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COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

IN RE:	:	
	:	
ACCOUNT OF CANDIDA BAEZ-VIZCAINO	:	**DOCKET NO. 2021-08**
CLAIM OF CANDIDA BAEZ-VIZCAINO	:	

PROPOSED OPINION AND RECOMMENDATION

Michael T. Foerster
Hearing Officer

GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF STATE
OFFICE OF HEARING EXAMINERS
P.O. BOX 2649
HARRISBURG, PENNSYLVANIA 17105-2649

HISTORY

This matter is before the Public School Employees' Retirement Board ("Board") on an appeal, filed by Candida Baez-Vizcaino ("Claimant"). Claimant appealed from a decision of the Executive Staff Review Committee ("ESRC") of the Public School Employees' Retirement System ("PSERS"), dated April 14, 2021 ("ESRC denial letter"), that denied Claimant's request to change the effective date of her retirement to her date of separation.

Claimant, a member of PSERS with over 30 years of credited service, had initially explored retirement options in 2018 and 2019. On February 16, 2019, Claimant notified the School District of Philadelphia of her intended retirement, then scheduled for June 30, 2019. Her plans subsequently changed, and on February 20, 2020, she again contacted PSERS to request a retirement estimate based on a June 30, 2020 retirement date. Claimant received a formal estimate on February 27, 2020.

On June 29, 2020, Claimant attended a PSERS retirement exit counseling session via Skype. During that session, PSERS staff reviewed with her the *Application for Retirement* and the *Retirement Exit Counseling Checklist*, both of which emphasized that an application must be received by PSERS within 90 days of a member's termination date in order for retirement benefits to be retroactive to that date. Claimant's last day of work was June 15, 2020, establishing a 90-day filing deadline of September 13, 2020. Claimant contends she completed and mailed her retirement application in early July 2020, well in advance of the 90-day deadline. PSERS maintains that it did not receive any such application until October 1, 2020, when it was submitted via fax. PSERS finalized her retirement effective as of October 1, 2020—the date of receipt of the application by fax.

Following the initial appointment of Hearing Examiner Jason C. Giurintano, and his

subsequent departure from the Office of Hearing Examiners, Hearing Examiner Chad Allensworth was appointed to preside over the hearing.

The Board's Appeal Docket Clerk notified Claimant that the administrative hearing had been rescheduled for Thursday, January 16, 2025, at the PSERS offices in Harrisburg at 10:00 AM. The hearing occurred as scheduled. Claimant attended the hearing without legal counsel and represented herself. Savannah Durham, Esquire, represented PSERS. Claimant presented her case through testimony, along with supporting documentary evidence. Via witness, PSERS presented its case through documentary evidence. At the close of the hearing, the parties elected to file post-hearing briefs. The court reporter filed the transcript on January 29, 2025, and the hearing officer issued an Order Establishing Briefing Schedule on February 7, 2025. After grant of a Motion for Extension upon Claimant's request, Claimant filed her post-hearing brief on May 1, 2025, and PSERS filed its reply on May 30, 2025. Claimant did not file a reply. Prior to issuing his proposed opinion, Hearing Examiner Allensworth departed from the Office of Hearing Examiners, and the present matter was transferred to the undersigned. Accordingly, the matter is now before the Board for final disposition.

FINDINGS OF FACT

1. Claimant is a member of PSERS with over 30 years of credited service. N.T. 25, 60.

2. At all times relevant to the present appeal, Claimant was enrolled in PSERS. N.T. *passim*.

3. On January 4, 2018, Claimant called PSERS to request a retirement estimate. N.T. 25-26, 62.

4. On or about January 11, 2018, PSERS provided Claimant with a *Normal Retirement Estimate* based on a June 30, 2018, date of retirement. N.T. 27-28, 63-64.

5. On February 22, 2018, PSERS received a *Retirement Estimate Request* for Claimant. N.T. 28-29, 64-65.

6. On April 10, 2019, PSERS provided Claimant with a *Normal Retirement Estimate* based on a June 30, 2019 date of retirement. N.T. 29-30, 66.

