



PSERB Resolution 2026-24
Re: Account of Bey, N., Docket No. 2024-02
June 17, 2026

RESOLVED, that, in the matter of Nabeelah A. Bey, Docket No. 2024-02, the Public School Employees' Retirement Board accepts the recommendation of the Benefits and Appeals Committee and grants PSERS exceptions and adopts the proposed Opinion and Order of the Board and dismisses Claimant's appeal with prejudice.

Mail Date: _____

**COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE: ACCOUNT OF NABEELAH A. BEY
DOCKET NO. 2024-02
CLAIM OF NABEELAH A. BEY

OPINION AND ORDER OF THE BOARD

The Public School Employees' Retirement Board ("Board") has carefully and independently reviewed the entire record of this proceeding, including the proposed Opinion and Recommendation of the Hearing Examiner ("HEO") and the Public School Employees' Retirement System's ("PSERS") Brief on Exceptions ("Exceptions"). Nabeelah A. Bey ("Claimant") did not file exceptions to the HEO, and she did not file a response to PSERS' Exceptions.

The Board agrees with the Hearing Officer's conclusion that Claimant's effective date of retirement must remain December 23, 2019, and that she is not entitled to retroactive pension benefits to June 16, 2019. Separately, the Hearing Examiner finds that Claimant received incorrect information from PSERS' representatives. PSERS excepts to this finding and associated discussion in the HEO. The Board agrees with PSERS' exceptions. The Board finds that some of the proposed findings of fact are not supported by the record or are not relevant to the issue before the Board. Accordingly, based on its independent review, the Board rejects the HEO and issues the following Findings of Fact, Conclusions of Law, Discussion, and Conclusion:¹

¹ The Board may adopt or reject, in whole or in part, the proposed opinion and recommendation of the Hearing Examiner or issue its own opinion and order. 22 Pa. Code § 201.11(c).

FINDINGS OF FACT

1. Claimant is a member of PSERS, and qualified for PSERS membership through her employment with various public school employers. (N.T. *passim*).

2. Claimant retired from PSERS in 2013, 2014, and 2019, and thereafter returned to service.² (PSERS-1 – PSERS-5, PSERS-11, PSERS-12).

3. An *Application for Retirement* must be filed with PSERS within 90 days of termination of service for retroactive benefits; otherwise, a retirement benefit will be effective the date the *Application for Retirement* is received by PSERS. 24 Pa.C.S. §§ 8102, 8507(i); (PSERS-1, PSERS-4, PSERS-11; N.T. 73).

4. Claimant first terminated public school employment on June 29, 2012, and filed her *Application for Retirement* with PSERS on May 15, 2013. (PSERS-1, PSERS-2).

5. By letter dated May 30, 2013, PSERS informed Claimant of her finalized retirement benefit, with an effective date of May 15, 2013, which was the date the application was received by PSERS. (PSERS-2).

6. Claimant returned to public school employment on August 27, 2013. (PSERS-3).

7. Following Claimant's return to service, PSERS informed her, among other things, that to retire again she would need to file an *Application for Retirement*:

Your name has been removed from our annuitant payroll and you have been re-enrolled as an active, contributing member.

When you are ready to retire again, you will need to submit a new retirement application to this office.

(PSERS-3; N.T. 58-59).

² As the Hearing Examiner notes, it appears Claimant returned to work with the School District of Philadelphia in August of 2021. See HEO, p. 7, n. 6.

8. Claimant terminated service for a second time, on September 19, 2013, and filed her *Application for Retirement* with PSERS on November 17, 2014. (PSERS-4, PSERS-5).

9. By letter dated December 16, 2014, PSERS informed Claimant of her finalized retirement benefit, effective November 17, 2014, which was the date the application was received by PSERS. (PSERS-5).

10. Claimant returned to public school employment, on August 16, 2018. (PSERS-8).

11. Following Claimant's return to service, PSERS informed her, among other things, that to retire again she would need to file an *Application for Retirement*:

Your name has been removed from our annuitant payroll and you have been re-enrolled as an active, contributing member.

