


































Employees' Retirement System of Rhode Island -- Retirement Board Meeting







Schedule	Thursday, January 18, 2024 9:00 AM — 11:30 AM EST
Venue	2nd Floor Conference Room, 50 Service Avenue, Warwick, RI
Description	ERSRI Retirement Board Meeting.
Notes for Participants	If you are unable to attend the January meeting, please contact Frank at 462-7610 or Roxanne at 462-7608.
Organizer	Frank J. Karpinski

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 (RESTRICTED)	
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8.1. (RESTRICTED)





-  (RESTRICTED)
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 -  (RESTRICTED)
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Posted Agenda

RETIREMENT BOARD MEETING AGENDA

Thursday, January 18, 2024

9:00 a.m.

2nd Floor Conference Room,

50 Service Avenue, Warwick, RI

Streamed via Zoom Webinar - Dial-in: +1 929 205 6099 (US)

Access Code: *837 5449 7231*

Link: <https://treasury-ri-gov.zoom.us/j/83754497231>

- I. Chairperson Call to Order
- II. Approval of the Draft Meeting Minutes of the December 18, 2023, Retirement Board Meeting
- III. Chairperson's Report
- IV. Executive Director's Report
 - Presentation and Recommendation *by Administration, Audit, Risk & Compliance Committee* to the Full Board of the results of the RFP for the ERSRI Actuarial Audit Services Contract, and recommendation as to Successful Bidder
- V. Administrative Decisions
 - Administrative Appeal – *Patricia Dubois, Appellant vs. ERSRI, Respondent*
- VI. Approval of the December 2023 Pensions as Presented by ERSRI
- VII. Committee Reports

Disability Committee – (See Attachment I)

**Governance Committee* - Governance Committee Recommendation to Retirement Board regarding Performance Evaluation of Executive Director Frank J. Karpinski
- VIII. Legal Counsel Report
 - ****State Of Rhode Island vs. Charles Pearson, P2-2017-3040A**
 - ****State Of Rhode Island vs. Kenneth Fullam, P2-2023-0912AG**
- IX. Adjournment

** Committee members may seek to convene in Executive Session pursuant to Rhode Island General Laws §42-46-5 (a) (1) to discuss the job performance of the Executive Director.*

*** Committee members may seek to convene in Executive Session pursuant to Rhode Island General Laws §42-46-5 (a)(2) to discuss potential litigation involving the Retirement Board.*

Attachment I

Disability Applications and Hearings on Friday, January 5, 2024

- * Senyo Kuada
- * Ernest Ragosta
- * Serena Swartz
- * Robert Nyzio
- * Scott Cancelliri
- * Dennis Drury
- * Laura Blais
- ** Cathleen Hickey
- ** Krislynn Mattscheck
- ** Shawn Lindell
- ** Shawn Richards

* Votes by the full Board on these applications will be limited to approvals made by the Disability Committee at their January 5, 2025 meeting.

** Votes by the full Board on these denied applications, and on decisions reversing prior denials are subject to approval of the decisions by the Disability Committee.



1. Chairperson Call to Order

Roll Call of Members

Presented by Treasurer James A. Diossa



2. Approval of the Draft Meeting Minutes of the December 18, 2023 Retirement Board Meeting

For Vote

Presented by Treasurer James A. Diossa

Employees' Retirement Board of Rhode Island

Meeting Minutes

Monday, December 18, 2023 – 9:00 a.m.

2nd Floor Conference Room

50 Service Avenue, Warwick, RI

Streamed via Zoom Webinar – Dial-in +1 929 205 6099 (US)

Access Code: 850 0607 8523

Link: <https://treasury-ri-gov.zoom.us/j/85006078523>

I. Call to Order

The Meeting of the Retirement Board was called to order at 9:02 a.m., on Monday, December 18, 2023.

The Executive Director was asked to call the roll, and the following members were present: General Treasurer James A. Diossa; John P. Maguire, Vice Chair; Roger P. Boudreau; Mark A. Carruolo; Joseph Codega, Jr.; Paul L. Dion, Ph.D.; Matthew K. Howard; Claire M. Newell; Andrew E. Nota; Raymond J. Pouliot; Jean Rondeau; and Dr. Laura Shawhughes.

A quorum was recognized.

Brenna McCabe arrived at 9:45 a.m., and Michael J. Twohey arrived at 10.04 a.m.

Members absent: Lisa A. Whiting

Also in attendance: Frank J. Karpinski, ERSRI Executive Director; Attorney Michael P. Robinson, Board Counsel.

II. Approval of Minutes

On a motion duly made by John P. Maguire and seconded by Roger P. Boudreau, it was unanimously:

VOTED: To approve the draft meeting minutes of the November 15, 2023 Retirement Board meeting.

III. Chairperson's Report

General Treasurer James A. Diossa did not have a formal report.

IV. Executive Director's Report

Executive Director Karpinski then introduced Mr. Joseph P. Newton, FSA, EA, MAAA and Mr. Paul T. Wood, ASA, MAAA, FCA, Senior Consultant of Gabriel, Roeder, Smith, and Company (GRS) who provided a presentation to the Board regarding the ERS (State and Teachers), MERS (Municipal Employees), State Police (SPRBT), State Police Retirement Fund Trust (SPRFT), Judges (JRBT), Judicial Retirement Fund Trust (RIJRFT) and the Teacher Survivors Benefit Plan (TSBP) June 30, 2023 valuations.

Mr. Newton apprised the Board that the June 30, 2023 valuations determine the employer contribution rates for FY 2026. He noted the 8.4% market investment returns exceed the assumed 7.0% and the aggregate UAAL for the State and Teacher plan decreased for the fifth year in a row. Also, the aggregate funded ratio increased from 60.4% to 62.8%. He told the Board that the FY 2026 projected employer contributions were \$5 million lower than previous projections.

Mr. Newton discussed COLA calculations and said the 2024 COLA is 2.84%. He then noted that beginning in 2024, the benefit adjustments are reduced to twenty five percent (25%) of the benefit adjustment (COLA) payable each year while the plans remain less than 80% funded, instead of being fully suspended. He said members in units less than 80% funded will receive 25% of the COLA, or 0.71% in 2024 on the first \$35,731 of annual benefit if they retired before 6/30/2015 or the first \$29,776 if they retired after 6/30/2015. Also, he noted that the probabilities continue to increase that COLAs are fully restored with or prior to the June 30, 2030 valuation.

Mr. Newton then provided the following charts regarding the actuarial results for State and Teacher plans:

Employer Contribution Rates – State Employees

Item	2022 Actual Results	2023 Actual Results
Total Normal Cost %	7.87%	7.63%
Member Contribution	<u>4.21%</u>	<u>4.24%</u>
Employer Normal Cost%	3.66%	3.39%
Amortization rate	<u>24.88%</u>	<u>25.31%</u>
Total Employer Contribution	28.54%	28.70%
FY ending June 30,	2025	2026
Payroll Projected 2 Years	\$834.0	\$867.0
Projected Contribution	\$238.0	\$248.8

Above dollar amounts in millions

Employer Contribution Rates – Teachers

Item	2022 Actual Results	2023 Actual Results
Total Normal Cost %	7.31%	7.01%
Member Contribution	<u>3.75%</u>	<u>3.75%</u>
Employer Normal Cost%	3.56%	3.26%
Amortization rate	<u>21.56%</u>	<u>21.09%</u>
Total Employer Contribution	25.12%	24.35%
FY ending June 30,	2025	2026
Payroll Projected 2 Years	\$1,204.6	\$1,229.8
Projected Contribution	\$302.6	\$299.5

Above dollar amounts in millions

In summary, Mr. Newton said that the 2026 employer contribution dollars are projected to be slightly lower than previously expected between the two plans. The UAAL should continue to decline year over year going forward and the contribution rates should slowly decline as well but will be based on how the active headcount and payroll grows.

Mr. Paul Wood then discussed the MERS Plan and noted five (5) new Legacy units that joined MERS this year. He noted that there were no closed units, no merged units, and no new COLA elections.

He said that the aggregate funding ratio for all units combined improved to 87.8% and the unfunded accrued liability went down to \$286 from \$298 million last year. Also, he noted that 39 units are over 100% funded compared to 36 from last year and 100 units have funded ratios over 80% compared to 92 last year.

He told the Board there was one (1) unit that dropped below the 80% COLA threshold (West Warwick Fire Department) and seven units moved from under 80% funded to over 80% funded.

Mr. Wood then provided the following chart of the summary MERS results in the aggregate:

Summary of MERS Results in Aggregate

	MERS General	MERS P&F	Total
FY2025 Employer Rate	11.25%	17.33%	13.25%
Change due to:			
Suspension of 2023 COLA for those <80%	-0.20%	-0.27%	-0.23%
Asset Performance	-0.21%	-0.33%	-0.25%
Actual 2024 COLA (2.84%)	0.11%	0.11%	0.11%
Individual salary increases	0.30%	1.07%	0.56%
Overall payroll growth	-0.15%	-0.27%	-0.19%
Noneconomic liability growth	-0.16%	0.24%	-0.02%
Benefit Tier Turnover	-0.13%	-0.05%	-0.10%
Recognition of Assumption Changes	0.18%	0.21%	0.19%
Total Change	-0.26%	0.71%	0.07%
FY2026 Employer Rate	10.99%	18.04%	13.32%

Next, Mr. Wood highlighted the Judges Plan (JRBT), and said it is a well-funded plan, he then discussed the State Police (SPRBT) Plan noting that the unfunded accrued liability was \$34.3 million up from last year's \$21 million and noted hiring of this group is cyclical and can affect the funding.

Mr. Wood discussed the Teachers Survivors Benefit Plan (TSBP) and said there are no required contribution increases.

Mr. Wood highlighted the State Police Retirement Fund Trust (SPRFT) Plan, formerly a pay-as-you-go plan, who received a \$15 million initial deposit of Google money as required by statute. He said the plan would receive an annual \$16,387,092 and is expected to be fully funded by 2035.

Mr. Wood concluded his presentation with the Judicial Retirement Fund Trust (RIJRFT) noting there is no advanced funding and consistent with GASB standards, a municipal bond rate of 3.86% is being used.

Messrs. Newton and Wood summarized the presentation and provided recommendations noting that the current ERSRI funding and benefit policies are proving themselves in real time and that their strongest recommendation would be to stay the course and let the process continue to work.

At the conclusion of the presentation of the valuation results, Jean Rondeau, Chair of the Administration, Audit, Risk & Compliance Committee, reported that the Committee had met on December 12, 2023, to consider the 2023 valuations as presented by GRS. After discussion and consideration of the valuations as presented, the Committee voted to recommend to the full Board acceptance and approval of the valuations as presented.

On a motion duly made by Jean Rondeau and seconded by Paul L. Dion, Ph.D., it was unanimously:

VOTED: To accept and approve the Actuarial Valuations as of June 30, 2023, as presented by Gabriel, Roeder, Smith, and Company, for the ERS (State and Teachers), MERS Plans (Municipal Employees), State Police (SPRBT), State Police Retirement Fund Trust (SPRFT), Judges (JRBT), Judicial Retirement Fund Trust (RIJRFT) and the Teacher Survivor Benefits Plan (TSBP).

- Discuss and Distribute Evaluation Package for the Executive Director Evaluation

The Executive Director then advised the Board that the Governance Committee would be meeting in January to consider recommendations related to the annual Executive Director Performance Evaluation pursuant to the applicable charter, including whether or not to recommend suspension of the same for the year in review.

The Executive Director also updated the Board with regard to the status of the forthcoming Actuarial Audit RFP review.

V. Approval of the November 2023 Pensions as Presented by ERSRI

On a motion duly made by Roger P. Boudreau and seconded by John P. Maguire, it was unanimously:

VOTED: To approve the November 2023 pensions as presented by ERSRI.

VI. Legal Counsel Report

Attorney Robinson indicated that he had no formal report.

VII. Committee Reports

Disability Committee

The Disability Committee recommended the following actions on disability applications as a result of its December 1, 2023 meeting for approval by the full Board:

	Name	Membership Group	Type	Action
1.	Shawn Lindell	Municipal	Ordinary	Approved
2.	Shawn Richards	State	Ordinary	Approved
3.	Thomas Fagan	Municipal	Accidental	Approved
4.	Timothy Gleason	State	Accidental	Approved at 50%
5.	Kim Alix	Teacher	Ordinary	Approved
6.	Joanne Schondek	Teacher	Ordinary	Approved
7.	Doris White	Teacher	Ordinary	Approved
8.	Meredith Miller	Teacher	Ordinary	Deny

On a motion duly made by Dr. Laura Shawhughes and seconded by Roger P. Boudreau, it was unanimously:

VOTED: To approve the Disability Committee’s recommendations as a result of its December 1, 2023 meeting on item Nos. 1-8

**Discussion and Consideration of the Disability Application of Robert Paul, Jr.*

At the Board's request, the full disability application of Robert Paul, Jr. was discussed and considered by the Board following a recommendation of the Disability Committee to deny the same. Dr. Ley, the Board's medical advisor, joined the Board for the purposes of the discussion. Attorney Robinson noted for the record that prior to the meeting, Mr. Paul was advised in writing of his right pursuant to the Open Meetings Act to have discussions regarding his physical or mental health conducted in open session. He also advised the Board that prior to the hearing, counsel for Mr. Paul had notified the system of his desire to have the Board's discussion of the application take place in open session. Attorney Robinson then presented an overview of the application and its procedural travel.

At the conclusion of Attorney Robinson's presentation, the Board discussed the application.

A motion was made by John P. Maguire and seconded by Matthew K. Howard, to **reject** the recommendation of the Disability Committee to deny Mr. Paul's application for an accidental disability pension, and to award him the requested pension. On a roll call vote, the following members voted in favor of the motion:

John P. Maguire and Matthew K. Howard.

The following members voted in opposition to the motion:

General Treasurer James A. Diossa; Roger P. Boudreau; Mark A. Carruolo; Joseph Codega, Jr.; Paul L. Dion, Ph.D.; Brenna McCabe; Claire M. Newell; Andrew E. Nota; Raymond J. Pouliot; Jean Rondeau; Dr. Laura Shawhughes and Michael J. Twohey.

The motion accordingly failed.

Thereafter a motion was made by Jean Rondeau and seconded by Paul L. Dion, Ph.D., to **accept** the Disability Committee's recommendation to deny Mr. Paul's application for an accidental disability pension. On a roll call vote, the following members voted in favor of the motion:

General Treasurer James A. Diossa; Roger P. Boudreau; Mark A. Carruolo; Joseph Codega, Jr.; Paul L. Dion, Ph.D.; Brenna McCabe; Claire M. Newell; Andrew E. Nota; Raymond J. Pouliot; Jean Rondeau; Dr. Laura Shawhughes and Michael J. Twohey.

The following members voted in opposition to the motion:

John P. Maguire and Matthew K. Howard.

The motion accepting the Disability Committee's recommendation to deny Mr. Paul's application for an accidental disability pension accordingly passed.

VIII. Adjournment

There being no other business to come before the Board, on a motion by Roger P. Boudreau and seconded by John P. Maguire, it was unanimously voted to adjourn the meeting at 11:03 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director

DRAFT



3. Chairperson's Report

For Report

Presented by Treasurer James A. Diossa



4. Executive Directors Report

For Report

Presented by Frank J. Karpinski



4.1. Presentation and Recommendation
by Administration, Audit, Risk &
Compliance Committee to the Full Board
of the results of the RFP for the ERSRI
Actuarial Audit Services Contract, and
recommendation as to Successful Bidder
For Approval

Presented by Jean Rondeau and Frank J.
Karpinski

ACTUARY AUDIT SERVICES RFP

Administration, Audit, Risk Compliance Committee Review and Process

ADMINISTRATIVE COMMITTEE SELECTION

- Consistent with ERSRI Regulation 1.3 *Rules Concerning the Selection of Consultants:*

- RFP posted in Providence Journal, Wall Street Journal (Nationally) and Pension and Investments
- Schedule of events

RFP Released	October 9, 2023
Questions by Vendors received by	November 3, 2023
Proposals Due:	November 22, 2023
Interviews	January 9, 202

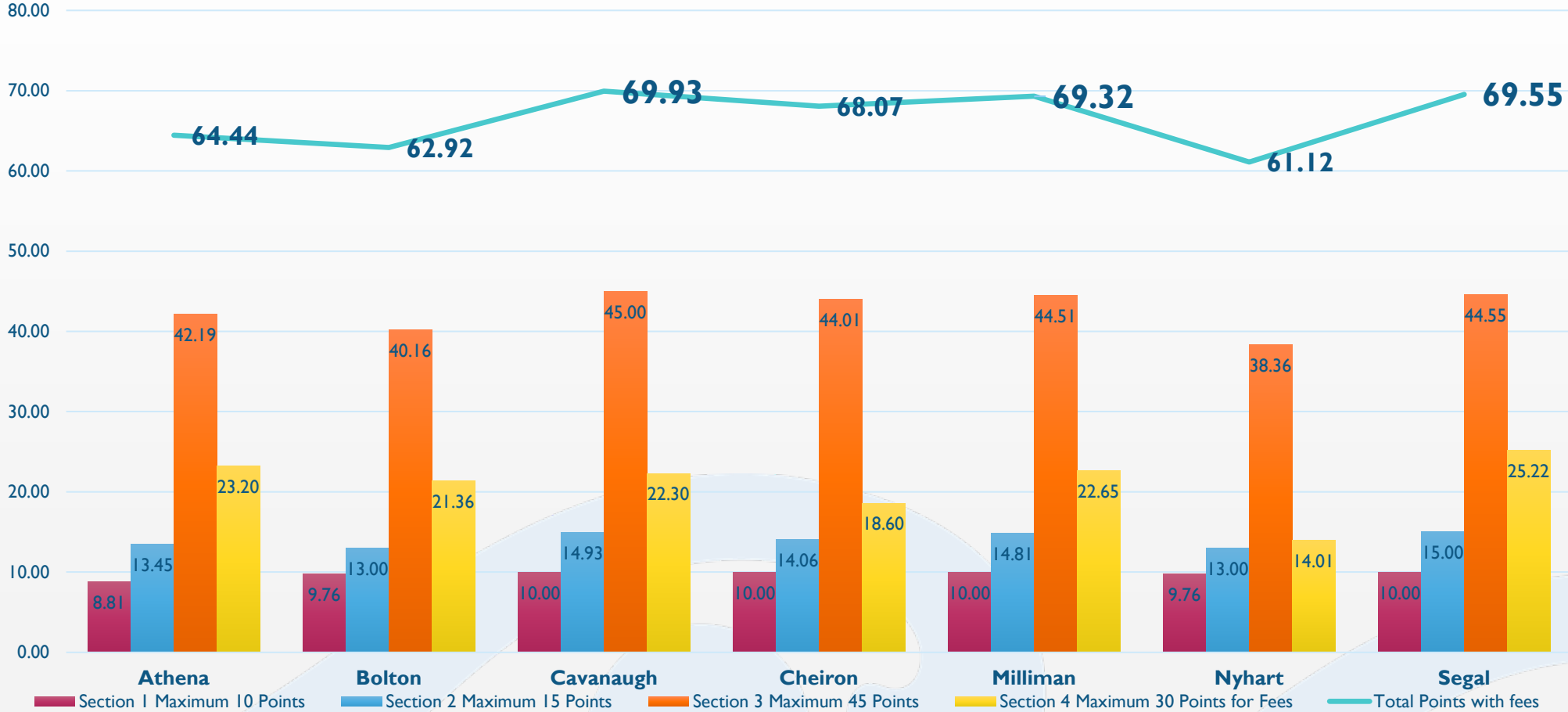
- OPEB also included in RFP but not being reviewed by ERSRI. Also, a separate contract with DOA.

ADMINISTRATIVE COMMITTEE SELECTION

ERSRI Regulation 1.3.2 (F)(2)

- The consultant selection committee shall negotiate with the highest qualified firm for a contract for consulting services for the System at compensation which the consultant selection committee determines to be fair and reasonable. In making such determination, the consultant selection committee shall take into account the professional competence and technical merits of the offerors, and the price for which the services are to be rendered. *The consultant selection committee shall be responsible for the final selection of the providers of consulting services*
- Recommendation to Full Board for final approval

COMMITTEE RFP REVIEW VENDOR POINT DISTRIBUTION



OPTION COST ANALYSIS



RECOMMENDATION OF OPTION SELECTION

- Last two actuarial audits were performed in 2004 by Segal Consulting and in 2012 by Cheiron. Both audits option selections were Option 1 and 3
- The Committee Recommends Option 1 and 3

Option 1 - Section (1) (A) (1-5)

Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. *Includes full valuation replication noted in (A)(5) and opinion.*

Option 3 - Section (1) (B) (1)

Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. *A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. Provide Opinion only.*

ADMINISTRATION RECOMMENDATION

- The Committee reviewed the vendor responses, scored each vendor proposal and interviewed (via Zoom) the three (3) highest scoring candidates.
- After careful consideration, and consistent with *ERSRI Regulation 1.3.2 (F)(2)* the Committee recommends **Cavanaugh Macdonald Consulting LLC** as the firm to perform the Actuarial Audit, consistent with *ERSRI RFP No. 01 for Actuarial Audit Services* dated October 9, 2023, and selecting Options 1 and 3.

QUESTIONS?



Evaluation Done By: _____ Date: Maximum Score
Score

Section 1

Maximum RFP Points = 10

Included transmittal letter	1
Included details on principal actuary resume	1
Identified other professional staff including resumes	1
Included explanation of firm methodology	1
Included number of other defined benefits clients where audits were performed	1
Enclosed sample template or actuarial audit from other public system	2
Total	7

Section 2

Maximum RFP Points = 15

Quality of answered questions on Firm Methodology from <i>Section 2. Minimum Qualifications and Proposal Requirements of the RFP</i>	30
Quality of answered questions on Firm History and Operations from <i>Section 2. Minimum Qualifications and Proposal Requirements of the RFP</i>	20
Quality of answered questions on Audit of Valuation, Experience Investigation, and Consulting Services from <i>Section 2. Minimum Qualifications and Proposal Requirements of the RFP</i>	30
Firm agrees not to enter into other engagements with other state agencies for actuarial/pension consulting using ERSRI data. (Described in <i>Section 2</i>)	10
Included fee for service breakdown according to RFP, Section 3	10
Included 3 public retirement references	10
Total	110

Section 3

Maximum RFP Points = 45

Resumes of Key Individuals	
Experience in similar efforts	75
Education/Training (e.g. F.S.A and or A.S.A)	25
Summary of Experience	
Other Public Retirement Plans	75
Other Defined Benefit Plans	50
Is the Approach/Methodology understandable and appropriate for ERSRI	75
Quality of detail to perform scope of work	50
References (To be completed by ERSRI)	25
Total	375

Section 4

Maximum RFP Points = 30

This section addresses the cost of actuarial audit services and will be prepared by ERSRI upon final tabulation of the above criteria.



Cavanaugh Macdonald
CONSULTING, LLC
The experience and dedication you deserve



Employees' Retirement System of Rhode Island

Request for Proposal No. 1 for Actuarial Audit Services

Due: November 22, 2023, by 4:00pm

Submitted by:

Cavanaugh Macdonald Consulting, LLC.



**Employees' Retirement System of Rhode Island
Request for Proposal for Actuarial Audit Services**

Executive Summary
(Please Limit Response to One Page)

Firm Name: Cavanaugh Macdonald Consulting, LLC.

Address: 3802 Raynor Parkway, Suite 202
Bellevue, Nebraska 68123

Telephone: 402-902-4462

Contact Person: Brent Banister

Actuarial Team: Brent Banister, Larry Langer, Alisa Bennett, Ed Koebel, Micki Taylor,
Wendy Ludbrook, Ryan Gundersen, and Jessica Fain

Number of Public Defined Benefit Clients: 68

Average Amount of Plan Assets: 5 billion

Average Number of Audits Conducted Annually: 1-2 audits per year

Why should the Employees' Retirement System of Rhode Island retain your firm to provide actuarial audit services? Please summarize your firm's strengths in the space provided.

At Cavanaugh Macdonald Consulting, LLC 100% of our actuarial services are for public sector retirement and OPEB plans. As such we understand the unique environment and pressures faced by public sector entities with their pension and OPEB plan funding and accounting disclosures, while also dedicating ourselves to technical expertise involving actuarial modeling and methodology. In addition to extensive experience performing actuarial audits, your proposed team participates in numerous organizations dedicated to education and advocacy regarding public sector pension and health care benefits. For example, Brent Banister, our Chief Actuary, serves on committees with three major actuarial organizations as well as the joint committee which produced the LDRM Toolkit, while Larry Langer serves on the Associate Advisory Committee of NASRA. Alisa Bennett, your proposed technical reviewer, is a frequent speaker on both pension and OPEB topics. With this extensive experience with both the public sector and the technical aspects of auditing actuarial valuations, along with our knowledge of the application of Actuarial Standards of Practice (ASOPs), we are uniquely qualified to provide the value and relevant insights requested during the actuarial audit process. We strive to effectively communicate complex actuarial concepts to non-actuaries and create engaging and useful reports and presentations. We encourage interaction with our clients, so we fully understand the unique environment in which the system is operating.



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TRANSMITTAL LETTER AND MINIMUM QUALIFICATIONS

November 22, 2023

Frank J. Karpinski
Executive Director
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886

RE: RFP No. 1 for Actuarial Audit Services

Dear Mr. Karpinski,

Cavanaugh Macdonald Consulting, LLC (CavMac) is pleased to present our proposal for actuarial audit services to the Employees' Retirement System of Rhode Island (ERSRI) in response to your request for proposal (RFP).

CavMac's dedication to serve solely the public sector with actuarial consulting services makes us extremely rare among the firms proposing for these services. Many of our competitors also work on corporate or Taft-Hartley pension plans, or even non-actuarial work. At CavMac, 100% of our actuarial services are for public sector retirement plans, like ERSRI.

Because of this focus, CavMac is very successful at attracting capable actuarial consultants who are dedicated to the public sector and who can effectively communicate complex actuarial matters to Boards, staff, commissions, and other diverse groups. We recognize that decision makers and other invested parties come from a wide range of personal and business backgrounds. Our reports and presentations are prepared with a broad audience in mind. We believe we bring exceptional expertise and value to our clients.



TRANSMITTAL LETTER AND MINIMUM QUALIFICATIONS

Our advantages include:

Public Plan Experience and Knowledge

The senior staff of CavMac average over 30 years of experience serving public sector benefit plans – the expertise and knowledge of our staff regarding public sector actuarial consulting is as great, if not greater, than any of our competitors.

