



State of New Jersey

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

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

November 22, 2021

Sent via email to: [REDACTED]

Raymond M. Baldino, Esq.
Zazzali, Fagella, Nowak, Kleinbaum & Friedman

[REDACTED]

RE: Carrie Grapstein
TPAF MS# [REDACTED]
PERS MS# [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. Baldino:

I am writing in reference to the decision of the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) regarding your appeal of the Board's denial of your client Carrie Grapstein's request to transfer service credit accrued in her expired (but still vested) Public Employees' Retirement System (PERS) account to her active TPAF account.

At its meeting of October 7, 2021, the Board considered your personal statements, reviewed your written submissions and accompanying documentation and found that the statutes and relevant case law governing the TPAF do not permit the Board to grant Ms. Grapstein the opportunity to transfer service credit from her expired PERS account to her active TPAF account. Finding no genuine issue of material fact in dispute, the Board also denied your request for an administrative hearing. Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its November 10, 2021 meeting.

FINDINGS OF FACT

The record shows that Ms. Grapstein established membership in the PERS under account [REDACTED] on November 1, 1999 based on her employment as a Bookkeeper Assistant with Warren Township Board of Education (BOE) in accordance with the guidelines at that time. Ms. Grapstein's PERS pension contributions with this location continued through June 30, 2016. Subsequently, Ms. Grapstein accepted a position with the Green Brook Township BOE on July 1, 2016, and continued through December 31, 2016, at which time her account reflected a total of 206 months of PERS service credit. The 206 months of PERS service credit means that Ms. Grapstein is vested in the PERS and eligible for Deferred retirement.¹ See N.J.S.A. 43:15A-38.

Pursuant to N.J.S.A. 43:15A-7(e) Ms. Grapstein's PERS membership account expired on December 31, 2018, two years after she ceased making contributions to that membership account. Ms. Grapstein began a TPAF-covered position at Essex Regional Educational Service Commission (ERESC) as of April 1, 2018. It is important to note that Ms. Grapstein was issued a *Certification of Payroll Deductions* for her TPAF enrollment at ERESC. This certification clearly showed her TPAF enrollment date as April 1, 2018.

On September 4, 2018, Ms. Grapstein received a letter from the Division of Pensions and Benefits (Division) offering her the option to apply for a retirement benefit. No response was received. Ms. Grapstein did not return to PERS-covered employment within two years and thus, her PERS membership account expired on December 31, 2018.

On June 19, 2019, the Division received an email from Stephen Sarsfield, Payroll Account/Certifying Officer, ERESC, stating that Ms. Grapstein's interfund transfer form was not submitted and acknowledged that it was beyond the 2-year deadline. The Division contacted

¹ Additionally, the record indicates that Ms. Grapstein filed an *Application for Retirement Allowance* requesting a Deferred retirement with the Division on December 18, 2016, January 2, 2017 and May 2, 2017 respectively. Subsequently, Ms. Grapstein cancelled the *Application for Retirement Allowance* requesting a Deferred retirement with the Division on December 24, 2016, May 1, 2017, and October 16, 2017 respectively.

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ERESC via phone on July 15, 2019, informing them that Ms. Grapstein is not permitted to transfer the PERS service credit because her PERS membership account is inactive.

On August 20, 2019, Ms. Grapstein received a second letter from the Division offering her the option to apply for a retirement benefit. No action was taken. Ms. Grapstein's PERS membership account [REDACTED] remains vested.

N.J.A.C. 17:3-7.1(b) provides a TPAF member with the option to interfund transfer a PERS membership to a TPAF membership, provided the *Application for Interfund Transfer* is received within the requisite time frame. In order for the interfund transfer to have occurred, Ms. Grapstein would have had to have filed an *Application for Interfund Transfer* with the Division before her PERS membership account expired on December 31, 2018. However, this did not occur.

On December 14, 2020, the Board Office received an email from Ms. Grapstein appealing the denial of her interfund transfer.

On February 1, 2021, the Board Office responded via email that the appeal requires further administrative review and is not ripe for consideration by the TPAF Board.

In response, on March 25, 2021, Nikki Munko, Supervising Pensions Benefits Specialist, Enrollment Section, informed Ms. Grapstein that her *Application for Interfund Transfer* was received on December 31, 2019, her PERS membership account [REDACTED] expired on December 31, 2018 and the option to transfer this account expired on December 31, 2018. Ms. Munko's administrative denial letter was forwarded to the Board as part of Ms. Grapstein's appeal.

The record establishes that on April 10, 2018, Ms. Grapstein's TPAF enrollment application was received via the Employer Pensions and Benefits Information Connection (EPIC) on-line application, as required due to her new position as Assistant School Business Administrator. ERESA certified that Ms. Grapstein began employment as Assistant School Business Administrator effective April 2, 2018. Therefore, pursuant to N.J.S.A. 18A:66-4(b)(3), Ms. Grapstein was enrolled as a Tier 5 member in the TPAF.