When you are ready to retire again, you will need to submit a new retirement application to this office.

(PSERS-8; N.T. 82-83).

12. On June 15, 2019, Claimant terminated public school service for a third time. (PSERS-12).

13. For her first two retirements, Claimant filed an *Application for Retirement* after her 90-day deadline, and her effective date of retirement was the date PSERS received her properly filed application. (PSERS-1, PSERS-2, PSERS-4, PSERS-5; N.T. 79, 82).

14. PSERS' recommended retirement process for members is as follows:

- a. Obtain a staff-prepared estimate.
- b. Attend an exit counseling session.
- c. Complete an *Application for Retirement* (which could be done at the exit counseling session); this form is available online, by calling

in, or in person. The *Application for Retirement* can be submitted to PSERS by fax, mail, or dropped off.

- d. After the *Application for Retirement* is processed by PSERS, the retiree receives a finalized benefit letter and begins to receive their annuity payments.

(N.T. 70-73, 110-111).

15. Claimant never attended a PSERS' exit counseling session. (PSERS-1, PSERS-4, PSERS-11; N.T. 25, 30, 37, 60, 79, 81, 86).

16. Claimant acknowledges she did not submit an *Application for Retirement* to PSERS within her 90-day deadline of September 13, 2019. (N.T. 33-34).

17. By letters dated November 25, 2019, and December 1, 2019, Claimant was notified that she must file an *Application for Retirement* to begin receiving an unreduced benefit because her "superannuation date" was approaching:

The Public School Employees' Retirement System (PSERS) records indicate that you terminated employment with all Pennsylvania public school employers and vested your account. You will reach normal retirement (superannuation) on January 20, 2020, and will be eligible to apply for an unreduced retirement benefit.

You must file an *Application for Retirement* (PSRS-8) within 90 days of your normal retirement date or within 90 days of the date of this letter, whichever is later, in order to begin receiving an unreduced retirement benefit.

(PSERS-9, PSERS-10; N.T. 83-85, 109).

18. On December 18, 2019, Claimant called PSERS regarding the status of her pension. (PSERS-14; N.T. 50).

19. During the call, Claimant told the representative that she thought her retirement benefits would just be restarted:

Mbr called wanting to know status of her pension. She had a frozen annuity and never submitted a new retirement application. She thought the benefits would just be restarted once the numbers were calculated. She said every

time she called she was told it was just a matter of getting the numbers recalculated. She had the non-elimination estimate that was sent on 11.14.19 but apparently thought the pension payments would just restart. She is also questioning retirement date on application as she insists she was told she would be paid back to her termination date in June. I sent mbr RETAPP via email just before leaving today. She will print and decide on her retirement choices. She may call early tomorrow for assistance with the RETAPP. I advised her to submit asap once completed.

(PSERS-14; N.T. 89-90).

20. Following Claimant's phone call, the PSERS' representative emailed Claimant an *Application for Retirement*. (N.T. 36-37, 89-90).

21. On December 23, 2019, PSERS received Claimant's completed *Application for Retirement*. (PSERS-11; N.T. 85-86).

22. By letter dated February 4, 2020, Claimant was notified that her effective date of retirement was December 23, 2019. (PSERS-12).

23. Claimant appealed the effective date of her retirement to the Executive Staff Review Committee ("ESRC"), and the ESRC denied her appeal by letter dated December 20, 2023. (PSERS-13).

24. On January 19, 2024, Claimant appealed the ESRC denial, by timely filing an *Appeal and Request for Administrative Hearing*. (Docket – *Appeal*).

25. On February 7, 2024, PSERS filed an *Answer* to Claimant's appeal. (Docket – *Answer*).

26. An administrative hearing was held on November 4, 2025.

27. Claimant was afforded notice of the hearing; appeared at the hearing and participated with counsel; 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 given the opportunity to file a brief. (N.T. *passim*; Docket).