7. On February 20, 2020, Claimant called PSERS and requested a retirement estimate. N.T. 30, 67-68.

8. On February 27, 2020, PSERS provided Claimant with *Normal Retirement Estimate* based on a June 30, 2020 date of retirement. N.T. 30, 69-70.

9. The cover letter enclosed in Claimant's retirement estimates stated:

> For a regular retirement, an *Application for Retirement* must be filed with PSERS within 90 days of your date of termination for retroactive benefits; otherwise, your benefit will be effective the date your *Application for Retirement* is received by PSERS.

N.T. 64, 67, 70.

10. In June of 2020, PSERS' regional offices were closed for "walk ins," but PSERS otherwise continued normal business operations. N.T. 74.

11. Claimant's last day of work as a school employee with the Philadelphia School District was June 15, 2020. N.T. 61, 77.

12. Claimant's 90-day deadline to submit her *Application for Retirement* and receive payments starting the day after her termination date was September 13, 2020. N.T. 61, 77.

13. On June 29, 2020, Claimant attended a PSERS retirement exit counseling session via Skype. N.T. 11-22, 31, 71.

14. PSERS provided Claimant with an *Application for Retirement* and a *Retirement Exit Counseling Checklist* prior to her retirement exit counseling session. N.T. 71.

15. At the June 29, 2020 retirement exit counseling session, the PSERS counselor discussed the *Application for Retirement* and a *Retirement Exit Counseling Checklist*. N.T. 12, 72-73.

16. The *Application for Retirement* states:

> To have your retirement start the day after your termination date, the Public School Employees' Retirement System (PSERS) must receive this application within 90 days of your termination date (provided by your employer).
>
> . . .
>
> After 90 days beyond your termination date, your retirement date will be the date your application is received by PSERS...

Exhibit PSERS-8; N.T. 78.

17. The *Retirement Exit Counseling Checklist* states:

> Documents not submitted at Exit Counseling should be sent directly to your counselor. In order to have your retirement start the day after your termination date, you must submit your application within 90 days of your termination date. If your application is received more than 90 days after your termination or normal retirement date, your retirement date will be the date PSERS receives your application.

Exhibit PSERS-7; N.T. 72.

18. It is the routine practice of PSERS counselors to explain the requirement that

Applications for Retirement be filed with PSERS within 90 days of termination in order to receive retirement benefits retroactive to a member's termination date. N.T. 12, 31-32, 58-59, 72-73.

19. Claimant was aware of the 90-day deadline. N.T. 12, 23, 31-32, 72-73.

20. Starting July of 2020, PSERS' regional offices opened to the public. N.T. 74.

21. PSERS received Claimant's *Application for Retirement* for the first time on October 1, 2020, via fax. N.T. 33, 76.

22. Claimant did not call PSERS to check on the status of her *Application for Retirement* until the end of September, after her 90-day deadline had expired. N.T. 17, 35, 75.

23. By letter dated October 15, 2020, PSERS notified Claimant via her Member Self Service portal of her finalized retirement benefit with an effective date of retirement of October 1, 2020 (i.e., the date PSERS received her application). N.T. 37, 78-80.

24. Claimant appealed the effective date of retirement to the Executive Staff Review Committee ("ESRC"). N.T. 37-38, 80.

25. The ESRC is a committee within PSERS that reviews non-adjudicatory member appeals. *See* 22 Pa. Code § 201.3a.

26. By letter dated April 14, 2021, the ESRC denied Claimant's appeal. N.T. 38, 82.

27. On May 13, 2021, Claimant appealed the ESRC's determination. N.T. 82.

28. On June 2, 2021, PSERS filed an Answer to Claimant's Appeal.

Kenneth Paul

29. Kenneth Paul is a retirement counselor in the Southeast Regional Office of PSERS. N.T. 55.

30. Mr. Paul has been in his position for over eight years. N.T. 55.

31. In his role, Mr. Paul conducts retirement and foundation for your future meetings, accepts retirement applications, and processes retirement estimates. N.T. 55-56.