Strong National Presence

Currently serve as the retained pension actuary for statewide retirement systems in Alabama, Connecticut, Georgia, Indiana, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Nebraska, Ohio, and Oklahoma, and as the virtual internal actuary for Idaho. We also work with many municipal pension clients around the country. We serve as a retained audit/review actuary for South Dakota, and Los Angeles County.

Extensive Experience with Actuarial Audits

We have extensive experience performing outside audits for statewide retirement systems and replicating the work of other actuaries in the public sector, most recently in South Carolina, Illinois and Utah.

Strong Communication

Our consultants intentionally strive to effectively communicate actuarial matters so that complex actuarial concepts can be understood by non-actuaries. We frequently use modeling tools to assist our clients in understanding the dynamics of pension funding.

Client-focused approach

A dedicated staff and an organizational structure that allows flexibility to meet client needs and to provide a high level of client/staff interaction. We refrain from one-size-fits-all approaches so that we can match our service and advice to each client's unique situation.

These strengths drive our success and allow us to continue to be one of the leading public sector actuarial consulting firms in the country. We are committed to maintaining our focus to continue to build on our success.

CavMac meets the qualification requirements in the RFP to provide actuarial services to ERSRI and agrees to comply with all provisions set forth in this RFP.

- 1. CavMac is a professional actuarial firm and provides actuarial valuations, experience investigations, and pension consulting services to over 30 statewide retirement systems. Actuarial consulting services are our sole business. To be more specific, public sector*



TRANSMITTAL LETTER AND MINIMUM QUALIFICATIONS

actuarial consulting services are our only business. CavMac is staffed by seasoned consultants who are dedicated to serving public sector benefit plans.

2. *Brent Banister, our proposed principal actuary is a Fellow of the Society of Actuaries (FSA) and an Enrolled Actuary (EA). Brent has 29 years of public sector actuarial consulting experience. Larry Langer will assist Brent in the role of co-lead actuary. Larry is an Associate of the Society of Actuaries (ASA) and an Enrolled Actuary (EA) with 34 years of actuarial consulting experience, 26 of which are in the public sector.*
3. *CavMac will not enter into an engagement to provide actuarial and/or pension consulting services with any agency of the State of Rhode Island, Municipality or Municipal Entity unless specifically approved by the Retirement Board.*
4. *The undersigned are authorized to bind CavMac to the provisions of this RFP and to clarify the information provided. Contact information for both Brent and Larry follow:*

The following table provides contact information for our primary and support consultants.

Brent Banister, PhD, FSA, EA, FCA, MAAA
 Chief Actuary
 3802 Raynor Parkway, Suite 202
 Bellevue, NE 68123
BrentB@CavMacConsulting.com
 Phone: 402.905.4462
 Fax: 402.905.4464

Larry Langer, ASA, EA, FCA, MAAA
 Principal and Consulting Actuary
 819 North Brainard Street
 Naperville, IL 60563
LarryL@CavMacConsulting.com
 Phone: 630.632.8668
 Fax: 678.388.1730

Having regularly completed actuarial audits in the past, we are very familiar with the scope of service requested and, in our response, we present both our ability and desire to provide ERSRI with the highest quality actuarial audit services available. Brent Banister and Larry Langer are authorized to bind CavMac to the provisions of this RFP and to clarify the information provided. This response presents a firm and irrevocable offer to remain one year from the date of this letter.

We welcome this opportunity to work with ERSRI and look forward to assisting you with this important project.

Sincerely,

Brent A. Banister, PhD, FSA, EA, FCA, MAAA
Chief Actuary

Larry Langer, ASA, EA, FCA, MAAA
Principal and Consulting Actuary



PROFESSIONAL STAFF AND FIRM METHODOLOGY PRINCIPAL ACTUARY

- a. IDENTIFY THE PRINCIPAL ACTUARY BY NAME AND GIVE THE YEAR SUCH ACTUARY BECAME A FELLOW OR ASSOCIATE OF THE SOCIETY OF ACTUARIES AND AN ENROLLED ACTUARY UNDER SECTION 3042 OF THE EMPLOYEES' RETIREMENT INCOME SECURITY ACT OF 1974.**

The primary actuaries who will be responsible for the ERSRI audit have extensive experience working with large public retirement systems, in general, and in performing the full range of actuarial services. Brent Banister, PhD, FSA, EA, FCA, MAAA is Chief Actuary of CavMac and Larry Langer, ASA, EA, FCA, MAAA is a Principal and Consulting Actuary of CavMac. Brent and Larry are highly credentialed actuaries who are both members of the American Academy of Actuaries (MAAA) and Enrolled Actuaries (EA) under ERISA. Brent is a Fellow of the Society of Actuaries (FSA) and Larry is an Associate of the Society of Actuaries (ASA). Both Brent and Larry have extensive experience working with large public retirement systems. Brent became a Fellow of the Society of Actuaries in 2001 and an Enrolled Actuary in 1997. Larry became an Associate of the Society of Actuaries in 2005 and an Enrolled Actuary in 1997.

- b. DETAIL HOW LONG THE PRINCIPAL ACTUARIES HAVE BEEN INVOLVED IN PENSION CONSULTING AND IDENTIFY THOSE MID-SIZED PUBLIC RETIREMENT SYSTEMS (WITH MEMBERSHIPS OF 30,000-100,000) IN WHICH THE ACTUARY HAS WORKED AS THE PRINCIPAL ACTUARY. ALSO, PLEASE STATE WHETHER SUCH WORK INVOLVED THE PRODUCTION OF YEARLY ACTUARIAL VALUATIONS.**

Brent has 29 years of actuarial consulting experience working with public retirement systems. Brent currently manages nine mid-sized state-level clients and manages the on-gong audit work (pension and OPEB) for the Los Angeles County Employees Retirement Association (LACERA) including:

- Indiana Public Retirement System (PRS) - includes 9 annual valuations; 420,000 members
- Oklahoma Public Employees Retirement System (OPERS); 72,000 members
- Oklahoma Uniform Retirement System for Justices and Judges (URSJJ), 600 members
- Oklahoma Law Enforcement Retirement System (OLERS); 2,900 members
- Oklahoma Police Pension and Retirement System (OPPRS); 10,700 members
- Nebraska Public Employees Retirement System (NPERS) - includes 7 annual valuations; 103,500 members.
- Iowa Public Employees Retirement System (IPERS); 380,400 members
- Minnesota Teachers' Retirement Association; 214,800 active members



PROFESSIONAL STAFF AND FIRM METHODOLOGY PRINCIPAL ACTUARY

Larry has 26 years of actuarial consulting experience working with public retirement systems. Larry currently manages three mid-sized state-level clients, two mid-sized municipality including and manages the ongoing audit work for the South Dakota Retirement Systems:

- Alabama Teachers' Retirement System (ALTRS); 240,000 members
- Alabama Employees' Retirement System (ALERS); 55,000 State members
- Ohio Police and Fire Employee Retirement System (OP&F) 62,000 members
- Cook County Pension Fund (CCPF) has 56,000 members.
- City of Milwaukee Employees' Retirement System (that is how they spell employees') 30,000 members

All of these systems for Brent and Larry are retainer clients and require annual actuarial valuations.

c. PLEASE INCLUDE THE RESUME OF THE PRINCIPAL ACTUARY WITH YOUR PROPOSAL.

Please find Brent and Larry's resumes as well as the resumes of all our proposed team members in Exhibit A.



PROFESSIONAL STAFF AND FIRM METHODOLOGY OTHER PROFESSIONAL STAFF

IDENTIFY AND DESCRIBE THE QUALIFICATIONS OF PROFESSIONAL STAFF THAT WILL BE AVAILABLE FOR WORK AS NEEDED. PLEASE PROVIDE A RESUME OF ACTUARIAL CREDENTIALS FOR EACH MEMBER OF THE PROFESSIONAL STAFF INCLUDING THE LENGTH OF TIME THE STAFF PERSON HAS WORKED FOR A MAJOR ACTUARIAL FIRM.

The professional staff at CavMac are technically proficient as evidenced by their actuarial credentials including membership in the Society of Actuaries, the American Academy of Actuaries, and the Conference of Consulting Actuaries. Their credentials can be verified by going to the website, www.soa.org, and searching the “Actuarial Directory”. The directory also includes the date their designations were granted. This will allow you to verify the actuarial credentials of our professional staff.

All of our Principals are members of the national organizations serving public plans in the United States, including the National Association of State Retirement Administrators (NASRA), the National Council on Teacher Retirement (NCTR), the International Foundation of Employee Benefits Plan (IFEBC) and the Public Sector Healthcare Roundtable. We work with the staff members of these organizations to identify items of interest for conferences and for our clients.

Alisa Bennett, one of our Presidents and proposed technical review actuary for ERSRI, is on the Corporate Advisory Committee for the Public Sector Healthcare Roundtable, is a CAPPP educator and is a frequent speaker for the IFEBC NASRA, NCTR and the Georgia GFOA on both OPEB and pension topics. Larry Langer, proposed co-lead actuary, serves on the Associate Advisory Committee of NASRA. Brent Banister, our Chief Actuary and proposed lead for ERSRI, serves on various committees with three major actuarial organizations as well as the joint committee which produced the LDROM Toolkit. Wendy Ludbrook, one of our proposed team members for ERSRI, is currently participating on the committee to update the February 2014 Issue Brief entitled “Objectives and Principles for Funding Public Sector Pension Plans”.

In addition, Ed Koebel, the CEO of CavMac and proposed Peer Review actuary for ERSRI, is a pension educator for the Certificate of Achievement in Public Plan Policy (CAPPP) program of IFEBC. Todd Green, our other President, is on the Corporate Advisory Board of NCTR. These contacts keep us “plugged in” to relevant topics and developments for public plans.

CavMac has been successful because we are able to meet the varying needs of our clients in a consistent and dependable manner. One of our strongest attributes is being able to relate to our clients as unique people and to understand the implications of our work for all stakeholders. We



PROFESSIONAL STAFF AND FIRM METHODOLOGY

OTHER PROFESSIONAL STAFF

encourage interaction with our clients so we can fully understand the unique environment in which the system is operating. CavMac presents the best combination of experience and expertise to provide the actuarial services requested by ERSRI.

Equally important to the technical credentials of our staff are the many years of experience working directly with public retirement systems. There is a significant difference in the actuarial skill set necessary to be an exceptional actuary in the public sector versus the private sector where many assumptions and methods are dictated by the Internal Revenue Code. Public pension actuaries use their analytic and problem-solving skills to assist clients in addressing their concerns and challenges. In addition, public plan actuaries are continually in the public domain due to open meeting laws, so their communication skills are as important as their technical skills. With many years of experience working with public plans, our consultants and analysts understand the unique challenges of public plans and the importance of our ability to work with our clients to address these challenges.

Please see individual resumes in Exhibit A for more detailed information on specific team member experience. The work to be performed on the contract by each person on the CavMac team is discussed and summarized below:

Name/Credentials	Title/Role	Years of Actuarial Consulting Experience
Brent Banister PhD, FSA, FCA, EA, MAAA	Chief Actuary <i>Lead Actuary</i>	29
Larry Langer ASA, EA, FCA, MAAA	Principal & Consulting Actuary <i>Lead Actuary</i>	34
Alisa Bennett FSA, EA, FCA, MAAA	President <i>Technical Reviewer</i>	30
Ed Koebel EA, FCA, MAAA	Chief Executive Officer <i>Peer Review</i>	29
Wendy Ludbrook FSA, EA, FCA, MAAA	Consulting Actuary <i>Project Management & Senior Production</i>	28
Micki Taylor ASA, EA, FCA, MAAA	Consulting Actuary <i>Senior Production</i>	32
Ryan Gundersen Pursuing ASA	Senior Consultant <i>Production</i>	16
Jessica Fain Pursuing EA	Associate Actuary <i>Production</i>	9

Key to Actuarial Credentials:

FSA: Fellow, Society of Actuaries

FCA: Fellow of Conference of Consulting Actuaries

ASA: Associate, Society of Actuaries

MAAA: Member, American Academy of Actuaries

EA: Enrolled Actuary



PROFESSIONAL STAFF AND FIRM METHODOLOGY OTHER PROFESSIONAL STAFF

We are confident that we can provide ERSRI with a high-quality audit with a thorough technical review while recognizing the professional judgement involved in the valuation process especially with respect to the selection of assumptions and the communication of results in the valuation report. This highly credentialed team will communicate on a regular basis and share their findings as the audit progresses. We believe this approach will provide efficiency in the audit process while providing multiple “eyes” on the software coding to ensure a thorough review is performed.

Brent Banister and Larry Langer – Lead Actuaries

Final reviewers of the work product and lead actuaries on any key differences or recommendations identified in the audit. Brent and Larry will be involved in all aspects of the audit process from data collection to completion of the final report and presentation. In addition, as Chief Actuary, Brent is an expert on Actuarial Standards of Practice (ASOP) compliance.

Alisa Bennett – Technical Review Actuary

Technical reviewer of all audit work including overall reasonableness of matching valuation, reasonableness of assumptions, and determination of appropriateness of actuarial methods.

Ed Koebel – Peer Review Actuary

Peer reviewer of all audit work including secondary review of test lives. Another experienced professional who is available to provide insight into special project work or unusual situations and provides recommendations of assumptions and methods.

Wendy Ludbrook – Project Management/Senior Production

Alternate contact for ERSRI if needed, responsible for management of all projects. Senior level production of all audit work including data analysis, replication and completion of test lives.

Micki Taylor – Senior Production

Alternate contact for ERSRI, if needed. Senior level production of all audit work including data analysis, replication and completion of test lives.

Ryan Gundersen and Jessica Fain – Production

Data analysis, software coding, and initial review of test lives.



PROFESSIONAL STAFF AND FIRM METHODOLOGY FIRM METHODOLOGY

PLEASE PROVIDE ERSRI WITH INFORMATION, NOT EXCEEDING TWO PAGES, REGARDING YOUR APPROACH TO THE SCOPE OF WORK OUTLINED IN SECTION 2. SHOULD YOU CONSIDER YOUR APPROACH TO ACTUARIAL SERVICES TO BE DIFFERENT IN ANY WAY, PLEASE DESCRIBE THOSE DIFFERENCES.

As part of its fiduciary duty to the plan, the Board of Trustees of ERSRI must assure themselves that the actuary retained to perform annual valuations and periodic experience investigations is not only technically competent but is painting an accurate picture of the financial condition of the plan in accordance with generally accepted actuarial standards. The Board also needs to be confident that the retained actuary is making sound recommendations regarding the appropriate assumptions and methods used in developing that picture. Beyond that, ERSRI is a large financial organization and the retained actuary's work has a direct and significant impact on the members of ERSRI and the taxpayers of Rhode Island.

CavMac has successfully completed many actuarial audits in the past; therefore, we have a reliable methodology in place for the audit of ERSRI. Many of the audits we have performed, such as South Carolina, Illinois Municipal and Utah and others listed in the following sections, have involved reviewing the work of GRS, so we are familiar with their software and processes.

The first step is a conference call with staff to gather all data relevant to the actuarial valuation—benefit provisions, actuarial valuation and experience reports, financial information, and census data – and to discuss the goals of the review. In addition, we will provide an informational request letter for the retained actuary asking for a detailed listing and explanation of all assumptions, loads and methods utilized in the valuation process, and for an electronic copy of the active and retired data files (both raw and summarized, if applicable) used in the last valuation. We will ask the retained actuary to provide a spreadsheet showing detailed breakdowns of the liabilities developed in the most recent valuation by decrement separately for active members, inactive members, and retirees.

Proposed Services

CavMac will perform the following services:

- Perform an in-depth review and analysis of the valuation results, including an evaluation of the data used for reasonableness and consistency as well as a review of mathematical calculations for completeness and accuracy.
- Verify that all appropriate benefits have been valued and valued accurately. Verify that



PROFESSIONAL STAFF AND FIRM METHODOLOGY FIRM METHODOLOGY

- the data provided by the system is consistent with data used by GRS.
- Evaluate the actuarial cost method and actuarial asset valuation method in use and discuss if other methods would be more appropriate for ERSRI as a whole or for particular funds.
 - Verify the reasonableness of the calculation of the unfunded actuarial accrued liability and the amortization period.
 - Perform a full replication of the most recent actuarial valuation for the Employees' Retirement System (ERS) and the Municipal Employees' Retirement System (MERS).
 - Determine if the actuarial methods, considerations and analyses used by GRS in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. Including:
 1. A review of the demographic and economic actuarial assumptions for consistency, reasonableness, and compatibility.
 2. A full replication, review of the demographic and economic actuarial assumptions for consistency, reasonableness, and compatibility of the most recent experience study for the Employees' Retirement System and the Municipal Employees' Retirement System.
 - An opinion as to whether GRS' reports conform to appropriate Standards of Practice as promulgated by the Actuarial Standards Board and is comprehensive. Any recommendations for improvement in the report presentation will be included.

We do not feel it is constructive for non-material differences in actuarial opinions to be considered as key findings in the audit process. We attempt to ensure that our comments focus on items which will improve the valuation process, results, and reporting of the plans. It is our recommended process that we first discuss all material findings with the System, we then reconcile our findings with the retained actuary and then reflect those findings in our final report which materially improve the valuation process.

We will prepare a report on our initial findings to discuss with the System's staff within the requested timeline. We will reconcile any material differences with the retained actuary and the System's staff. We will then prepare and deliver a final audit report to the staff.

The final written report will contain an Executive Summary of our findings followed by separate sections detailing our work effort and results. There will also be sections covering review exceptions, if any, and our recommendations for improving the valuation process and/or reports.

Finally, we will prepare a presentation of the material to the Board at a meeting date to be determined.



PROFESSIONAL STAFF AND FIRM METHODOLOGY FIRM HISTORY AND OPERATIONS

PLEASE ADDRESS THE FOLLOWING QUESTIONS REGARDING YOUR FIRM:

1) HOW MANY YEARS HAS THE FIRM BEEN PROVIDING ACTUARIAL SERVICES?

CavMac was created specifically to provide actuarial consulting services to public sector pension plans, and we have been doing so since June of 2005. However, it is worth noting that senior consultants of the firm have been providing services to public pension plans for an average of 30 years. Many came to CavMac from large, national firms that were not committed to serving the public sector actuarial market.

2) PLEASE IDENTIFY THE LOCATION OF THE PRIMARY OFFICE THAT WILL PROVIDE SERVICES FOR ERSRI.

3) DESCRIBE THE OWNERSHIP STRUCTURE OF THE FIRM, INCLUDING THE RELATIONSHIPS OF EACH BRANCH OFFICE TO THE BRANCH OFFICES AND TO THE HEADQUARTERS. IDENTIFY THE INDIVIDUAL WHO HAS OVERALL RESPONSIBILITY FOR THE FIRM'S OPERATIONS. PLEASE DISCLOSE ANY CONFLICTS OF INTEREST THAT MAY EXIST IN PROVIDING SERVICES TO ERSRI.

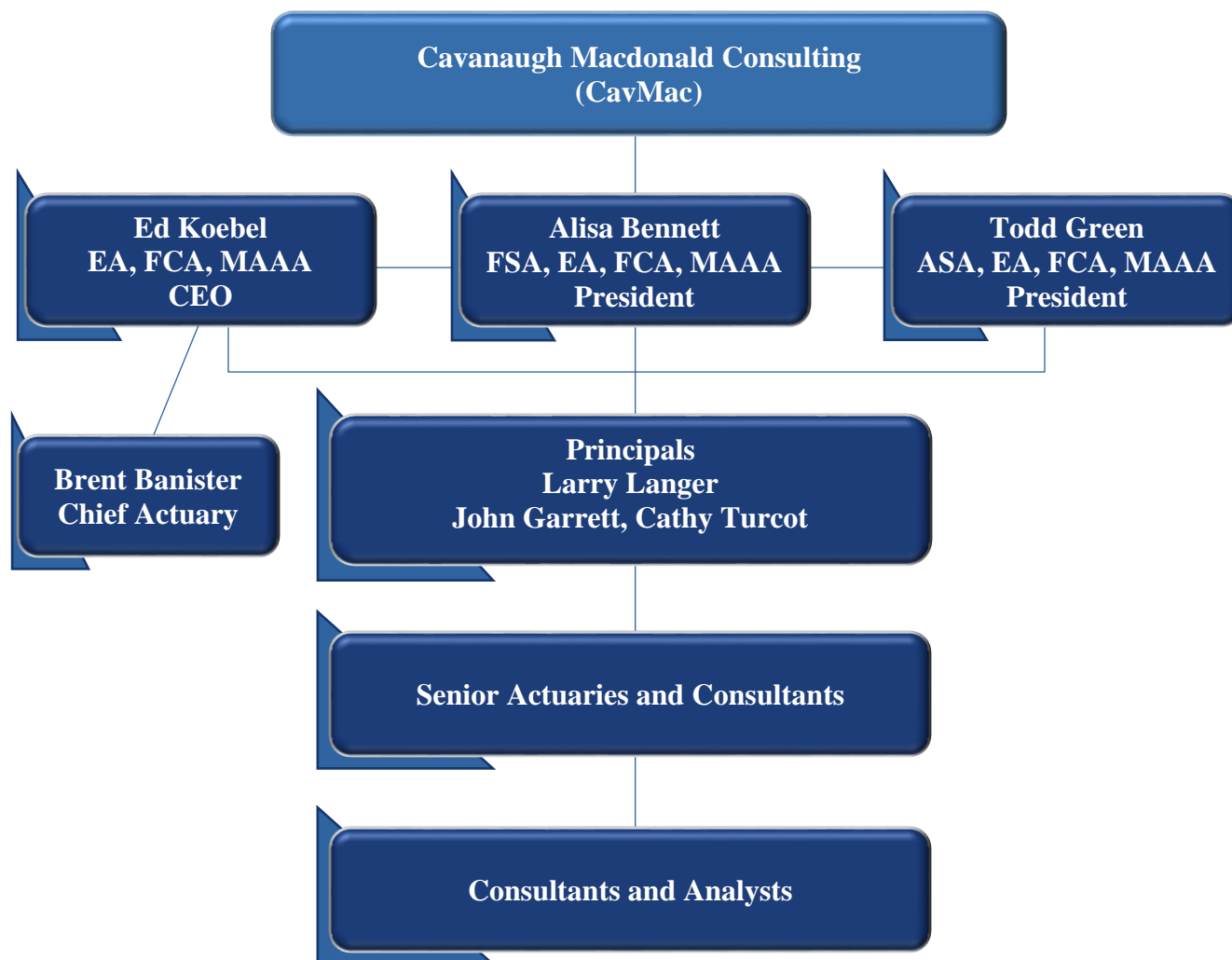
Regarding questions 2 and 3 above, CavMac is a limited liability company organized in Georgia in 2005. CavMac was founded to offer state and local governments the experience and dedication they deserve in retaining actuarial consulting services for their employee pension and benefit plans. CavMac currently has 37 employees, of which 35 are either credentialed actuaries or actuarial analysts who are working toward their actuarial certifications. CavMac is a wholly independent, privately held firm. We have no formal affiliations or joint ventures with any other firm.

Six consultants serve as the retained actuary for multiple statewide and municipal retirement and healthcare plans across the country and are very prominent figures in the industry. While all six principals lead CavMac on a day-to-day basis, Ed Koebel serves as the Chief Executive Officer and Alisa Bennett and Todd Green serve as Presidents on the Board of Managers. CavMac's company organizational chart is provided below.



PROFESSIONAL STAFF AND FIRM METHODOLOGY

FIRM HISTORY AND OPERATIONS



CavMac is considered one of the leading actuarial consulting firms in the country, providing actuarial services to public sector employers across the United States, Puerto Rico, and some Pacific Island nations. In aggregate, CavMac provides actuarial services to nearly 70 Pension clients and over 25 OPEB clients, some of which include hundreds of individual plans. These include various state and municipal sponsors of cost-sharing multiple-employer, agent multiple-employer, and single employer plans of all sizes. Of the 96 combined clients for pension and OPEB, CavMac has been providing actuarial services to 90 of them for more than three years. A full list of our retained pension and OPEB clients is provided in Exhibit A.

One of the reasons our consultants came to work for CavMac is because we are a firm that allows them to be public plan actuaries. This is our passion, and we strongly believe that our ability to be



PROFESSIONAL STAFF AND FIRM METHODOLOGY FIRM HISTORY AND OPERATIONS

part of a firm that only does public plan actuarial work allows us to serve our clients more efficiently than we could within the constraints of more traditional actuarial consulting firms. Ultimately, it is our clients who benefit from this model, and we believe ERSRI would benefit from being served by CavMac as well.

Our headquarters is located in Kennesaw, Georgia (Atlanta metro area) and has 20 employees, including the CEO and both Presidents. The office is located at:

Cavanaugh Macdonald Consulting, LLC
3550 Busbee Parkway, Suite 250
Kennesaw, GA 30144
Phone: 678.388.1700 Fax: 678.388.1730
www.CavMacConsulting.com

In addition, we also maintain a significant office with 8 employees, including our chief actuary, in Bellevue, Nebraska (Omaha metro area):

Cavanaugh Macdonald Consulting, LLC
3802 Raynor Parkway, Suite 202
Bellevue, NE 68123
Phone: 402.905.4461; Fax: 402.905.4464

We also have 9 professionals working remotely, a practice we started even before the pandemic. Technology allows us to work seamlessly across geographic locations. The location of each proposed team member is listed below:



PROFESSIONAL STAFF AND FIRM METHODOLOGY FIRM HISTORY AND OPERATIONS

Team Member Role	Location
Brent Banister Technical Review	Bellevue, Nebraska
Larry Langer Co-Lead Actuary	Naperville, Illinois
Alisa Bennett Technical Review Actuary	Kennesaw, Georgia
Wendy Ludbrook Senior Production	Kirkwood, Missouri
Ed Koebel Peer Review	Kennesaw, Georgia
Micki Taylor Project Management and Senior Production	Kennesaw, Georgia
Ryan Gundersen Production	Plainfield, Illinois
Jessica Fain OPEB Production	Kennesaw, Georgia

4) PLEASE DESCRIBE ANY MATERIAL DEVELOPMENTS IN THE OWNERSHIP STRUCTURE OF YOUR ORGANIZATION OVER THE PAST THREE YEARS. DESCRIBE ANY PLANNED MATERIAL CHANGES IN YOUR ORGANIZATION IN DETAIL.