CONCLUSIONS OF LAW

1. The Board has jurisdiction to hear 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") 27).

3. Claimant bears the burden of proving the facts alleged in support of her claim. See 22 Pa. Code §§ 201.12(d), 201.10, and 201.8(a); *Gierschick v. State Emps.' Ret. Bd.*, 733 A.2d 29, 32 (Pa. Cmwlth. 1999).

4. The burden of proof applied in an administrative hearing is the preponderance of evidence standard and is "such proof as leads the fact-finder . . . to find that the evidence of a contested fact is more probable than its nonexistence." *Sigafoss v. Pa. Bd. of Prob. and Parole*, 503 A.2d 1076, 1079 (Pa. Cmwlth. 1986); *Samuel J. Lansbury, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

5. PSERS is a creature of statute and derives its authority from the provisions of the Public School Employees' Retirement Code ("Retirement Code"). 24 Pa.C.S. § 8101 et seq.

6. The Retirement Code defines "effective date of retirement" as 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, if after 90 days, the date of filing such application or the date specified on the application, whichever is later. 24 Pa.C.S. § 8102.

7. "Date of termination of service" is defined, in pertinent part, as the "last date of service for which pickup contributions are made for an active member." 24 Pa.C.S. § 8102.

8. Upon termination of service, a member may elect to withdraw their accumulated deductions, vest their retirement rights, or receive an immediate annuity. See 24 Pa.C.S. § 8507(f); 22 Pa. Code § 215.7(e).

9. According to the Retirement Code, if a member does not file an application for retirement within 90 days of their termination of service, their annuity begins on the date the application is filed:

Failure to apply for annuity. – If a member is eligible to receive an annuity from the system and does not file a proper application within 90 days of termination of service, he shall be deemed to have elected to vest, and his annuity will become effective as of the date an application is filed with the board

24 Pa.C.S. § 8507(i).

10. “Effective date of retirement” is defined as follows:

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 on the application, whichever is later.

(2) In the case of a vestee who files an application for an annuity within 90 days of his superannuation age, the attainment of such age.

(3) In the case of a vestee who defers the filing of an application for an annuity to a date later than 90 days following attainment of superannuation age, the date of filing or the date specified on the application, whichever is later.

(4) In the case of a finding of disability, the date certified by the board as the effective date of disability.

24 Pa.C.S. § 8102.

11. An application for retirement is filed with PSERS on the date that it is *received by* PSERS. See 22 Pa. Code § 201.1 and 1 Pa. Code § 31.11 (“The date of receipt at the office of the agency and not the date of deposit in the mails is determinative.”); *Harasty v. Pub. Sch. Emps.’ Ret. Bd.*, 945 A.2d 783, 788 (Pa. Cmwlth. 2008).

12. When an annuitant returns to school service, they are re-enrolled as an active, contributing member of PSERS, and their annuity payments cease. See 24 Pa.C.S. § 8346(a); 22 Pa. Code § 213.46(a); (PSERS-3, PSERS-8).

13. To begin receiving a retirement benefit after a return to service, a PSERS member must terminate service and reapply for an annuity. See 24 Pa.C.S. §§ 8102, 8342(a); see also 24 Pa.C.S. § 8346(c), (d); (PSERS-3, PSERS-8).

14. Claimant did not satisfy her burden of proof that she filed *her Application for Retirement* within the prescribed statutory deadline of September 13, 2019, which was 90 days after her termination date of June 15, 2019. (F.F. Nos. 12, 16, 21, 22).

