



# State of New Jersey

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

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*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

March 18, 2021

Sent via email to: [REDACTED]

Joseph Baldasare  
[REDACTED]

RE: PERS [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Mr. Baldasare:

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 PERS-Law Enforcement Officer (LEO) status (N.J.S.A. 43:15A-97). The Board originally denied your request at its meeting of December 9, 2020. You filed a timely appeal of that determination on January 5, 2021, requesting that the Board transmit your appeal to the Office of Administrative Law as a contested case.

At its meeting of February 17, 2021, the Board affirmed its previous decision denying your request and, 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 PERS Board at its March 17, 2021, meeting.

The Board has reviewed the documentation and finds that the statutes governing the PERS and relevant case law do not permit the Board to grant your request.

## **FINDINGS OF FACT**

The record before the Board reveals that you originally established membership in the Police and Firemen's Retirement System (PFRS) on July 1, 2015 based upon your employment with New Jersey Institute of Technology as an Institute Police Officer. Thereafter, you accepted a position with Toms River Township as a Police Officer and continued your participation in the PFRS. In March 2018, the Division of Pensions and Benefits (Division) received an *Enrollment*

*Application for the PERS and an Application for Interfund Transfer* (Interfund Transfer) from Cherry Hill Board of Education (BOE) based upon your employment on January 24, 2018. On the PERS enrollment application, Cherry Hill BOE indicated that you were hired as a Campus Police Officer. Based upon this information, the Division advised Cherry Hill BOE that the PERS enrollment application could not be processed and that they should submit a Report of Transfer as you were eligible for continued participation in the PFRS.

A Report of Transfer was submitted, however the Division determined that its original decision regarding your eligibility for continued participation in the PFRS was incorrect. By letter dated May 25, 2018, the Division notified the Cherry Hill BOE that the title of Campus Police Officer is not an eligible title for participation in the PFRS at a Board of Education. Subsequently, Cherry Hill BOE submitted a PERS enrollment application via EPIC, which indicated your title as School Police Officer.<sup>1</sup> Also, a copy of the job description for a School Police Officer was provided as well as an Interfund Transfer application. Your enrollment in the PERS was established on June 6, 2018 and subsequently the Interfund Transfer was processed confirming the transfer of your PFRS membership service into your newly created PERS membership.

You requested that the Division place you within the LEO Group of the PERS. However, on February 19, 2019, the Division denied your request explaining that LEO status is limited to specific titles within certain state and county employers. In making its determination, the Board relied upon N.J.S.A. 43:15A-97, which restricts PERS-LEO enrollment to a limited number of titles within certain state and county employers specifically listed therein. The Board noted that you completed the required police academy training and your job description notes that the individual holding the position “shall possess all powers of policemen and constables in criminal cases and offenses against the law.” However, because a School Police Officer working for a Board of

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<sup>1</sup> The Board notes that you argue your correct title is “Campus Police Officer.” However, the Job Description and the enrollment application submitted via EPIC stated otherwise.

Education is not delineated in the statute, the Board found that you are not eligible for PERS-LEO enrollment.

You filed a timely appeal of the Board's decision on January 5, 2021. At its meeting of February 17, 2021, the Board denied your request for an administrative hearing after determining that no genuine issue of material fact is in dispute. The Board further directed the Board Secretary to draft findings of fact and conclusions of law for its review at the March 17, 2021, meeting.

### **CONCLUSIONS OF LAW**

The Board made the following legal conclusions.

The PERS-LEO section of PERS provides a limited number of titles within certain state and county employers specifically listed therein enhanced pension benefits. N.J.S.A. 43:15A-97. There is no dispute that your title is not listed therein. The Board noted that you completed the required police academy training and your job description notes that the individual holding the position "shall possess all powers of policemen and constables in criminal cases and offenses against the law." However, because a School Police Officer working for a Board of Education is not delineated in the statute, the Board found that you are not eligible for PERS-LEO enrollment.

In your appeal, you assert that although your title is not specifically enumerated in the statute, you otherwise qualify for PERS-LEO status due to the unique nature of your employment, including that your employer is "the first K-12 Public School District with its own legal recognized Police Department." While the Board understands your assertions, PERS-LEO is limited by title and the Board has no authority to extend statutes beyond the reach intended by the State Legislature.

Accordingly, following its review of the information, the Board denied your request for PERS-LEO status in accordance with N.J.S.A. 43:15A-97.

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

Joseph Baldasare  
March 18, 2020  
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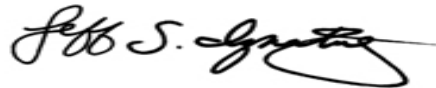
able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You 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,



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

G-9/JSI

C: N. Munko (ET)  
Melissa Meyer (sent via email to [REDACTED])