The structure and ownership of the firm has remained consistent over the last three years. There are no future planned changes to the ownership or organization structure of the firm. As an employee-owned firm, from time to time, current owners will retire and/or additional ownership opportunities are offered to senior staff members.

5) IF THE CLIENT CONTACT PERSON IS OTHER THAN THE ACTUARY, PLEASE IDENTIFY WHO WILL BE THE CLIENT CONTACT PERSON ON THE ERSRI ACCOUNT?

Lead actuaries, Brent Banister and Larry Langer will serve as main contacts for ERSRI.



AUDIT OF VALUATION, EXPERIENCE INVESTIGATION AND CONSULTING SERVICES

LIST CURRENT STATE PENSION SYSTEM CLIENTS (PREFERABLY IN THE MID-SIZED RANGE) OF THE FIRM FOR WHOM YOU PERFORM ACTUARIAL AUDIT SERVICES. ALSO, ALL FIRMS SHOULD SUBMIT A PAST TEMPLATE OR SAMPLE OF A RECENT AUDIT PERFORMED FOR EITHER AN ACTUARIAL VALUATION AND / OR AN EXPERIENCE STUDY.

Actuarial Audit Experience

CavMac has significant experience in auditing and replicating the work of other actuaries in the public sector. As mentioned previously, many of the audits we have performed, such as South Carolina, Illinois Municipal and Utah listed below, have involved reviewing the work of GRS, so we are familiar with their software and processes. On the following pages, we have included a list of recent audits we have performed, most of which were full replication audits. The performance of these audit services requires a high level of skill, training, and experience. We have recently conducted similar actuarial audits for the South Carolina Public Employee Benefit Authority, the Illinois Municipal Retirement Fund, the Public Employee Retirement System of Idaho, the Public Education Employees Retirement System of Missouri, the Utah Retirement System, and others. In addition, we serve as the retained reviewing actuary for the South Dakota Retirement System, for which we audit the results of the internal staff actuary, including periodic full replication audits, and the Los Angeles County Employees Retirement Association (LACERA) for which we regularly review the work of their retained actuary.

Also significant is the work we have performed in taking over the actuarial work for new clients. When this happens, we essentially audit the prior actuary's work by replicating the prior valuation results and reviewing the actuarial assumptions and methods used by the prior actuary. We have performed over 30 full replication valuations as part of new client transitions over the past fifteen years, so we have extensive depth and breadth of audit experience. Thus, the list of retainer clients in Exhibit B may be thought of as an additional list of full scope audits. Additionally, CavMac has served as the auditing actuary for the following systems within the last 5 years. Any of these clients may also be contacted for further reference.



AUDIT OF VALUATION, EXPERIENCE INVESTIGATION AND CONSULTING SERVICES

System	Type of Audit	Engagement Partner	Contact
Arizona Public Safety Personnel Retirement System	2018 Full Replication Audit	Brent Banister	Mr. Michael Townsend Deputy Administrator Public Safety Personnel Retirement System 3010 E. Camelback Road, Suite 200 Phoenix, AZ 85016 602.255.5575 mtownsend@psprs.gov
Public Employee Retirement System of Idaho	2020 Full Replication Audit	Brent Banister	Don Drum Executive Director 607 N. 8th Street Boise, ID 83702 208.287.9307 don.drum@persi.idaho.gov
Illinois Municipal Retirement Fund	2020 Full Replication Audit	Larry Langer Brent Banister	Mr. Brian Collins Executive Director 2211 York Road, Suite 500 Oak Brook, IL 60523-2337 630.368.1010 BCollins@imrf.org
Los Angeles County Employees' Retirement Association	Full Replication – Ongoing audits	Brent Banister Alisa Bennett	Mr. Richard Bendall Chief, Internal Audit 300 N. Lake Avenue, Suite 840 Pasadena, CA 91101 626.564.6000 Ext. 3523 rbendall@lacera.com
Public School Retirement System of Missouri <ul style="list-style-type: none"> • Public Education Employees Retirement System of Missouri 	2019 Full Replication Audit	Larry Langer Brent Banister Wendy Ludbrook Patrice Beckham	Dearld Snyder Public School Retirement System of Missouri Public Education Employees Retirement System of Missouri 3210 W. Truman Blvd. Jefferson City, MO 65109 800.392.6848 dsnyder@psrsmo.org
South Carolina Public Employee Benefit Authority <ul style="list-style-type: none"> • South Carolina Retirement System • Police Officers Retirement System • Judges and Solicitors Retirement System • General Assembly Retirement System • South Carolina National Guard Supplemental Retirement Plan 	2023 Full Replication Audit	Alisa Bennett Ed Koebel Micki Taylor	Mr. Travis J. Turner, CPA, CISA Deputy Director/Chief Financial Officer South Carolina Public Employee Benefit Authority 202 Arbor Lake Drive Columbia, South Carolina 29223 803.734.0574 TTurner@peba.sc.gov



AUDIT OF VALUATION, EXPERIENCE INVESTIGATION AND CONSULTING SERVICES

System	Type of Audit	Engagement Partner	Contact
South Dakota Retirement System	Full Replication – Ongoing audits	Larry Langer	Mr. Travis Almond Executive Director South Dakota Retirement System 222 East Capitol, Suite 8 P.O. Box 1098 Pierre, South Dakota 57501-1098 605.773.3731 Travis.Almond@state.sd.us
Utah Retirement System	2020 Full Replication Audit	Larry Langer Brent Banister	Mr. Dan Andersen Executive Director 560 East 200 South Salt Lake City, Utah 84102 801.366.7309 Dan.Andersen@urs.org

We are also currently in the process of conducting audits for Alameda County and San Bernadino County in California.

Examples of our reports are included in Exhibit C.



REFERENCES

LIST THREE PUBLIC EMPLOYEE RETIREMENT SYSTEM CLIENTS FOR WHOM THE FIRM HAS PROVIDED PROFESSIONAL ACTUARIAL AND CONSULTING SERVICES WITHIN THE PAST FIVE YEARS. FOR EACH REFERENCE LISTED, INCLUDE CLIENT NAME, ADDRESS, AND TELEPHONE NUMBER AND NAME OF A CONTACT PERSON. PLEASE ASTERISK THOSE CLIENTS WHO HAVE WORKED WITH THE SPECIFIC ACTUARY WHO WILL BE ASSIGNED ERSRI AS A CLIENT.

Recent audit projects for clients that will serve as references for ERSRI are listed below. All of these audits were audits of GRS' reports.

Utah Retirement Systems

Mr. Dan Andersen

Executive Director

560 East 200 South

Salt Lake City, UT 84102

801.366.7309

dan.andersen@urs.org

Illinois Municipal Retirement Fund

Mr. Brian Collins

Executive Director

2211 York Road, Suite 500

Oak Brook, IL 60523-2337

630.368.1010

BCollins@imrf.org

South Carolina Public Employee Benefit Authority

Mr. Travis J. Turner, CPA, CISA

Deputy Director/Chief Financial Officer

202 Arbor Lake Drive

Columbia, South Carolina 29223

803.734.0574

TTurner@peba.sc.gov



AFFIRMATIVE ACTION

PLEASE PROVIDE INFORMATION REGARDING COMPLIANCE WITH EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION REQUIREMENTS.

As credentialed actuaries we are bound by the Code of Professional Conduct, as promulgated by the American Academy of Actuaries. The purpose of the Code of Professional Conduct is to require Actuaries to adhere to the higher standards of conduct, practice and qualifications of the actuarial profession, thereby supporting the actuarial profession in fulfilling its responsibility to the public. We comply with the Code, and we also have an internal policy to support it. The Code of Ethics is monitored continuously and enforced with appropriate action.

Our code of Ethics Policy Guidelines is provided below.

CODE OF ETHICS POLICY/GUIDELINES

NON-DISCRIMINATION

We are an equal employment opportunity firm. We will not discriminate on the basis of age, race, gender, physical abilities, religion, national origin, sexual orientation or any other factors. We will employ the best employees that we can find. We will operate in a work environment that is accepting of all of our employees, clients and guests in our offices.

CONFLICTS OF INTEREST

Our employees must avoid any conflict or appearance of a conflict of interest with any other employee, vendor or client. Any potential conflicts must be reported immediately to the President. If it is unclear as to whether there is a conflict, the issue should be addressed with the President immediately.

SEXUAL HARASSMENT

Sexual harassment in any form will not be tolerated. Any employee who feels that they have been sexually harassed should report the event to the President immediately.

DRUG FREE WORKPLACE

We will operate in a drug-free workplace. Only prescription drugs or over the counter drugs will be allowed in the office. Anyone taking illicit drugs whether during working hours or non-working



AFFIRMATIVE ACTION

hours will be subject to immediate dismissal. The administration of random drug tests may be required.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace. Violations of this prohibition will result in immediate dismissal.

As a condition of employment, all employees will abide by the terms of this policy and will notify the firm of any conviction of, or pleas of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, or a violation occurring in the workplace no later than 5 days after such conviction. Any employee so convicted will be subject to dismissal.

We will operate in a smoke-free environment and no tobacco products shall be used on company property.



CONTRIBUTION DISCLOSURE

ANY FIRM RESPONDING TO THIS RFP MUST DISCLOSE ALL CONTRIBUTIONS MADE BY ANY FIRM-ADMINISTERED POLITICAL ACTION COMMITTEE AND/OR ANY CONTRIBUTIONS MADE BY ANY PRINCIPALS OF THE FIRM TO ANY RHODE ISLAND POLITICAL CANDIDATE DURING THE PAST THREE YEARS. FURTHER, THE CANDIDATE MUST AGREE TO COMPLY WITH THE TERMS OF RHODE ISLAND'S GENERAL LAWS SECTION 17-27-1 THROUGH SECTION 17-25-5, "REPORTING OF POLITICAL CONTRIBUTIONS BY STATE VENDORS."

CavMac nor any of its employees have provided contributions to any firm-administered Political Action Committee and/or any principals of the firm to any Rhode Island political candidate. Additionally, CavMac agrees to comply with the terms of Rhode Island's General Laws Section 17-27-1 through Section 17-25-5, "Reporting of Political Contributions by State Vendors."



FEES FOR SERVICE

THE FEE PROPOSAL FOR THE CONSULTING AND ACTUARIAL SERVICES REQUESTED MUST BE MADE ON A FIXED-FEE BASIS INCLUDING ALL TRAVEL, LODGING, MEALS, AND OTHER TRAVEL RELATED OUT-OF-POCKET EXPENSES. BIDDERS SHOULD IDENTIFY THE ESTIMATED NUMBER OF FACE-TO-FACE MEETINGS WITH ERSRI AND THE PRESENTATION TO THE BOARD IN THEIR COST PROPOSALS AS WELL AS A TIMELINE FOR COMPLETION OF WORK.

IN FORMULATING PROPOSALS, BIDDERS SHOULD IDENTIFY FEES AS FOLLOWS:

Our proposed fees for this audit, which includes one in-person visit to present the report, are provided below. If CavMac is selected to conduct audits for both OPEB and Pension a discount of 15% will be given for all services provided. Our fees are based on a reasonable estimate of the time required, although we acknowledge that we will spend substantially more time on audits than we estimate without requesting additional fees.

Service	Fixed Fee
<p><u>Option 1 - Section (1) (A) (1-5)</u></p> <p>Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>Includes full valuation replication noted in (A)(5) and opinion.</i></p>	\$90,000
<p><u>Option 2 - Section (1) (A) (1-4)</u></p> <p>Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>This option would only include a statistical sample of the data used and an opinion on the methodologies used in the valuations.</i></p>	\$75,000
<p><u>Option 3 - Section (1) (B) (1)</u></p> <p>Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. Provide Opinion only.</i></p>	\$20,000



FEES FOR SERVICE

<p>Option 4 - Section (1) (B) (1) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. <u>Perform a statistical sample of the data and provide an opinion.</u></i></p>	<p>\$35,000</p>
<p>Option 5 - Section (1) (B) (2) A full replication, review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility of the most recent experience study. <i><u>Full study replication and opinion.</u></i></p>	<p>\$100,000</p>

The following proposed timeline may be adjusted accordingly to match ERSRI's schedule.

Milestone	Date
Contract awarded	December 2023
Initial conference call with staff	Winter 2023
Receipt of 2023 actuarial valuation reports and experience study; request necessary data from GRS	February 2024
Receipt of actuary data and benefit information	Early May 2024
Preliminary draft report delivered	Mid-May 2024
Comments on draft report received	Early June 2024
Written final report delivered	Mid-June 2024
Report presentation to Board	July 2024

We do not foresee any potential problems in providing the audit services listed in the RFP. We can also make reasonable adjustments to this timeline to accommodate the scheduling needs of ERSRI and its staff.



EXHIBIT A - RESUMES

Resumes for all team members are provided on the following pages.



BRENT A. BANISTER, PhD, FSA, EA, FCA, MAAA **CHIEF ACTUARY**

BRENTB@CAVMACCONSULTING.COM

ROLE

Lead Actuary

DATE OF HIRE

September, 2010

OFFICE LOCATION

Bellevue, Nebraska



RELEVANT EXPERIENCE

Brent has a broad range of experience in proposed legislation analysis and testimony, actuarial audits, experience studies, valuations, and the design, administration and funding of public retirement plans and postretirement health plans. Brent is responsible for the preparation of annual pension and other post-employment benefit (OPEB) valuations, experience studies, and modeling current and proposed plan designs. Brent is the Chief Actuary for CavMac, and his duties include reviewing actuarial matters for the firm and training staff on new actuarial standards of practice.

Brent has public sector consulting experience since 1994 providing services to large public clients. He has worked extensively with cost-sharing multiple employer statewide and other large systems, including Indiana Public Retirement System, Iowa Public Employees Retirement System, Kansas Public Employees Retirement System, Los Angeles County Employees retirement Association, Minnesota Teachers Retirement Association, Nebraska Public Employees Retirement System, and Oklahoma Public Employees Retirement System, in preparing the annual valuation, developing projection models, and conducting cost and experience studies. Over his career, Brent has performed a significant amount of review work for other consultants covering retirement and postemployment benefits on systems from municipalities through statewide systems all across the country.

EDUCATION

- BS in Mathematics from Washington State University
- PhD in Mathematics from Washington State University



BRENT A. BANISTER, PhD, FSA, EA, FCA, MAAA CHIEF ACTUARY

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Fellow of the Society of Actuaries
- Enrolled Actuary under ERISA
- Fellow of the Conference of Consulting Actuaries
- Member of the American Academy of Actuaries

RECENT PUBLICATIONS, STUDIES OR PRESENTATIONS

Brent has presented at several conferences and before many legislative bodies and organizations including:

- P2F2 Annual Conference
- Oklahoma Public Fund Trustee Conference
- Nebraska Actuaries Club
- Kansas Public Employees Retirement System Study Commission
- Minnesota Legislative Commission on Pension and Retirement
- Iowa Public Retirement Systems Committee
- Nebraska Retirement Systems Committee
- Accounting organizations and seminars
- Articles on alternatives to DROPs and the importance of appropriate risk



LARRY LANGER, ASA, EA, FCA, MAAA PRINCIPAL AND CONSULTING ACTUARY

LARRYL@CAVMACCONSULTING.COM

ROLE

Co-Lead Actuary

DATE OF HIRE

June, 2017

OFFICE LOCATION

Naperville, Illinois



RELEVANT EXPERIENCE

Larry began his actuarial career in 1989. Larry has served as an actuarial consultant to numerous state and local government retirement systems since 1997. But for one musician’s plan, he has exclusively served public sector retirement systems since 1997. Larry has a broad range of experience in such areas as public plan consulting, valuations, plan design, legislative impact analysis, experience studies, asset/liability models, federal compliance and GASB issues.

- Retirement Systems of Alabama
- Cook County Pension Fund
- Escanaba Public Safety Retirement System
- Grosse Pointe Farms General and Public Safety Pension and VEBA
- City of Milwaukee Employees’ Retirement System. (That is how Milwaukee spells Employees’.)
- Missouri County Employees Retirement Fund
- Ohio Police & Fire Pension Fund
- Redford Township Police and Fire Retirement System and Retiree Health Care Trust
- South Dakota Retirement Systems (as auditing actuary)
- City of Trenton Fire and Police Retirement System and Health Care Fund
- Washtenaw County Employees Retirement System and VEBA
- Woodhaven Retirement Plan for Employees and Policemen and Retiree Health Care Plan

Since joining Cavanaugh Macdonald in 2017, Larry has also assisted in the transition of every system listed above other than Alabama. In addition, he has also performed audit work for the Public School Retirement Systems and Public Education Employees Retirement System of Missouri, the Utah Retirement Systems and the Illinois Municipal Retirement Fund. He serves as the auditing actuary for the South Dakota Retirement System. He has a significant amount of



LARRY LANGER, ASA, EA, FCA, MAAA PRINCIPAL AND CONSULTING ACTUARY

experience with retirement systems for municipal systems covering civilians, public safety members, and utilities.

EDUCATION

- B.S. in Actuarial Science from The Central Michigan University

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Associate of the Society of Actuaries
- Enrolled Actuary under ERISA
- Fellow of the Conference of Consulting Actuaries
- Member of the American Academy of Actuaries

RECENT PUBLICATIONS, STUDIES OR PRESENTATIONS

Larry has recently presented the following:

- “Actuary Hour Seminar II: The Actuarial Valuation” at Michigan Association of Public Employee Retirement Systems (MAPERS) conference, September 2023
- “Actuary Panel” at Missouri Association of Public Employee Retirement Systems (MoMAPERS) with three other actuaries, July 2023
- “What Happens When You Assume” at the National Association of Public Plan Attorneys (NAPPA) 2022 Legal Education Conference, part of three-person panel, June 2022
- “Actuary 201 – Key Drivers of Sustainability” at the 2021 Public Pension Finance Forum (P2F2), part of a three-person panel, October 2021
- “Actuarial Panel” panel discussion at the National Association of State Retirement Administrators (NASRA) 2020 Annual Meeting, August 2020
- “Actuarial Standard of Practice 4”, a National Council on Teacher Retirement (NCTR) Federal Webinar, part of five-person panel, March 2020

During his career he has testified to numerous legislative committees regarding various pension actuarial issues.

Larry is a past member of the Public Plans Subcommittee of the American Academy of Actuaries. He participated in the development of the February 2014 Issue Brief entitled “Objectives and Principles for Funding Public Sector Pension Plans”. He is a current member of the Corporate Advisory Committee of NASRA.



ALISA BENNETT, FSA, EA, FCA, MAAA PRESIDENT

ALISAB@CAVMACCONSULTING.COM

ROLE

Technical Review Actuary

DATE OF HIRE

July, 2005

OFFICE LOCATION

Kennesaw, Georgia



RELEVANT EXPERIENCE

Alisa has 30 years of public sector consulting experience providing services to large public clients. She serves as lead consulting actuary for several of our pension and OPEB clients including the Oklahoma Public Employees Retirement system, the Kentucky Teachers' Retirement System, the Ohio School Employees Retirement System, the Alabama Public Education Employees' Health Insurance Plan, the Alabama State Employees' Insurance Board, the Georgia Department of Community Health, and several large counties and municipalities such as Cobb County (GA), Gwinnett County (GA) and the City of Chattanooga. Alisa's experience includes all aspects of valuing pension and health plans, including funding valuations, GASB disclosures, budget projections, and legislative impact statements.

EDUCATION

- B.S. in Mathematics from University of Georgia
- Master of Arts in Mathematics from University of Georgia

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Fellow of the Society of Actuaries
- Enrolled Actuary under ERISA
- Fellow of the Conference of Consulting Actuaries
- Member of the American Academy of Actuaries



ALISA BENNETT, FSA, EA, FCA, MAAA PRESIDENT

RECENT PUBLICATIONS, STUDIES OR PRESENTATIONS

Alisa has recently presented the following:

- ***Legislative and Regulatory Outlook***, International Foundation of Employee Benefit Plans Public Sector Mid-year Update, April 2023
- ***Actuarial Perspectives***, NASRA Winter Meeting, 2023
- ***Inflation Reduction Act***, Cavanaugh Macdonald White Paper, February 2023
- ***Emerging Health Issues***, International Foundation of Employee Benefit Plans for “Certification of Achievement in Public Plan Policy” (CAPPP) program, 2022
- **“Introduction to Actuaries” and “Actuarial Hot Topics”**, Oklahoma Public Fund Trustee Education Conference, 2022
- ***Asset Allocation and the Investment Return Assumption***, Actuarial Panel NCTR, 2021
- ***Stress Testing***, Georgia Association of Public Pension Trustees, 2019
- ***Understanding Accounting Controls for GASB Actuarial Reporting***, Georgia GFOA Fall Conference 2019
- ***Your Responsibilities as it Relates to Your Actuarial Report Panel Discussion***, 2017
- ***Actuarial Topics Update*** Oklahoma Public Fund Trustee Education Conference, 2014
- ***How to Read an Actuarial Report*** Georgia Government Finance Officers Association, 2013
- ***Change in GASB Liability Rules*** State and Local Government Benefits Association Regional Conference, 2013
- ***Retiree Health Care Costs and OPEB: What to keep an eye on?*** Public Sector Healthcare Roundtable Conference, 2011
- ***Managing Drug Expenditures – One Year Later*** Public Sector Healthcare Roundtable Conference, 2010
- ***Issues Facing the Public Pension Industry***, Southern Conference on Teacher Retirement, 2010
- ***The Great GASB!*** Enrolled Actuaries Meeting in Washington, DC, 2009



ED KOEBEL, EA, FCA, MAAA CHIEF EXECUTIVE OFFICER

EDK@CAVMACCONSULTING.COM

ROLE

Peer Review Actuary

DATE OF HIRE

September, 2005

OFFICE LOCATION

Kennesaw, Georgia



RELEVANT EXPERIENCE

Ed has a broad range of experience in annual valuation production, proposed legislation pricing, compliance testing, projection modeling, actuarial audits, experience studies, retiree medical valuations and the design, administration and funding of public retirement plans and health plans. Ed serves as a principal consultant to many of our clients and is responsible for the communication of results to staff, Board of Trustees, legislative committees, and other parties. Ed serves as the Chief Executive Officer of CavMac and leads the day-to-day operations of the firm. He is also the Retirement Practice Leader in our office and responsible for the development and mentoring of our junior staff.

Ed has been providing his consulting experience for over 28 years to many clients, including Georgia Employees, Georgia Firefighters, Georgia Sheriffs, Kentucky Teachers, Mississippi PERS, Cobb County (GA), and Shelby County (TN).

EDUCATION

- B.A. in Actuarial Science from Utica College of Syracuse University

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Enrolled Actuary under ERISA
- Fellow of the Conference of Consulting Actuaries
- Member of the American Academy of Actuaries



ED KOEBEL, EA, FCA, MAAA CHIEF EXECUTIVE OFFICER

RECENT PUBLICATIONS, STUDIES OR PRESENTATIONS

Ed has presented or testified at several national conferences and many legislative bodies, including:

- Georgia Association of Public Pension Trustees (GAPPT)
- International Foundation of Employee Benefit Plans (IFEBP)
- National Council of Teachers Retirement (NCTR)
- Public Pension Financial Forum (P2F2)
- Southern Conference for Teachers' Retirement (SCTR)
- National Association of Public Pension Attorneys (NAPPA)



WENDY LUDBROOK, FSA, EA, FCA, MAAA CONSULTING ACTUARY

WENDYL@CAVMACCONSULTING.COM

ROLE

Senior Production

DATE OF HIRE

January, 2019

OFFICE LOCATION

Kirkwood, Missouri



RELEVANT EXPERIENCE

Wendy has a broad range of experience in public plan consulting, valuations, plan design, legislative impact analysis, data analysis, experience studies, asset/liability models, federal compliance and GASB issues and funding strategies. Wendy currently serves the following systems:

- Cook County Pension Fun
- Ohio Police & Fire Pension Fund
- Missouri County Employees Retirement Fund
- South Dakota Retirement Systems (as auditing actuary)
- Washtenaw County Employees Retirement System and VEBA
- Redford Township Police and Fire Retirement System and Retiree Health Care Trust
- City of Trenton Fire and Police Retirement System and Health Care Fund
- Escanaba Public Safety Retirement System
- Grosse Pointe Farms General and Public Safety Pension and VEBA
- Woodhaven Retirement Plan for Employees and Policemen and Retiree Health Care Plan

Since joining Cavanaugh Macdonald in 2019, Wendy has also assisted in the transition of every system listed above. In addition, she has also performed audit work for the Public School Retirement Systems and Public Education Employees Retirement System of Missouri, the Utah Retirement Systems and the Illinois Municipal Retirement Fund.



WENDY LUDBROOK, FSA, EA, FCA, MAAA CONSULTING ACTUARY

PAST RESPONSIBILITIES

Wendy began her actuarial career in 1995 and has served as an actuarial consultant to numerous state and local government retirement systems. Her past responsibilities have included Illinois TRS, the Chicago Transit Authority, St. Louis (MO) County and Missouri Sheriffs.

EDUCATION

- B.S. in Mathematics from Washington University in St. Louis

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Fellow of the Society of Actuaries
- Enrolled Actuary under ERISA
- Fellow of the Conference of Consulting Actuaries
- Member of the American Academy of Actuaries

RELEVANT PUBLICATIONS, STUDIES, OR PRESENTATIONS

Wendy is currently participating on the committee to update the February 2014 Issue Brief entitled “Objectives and Principles for Funding Public Sector Pension Plans”.

Wendy has also participated in writing exam questions for the Enrolled Actuary (EA) exams for over 10 years including serving as the chair of the EA2F Exam committee for 4 years. She currently serves on the EA1 Exam committee.



MICKI TAYLOR, ASA, EA, FCA, MAAA CONSULTING ACTUARY

MICKIT@CAVMACCONSULTING.COM

ROLE

Project Management/Senior Production

DATE OF HIRE

May, 2009

OFFICE LOCATION

Kennesaw, Georgia



RELEVANT EXPERIENCE

Micki has been in the actuarial profession since 1992 providing services to public and private sector clients. Micki has a broad range of experience in annual valuation production, proposed legislation pricing, actuarial audits, experience studies, and the design, administration, and funding of public retirement plans. Micki currently serves Gwinnett County (GA), Lexington-Fayette Urban County Government Policemen's and Firefighters' Retirement Fund, Pensacola General Employees' Retirement Fund, Pinellas Park General Employees' Pension Plan, City of Hollywood Police Officers' Retirement System, Tuscaloosa Police Officers and Firefighters Retirement Plan, and the City of Miami General Employees' & Sanitation Employees' Retirement System.

