



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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SHEILA Y. OLIVER
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State Treasurer

JOHN D. MEGARIOTIS
Acting Director

January 7, 2022

Michael J. Ward, IV, Esq.
The Law Offices of Michael J. Ward, L.L.C.

[REDACTED]

RE: Anthony Puca
TPAF [REDACTED]

Dear Mr. Ward:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the decision of the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) regarding your appeal of the Board's denial of your client Anthony Puca's request to file for Deferred retirement benefits.

At its meeting of December 2, 2021, the Board considered your written submissions and accompanying documentation and found that the relevant case law governing the TPAF do not the Board to grant Mr. Puca the opportunity to apply for Deferred retirement benefits. Finding no genuine issue of material fact in dispute, the Board also denied your request for an administrative hearing. Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the TPAF Board at its January 6, 2022, meeting.

FINDINGS OF FACT

The record shows that Mr. Puca established membership in the TPAF under account [REDACTED] on September 1, 1990, based upon his employment with Winslow Township Board of Education (BOE). Mr. Puca's TPAF pension contributions with this location continued through

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November 28, 1996, when he was suspended due to an indictment charging him with Sexual Assault and Endangering the Welfare of a Child.

On July 17, 1997, Mr. Puca was found guilty of Endangering the Welfare of a Child. The Sexual Assault count was dismissed.

On August 8, 1997, Mr. Puca was sentenced to eight years' incarceration, required to pay various fines, ordered to comply with all of the registration and notification requirements of Megan's Law, placed on community supervision for life and disqualified from holding any office or position of honor, trust or profit under this state or any of its administrative or political subdivisions pursuant to N.J.S.A. 2C:51-2c.

The record indicates that tenure charges of unbecoming conduct and other just cause were filed against Anthony Puca and that a Commissioner of Education Decision was issued on December 4, 1997 noting that the Commissioner concurred with the Administrative Law Judge that the tenure matter is properly dismissed as moot, in that Anthony Puca has forfeited his position.

On January 21, 1999, an Order to Show Cause was issued by the State Board of Examiners for Anthony Puca to show cause why his Teacher of Elementary School certificate should not be revoked. At its meeting of February 4, 2000, the New Jersey State Board of Examiners issued an Order of Revocation ordering the revocation of his Teacher of Elementary School certificate. Thereafter, Mr. Puca was terminated from his teaching position at Winslow Township BOE.

On November 25, 2020, Mr. Puca filed an application for Deferred Retirement effective December 1, 2020. At the time of his last pension contribution, he was 41 years of age and had 16 years and 5 months of TPAF service credit. Therefore, the only retirement benefit for which he was eligible to apply was a Deferred retirement.

At its meeting of September 2, 2021, the Board reviewed whether Mr. Puca was eligible for Deferred retirement after his termination for conduct unbecoming a teacher. The Board found that because he was removed for conduct unbecoming a teacher, that he is not eligible for a Deferred retirement, and therefore the Board denied his application under the provisions of N.J.S.A. 18A:66-36. You filed an appeal on October 26, 2021, requesting that the Board reconsider its prior decision and requested an administrative hearing. At its meeting of December 2, 2021, the Board reconsidered, but reaffirmed, its previous decision and denied your request for a hearing.

CONCLUSIONS OF LAW

The issue is whether Mr. Puca is eligible to apply for Deferred retirement benefits. As noted above, the last contribution to Mr. Puca's TPAF account was on November 28, 1996, at which time his TPAF membership account was vested as it reflected 16 years and 5 months of service credit. In making its determination, the Board relied upon N.J.S.A. 18A:66-36 to receive a Deferred retirement. N.J.S.A. 18A:66-36 states in pertinent part:

Should a member of the Teachers' Pension and Annuity Fund, after having completed 10 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for conduct unbecoming a teacher or other just cause under the provisions of N.J.S.18A:28-4 to 18A:28-5 and 18A:28-9 to 18A:28-13 inclusive, such person may elect to receive, in lieu of the payment provided in N.J.S.18A:66-34:

(Emphasis added)

(Emphasis added)

The Board determined that Mr. Puca did not satisfy the eligibility requirement in the TPAF Deferred retirement statute, which provides Deferred retirement only to members, who, unlike Mr. Puca, are “separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for conduct unbecoming a teacher or other just cause[.]” The terms of N.J.S.A. 18A:66-36 plainly condition a TPAF member’s eligibility for deferred retirement benefits upon the absence of any for-cause removal from employment.

Additionally, the Board relied on the Commissioner of Education’s statement on page 4 of the Order of Revocation dated May 17, 2000:

[R]espondent’s argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County. 1965 S.L.D. 159, *aff’d* State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County. 1971 S.L.D. 623. [In the Matter of the Tenure Hearing of Robert H. Beam, 1973 S.L.D. 157, 163.]

You assert that Mr. Puca was informed by his previous attorney (Robert B. McFarland, Esq.) and the former Winslow Township BOE Solicitor, that he would not be forfeiting his TPAF pension due to the fact that the criminal charge for which he was convicted was not related to his employment. However, the December 30, 1996 letter that you reference simply states that Mr. Puca’s “present pension rights” would not be forfeited. The letter’s subject matter is regarding equitable distribution between Diane E. Puca and Anthony J. Puca and has no bearing on Mr.

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Puca's request for a future retirement from TPAF. Because the TPAF's deferred retirement statute requires automatic forfeiture, the aforementioned letter is legally irrelevant.

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 on the basis of the TPAF 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 Teachers' Pension and Annuity Fund.

Mr. Puca is eligible to withdraw his accumulated pension contributions remitted during active membership. He may request an *Application for Withdrawal* by writing to Donna Wood, Supervisor, Loan/Withdrawal Section at the Division, at the address above. **Nonetheless, he is cautioned against filing the Withdrawal Application if he intends to appeal the Board's determination. Withdrawal terminates all rights and privileges of membership.**

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

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C: J. Ehrmann (ET); R. Willever (ET)