



State of New Jersey

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

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

July 8, 2022

Sent via email to: [Redacted]

Richard A. Friedman, Esq.
[Redacted]

RE: Lory Coursey
[Redacted] (Active)
[Redacted] (Expired)

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. Friedman:

I am writing in reference to the denial by the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) denying the request of your client, Lory Coursey, to apply service credit to her expired TPAF Tier 1 membership account. At its meeting of March 3, 2022, the Board considered Ms. Coursey's personal statements and submissions as well as all relevant documentation in the record and found that the statutes and relevant case law governing TPAF do not permit the Board to grant Ms. Coursey's request to apply service credit to her expired TPAF Tier 1 account. Finding no genuine issue of material fact in dispute, the Board 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 July 7, 2022 meeting.

1 Due to health and safety concerns for the public regarding COVID-19, the meeting was conducted via teleconference.

### **FINDINGS OF FACT**

The record shows that Ms. Coursey established membership in TPAF under account [REDACTED] (Tier 1 Account) on February 1, 2007, based on her employment as a Teacher with Atlantic City Board of Education (Atlantic City BOE). Pension contributions with this location continued through September 30, 2017.

On June 25, 2019, Ms. Coursey submitted an *Application to Purchase Service Credit* for multiple periods of uncredited service with the Atlantic City BOE from May 1, 1999 to June 30, 2016. A review of her account indicated that the periods requested were due to inactivity, which may have been leaves of absence. An *Employment Verification Form* was sent to Atlantic City BOE on June 28, 2019 to verify the inactive periods from January 1, 1996 to June 30, 1996, January 1, 1998 to June 30, 1998 and May 1, 1999 to June 30, 1999. Since the Division of Pensions and Benefits (Division) had not received a reply to the previous request, a second notice was sent to Atlantic City BOE on August 27, 2019.

On August 30, 2019, an *Employment Verification Form* was received for the period covering April 1, 1999 to June 1, 1999 indicating dockage as the reason for leave. A purchase determination was not issued for this period. On September 4, 2019, an *Employment Verification Form* was received for the period covering January 1, 1996 to June 30, 1998 indicating there were no records. A denial letter for this period was issued on September 16, 2019.

On June 28, 2019, a new purchase quote for the period covering May 1, 2015 to June 30, 2015 and April 1, 2016 to June 30, 2016<sup>2</sup> was issued. The expiration date for this purchase quote was September 26, 2019. The purchase quote included the following language: "We must request this amount in a lump sum, because you are not actively contributing to the pension

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<sup>2</sup> Our records indicate the Division previously issued a purchase quote for this period on March 30, 2017. This quote expired on June 28, 2017. Ms. Coursey did not authorize this purchase at that time.

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system at this time.” The records indicate that Ms. Coursey did not authorize this purchase. Pursuant to N.J.S.A. 18A: 66-7(a), her Tier 1 Account expired on September 30, 2019, two years after she ceased making contributions to that membership account.

On November 27, 2019, Ms. Coursey<sup>3</sup> and Atlantic City BOE were notified (Account Expiration Notice) that her Tier 1 Account expired on September 30, 2019, two years from the date of her last pension contribution. The letter stated that if the Division did not receive any further correspondence from Ms. Coursey or Atlantic City BOE regarding a leave of absence or her termination, that her account would expire. There was no response.

On February 14, 2020, an *Enrollment Application* was submitted through the Employer Pensions and Benefits Information Connection by Atlantic City BOE, which the Division acknowledged on February 26, 2020. Ms. Coursey became employed in a TPAF-covered position through her employment with Atlantic City BOE and she was enrolled under a new TPAF membership account, [REDACTED] (Tier 5 Account) effective December 1, 2019.

Due to the expiration of her Tier 1 Account, a purchase quote was issued on April 13, 2020 under her Tier 5 Account for periods covering May 1, 1999 to June 30, 1999, May 1, 2015 to June 30, 2015 and April 1, 2016 to June 30, 2016. Ms. Coursey authorized this purchase on June 23, 2020.