15. The Board cannot be estopped from applying the statutory provisions of the Retirement Code, even if a member receives inadequate, incorrect, or even no information. See *Tyson v. Pub. Sch. Emps.' Ret. Sys.*, 737 A.2d 325 (Pa. Cmwlth. 1999), *alloc. den.* 757 A.2d 937 (Pa. 2000); *Cosgrove v. State Emps.' Ret. Bd.*, 665 A.2d 870 (Pa. Cmwlth. 1995); *Lawrie v. Pub. Sch. Emps.' Bd.*, 595 A.2d 753 (Pa. Cmwlth. 1991); *Finnegan v. Pub. Sch. Emps.' Ret. Bd.*, 560 A.2d 848 (Pa. Cmwlth. 1989).

16. Pursuant to the Retirement Code, Claimant's effective date of retirement is December 23, 2019, the date PSERS received her completed *Application for Retirement*. 24 Pa.C.S. §§ 8102, 8507(i); (F.F. 21).

DISCUSSION

Claimant retired from PSERS in 2013, 2014, and 2019; however, the effective date of the 2019 retirement is the sole issue in this appeal. (F.F. 2) Claimant asks the Board to change her “effective date of retirement” from December 23, 2019, to June 16, 2019, thereby paying her retroactive benefits to the day after her “date of termination of service.” In making this request, Claimant had to prove, by a preponderance of the evidence, that PSERS received her application within the 90-day timeline established by the Retirement Code.

The Retirement Code defines “Effective Date of Retirement” as:

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 on the application, whichever is later.

24 Pa.C.S. § 8102; *see also* 24 Pa.C.S. § 8507(i). The “date of termination of service” is the “last day of service for which pickup contributions are made for an active member,” which for Claimant was June 15, 2019. *See* 24 Pa.C.S. § 8102; (F.F. 12; PSERS-12).

A member who does not complete the required application within the 90-day deadline cannot receive retroactive benefits. *See generally Harasty v. Pub. Sch. Emps.’ Ret. Bd.*, 945 A.2d 783 (Pa. Cmwlth. 2008). Based on Claimant’s June 15, 2019, date of termination of service, her 90-day deadline to file a retirement application and to receive retirement benefits retroactive to the day after her termination of service was September 13, 2019. Claimant conceded that she did not submit an *Application for Retirement* within her 90-day deadline, and it is undisputed that PSERS received her *Application for Retirement* on December 23, 2019. (F.F. 16, 21). Thus, as a matter of law, Claimant’s effective date of retirement is December 23, 2019. Nevertheless, Claimant asks the Board to waive the 90-day statutory deadline based on her assertion that multiple PSERS’ representatives told her, over the phone, to wait to file an *Application for Retirement* and reassured her that her benefits would be retroactive to June 15, 2019.

A discussion regarding the phone calls between Claimant and PSERS is unnecessary to the outcome of the case, because it is uncontested that PSERS received Claimant’s *Application for Retirement* on December 23, 2019, 101 days after the 90-day window. (F.F. 16, 21; PSERS-11, PSERS-12). For completeness, however, the Board finds that the evidence of record does not support a finding that PSERS provided incorrect information to Claimant. Rather, the evidence suggests that there was a misunderstanding.

Preliminarily, Claimant testified that she was informed by two PSERS representatives, between June and August 2019, that she could wait to file a retirement application. (N.T. 9-11, 13-14, 33, 41-42, 46). Inherent in this understanding is the awareness that she needed to *file* an application in order to receive a monthly benefit. In a December 2019 phone call with PSERS, however, Claimant stated that she believed her benefits would restart without filing an application. (PSERS-14). If Claimant believed she could wait to file an application, she would presumably have understood her pension would not just restart. Moreover, to the extent there was any confusion regarding whether Claimant needed to file another *Application for Retirement*, the record reflects that PSERS advised Claimant after her first two retirements, in writing, that she must file another *Application for Retirement*.³ (F.F. 7, 11; PSERS-3, PSERS-8). PSERS also notified Claimant, in writing, that her superannuation date was approaching, and she must file an *Application for Retirement* to begin receiving an unreduced benefit.⁴ (F.F. 17; PSERS-9, PSERS-10). Accordingly, the record does not establish that Claimant's delay in filing her application was due to incorrect advice from PSERS.