EDUCATION

- B.S. in Chemistry Cum Laude from the University of Georgia
- Master of Actuarial Science from Georgia State University

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Associate of the Society of Actuaries
- Enrolled Actuary under ERISA
- Member of the American Academy of Actuaries
- Fellow of the Conference of Consulting Actuaries



RYAN GUNDERSEN SENIOR CONSULTANT

RYANG@CAVMACCONSULTING.COM

ROLE

Production

DATE OF HIRE

January, 2019

OFFICE LOCATION

Plainfield, Illinois



CURRENT RESPONSIBILITIES

Ryan has a broad range of experience in such areas as public plan consulting, data analysis, valuations, legislative impact analysis, experience studies, GASB valuations, actuarial valuation audits, forecasting, and retiree health care benefit funding and accounting valuations. Ryan currently serves the following systems:

- Cook County Pension Fund
- City of Milwaukee Employees' Retirement System (that is how they spell Employees')
- Ohio Police & Fire Pension Fund
- Missouri County Employees Retirement Fund
- Escanaba Public Safety Retirement System
- Grosse Pointe Farms General and Public Safety Pension and VEBA
- Redford Township Police and Fire Retirement System and Retiree Health Care Trust
- City of Trenton Fire and Police Retirement System and Health Care Fund
- Washtenaw County Employees Retirement System and VEBA
- Woodhaven Retirement Plan for Employees and Policemen and Retiree Health Care Plan

Since joining CavMac in 2019, Ryan has also assisted in the transition of every system listed above. In addition, he has also performed audit work for the Utah Retirement Systems and the Illinois Municipal Retirement Fund.

PAST RESPONSIBILITIES

Ryan has served numerous state and local government retirement systems since 2006, including the following in Illinois: CCPF, MWRD, PEABF, CTPF, MEABF, LABF, FABF, PABF, SERS, GARS, JRS, ISAC, over 50 downstate police and fire funds for individual funding and accounting



RYAN GUNDERSEN SENIOR CONSULTANT

valuations, portability calculations and service purchases, Illinois Department of Insurance valuations for downstate police and fire funds, and COGFA.

Since 2006 Ryan has vast experience developing actuarial valuation models while transitioning pension funds and retiree health care plans from previous actuaries.

EDUCATION

B.A. in Actuarial Science from Roosevelt University

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

Currently pursuing actuarial credentials and has completed Exam P, Exam FM, Exam MLC, Exam MFE, VEE Mathematical Statistics, VEE Economics, and VEE Accounting and Finance, the Fundamentals of Actuarial Practice Modules, Interim Assessment and Final Assessment.

MILITARY SERVICE

Ryan is a proud veteran of the United States Marine Corps where he served in the infantry as the primary plotter in the Fire Direction Center of an 81mm mortar platoon.



JESSICA FAIN ASSOCIATE ACTUARY

JESSICAF@CAVMACCONSULTING.COM

ROLE

OPEB Production

DATE OF HIRE

August, 2019

OFFICE LOCATION

Kennesaw, Georgia



RELEVANT EXPERIENCE

Jessica has a broad range of experience including health claims underwriting, data analysis, and gain-loss analysis related to the design, administration, and funding of public Other Post-Employment Benefit (OPEB) Plans.

Jessica has public sector consulting experience since 2014. She currently serves as a production analyst for the Georgia Department of Community Health, the Kentucky Teachers' Retirement System, the Ohio School Employees Retirement System, Shelby County Schools, the Alabama Public Education Employees' Health Insurance Plan, the Alabama State Employees' Insurance Board and the Georgia World Congress Center.

EDUCATION

- Master in Mathematics and Actuarial Science from Roosevelt University

PROFESSIONAL DESIGNATIONS AND MEMBERSHIPS

- Currently pursuing Associate of the Society of Actuaries (ASA) and Enrolled Actuary (EA) designations
- Completed P Exam, FM Exam, SRM Exam, EA 2L Exam, and EA 2F Exam



JESSICA FAIN ASSOCIATE ACTUARY

RECENT PUBLICATIONS, STUDIES OR PRESENTATIONS

Jessica has recently presented the following:

- “Much Ado About Actuarial Assumptions” at the Northern Illinois Alliance of Fire Protection Districts (NIAFPD) Forum, 2017
- “Actuarial Assumptions and Challenges in Post-GASB 67/68 Era” at the Northern Illinois Alliance of Fire Protection Districts (NIAFPD) Forum, 2016



EXHIBIT B – CLIENT LIST

Complete listings of our retained pension and OPEB clients are provided below. All work for the following clients is ongoing. In addition to the references previously provided, any of these clients may be contacted for further reference. While CavMac was incorporated in 2005, some of the clients listed below have been with our lead actuaries at a previous employer, so you may see some clients where we have been the actuary for even longer than the 18 years we have been in business.

Pension Retainer Client List

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
1. Alabama: <ul style="list-style-type: none"> Clerks and Registers Retirement System Employees' Retirement System Judicial Retirement System Teachers Retirement System 	1981 – Present Annual actuarial valuations, experience studies, legislation	385,000 \$40.5 Billion	Dr. David Bronner Chief Executive Officer Retirement Systems of Alabama 201 South Union Street Montgomery, AL 36130-2150 334.517.7000 david.bronner@rsa-al.gov
2. Alabama Peace Officers Annuity & Benefit Fund	1996 – Present Annual actuarial valuations, legislation	2,627 \$27.7 Million	Mr. John E. Hixon, Jr. Executive Director Alabama Peace Officers' Annuity & Benefit Fund 514 South McDonough Street Montgomery, AL 36102-2186 334.242.4079 John.Hixon@apoabf.alabama.gov
3. Central Nebraska Public Power and Irrigation District	2010 – Present Annual actuarial valuations	125 \$20 Million	Ms. Rochelle Jurgens Controller 415 Lincoln Street PO Box 740 Holdrege, NE 68949 308.995.8601 rjurgens@cnppid.com
4. Charlotte Firefighters Retirement System	2000 – Present Annual actuarial valuations and experience studies	1,897 \$676.3 Million	Ms. Sandra Thiry Administrator Charlotte Firefighters' Retirement System Charlotte National Building 428 East Fourth Street, Suite 205 Charlotte, NC 28202 704.626.2728 sthiry@ci.charlotte.nc.gov
5. Chattanooga Area Regional Transportation Authority	2016– Present Annual actuarial valuations	105 \$19 Million	Ms. Lisa Maragnano Executive Director Chattanooga Area Regional Transportation Authority 617 Wilcox Boulevard Chattanooga, TN 37406 423.629.1411 lisamaragnano@gocarta.org



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
6. City of Chattanooga General Pension Plan	2012 - Present Annual actuarial valuations and experience studies	2,799 \$345.7 Million	Ms. Cheryl Powell Pension and Data Analyst City of Chattanooga General Pension Plan 101 East 11th Street Suite 101 Chattanooga, TN 37402 423.643.7224 cpowell@chattanooga.gov
7. Cobb County (GA)	2007 – Present Annual actuarial valuations, experience studies and benefit statements	8,109 \$869.9 Million	Mr. Bill Volckmann Chief Executive Officer Cobb County Government 100 Cherokee Street Marietta, GA 30090-9679 770.528.1524 william.volckmann@cobbcounty.org
8. Connecticut Municipal Employees' Retirement System	2013 – Present Annual actuarial valuations, experience studies, legislation	22,323 \$2.7 Billion	Mr. John Herrington Director State of Connecticut Office of the State Comptroller Retirement Services Division 55 Elm Street Hartford, CT 06106 860.702.3487 John.Herrington@po.state.ct.us
9. Connecticut State Employees' Retirement System	2009 – Present Actuarial valuations, experience studies, legislation	103,799 \$17 Billion	Mr. John Herrington Director State of Connecticut Office of the State Comptroller Retirement Services Division 55 Elm Street Hartford, CT 06106 860.702.3487 John.Herrington@po.state.ct.us
10. Connecticut Teachers' Retirement Board	2009 – Present Actuarial valuations, experience studies, legislation	99,857 \$18.3 Billion	Ms. Helen Quinn Sullivan Administrator Connecticut Teachers' Retirement Board 765 Asylum Avenue, 2 nd Floor Hartford, CT 06105 860.241.8402 Helen.Sullivan@ct.gov
11. Cook County Pension Fund <ul style="list-style-type: none"> • County Employees' and Officers' Annuity and Benefit Fund of Cook County • Forest Preserve Forest Preserve District Employees' Annuity and Benefit Fund of Cook County 	2019 – Present Actuarial valuations, experience studies, legislation	57,475 \$12.8 Billion	Mr. Brent Lewandowski Executive Director Cook County Pension Fund 70 W. Madison Street, Suite 1925 Chicago, Illinois 60602 312.603.1224 blewandowski@countypension.com
12. City of East Point Employees Retirement Plan	2013 – Present Annual actuarial valuations and experience studies	840 \$140.6 Million	Ms. Charlotte Cagle Chairperson City of East Point Employees Retirement Plan P.O. Box 90129 East Point, Georgia 30364 770.780.1117 chaircharlottecagle@gmail.com



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
13. City of Escanaba Public Safety Retirement Board	2019 - Present Actuarial valuations, experience studies, legislation	74 \$38.3 Million	Ms. Heather Calouette City Treasurer, Retirement Board Secretary City of Escanaba Public Safety Retirement Board First Floor City Hall 410 Ludington Street Escanaba, MI 49829 906.786.0552 treasurer@escanaba.org
14. Fulton County Schools	2019 - Present Actuarial valuations, experience studies	4,856 \$505.1 Million	Greta P. Tinaglia Deputy Chief Financial Officer Fulton County Schools Retirement Services 6201 Powers Ferry Road NW Atlanta, GA 30339 470.254.0414 Tinaglia@fultonschools.org
15. Georgia: <ul style="list-style-type: none"> • Employees' Retirement System • Judicial Retirement System • Legislative Retirement System • Military Pension Fund • Public School Employees' Retirement System 	1981 – Present Annual actuarial valuations, experience studies, legislation	298,101 \$18.4 Billion	Mr. Jim Potvin Executive Director Employees' Retirement System of Georgia Two Northside 75, Suite 300 Atlanta, GA 30318-7778 404.603.5605 jim.potvin@ers.ga.gov
16. Georgia Firefighters' Pension Fund	2010 - Present Actuarial valuations, experience studies, legislation	23,028 \$1.2 Billion	Mr. Morgan Wurst Executive Director Georgia Firefighters' Pension Fund 2171 East View Parkway Conyers, GA 30013 770.388.5757 execdir@gfpf.org
17. Georgia Sheriffs' Retirement Fund	2005 – Present Actuarial valuations, experience studies, legislation	392 \$121.7 Million	Ms. Lisa Petty Secretary – Treasurer Sheriffs' Retirement Fund of Georgia 1000 Sheriffs Way Madison, Georgia 30650 770.914.1076 lpetty@georgiasheriffs.org
18. Georgia Teachers Retirement System	1981 – Present Annual actuarial valuations and experience studies	483,844 \$81.2 Billion	Mr. L. C. (Buster) Evans Executive Director Teachers Retirement System of Georgia Two Northside 75, Suite 200 Atlanta, GA 30318-7901 404.352.6523 buster.evans@trsga.com
19. City of Grosse Pointe Farms <ul style="list-style-type: none"> • General Employees Retirement System • Public Safety Retirement Systems 	2019 - Present Actuarial valuations, experience studies, legislation	161 \$82.8 Million	Mr. Tim Rowland Finance Director City of Grosse Pointe Farms 90 Kerby Road Grosse Pointe Farms, MI 48236 313.640.1602 trowland@grossepointefarms.org



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
20. Gwinnett County Board of Education's Retirement System	2005 – Present Annual actuarial valuations and experience studies	36,362 \$2.5 Billion	Mr. David Harris Director Retirement and Risk Management Services Gwinnett County Public Schools 437 Old Peachtree Road, NW Suwanee, GA 30024-2978 678.301.6278 David_Harris@gwinnett.k12.ga.us
21. Gwinnett County Retirement Systems	2006 – Present Actuarial valuations and experience studies	4,317 \$1.3 Billion	Ms. Tori Burkholder Deputy Director, Human Resources Gwinnett County 75 Langley Drive Lawrenceville, GA 30045 770.822.7911 Tori.Burkholder@GwinnettCounty.com
22. City of Hollywood Police Officers' Retirement System	2008 – Present Annual actuarial valuations	672 \$225.9 Million	Mr. Dave Williams Plan Administrator City of Hollywood Police Officers' Retirement System 4205 Hollywood Boulevard, Suite 4 Hollywood, FL 33021 954.967.4395 davew@hollywoodpolicepensionfund.com
23. Indiana Public Retirement System <ul style="list-style-type: none"> Public Employees Retirement Fund Teachers Pre-'96 Retirement Fund Teachers '96 Retirement Fund '77 Fire and Police Fund Excise, Gaming, and Conservation Employees Retirement Fund Judicial Retirement System Prosecuting Attorneys Retirement Fund Legislators Defined Benefit Plan 	2017 – Present Annual actuarial valuations and experience studies, legislation	418,000 \$38.5 Billion	Mr. Steve Russo Executive Director Indiana Public Retirement System One North Capitol, Suite 001 Indianapolis, IN 46204 312.232.3864 sterusso@inprs.in.gov
24. Iowa Judicial Retirement Fund	2010 – Present Annual actuarial valuations and experience studies, legislation	438 \$310.2 Million	Mr. Kent Farver, CPA Director of Finance Judicial Building 1111 E. Court Avenue Des Moines, IA 50319 515.348.4847 Kent.farver@iowacourts.gov
25. Iowa Peace Officers Retirement System	2010 – Present Annual actuarial valuations, experience studies and legislation	1,248 \$807.6 Million	Ms. Linda Guffey POR Executive Officer Department of Public Safety 215 E. 7 th Street, 4 th Floor Des Moines, IA 50319 515.725.6248 guffy@dps.state.ia.us
26. Iowa Public Employees Retirement System	2010 – Present Annual actuarial valuation and experience studies, legislation	380,408 \$42.9 Billion	Mr. Greg Samorajski Chief Executive Officer Iowa Public Employees Retirement System 7401 Register Drive Des Moines, IA 50321 515.281.0070 greg.samorajski@ipers.org



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
27. Jefferson County Employees Retirement System	1998 – Present Annual actuarial valuations	5,023 \$1.2 Billion	Ms. Amy Adams GRS Executive Director The General Retirement System for Employees of Jefferson County Suite 430 Courthouse 716 Richard Arrington, Jr., Blvd., N. Birmingham, AL 35203 205.325.5354 amy@grsal.net
28. Kansas City Board of Public Utilities	2005 – Present Annual actuarial valuations and experience studies, legislation	1,344 \$592.1 Million	Ms. Mindy Harris Plan Administrator Board of Public Utilities 540 Minnesota Avenue Kansas City, KS 66101-2930 913.573.6938 mharris@bpu.com
29. Kansas City Police Retirement System and Police Civilians Retirement System	2007 – Present Annual actuarial valuations and experience studies, legislation	3,600 \$1.2 Billion	Mr. Jim Pyle Pension Systems Manager 9701 Marion Park Drive, B Kansas City, Missouri 64137 816.482.8138 jpyle@kcpd.org
30. Kansas Public Employees Retirement System ➤ State/School ➤ Local ➤ Police and Fire ➤ Judges	2010 – Present Annual actuarial valuations and experience studies, legislation	326,602 \$23.4 Billion	Mr. Alan Conroy Executive Director Kansas Public Employees Retirement System 611 S. Kansas Ave, Suite 100 Topeka, KS 66603 785.296.1019 aconroy@kpers.org
31. Kansas City Public Schools Retirement System	2014 – Present Annual actuarial valuations and experience studies, legislation	11,318 \$694.2 Million	Ms. Christine Geier Executive Director Public School Retirement System 3100 Broadway, Suite 1211 Kansas City, MO 64111 816.472.5800 christine.geier@kcsprs.org
32. Kentucky Teachers' Retirement System	1981 – Present Annual actuarial valuations, experience studies, legislation	187,956 \$26 Billion	Mr. Eric Wampler Deputy Executive Secretary Kentucky Teachers' Retirement System 479 Versailles Road Frankfort, KY 40601-3800 502.848.8505 Eric.Wampler@trs.ky.gov
33. Lexington-Fayette Urban County Government Policemen's and Firefighters' Retirement Fund	2006 – Present Actuarial valuations	2,490 \$995.3 Million	Mr. Chad Hancock Financial Administrator Lexington-Fayette Urban County Government 200 East Main Street Lexington, KY 40507 859.258.3300 chancock@lexingtonky.gov



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
34. Lincoln, Nebraska Police and Fire Pension Fund	2015 – Present Annual actuarial valuations and experience studies, legislation	1,242 \$318.9 Million	Mr. Paul Lutomski Police and Fire Pension Officer Lincoln, NE Police and Fire Pension Fund 555 South 10 th Street, Room 302 Lincoln, NE 68508 402.441.8749 plutomski@lincoln.ne.gov
35. Los Angeles County Employees Retirement Association	2018 – Present Actuarial audits	185,786 \$73 Billion	Mr. Richard Bendall Chief, Internal Audit 300 N. Lake Avenue, Suite 820 Pasadena, CA 91101 626.564.6000 Ext. 3523 RBendall@lacera.com
36. Metropolitan Utilities District of Omaha Nebraska	2010 – Present Annual actuarial valuation and experience studies	1,447 \$119.6 Million	Mr. Mark Myers Senior VP - Chief Financial Officer Metropolitan Utilities District of Omaha 7350 World Communications Drive Omaha, NE 68122-4041 402.779.9434 Mark_Myers@mudnebr.com
37. Miami General Employees' and Sanitation Employees' Retirement Trust	2008 – Present Actuarial valuations	4,099 \$1.3 Billion	Mr. Edgard Hernandez Pension Administrator City of Miami General Employees' and Sanitation Employees' Retirement Trust (GESE) 2901 Bridgeport Avenue Coconut Grove, FL 33133-3607 305.441.2300 Edgard@gese.org
38. City of Milwaukee Employees' Retirement System	2019 – Present Actuarial valuations, experience studies	29,198 \$5.6 Billion	Mr. Jerry Allen Executive Director Employees' Retirement System City of Milwaukee 789 N. Water Street, Suite 300 Milwaukee, WI 53202 414.286.5454 Jerry.allen@cmers.com
39. Minnesota Teachers' Retirement Association	2011 – Present Annual actuarial valuations, experience studies, legislation	206,871 \$28.4 Billion	Mr. Jay Stoffel Executive Director Teachers' Retirement Association of Minnesota 60 Empire Drive, Suite 400 St. Paul, MN 55103 651.205.4252 JStoffel@minnesotatra.org



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
40. Mississippi: <ul style="list-style-type: none"> ▪ Highway Safety Patrol Retirement System • Municipal Retirement Systems • Public Employees Retirement System • Supplemental Legislative Retirement Plan 	1992 – Present Annual actuarial valuations, experience studies, legislation	346,025 \$35.9 Billion	Mr. Ray Higgins Executive Director Mississippi PERS PERS Building 429 Mississippi Street Jackson, MS 39201-1005 601.359.2241 RHiggins@pers.ms.gov
41. Missouri County Employees' Retirement Fund	2019 – Present Annual actuarial valuations, experience studies, legislation	20,171 \$668.2 Million	Mr. Michael Ruff Executive Director 2121 Schotthill Woods Drive Jefferson City, MO 65101 573.632.4128 mruff@mocerf.org
42. Missouri State Employees' Retirement System Judges Retirement System	2017 – Present Annual actuarial valuations, experience studies, legislation	138,428 \$9.5 Billion	Ms. Ronda Stegmann Director Missouri State Employees' Retirement System 907 Wildwood Drive Jefferson City, MO 65109 573.632.6113 rondas@mosers.org
43. Montana Public Employees' Retirement Administration: <ul style="list-style-type: none"> • Firefighter's Unified Retirement System • Game Wardens' and Peace Officers' Retirement System • Highway Patrol Officers' Retirement System • Judges' Retirement System • Municipal Police Officers' Retirement System • Public Employees' Long Term Disability Plan • Public Employees' Retirement System • Sheriffs' Retirement System • Volunteer Firefighters' Compensation Act 	2016 - Present Annual actuarial valuations, experience studies, legislation	97,124 \$9.5 Billion	Mr. Dore Schwinden Executive Director Montana Public Employees' Retirement Administration 100 North Park Avenue, Suite 200 Helena, MT 59620 406.444.5459 dschwinden@mt.gov
44. Montana Teachers Retirement System	2009 – Present Annual actuarial valuations, experience studies, legislation	46,467 \$5.1 Billion	Mr. Shawn Graham Executive Director Montana TRS 100 N. Park Avenue, Suite 110 Helena, MT 59601 406.444.3376 ShawnGraham@mt.gov



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
45. Nebraska Public Employees Retirement System <ul style="list-style-type: none"> • School Employees Retirement System • State Patrol Retirement System • Judges Retirement System • County Employees Cash Balance Plan • State Employees Cash Balance Plan 	2013 – Present Annual actuarial valuations, experience studies, legislation	134,710 \$1.9 Billion	Mr. Randy Gerke Director Nebraska Public Employees Retirement Systems 1526 "K" Street, Suite 400 Lincoln, NE 68509-4816 402.471.9495 randy.gerke@nebraska.gov
46. Norwalk, Connecticut	2020 – Present Annual actuarial valuations, experience studies, legislation	1,952 \$430.8 Million	Ms. Chitsamay Lam Comptroller City of Norwalk Comptroller Department 125 East Avenue Norwalk, CT 06851 203.854.7711 clam@norwalkct.org
47. Ocean City, MD	2012 – Present Annual actuarial valuations, experience studies, legislation	741 \$146.4 Million	Ms. Katie Callan Human Resources Director Town of Ocean City 301 Baltimore Avenue Ocean City, MD 21842 410.289.8766 kcallan@oceancitymd.gov
48. Ohio Police and Fire Retirement System	2019 – Present Actuarial valuations, experience studies, legislation	58,276 \$16.4 Billion	Ms. Mary Beth Foley Executive Director Ohio Police and Fire Retirement System 140 E. Town Street Columbus, Ohio 43215 614.628.8352 MBFoley@op-f.org
49. Ohio School Employees Retirement System	2008 – Present Annual actuarial valuations, experience studies, legislation	233,339 \$17.8 Billion	Mr. Richard Stensrud Executive Director School Employees Retirement System 300 East Broad Street, Suite 100 Columbus, OH 43215 614.222.5890 RStensrud@ohsers.org
50. Oklahoma Law Enforcement Retirement System	2013 – Present Annual Actuarial Valuations	2,789 \$1.2 Billion	Mr. Duane Michael Executive Director Oklahoma Law Enforcement Retirement System 421 NW 13 th Street, Suite 100 Oklahoma City, OK 73103 405.522.4932 Duane.Michael@olers.ok.gov



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
51. Oklahoma Police Pension and Retirement System	2016 - Present Annual actuarial valuations, experience studies, legislation	10,162 \$3.3 Billion	Ms. Ginger Sigler Executive Director Oklahoma Police Pension and Retirement System 1001 N. W. 63rd Street, Suite 305 Oklahoma City, OK 73116-7335 405.840.3555 Ext. 222 Ginger.Sigler@opprs.ok.gov
52. Oklahoma Public Employees Retirement System <ul style="list-style-type: none"> Oklahoma Judges Retirement System 	2010 – Present Annual actuarial valuations, experience studies, legislation	74,782 \$13 Billion	Mr. Joe Fox Executive Director Oklahoma Public Employees Retirement System 5400 N. Grand Blvd., Suite 400 Oklahoma City, OK 73112 405.858.6737 JFox@opers.ok.gov
53. Omaha Schools Employees Retirement System	2010-Present Annual actuarial valuations, experience studies, legislation	14,411 \$1.4 Billion	Mr Shane Rhian Chief Financial Officer Omaha School Employees Retirement System 3215 Cuming Street Omaha, NE 68131 531-299-9430 Shane.Rhian@ops.org
54. Palau Civil Service Pension Plan	2016 – Present Annual actuarial valuations, GASB 67/68	6,361 \$27.8 Million	Mr. Presley Etibek Executive Director Republic of Palau Civil Service Pension Plan PO Box 1767 Koror, Palau PW 96940 cspp@palaunet.com
55. Pensacola General Employees' Retirement Fund	1990 – Present Annual actuarial valuations and experience studies	752 \$146.5 Million	Ms. Laura Amentler, CPA Accounting Services Manager City of Pensacola P.O. Box 12910 475 East Strong Street Pensacola, FL 32521-0061 850.435.1822 lpicklap@ci.pensacola.fl.us
56. Pinellas Park General Employee's Pension Plan	2010 – Present Annual actuarial valuations and experience studies	861 \$99.5 Million	Ms. Cheryl Laser, PCA, CPPT City of Pinellas Park General Employees' Pension Plan Senior Human Resources Analyst 5141 – 78 th Avenue Pinellas Park, FL 33781 727.541.0700 Ext. 1307 claser@pinellas-park.com
57. City of Pompano Beach General Employees' Retirement System	2010 – Present Annual actuarial valuations and experience studies	1,024 \$251.5 Million	Ms. Madelene L. Klein Executive Director City of Pompano Beach General Employees' Retirement System 555 South Andrews Avenue, Suite 106 Pompano Beach, FL 33069 954.782.2660 pompgers@aol.com