By letter dated June 24, 2020, the Purchase Section acknowledged receipt of her request to purchase additional service credit for the periods covering May 1, 1999 to June 30, 1999, May 1, 2015 to June 30, 2015 and April 1, 2016 to June 30, 2016. The letter acknowledged receipt of her check for [REDACTED]. The letter referenced her Tier 5 Account membership number, [REDACTED]

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<sup>3</sup> The Account Expiration Notice was issued to [REDACTED]

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On February 15, 2021, Ms. Coursey wrote to the Division's Purchase Section requesting that her purchase be credited to her Tier 1 Account.<sup>4</sup> By letter dated March 22, 2021, Shirlene Scott, Pensions Benefits Specialist, Purchase Section, advised Ms. Coursey:

"Since your Purchase Application was received after the expiration of your Tier 1 account and the periods for 2015 to 2016 were previously quoted multiple times prior to the expiration of your Tier 1 account but not authorized, I must deny your request to credit these purchases to your Tier 1 account."

At its meeting of March 3, 2022, the Board affirmed the administrative determination of the Division, and denied Ms. Coursey's request to apply service credit to her expired Tier 1 Account. In making its determination, the Board relied on N.J.S.A. 18A:66-7(a).

On April 22, 2022, you submitted your letter of representation and filed an appeal of the Board's decision. You represent that Ms. Coursey's Tier 1 Account would not have expired had she not had periods of unverified time due to circumstances beyond her control. You further represent that certain leaves of absence Ms. Coursey took were not verified until after the expiration of her Tier 1 Account and that it was at that time she began exercising her eligibility to purchase service. However, the record shows two purchase quotes were issued for the periods covering May 1, 2015 to June 30, 2015 and April 1, 2016 to June 30, 2016 prior to the expiration of her Tier 1 Account and Ms. Coursey did not act to authorize the purchase.

At its meeting of June 2, 2022, the Board reviewed your written submission. Thereafter, the Board affirmed its original determination. Further, finding no genuine issue of material fact in dispute, the Board denied your request for an administrative hearing and directed the Board Secretary to draft detailed Findings of Fact and Conclusions of Law for review at its meeting of July 7, 2022.

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<sup>4</sup> In her letter dated February 15, 2021, Ms. Coursey refers to her expired account as Tier 2.

### **CONCLUSIONS OF LAW**

The issue before the Board is whether Ms. Coursey is able to apply her purchase of service credit to her expired Tier 1 Account. As noted above, the last contribution to Ms. Coursey's Tier 1 Account was on September 30, 2017, at which time her TPAF membership reflected 21 years and 5 months of TPAF service credit. There was no record of activity in Ms. Coursey's account after September 30, 2017.

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;

...

As N.J.S.A. 18A:66-7(a) requires that membership in the TPAF shall cease after more than two consecutive years of inactivity, Ms. Coursey no longer had the option to apply any purchases of service credit to her expired Tier 1 Account. Additionally, N.J.A.C. 17:3-5.1 states in pertinent part:

(a) Only active members of the Fund who are currently contributing, or who have contributed in the last two years to the Fund, except as provided in N.J.S.A. 18A:66-8, shall be eligible to make application for purchase of credit. Active members who are not currently contributing to the Fund shall purchase their requested service in a lump sum.

...

Here, Ms. Coursey was aware that her last contribution to her Tier 1 Account was September 30, 2017 as evidenced by her calls to the Division's call center on numerous occasions and her receipt of the Account Expiration Notice, before the account expired. Ms. Coursey did not return to TPAF-covered employment and exercise her right to purchase service credit prior to the expiration of her Tier 1 Account on September 30, 2019 in accordance with N.J.S.A. 18A:66-7(a). When Ms. Coursey applied for a third time to purchase service credit, her Tier 1 Account

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had expired. As a result, her third request to purchase service credit was issued under her active Tier 5 Account. Therefore, the Board found that Ms. Coursey is not eligible to apply the purchase of service credit to her expired Tier 1 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-5/SD

c: S. Scott (ET)  
DAG Jeffrey Padgett, DAG (ET)  
Lory Coursey