' compensation papers, she would not have needed to submit a second application; that the workers' compensation coordinator at CSP-LAC contacted the analyst who submits forms; that everything she was responsible for was submitted with her initial

application; that her first warrant was processed in 2023, not 2024; and that she "wouldn't have retired at 53 percent."

46. In closing, respondent asked that her appeal be granted. Respondent argued she was never given a time frame; she did everything she could do to get the workers' compensation paperwork completed; she spoke to someone at CalPERS who told her to simply reapply with no stated time frame; obtaining the paperwork was beyond her control even as she did everything over which she had control; the workers' compensation personnel should have known about the 21-day time frame; and she submitted her application and everything requested of her in a timely manner.

CalPERS' Position

47. In closing, CalPERS argued respondent has not committed a correctable mistake; under Government Code section 20160 a mistake must be corrected within six months; the Second SPIDR Application was untimely submitted in May 2024; respondent received a service retirement warrant in June 2023; respondent did not seek correction within a reasonable time after discovery; respondent's First SPIDR Application was cancelled and she was told to reapply in July and August 2023; respondent did not seek correction until May 2024; therefore the Second SPIDR Application is not subject to correction.

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LEGAL CONCLUSIONS

Applicable Law

1. The purpose of public employee pension programs is to induce persons to enter and continue in public service and to provide subsistence for disabled or retired employees and their dependents. (*Wheeler v. Board of Administration* (1979) 25 Cal.3d 600, 605.) It is well established that pension legislation should be liberally construed in favor of the applicant to effectuate the purpose of the statute. (*Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483, 490; *Guelfi v. Marin County Employees' Retirement Assn*. (1983) 145 Cal.App.3d 297, 303; *Rose v. City of Hayward* (1981) 126 Cal.App3.d 926, 940; *Neeley Board of Retirement* (1974) 36 Cal.App.3d 815, 822.)

2. "'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, or in the case of the local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion." (Gov. Code, § 2026.)

3. Government Code section 21154, which governs the timing and process for filing a disability retirement application, provides an application for disability retirement shall be made only (a) while the member is actively in state service; (b) while the member for whom contributions will be made under section 20997 is absent on military service; (c) within four months after the discontinuance of the state service of the member, or while on an approved leave of absence; or (d) while the member is

physically or mentally incapacitated to perform duties from the date of discontinuance of state service to the time of application or motion.

4. Government Code section 20160, subdivision (a), provides the following:

> Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member or any beneficiary of an active or retired member, provided that all of the following facts exists:
>
> (1) The request, claim, or demand to correct the error or omission is made by the partying seeking correction within a reasonable time after discovery or the right to make the correction, which in no case shall exceed six months after discovery of this right.
>
> (2) The error or omission was the result of a mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.
>
> (3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.
>
> Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar

circumstances does not constitute an "error or omission" correctible under this section.

5. Government Code section 20160, subdivision (b), provides the following:

> Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

6. The obligation imposed by subdivision (b) is mandatory. By its terms it is subject only to subdivisions (c) and (d); it is not conditioned on the six-month limitation in subdivision (a)(1) or non the reasonable inquiry proviso in subdivision (a).

7. Government Code section 20160, subdivision (e), provides that corrections made under the section "shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time."

8. Subdivision (a)(2) of section 20160 incorporates the terms "mistake, inadvertence, surprise or excusable neglect" "as each of those terms is used in Section 473 of the Code of Civil Procedure." Excusable neglect under Code of Civil Procedure section 473 is neglect that "might have been the act or omission of a reasonably prudent person under the same or similar circumstances." (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.) Because the law favors resolution of disputes on their merits, any doubts applying section 473 are resolved in favor of the party seeking relief. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 980.)

Standard and Burden of Proof

9. Respondent bears the burden of proving an error or omission correctable under Government Code section 20160, subdivision (a). (Gov. Code, § 20160, subd. (d).) The applicable standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

10. "'Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' (Citations.) . . . [T]he sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325; original italics.) In meeting the burden of proof by a preponderance of the evidence, respondent "must produce substantial evidence, contradicted or un-contradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.). In other words, respondent must prove it is more likely than not that a correctable error or omission occurred. (*Lilliam F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

Discussion

11. Respondent's last day on pay status was January 14, 2022. Respondent filed her First SPIDR Application on April 26, 2023. The CDCR's own *Report of Separation and Advance Payroll Information*, however, identifies respondent's separation date as May 14, 2024. At no point did CalPERS contend the First SPIDR Application was untimely under Government Code section 21154. The Statement of Issues does not put the timeliness of the First SPIDR in issue. This appeal therefore does not present the ordinary case of a member who applied too late. It presents the question whether an admittedly timely application, which was cancelled for want of a

document the member could not herself produce, may be reinstated under Government Code section 20160.

12. The omission that caused the cancellation was not respondent's. CalPERS's May 1, 2023 letter directed respondent to complete and sign page one of the Workers' Compensation Carrier Request form and to forward the form to her carrier. Page two of the Workers' Compensation Request form was to be completed by the carrier, which in turn was to submit the form on to CDCR, respondent's employer, on May 16, 2023. CDCR confirmed receipt on May 17, 2023, and on that day routed the form internally to the personnel unit and to the State Compensation Insurance Fund. On May 18, 2023, CDCR informed respondent in writing, "[t]he WC portion has already been sent to the Adjuster and they have 30 days to complete and send directly over to CalPERS." From that point, the document was in the hands of CDCR and the carrier. Nothing in the evidentiary record supports a finding that respondent possessed the ability to compel either of then to act more quickly.

