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MIKIE SHERRILL
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STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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AARON BINDER
Acting State Treasurer

DR. DALE G. CALDWELL
Lt. Governor

SONIA RIVERA-PEREZ
Acting Director

February 19, 2026

Sent via email and regular mail

LAW OFFICES OF DANIEL J. ZIRRITH, LLC
ATTORNEYS AT LAW



RE: Joseph Maggio
PERS [REDACTED]

Dear Mr. Zirrieth:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the determination of the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) regarding your client, Joseph Maggio. At its meeting on October 15, 2025, the PERS Board denied Mr. Maggio's request for a retroactive effective date for his previous purchase of Out-of-State service credit. You filed a timely appeal on behalf of Mr. Maggio, which the Board considered at its meeting on January 21, 2026. Finding no genuine issue of material fact in dispute, the Board 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 February 18, 2026, meeting.

FINDINGS OF FACT

The Board made the following findings of fact:

The record before the Board establishes that on or about July 14, 2008, Joseph Maggio filed an *Application To Purchase Service Credit* (Purchase Application), requesting to purchase Out-of-State service credit with regard to his employment with the New York City Department of Environmental Protection (NYCDEP) for the period covering June 21, 1993 through November 23, 2007. The Division of Pensions and Benefits (Division) provided the NYCDEP with an *Employment Verification Form* (Form) to

verify his prior employment. The Division received verification and by letter dated August 27, 2008, requested information from the New York City Employees' Retirement System (NYCERS) to determine his eligibility to purchase the aforementioned service. Mr. Maggio was copied on both requests. On September 16, 2008, NYCERS confirmed that Mr. Maggio was a member of that retirement system and that he was receiving or entitled to receive a pension from NYCERS based upon that employment.

By letter dated October 3, 2008, the Division notified Mr. Maggio that the service he sought to purchase was not eligible for purchase because NYCERS indicated that he was eligible to receive a retirement benefit based upon that service. The letter further indicated that an Out-of-State purchase would only be permitted when proof of ineligibility for NYCERS retirement benefits is provided, consisting of a letter from NYCERS indicating: (1) his contributions have been refunded; or (2) that he had forfeited his rights to receive a retirement benefit. Accordingly, based upon the information provided, the Division properly denied Mr. Maggio's purchase request and there is no record of him contemporaneously questioning the denial.

After the Division denied his request, the Legislature enacted Chapter 89, P.L. 2008, codified at N.J.S.A. 43:15A-73.1, which states, in pertinent part:

Notwithstanding any other provision of law to the contrary, service credit established in the retirement system by a member through purchase in accordance with this section, which purchase was made by an application submitted on or after the effective date [Nov. 1, 2008] of [P.L.2008, c.89](#), except a purchase for military service in the Armed Forces of the United States, shall not be eligible for consideration when service is used to determine the qualification of the member for any health care benefits coverage paid, in whole or in part, by a public employer after the member's retirement.

Thus, after the Division properly denied Mr. Maggio's purchase request, the Legislature amended the law to exclude purchases of prior service for use in calculating a retiree's health benefits.

Approximately a year and a half after the Division's denial, on February 2, 2010, Mr. Maggio submitted a new Purchase Application to purchase that same Out-of-State service. Again, the Division requested completion of the Form as well as requested information from NYCERS regarding his eligibility

to receive a pension based upon that service. On March 3, 2010, Mr. Maggio provided proof that on January 2, 2009, he withdrew all of his funds from NYCERS in the amount of \$1,020.22 and that there were no other benefits payable to him. In addition, on March 17, 2010, NYCERS indicated that Mr. Maggio was not receiving or eligible to receive a retirement benefit.

Therefore, on April 9, 2010, Mr. Maggio was issued a Purchase Cost Quotation indicating that he was eligible to purchase 10 years of his Out-of-State service. The letter indicated:

Please note that effective November 1, 2008, under Chapter 89, P.L. 2008, all purchase requests for Out-of-State Service cannot be used for Post-Retirement Medical purposes.