By letter dated July 26, 2021, you filed an appeal of the Board's decision. At its meeting of October 7, 2021, the Board considered your appeal and request for a hearing. The Board ultimately found that no genuine issue of material fact was in dispute and therefore directed the Board Secretary to draft detailed findings of fact and conclusion of law for review at its meeting of November 10, 2021.

CONCLUSIONS OF LAW

The issue is whether Ms. Grapstein is eligible to interfund service credit from her expired PERS membership account into her active TPAF membership account. As noted above, the last contribution to Ms. Grapstein's PERS account was on December 31, 2016, at which time her PERS membership was vested as it reflected 17 years and 2 months of PERS service credit. There was no record of activity in Ms. Grapstein's account after December 31, 2016. Thereafter, on June 19, 2019, the Division received an email from Stephen Sarsfield, Payroll Account/Certifying Officer, ERESC, stating that Ms. Grapstein's interfund transfer form was not submitted and acknowledged that it was beyond the 2-year deadline.

The Board affirmed the Division's determination that Ms. Grapstein is not permitted to interfund service credit from her expired PERS membership account into her active TPAF membership account. The basis of the Board's determination is that Ms. Grapstein's PERS membership account was inactive for more than two years, in accordance with N.J.S.A. 43:15A-7(e) and N.J.A.C. 17:3-7.1.

N.J.S.A. 43:15A-7(e) states:

Membership of any person in [PERS] shall cease if he shall discontinue his service for more than two consecutive years.

As N.J.S.A. 43:15A-7(e) stipulates membership in the PERS shall cease after more than

two years of inactivity, Ms. Grapstein no longer had the option to resume contributions to her expired PERS membership account or interfund service credit from that account to her TPAF membership account.

In addition, N.J.A.C. 17:3-7.1 states in pertinent part:

(b) [A] member is eligible to transfer membership from another State-administered defined benefit retirement system, provided the membership has not expired or has not been withdrawn and provided that all service eligible for participation has ceased.

1. A member desiring to transfer service credit and contributions from one State-administered defined benefit retirement system to another, must file an "Application for Interfund Transfer." This application will terminate membership in the former system when approved. (Emphasis added)

...

5. The member is not eligible to transfer service credit if any of the following conditions apply:

ii. The member has credit in the present system for service earned after the date of enrollment in the new system (concurrent service) unless the member meets the criteria established by *N.J.S.A. 43:15A-14*. *N.J.S.A. 43:15A-14* provides that a member of the PERS at the time of enrollment in the TPAF may transfer the non-concurrent PERS service if the member ceased to be an active contributing member of the PERS three or less years from the date of enrollment in the TPAF. The member must apply to transfer this service no more than two years from the date of the last contribution in the PERS, or the member's PERS account has not expired due to the provisions of *N.J.S.A. 43:15A-8*. A member who transfers service under this provision shall receive credit for the salaries earned in both the TPAF and PERS during the period of concurrent service; or

iii. The account has expired (it has been more than two years from the date of the last contribution, and the member is not vested, nor has the member's account remained active due to the provisions of *N.J.S.A. 18A:66-8*).

Interfund transfers of service credit are not mandatory. Rather, such transfers are optional, and occur only at the member's request.

You assert that Ms. Grapstein initiated her request by submitting an *Application to Interfund Transfer* with her former employer, Green Brook Township BOE in April of 2018 but

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Green Brook Township BOE failed to complete the form and submit it to the Division. However, while some employers may assist a member in matters such as these, as noted above an interfund transfer is optional, and is not a mandatory transaction, like enrollment. Therefore, if an employee chooses to exercise the option, the responsibility to timely file the required application lies with the member, not the employer.

In this case, Ms. Grapstein was aware that her last contribution to her PERS membership account [REDACTED] was December 30, 2016 as indicated in two employer certifications completed by Green Brook Township BOE on March 21, 2017 and July 20, 2016, well before the account expired. Ms. Grapstein did not exercise her interfund transfer option in a timely manner, and her PERS membership account expired on December 30, 2018 in accordance with N.J.S.A. 43:15A-7(e). Therefore, Ms. Grapstein is not eligible to interfund transfer service credit from her expired PERS membership account to her active TPAF membership account. Cf. *Farrington v. State*, 2018 N.J. Super. Unpub. LEXIS 189, at *8 (App. Div. Jan. 26, 2018) (affirming agency determination that PERS account inactive for more than two years could not be interfund-transferred to active Judicial Retirement System account).

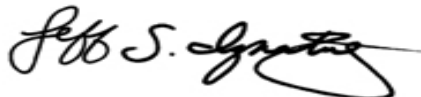
As noted above, the Board has reviewed all relevant documentation and written submissions, and because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the TPAF enabling statutes and regulations and without the need for an administrative hearing. Accordingly, this correspondence constitutes the Final Administrative Determination of the Board of Trustees of the Teachers' Pension and Annuity Fund.

You have the right, if you wish, to appeal this final administrative determination 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:

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

Sincerely,

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

Jeff S. Ignatowitz, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-2/SD

c: N. Munko (ET)
DAG Joseph Palumbo (ET)
Carrie Grapstein