13. CDCR's May 18, 2023 statement to respondent was not only unhelpful, the statement was affirmatively misleading. CDCR received a copy of CalPERS' May 1, 2023 letter. CDCR therefore had notice of the 21-day deadline. Thirty days from May 18, 2023 is June 17, 2023—26 days after the 21-day deadline was set to expire on May 22, 2023. A member who is told by her employer, four days before a known deadline, that the responsible party has 30 days to act and will transmit the document directly to CalPERS, is entitled to understand that the matter has been taken in hand. Respondent's reliance on that representation was the conduct of a reasonably prudent person in the same or similar circumstances.

14. The failure to return the Workers' Compensation Carrier Request form within CalPERS' 21-day deadline was an omission of a state department, namely the

CDCR, and of the state's workers' compensation carrier. Government Code section 20160, subdivision (b), therefore applies. The Board "shall correct all actions taken as a result of errors or omissions of . . . any state agency or department." The cancellation of the industrial disability retirement portion of respondent's timely First SPIDR Application is a consequential action taken as a result of that omission. The duty to correct is mandatory. The duty is not conditioned on the six-month limitation in subdivision (a)(1). CalPERS' August 21, 2024 determination letter does not address subdivision (b), and the evidentiary record does not establish whether CalPERS considered it.

15. Respondent additionally prevails under Government Code section 20160, subdivision (a). As to subdivision (a)(2), the error was the result of mistake, inadvertence, surprise, and excusable neglect. Respondent mistakenly, but reasonably, believed on the strength of her employer's written assurance that the outstanding document was being completed and would be sent directly to CalPERS.

16. As to subdivision (a)(1), the question is when respondent discovered "the right to make the correction," not when she learned her application had been cancelled. CalPERS' May 30, 2023 cancellation letter informed respondent she could "re-apply for retirement at a late date." The May 20, 2023 cancellation letter states no deadline and CalPERS' own witness at hearing described it as a general cancellation letter that gives no time frame. CalPERS' representatives who responded to respondent's July 25 and August 23, 2023 contacts conveyed the same message and likewise identified no deadline. On April 17, 2024, respondent asked CalPERS directly whether she could still reapply. CalPERS told Respondent yes and mailed respondent an application package and a copy of the cancellation notice. Fourteen days later, on May 1, 2024, respondent filed a Second SPIDR Application, and, after curing two

clerical defects, a complete application on May 20, 2024. Measured from the date on which CalPERS itself last confirmed the right to reapply remained available, respondent's request was made within a reasonable time and well within six months.

17. As to subdivision (a)(3), acceptance of the Second SPIDR Application confers no status, right, or obligation not otherwise available to respondent. Respondent was a state safety member who filed a timely application while in state service. Acceptance restores her to the position she would have occupied had the Workers' Compensation Carrier Request form been returned within the CalPERS' 21-day window, which is precisely the result Government Code section 20160, subdivision (e), directs.

18. CalPERS contrary determination rests on the single proposition that respondent "had knowledge of the application process" and therefore made no correctable mistake. Knowledge of the application process is not knowledge that a right is about to expire. Respondent did know how to apply. She applied on time, in person, at a regional office, with a CalPERS representative verifying her identification and witnessing her signature. What respondent did not know, because no one told her, and because CalPERS' cancellation letter is silent on the point, was that her ability to reapply was subject to a time limitation.

19. The reasonable-inquiry proviso in Government Code 20160, subdivision (a), does not bar relief. That proviso withholds correction from a member who fails to make the inquiry a reasonable person would make. Respondent repeatedly made the inquiry on May 15, 2023; July 25, 2023; August 24, 2023; and on April 17, 2024. Each time respondent was told she could reapply, and each time no time limit was ever mentioned. The proviso does not operate against a member who asks and is answered.

20. In further support of this conclusion, it is noteworthy that CDCR conceded it never engaged respondent in an interactive process and never provided her any information regarding disability retirement. CDCR confirmed respondent stopped working solely because of a disabling condition. CDCR stated it would not object if CalPERS accepted the Second SPIDR application. While the employer's non-objection does not itself confer authority on CalPERS, it removes any prejudice to the employing agency from the order of correction set forth below.

21. By reason of Factual Findings 13 through 47 and Legal Conclusions 1 through 19, respondent proved by a preponderance of the evidence the failure to file a complete industrial disability retirement application before May 20, 2024, was an error or omission correctable under Government Code section 20160, subdivision (a) and (b).

ORDER

1. Respondent Raquel N. Green's appeal of CalPERS's determination denying her request to change from a service to an industrial disability retirement is granted.

2. CalPERS' determination not to accept respondent Raquel N. Green's Second SPIDR Application, received on May 20, 2024, is reversed.

3. CalPERS shall accept the Second SPIDR Application and shall evaluate it on the merits, including whether respondent Raquel N. Green is substantially incapacitated for the performance of the duties of a Supervising Registered Nurse II and whether any such incapacity is industrial in origin. If respondent Raquel N. Green is found eligible, CalPERS shall determine the effective date of her industrial disability

retirement consistent with Government Code sections 20160, subdivision (e), and 21525.

DATE: 08/18/2026

Jennifer Russell

JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings