ATTACHMENT A

PROPOSED DECISION

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

In the Matter of the Application for Disability Retirement of:

ALISA STEPHENS,

Respondent,

and

LOS ANGELES UNIFIED SCHOOL DISTRICT

Respondent.

Agency Case No. 2024-0916

OAH No. 2026021182

(Statement of Issues)

PROPOSED DECISION

Cindy F. Forman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 4 and August 13, 2026.

Sean M. Stowers, Senior Attorney, represented complainant Sharon Hobbs, Chief, Disability and Survivor Benefits Division, Board of Administration, California Public Employees' Retirement System (CalPERS).

Respondent Alisa Stephens (Ms. Stephens) represented herself.

There was no appearance by or on behalf of respondent Los Angeles Unified School District (LAUSD).

Testimony and documentary evidence were received. The record was closed and the matter was submitted for decision on August 13, 2026.

SUMMARY

Ms. Stephens appeals CalPERS's decision to deny her application for disability retirement from employment as a Special Education Trainee. CalPERS presented competent medical evidence showing Ms. Stephens was not substantially incapacitated from performing her job duties due to certain otolaryngological conditions, specifically tracheotomy and posterior subglottic stenosis. Ms. Stephens disagrees with CalPERS's assertion; however, she failed to provide medical evidence supporting her claim of substantial incapacity or rebutting CalPERS's evidence. Ms. Stephens failed to meet her burden of proof, and her appeal therefore will be denied.

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FACTUAL FINDINGS

Jurisdictional Matters

1. Ms. Stephens worked as a Special Education Trainee Substitute for LAUSD. By virtue of her employment, Ms. Stephens was a state miscellaneous member of CalPERS subject to Government Code section 21150. Ms. Stephens had the minimum service credit necessary to qualify for retirement.

2. On March 21, 2024, Ms. Stephens signed an application for service retirement. She retired from employment with LAUSD effective March 1, 2024, and has received her retirement allowance since that date.

3. On March 21, 2024, Ms. Stephens signed an application for disability retirement. In filing the application, Ms. Stephens stated she was disabled because of otolaryngological conditions, i.e., tracheotomy and posterior subglottic stenosis.

4. On November 4, 2024, CalPERS notified Ms. Stephens of its determination that she was not permanently disabled or incapacitated from performance of her duties as a Special Education Trainee Substitute at the time her application was filed. The letter also advised Ms. Stephens of her rights of appeal.

5. On November 7, 2024, Ms. Stephens filed a timely appeal of CalPERS's denial.

6. On January 6, 2026, complainant, in her official capacity, filed a Statement of Issues against Ms. Stephens and LAUSD regarding Ms. Stephens's disability retirement application. The Statement of Issues is limited to whether, at the time of her application, Ms. Stephens was substantially incapacitated from performing

her duties as a Special Education Trainee because of her otolaryngological conditions, i.e., tracheotomy and posterior subglottic stenosis.

7. A Notice of Hearing, dated March 3, 2026, was sent that day via email, certified mail, return receipt requested, and first class mail to the parties. Notice and service were proper under Government Code section 11509. LAUSD acknowledged receipt of the Notice of Hearing on March 6, 2026.

8. LAUSD did not appear at the hearing. The hearing proceeded as a default proceeding against LAUSD 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[.]"

9. This hearing proceeded with Ms. Stephens in attendance.

Respondent's Job Duties

10. Ms. Stephens worked six hours a day as a Special Education Trainee Substitute. Her last day on the LAUSD payroll was March 13, 2020. According to the District's job description, a Special Education Trainee Substitute assists teachers by addressing the physical needs of students with disabilities and presenting the students with educational materials and developmental exercises. A Special Education Trainee Substitute's physical duties include lifting students in and out of holding or locomotive devices and on and off buses, assisting students with toileting, and assisting students with using mobility equipment. (Exhibit 8.)