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
58. Employees' Retirement System of the Puerto Rico Electric Power Authority	2008 – Present Actuarial valuations, experience studies, legislation	18,004 \$1.2 Billion	Ms. Maria Hernandez Ramirez Administrator Employees' Retirement System of the Puerto Rico Electric Power Authority Juan Ruiz Vélez Building 1110 Ponce de León Avenue San Juan, Puerto Rico 00908 787.521.4746 Mariae.Hernandez@prepa.com
59. Redford Township, Michigan	2022 – Present Annual actuarial valuations	292 \$58.9 Million	Mr. Adam Bonarek, Finance Director Charter Township of Redford 15145 Beech Daly Redford, MI 48239 313.387.2769 abonarek@redfordtwp.com
60. Shelby County Retirement System	2009 – Present Annual actuarial valuations, experience studies, legislation	9,459 \$1.5 Billion	Ms. Patty Coker Director of Pension Administration Shelby County Government 160 N. Main, Rm. 550 Memphis, TN 38103 901.222.1956 Patty.Coker@shelbycountyttn.gov
61. South Dakota Retirement System	2019 - Present Actuarial valuations, experience studies, legislation	92,325 \$12.4 Billion	Mr. Travis Almond Executive Director South Dakota Retirement System 222 East Capitol, Suite 8 P.O. Box 1098 Pierre, South Dakota 57501-1098 605.773.3731 Travis.Almond@state.sd.us
62. City of Trenton, Michigan	2021 – Present Annual actuarial valuations	180 \$47.3 Million	Ms. Jill Cooper City Controller Deputy City Administrator City of Trenton 2800 Third Street, Trenton, MI 48183 734.675.6510 ksall@trenton-mi.com
63. Tuscaloosa Police Officers and Firefighters Retirement Plan	1997 – Present Annual actuarial valuations and experience studies	903 \$70 Million	Mr. Alan Kelley Chairman Tuscaloosa Police Officers and Firefighters Retirement Plan P.O. Box 1447 Tuscaloosa, AL 35403 205.242.8397 akelly@tuscaloosa.com
64. University of Puerto Rico Retirement System	2013 - Present Annual actuarial valuations, experience studies, legislation	18,827 \$1.4 Billion	Ms. Maria del Carmen Lopez Executive Director University of Puerto Rico Retirement System 1019 Ponce de Leon Avenue Rio Piedras, PR 00915 787.751.4550 Mclopez.ret@upr.edu



EXHIBIT B – CLIENT LIST

System	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
65. Ventura County, CA	2010 - Present Annual actuarial valuations, GASB 67/68, 73, 74/75	12,000 \$30 Million	Ms. Patty Zoll Manager, Deferred Compensation/SRP 457 (Safe Harbor) programs Ventura County 800 S. Victoria Ave, #1970 Ventura, CA 93009 805.477.7234 patty.zoll@ventura.org
66. Washtenaw County Employees Retirement System	2019 – Present Annual actuarial valuations, experience studies, legislation	3,833 \$412 Million	Ms. Tina Gavalier Chief Financial Officer Washtenaw County 220 North Main Street P.O. Box 8645 Ann Arbor, MI 48107 734.222.6778 gavaliert@washtenaw.org
67. WaterOne	2013 – Present Annual actuarial valuations, experience studies, and consulting	582 \$65.4 Million	Ms. Janet Barrow Director of Human Resources and Administration Water District No. 1 of Johnson County 10747 Renner Boulevard Lenexa, KS 66219 913.895.5790 jbarrow@waterone.org
68. City of Woodhaven, Michigan	2021 – Present Annual actuarial valuations	97 \$29.6 Million	Mr. Jeff Daigneau City Treasurer / Finance Director City of Woodhaven 21869 West Road Woodhaven, MI 48183 734.675.4925 jdaigneau@woodhavenmi.org

OPEB Consulting Clients

	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
1. Alabama Public Education Employee Health Insurance Plan (PEEHIP)	2003 – Present GASB OPEB	234,948 \$1.6 Billion	Ms. Diane Scott Retirement Systems of Alabama P.O. Box 302150 Montgomery, AL 36130-2150 334.517.7302 Diane.scott@rsa-al.gov
2. Alabama State Employee Health Insurance Plan (SEHIP)	2006 – Present GASB OPEB	55,187 \$210.9 Million	Mr. William Ashmore State Employees' Insurance Board P.O. Box 304900 Montgomery, AL 36130-4900 334.833.5958 washmore@alseib.org



EXHIBIT B – CLIENT LIST

	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
3. Central Nebraska Public Power and Irrigation District	2010 – present Annual actuarial valuations GASB OPEB	122 \$5.3 Million	Ms. Rochelle Jurgens Controller 415 Lincoln Street PO Box 740 Holdrege, NE 68949 308.995.8601 rjurgens@cnppid.com
4. City of Chattanooga	2012 - Present Biennial OPEB actuarial valuations	3,512 \$109.9 Million	Ms. Cheryl Powell Pension and Data Analyst City of Chattanooga General Pension Plan 101 East 11th Street Suite 101 Chattanooga, TN 37402 423.643.7224 cpowell@chattanooga.gov
5. Cobb County (GA)	2007 – Present Annual actuarial valuations, experience studies and benefit statements GASB OPEB	6,366 \$148.9 Million	Mr. Bill Volckmann Chief Executive Officer Cobb County Government 100 Cherokee Street Marietta, GA 30090-9679 770.528.1524 william.volckmann@cobbcounty.org
6. Connecticut Teachers Retirement Board	2009 – Present Actuarial valuations, experience studies, legislation GASB OPEB	89,069 \$105.9 Million	Ms. Helen Quinn Sullivan Administrator Connecticut Teachers' Retirement Board 165 Capitol Avenue Hartford, CT 06105 860.241.8402 Helen.Sullivan@ct.gov
7. Cook County Pension Fund	2019 – Present GASB OPEB	32,671 \$0	Mr. Brent Lewandowski Interim Executive Director Cook County Pension Fund 70 W. Madison Street, Suite 1925 Chicago, Illinois 60602 312.603.1224 blewandowski@countypension.com
8. Escambia County (FL)	2009 – 2016 GASB OPEB	2,731 \$0	Ms. Sharon Harrell, CPA Manager, Financial Reporting/Grants Pam Childers, Clerk of Circuit Court & Comptroller First Judicial Circuit, Escambia County 221 Palafox Place, Suite 130 Pensacola, FL 32502-5843 850.595.4825 sharrell@escambiaclerk.com
9. Florida College System Risk Management Consortium (FCSRMC)	2011 – Present GASB OPEB	21,064 \$0	Mr. Tony Ganstine Florida College System Risk Management Consortium 4500 NW 27th Avenue, Suite B-2 Gainesville, Florida 32606 (352) 955-2196, ext. 115 tganstine@fcsrmc.com



EXHIBIT B – CLIENT LIST

	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
10. Georgia Department of Community Health (State Health Benefit Plan)	2003 – Present GASB OPEB	351,331 \$2.5 Billion	Mr. Terry Conrad Comptroller, Office of Financial Services Georgia Department of Community Service 2 Martin Luther King Jr Drive, SE Atlanta, Georgia 30334 404.463.0132 Terry.Conrad@dch.ga.gov
11. The City of Grand Junction (CO)	2012 – Present GASB OPEB	308 \$0	Ms. Jodi Welch Finance Director City of Grand Junction 250 N. 5th Street Grand Junction, CO 81501-6199 970 244-1515 finance@gjcity.org
12. Grand Strand Water and Sewer Authority	2011 – Present GASB OPEB	372 \$11.1 Million	Ms. Keri Squires Chief of Accounting and Finance Grand Strand Water & Sewer Authority P.O. Box 2368/166 Jackson Bluff Rd. Conway, SC 29528-2368 (843) 443-8243 keri@gswsa.com
13. City of Grosse Pointe Farms General Employees and Public Safety Retirement Systems	2019 - Present GASB OPEB	129 \$12.9 Million	Mr. Time Rowland Finance Director City of Grosse Pointe Farms 90 Kerby Road Grosse Pointe Farms, MI 48236 313.640.1602 trowland@grossepointefarms.org
14. Gwinnett County Retirement Systems	2006 – Present Actuarial valuations and experience studies GASB OPEB	7,431 \$203.7 Million	Ms. Raechell Dickinson Deputy Director Gwinnett County 75 Langley Drive Lawrenceville, GA 30045 770.822.7947 Raechel.Dickinson@gwinnettcountry.com
15. Kentucky Teachers' Retirement System	1981 – Present Annual actuarial valuations, experience studies, legislation GASB OPEB	122,616 \$2.4 Billion	Mr. Gary L. Harbin Executive Secretary Kentucky Teachers' Retirement System 479 Versailles Road Frankfort, KY 40601-3800 502.848.8501 gary.harbin@ky.gov
16. Macon-Bibb County Employees Retirement System	2001 – Present Annual actuarial valuations GASB OPEB	2,015 \$1.3 Million	Ms. Christy Iuliucci Finance Department Macon-Bibb County Government 700 Poplar Street Macon, GA 31202 478.751.7239 ciuliucci@macon.bibb.us



EXHIBIT B – CLIENT LIST

	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
17. Metropolitan Utilities District of Omaha Nebraska	2010 – Present Annual actuarial valuation and experience studies GASB OPEB	1,635 \$79.7 Million	Mr. Mark Myers Senior VP - Chief Financial Officer Metropolitan Utilities District of Omaha 7350 World Communications Drive Omaha, NE 68122-4041 402.779.9434 Mark_Myers@mudnebr.com
18. Mississippi State and School Employees Life and Health Insurance Plan	2007 – Present GASB OPEB	137,809 \$1.0 Million	Ms. Cindy Bradshaw State Insurance Administrator Office of Insurance Department of Finance and Administration P.O. Box 24208 Jackson, MS 39225 601.359.5014 cindy.bradshaw@dfa.ms.gov
19. North Carolina Local Governments – approximately 400 individual local entities	2006 – Present GASB OPEB	163,526 all plans combined \$438.1 Million all plans combined	Mr. Rick Whitener Chief Financial Officer North Carolina League of Municipalities 434 Fayetteville Street, Suite 1900 Raleigh, NC 27601 919.715.8719 rwhitener@nclm.org
20. Ohio School Employees Retirement System	2008 – Present Annual actuarial valuations, experience studies, legislation GASB OPEB	196,153 \$611.6 Million	Mr. Richard Stensrud Executive Director School Employees Retirement System 300 East Broad Street, Suite 100 Columbus, OH 43215 614.222.5890 RStensrud@ohsers.org
21. Redford Township, Michigan	2022 – Present Annual actuarial valuations	292 \$58.9 Million	Mr. Adam Bonarek Finance Director Charter Township of Redford 15145 Beech Daly Redford, MI 48239 313.387.2769 abonarek@redfordtwp.com
22. Shelby County Retirement System	2009 – Present Annual actuarial valuations, experience studies, legislation GASB OPEB	8,120 \$331.0 Million	Mr. Greg Cobbige Finance Controller Shelby County Government 160 North Main Street, Suite 800 Memphis, TN 38103 901.222.2204 gregory.cobbige@shelbycountyttn.gov
23. South Carolina Other Retirement Benefits Employer Trust	2011 – Present GASB OPEB	10,000 \$148.5 Million	Ms. Heather Ricard CFO Risk Management Services Municipal Association of South Carolina 1411 Gervais St., PO Box 12109 Columbia, SC 29211 803.933.1258 hricard@masc.sc



EXHIBIT B – CLIENT LIST

	Work Performed	Total # of Participants Total Assets (\$)	Contact Information
24. City of Trenton, Michigan	2021 – Present Annual actuarial valuations GASB OPEB	347 \$14.6 Million	Ms. Jill Cooper City Controller Deputy City Administrator City of Trenton 2800 Third Street, Trenton, MI 48183 734.675.6510 ksall@trenton-mi.com
25. County of Ventura, CA	2009 – Present Annual actuarial valuations GASB OPEB	10,785 \$0	Ms. Patty Zoll Manager, Deferred Compensation The County of Ventura 800 South Victoria Ave Ventura, CA 93009 805.654.3153 patty.zoll@ventura.org
26. Washtenaw County Employees Retirement System • Voluntary Employees Beneficiary Association	2019 – Present Annual actuarial valuations, experience studies, legislation GASB OPEB	2,224 \$192.6 Million	Ms. Tina Gavalier Chief Financial Officer Washtenaw County 220 North Main Street P.O. Box 8645 Ann Arbor, MI 48107 734.222.6778 gavaliet@washtenaw.org
27. WaterOne	2013 – Present Annual actuarial valuations, experience studies, and consulting GASB OPEB	528 \$0	Ms. Janet Barrow Director of Human Resources and Administration Water District No. 1 of Johnson County 10747 Renner Boulevard Lenexa, KS 66219 913.895.5790 jbarrow@waterone.org
28. City of Woodhaven, Michigan	2021 – Present Annual actuarial valuations GASB OPEB	126 \$2.4 Million	Mr. Jeff Daigneau City Treasurer / Finance Director City of Woodhaven 21869 West Road Woodhaven, MI 48183 734.675.4925 jdaigneau@woodhavenmi.org



EXHIBIT C – SAMPLE REPORTS

As examples of what our report might look like, we are providing two actuarial review reports conducted for the Utah retirement System and the Los Angeles County Employees Retirement Association as samples. Links to the reports can be found at:

<https://www.urs.org/documents/byfilename/@Public%20Web%20Documents@URS@Reports@Actuarial@URS2021Auditreport@@application@pdf>

https://www.lacera.com/sites/default/files/assets/documents/financial_report/actuarial_valuations/2022_Pension_Actuarial_Valuation_Review.pdf



Cavanaugh Macdonald
CONSULTING, LLC
The experience and dedication you deserve

Finalist Interview
January 9, 2024



Proposal for Actuarial Audit

Brent Banister, PhD, FSA, EA, FCA, MAAA
Larry Langer, ASA, EA, FCA, MAAA
Alisa Bennett, FSA, EA, FCA, MAAA



Mechanics

- Sample or full replication of the actuarial liabilities
- Review of funding calculations and methodology
- Review the last experience study (level to be selected by ERSRI)
- Review all reports for compliance with Actuarial Standards of Practice



Confirm Technical Accuracy

- Are the actuarial liabilities correct?
- Are the funding calculations being applied appropriately?



Consider Possible Enhancements

- Review actuarial assumptions
- Provide comparisons of funding approaches to other similar plans
- Offer suggestions for making the valuation report more useful





➤ Mission

- To be the premier actuarial firm providing services to public retirement systems and boards

➤ Philosophy

- Actuarial work for pension plans has changed dramatically in the last 10-15 years
- Difficult to be an expert for all types of plans: corporate (small vs large), Taft-Hartley, and public
- Specialize - focus on single market and be the best!
- Passionate about our work

➤ Key Difference

- Our people and their dedication to our clients and our focus on communication





2005

Started by two seasoned public sector consultants looking to better serve their clients



2024

Now led by the 6 Principals of the firm

- Alisa is a President and Principal
- Larry is one of the Principals
- Brent is the Chief Actuary



Provides actuarial services solely for public retirement and health systems and boards

- Company policies are developed with our core business in mind
- No competing priorities or differences of opinion on clients' best interests

National Recognition for Expertise

- Well known as one of a few top-tier public sector actuarial firms

Depth of Experience: Variety of Clients



Recent Audits – Partial List

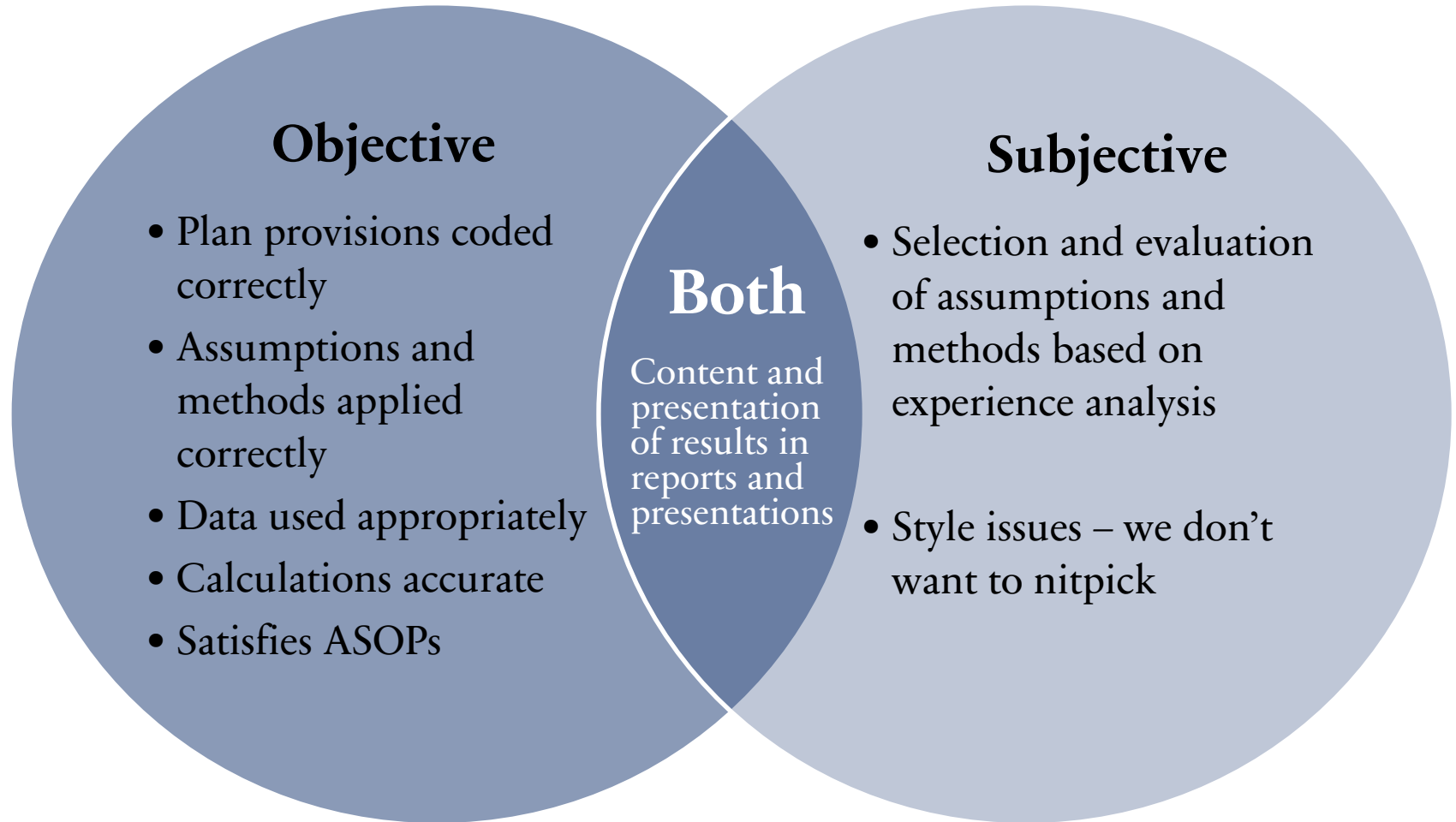


- Illinois Municipal Retirement Fund (GRS)
- Utah Retirement System (GRS)
- South Carolina Public Employee Benefit Authority (GRS)
- Public Employees Retirement System of Idaho (Milliman)
- Public School Retirement System of Missouri (PwC)
- Alameda County, California (Segal)

The following are ongoing audit clients:

- South Dakota Retirement System (Internal)
- Los Angeles County Retirement Association (Milliman)





Proposed Actuarial Audit Team



Brent Banister
Co-Lead Actuary
PhD, FSA, FCA, EA, MAAA



Larry Langer
Co-Lead Actuary
ASA, FCA, EA, MAAA



Ed Koebel
Peer Review
FCA, EA, MAAA



Alisa Bennett
Technical Review
FSA, FCA, EA, MAAA



Micki Taylor
Project Management
and Senior Production
ASA, FCA, EA, MAAA



Wendy Ludbrook
Senior Production
FSA, FCA, EA, MAAA



Ryan Gundersen
Production
Pursuing ASA

Proposed Actuarial Audit Team



Consulting Experience

- Your proposed team members have been consulting with local and statewide retirement systems for many years.
- Brent, Larry, and Alisa have performed several audits together over the last five years.



Industry Involvement

- Brent, Larry, and Alisa regularly speak at NASRA, NCTR, P2F2, statewide trustee organizations, etc.
- Brent and Larry serve on committees with the Society of Actuaries, the American Academy of Actuaries, the Conference of Consulting Actuaries, and NIRS. Larry is a member of the NASRA Associate Advisory Committee.
- Alisa has spoken at NASRA, NCTR, GAPPT and GFOA in Georgia, the Oklahoma Public Fund for Trustee Education Conference, serves as a corporate advisor on the Public Sector Healthcare Roundtable and is a CAPPP educator for the IFEBP.
- Wendy is currently serving on the committee to update the CCA February 2014 Issue Brief on the “Objectives and Principles for Funding Public Pension Plans”. Fun fact – Brent and Larry served on the committee which developed the original issue brief. Wendy also serves on the committee that writes the Enrolled Actuary exams.

Proposed Actuarial Audit Team



Technical Expertise

- Data work will be performed by actuaries and actuarial analysts, not technicians
- Micki, Wendy, and Ryan have extensive technical experience with a wide variety of statewide and local retirement systems
 - Micki and Ryan are among the ‘power-users’ of our actuarial software and have worked on numerous client transitions and replications. Ryan will perform the replications with Micki’s assistance.
 - Wendy will review the cost methodology calculations.
- Brent and Larry will review the assumptions and the reports for compliance with Actuarial Standards of Practice.
- Alisa will provide independent final technical review of the replication, assumptions and findings.
- Once the draft report is complete, peer review will be provided by Ed.
- If we are also awarded the OPEB audit, Alisa will serve as co-lead with Brent with Larry providing review.



Confirm Technical Accuracy

- Are the actuarial liabilities correct?
- Are the funding calculations being applied appropriately?

**High level
of technical
expertise**



Consider Possible Enhancements

- Review actuarial assumptions
- Provide comparisons of funding approaches to other similar plans
- Offer suggestions for making the valuation report more useful

**Broad
industry
exposure**





THANK YOU!



Cavanaugh Macdonald
CONSULTING, LLC
The experience and dedication you deserve



Request for Proposal No. 01

Actuarial Audit Services



Employees' Retirement System of Rhode Island (ERSRI)
50 Service Avenue, 2nd Floor
Warwick, RI 02886

Release Date: October 9, 2023
Deadline for receipt of proposals: November 22, 2023, at 4:00 p.m.

For additional information, please contact:
Frank J. Karpinski, Executive Director
(401) 462-7608

**Employees' Retirement System of Rhode Island
Request for Proposal for Actuarial Audit Services**

**Executive Summary
(Please Limit Response to One Page)**

Firm Name: _____

Address: _____

Telephone: _____

Contact Person: _____

Actuarial Team: _____

Number of Public Defined Benefit Clients: _____

Average Amount of Plan Assets: _____

Average Number of Audits Conducted Annually: _____

Why should the Employees' Retirement System of Rhode Island retain your firm to provide actuarial audit services? Please summarize your firm's strengths in the space provided.

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Employees' Retirement System of Rhode Island

Introduction and Historical Background

The Employees' Retirement System of Rhode Island (ERSRI) and the Municipal Employees' Retirement System (MERS) are soliciting proposals from qualified firms to provide an audit of the current actuarial consultant for ERSRI. This Request for Proposal (RFP) is issued in accordance with *Regulation No.1. 3 – Rules Concerning the Selection of Consultants*, a copy of which has been attached to this document.

The Employees' Retirement System is the major public retirement agency in the state of Rhode Island with \$10.6 billion in pension assets. In addition to providing retirement, death, and disability benefits to Rhode Island state employees, it also provides benefits to Rhode Island public school teachers and participants in over 122 municipal plans including public safety. The plan has just over 32,000 active employees and approximately 29,000 retirees. The state system began in 1936, with a teacher plan added on in 1949. The municipal, or MERS plan, was created in 1951.

Consistent with Rhode Island General Law (RIGL) §36-8-3, the Retirement Board is charged with the general administration and responsibility for the proper operation of the retirement system and making effective the provisions of chapters 8 – 10 of title 36, chapters 16 - 17.1 of title 16, chapters 21 – 21.5 of title 45, chapters 22 – 22.2 of title 42 and various retirement titles of chapter 8 of the General Laws. In its continuing efforts to carry out its fiduciary obligations and maintain a comprehensive system of checks and balances, the Board from time to time requires its actuarial advisor be audited.

As stated in Rhode Island General Laws, the general administration and responsibility for the proper operation of the retirement system is vested in a Retirement Board. One of its specific statutory duties is the selection of an actuary. Rhode Island General Law §36-8-10 provides the following:

“The retirement board shall secure the services of an actuary who shall be the actuarial advisor of the board and who shall make the actuarial computations and valuations required by chapters 8 to 10, inclusive.”

Additionally, Rhode Island General Law's §36-8-11 through 14 require experience investigations and an annual valuation of the assets and liabilities of the Employees' Retirement System.

The 1949 Annual Report indicates A.A. Weinberg of Chicago was the consulting actuary to the Employees' Retirement System. He remained the actuary until 1977 when the Martin E. Segal Company replaced Mr. Weinberg. Segal served until 1991, William M. Mercer Co., Inc., then was hired and served until 1997 when the current actuarial firm Gabriel, Roeder, Smith, and Company (Formerly Watson

Wyatt Worldwide) was hired. Gabriel, Roeder, Smith, and Company were recently rehired to serve as ERSRI's actuarial advisor.

Section (1) Scope of Services to be Provided.

The scope of the audit will be limited to the two largest funds, the Employees' Retirement System which includes Rhode Island state employees and public-school teachers and the Municipal Employees' Retirement System which includes general municipal and public safety employees in 122 individual municipal plans. The purpose of this audit is to audit the work of ERSRI's current actuary, Gabriel, Roeder, Smith, and Company (GRS). The audit will review the most recent annual valuation and experience study for ERSRI to express an opinion and assure that the results presented are sound and reasonable. The ERSRI Board requests that the bid be on a fixed fee basis.

The audit should include auditing and commenting on the reasonableness and appropriateness of the valuation methods, assumptions, certifications, and conclusions of the consulting actuary GRS. The audit must include the following:

- (A) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. This determination will include:
1. An in-depth review and analysis of the valuation results, including an evaluation of the data used for reasonableness and consistency as well as a review of mathematical calculations for completeness and accuracy.
 2. Verification that all appropriate benefits have been valued and valued accurately. Verification that the data provided by the system is consistent with data used by GRS.
 3. Evaluation of the actuarial cost method and actuarial asset valuation method in use and whether other methods would be more appropriate for ERSRI as a whole or for particular funds.
 4. Verification of the reasonableness of the calculation of the unfunded actuarial accrued liability and the amortization period.
 5. A full replication of the most recent actuarial valuation for the Employees' Retirement System and the Municipal Employees' Retirement System. Valuations are available on ERSRI's website at [ERS2022_Final\(ersri.org\)](#), [MERS2022_Final.pdf\(ersri.org\)](#)
- (B) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study (available at [Employees' Retirement System of Rhode Island\(ersri.org\)](#)) are technically sound and conform to the appropriate

Standards of Practice as promulgated by the Actuarial Standards Board. This determination will include:

1. A review of the demographic and economic actuarial assumptions for consistency, reasonableness, and compatibility.
 2. A full replication, review of the demographic and economic actuarial assumptions for consistency, reasonableness, and compatibility of the most recent experience study for the Employees' Retirement System and the Municipal Employees' Retirement System.
- (C) An opinion as to whether the consulting actuary's reports conform to appropriate Standards of Practice as promulgated by the Actuarial Standards Board and is comprehensive. Any recommendations for improvement in the report presentation should be included.

