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MIKIE SHERRILL
Governor

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

DR. DALE G. CALDWELL
Lt. Governor

SONIA RIVERA-PEREZ
Acting Director

May 21, 2026

Sent via email and regular mail

Michelle Ghali
[REDACTED]

RE: [REDACTED]

Dear Ms. Ghali:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the determination of the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) denying your request to transfer your "regular" PERS service in your former membership account to your current "Prosecutors Part of PERS" (PERS-PP) membership account. The Board originally denied your request at its meeting of December 10, 2025. You filed a timely appeal on January 28, 2026, and requested reconsideration of the Board's denial. At its meeting of February 18, 2026, the Board reconsidered your request and affirmed its previous determination. Finding no genuine issue of material fact in dispute, the Board denied a hearing in the Office Administrative Law (OAL) and directed the undersigned to draft this Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its meeting of May 20, 2026.

FINDINGS OF FACT

The Board made the following findings of fact:

The record before the Board establishes that you were enrolled in the PERS effective September 12, 2009, as a result of your employment as a Judiciary Law Clerk. In December 2010, you accepted employment with the Union County Prosecutor's Office (UCPO) as an Assistant Prosecutor (AP) and your transfer was processed effective January 1, 2011. At the time of your hire as an AP, you were not eligible

for PERS-PP enrollment as the Legislature closed the PERS-PP to prosecutors enrolled in the PERS after May 1, 2010. See L. 2010, c. 1. Thus, you earned service credit in “regular” PERS.

In the summer of 2020, due to [REDACTED] and childcare concerns/issues, you asked the UCPO for work accommodations; however, your request was denied. Subsequently, you rescinded your request and on August 24, 2020, you submitted your resignation letter citing the same reasons as your requested work accommodations. You resigned effective September 9, 2020, and contributions were last remitted into your “regular” PERS account during the 3rd Quarter of 2020.

On September 24, 2021, the Legislature reopened the PERS-PP, which became effective as of that date. On May 26, 2022, you contacted the Division of Pensions and Benefits’ (Division) Office of Client Services regarding your eligibility to participate in the PERS-PP. Client Services advised that because the Legislature had closed the PERS-PP to prosecutors enrolled in the PERS after May 1, 2010, your hire as an AP in December 2010 did not meet eligibility for PERS-PP enrollment, nor did the re-opening of the PERS-PP make you eligible as you were not employed as a prosecutor on the effective date of the statute, September 24, 2021. On June 3, 2022, this determination was memorialized in an email from Client Services. By letter dated August 3, 2022, you submitted Exhibits A-I and appealed the denial to the Division’s Enrollment Section. In your appeal, you asserted that if you had been granted work accommodations, you would not have been forced to resign and there would not have been a break in service.

On March 30, 2023, the Enrollment Section indicated the following:

...there is nothing that can be done at this time to make your account Prosecutor Part Eligible... If you go back to work under a Prosecutor eligible title, please have your employer submit the required documentation for review.”

On June 3, 2024, you accepted a position as an AP with Morris County and were enrolled under a newly opened PERS-PP membership account ([REDACTED]). By letter dated August 13, 2025, you requested to transfer your former “regular” PERS service to your newly established PERS-PP membership account. On November 18, 2025, the Division denied your request to combine the two accounts because there was

more than a two-year gap between your last deduction in your “regular” PERS membership account and when your new PERS-PP membership account was established. See N.J.S.A. 43:15A-7(e). Your last contribution in your former PERS membership account was on August 30, 2020 and your enrollment in the PERS-PP was on June 1, 2024.¹ The Division’s denial provided you with appeal rights to the PERS Board.

Subsequently, you appealed the Division’s determination by letter dated December 1, 2025. At its meeting on December 10, 2025, the PERS Board considered your personal statements, the statements of Andrew Haugen, Pensions Benefits Specialist 2, Division’s Enrollment Bureau, and all documentation in the record concerning your request to transfer your “regular” PERS service credit in your former membership account to your “PERS-PP account. Thereafter, the Board affirmed the Division’s determination and denied your request. The Board’s decision was memorialized in a letter dated December 16, 2025.