32. He also assists retirees and future retirees over the phone with various inquires on an *ad hoc* basis. N.T. 56.

33. Mr. Paul testified that the final step in the retirement process of any PSERS employee is filing a retirement application. N.T. 58.

34. Mr. Paul described that an application can be sent via postal mail, by fax, or delivered in person to a regional office or the office in Harrisburg. N.T. 58.

35. Mr. Paul further described that members were made aware of the 90-day filing deadline during their exit counseling sessions and are provided such notice on their retirement estimate request and the *Retirement Exit Counseling Checklist*. N.T. 59.

36. Mr. Paul testified that he personally reviewed Claimant's file. N.T. 60.

37. Mr. Paul testified that while the PSERS' Southeast Regional Office was closed to "walk-ins" for a period a of time, it was reopened in July of 2020. N.T. 74.

38. Mr. Paul testified that he never received a copy of Claimant's *Application for Retirement* via postal mail. N.T. 76-77.

39. Mr. Paul testified that Claimant could have submitted her application at a regional office or sent her application via fax prior to the expiration of her 90-day deadline. N.T. 74.

40. Mr. Paul testified that Claimant could have also called PSERS' general call center to receive a status update on her application. N.T. 75.

41. Mr. Paul testified that PSERS received Claimant's *Application for Retirement* via fax on October 1, 2020. N.T. 75-76.

42. Mr. Paul further testified that PSERS never received a call from Claimant prior to expiration of her 90-day deadline. N.T. 75.

Due Process

43. Claimant was afforded notice of the hearing. Docket.

44. Claimant appeared at the hearing; was provided the opportunity to testify and admit evidence; was given the opportunity to object to the testimony and evidence presented by the Commonwealth, and; was ordered to file a responsive post-hearing brief in the matter. N.T. *passim*.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to decide this matter. *See* 24 Pa. C.S. §8101 *et seq.*

2. Claimant was afforded notice and an opportunity to be heard in connection with her appeal. Findings of Fact ("F.F") 43-44.

3. Claimant has the burden of proving the facts she alleges in support of her claim. *Wingert. v. State Employes' Ret. Bd.*, 589 A.2d 269 (Pa. Cmwlth. 1991); *Frantz v. State Employees Ret. Bd.*, 560 A.2d 284 (Pa. Cmwlth. 1989).

4. The preponderance of evidence standard is the correct burden of proof to be applied in this administrative action. *Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600 (Pa. Cmwlth. 1990), *petition for allowance of appeal denied*, 602 A.2d 868 (Pa. 1998); *Suber v. Pennsylvania Commission on Crime and Delinquency, Deputy Sheriff's Education and Training Board*, 885 A.2d 678 (Pa. Cmwlth. 2005).

5. The preponderance of evidence standard has been explained as "such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence." *Sigafoos v. Pennsylvania Board of Probation and Parole*, 503 A.2d 1076, 1079 (Pa. Cmwlth. 1986).

6. PSERS is a creature of statute and PSERS' members have only those rights recognized by the Public School Employees' Retirement Code, 24 Pa. C.S. §8101 et seq. ("Retirement Code") and none beyond. *Bittenbender v. State Employees' Ret. Bd.*, 622 A.2d 403 (Pa. Cmwlth. 1992); *Burris v. State Employees' Ret. Bd.*, 745 A.2d 704 (Pa. Cmwlth. 2000); 24 Pa. C.S. §8101 *et seq.*

7. Effective date of retirement as defined by the Retirement Code is:

> "[t]he first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date or: (1)

> [i]n the case of a member who applies for an annuity subsequent to 90 days after termination of service, the date of filing such application or the date specified on the application, whichever is later."

