

**ATTACHMENT C**

**RESPONDENT'S ARGUMENT**

January 28, 2025

Ref. No. 2014-0158

Board Services Unit Coordinator  
California Public Employees' Retirement System  
P.O. Box 942707  
Sacramento, CA 94229-2707

**Subject: In the Matter of the Appeal of Post Retirement Employment of MATTHEW J. HOCH, Respondent, and CHINO VALLEY INDEPENDENT FIRE DISTRICT, Respondent.**

Dear CalPERS:

This letter is in response to the California State Administrative Law Judges proposed decision on California's Public Employment Retirement System (CalPERS) vs. Matthew Hoch on the Post Retirement Employment matter. The appearance alone, of a California State Administrative Law Judge ruling on California's largest Public Employment Retirement System, has the obvious potential for bias. I.E. discrediting my defense as unpersuasive and refusing to address the language in California Government Code section 7522.56, as used in my defense. CalPERS correspondence letter to me September 25, 2023 alleged my employment at CVFD violated Gov. Code section 21224(a) and provided the consequence of that violation under Gov. Code section 21220.

California Government Code section 7522.56(a) states verbatim, "**this section shall apply to any person receiving a pension benefit from a public retirement system and shall supersede any provision in conflict with this section**". Under section 7522.56(c) I had skills needed to perform work of limited duration. The code makes no reference as to who determines a limited duration. It merely states, employment of limited duration with a 960-hour maximum. My 390 hours of employment was a limited duration, falling well below the 960-hour limit. The California State Administrative Law Judge completely dismissed Gov. Code section 7522.56 in his proposed decision. This creates an ambiguous proposed decision by ignoring the verbatim language in Gov. Code section 7522.56. In a single sentence of his 19-page proposed decision, he claimed my argument to be unpersuasive using Gov. Code section 7522.56. This code is directly out of Public Employment Retirement Law (PERL), the very backbone that Governs CalPERS. This code is the basis of my factual claim and was presented and allowed as evidence in the hearing. Regardless of the Judge considering it unpersuasive, it is PERL. The language in Gov. Code section 7522.56 confirms I did not violate CalPERS alleged violation of Gov. Code section 21224(a) on the grounds that Gov. Code section 7522.56 states, "**this section shall apply to any person receiving a pension benefit from a public retirement system and shall supersede any provision in conflict with this section**". It's very clear that CalPERS and the California State Administrative Law Judge refuse to recognize the language in Gov. Code section 7522.56. As of the time of my employment at CVFD, the plain, easy to understand

language in Gov. Code section 7522.56 clears me from violating PERL. This code must to be recognized by CalPERS.

The California State Administrative Law Judge makes reference to multiple paragraphs of Publication 33 in his report however, Publication 33 falls short of verbatim language utilized in Public Employment Retirement Law. CalPERS publications are mere guidelines, not actual Public Employment Retirement Law. CalPERS publishes portions of language they want in there publications. These Publications are references only, and carry no weight of statutory law. CalPERS must recognize the language in Gov. Code section 7522.56 regardless of the California State Administrative Law Judge evading the code in his proposed decision. Gov. Code section 7522.56 states **"this section shall apply to any person receiving a pension benefit from a public retirement system and shall supersede any provision in conflict with this section."** In the future, CalPERS may propose to amend the statutory language in Gov. Code section 7522.56 however, this code currently protects me in this alleged matter.

CalPERS and the California State Administrative Law Judge claim, I must reimburse CalPERS for money received during employment at CVFD. CalPERS and the California State Administrative Law Judge are wrong in the amount of money I received from CalPERS during employment. I received two direct deposits of \$9399.08 during employment at CVFD, based on Jim Dubendorf's correspondence letters from CalPERS. This totaled \$18,798.16 not \$29,072.40. All other direct deposits from CalPERS were received before employment at CVFD or post-employment at CVFD.

Pursuant to the proposed decision on this matter, the California State Administrative Law Judge did not adequately disclose and he omitted material facts regarding this case. He never addressed the language in Gov. Code section 7522.56. The simple, easy to understand language in this code clears me of any alleged violations. The Judge never addressed the fact that a reinstatement from retirement form was never submitted. The Judge never addressed CalPERS's only allegation against me, violating Gov. Code section 21224(a). In the Judges report on pg.17, #15 & pg.18, #20, he alleged my employment violated PERL, Gov. Code section 21202. CalPERS never alleged me violating Gov. Code section 21202 whereas, Gov. Code section 7522.56 states **"this section shall apply to any person receiving a pension benefit from a public retirement system and shall supersede any provision in conflict with this section."**

In conclusion, the California State Administrative Law Judges proposed decision completely misses the point. The California State Administrative Law Judge never ruled on the alleged violation presented by CalPERS. He failed to address CalPERS alleged violation against me, Gov. Code section 21224(a). The Judges proposed decision claims I violated Gov. Code, section 21202, a code he randomly added. CalPERS never presented allegations against me in Gov. Code section 21202. The Judge completely ignored the language in Gov. Code section 7522.56 and created his own violation, Gov. Code section 21202. My claim is protected by California Government Code section 7522.56(a) which states verbatim, **"this section shall apply to any person receiving a pension benefit from a public retirement system and shall supersede any provision in conflict with this section"**. Under section 7522.56(c) I had skills needed to perform work of limited duration. The code makes no reference as to who determines a limited duration. It merely states, employment of limited duration with a 960-hour

maximum. My 390 hours of employment was a limited duration, falling well below the 960-hour limit. In addition, CalPERS created an inaccurate and an overly inflated alleged amount that I owe. There is no basis for such claim. CalPERS is not an injured party in this matter. I acquired no service credit or retirement rights during my employment at CVFD. This scenario is no different than working for a non-CalPERS employer. I motion to have this case dismissed with prejudice!

Respectfully,

*Matthew Hoch*

Matthew Hoch