By letter dated January 28, 2026, you appealed the Board’s determination and requested that the Board reconsider the matter. With your appeal letter, you provided Exhibits 1-5 and Exhibits A-I. At its meeting on February 18, 2026, the Board reconsidered your request and affirmed its previous determination. Finding no material facts in dispute, the Board denied a hearing in the OAL and directed the undersigned to draft detailed Findings of Fact and Conclusions of Law for review at its April 15, 2026, meeting.

CONCLUSIONS OF LAW

The Board made the following conclusions of law:

On September 24, 2021, the Legislature reopened the PERS-PP, which became effective as of that date. L. 2021, c. 226. The plain language of the statute provided that PERS members in PERS-PP eligible positions on that date were eligible to have all of their prior “regular” PERS service converted to

¹ While the reference to N.J.S.A. 43:15A-7(e) is correct as all PERS accounts expire after two years without member contributions, the Division’s response was incomplete. The Division’s letter should have also stated that you would not be permitted to transfer your “regular” PERS service into your PERS-PP account because you were not employed as a prosecutor on the effective date of the statute rather than missing any deadline.

PERS-PP service without additional cost to the Prosecutor. Thus, all PERS members serving in an eligible PERS-PP title as of September 24, 2021, were eligible to transfer all previously earned PERS service credit into their PERS-PP account. Prosecutors who were not so employed on September 24, 2021, who had prior PERS service credit are not eligible to transfer their “regular” PERS service into their new PERS-PP account.

After careful consideration and based on the plain language of the statute, the Board denied your request to include your previous “regular” PERS service in your newly established PERS-PP membership account. In making its determination, the Board relied on N.J.S.A. 43:15A-155 et. al., N.J.A.C. 17:2-8.4 and N.J.A.C. 17:2-8.1(b). N.J.S.A. 43:15A-156. The statute now reads, as amended:

Notwithstanding the provisions of any other law, prosecutors shall be members of the Prosecutors Part, established pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public Employees’ Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.366. Membership in the retirement system shall be a condition of employment for service as a prosecutor. Any service credit which has been established in the Public Employees’ Retirement System prior to the effective date [Sept. 24, 2021] of this act, P.L.2021, c.226, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor; provided, however, any service credit which has been established in the Public Employees’ Retirement System and the Judicial Retirement System not deferred pursuant to section 1 of P.L.2019, c.287 (C.43:6A-11.1) by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor.

Any county prosecutor or acting county prosecutor enrolled in the Defined Contribution Retirement Program as a county prosecutor or acting county prosecutor shall be eligible for service credit in the Prosecutors Part, except that the county prosecutor or acting county prosecutor shall first pay the amount equivalent to that amount contributed pursuant to section 3 of P.L.2007, c.92 (C.43:15C-3) during each fiscal year of membership in the Defined Contribution Retirement Program to be credited.

[Ibid. (emphasis supplied).]

The statute, as amended, provides for all prior PERS service credit, regardless of whether it was earned while serving as a prosecutor, shall be qualified as PERS-PP service credit, provided the member was

employed as a prosecutor on the effective date of the statute. Prosecutors with “regular” PERS service but not employed as of the effective date of the statute, will maintain their “regular” PERS membership account, which can be used to qualify for certain benefits.²

The Board also promulgated regulations in order to implement the statute. N.J.A.C. 17:2-8.1(b) defines PERS-PP “service” as:

“Service” as a prosecutor as defined at N.J.S.A. 43:15A-155 shall include the following:

For members employed as prosecutors on September 24, 2021, service shall include any PERS service credited to a member's account as of September 24, 2021, pursuant to P.L. 2021, c. 226.

Based on the plain language of the statute and regulation, the Board denied your request to transfer your “regular” PERS service credit into your PERS-PP account.