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11. The physical requirements of Ms. Stephen's Special Education Trainee Substitute position consisted of the ability to perform (a) frequent (2.5 to 5 hours) lifting and carrying items less than 10 pounds; (b) occasional (between 31 minutes and 2.5 hours) lifting items between 11 and 25 pounds, sitting, standing, and walking; (c) infrequent (between 5 minutes and 30 minutes) kneeling, squatting, and neck bending; and (d) rare or never (less than five minutes) lifting items over 25 pounds, running, crawling, climbing, pushing and pulling, grasping, handling, computer use, walking on uneven ground, or driving. (Exhibit 9.)

Ms. Stephens's Medical Condition and Treatment

12. Medical records indicate Ms. Stephens, who is 65 years old, contracted severe COVID in November 2020, was placed on a ventilator for over three weeks, and then required a tracheostomy, which was performed on December 22, 2020. She was discharged from the hospital on January 20, 2021, with a breathing tube (tracheostomy) in place with orders to resume normal activity. The breathing tube was not removed until March 27, 2024. Since that time, Ms. Stephens has undergone several procedures involving the removal of subglottic tissue and the repair of tracheal cutaneous fistula to expand her airways and remove scar tissue formed from her long-term use of a breathing tube.

13. At hearing, Ms. Stephens asserted she still struggles with breathing because of the prolonged breathing tube placement and COVID. She mainly has issues with getting enough air when talking, moving around, and exerting herself. She requires medical examinations of her lungs and throat every three months and a CPAP machine to sleep comfortably. Ms. Stephens stated she can no longer sing and needs time to take deep breaths. She is fearful that additional surgeries will be needed. Ms. Stephens would like to return to work, but she believes her inability to speak loudly

prevents her from returning. Ms. Stephens also believes an important part of her job is talking with children, and she no longer can do so without catching her breath.

Dr. Oppenheimer's Examination and Findings

14. Randy W. Oppenheimer, M.D., examined Ms. Stephens for an independent medical evaluation on October 2, 2024. Dr. Oppenheimer is currently retired from private practice. He obtained his board certification as an otolaryngologist in October 1989 and is licensed to practice in California and Arizona. He previously served as the Chief of Otolaryngology/Head and Neck Surgery at Carl T. Hayden VA Medical Center and at Maricopa Medical Center in Arizona. He also was affiliated with White Memorial Hospital in Los Angeles and Maricopa County Hospital in Phoenix.

15. Dr. Oppenheimer testified at hearing regarding his examination of Ms. Stephens. Dr. Oppenheimer noted in his report that he found her voice, ear canals, nose, oropharynx, and posterior pharynx were normal, and her lungs were clear. He noted no abnormalities with Ms. Stephens's heart or nervous system. He observed a well-healed tracheostomy scar on Ms. Stephens's neck. Dr. Oppenheimer also noted a medical history of hypertension, mild diabetes, and obstructive sleep apnea and a surgical history of a tracheotomy. Dr. Oppenheimer described Ms. Stephens as alert and further noted that her main complaint was shortness of breath when walking around and talking a lot. According to Dr. Oppenheimer, Ms. Stephens did not complain of difficulty talking with or reading aloud to students. During the examination, Dr. Oppenheimer observed Ms. Stephens had mild inspiratory stridor, i.e., she made a sound when breathing in. At hearing, and after listening to Ms. Stephens testify, Dr. Oppenheimer remarked that he still heard Ms. Stephens's stridor but that the sound was not abnormal. Based on his examination and observations, Dr. Oppenheimer diagnosed Ms. Stephens as having mild posterior glottis stenosis, the

narrowing of the back part of the voice box resulting from scar tissue formed from the tracheostomy.

16. Dr. Oppenheimer prepared a report, dated October 2, 2024, of his findings based on his examination of Ms. Stephens, his review of Ms. Stephens's medical records from November 2020 through June 2021, January 31, 2024, and September 12, 2024, and LAUSD's descriptions of the duties required for the job of special education trainee. (Exhibit 8.) In summarizing Ms. Stephens's disability, Dr. Oppenheimer found that Ms. Stephens would have difficulty performing two of the 21 tasks of her job as a special education trainee: lifting students in and out of locomotive devices and assisting students with mobility equipment, specifically tricycles.