24 Pa. C.S. §8102.

8. PSERS must receive an application for retirement from a member within 90 days of the member's date of termination of service in order for the member's date of termination of service to be used for purposes of receiving retirement checks. 24 Pa. C.S. §8102; 1 Pa. Code § 31.11; *see also Harasty v. Public Sch. Employees' Ret. Bd.*, 589 A.2d 783, 787-88 (Pa. Cmwlth. 2008).

9. Claimant failed in her burden to establish that PSERS received her *Application for Retirement* within 90 days following her date of termination of service, i.e., June 15, 2020, or by September 13, 2020. F.F. 1-32.

10. Under the Retirement Code, Claimant is not entitled to have her effective date of retirement made retroactive to the day following her date of termination of service because October 1, 2020, the date PSERS received Claimant's *Application for Retirement*, is beyond the statutory 90-day period. F.F. 1-32.

DISCUSSION

Before getting to the merits of the matter, the undersigned will dispose of one evidentiary issue. In its brief PSERS objected to Claimant's brief in that it included evidence not entered in the hearing. PSERS also objected to the hearsay included in this late evidence. Both objections are sustained. Entry of evidence after a hearing is contrary to process and would lead to never-ending engagements of back-and-forth. Under GRAPP, reopening the record to introduce additional evidence is permissible if certain conditions are met. Specifically, 1 Pa. Code §35.231(a) provides that a petition to reopen must include facts constituting grounds for reopening, such as "material changes of fact or of law alleged to have occurred since the conclusion of the hearing." *Henderson v. Unemployment Compensation Bd. of Review*, 77 A.3d 699 (Pa. Cmwlth. 2013). Courts have consistently held that reopening is appropriate where the evidence was unavailable at the time of the hearing despite due diligence, or where there are compelling reasons such as inadvertent omission or the need for a more accurate adjudication. *Philadelphia Outdoor Advertising v. Department of Transp.*, 690 A.2d 789 (Pa. Cmwlth. 1997). None of these factors present. Further, the proposed evidence includes great amounts of hearsay. None of the proposed evidence was used for the findings of fact.

Regarding the merits of the appeal, Claimant terminated her employment on June 15, 2020, and later filed an *Application for Retirement*. PSERS notified Claimant that her retirement date would not be until October 1, 2020, the date it received the *Application for Retirement*. Claimant requested PSERS to change her retirement date to her termination date. Through its ERSC, PSERS denied Claimant's request, leading to this appeal, in which she requests the same remedy.

It is well established that Claimant bears the burden of establishing the facts necessary

to sustain her claim. *See Gierschick v. State Employees' Ret. Bd.*, 733 A.2d 29, 32 (Pa. Cmwlth. 1999); *Wingert v. State Employes' Ret. Bd.*, 589 A.2d 269, 271 (Pa. Cmwlth. 1991). Further, it is well established that the PSERS is a creature of the Legislature and its members only have those rights created by the Retirement Code and none beyond. *See e.g., Burris v. State Employes' Ret. Bd.*, 745 A.2d 704, 706 (Pa. Cmwlth. 2000); *Bittenbender v. State Employees' Ret. Bd.*, 622 A.2d 403, 405 (Pa. Cmwlth. 1992); *Hughes v. Public Sch. Employees' Ret. Bd.*, 662 A.2d 701, 706 (Pa. Cmwlth. 1995), *allocator denied*, 668 A.2d 1139 (Pa. 1996). While a member is entitled to a liberal construction of the Retirement Code, PSERS has no authority to grant rights beyond those specifically set forth in the Retirement Code. *Bittenbender*, 622 A.2d at 405; *Forman v. Public Sch. Employees' Ret. Bd.*, 778 A.2d 778, 779 (Pa. Cmwlth. 2011).

Under the Retirement Code, a PSERS member who desires to have his or her effective date of retirement be the day following the date of termination of service must ensure that PSERS receives his or her application for retirement within 90 days from that member's date of termination of service. 24 Pa. C.S. §8102. The relevant provision of the Retirement Code states as follows:

> "**Effective date of retirement.**" The first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date or:
>
> > (1) In the case of a member who applies for an annuity subsequent to 90 days after termination of service, the date of filing such application or the date specified in the application, whichever is later.
> > ...