Claimant also asserts that PSERS assured her that her retirement benefits would be retroactive to her date of termination. Notably, in the first two calls, during which Claimant asserts that she was informed she would receive retroactive benefits, she was within the 90-day window and would have, in fact, received retroactive benefits if she had filed her application. (N.T. 9-10, 13-14, 41-42, 46). PSERS also presented evidence regarding its standard practices and procedures, explaining that all representatives are trained and knowledgeable about the 90-day deadline for retroactive benefits, and would not have counseled Claimant not to file an application or guaranteed her benefits would be retroactive. (N.T. 74, 76, 90-91, 100-101, 107). The evidence further establishes that PSERS had previously advised Claimant that she had to file an application within 90 days

³ Indeed, Claimant's pension did not just restart after her second termination of service in 2013. Rather, Claimant filed an *Application for Retirement*, and thereafter began receiving her monthly benefit. (F.F. 8, 13; PSERS-4, PSERS-5).

⁴ Notably, Claimant's monthly benefit would have been greater had she reached her normal retirement date, i.e. superannuation. See 24 Pa.C.S. §§ 8342(a), 8345; PSERS-9, PSERS-10.

of termination to preserve her retirement date. (PSERS-1, PSERS-4; N.T. 73-74). Claimant retired from PSERS on two prior occasions and did not receive retroactive benefits either time, because just like this 2019 retirement, she filed her application after the 90-day window. (F.F. 13; PSERS-1 – PSERS-5). As such, Claimant has not established that she received incorrect information from PSERS regarding the receipt of retroactive benefits that caused the delay in filing her *Application for Retirement*.

Regardless, as a matter of law, the phone conversations between Claimant and PSERS are not dispositive of the case. The Board does not have the authority to circumvent the express language of the Retirement Code and ignore the statutorily mandated eligibility requirements for retirement. *Marinucci v. State Emps.' Ret. Sys.*, 863 A.2d 43 (Pa. Cmwlth. 2004);⁵ *Forman v. Pub. Sch. Emps.' Ret. Bd.*, 778 A.2d 778 (Pa. Cmwlth. 2001). Specifically, even if Claimant had established that she justifiably relied on misinformation from PSERS, the Board would still be without the authority to grant Claimant the relief she seeks. See *Tyson v. Pub. Sch. Emps.; Ret. Sys.*, 737 A.2d 325 (Pa. Cmwlth. 1999), *alloc. den.* 757 A.2d 937 (Pa. 2000); *Cosgrove v. State Emps.' Ret. Bd.*, 665 A.2d 870 (Pa. Cmwlth. 1995); *Lawrie v. Pub. Sch. Emps.' Bd.*, 595 A.2d 753 (Pa. Cmwlth. 1991); *Finnegan v. Pub. Sch. Emps.' Ret. Bd.*, 560 A.2d 848 (Pa. Cmwlth. 1989). The Retirement Code mandates that Claimant's effective date of retirement is December 23, 2019, the day PSERS received her properly filed application.

⁵ Cases interpreting provision of the State Employees' Retirement Code "are equally applicable in deciding issues arising under similar or identical provisions" of the Retirement Code. *Krill v. Pub. Sch. Emps.' Ret. Bd.*, 713 A.2d 132, 134 n.3 (Pa. Cmwlth. 1998).

CONCLUSION

For these reasons, the Board concludes that Claimant failed to satisfy her burden of proof that PSERS received her *Application for Retirement* within the prescribed statutory deadline of September 13, 2019. Consequently, the Board is without authority to grant Claimant's request.

IT IS HEREBY ORDERED that Claimant Nabeelah A. Bey's request to change her effective date of retirement and be paid retroactive pension benefits is **DENIED**.

PUBLIC SCHOOL EMPLOYEES'
RETIREMENT BOARD

Dated: _____

By: _____
Richard Vague, Chairman