ATTACHMENT B

Staff Argument

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Alisa Stephens (Respondent) was employed by the Los Angeles Unified School District (Respondent District) as a Special Education Trainee. By virtue of her employment, Respondent was a state miscellaneous member of CalPERS.

Respondent signed an application for service retirement on March 21, 2024, and has been receiving benefits since that time.

On March 21, 2024, Respondent also signed an application for disability retirement based on otolaryngological conditions (tracheotomy and posterior subglottic stenosis).

To be eligible for disability retirement, competent medical evidence must demonstrate that an individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis of the claimed disability must be permanent or of an extended duration which is expected to last at least 12 consecutive months or will result in death.

CalPERS informed Respondent that it had denied her Disability Retirement Election Application by letter dated November 4, 2024.

As part of CalPERS' review of Respondent's medical condition, Randy M. Oppenheimer, a board-certified Otolaryngologist, performed an independent medical examination (IME). Dr. Oppenheimer examined Respondent, reviewed her work history and job descriptions, obtained a history of her past and present medical conditions, and reviewed her medical records. More specifically, Dr. Oppenheimer opined that Respondent does not have an otolaryngological impairment such that would cause a substantial incapacity to perform her duties as a Special Education Trainee. Dr. Oppenheimer stated that Respondent does have "some degree" of subglottic stenosis that limits her air intake but not to the point where it would incapacitate her from the bulk of her duties. Dr. Oppenheimer further stated that Respondent conceded that she can do most of the 21 tasks listed in her job description.

Respondent appealed CalPERS' determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on August 13, 2026. Respondent represented herself at the hearing. Respondent District did not appear at the hearing, and a default was taken as to Respondent District only.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet, answered Respondent's questions, and clarified how to obtain further information on the process.

At the hearing, Dr. Oppenheimer testified in a manner consistent with his examination of Respondent, his review of her medical records and job description, and the IME report he prepared. Dr. Oppenheimer's medical opinion is that Respondent would have difficulty performing two of the 21 duties associated with her position as a Special Education Trainee, specifically, physically assisting students who would require lifting off of tricycles or out/off of motorized devices. Dr. Oppenheimer also reviewed additional medical records received after his initial October 2, 2024, report and stated that his opinion is unchanged. He testified that Respondent's operative report dated August 13, 2024, notes that Respondent has an adequate airway and isn't expected to need further surgical intervention.

Respondent testified on her own behalf that she still struggles with breathing due to the breathing tube and COVID. She stated that she notices the limitations when exerting herself. She undergoes throat and lung examinations every three months and uses a CPAP machine to sleep. She claims she cannot sing, and she is afraid that she may need more surgeries. She further stated that she would like to return to work but thinks she would be limited by her inability to talk loudly. She believes that would also inhibit her from talking to the children because of her need to catch her breath when speaking.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent did not prove that she is substantially incapacitated from performing her duties as a Special Education Trainee. She did not offer any medical evidence contrary to Dr. Oppenheimer's IME reports, nor did she offer any evidence showing that Dr. Oppenheimer's examination or his reports were inaccurate. Respondent's inability to speak loudly and the necessity for her to catch her breath while speaking do not constitute a substantial incapacity that would prevent her from performing her duties as a Special Education Trainee. Therefore, Respondent is not entitled for disability retirement.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

November 18, 2026

Sean Stowers
Senior Attorney