24 Pa. C.S. §8102. Thus, when PSERS receives an application for retirement beyond 90 days from the date of termination of service, the member's effective date of retirement becomes the date of PSERS' receipt of such application. *Id.* Hence, failure of a member to ensure that PSERS receives his or her application for retirement within 90 days from the date of termination

of service forecloses any opportunity for the member to have the effective date of his or her retirement coincide with the member's termination of service. *See e.g., Account of Ruth A. Landry*, Docket No. 2009-07 (PSERB August 17, 2010).

As established by the findings of fact,[1] Claimant's last date of employment – her termination date – was June 15, 2020. N.T. 61, 77. In February, 2020, Claimant received an estimate of retirement benefits that notified her that her retirement date would be the termination date if she submitted a retirement application within 90 days of the termination date; if the application was received more than 90 days after, her retirement date would be the date of receipt of the application. F.F. 8, 9. Claimant attended a PSERS retirement exit counseling session on June 29, 2020. F.F. 13, 15. Claimant was given an *Application for Retirement* and a *Retirement Exit Counseling Checklist* and went over a checklist with the counselor. F.F. 14. Both the application form and the checklist reminded Claimant that she had to submit the application within 90 days of her termination date to preserve that as her retirement date. F.F. 16, 17. Claimant testified she was aware that she was required to have the application in to PSERS by September 13. F.F. 19. Soon after the counseling meeting concluded, Clamant packed her retirement application in an envelope and conferred with her financial advisor to ensure she had all the relevant paperwork. Brief for Claimant at 2 (docketed May 1, 2025). This included an Authorization for Direct Rollover (Retirement), which Claimant signed two days prior. Brief for Claimant at 2. Claimant insists that she "made a point to mail" in her application "early," before the July 4, 2020 holiday weekend to "prevent distraction and to get

[1] In general, the degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the Claimant's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1950).

ahead and comply with the 90-day window." Brief for Claimant at 2. After receiving no payment from PSERS by September 30, 2020, Claimant started to worry about the status of her application and called PSERS to "inquire" about when she could "expect [her] pension payments to commence." Brief for Claimant at 3. It was then that Claimant was informed that no application bearing her name had been received by PSERS, to which Claimant expressed "dismay" for not having received her packet as returned mail from USPS in the three months after she sent it. Brief for Claimant at 3. Claimant later faxed copies of her application packet to PSERS and called to check if the fax had been received. Brief for the Claimant at 3.

Claimant claims that she is entitled to *nunc pro tunc* relief based on: (i) a breakdown in the court system because of COVID-19 and the effect of the same on PSERS' administrative offices and (ii) negligence on the part of a third party, namely the United States Postal Service. Brief for Claimant at 4. Claimant argues that since she "never received the package returned to me from USPS indicating it was undeliverable," it can be "assumed that either the administrative officers of PSERS lost the original application upon receipt," or that "USPS lost the package during the height of its disruptions due to the COVID-19 paandemia (sic)" and simply "never returned the mail" as undeliverable. Brief for Claimant at 5. She did not think to call to confirm until after her 90-day deadline had passed. Brief for Claimant at 3.

Based on a reading of the relevant administrative procedures, Claimant's argument fails. The General Rules of Administrative Practice and Procedure ("GRAPP") dictate that the timeliness of any document filed with a Commonwealth agency, such as PSERS, is governed by the actual receipt of the document rather than the date of mailing.

> **§ 31.11. Timely filing required.**
>
> Pleadings, submittals or other documents required or permitted to be filed under this part, the regulations of the agency or any other provision of law shall be

> received for filing at the office of the agency within the time limits, if any, for the filing. The date of receipt at the office of the agency and not the date of deposit in the mails is determinative.