The comprehensive review described above will result in a final written report and opinion containing the findings, recommendations, and conclusions of the auditing actuary. GRS will be given the opportunity to prepare a written response, if they so desire. Their response will be included in the final report submitted to the ERSRI Board. The auditing actuary will be required to present a formal presentation summarizing their written report to the ERSRI Board.

Other Post Employment Benefit Plans

The Rhode Island State Employees’ and Electing Teachers OPEB System (the “System”) acts as a common investment and administrative agent for benefits to be provided for six defined benefit other postemployment plans as listed below:

Plan	Members	Plan Type
State employees	State employees and certain employees of the Narragansett Bay Commission, Rhode Island Airport Corporation, and Rhode Island Commerce Corporation.	Cost-sharing multiple employer
Teachers	Certified public-school teachers electing to participate in the System.	Single employer
Judges	Judges and magistrates.	Single employer
State police	State police officers.	Single employer
Legislators	Retired and former members of the General Assembly.	Single employer
Board of Education (BOE)	Certain employees of the Board of Education inclusive of the University of Rhode Island, Rhode Island College and the Community College of Rhode Island and the Office of Higher Education.	Cost-sharing multiple employer

More information about the System, including benefit provisions and the number of employee and retirees covered by plan can be found in the System’s audited financial statements which are available on the web at:

<http://www.oag.ri.gov/reports.html> .

Valuations from 2005 through 2022 can be reviewed on the web at:

<http://controller.admin.ri.gov/Other%20Post%20Employment%20Benefits/index.php> .

The annual valuation accounts for the six OPEB plans in accordance with applicable Governmental Accounting Standards Board pronouncements, including the recently issued Standards No. 74 and No. 75, as well as to establish the rates as a percent of payroll for contributions required by law by participating employers, the State is required to have an actuarial valuation of the plans conducted annually as of June 30th.

Services to be provided will include:

The scope of the audit will be limited to the Rhode Island State Employees' and Electing Teachers OPEB System (the "System"). The purpose of this audit is to audit the work of OPEB's current actuary, Gabriel, Roeder, Smith, and Company (GRS). The audit will review the most recent annual valuation for OPEB to express an opinion and assure that the results presented are sound and reasonable. The OPEB Board requests that the bid be on a fixed fee basis.

The audit should include auditing and commenting on the reasonableness and appropriateness of the valuation methods, assumptions, certifications, and conclusions of the consulting actuary GRS. The audit must include the following:

(A) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. This determination will include:

1. An in-depth review and analysis of the valuation results, including an evaluation of the data used for reasonableness and consistency as well as a review of mathematical calculations for completeness and accuracy.
2. Verification that all appropriate benefits have been valued and valued accurately. Verification that the data provided by the system is consistent with data used by GRS.
3. Evaluation of the actuarial cost method and actuarial asset valuation method in use and whether other methods would be more appropriate for OPEB as a whole or for particular funds.
4. Verification of the reasonableness of the calculation of the unfunded actuarial accrued liability and the amortization period.
5. A full replication of the most recent actuarial valuation for the Rhode Island State Employees' and Electing Teachers OPEB System.

(B) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. This determination will include:

1. A review of the demographic and economic actuarial assumptions for consistency, reasonableness, and compatibility.
2. A full replication, review of the demographic and economic actuarial assumptions for consistency and reasonableness for the Rhode Island State Employees' and Electing Teachers OPEB System.

- (C) An opinion as to whether the consulting actuary's reports conform to appropriate Standards of Practice as promulgated by the Actuarial Standards Board and is comprehensive. Any recommendations for improvement in the report presentation should be included.

The comprehensive review described above will result in a final written report and opinion containing the findings, recommendations, and conclusions of the auditing actuary. GRS will be given the opportunity to prepare a written response, if they so desire. Their response will be included in the final report submitted to the OPEB Board. The auditing actuary will be required to present a formal presentation summarizing their written report to the OPEB Board.

The supplemental services noted above are needed by the State of Rhode Island Department of Administration (DOA); **these services would be paid for by DOA and would require a separate contract.** Vendors are encouraged to provide proposals for these services separately. ERSRI will not evaluate the responses for these services nor consider them in their vendor evaluation.

Section (2) Minimum Qualifications and Proposal Requirements

Proposals must be as succinct as possible while providing an accurate picture of the firm's ability to meet the needs of ERSRI in a thorough, accurate, responsive, and cost-effective manner.

Each proposal must contain the following elements:

Transmittal Letter and Minimum Qualifications

Within the transmittal letter, the proposing firm must certify to the following minimum qualifications.

1. The firm is a professional actuarial firm that provides actuarial valuations, experience investigations, and pension consulting services.
2. The principal actuary who will be responsible for the ERSRI audit is a fellow of the Society of Actuaries and is an enrolled actuary.
3. The firm must agree not to enter into an engagement to provide actuarial and/or pension consulting services with any agency of the State of Rhode Island that involves the use of data and other information received from the Employees' Retirement System and the Municipal Employees' Retirement System, unless approved by the Retirement Board.

4. The letter must be signed by an individual authorized to bind the firm contractually and must state the name, title, address, phone number, fax and internet address of a contact person who is authorized to provide clarification of the proposal should it be necessary.

Professional Staff and Firm Methodology

In this section, describe the experience of the individuals who will be assigned to the ERSRI account.

Principal Actuary

- a. Identify the principal actuary by name and give the year such actuary became a Fellow or Associate of the Society of Actuaries and an enrolled actuary under Section 3042 of the Employees' Retirement Income Security Act of 1974.
- b. Detail how long the principal actuaries have been involved in pension consulting and identify those mid-sized public retirement systems (with memberships of 30,000-100,000) in which the actuary has worked as the principal actuary. Also, please state whether such work involved the production of yearly actuarial valuations.
- c. Please include the resume of the principal actuary with your proposal.

Other Professional Staff

Identify and describe the qualifications of professional staff that will be available for work as needed. Please provide a resume of actuarial credentials for each member of the professional staff including the length of time the staff person has worked for a major actuarial firm.

Firm Methodology

Please provide ERSRI with information, not exceeding two pages, regarding your approach to the scope of work outlined in Section 2. Should you consider your approach to actuarial services to be different in any way, please describe those differences.

Firm History and Operations

Please address the following questions regarding your firm:

- 1) How many years has the firm been providing actuarial services?
- 2) Please identify the location of the primary office that will provide services for ERSRI.
- 3) Describe the ownership structure of the firm, including the relationships of each branch office to the branch offices and to the headquarters. Identify the individual who has overall responsibility for the firm's operations.

Please disclose any conflicts of interest that may exist in providing services to ERSRI.

- 4) Please describe any material developments in the ownership structure of your organization over the past three years. Describe any planned material changes in your organization in detail.
- 5) If the client contact person is other than the actuary, please identify who will be the client contact person on the ERSRI account?

Audit of Valuation, Experience Investigation, and Consulting Services

List current state pension system clients (Preferably in the mid-sized range) of the firm for whom you perform actuarial audit services. Also, all firms should submit a past template or sample of a recent audit performed for either an actuarial valuation and / or an experience study.

References

List three public employee retirement system clients for whom the firm has provided professional actuarial and consulting services within the past five years. For each reference listed, include client name, address, and telephone number and name of a contact person. Please asterisk those clients who have worked with the specific actuary who will be assigned ERSRI as a client.

Affirmative Action

Please provide information regarding compliance with equal opportunity and affirmative action requirements.

Contribution Disclosure

Any firm responding to this RFP must disclose all contributions made by any firm-administered Political Action Committee and/or any contributions made by any principals of the firm to any Rhode Island political candidate during the past three years. Further, the candidate must agree to comply with the terms of Rhode Island's General Laws Section 17-27-1 through Section 17-25-5, "Reporting of Political Contributions by State Vendors."

Section (3) Fees for Services

The fee proposal for the consulting and actuarial services requested must be made on a fixed-fee basis including all travel, lodging, meals, and other travel related out-of-pocket expenses. Bidders should identify the estimated number of face-to-face meetings with ERSRI and the presentation to the Board in their cost proposals as well as a timeline for completion of work.

In formulating proposals, Bidders should identify fees as follows:

Service	Fixed Fee
<p>Option 1 - Section (1) (A) (1-5) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>Includes full valuation replication noted in (A)(5) and opinion.</i></p>	\$
<p>Option 2 - Section (1) (A) (1-4) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>This option would only include a statistical sample of the data used and an opinion on the methodologies used in the valuations.</i></p>	\$
<p>Option 3 - Section (1) (B) (1) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. Provide Opinion only.</i></p>	\$
<p>Option 4 - Section (1) (B) (1) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. Perform a statistical sample of the data and provide an opinion.</i></p>	\$
<p>Option 5 - Section (1) (B) (2) A full replication, review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility of the most recent experience study. <i>Full study replication and opinion.</i></p>	\$

Please be advised that separate fee charts, described above, must be provided for ERSRI efforts and OPEB efforts.

Total fees should account for a final written report containing the findings and conclusions of the auditing actuary and formal presentation to the Board at a date to be determined as defined in **Section (1) (C)**.

Section (4) Submission of Proposals

Bidders should submit an electronic submission, using the format described in Section B above to frank.karpinski@ersri.org. Please be advised that ERSRI's email system will limit attachment size to 8MB so you may need to break up your email proposal into multiple emails. Bidders must also submit one (1) bound hardcopy of their proposals, with original signatures, to:

Mailing and Delivery Address

Frank J. Karpinski, Executive Director
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

Clearly, mark the outside of your package:

**Employees' Retirement System of Rhode Island
RFP for Actuarial Audit Services.**

Proposals must be received by:

November 22, 2023, at 4:00 p.m.

No exceptions to this deadline will be allowed unless the Employees' Retirement System extends the deadline whereupon it will notify recipients of the RFP. The firm's response to this RFP shall be no more than 30 pages (exclusive of exhibits).

Submission of proposals or any portion thereof via fax shall not be accepted.

Any firm that wishes to correct, amend, or supplement their proposal must do so prior to the filing deadline and must do so by withdrawing its proposal in its entirety and submitting a complete, corrected proposal package. Modification in any other manner will not be accepted.

Proposals become the property of ERSRI upon submission and will not be returned.

All cost for developing proposals is entirely the responsibility of the actuarial firm and shall not be chargeable to ERSRI. ERSRI accepts no responsibility for lost or late delivery of proposals.

Questions

Questions about the Request for Proposal must be submitted in writing via email to frank.karpinski@ersri.org or by mail to:

Frank J. Karpinski, Executive Director
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

All questions must be received no later than **November 3, 2023, at 4:00 p.m.** and must include an email address to forward responses. All questions, including vendors who request a copy of the Q&A, will be answered in writing, and sent via email between **November 10-14, 2023**. This procedure will constitute the bidders conference as referenced in Rule No. 1.3 *Concerning the Selection of Consultants*, Section 1.3.2 D (3).

Section (5) Evaluation Criteria

Only proposals that meet the Minimum Qualifications will be evaluated. The evaluation will take place in two phases. Phase one will involve review of written proposals. Phase Two will involve interviews for the finalists with the Employees' Retirement Board who will make the final selection.

In both phases of the selection process, firms will be evaluated using the following criteria.

- Firm Understanding of medium sized public defined benefit pension plans similar to ERSRI and MERS
- Firm Methodology
- Professional Staff
- Firm Organizational Background and Resources
- Actuarial Services
- Fees

Section (6) ERSRI Bid Schedule of Events

<i>RFP Released</i>	October 9, 2023
<i>Questions must be received by</i>	November 3, 2023
<i>Proposals Due:</i>	November 22, 2023
<i>Interviews</i>	December 5-7, 2023

Section (7) Miscellaneous Provisions

The ERSRI Retirement Board reserves the right to cancel this RFP at any time and to reject any and all proposals submitted in response to this RFP, if the Retirement Board determines such action or actions to be in the best interest of the membership of the Employees' Retirement System and the Municipal Employees' Retirement System.

ERSRI also reserves the right to request clarification of any submission, modify or alter the Scope of Services and solicit new submissions, reject any or all submissions, and waive immaterial irregularities in any submission.

ERSRI does not intend to entertain limited liability clauses of any type with the winning bidder.

Data Security

Actuarial Firms submitting bids should note that the failure of the selected firm or any of its subcontractors to employ commercially reasonable measures in accordance with industry standards to protect against unauthorized access, use or disclosure of ERSRI pension plan member data held directly by the Actuary audit firm or such subcontractor (as the case may be), **must agree to have no limitation of liability** if a security incident is determined to have been caused by the vendor as a result of a cyber forensic audit. Bidders must provide their security system features in their response to this RFP.

Insurance

The following requirements shall be adhered to by the Contractor throughout the duration of the Contract, and as may otherwise be specified herein. Contractor shall maintain insurance, which shall protect the Contractor and the State from any claims for bodily injury, property damage, and/or personal injury, which may arise out of operations under the Contract. Contractor shall procure the insurance policies at the Contractor's own expense and shall furnish the State an insurance certificate of the coverage required in this Section. Contractor is required to obtain and maintain the following types of insurance coverage for the duration of the Contract:

Insurance / Limits of Liability:

- Worker's Compensation – Statutory
- Unemployment Insurance – Statutory
- Commercial General Liability Insurance – The minimum limits of coverage of such insurance will be \$500,000 per person and \$1,000,000 per occurrence for personal and bodily injury and \$100,000 for property damages.
- Liability, Malpractice, and/or Errors and Omissions Insurance – The contractor shall maintain malpractice and/or an errors and omissions insurance policy. Coverage under these policies must include protection from the fraudulent conduct and breach of fiduciary responsibility of the contractor.

During contract negotiations, if the Employees' Retirement board or its agent is unable to agree to contract terms with the candidate receiving the highest evaluation in this RFP process, the Employees' Retirement Board reserves the right to terminate contract negotiations with that candidate. In the event of such an impasse, the Employees' Retirement System may negotiate with the candidate receiving the next highest evaluation.

Please refer to Regulation No. 1.3 *Rules Concerning the Selection of Consultants* for additional information regarding the selection process.

Contractor will indemnify, and save harmless ERSRI, its directors, officers, employees, and agents from and against any and all claims, actions, damages, liabilities, costs, and expenses arising out of Contractor's operation and performance under this Contract including all claims for bodily and personal injuries, sickness, death and/or damages to property.

All offerors must submit within ten (10) calendar days after notification of intent to award the original or a certified true copy of insurance certificate(s) confirming coverage as stipulated above. If this information is not provided within this time frame, the proposal will be rejected. All insurance coverage costs must be exclusive of any legal costs.

New insurance shall be promptly furnished in the event of insolvency, bankruptcy, or failure of any insurance company. The contractor shall notify ERSRI thirty (30) days in advance of cancellation, termination or alteration of insurance policies as required by this RFP. A renewal policy or certificate shall be delivered to ERSRI at least thirty (30) days prior to the expiration date of each expiring policy. If at any time, any of the policies shall be or become unsatisfactory to ERSRI as to form or substance, or any of the carriers issuing such policies shall be or become unsatisfactory to ERSRI, the Contractor shall promptly obtain a new and satisfactory policy in replacement. If determined necessary by ERSRI's Representative/Contract Administrator, the Contractor shall deliver to ERSRI's Representative upon demand a certified copy of any policy required herein for review.

Insurance certificates must be submitted and accepted by ERSRI prior to the commencement of work under this RFP and accompanying contract. Failure to obtain insurance satisfactory to ERSRI will result in the rescission of any Notice of Award to the offeror. Any contract awarded shall be void if this requirement is not met.

Confidentiality

The staff members that are assigned by the successful offeror to this project – be they employees of the offeror, sub-contractors to the offeror or employees of sub-contractors – may be required to sign an ERSRI non-disclosure statement.

ERSRI may treat all information submitted by an offeror as public information following the conclusion of the selection process unless the offeror properly requests that information be treated as confidential at the time of submitting the bid proposal. ERSRI's release of information is governed by the State of Rhode Island's "Access to Public Records" law (Title 38-2). Offerors are encouraged to familiarize themselves with this law before submitting a proposal. ERSRI will copy public records as required to comply with the public records laws.

Any request for confidential treatment of information must be included in the transmittal letter with the offeror's bid proposal. In addition, the offeror must enumerate the specific grounds in the State of Rhode Island's "Access to Public Records" law (Title 38-2) or other applicable law which support treatment of the material as confidential and explain why disclosure is not in the best interest of the public. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the offeror to respond to any inquiries by ERSRI concerning the confidential status of the materials.

Any bid proposal submitted which contains confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. Identification of the entire bid proposal as confidential may be deemed non-responsive and disqualify the offeror.

If the offeror designates any portion of the proposal as confidential, the offeror must submit one copy of the bid proposal from which the confidential information has been excised or redacted. This excised copy is in addition to the number of copies requested in Section E of this RFP. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the bid proposal as possible.

ERSRI will treat the information marked confidential as confidential information to the extent such information is determined confidential under the State of Rhode Island's "Access to Public Records" law (Title §38-2) or other applicable law or by a court of competent jurisdiction.

The offeror's failure to request confidential treatment of material will be deemed by ERSRI as a waiver of any right to confidentiality which the offeror may have had.

By submitting a bid proposal, the offeror agrees that ERSRI may copy the bid proposal for purposes of facilitating the evaluation of the bid proposal or to respond to requests for public records. The offeror consents to such copying by submitting a bid proposal and warrants that such copying will not violate its rights or the rights of any third party. ERSRI shall have the right to use ideas or adaptations of ideas that are presented in the bid proposals.

Section (8) Regulation 1.3 Rules Concerning the Selection of Consultants

1.3.1 General Provisions

A. Introduction

The Employees' Retirement System of the State of Rhode Island and the Municipal Employees' Retirement System of the State of Rhode Island (the "System") are authorized to employ consulting and other professional services. The purpose of these Rules is to adopt internal procedures consistent with the requirements of R.I. Gen. Laws Chapter 37-2 (State Purchases Act) in connection with the procurement of consulting services by the System.

B. Definitions

1. All capitalized terms used herein shall have the same meaning as set forth in § 1.2 of this Part. The words defined in this subsection shall have the following meanings wherever they appear in these Rules, unless the context in which they are used clearly requires a different meaning.
 - a. "Consultant" means any person engaged to provide information regarding a particular area of knowledge in which the person has expertise, including, but not limited to, accountants, actuaries, financial consultants, data processing consultants and physicians, excluding, however, legal services.

C. Application of Rules

1. These Rules apply to all expenditures of funds by the System under a contract for consulting services, except contracts between the System and the State or its political subdivisions, or between the System and other governments. The provisions of these Rules shall be considered to be incorporated in all contracts of the System to which they apply.
2. Notwithstanding anything contained in § 1.3.1(C) of this Part, § 1.2 of this Part shall govern the procurement of supplies and services.

D. Procurement Responsibilities of the System

The Procurement Committee shall select persons or firms to render consultant services pursuant to these Rules. Accordingly, the term

“System” shall be used in these Rules to designate the Procurement Committee.

E. Public Access to Procurement Records

Except as otherwise provided for herein all procurement records of the System shall be public record to the extent provided in R.I. Gen. Laws Chapter 38-2 (Access to Public Records) and shall be available to the public as provided in such Act.

F. Procurement Decisions of the System

Every determination required by these Rules shall be in writing and based upon written findings of fact by the System. These determinations and written findings shall be retained in an official contract file in the offices of the System.

1.3.2 Selection of Consultants

A. General Policy

It shall be the policy of the System to publicly announce its requirements for consulting services, which are reasonably estimated to exceed ten thousand dollars (\$10,000.00), and to negotiate contracts for such professional services on the basis of demonstrated competence and qualifications and at fair and reasonable prices.

B. Annual Statement of Qualifications and Performance Data

1. Consultants shall be encouraged by the Executive Director to submit to the System annually a statement of qualifications and performance data which shall include, but not be limited to the following:
 - a. The name of the firm and the location of its principal place of business and all offices;
 - b. The age of the firm and its average number of employees over the past five (5) years;
 - c. The education, training, and qualifications of members of the firm and key employees;
 - d. The experience of the firm, reflecting technical capabilities and project experience; and
 - e. Such other pertinent information as requested by the Executive Director.

C. Public Announcement of Needed Consultant Services

The System shall give public notice in a newspaper of general circulation in the State of the need for consultant services which are reasonably estimated to exceed ten thousand dollars (\$10,000.00). The System may publish such additional notice as it deems necessary to assure response from qualified individuals or firms. Such public notice shall be published sufficiently in advance of the date when responses must be received in order that interested parties have an adequate opportunity to submit a statement of qualifications and performance data. The notice shall contain a brief statement of the services required, describe the project and specify how a solicitation containing specific information on the project may be obtained.

D. Solicitation

1. A solicitation shall be prepared which describes the System's requirements and sets forth the evaluation criteria. It shall be distributed to interested persons.
2. The solicitation shall describe the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms. Criteria shall include, but are not limited to:
 - a. Competence to perform the services as reflected by
 - b. Technical training and education; general experience; experience in providing the required services; and the qualifications and competence of persons who would be assigned to perform the services;
 - c. Ability to perform the services as reflected by workload
 - d. And the availability of adequate personnel, equipment, and facilities to perform the services expeditiously;
 - e. Past performance as reflected by the evaluation of private persons and officials of other governmental entities that have retained the services of the firm with respect to such factors as control of costs, quality of work, and ability to meet deadlines; and the cost of such services.
3. For services reasonably estimated to exceed twenty thousand dollars (\$20,000.00), a bidder's conference shall be held which describes the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms. The scope of work shall be discussed and further defined at such conference, including on-site visits, if appropriate.

E. Evaluation of Statements of Qualifications and Performance Data

The consultant selection committee shall evaluate statements that may be submitted in response to the solicitation of consultant services and statements of qualifications and performance data, if required. All such statements shall be evaluated in light of the criteria set forth in the solicitation for consulting services. The consultant selection committee may waive informalities in any such statements.

F. Final Selection of Contractors

1. The consultant selection committee shall select no more than three (3) firms (or two (2) if only two (2) apply) evaluated as being professionally and technically qualified. The firms selected, if still interested in providing the services, shall make a representative available to the consultant selection committee at such time and place as it shall determine, to provide such further information as it may require.
2. The consultant selection committee shall negotiate with the highest qualified firm for a contract for consulting services for the System at compensation which the consultant selection committee determines to be fair and reasonable. In making such determination, the consultant selection committee shall take into account the professional competence and technical merits of the offerors, and the price for which the services are to be rendered. The consultant selection committee shall be responsible for the final selection of the providers of consulting services.

G. Contracts Not Exceeding \$10,000.00

The Executive Director of the System shall be responsible for the final decision on consulting contracts not expected to exceed ten thousand dollars (\$10,000.00). The Executive Director shall, however, notify the Department of Administration, the Division of Purchases and the Division of Budget of the State of its selection. The Executive Director shall use the criteria set forth in § 1.3.2(D)(2) of this Part in making such determinations. Each determination shall be justified in writing.

1.3.3 Remedies

A. Protest of Solicitation and Award

1. Any actual or prospective contractor who is aggrieved in connection with the solicitation or award of any contract under these Rules may file a protest with the System. A protest must be filed in writing not later than two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto.

2. The System shall promptly issue a decision in writing regarding such protest. A copy of that decision shall be furnished to the aggrieved party and shall state the reasons for the action taken.
3. In the event a protest is filed in a timely manner under this Section, the System shall not proceed further with the solicitation or award which is the subject of the protest until it has issued a decision on the protest, or determined that continuation of the procurement is necessary to protect a substantial interest of the System.

B. Debarment and Suspension

1. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the System may debar a person for cause from consideration for award of contracts contemplated by these Rules. The debarment shall not be for a period of more than three (3) years. The System may suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall be for a period of not less than three (3) months.
2. The causes for debarment or suspension include the following:
 - a. Conviction of a criminal offense in connection with obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - b. Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor with the System;
 - c. Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
 - d. Violation of contract provisions, as set forth below, of a character which is regarded by the System to be so serious as to justify debarment action, including,
 - (1) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (2) A recent record of failure to perform or of unsatisfactory performance in accordance with the

terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

- e. Any other cause the System determines to be so serious and compelling as to affect responsibility as a contractor, including debarment by a governmental entity.
- 3. The System shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken; and inform the debarred or suspended person of its rights to judicial review.
- 4. A copy of the decision under § 1.3.3(B)(3) of this Part shall be furnished promptly to the debarred or suspended person.

C. Resolution of Contract Disputes

If any claim or controversy arising under contracts to which these Rules apply is not resolved by mutual agreement, the System shall promptly issue a decision in writing regarding the subject matter of such claim or controversy. A copy of that decision shall be furnished to the contractor. If the System does not issue a written decision within thirty (30) days after written request for a final decision, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision had been received from the System.

1.3.4 Additional Matters

A. Equal Employment Opportunity

For all contracts for consultant services exceeding ten thousand dollars (\$10,000.00), contractors must comply with the requirements of Federal Executive Order 11246, as amended, and R.I. Gen. Laws § 28-5.1-10. Failure to comply will be considered a substantial breach of the contract subject to penalties prescribed in regulations administered by the Department of Administration of the State.

B. Conflict of Interest

No member or employee of the System shall have any interest, financial or otherwise, direct or indirect, or engage in any activity which is in substantial conflict with the proper discharge of their duties as a member or employee of the System.

1.3.5 Effective Date

A. Effective Date

These Rules shall become effective upon adoption by the Board. Thereafter, the Board shall file a copy of these Rules with the Secretary of State.

B. Contracts in Effect on Effective Date

These Rules shall not change in any way a contract commitment by the System or of a contractor to the System which was in existence on the effective date of these Rules.

