



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
P. O. Box 295

TRENTON, NEW JERSEY 08625-0295  
Telephone (609) 292-7524 / Facsimile (609) 777-1779  
TRS 711 (609) 292-6683  
[www.nj.gov/treasury/pensions](http://www.nj.gov/treasury/pensions)  
December 7, 2023

PHILIP D. MURPHY  
*Governor*

TAHESHA L. WAY  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

Sent via email to: [REDACTED]

Thu-Thuy Nguyen  
[REDACTED]

RE: PERS # [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Ms. Nguyen:

I am writing in reference to the decision of the Board of Trustees (Board) of the Public Employees' Retirement System (PERS) denying your request for a retroactive effective date of your Deferred retirement. The Board originally denied your request at its meeting of September 20, 2023. By way of letters dated October 4, 2023 and October 20, 2023, you appealed the Board's decision. At its meeting on November 15, 2023, the Board considered your appeal.

After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing. Thereafter, the Board directed the undersigned to draft a Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its meeting of December 6, 2023.

### **FINDINGS OF FACT**

The Board made the following factual findings.

On or about December 4, 2018, the Division of Pensions and Benefits (Division) sent you a letter advising that your PERS account was vested as you had attained 10 years of service credit and would be eligible to apply for a retirement benefit. The letter also advised you that:

Your retirement benefit is not automatic. You must submit an Application for Retirement Allowance before any benefit can begin. In addition, the effective date of the retirement cannot be earlier than the date you file the application and there are no retroactive payment for periods prior to the retirement date.

First, the Board found that you were not eligible to receive a Deferred retirement at the time you separated from employment on March 31, 2017, as you were 54 years of age and had 12 years and 3 months of Service credit. You would only become eligible for a Deferred retirement benefit on the first of the month after you turned 60 years of age or November 1, 2022.

On or about June 16, 2023, you wrote to the Division and requested a retirement benefit retroactive to when you separated from employment, March 31, 2017. At the Board's September 20, 2023 meeting, you also asserted that you contacted the Division's Office of Client Services in September 2022 in order to obtain assistance with logging into your Member Benefits Online System (MBOS) account so that you were able to access your account and file for retirement.<sup>1</sup> You also alleged that you did not file your application at that time because you were told that you would receive a call back regarding your account. However, the recording reveals that the Client Services Representative advised that you would receive an email from "myNewJersey" with instructions on resetting your password so that you could access your MBOS account. Thus, you Board found that you did not receive any incorrect guidance from the Division.

The Board found that although you were properly noticed and provided instructions on how to file for retirement benefits, you did not file for Deferred retirement benefits until February 16, 2023. Accordingly, the Board denied your request for an effective date of March 31, 2017 for your Deferred retirement. You filed a timely appeal of the Board's decision.

At its meeting on November 15, 2023, the Board considered your appeal, affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an

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<sup>1</sup> During the call, the representative discovered that the email address you used to set up your myNewJersey account had changed.

administrative hearing and directed the undersigned to draft detailed Findings of Fact and Conclusions of Law for review at its December 6, 2023 meeting.

### **CONCLUSIONS OF LAW**

The Board made the following conclusions of law.

Eligibility for Deferred retirement benefits is controlled by N.J.S.A. 43:15A-38, which states, in pertinent part:

Should a member of the Public Employees' Retirement System, after having completed 10 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for cause on charges of misconduct or delinquency, such person may elect to receive:

(a) The payments provided for in section 41b of this act,<sup>2</sup> if he so qualifies under said section, or;

(b) A deferred retirement allowance, beginning at the retirement age...

[(Emphasis added).]

The Board found that you are not eligible for a retroactive retirement dating back to your separation from employment because you were not eligible for a Deferred retirement benefit until you attained 60 years of age.<sup>3</sup> At the time of your separation from employment, you were 54 years of age and had 12 years and 3 months of service credit. As a PERS Tier 1 member, you were eligible for a Deferred retirement benefit on the first of the month following your 60<sup>th</sup> birthday, meaning November 1, 2022.

Further, N.J.A.C. 17:2-6.1 states, in pertinent part:

(a) Applications for retirement must be made over the Internet, using the online forms required by the System through a member's secure account established through the Member Benefits Online System (MBOS). Such forms must be completed in all respects and filed with the Division before the requested date of retirement. A member's retirement application becomes effective on the first of

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<sup>2</sup> N.J.S.A. 43:15A-41

<sup>3</sup> The Board notes that you successfully appealed your termination and were permitted to resign in good standing. Thus, at its meeting of September 20, 2023, the Board voted to allow the continuation of your Deferred retirement benefits.

the month following receipt of application unless a future date is requested.

[(emphasis added).]

Therefore, the earliest date on which you were eligible to apply for a Deferred retirement was November 1, 2022. However, in order to begin receiving a retirement benefit as of that date, you were required to file an application for retirement benefits prior to November 1, 2022. Rather, you filed an application for a Deferred retirement benefits on February 16, 2023. Thus, the effective date of your retirement is March 1, 2023, the first of the month following your application. The Board, at its meeting on March 15, 2023, approved your application. Although you were eligible for retirement benefits effective November 1, 2022, you did not have a retirement application on file at that time. As a result, the Board denied your request for a retroactive retirement date.

As noted above, the Board has considered your written submissions, personal statements and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

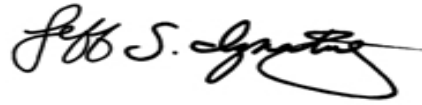
You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey  
Appellate Division  
Attn: Court Clerk  
PO Box 006  
Trenton, NJ 08625

Thu-Thuy Nguyen  
December 7, 2023  
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Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Ignatowicz". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Jeff S. Ignatowicz, Secretary  
Board of Trustees  
Public Employees' Retirement System

G-7/SD  
C: J. Ehrmann (ET)