1 Pa. Code § 31.11; *see also Harasty v. Public Sch. Employees' Ret. Bd.*, 945 A.2d 783, 787-88 (Pa. Cmwlth. 2008); *Estate of Wilson by Killinger v. State Employees' Ret. Bd.*, 219 A.3d 1141, 1152-53 (Pa. 2019). Based on the GRAPP, therefore, Claimant must establish that PSERS actually received her *Application for Retirement* no later than September 13, 2020.

As noted, Claimant testified that she "made a point to mail" in her application "early," before the July 4, 2020 holiday weekend to "prevent distraction and to get ahead and comply with the 90-day window." Brief for Claimant at 2. However, it is Claimant's burden to prove that it was received no later than September 13. 1 Pa. Code § 31.11. The date of mailing cannot support an inference that it was received in that time frame. Having date stamped Claimant's *Application for Retirement* as received in the Southeast Regional Office on October 1, 2020 establishes that it was not received by September 13, 2020.[2]

Claimant presented no actual evidence of fraud, breakdown or negligence that would justify the granting of *nunc pro tunc* relief. The Commonwealth Court considered the concept of *nunc pro tunc* filings to PSERS and declined to apply the concept in that case. *Allen v. Public Sch. Employees' Ret. Bd.*, 848 A.2d 1031 (Pa. Cmwlth. 2004).[3] *See also Wingert v. State*

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[2] Claimant could have taken steps to ensure that her *Application for Retirement* was received by PSERS within the 90-day window. She could have personally delivered it. She could have used certified mail or a private delivery service with proof of delivery. And she could have telephoned PSERS to confirm receipt. Claimant did none of these.

[3] The Court only said it did not have necessary evidence to apply the doctrine. The Court did not need to decide whether the doctrine applied to PSERS administrative documents. The undersigned is skeptical that the concept of *nunc pro tunc* applies at all in Pennsylvania administrative law. These cases deal with agency appeals, let alone intra agency documents at issue here: *Constantini v. Unemployment Compensation Board of Review*, 173 A.3d 838 (2017)("...Failure to timely appeal an administrative agency's action is a jurisdictional defect, and the time for taking an appeal cannot be extended as a matter of grace or mere indulgence, and thus a petitioner carries a heavy burden to justify an untimely appeal...."); *Williamson v. Com., Dept. of Transp., Bureau of Driver Licensing*, 129 A.3d 597 (2015)(rule is mandatory and cannot be extended as a matter of grace or indulgence); *Radhames v. Tax review Board*, 994 A.2d 1170 (Pa. Cmwlth. 2010)("The failure to timely appeal an administrative agency action is a jurisdictional defect." *Citing Falcon, infra; Hudson v. Com, Dept. of Transp., Bureau of Driver Licensing*, 830 A.2d 594 (Pa.

Employees' Ret. Bd., 589 A.2d 269 (Pa. Cmwlth. 1991) (holding that burden of proof and persuasion is on claimant). While Claimant complained of challenges that the USPS faced during the early days of the COVID-19 pandemic, this does not establish its negligence with respect to the lost envelope Claimant claims to have sent in July.

Although the Board must liberally administer the system, it does not have the authority to circumvent the express language of the Retirement Code. *See Forman* 778 A.2d at 780; *Marinucci v. State Employees' Ret. Sys.*, 863 A.2d 43, 47 (Pa. Cmwlth. 2004). "When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." *Lucia v. Zoning Hearing Bd. of Upper St. Clair Twp.*, 63 Pa. Cmwlth. 272, 437 A.2d 1294 (1981) *citing* 1 Pa. C.S. §1921(b). It remains for the legislature, not the Board, to amend the Retirement Code to address Claimant's circumstances. *Marinucci*, 863 A.2d at 47. The Board has no authority to reopen a legislatively crafted window of time (the 90-day period) to allow retroactively Claimant's filing to be deemed filed with 90 days of her date of termination of service. No liberal administration of PSERS permits the Board to circumvent the express language of the Retirement Code and grant Claimant the relief she requests. *Dowler v. Public Sch. Employes' Ret. Bd.*, 620 A.2d 639, 644 (Pa. Cmwlth. 1993); *Marinucci*, 863 A.2d at 47.