On July 29, 2010, the Division acknowledged receipt of Mr. Maggio's direct rollover for the lump-sum payment for the purchase of 10 years of Out-of-State service. This acknowledgement again indicated that this service cannot be used for post-retirement medical benefit purposes. In September 2012, he was advised via email from the Division's Office of Client Services (Client Services) that the purchase cannot be used for post-retirement medical benefit purposes. Again, in 2014 and 2024, he communicated with Client Services about this same issue and was provided with the same information. However, on February 10, 2025, Mr. Maggio requested an administrative review of the October 3, 2008 denial of the purchase of his Out-of-State service in light of the fact that it was based on incorrect information. The Division was also in receipt of a letter dated July 31, 2025, from NYCERS confirming that the information completed on the August 27, 2008 letter was incorrect. Specifically, the letter indicated, "Joseph Maggio was never receiving, nor ever entitled to receive a pension benefit from NYCERS." On June 30, 2025, the Division denied his request for a retroactive effective date for the previous purchase of his Out-of-State service.

By letter dated August 15, 2025, Mr. Maggio formally appealed the Division's administrative determination, asserting that the original application was submitted before the November 1, 2008 deadline and therefore, the previous purchase of his Out-of-State service should count toward his post-retirement medical benefits. The Board noted that the Division's October 3, 2008 denial was based on information provided by NYCERS. The basis for the Division's denial, i.e. he was eligible for a NYCERS benefit, was

included with the denial letter along with a phone number to contact the Division if he had any questions. However, Mr. Maggio did not question the Division's denial until 2010, approximately a year and a half later and after the change in the law, when he again requested to purchase this service and provided proof that he was not eligible to receive a retirement benefit from NYCERS based upon that service.

The Board also noted that when Mr. Maggio authorized the purchase of his Out-of-State service, the Division advised him that the purchased service could not be used to qualify for post-retirement medical benefits. Nevertheless, he authorized the purchase and did not question it until 2012. He followed up again in 2014, and again in 2024, which ultimately resulted in his appeal to the Board.

At its meeting on October 15, 2025, the PERS Board considered the written submissions of Mr. Maggio, the statements of Shirlene Scott, Chief, Enrollment, Purchase, Loan and Withdrawal Bureau, Division of Pensions and Benefits' (Division) and all documentation in the record concerning Mr. Maggio's request for a retroactive effective date for his previous purchase of Out-of-State service credit. Thereafter, the Board affirmed the Division's determination set forth in its letter dated June 30, 2025 and denied the request.

By letter dated December 18, 2025, you appealed the Board's determination on behalf of Mr. Maggio and requested a hearing in the Office of Administrative Law. With your appeal letter, you also provided a Certification of Joseph Maggio (Certification) and exhibits A-J. At its meeting on January 21, 2026, the Board found no genuine issue of material fact in dispute and denied your request for an administrative hearing and directed the undersigned to draft detailed Findings of Fact and Conclusions of Law for review at its February 18, 2026 meeting.

CONCLUSIONS OF LAW

The Board made the following conclusions of law:

After careful consideration, the Board denied Mr. Maggio's request for a retroactive effective date for the purchase of his Out-of-State service credit. In making its determination, the Board relied on N.J.S.A. 43:15A-73.1 and N.J.A.C. 17:2-5.5(a)(7)(ii).

It is undisputed that the Division properly denied Mr. Maggio's first attempt to purchase his Out-of-State service in accordance with N.J.S.A. 43:15A-73.1, as his previous employer advised that he was eligible for a pension benefit from another retirement system. The statute provides, in pertinent part:

No application shall be accepted for the purchase of credit for the service if, at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon that service.

[N.J.S.A. 43:15A-73.1.]