ERSRI Memorandum

ERSRI BOARD:

James A. Diossa
General Treasurer Chair

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Brenna McCabe

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Date: November 14, 2023
From: Frank J. Karpinski, Executive Director
Subject: Response to Questions for ERSRI Request for Proposal for Actuarial Audit Services

Questions from Athena Actuarial Consulting - Minneapolis, Minnesota

1. What is the name of the actuarial firm that completed the previous audit?

Response:

The last audit was performed Cheiron, Inc. - McLean, Virginia

2. What are the prior fees that ERSRI paid to the previous actuarial audit firm, split by each task?

Response:

Service	Fixed Fee
Option 1 - Section (1) (A) (1-5) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent actuarial valuation are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>Includes full valuation replication noted in (A)(5) and opinion.</i>	\$ 130,000
Option 3 - Section (1) (B) (1) Determination of whether the actuarial methods, considerations and analyses used by the consulting actuary (GRS) in preparing the most recent experience study are technically sound and conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board. <i>A review of the demographic and economic actuarial assumptions for consistency, reasonableness and compatibility. Provide Opinion only.</i>	\$ 25,000

3. What are the budget ranges for the ERSRI and OPEB engagements?

Response:

A budget has not been assigned for ERSRI or OPEB.

4. Are the final report presentations to the ERSRI & OPEB Boards expected to be in-person or virtual?

Response:

For ERSRI, the final report is expected to be in person. For OPEB, the OPEB Board can accommodate in-person or virtual presentations.

5. For the OPEB Audit services, would the State of Rhode Island Department of Administration (“DOA”) like to receive a full proposal in the same format presented in Section (2) of the RFP, or only separate service fees?

Response:

As stated on page 9 in the last paragraph, “Vendors are encouraged to provide proposals for these services separately.” A full proposal for an OPEB Actuarial Audit in the same format presented in Section (2) is appropriate.

6. Could you kindly share the job titles of the expected proposal evaluation members on the Employees’ Retirement Board?

Response:

Administrative Committee

Jean Rondeau Chair - Public Member appointed by the Governor.

Joseph Codega - State Budget Officer

Andy Manca (Treasurer Designee) – Treasury Director of Administration

Raymond J. Pouliot - Retired member of the System (Teacher)

Dorothy Z. Pascale, CPA, CFF - State Controller

Questions from Cavanaugh Macdonald Consulting - Kennesaw, Georgia

1. What were the fees for the prior audit?

Response:

Please see response on question 2 from Athena Actuarial Consulting, page 1

2. What are the retainer fees for the current work?

Response:

Fees for GRS under the current contract are:

July 1, 2022 – June 30, 2023 / Year One: \$343,000

July 1, 2023 – June 30, 2024 / Year Two: \$286,250

July 1, 2024 – June 30, 2025 / Year Three: \$294,500

July 1, 2025 - June 30, 2026 / Year Four: \$372,750

July 1, 2026 - June 30, 2027 / Year Five: \$311,000

Questions from Bolton - Towson, Maryland

1. Please confirm that this audit covers the following plans:

- a. The Employees Retirement System of Rhode Island,
- b. the Municipal Employees Retirement System,

Response for (a) and (b):

The audit covers the plans noted in the RFP on Page 5, Section (1) Scope of Services to be Provided.

The scope of the audit will be limited to the two largest funds, the Employees' Retirement System (ERS) which includes Rhode Island state employees and public-school teachers and the Municipal Employees' Retirement System (MERS) which includes general municipal and public safety employees in 122 individual municipal plans.

- c. the Rhode Island State Employee's and Electing Teachers OPEB System (which consists of six defined benefit OPEB plans).

Response:

Regarding the OPEB, the audit covers the six (6) plans noted in the RFP on Page 7, under *Other Post Employment Benefit Plans*.

2. When were each of the plans most previously audited?

Response:

The last actuarial audit of the ERS and MERS plans was presented to the Retirement Board in September of 2013 as of June 30, 2012.

Regarding OPEB, this is the first time the State has requested Actuarial Audit Services for the Rhode Island State Employees' and Electing Teachers OPEB plan.

3. Please provide copies of the most recent audits for each of the subject plans.

Response:

Document is attached to email.

4. What were the fees for the prior audits?

Response:

Please see response on question 2 from Athena Actuarial Consulting, page 1

5. On page 8 of the RFP, under item B (2), can you clarify what report is being fully replicated?

Response:

As stated on page 8, item (A)5, "A full replication of the most recent actuarial valuations for the Rhode Island State Employees' and Electing Teachers OPEB System."

6. Page 9 of the RFP refers to "Supplemental Services" requested by the Department of Administration (DOA). Please clarify which services are considered supplemental.

Response:

To clarify, the audit of the OPEB is the "Supplemental Services". These services will be paid for by State of Rhode Island Department of Administration (DOA) and require a separate contract with DOA rather than ERSRI.

Questions from Segal - Chicago, Illinois

1. When was the last actuarial audit performed?

Response:

The last actuarial audit of the ERS and MERS plans was presented to the Retirement Board in September of 2013 as of June 30, 2012.

2. What were the fees paid for the last actuarial audit?

Response:

Please see response on question 2 from Athena Actuarial Consulting, page 1

3. Should the bidder provide two separate proposal documents and fee proposals related to the pension actuarial audit and OPEB audit services?

Response:

Yes, two separate proposal documents and fee proposals should be provided. One for the ERSRI audit and one for the OPEB audit. The OPEB services will be paid for by State of Rhode Island Department of Administration (DOA) and require a separate contract with DOA rather than ERSRI.

Are bidders required to bid on both pension and OPEB audit services?

Response:

Bidders are not required but strongly encouraged.

4. Is it anticipated that audit results for pension and OPEB will be presented to stakeholders at the same time or on separate days?

Response:

The results will be presented to two separate Boards. It is likely that they will be two (2) separate days. However, ERSRI and DOA will try to coordinate the schedule if possible.

5. Please provide additional detail on the expectations for "...a statistical sample of the data..." related to Option 4 in the fee proposal.

Response:

ERSRI would expect the firm not to replicate the experience study but rather sample some of the data used to verify that GRS is performing/applying accurate collection, summarization, and actuarial/analytical calculation methods to satisfy the Board the valuation is accurate.

Questions from Cheiron, Inc. - McLean, Virginia.

1. Does the Retirement Board anticipate more than one meeting?

Response:

No, just the final presentation. If other meetings are requested, they may be virtual.

2. Will the data we receive be data cleaned up by the actuary for valuation purposes or raw data from the State?

Response:

Data will be provided by ERSRI for the valuation. If preferred, data may be provided by the Actuary. The Experience data will be from the Actuary.

3. How clean is the data? Does the actuary generally need to ask a lot of questions to verify the accuracy and completeness of the data?

Response:

Data is first audited by ERSRI. The Actuary does inquire on some data variations, but it is not excessive.

4. What are the current valuation fees and what was charged to perform the last experience study? Are these fees based on a fixed fee or hourly rate times incurred hours?

Response:

See question number 2 from Cavanaugh Macdonald on page 2. It is a fixed fee basis.

Retainer Fee for Services for Experience Analysis Services:

Year One: \$65,000

Year Four: \$70,000

5. Will we be able to get investment reports for the period being studied? Will these reports show the asset allocation in each year and if any changes were made?

Response:

Please see the link to the investment information below:

[Investments | Rhode Island Office of the General Treasurer \(ri.gov\)](#)

6. Will we be able to get a copy of the investment policy for each year of the study?

Response:

Please see the link to the investment information below:

[Investments | Rhode Island Office of the General Treasurer \(ri.gov\)](#)

7. Does the full replication of the Municipal plan include individual replications for each municipality or in total?

Response:

Yes.

8. Page 9 of the RFP mentions supplemental services; are these supplemental services the OPEB actuarial audit or are there additional services that a bid is requested for?

Response:

The supplemental services are the OPEB actuarial audit.

9. Do the demographic assumptions that apply to both pension and OPEB need to be reviewed separately for OPEB purposes?

Response:

Yes, the OPEB Actuarial Audit will be conducted separate from the ERSRI Actuarial Audit.

10. Will health enrollment data, including covered dependents, be provided for the OPEB participants?

Response:

The State will provide the same information furnished for the most recent actuarial valuation available. This includes, but not limited to, census data, OPEB benefits, financial transactions, plan provisions and active members, terminated members, retirees, and beneficiaries.

11. Will the eligibility data provided for the pension plans apply for OPEB purposes or is OPEB data provided separately?

Response:

The State will provide the same information furnished for the most recent actuarial valuation available. This includes, but not limited to, census data, OPEB benefits, financial transactions, plan provisions and active members, terminated members, retirees, and beneficiaries.

12. Will claims data and enrollment summaries be provided to reproduce the premium equivalent rates and per capita costs?

Response:

The State will provide the same information furnished for the most recent actuarial valuation available. This includes, but not limited to, census data, OPEB benefits, financial transactions, plan provisions and active members, terminated members, retirees, and beneficiaries.

13. Is the audit for all 6 Other Postemployment plans?

Response:

Correct, the Rhode Island State Employees' and Electing Teachers OPEB, which covers six plans as outlined on page 7 of the RFP.

Questions from Nyhart - Indianapolis, Indiana

1. Please provide the fees paid for the most recent audit.

Response:

Please see response on question 2 from Athena Actuarial Consulting, page 1

2. Are there any concerns with the previous provider? Was there anything that the Board would like to see differently this time?

Response:

No and No.

3. Our firm has audited statewide systems in the past, though we are not market leaders in the space. We do have intimate familiarity with the locally administered plans in Rhode Island and regularly perform experience studies and transition actuarial work for public sector plans across the country. Would this background be sufficient for our RFP response to be considered?

Response:

The review committee will review all submissions and consider credentials and background. We would encourage you to submit a proposal.

4. The principal actuary we would assign to the engagement has served as the consultant for many locally administered systems in Rhode Island. In addition, he has served mid-sized statewide systems in Arkansas, though not as the “principal actuary.” We feel that this consultant would best serve ERSRI given his background, and he would be supported by a team of credentialed professionals also familiar with the public sector; would this be disqualifying?

Response:

The RFP notes that the vendor should:

Identify the principal actuary by name and give the year such actuary became a Fellow or Associate of the Society of Actuaries and an enrolled actuary under Section 3042 of the Employees’ Retirement Income Security Act of 1974.

If the actuary noted will be the principal actuary, as described above from the RFP, that alone should not be disqualifying.

5. Internally, our firm handles pension work and OPEB work with separate teams. Although our consulting work could still be facilitated through the principal actuary, we would likely propose both pension-related experts and OPEB-related experts to be assigned to the engagement for the different portions of the audit. Would this present any issues from ERSRI’s perspective?

Response:

We do not believe so.



5. Administrative Decisions

For Decision



5.1. Administrative Appeal – Patricia
Dubois, Appellant vs. ERSRI, Respondent
For Decision
Presented by Michael P. Robinson

PATRICIA DUBOIS

VS

ERSRI



ERSRI BOARD:

January 5, 2024

James A. Diosa
General Treasurer Chair

Attorney Gregory P. Piccirilli
2 Starline Way # 7
Cranston, RI 02921

John P. Maguire
Vice Chair

Roger P. Boudreau

Dear Attorney Piccirilli:

Mark A. Carruolo

Please be advised that the Hearing Officer has issued an opinion in agreement with the decision of the Employees' Retirement System of Rhode Island (ERSRI) regarding the RIGL Section 16-16-24.1, entitled, "Substitute teaching and post-retirement employment related to covid-19" matter.

Joseph Codega, Jr.

Paul L. Dion

In accordance with Regulation 120-RICR-00-00-1 (1.4) of the *Rules of Practice and Procedure of the Employees' Retirement System for Hearings on Contested Cases*, this matter will be presented to the full Retirement Board for approval or denial at the January 18, 2024, Retirement Board Meeting. You have the right to appear before the Retirement Board and make oral argument in support of or in opposition to the Hearing Officer's decision.

Matthew K. Howard

Brenna McCabe

Claire M. Newell

The January meeting of the Retirement Board is scheduled for 9:00 a.m. Your hearing is scheduled as follows:

Andrew E. Nota

Raymond J. Pouliot

DATE: Thursday, January 18, 2024
TIME: 9:15 a.m.
LOCATION: 50 Service Avenue, 2nd Floor Conference Room
Warwick, Rhode Island 02886

Jean Rondeau

Laura Shawhughes


A party wishing to file a brief or make exceptions to the decision must submit documentation to the Retirement System, Attention: Roxanne Donoyan, no later than 10 days prior to the date of the Retirement Board meeting.

Michael J. Twohey

Lisa A. Whiting

If you are unable to attend this meeting, please notify me at (401) 462-7608 as soon as possible. Should the meeting be rescheduled, we will notify you of the new date and time of the meeting.

Frank J. Karpinski
Executive Director

Sincerely,

Roxanne Donoyan
Administrative Assistant

Ccs: Patricia Dubois
Glocester School Dept. -- KathyLaMontagne@glocesterri.org
Michael P. Robinson, Esq.

Enclosure: Regulation 120-RICR-00-00-1 (1.4)

1.4 Rules of Practice and Procedure for Hearings in Contested Cases

A. Introduction

These Rules of Practice and Procedure are promulgated pursuant to R.I. Gen. Laws § 36-8-3. The Rules shall be in effect during any hearing on a contested case before the Retirement Board or its duly authorized representatives.

B. Definitions

1. The definitions set forth in R.I. Gen. Laws §§ 36-8-1, 45-21-2, 45-21.2-2 and 16-16-1, and as further set forth in Regulations promulgated by the Retirement Board, are specifically incorporated by reference herein.
 - a. "Contested case" means a matter for which a member requests a hearing because they are aggrieved by an administrative action other than a Disability decision. The term shall apply to hearings conducted before Hearing Officers, and thereafter in proceedings before the full Retirement Board.
 - b. "Party" means any member, beneficiary, Retirement System, or such other person or organization deemed by the Hearing Officer to have standing.
 - c. "Hearing officer" means an individual appointed by the Retirement Board to hear and decide a contested case.

C. Request for Hearing and Appearance

1. Any member aggrieved by an administrative action other than a Disability decision, may request a hearing of such grievance. Upon such request, the matter will be deemed a contested case. The procedure for Disability decisions and appeals therefrom shall be governed by the procedures set forth in § 1.9 of this Part, Rules Pertaining to the Application to Receive an Ordinary or Accidental Disability Pension.
2. Such request shall be in writing and shall be sent to the Retirement Board within sixty (60) days of the date of a letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial.
3. A request for hearing shall be signed by the member and shall contain the following information:
 - a. Name of member;
 - b. Date and nature of decision being contested;
 - c. A clear statement of the objection to the decision which must include the reasons the member feels they are entitled to relief; and
 - d. A concise statement of the relief sought.
4. Requests for hearing should be sent to the Retirement Board at 50 Service Avenue, 2nd Floor, Warwick, RI 02886-1021.
5. Failure to strictly comply with the procedures outlined in this Section shall be grounds to deny any request for a hearing.

D. Contested Cases – Notice of Hearing

1. Upon receipt of a request for hearing in matters other than Disability decisions and appeals therefrom, the Retirement Board or its designee shall appoint a Hearing Officer. The appointed Hearing Officer shall hear the matter, find facts and offer conclusions of law to the Retirement Board. The decision of a Hearing Officer shall be subject to approval by the full

Retirement Board. The Retirement System's action shall not be deemed final until such time as the Hearing Officer's recommendation has been voted upon by the Retirement Board.

2. Within forty-five (45) days after receipt by the Retirement Board of a request for hearing, the Retirement Board shall give notice that the matter has been assigned to a Hearing Officer for consideration.
3. In any contested case, all parties shall be afforded an opportunity to be heard after reasonable notice.
4. The notice described in § 1.4(D)(2) of this Part, above, shall include:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and Rules involved;
 - d. The name, official title and mailing address of the Hearing Officer, if any;
 - e. A statement of the issues involved and, to the extent known, of the matters asserted by the parties; and
 - f. A statement that a party who fails to attend or participate in the hearing may be held to be in default and have their appeal dismissed.
5. The notice may include any other matters the Hearing Officer or the Retirement Board considers desirable to expedite the proceedings.

E. Contested Cases – Hearings in General

1. All parties shall be afforded an opportunity to respond and present evidence and argument on all issues involved.
2. Members must appear at hearings either personally, or by appearance of legal counsel. Members may represent themselves or be represented by legal counsel at their own expense. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law", any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island) cannot represent the member in the hearing.
3. Continuances and postponements may be granted by the Hearing Officer or the Retirement Board at their discretion.
4. Disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.
5. Should the Hearing Officer or Retirement Board determine that written memoranda are required, the member will be notified by the Hearing Officer or the Retirement Board of the need to file a written document which discusses the issues of the case. Memoranda of law may always be offered in support of arguments offered by the member or the representative of the Retirement Systems.
6. The Executive Director may, when they deems appropriate, retain independent legal counsel to prosecute any contested case.
7. A recording of each hearing shall be made. Any party may request a transcript or copy of the tape at their own expense.

F. Contested Cases – Conduct of Hearings before Hearing Officers

1. Hearings shall be conducted by the Hearing Officer who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence.
2. The Hearing shall be convened by the Hearing Officer. Appearances shall be noted and any motions or preliminary matters shall be taken up. Each party shall have the opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing written evidence.
3. The Member shall first present their case followed by presentation of the Retirement System's case.
4. The Hearing Officer shall have the authority to continue or recess any hearing and to keep the record open for the submission of additional evidence.
5. If for any reason a Hearing Officer cannot continue on a case, another Hearing Officer will be appointed who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.
6. Each party shall have the opportunity to examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues in the case.
7. Any objections to testimony or evidence and the basis for the objection shall be made at the time the testimony or evidence is offered.
8. The Hearing Officer may question any party or any witness for the purpose of clarifying their understanding or to clarify the record.
9. The scope of hearing shall be limited to those matters specifically outlined in the request for hearing.
10. Written evidence will be marked for identification. If the original is not readily available, written evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.
11. Findings of fact shall be based solely on the evidence and matters officially noticed.
12. If a member fails to attend or participate in the hearing as requested, the Hearing Officer may default such member and dismiss their appeal with prejudice.

G. Contested Cases – Record of Proceedings before Hearing Officers

1. The record in a contested case shall include:
 - a. All pleadings, motions, intermediate rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Questions and offers of proof and rulings thereon;
 - e. Proposed findings and exceptions;
 - f. Any decision, opinion, or report by the Hearing Officer at the hearing; and
 - g. All staff memoranda or data submitted to the Hearing Officer in connection with their consideration of the case.

H. Ex Parte Communications (Communications by one (1) party)

There shall be no communications between the Hearing Officer and either a member, the Retirement System or the Retirement Board, or any of their representatives

regarding any issue of fact or law in a case, without notice and opportunity for all parties to participate. There shall be no written communications by any party that are not transmitted at the same time to all parties.

I. Rules of Evidence in Contested Cases

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. Evidence not usually admitted under the Rules of Evidence for civil cases may be admitted where it is shown that such evidence is necessary to ascertain facts not capable of being proved otherwise. The Hearing Officer and the Retirement Board shall give effect to the Rules of Privilege (such as attorney/client privilege) recognized by law. Objections to evidence may be made and shall be noted in the record. Any part of the evidence may be received in written form when a hearing needs to be expedited and the interests of the parties will not be hurt substantially.

J. Final Decision and Member Right of Appeal

1. Within twenty-five (25) days after receipt of the Hearing Officer's recommendation, a copy thereof shall be served upon all parties to the proceeding and each party shall be notified of the time and place when the matter shall be considered by the Retirement Board. Each party to the proceeding shall be given the right to make exceptions, to file briefs and to make oral arguments before the Retirement Board. No additional evidence will be considered by the Retirement Board once the Hearing Officer has issued a recommendation. A party wishing to file a brief or make exceptions to the recommendation of the Hearing Officer shall be required to submit the same to the Executive Director not later than ten (10) days prior to the date when the Retirement Board is scheduled to hear and act upon the recommendation of the Hearing Officer. The aggrieved party and their representative shall have the right to appear before the Retirement Board and make oral argument at the time of such hearing. No new testimony will be taken, or evidence considered at this time. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law" any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island), cannot represent the member before the Retirement Board. After consideration of the decision of the Hearing Officer and such other argument as shall be presented by any party to the proceeding, the Retirement Board shall vote on the recommendation of the Hearing Officer.
2. In the event of a tie vote of a quorum present and voting on a contested matter, the matter will automatically be placed on the agenda of the next Retirement Board meeting.
3. In the event of a tie vote of a quorum present and voting on a contested matter rescheduled from a prior meeting, the Retirement Board may vote to postpone and re-consider the matter at a subsequent hearing, when a larger number of voting members may be present. If no such vote to postpone and re-consider is taken, or if a vote to postpone and re-

consider the matter at a later date fails, the underlying action appealed from will be deemed affirmed.

K. Requests for Rehearing

1. A request for rehearing which is submitted prior to the issuance of the Hearing Officer's recommendation should be made in writing. The request must detail the substance of any additional evidence to be offered, and the reason for the failure of the party to offer it at the prior proceedings.
2. A rehearing will be denied if the evidence does not bear on any issue in contest in the original proceedings, will not likely affect the final recommendation, or if the request appears to be merely for purposes of delaying a final decision. A second (2nd) request for rehearing after the granting or denial of a prior request for rehearing will not be permitted.

Roxanne Donoyan

From: Roxanne Donoyan
Sent: Friday, January 5, 2024 4:03 PM
To: gregory@splawri.com
Subject: PATRICIA DUBOIS V ERSRI HEARING NOTICE

You're most welcome, Attorney Piccirilli.

Regards,
Roxanne

Roxanne Donoyan
Assistant to Executive Director



50 Service Ave, 2nd Floor, Warwick, RI 02886-1021
Phone: (401) 462-7608 Fax (401) 462-7691
roxanne.donoyan@ersri.org

From: gregory@splawri.com <gregory@splawri.com>
Sent: Friday, January 5, 2024 3:51 PM
To: Roxanne Donoyan <Roxanne.Donoyan@ersri.org>
Subject: [EXTERNAL]RE: PATRICIA DUBOIS V ERSRI HEARING NOTICE

This Message Is From an External Sender
This message came from outside your organization.

[Report Suspicious](#)

Received thank you.

From: Roxanne Donoyan <Roxanne.Donoyan@ersri.org>
Sent: Friday, January 5, 2024 3:48 PM
To: GREGORY@SPLAWRI.COM
Subject: PATRICIA DUBOIS V ERSRI HEARING NOTICE

Good afternoon Attorney Piccirilli,

Attached please find the letter sent by regular mail today of the hearing scheduled for Patricia Dubois v ERSRI to be held at ERSRI, 50 Service Ave., 2nd Floor, Warwick, RI 02886 on Thursday, January 18, 2024. Also, our office is confirming receipt of both a copy of the *Post-Hearing Brief of Patricia Dubois* and a copy of *Patricia Dubois Statement of Exception to Hearing Officer Decision*.

Thank you; if you should have any questions, please contact our office.

Regards,
Roxanne

Roxanne Donoyan
Assistant to Executive Director



50 Service Ave, 2nd Floor, Warwick, RI 02886-1021
Phone: (401) 462-7608 Fax (401) 462-7691
roxanne.donoyan@ersri.org

From: konicaminoltac654erecep@treasury.ri.gov <konicaminoltac654erecep@treasury.ri.gov>
Sent: Friday, January 5, 2024 3:54 PM
To: Roxanne Donoyan <Roxanne.Donoyan@ersri.org>
Subject: [EXTERNAL]Message from KM_C654e

Confidentiality Note: This e-mail, and any attachment to it, contains privileged and confidential information intended only for the use of the individual(s) or entity named on the e-mail. If the reader of this e-mail is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading it is strictly prohibited. If you have received this e-mail in error, please immediately return it to the sender and delete it from your system.



**HEARING OFFICER
DECISION**
with
EXHIBITS

APPEAL OF: _____

PATRICIA DUBOIS, Appellant

vs.

EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent

Appearance for Appellant: GREGORY P. PICCIRILLI, ESQ.
2 Starline Way #7
Cranston, Rhode Island 02921

Appearance for Respondent: MICHAEL P. ROBINSON, ESQ.
Legal Counsel
Employees Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

Hearing Officer: TERESA M. RUSBINO, ESQ.
Employees' Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

DECISION

Pursuant to R.I.G.L. Section 36-8-3 and Regulation Four, Rules of Practice and Procedure for Hearings, the Appellant, Patricia DuBois (hereinafter "Appellant"), is appealing the April 7, 2023 Decision and the May 22, 2023 Administrative Denial of the Employees' Retirement System of Rhode Island (hereinafter "Respondent"). Per the April 7, 2023 Decision, the Respondent determined that it must recoup the sum of \$3,129.66 from Appellant's pension benefits, in accordance with RIGL Section 16-16-24. This sum represents fifteen and a half (15.5) full days that the Appellant engaged in post-retirement

employment as Superintendent of the Gloucester School Department, in excess of the ninety (90) day cap, during the period June 26, 2021 through August 24, 2021.

The April 7, 2023 Decision was appealed, per correspondence from the Appellant to the Respondent, dated May 4, 2023. The Appeal was perfected in accordance with the Rules of Practice and referred to this Hearing Officer in a letter dated May 22, 2023. A hearing was held on July 24, 2023, at the offices of the Employees' Retirement System, 50 Service Avenue, Warwick, Rhode Island. Pre-hearing position statements and post-hearing memoranda of law were submitted by both Appellant's counsel and Respondent's counsel in support of their respective positions. The Appellant testified in her own behalf. Frank Karpinski, Executive Director of the Employees' Retirement System, also testified. Various documents were admitted into evidence. See Appellant's Exhibits A-F and Respondent's Exhibits 1-4, attached hereto.

FINDINGS OF FACT:

1. On July 1, 2009, the Appellant retired under Title 16, Chapter 16, of the Rhode Island General Laws as a Superintendent of the Gloucester School Department.
2. On December 30, 2020, Rhode Island Governor Gina M. Raimondo issued Executive Order 20-110 entitled, One Hundred and Fifth Supplemental Emergency Declaration-Increasing Administrative Staff Capacity (see Appellant's Exhibit A).