Based on all of the above, the facts of record support the conclusion that Claimant did not timely file an *Application for Retirement* such that her date of retirement could be made retroactive to her last date of employment. Moreover, the Retirement Code does not authorize

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Cmwlth. 2003)(appeals filed beyond 30-day period are untimely and deprive the tribunal of subject matter jurisdiction over such appeals); *Falcon Oil Co., Inc. v. Department of Environmental Resources*, 148 Pa. Cmwlth. 90, 609 A.2d 876 (1992)("...The failure to timely appeal an administrative agency's action is a jurisdictional defect." *citing Pennsylvania Game Commission v. Department of Environmental Resources*, 97 Pa. Cmwth 78, 509 A.2d 877 (1986), *affirmed*, 521 Pa. 121, 555 A.2d 812 (1989)).

the Board to provide any remedy that would allow the Board to find that Claimant timely filed an *Application for Retirement* when, in fact, she did not do so. Based upon all of the foregoing, the following recommendation will be made to the Board:

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

IN RE:	:	
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CLAIM OF CANDIDA BAEZ-VIZCAINO	:	

RECOMMENDATION

AND NOW, this ___ day of July, 2025, upon consideration of the foregoing findings of fact, conclusions of law and discussion, the Hearing Officer for the Public School Employees' Retirement Board ("PSERB") recommends that the Board **DENY** Claimant's request to change the effective date of her retirement from October 1, 2020 to June 15, 2020 and **DENY** Claimant's request for retroactive payment of pension benefits between June 15, 2020 and October 1, 2020.

A party may file exceptions to this proposed opinion and recommendation in accordance with 1 Pa. Code §§ 35.211 and 35.212 (relating to procedure to except to proposed report; and content and form of briefs on exceptions). 22 Pa. Code § 201.11(d). Exceptions shall be filed with the below-noted Appeal Docket Administrator and must be received by July __, 2025, 30 days after the mailing date of this proposed opinion and memorandum. *See* 1 Pa. Code § 35.211 (participant desiring to appeal to the agency head shall, within 30 days after the service of a copy of a proposed report or such other time as may be fixed by the agency head, file exceptions to the proposed report or part thereof in brief on exceptions; brief opposing exceptions may be filed in response to briefs on exceptions within 20 days after the time limited for the filing of briefs on exceptions or such other time as may be fixed by the agency head). If exceptions are filed, the PSERB will rule upon the exceptions; PSERB may adopt or reject, in whole or in part, or supplement the proposed opinion and recommendation or issue its own opinion and order,

whether or not exceptions to the proposed opinion and recommendation are filed by any party. . 22 Pa. Code § 201.11(c).

A legal assistant for the Office of Hearing Examiners will distribute this proposed opinion and recommendation to the Appeal Docket Administrator and the parties.

M Foerster

Michael T. Foerster
Hearing Officer

Claimant: Ms. Candida Baez-Vizacaino
[redacted]

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Date of mailing: 7/7/25

Mail Date: DEC 0 9 2025

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

IN RE: ACCOUNT OF CANDIDA BAEZ-VIZCAINO
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OPINION AND ORDER OF THE BOARD

The Board has carefully and independently reviewed the entire record of this proceeding, including the proposed Opinion and Recommendation of the Hearing Examiner. We note that neither party filed Exceptions to the proposed Opinion and Recommendation. The Board finds appropriate the proposed Opinion and Recommendation, and, accordingly, we hereby adopt it as our own.

IT IS HEREBY ORDERED that Claimant's request to change her effective date of retirement is DENIED.

PUBLIC SCHOOL EMPLOYEES'
RETIREMENT BOARD

Dated: 10/23/2025

By: _____
Richard Vague, Chairman