



State of New Jersey

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

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www.nj.gov/treasury/pensions
May 5, 2023

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

Sent via email to: [REDACTED]

ANYANWU & ASSOCIATES, LLC
Evans C. Anyanwu, Esq.

[REDACTED]

RE: Kimberly Wright-White
TPAF [REDACTED] (Expired Account)

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. Anyanwu:

I am writing in reference to the decision of the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) denying the request of your client, Kimberley Wright-White, for her TPAF membership account to remain active. The Board originally denied Ms. Wright-White's request at its meeting of January 5, 2023.

You filed a timely appeal on behalf of Ms. Wright-White. At its meeting of April 13, 2023, the Board reviewed your written submission and considered Ms. Wright-White's personal statements. Finding that the statutes and relevant case law governing TPAF do not permit the Board to grant Ms. Wright-White's request for her TPAF membership account to remain active, the Board affirmed its original decision. Finding no genuine issue of material fact in dispute, the Board also denied your request for an administrative hearing. The Board's Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its May 4, 2023 meeting.

FINDINGS OF FACT

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The record establishes that Ms. Wright-White was enrolled in the TPAF on March 1, 1995 under membership account [REDACTED] based on her employment as a Teacher with Newark Board of Education. On July 1, 2015, Ms. Wright-White accepted a position at Marion P. Thomas Charter School (Marion) where she served as a Principal. She remained in this position and contributions were remitted from this location until June 30, 2019.

By letter dated March 2, 2021, the Division notified Ms. Wright-White that the last contribution to her TPAF membership account was on June 30, 2019, and having 10 or more years of service at that time, she is eligible to apply for a retirement benefit.

After two years with no pension contributions, Ms. Wright-White's TPAF membership account expired effective June 30, 2021, pursuant to the provisions of N.J.S.A. 18A:66-7(a).

On April 1, 2022, Samuel W. Bass, Esq., Ms. Wright-White's counsel at the time filed an appeal on her behalf. In his appeal, Mr. Bass asserted that Ms. Wright-White was not advised that her account would expire and requested an extension of her TPAF account.

In response, Mr. Bass received an administrative determination letter, dated April 25, 2022 from Robin Willever, Pension Benefit Specialist 3, Loan and Withdrawal Section, stating "[w]hen a member terminates employment, State law permits the account to remain active for a maximum of two years from the date of the last pension contribution. After two years, the account expires and the member loses the right to all membership benefits except for withdrawal or retirement." Ms. Willever enclosed a copy of the aforementioned March 2, 2021 letter and denied the request for an extension.

On November 9, 2022, you wrote to the Division advising that you represent Ms. Wright-White. You asserted that Ms. Wright-White actively sought public employment, and despite hiring freezes due to the pandemic, was in consideration for a position with the Department of Education,

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prior to the expiration of her account. You further assert that Ms. Wright-White has made “a showing of good cause” for her account TPAF membership account to remain active.

However, the circumstances under which Ms. Wright-White left employment, i.e. voluntary resignation, which are undisputed, do not qualify for a ten-year extension based on the plain language of N.J.S.A. 18A:6-8. Ms. Wright-White voluntarily left employment and the date of her last contribution to her TPAF membership account was June 30, 2019. Thus, in accordance with N.J.S.A. 18A:66-7(a), Ms. Wright-White’s TPAF membership account expired on June 30, 2021, after two years of inactivity. Accordingly, the Board denied your request for Ms. Wright-White’s TPAF membership account to remain active.

By letter dated March 2, 2023,¹ you filed an appeal of the Board’s decision. At its meeting of April 13, 2023, 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 May 4, 2023.

CONCLUSIONS OF LAW

The issue is whether Ms. Wright-White is eligible to maintain her expired TPAF membership account. As noted above, the last contribution to Ms. Wright-White’s TPAF account was on June 30, 2019, at which time her TPAF membership reflected 23 years and 5 months of TPAF service credit. There was no record of activity in Ms. Wright-White’s account after June 30, 2019.

N.J.S.A. 18A:66-7(a) states:

Membership of any person shall cease: (a) if, except as provided in section 18A:66-8, he shall discontinue his service for more than two consecutive years;

¹ The letter of appeal was filed timely, as Mr. Anyanwu did not receive the Board’s determination letter until January 20, 2023.

...

As N.J.S.A. 18A:66-7(a) requires membership in the TPAF shall cease after more than two consecutive years of inactivity, Ms. Wright-White no longer had the option to keep her TPAF membership account open.

You represent that Ms. Wright-White actively sought public employment, and despite hiring freezes due to the pandemic, was in consideration for a position with the Department of Education, prior to the expiration of her account. You further assert that Ms. Wright-White has made “a showing of good cause” for her account TPAF membership account to remain active. The Board disagrees.

The circumstances under which Ms. Wright-White left employment, i.e. voluntary resignation, which are undisputed, do not qualify for a ten-year extension based on the plain language of N.J.S.A. 18A:66-8. N.J.S.A. 18A:66-8 states in pertinent part:

a. If a teacher:

(1) is dismissed by an employer by reason of reduction in number of teachers employed in the school district, institution or department when in the judgment of the employer it is advisable to abolish any office, position or employment for reasons of a reduction in the number of pupils, economy, a change in the administrative or supervisory organization or other good cause; or becomes unemployed by reason of the creation of a regional school district or a consolidated school district; or has been discontinued from service without personal fault or through leave of absence granted by an employer or permitted by any law of this State; and

(2) has not withdrawn the accumulated member’s contributions from the retirement system, the teacher’s membership may continue, notwithstanding any provisions of this article, if the member returns to service within a period of 10 years from the date of discontinuance from service.

In this case, Ms. Wright-White voluntary left employment and the date of her last contribution to her TPAF membership account was June 30, 2019. Thus, in accordance with N.J.S.A. 18A:66-7(a), Ms. Wright-White’s TPAF membership account expired on June 30, 2021,

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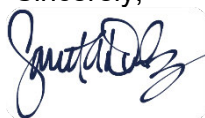
after two years of inactivity. Therefore, the Board found that Ms. Kelly is not eligible to Intrafund transfer service credit from her expired TPAF membership account to her active TPAF membership account.

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 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:

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

Sincerely,



Saretta Dudley, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-6/SD

c: R. Willever (ET)
DAG Jeffrey Padgett (ET)

Kimberley Wright-White (via regular mail)