In your letter of appeal you assert that N.J.S.A. 43:15A-156 does not preclude the transfer of your “regular” PERS service in your PERS-PP account as the statute does not explicitly delineate the date the Prosecutor must be employed. However, this argument was rejected by the Appellate Division in Ouslander v. Bd. of Trs., Pub. Employees' Ret. Sys., A-6287-03T2 (App. Div. 2005) under the first iteration of the statute with respect to the treatment of regular PERS service. Ouslander involved a group of Deputy Attorneys General and prosecutors challenged the validity of the PERS-PP regulations, specifically dealing with the treatment of “regular” PERS service. Ouslander slip op at 3. The court began by finding that:

[T]he key date for the Prosecutors Part is the effective date of Chapter 366, January 7, 2002.³ If a member was serving as a prosecutor on that date, all of his regular PERS service credit was automatically transferred to the Prosecutors Part without additional cost to the member. N.J.S.A. 43:15A-156(a).

The court next found that:

To transfer regular service credit into the Prosecutors Part, the regulations require the prosecutor to have been employed as a prosecutor on the effective date of Chapter 266, January 7, 2002. N.J.A.C. 17:2-8.4. For prosecutors hired after that date, any prior regular PERS service remains in

² While not relevant to the Board's decision, “regular” PERS service may be used to qualify for health benefits.

³ The effective date of the initial Prosecutors Part statute.

their regular PERS account. N.J.A.C. 17:2-8.5. The prior PERS service limitation, however, does not apply to 'an individual nominated and appointed pursuant to Article VII, Section II, Paragraph 1 of the New Jersey Constitution to the position of county prosecutor after January 7, 2002.'

[Ouslander, slip op. at 11.]

The court later found the amendment was significant in interpreting the Prosecutors Part language and buttressed the Board's argument that only prosecutors serving on the effective date of the statute were entitled to transfer regular PERS service to their PERS-PP account. The court stated:

We find support for this interpretation in an amendment to Chapter 266 that occurred on August 1, 2003. L. 2003, c. 140; N.J.S.A. 43:15A-156. By that amendment, the Legislature made clear that only the County Prosecutor can transfer for credit to the Prosecutors Part any service credit that was established in PERS from **any position of employment**. Ibid. If appellants were correct, the amendment would have been unnecessary.

Thus, the Board finds that you are not eligible to transfer your "regular" PERS service into your newly established PERS-PP account.

The Board next considered your argument that, due to [REDACTED], you resigned from employment prior to the re-opening of the PERS-PP because of [REDACTED] and child care concerns.⁴ While the Board sympathized with your situation, there were no [REDACTED] [REDACTED] which would have allowed any individual not so employed on the effective date of the statute to transfer their "regular" PERS service in to their PERS-PP account.

Finally, the Board rejected your equitable arguments that you detrimentally relied on the Division's March 30, 2023, letter, and returned to employment as an AP because of that reliance. You assert that the representative's statement that, should you return to employment in a PERS-PP eligible title, the Division would review documentation from your employer at some point in the future to determine eligibility. The Board rejects any assertion that this communication induced your reliance into accepting a position as a Prosecutor based on the belief that your "regular" PERS service would be automatically transferred into your future PERS-PP account.

⁴ The Board adopted Resolution A to go in to Closed Session to protect your privacy.

Under the doctrine of equitable estoppel, “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.” Summer Cottagers’ Ass’n v. Cape May, 19 N.J. 493, 503-04 (1955). The doctrine requires “a knowing and intentional misrepresentation by the party sought to be estopped under circumstances in which the misrepresentation would probably induce reliance, and reliance by the party seeking estoppel to his or her detriment.” O’Malley v. Dep’t of Energy, 109 N.J. 309, 317 (1987). And while “[e]quitable estoppel is rarely invoked against a governmental entity,” “particularly when estoppel would ‘interfere with essential governmental functions[,]’ . . . equitable considerations are relevant to assessing governmental conduct, and may be invoked to prevent manifest injustice.” Id. at 316 (first citing Cipriano v. Dep’t of Civil Serv., 151 N.J. Super. 86, 91 (App. Div. 1977); then quoting Vogt v. Borough of Belmar, 14 N.J. 195, 205 (1954); then citing Skulski v. Nolan, 68 N.J. 179, 198 (1975)). The Division’s response to your inquiry was neither an intentional misrepresentation nor was it a guarantee of the relief you requested, and the Board disagrees with your assertion that it would require an equitable remedy.

For these reasons, the Board denied your request.

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.

Michelle Ghali
May 21, 2026
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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,

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

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

G-5

C: S. Scott (ET); A. Haugen (ET)