



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
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August 4, 2017

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

FORD M. SCUDDER  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

James B. Lincoln  
[REDACTED]

RE: TPAF# [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Mr. Lincoln:

I am writing in reference to the action of the Board of Trustees ("Board") of the Teachers' Pension and Annuity Fund ("TPAF"), in denying your request to retroactively change your Service retirement date from October 1, 2016 to June 1, 2016. At its April 6, 2017, meeting, the TPAF Board considered your letter dated February 6, 2017, and all relevant documentation and denied your request to change your retirement date. On July 6, 2017, the Board denied your request for reconsideration and thereafter determined that there are no material issues of fact in dispute, and directed the TPAF Board Secretary to draft a final administrative determination. Findings of Fact and Conclusions of Law as outlined below were presented and approved by the TPAF Board at its August 3, 2017, meeting.

The TPAF Board has reviewed your written submissions and the documentation accompanying your appeal and finds that the statutes and regulations governing the TPAF do not permit the TPAF Board to grant your request to retroactively change your retirement date.

### **FINDINGS OF FACT**

According to the records of the Division of Pensions and Benefits (Division), you were enrolled in the TPAF effective September 1, 2008, as a result of your employment as a Teacher with the Clifton City Board of Education. Thereafter, on September 1, 2011, you transferred to the Jersey City Public Schools where you remained employed until your retirement.

On September 19, 2016, the Division received an online *Application for Retirement Allowance* requesting a July 1, 2017 retirement date for Service retirement through the Member Benefits Online System (MBOS). By letter dated September 20, 2016, the Division confirmed the receipt of your application with a retirement effective July 1, 2017.

On September 20, 2016, you canceled your retirement application. The Division sent an E-mail dated September 20, 2016 confirming receipt of a notice of cancellation of your Application for Retirement.

On September 21, 2016, you submitted a new *Application for Retirement Allowance* requesting a Service retirement with a retirement date of October 1, 2016<sup>1</sup>. By letter dated September 22, 2016, the Division confirmed the receipt of your application with a retirement effective October 1, 2016. At its meeting of December 1, 2016, the TPAF Board approved your application for Service retirement benefits, effective October 1, 2016.

On September 22, 2016, you requested to be paid from June through September 2016. By letter dated January 27, 2017, Dawn Lewis, Pension Benefits Specialist 1, Bureau of Retirements, denied your request for a June 1, 2016, retirement date. Ms. Lewis indicated that you could appeal the determination by writing to the TPAF Board Secretary.

By letter dated February 6, 2017, you appealed the Division's decision to the TPAF Board. In that same letter, you indicated the reasons you did not submit your retirement application timely to qualify for a June 1, 2016 retirement date. At its meeting of April 6, 2017, the Board considered your letter dated February 6, 2017 and all relevant documentation regarding your request to change your retirement date from October 1, 2016, to June 1, 2016. Thereafter, the Board denied your request to retroactively change your retirement date, in accordance with N.J.S.A. 18A:66-43 and N.J.A.C. 17:3-6.1(a).

By letter dated May 18, 2017, you exercised your right to appeal and requested that the Board reconsider its prior denial. At its meeting of July 6, 2017, as no new information was provided, the

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<sup>1</sup> Since your new application was not submitted through MBOS until after September 1, 2016, your earliest possible retirement date was October 1, 2016.

TPAF Board denied your request for reconsideration. As stated previously, as there were no material issues of fact in dispute, the TPAF Board directed the Board Secretary to draft the findings of fact and conclusions of law based on the reasons set forth in the Board's letter dated April 11, 2017.

### **CONCLUSIONS OF LAW**

The Board cannot grant your request for a retroactive Service retirement date of June 1, 2016, in accordance with the provisions of N.J.S.A. 18A:66-43 and N.J.A.C. 17:3-6.1(a).

N.J.S.A 18A:66-43, states in pertinent part:

Retirement for service shall be as follows: (a) A person who was a member before the effective date of P.L. 2008, c. 89 and has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable. (Emphasis added)

In addition, N.J.A.C. 17:3-6.1, states in pertinent part:

(a) Applications for retirement must be made over the Internet, using the online forms required by the Fund through a member's secure account established through the Member Benefits Online System (MBOS). Such forms must be completed in all respects and filed with the Division on or before the requested dated of retirement. Applications for retirement can be filed no more than one year in advance, except that a member whose TPAF-eligible employment has ended may file for deferred retirement at any time after the employment has ended. A member's retirement application becomes effective on the first of the month following receipt of the application unless a future date is requested... (Emphasis added)

Your retirement application was not received in the Division until September 19, 2016; therefore, the earliest possible effective date of your retirement under the law is October 1, 2016. The TPAF Board reviewed the reasons you provided as supporting your failure to submit your application electronically on or before June 1, 2016. Because this matter does not entail any disputed questions of fact, the TPAF Board was able to reach its findings of fact and conclusions of law in this matter on the basis of the retirement system's enabling regulations and without the need for an administrative

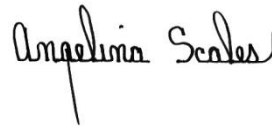
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hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Teacher's Pension and Annuity Fund.

You have the right, if you wish, 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  
Phone: (609) 292-4822

Sincerely,

A handwritten signature in black ink that reads "Angelina Scales". The signature is written in a cursive style with a long vertical line extending downwards from the end of the name.

Angelina Scales, Secretary  
Board of Trustees  
Teachers' Pension and Annuity Fund

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c: Amy Chung, DAG (ET)  
Jeff Ignatowitz, DAG (ET)  
Cheryl Chianese (ET) |