



# State of New Jersey

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

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July 13, 2018

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

Law Offices of Daniel J. Zirrieth, LLC  
Edward H. Kerwin, Esquire



RE: Sonya Kithcart



Dear Mr. Kerwin:

At its meeting on July 12, 2018, the Board of Trustees of the Teachers' Pension and Annuity Fund (TPAF) considered the following in your appeal on behalf of your client, Sonya Kithcart:

- a) All exhibits;
- b) The Initial Decision of Administrative Law Judge (ALJ) Leland S. McGee, dated May 23, 2018;
- c) Exceptions filed by Deputy Attorney General (DAG) Robert S. Garrison, Jr., dated June 18, 2018<sup>1</sup>; and
- d) Reply to exceptions filed by Edward H. Kerwin, Esq., dated June 22, 2018.

The Board noted the exceptions filed by DAG Garrison and the reply to exceptions filed by you. Thereafter, the Board adopted the Initial Decision of ALJ McGee thereby reversing its original determination and approving Accidental Disability retirement benefits. Ms. Kithcart is totally and permanently disabled as a direct result of the traumatic event which occurred on April 9, 2014 during and as a result of her regular or assigned duties. Ms. Kithcart is approved for Accidental Disability retirement benefits effective July 1, 2015, under her payment selection of the Maximum option.

***Ms. Kithcart has the right to change this selection to another retirement option by filing written notification with the Division of Pensions and Benefits' Retirement Bureau within 30 days from the date of Board approval, otherwise the retirement will stand as approved and cannot be changed for any other reason.***

Once the Board approves a member for a disability retirement allowance, the member's retirement application shall not be withdrawn or canceled, or amended to a later retirement date than the date specified in the approved retirement application.

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<sup>1</sup> An extension of time to file exceptions was timely requested and granted.

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This matter is being referred to the Retirement Bureau to process the difference between Ordinary Disability and Accidental Disability retirement benefits, retroactive to July 1, 2015. Please allow approximately four weeks for the processing of this benefit.

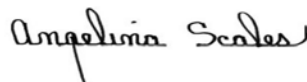
Ms. Kithcart should be aware that a retirement allowance payable to a disability retiree is subject to adjustment if earnings from employment after retirement exceed the difference between the pension portion of the retirement allowance and the salary attributable to the former position.

The statute permits the Board of Trustees to require disability retirees to undergo annual medical examinations to determine if they continue to be totally and permanently disabled and, therefore, eligible for continued receipt of a disability retirement allowance.

Pension laws require re-enrollment of a retiree under certain conditions. Disability retirees needing guidance on returning to employment should visit our website at [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions) and refer to the Certifying Officer Memorandum dated August 22, 2014. Retirees needing additional clarification should contact the Division to determine the impact of a return to employment would have on their disability retirement benefits.

The Board of Trustees of the Teachers' Pension and Annuity Fund hereby adopts the findings of fact and conclusions of law of the Administrative Law Judge's Initial Decision and further adopts the recommendations contained therein.

Sincerely,



Angelina Scales, Secretary  
Board of Trustees  
Teachers' Pension and Annuity Fund

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c: V. McManus; L. Milton; P. Sarti; M. Munko; S. Schreckengost; L. Williams (ET)  
DAG Robert Garrison (ET)  
OAL, Attn: Library (OAL Decisions) (ET)  
Sonya Kithcart  
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