17. In his report, Dr. Oppenheimer concluded that Ms. Stephens did not have an actual and present otolaryngological impairment rising to the level of substantial incapacity to perform her usual duties as a Special Education Trainee. While Dr. Oppenheimer acknowledged that Ms. Stephens has "some degree" of subglottic stenosis limiting her air intake, Dr. Oppenheimer opined the stenosis would not cause her to be substantially incapacitated for most of the duties identified in her job description. (Exhibit 8, p. A90.) According to Dr. Oppenheimer, Ms. Stephens agreed she can perform most of the 21 tasks listed in the District's job description. (*Ibid.*) Dr. Oppenheimer also noted that Ms. Stephens was "very cooperative" during her exam.

18. Dr. Oppenheimer submitted a supplemental report, dated July 26, 2026 (Exhibit 11), regarding Ms. Stephens after she submitted additional medical records in June 2026. In that report, Dr. Oppenheimer states that he reviewed the additional medical records, and his conclusions regarding Ms. Stephens remain unchanged from his October 2, 2024 report. Dr. Oppenheimer also notes that an operative report dated August 13, 2024, from Ms. Stephens's physician confirms that Ms. Stephens had an

adequate airway as of the report date, and Ms. Stephens's physician did not expect Ms. Stephens would require additional surgeries for her condition.

LEGAL CONCLUSIONS

1. "Disability" and "incapacity for performance of duty" 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." (Gov. Code, § 20026.) To be retired for disability, a member must be substantially unable to perform his or her usual duties. (*Hosford v. Board of Administration* (1978) 77 Cal.App.3d 854, 859–860 [highway patrol sergeant's persistent back pain was not substantially incapacitating because sergeant could perform typical duties of a sergeant]; *Mansperger v. Public Employees' Retirement System* (1970) 6 Cal.App.3d 873, 876 [fish and game warden who suffered right arm injuries preventing him from rowing a boat, which was required by the job, or lifting heavy weights is not substantially disabled because he could "substantially carry out the normal duties" required by the job].) Disability is not an inability to perform fully every function of a given position. Discomfort, which may make it difficult to perform one's duties, is not enough by itself to qualify for a disability retirement. (*Smith v. City of Napa* (2004) 120 Cal.App.4th 194, 207; *Hosford v. Board of Administration, supra,* 77 Cal.App.3d at p. 862.)

2. The employee seeking a disability retirement bears the burden of proving she is substantially incapacitated for the performance of her usual duties by a preponderance of the evidence. (*Glover v. Board of Retirement* (1989) 214 Cal.App.3d 1327, 1332; *McCoy v. Board of Retirement*(1986) 183 Cal.App.3d 1044, 1051, fn. 5; *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689; Evid. Code, §§ 115, 500.) A

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

Analysis and Disposition

3. Ms. Stephens did not meet her burden of proof. Ms. Stephens offered no medical evidence to counter Dr. Oppenheimer's conclusion that her otolaryngological condition does not substantially incapacitate her from performing her duties as a Special Education Trainee Substitute. Ms. Stephens also offered no evidence that Dr. Oppenheimer's conclusion was based on a faulty examination or a misinterpretation of her medical records. Ms. Stephens's difficulty speaking loudly or for a lengthy period does not demonstrate she cannot perform the typical duties of a Special Education Trainee. The weight of the evidence therefore supports CalPERS's determination that Ms. Stephens is not disabled or substantially incapacitated from performing the usual job duties of a Special Education Trainee. Thus, based on the evidence presented, Ms. Stephens has not proved she is eligible for disability retirement.

ORDER

Respondent Alisa Stephens's appeal is denied.

DATE: 08/28/2026

CINDY F. FORMAN
Administrative Law Judge
Office of Administrative Hearings