



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

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

April 22, 2021

Sent via email to: [REDACTED]

Vittal Sitaram
[REDACTED]

RE: PERS [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. Sitaram:

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 the Division of Pension and Benefits (Division) to recalculate your retirement benefit and your request to change your pension from Option D to Option C. The Board originally denied your request at its meeting of September 16, 2020. You appealed the Board's decision, via letter dated January 2, 2021.¹ At its meeting of March 17, 2021, the Board of Trustees of the Public Employees' Retirement System reviewed your letter dated January 2, 2021 and December 30, 2020 and denied an administrative hearing, essentially for the reasons set forth in the Board's denial letter dated October 19, 2020. Therefore, the Board directed the Board Secretary to draft a Final Administrative Determination for review at its meeting of April 21, 2021. After careful consideration, the Board approved this Final Administrative Determination.

¹ You advised that you did not receive the Board's original determination. The Board accepted your appeal as timely.

FINDINGS OF FACT

The record before the Board reveals that you filed for a Service retirement benefit under Option D, effective January 1, 2020.² The Board approved your application at its meeting of January 15, 2020. A letter was sent to you on that same date, advising you that your retirement had been approved and that, if you wished to make any changes to your application, you could amend your application within 30 days of the effective date of retirement or within 30 days of Board approval, whichever is later. Thus, any changes to your application had to be made by February 14, 2020.

On January 16, 2020, you wrote to the Division and advised that you disagreed with the Reduction Tables used to calculate your pension benefit as well as the benefits your designated beneficiary would receive. You also disagreed with the final average salary upon which those benefits would be calculated. On January 24, 2020, the Division wrote to you and advised that salary used to calculate your benefit is based upon the salary information provided by your employer, and if there were any discrepancy, you should contact your employer. On January 29, 2020, you replied and asserted that even though the Reduction Tables you relied upon did not apply to retirees of your age and/or the age of your beneficiary, the Division was required to calculate your benefit based upon the factors that were publicly listed on the web site's Fact Sheets. On February 7, 2020, the Division advised that Fact Sheet #14 is not a comprehensive list of the factors used to calculate retirement benefits. In any event, the Reduction Table used to calculate your benefit was correct and would not be changed.

On February 10, 2020, you filed the *Change of Retirement Option Only* form, changing your retirement from Option D to Option C. On February 19, 2020, the Division wrote to you and advised that your retirement would be processed as an Option C retirement. However, on

² The record reveals that you filed a number of retirement applications. However, only the December 26, 2019, application, is relevant to the Board's decision.

February 24, 2020, you filed a second *Change of Retirement Option Only* form changing your retirement from Option C to Option D. You also wrote to the Division and advised that you wished to retain Option D and that would be your final designation. However, on March 15, 2020, you again requested to change your retirement from Option D to Option C. On May 5, 2020, the Division wrote and advised that your March 15, 2020, request was beyond the 30-day time period to change your retirement option. Thereafter, you filed an appeal with the PERS Board.

At its meeting of September 16, 2020, the Board considered your appeal and, after careful consideration denied your request to change your retirement option after the thirty-day period in accord with the regulation statute as detailed in its letter of October 19, 2020. The Board also denied your request to use the Reduction Tables that do not comport with your age and/or the age of your beneficiary.

You filed an appeal of the Board's decision via letter dated December 30, 2020. In that letter, you maintain that the Division should use Reduction Tables that do not apply to your age or that of your beneficiary. The Board considered your appeal at its meeting of March 17, 2021, and determined that no issues of material fact were in dispute and denied your request for an administrative hearing.

CONCLUSIONS OF LAW

The Board made the following conclusions of law.

A PERS member is permitted to amend their retirement application at any time prior their pension benefit becoming due and payable. Changes to a retirement application are governed by N.J.A.C. 17:2-6.3, which states, in pertinent part:

a member shall have the right to withdraw, cancel, or change an application for retirement at any time before the member's retirement allowance becomes due and payable through MBOS or by sending a written request signed by the member. Thereafter, the retirement shall stand as approved by the Board.

A retirement allowance becomes “due and payable” after 30 days have elapsed following the effective retirement date or Board approval, whichever is later. N.J.A.C. 17:2-6.3(b). Accordingly, the Board denied your request to amend your retirement option because the request was not made within the 30 days as allowed under the regulation.

The Board also denied your request to apply the factors used in the Reduction Tables that do not apply to your age or the age of your beneficiary. The Board relied upon N.J.S.A. 43:15A-50 which provides, in pertinent part:

At the time of retirement, a member shall receive benefits in a retirement allowance payable throughout life, or the member may, on retirement, elect to receive the actuarial equivalent of the member's retirement allowance, in a lesser retirement allowance payable throughout life...

Thus, even though the Fact Sheet did not list all of the reduction factors the Division utilizes to determine retiree benefits, the Division is still required to utilize the actuarial equivalent calculations as provided by the statute. Moreover, at the time you were advised as to the existence of the Reduction Tables applicable to you and your beneficiary, you were in a position to properly select the option based upon those factors. While the Fact Sheet lists the factors for certain ages, it is not a comprehensive list of the factors the Division is required to use when computing retirement benefits. The Board rejected your argument that the Board was limited to only those Reduction Tables posted on its web site to calculate your pension benefits.

As noted above, the Board has considered your written submission 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.

Vittal Sitaram
April 22, 2021
Page 5

You also 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

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-11/JSI
C: D. Dinkler (ET); J. Ehrmann