

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S NON-OPPOSITION TO ADOPTION OF THE PROPOSED DECISION

Respondent Julia Richter was hired as a police officer for Respondent City of Oakland (City) in 2014. In May 2018, Richter was allegedly injured during a police defensive tactics course. The City placed her on approved worker's compensation leave soon after her injury.

In August 2018, a federal prosecutor alleged that Richter had perjured herself in a federal tax evasion trial of her sister. Oakland opened an investigation and placed Richter on administrative leave. Shortly thereafter, Richter filed an application for industrial disability retirement (IDR). Her claimed disability was based on orthopedic (neck, bilateral legs, left shoulder, and arms), neurologic (headaches and dizziness), vision (pain in eyes), and audiologic (ringing in ears) conditions. She also claimed that a worker's compensation doctor had already found her to be unable to work and substantially incapacitated.

In March 2020, 19 months after receiving the federal prosecutor's complaint, the City completed its investigation, at which point it terminated her for cause.¹

Based on the termination for cause, CalPERS found that Richter was ineligible for IDR pursuant to *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292. Richter appealed, and exercised her right to a hearing before an Administrative Law Judge (ALJ). A hearing was held on August 30, 2021. Respondent represented herself at the hearing. Respondent City was represented by counsel at the hearing.

The ALJ granted Richter's appeal. The ALJ found that "[u]nder the specific circumstances of this matter," which included the delay in processing her application for IDR, Richter "should be granted the right to apply for industrial disability retirement." The ALJ's finding appears to be based in part on the fact that Richter was found to be substantially incapacitated from performing her duties based on a work injury that took place on May 15, 2018, approximately 20 months prior to the City terminating her employment and before she filed for IDR. In addition, the ALJ's finding appears to be based in part on the fact that Richter was already on leave for a purported work-related injury when the federal prosecutor complained to the City and the City's investigation commenced.

¹ Richter, a licensed attorney who was fired for lying and assisting her sister in fraud against the federal government, has repeatedly levied baseless claims of deceit and misrepresentation against CalPERS. Through multiple motion rulings, the ALJ repeatedly found those claims to be without merit.

Staff does not necessarily agree that the ALJ accurately applied the law to the facts of this case. However, given the unique circumstances of this matter, Staff does not oppose the Board's adoption of the Proposed Decision.

November 17, 2021

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Senior Attorney