PERS' regulations also preclude the purchase of Out-of-State service in cases where the member is eligible to receive a retirement benefit. N.J.A.C. 17:2-5.5(a)(7)(ii) states:

7. Eligible out-of-State public employment up to a total purchase of 10 years, provided the member is not receiving or eligible to receive a retirement benefit from any other system for the same period of time.

ii. For purchase applications received November 1, 2008 or later, out-of-State purchases cannot be used to qualify for post-retirement medical benefits;...

By letter dated December 18, 2025, you appealed the PERS Board's determination of October 15, 2025. In your appeal, you indicate that the Division's October 3, 2008 denial letter did not indicate that it was based on information received from NYCERS. However, the Board notes that Mr. Maggio was copied on the Division's August 28, 2008 communication to NYCERS seeking information as to his eligibility to receive a pension. Also, the denial letter clearly indicated that the determination was based on the fact that Mr. Maggio may be entitled to a retirement benefit from NYCERS.

The Board agrees that the Division's October 3, 2008 decision was based upon incorrect information from NYCERS. However, at the time, the Division had no reason to believe that incorrect information was provided. In Mr. Maggio's letter dated February 10, 2025 addressed to the Division, he

indicates that he was never entitled to a retirement benefit from NYCERS. Therefore, Mr. Maggio had reason to question the Division's October 3, 2008 denial and had the opportunity to seek clarification. However, it was not until 2010, well after the change in law, that Mr. Maggio again requested to purchase this service and provided proof that he was not eligible to receive a retirement benefit from NYCERS based upon that service.

You argue that Mr. Maggio was unaware that this service was ineligible for Post-Retirement Medical Benefits. Also, Mr. Maggio indicated in his Certification that the April 9, 2010 Purchase Quote did not advise that the purchase was ineligible for the Post-Retirement Medical Benefits. The Board disagrees. The April 9, 2010 Purchase Quotation letter and the July 29, 2010 acknowledgement letter included the following disclaimer: "Please note that effective November 1, 2008, under C.89 P.L. 2008, all purchase requests for Out-of-State Service cannot be used for Post-Retirement Medical Benefits." This disclaimer clearly indicates that the service was ineligible for Post-Retirement Medical Benefits. Also, in 2012, 2014 and 2024, Mr. Maggio communicated with Client Services about this same issue and was provided with the same information.

Finally, the Board rejected Mr. Maggio's argument that equitable principles require the Board to find that his purchase should be eligible for post-retirement health benefits. It is well-settled that equitable estoppel is "rarely invoked against a governmental entity..." Middletown Twp. Policeman's Benevolent Ass'n Local No. 124 v. Twp. of Middletown, 162 N.J. 361, 367 (2000); Tasca v. Bd. of Trs., Police and Firemen's Ret. Sys., 458 N.J. Super 47, 60 (App. Div. 2019). "The essential principle of the policy of estoppel . . . is that one may, by voluntary conduct, be precluded from taking a course of action that would work injustice and wrong to one who with good reason and in good faith has relied upon such conduct." Middletown, supra, 162 N.J. at 367.

Here, neither the Division nor Board made any misrepresentation or engaged in any conduct that Mr. Maggio relied upon to his detriment. While unfortunate, NYCERS incorrectly advised the Division that Mr. Maggio was eligible for a pension and Mr. Maggio acknowledges that his contributions remained in his

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account at the time of the application. The PERS statute allowing Out-of-State purchases precludes such members from purchasing time that can be used to qualify for another retirement system's benefits. Instead of contesting the Division's determination, Mr. Maggio waited approximately a year and half before withdrawing his contributions and submitting a second purchase application. The fact that the law changed in the meantime simply fails to establish an equitable basis for the Board to allow a purchase in direct contravention of its own statute.

As noted above, the Board has considered your written submissions 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
Phone: (609) 292-4822

Sincerely,



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

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C: S. Scott (ET)

Joseph Maggio (via email)