



# State of New Jersey

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

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[www.nj.gov/treasury/pensions](http://www.nj.gov/treasury/pensions)  
August 17, 2023

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

Sent via email to: [REDACTED]

CAHN & PARRA  
[REDACTED]

RE: William Haus  
PERS [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Mr. Cahn:

At its meeting on July 19, 2023, the Board of Trustees (Board) of the Public Employees' Retirement System (PERS) considered your appeal of the Board's decision denying the appeal of your client, William Haus, regarding his request to maintain his PERS multiple-member status. The Board had originally denied his request at its meeting on April 19, 2023, finding that Mr. Haus voluntarily chose to separate from employment in order to receive unemployment benefits rather than take unpaid time or use his compensatory time. You filed a timely appeal of the Board's decision on or about June 23, 2023.

After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing. Thereafter, the Board directed the undersigned to draft a Final Administrative Determination, which was reviewed and approved at its meeting of August 16, 2023.

## **FINDINGS OF FACT**

The Board made the following factual findings.

The record before the Board establishes that Mr. Haus was enrolled in the PERS effective November 1, 1984, as a result of his employment with Borough of South Plainfield (South

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Plainfield) as a Recreation Attendant. On August 1, 2009, Mr. Haus was enrolled in the PERS as a multiple-member because of his employment with Middlesex County as a Motor Vehicle Operator. In March 2020, Mr. Haus separated from his employment with South Plainfield, in order to collect unemployment benefits.

On February 17, 2022 and April 20, 2022, the Division wrote to Mr. Haus and requested that he provide an official layoff notice in order to further investigate his request to maintain multiple member status. South Plainfield advised the Division that there was no actual layoff of its Recreation Department employees. Rather, on March 24, 2020, South Plainfield emailed all members of the Department, including Mr. Haus, regarding the closure of the facilities and provided its employees with three options: 1) use PTO days as they saw fit; 2) take unpaid time; 3) or elect to have South Plainfield terminate their employment status so that they may be eligible to collect unemployment benefits. Mr. Haus chose to have South Plainfield terminate his employment and so that he could collect unemployment benefits. This action severed the employee/employer relationship with South Plainfield. Thus, Mr. Haus chose to terminate his employment on April 5, 2020 and did not return until September 21, 2020.

At its meeting of April 19, 2023, the Board considered your personal statements on Mr. Haus' behalf and all documentation in the record, and found that Mr. Haus was not eligible to maintain his multiple-member status. You filed a timely appeal of that decision.

#### **CONCLUSIONS OF LAW**

The Board made the following conclusions of law.

Prior to May 22, 2010, PERS members were permitted to aggregate salary credit for multiple positions for retirement calculation purposes. However, the legislature enacted N.J.S.A. 43:15A-25.2 which eliminated the creation of multiple status for members enrolled in the PERS on or after May 22, 2010, and curtailed the creation of new multiple locations for members hired prior to that date. Further, members were permitted to retain their previously held multiple-

position(s), provided however, that the member maintain that position continuously without a break in service. The statute states, in pertinent part:

Notwithstanding the provisions of any law to the contrary, after the effective date [May 21, 2010] of P.L.2010, c.1, a person who is or becomes a member of the Public Employees' Retirement System and becomes employed in more than one office, position, or employment covered by the retirement system or commences service in a covered office, position, or employment with more than one employer shall be eligible for membership in the retirement system based upon only one of the offices, positions, or employments held concurrently. In the case of a person who holds more than one office, position, or employment covered by the retirement system, the retirement system shall designate the position providing the higher or highest compensation for the person with such concurrent positions as the basis for eligibility for membership and the compensation base for contributions and pension calculations.

...

The provisions of subsections a. and b. of this section shall not apply to a person who, on the effective date [May 21, 2010] of P.L.2010, c.1, is a member of the retirement system and holds more than one office, position, or employment covered by the retirement system with one or more employers, while the member continues to hold without a break in service more than one of those offices, positions, or employments. Any additional office, position, or employment acquired by the member shall not be deemed creditable service for the purposes of the retirement system and no designation for that member shall be made until only one of the offices, positions, or employments held on the effective date remains.

[(emphasis supplied.)]

PERS regulations define a "break in service" as "any pension reporting period without pay, a monthly or biweekly pay period, as appropriate to the employer's reporting method, with the exception of approved leaves of absence, lay-off, abolishment of position, military leave, Workers' Compensation, litigation, or suspension." See N.J.A.C. 17:2-1A.1.

Under the provisions of N.J.S.A. 43:15A-25.2, Mr. Haus remained eligible to maintain his multiple membership as he held both titles prior to effective date of May 21, 2010. However, Mr. Haus chose to separate from his employer rather than use his PTO or remain employed on an

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unpaid status while the South Plainfield Recreational Department was closed due to the pandemic. Thus, Mr. Haus does not qualify for an exemption under the statute or regulation to maintain his multiple member status.


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 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 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-12/JSI

C: N.Munko (ET); L. Quinn (ET)

William Haus (via regular mail)