3. The Executive Order referred to above suspended the prohibitions and restrictions on post-retirement employment contained in RIGL Sections 16-16-24 and 36-10-36 with respect to those specific retired teachers and administrative staff members identified by an LEA (Local Educational Agency) as possessing the skills, training or knowledge necessary to address the COVID-19 public health crises (see Appellant's Exhibit A).
4. The Executive Order further provided that the LEA execute and deliver to the Board of the Employees' Retirement system a written certification that such re-employment was of a finite duration during the 2020-2021 school year ending on June 25, 2021.
5. The December 30, 2020 Executive Order was extended monthly until Executive Order 21-71, dated June 18, 2021, signed by Governor Daniel J. McKee (see Appellant's Exhibit B).
6. From August 25, 2020 through August 24, 2021, the Appellant returned to work as a Superintendent of the Gloucester School Department.
7. During the period August 25, 2020 through August 24, 2021, the Appellant worked a total of one hundred and nine (109) full days post-retirement; specifically, ninety three and a half (93.5) days from August 25, 2020 through June 25, 2021, and fifteen and a half (15.5) days from June 26, 2021 through August 24, 2021.

8. By correspondence dated April 7, 2023, Respondent informed Appellant that pursuant to RIGL Section 16-16-24, it intended to recoup from Appellant's pension benefit the amount of \$3,129.66, representing the fifteen and one half (15.5) days Appellant worked post-retirement as Superintendent of Gloucester School Department during the period June 26, 2021 through August 24, 2021 (see Respondent's Exhibit 1).
9. By letter dated May 4, 2023, the Appellant appealed the Respondent's Decision of April 7, 2023 (see Respondent's Exhibit 2).
10. On May 22, 2023, the Respondent reaffirmed its April 7, 2023 Decision and issued an official notification of an administrative denial (see Respondent's Exhibit 3).

ISSUE ON APPEAL:

Did Respondent Employees' Retirement System of Rhode Island err in its Decision, dated April 7, 2023, and reaffirmed in its Administrative Denial, dated May 22, 2023, to recoup from the Appellant's pension benefits the sum of \$3,129.66 for fifteen and a half (15.5) full days that Appellant worked post-retirement as Superintendent of the Gloucester School Department for the period June 26, 2021 to August 24, 2021?

CONCLUSION AND ORDER:

R.I.G.L. Section 16-16-24(a) entitled, Substitute teaching and employment after retirement, reads in relevant part as follows:

(a) any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher (emphasis added)

Additionally, R.I.G.L. Section 16-16-1(2) defines the term “teacher” as a person employed as a teacher, supervisor, principal, assistant principal, **superintendent**, or assistant superintendent of schools. (Emphasis supplied)

The Respondent’s position is that it was required to recoup \$3,129.66 from the Appellant’s pension benefits, in accordance with RIGL Section 16-16-24, because Appellant continued to work as Superintendent of the Gloucester School Department for fifteen and a half (15.5) days after the expiration of the Executive Order on June 25, 2021. Executive Order 20-110, dated December 30, 2020, suspended the prohibitions and restrictions on post-retirement employment contained in RIGL Sections 16-16-24 and 36-10-36, as they related to those retired teachers and administrative staff members identified by an LEA as possessing the skills, training, and knowledge necessary to address the COVID-19 public health crises. However, those LEAs were required to, “execute and deliver to the State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment **(a) is of**

finite duration during the 2020-2021 school year ending on June 25, 2021....” (Emphasis added)

When a statute (or enactment) is clear and unambiguous, courts are required to ascribe the plain and ordinary meaning of the words of the statute. McCulloch v. McCulloch, 69 A.3d 810, 819 (R.I. 2013) quoting Town of Burrillville v. Pascoag Apartment Associates, LLC, 950 A.2d 435, 445 (R.I. 2008). A statute (or enactment) with clear and unambiguous language must be interpreted literally, and the words must be given their plain and ordinary meaning. Planned Enviornments Mgmt. Corp. v. Robert, 996 A.2d 117, 121 (R.I. 2009). There is no room for statutory construction or extension, and the statute (or enactment) must be applied as written. See State v. Oliveira, 882 A.2d 1097 (R.I. 2005).

In this instance, the Respondent’s interpretation of the Executive Orders, as they related to the suspension of prohibitions and restrictions to post-retirement employment set forth in RIGL Section 16-16-24, is reasonable and wholly consistent with the standards of statutory construction referenced above. The Respondent was presented with clear and unambiguous language in the Executive Orders that the suspension of the post-retirement prohibitions and restrictions of RIGL Section 16-16-24 was of a finite duration and ended on June 25, 2021. As of that date, the Appellant had worked ninety-three and a half (93.5) days post-retirement as Gloucester School Department Superintendent. Her pension benefits for the three and a half (3.5) days she worked in excess of the ninety (90) day period were not reduced or forfeited. However, the additional fifteen and a half (15.5) days Appellant worked after June 25, 2021 were subject

to the post-retirement prohibitions and restrictions of RIGL Section 16-16-24, since the suspension of those prohibitions and restrictions ended on June 25, 2021. Respondent applied the language set forth in the Executive Orders literally and ascribed their plain and ordinary meaning to its words. See Interstate Navigation Co. v. Division of Public Utilities and Carriers, 824 A.2d 1282, 1287 (R.I. 2003).

The Appellant argues, however, that the effect of the Governors' Executive Orders 20-110 and 21-71 was to, "eras[e] the number of days post-retirement that a teacher could work in the 2020-21 school year." In essence, the Appellant's position is that the term "suspended," as used in the Executive Orders, refers to a suspension of the ninety (90) day period on post-retirement employment during the 2020-2021 school year, ending on June 25, 2021. Under Appellant's interpretation, the ninety (90) day period on post-retirement employment would not have begun to accrue until after June 25, 2021, the expiration date of the suspension. As such, Appellant's fifteen and a half (15.5) days of post-retirement employment between June 26, 2021 and August 24, 2021 would not have exceeded the ninety (90) day period set forth in RIGL Section 16-16-24 and therefore would not be subject to a reduction in or forfeiture of her pension benefits.

The Appellant's position, as it relates to RIGL Section 16-16-24 is not consistent with the language, purpose and effect of the statute. The statutory prohibitions and restrictions referred to in the post-retirement employment statute relate to reductions in or forfeitures of pension benefits of those retirees who

work in a state school or in the public schools of the state for a period of more than ninety (90) days in any school year. It's reasonable to conclude that these are the prohibitions and restrictions that are in fact "suspended" pursuant to the Executive Orders. Consequently, there would have been no reason to suspend the accrual of the ninety (90) day post-retirement employment period, since there would have been no forfeitures of or reductions in retirement benefits for those retirees who worked beyond the ninety (90) day cap during the 2020-2021 school year.

In further support of her position, the Appellant cites RIGL Section 16-16-24.1, entitled, "Substitute teaching and post-retirement employment related to covid-19". This statute permitted teachers, administrators, or staff members who met certain criteria to fill positions on a temporary basis that may exceed the ninety (90) day cap on post-retirement employment. However, statutes and their amendments are applied prospectively, absent clear language or necessary implication that they were intended to have retroactive application. State v. Briggs, 58 A.2d 164, 168 (R.I. 2010). Since the effective date of RIGL Section 16-16-24.1 was March 22, 2022, and the time period relative to Appellant's reduction in retirement benefits for post-retirement employment was June 26, 2021 through August 24, 2021, the statute is not relevant to this Hearing Officer's review of the issue on appeal.

For the reasons set forth herein, Respondent's Decision, dated April 7, 2023, and its subsequent Administrative Denial, dated May 22, 2023, are hereby affirmed.

It is so ordered.

DATED: December 4, 2023



TERESA M. RUSBINO, ESQ.
Hearing Officer, Employees' Retirement System of Rhode Island

CERTIFICATION

I hereby certify that on the 4th day of December, 2023, I forwarded a true copy of the Within Decision, by electronic mail delivery, to FRANK J. KARPINSKI, Executive Director, Employees' Retirement System of Rhode Island, Frank.Karpinski@ersri.org; GAYLE C. MAMBRO-MARTIN, Deputy General Counsel, Employees' Retirement System of Rhode Island, Gayle.Mambro-Martin@ersri.org; MICHAEL P. ROBINSON, ESQ., Legal Counsel, Employees' Retirement System, mrobinson@savagelawpartners.com; and GREGORY P. PICCIRILLI, ESQ., gregory@splawri.com.



Request of
FULL

ERSRI BOARD: May 22, 2023

James A. Diozza
General Treasurer/Chair

Patricia Dubois



John P. Maguire
Vice Chair

Ernest Almonte

RE: Request for Hearing

Roger P. Boudreau

Dear Ms. Dubois:

Mark A. Carruolo

Enclosed please find an official denial letter.

Joseph Codega

In accordance with Rhode Island General Laws (RIGL) §36-8-3 and the Rules of Practice and Procedure for Hearings in Contested Cases, your request for a hearing has been assigned to:

Paul L. Dion

Matthew K. Howard

HEARING OFFICER:

Teresa M. Rusbino, Esq.
Email: tmrri03@gmail.com
Phone: 401.741.7378

Claire M. Newell

Raymond J. Pouliot

LOCATION:

Employees' Retirement System of R.I.
50 Service Ave,
Warwick, RI 02886

Jean Rondeau

Kindly contact the hearing officer to arrange a mutually convenient time to hold the hearing.

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Should you have any questions, please feel free to contact me at 401.462.7616 or gayle.mambro-martin@ersri.org.

Lisa A. Whiting

Sincerely,

Gayle C. Mambro-Martin
Deputy General Counsel

Frank J. Karpinski
Executive Director

cc: Teresa M. Rusbino, Esq.
Michael P. Robinson, Esq.

Enclosures

APPEAL OF:

PATRICIA DUBOIS, Appellant

vs.

EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent

Appearance for Appellant:

GREGORY P. PICCIRILLI, ESQ.
2 Starline Way #7
Cranston, Rhode Island 02921

Appearance for Respondent:

MICHAEL P. ROBINSON, ESQ.
Legal Counsel
Employees Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

Hearing Officer:

TERESA M. RUSBINO, ESQ.
Employees' Retirement System
of Rhode Island
50 Service Avenue
Warwick, Rhode Island 02886

2023 DEC 20 A 10:24

ERSRI

DECISION

Pursuant to R.I.G.L. Section 36-8-3 and Regulation Four, Rules of Practice and Procedure for Hearings, the Appellant, Patricia DuBois (hereinafter "Appellant"), is appealing the April 7, 2023 Decision and the May 22, 2023 Administrative Denial of the Employees' Retirement System of Rhode Island (hereinafter "Respondent"). Per the April 7, 2023 Decision, the Respondent determined that it must recoup the sum of \$3,129.66 from Appellant's pension benefits, in accordance with RIGL Section 16-16-24. This sum represents fifteen and a half (15.5) full days that the Appellant engaged in post-retirement

employment as Superintendent of the Gloucester School Department, in excess of the ninety (90) day cap, during the period June 26, 2021 through August 24, 2021.

The April 7, 2023 Decision was appealed, per correspondence from the Appellant to the Respondent, dated May 4, 2023. The Appeal was perfected in accordance with the Rules of Practice and referred to this Hearing Officer in a letter dated May 22, 2023. A hearing was held on July 24, 2023, at the offices of the Employees' Retirement System, 50 Service Avenue, Warwick, Rhode Island. Pre-hearing position statements and post-hearing memoranda of law were submitted by both Appellant's counsel and Respondent's counsel in support of their respective positions. The Appellant testified in her own behalf. Frank Karpinski, Executive Director of the Employees' Retirement System, also testified. Various documents were admitted into evidence. See Appellant's Exhibits A-F and Respondent's Exhibits 1-4, attached hereto.

FINDINGS OF FACT:

1. On July 1, 2009, the Appellant retired under Title 16, Chapter 16, of the Rhode Island General Laws as a Superintendent of the Gloucester School Department.
2. On December 30, 2020, Rhode Island Governor Gina M. Raimondo issued Executive Order 20-110 entitled, One Hundred and Fifth Supplemental Emergency Declaration-Increasing Administrative Staff Capacity (see Appellant's Exhibit A).

3. The Executive Order referred to above suspended the prohibitions and restrictions on post-retirement employment contained in RIGL Sections 16-16-24 and 36-10-36 with respect to those specific retired teachers and administrative staff members identified by an LEA (Local Educational Agency) as possessing the skills, training or knowledge necessary to address the COVID-19 public health crises (see Appellant's Exhibit A).
4. The Executive Order further provided that the LEA execute and deliver to the Board of the Employees' Retirement system a written certification that such re-employment was of a finite duration during the 2020-2021 school year ending on June 25, 2021.
5. The December 30, 2020 Executive Order was extended monthly until Executive Order 21-71, dated June 18, 2021, signed by Governor Daniel J. McKee (see Appellant's Exhibit B).
6. From August 25, 2020 through August 24, 2021, the Appellant returned to work as a Superintendent of the Gloucester School Department.
7. During the period August 25, 2020 through August 24, 2021, the Appellant worked a total of one hundred and nine (109) full days post-retirement; specifically, ninety three and a half (93.5) days from August 25, 2020 through June 25, 2021, and fifteen and a half (15.5) days from June 26, 2021 through August 24, 2021.

8. By correspondence dated April 7, 2023, Respondent informed Appellant that pursuant to RIGL Section 16-16-24, it intended to recoup from Appellant's pension benefit the amount of \$3,129.66, representing the fifteen and one half (15.5) days Appellant worked post-retirement as Superintendent of Glocester School Department during the period June 26, 2021 through August 24, 2021 (see Respondent's Exhibit 1).
9. By letter dated May 4, 2023, the Appellant appealed the Respondent's Decision of April 7, 2023 (see Respondent's Exhibit 2).
10. On May 22, 2023, the Respondent reaffirmed its April 7, 2023 Decision and issued an official notification of an administrative denial (see Respondent's Exhibit 3).

ISSUE ON APPEAL:

Did Respondent Employees' Retirement System of Rhode Island err in its Decision, dated April 7, 2023, and reaffirmed in its Administrative Denial, dated May 22, 2023, to recoup from the Appellant's pension benefits the sum of \$3,129.66 for fifteen and a half (15.5) full days that Appellant worked post-retirement as Superintendent of the Glocester School Department for the period June 26, 2021 to August 24, 2021?

CONCLUSION AND ORDER:

R.I.G.L. Section 16-16-24(a) entitled, Substitute teaching and employment after retirement, reads in relevant part as follows:

(a) any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher (emphasis added)

Additionally, R.I.G.L. Section 16-16-1(2) defines the term "teacher" as a person employed as a teacher, supervisor, principal, assistant principal, **superintendent**, or assistant superintendent of schools. (Emphasis supplied)

The Respondent's position is that it was required to recoup \$3,129.66 from the Appellant's pension benefits, in accordance with RIGL Section 16-16-24, because Appellant continued to work as Superintendent of the Gloucester School Department for fifteen and a half (15.5) days after the expiration of the Executive Order on June 25, 2021. Executive Order 20-110, dated December 30, 2020, suspended the prohibitions and restrictions on post-retirement employment contained in RIGL Sections 16-16-24 and 36-10-36, as they related to those retired teachers and administrative staff members identified by an LEA as possessing the skills, training, and knowledge necessary to address the COVID-19 public health crises. However, those LEAs were required to, "execute and deliver to the State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment **(a) is of**

finite duration during the 2020-2021 school year ending on June 25, 2021...." (Emphasis added)

When a statute (or enactment) is clear and unambiguous, courts are required to ascribe the plain and ordinary meaning of the words of the statute. McCulloch v. McCulloch, 69 A.3d 810, 819 (R.I. 2013) quoting Town of Burrillville v. Pascoag Apartment Associates, LLC, 950 A.2d 435, 445 (R.I. 2008). A statute (or enactment) with clear and unambiguous language must be interpreted literally, and the words must be given their plain and ordinary meaning. Planned Enviornments Mgmt. Corp. v. Robert, 996 A.2d 117, 121 (R.I. 2009). There is no room for statutory construction or extension, and the statute (or enactment) must be applied as written. See State v. Oliveira, 882 A.2d 1097 (R.I. 2005).

In this instance, the Respondent's interpretation of the Executive Orders, as they related to the suspension of prohibitions and restrictions to post-retirement employment set forth in RIGL Section 16-16-24, is reasonable and wholly consistent with the standards of statutory construction referenced above. The Respondent was presented with clear and unambiguous language in the Executive Orders that the suspension of the post-retirement prohibitions and restrictions of RIGL Section 16-16-24 was of a finite duration and ended on June 25, 2021. As of that date, the Appellant had worked ninety-three and a half (93.5) days post-retirement as Gloucester School Department Superintendent. Her pension benefits for the three and a half (3.5) days she worked in excess of the ninety (90) day period were not reduced or forfeited. However, the additional fifteen and a half (15.5) days Appellant worked after June 25, 2021 were subject

to the post-retirement prohibitions and restrictions of RIGL Section 16-16-24, since the suspension of those prohibitions and restrictions ended on June 25, 2021. Respondent applied the language set forth in the Executive Orders literally and ascribed their plain and ordinary meaning to its words. See Interstate Navigation Co. v. Division of Public Utilities and Carriers, 824 A.2d 1282, 1287 (R.I. 2003).

The Appellant argues, however, that the effect of the Governors' Executive Orders 20-110 and 21-71 was to, "eras[e] the number of days post-retirement that a teacher could work in the 2020-21 school year." In essence, the Appellant's position is that the term "suspended," as used in the Executive Orders, refers to a suspension of the ninety (90) day period on post-retirement employment during the 2020-2021 school year, ending on June 25, 2021. Under Appellant's interpretation, the ninety (90) day period on post-retirement employment would not have begun to accrue until after June 25, 2021, the expiration date of the suspension. As such, Appellant's fifteen and a half (15.5) days of post-retirement employment between June 26, 2021 and August 24, 2021 would not have exceeded the ninety (90) day period set forth in RIGL Section 16-16-24 and therefore would not be subject to a reduction in or forfeiture of her pension benefits.

The Appellant's position, as it relates to RIGL Section 16-16-24 is not consistent with the language, purpose and effect of the statute. The statutory prohibitions and restrictions referred to in the post-retirement employment statute relate to reductions in or forfeitures of pension benefits of those retirees who

work in a state school or in the public schools of the state for a period of more than ninety (90) days in any school year. It's reasonable to conclude that these are the prohibitions and restrictions that are in fact "suspended" pursuant to the Executive Orders. Consequently, there would have been no reason to suspend the accrual of the ninety (90) day post-retirement employment period, since there would have been no forfeitures of or reductions in retirement benefits for those retirees who worked beyond the ninety (90) day cap during the 2020-2021 school year.

In further support of her position, the Appellant cites RIGL Section 16-16-24.1, entitled, "Substitute teaching and post-retirement employment related to covid-19". This statute permitted teachers, administrators, or staff members who met certain criteria to fill positions on a temporary basis that may exceed the ninety (90) day cap on post-retirement employment. However, statutes and their amendments are applied prospectively, absent clear language or necessary implication that they were intended to have retroactive application. State v. Briggs, 58 A.2d 164, 168 (R.I. 2010). Since the effective date of RIGL Section 16-16-24.1 was March 22, 2022, and the time period relative to Appellant's reduction in retirement benefits for post-retirement employment was June 26, 2021 through August 24, 2021, the statute is not relevant to this Hearing Officer's review of the issue on appeal.

For the reasons set forth herein, Respondent's Decision, dated April 7, 2023, and its subsequent Administrative Denial, dated May 22, 2023, are hereby affirmed.

It is so ordered.

DATED: December 4, 2023

Teresa M. Rusbino, Esq.

TERESA M. RUSBINO, ESQ.
Hearing Officer, Employees' Retirement System of Rhode Island

CERTIFICATION

I hereby certify that on the 4th day of December, 2023, I forwarded a true copy of the Within Decision, by electronic mail delivery, to FRANK J. KARPINSKI, Executive Director, Employees' Retirement System of Rhode Island, Frank.Karpinski@ersri.org; GAYLE C. MAMBRO-MARTIN, Deputy General Counsel, Employees' Retirement System of Rhode Island, Gayle.Mambro-Martin@ersri.org; MICHAEL P. ROBINSON, ESQ., Legal Counsel, Employees' Retirement System, mrobinson@savagelawpartners.com; and GREGORY P. PICCIRILLI, ESQ., gregory@splawri.com.

Teresa M. Rusbino, Esq.

Appellant's
A
Full



State of Rhode Island

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-110

December 30, 2020

SECRETARY OF STATE
PUBLIC INFORMATION
CENTER
2020 DEC 30 PM 4:45
[Signature]

**ONE HUNDRED AND FIFTH SUPPLEMENTAL EMERGENCY DECLARATION –
INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY**

WHEREAS, on March 9, 2020, I issued Executive Order 20-02 declaring a state of emergency due to the dangers to health and life posed by COVID-19 and that Order is in effect until at least January 20, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township,

WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19, the LEA shall execute and deliver to the

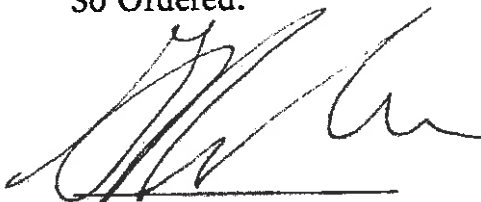
school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2020-2021 school year ending on June 25, 2021 and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Order shall take effect immediately and remain in full force and effect until January 28, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Gina M. Raimondo

Governor



SECRETARY OF STATE
PUBLIC INFORMATION
CENTER

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State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-71

June 18, 2021

ONE HUNDRED AND SEVENTY-FOURTH
SUPPLEMENTAL EMERGENCY DECLARATION –
INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19 and that Order has been extended to remain in effect at least through July 9, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction

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SECRETARY OF STATE
PUBLIC INFORMATION
CENTER

State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-86

August 19, 2021

DECLARATION OF DISASTER EMERGENCY FOR NEW COVID-19 VARIANTS

WHEREAS, on March 9, 2020, Rhode Island declared a state of emergency due to the dangers to health posed by the original strain of SARS-CoV-2, the virus that is responsible for COVID-19;

WHEREAS, at the time of that declared state of emergency, the original SARS-CoV-2 strain had a rate of spread of 2-3, meaning that one person would likely spread the virus to 2-3 others;

WHEREAS, the Delta variant of the SARS-CoV-2 ("Delta Variant") is now sweeping the country and has become the dominant strain in Rhode Island and nationally;

WHEREAS, the Delta Variant may have a viral load 1,000 times greater than the original strain of SARS-CoV-2 that hit Rhode Island in 2020:

WHEREAS, the Delta Variant is more than twice as contagious as recent variants, and 3-4 times more contagious than the original strain, leading to a significant increase in

transmission among those who are not vaccinated and breakthrough infection in some people who are fully vaccinated;

WHEREAS, both unvaccinated and vaccinated people can spread the Delta Variant;

WHEREAS, since August 11, 2021, Rhode Island has been experiencing a high level of community transmission of the Delta Variant, defined as more than 100 cases of COVID-19 per 100,000 people in the past 7 days;

WHEREAS, on July 4, 2021, Rhode Island had only 11.2 new cases of COVID-19 per 100,000 people in the prior 7 days; by August 16, it had 195.6 new cases of COVID-19 per 100,000 persons;

WHEREAS, as of July 4, 2021, there were 22 hospitalized COVID-19 patients in the hospital, while on August 16, there were 103 hospitalized COVID-19 patients;

WHEREAS, on June 6, 2021, Rhode Island reported only 2 cases of COVID-19 in long term care facilities, while on August 16, 2021 there were 34 cases of COVID-19 in long term care facilities;

WHEREAS, though it is summer – a traditionally slower time for hospital admission –Emergency Department admissions in all hospitals in Rhode Island are exceeding capacity and hospitals are on rolling diversion of patients due to increased patient volumes;

WHEREAS, there has been a consistent increase in COVID-19 hospitalizations and deaths since July 4, 2021 and RIDOH modeling data project, by the first few weeks of September, that the number of people in Rhode Island hospitals may exceed hospital capacity;

WHEREAS, an alternative hospital site in Cranston will be reopened as soon as possible to deal with a possible surge caused by the Delta Variant;

WHEREAS, since vaccines are only authorized for people 12 and older, people less than 12 years old are particularly susceptible to infection from the Delta Variant, which is more likely to affect children than the original strain;

WHEREAS, Rhode Island is seeing increasing cases of COVID-19 in children and expects to see more childhood cases increase;

WHEREAS, RIDOH's modeling team of statisticians and public health professionals reports that, based on its statistical analysis, without continued and improved mitigation measures, the Delta Variant may cause an increase in the rate of deaths by the end of September 2021;

WHEREAS, this increase in prevalence of the Delta Variant poses a significant and imminent risk to Rhode Islanders of increased symptomatic disease, hospitalization, and death; and

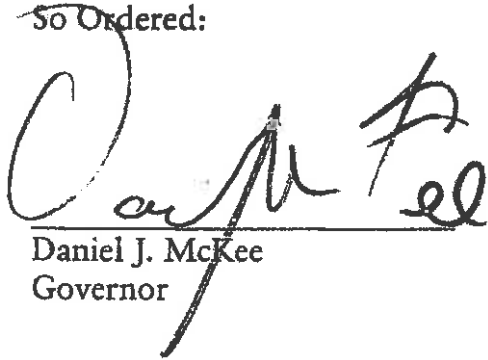
WHEREAS, a serious threat to public health exists because of the Delta Variant and the State needs to take additional measures to limit the spread of the Delta Variant and other new variants of concern.

NOW, THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, and Title 23, Chapter 8 do hereby proclaim, order and direct the following:

1. A new state of emergency is declared for the State of Rhode Island due to the dangers to health and life posed by the Delta Variant and other emerging variants and the state disaster emergency plan is activated to deal with this specific threat.
2. Pursuant to the powers granted by the Rhode Island Constitution and its General Laws, and any other applicable provisions of state or federal law, I shall from time to time issue additional recommendations, directions and orders as circumstances require, either written or verbal.

This Order shall take effect immediately and remain in full force and effect through September 18, 2021, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in black ink, appearing to read "Dan McKee". The signature is written in a cursive style with a large initial "D" and "M". A horizontal line is drawn across the signature, and the signature continues below the line.

Daniel J. McKee
Governor

2021 SEP -8 PM 3: 08



State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-96

September 8, 2021

INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19, and that Order has been extended through at least October 2, 2021;

WHEREAS, on August 19, 2021, I issued Executive Order 21-86 declaring a disaster emergency for new COVID-19 variants;

WHEREAS, Rhode Island Department of Elementary and Secondary Education (RIDE) and the Rhode Island Department of Health (RIDOH) have been collaborating on designing and providing back-to-school protocols and guidance to local school districts and other local educational agencies throughout the State (LEAs¹);

WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including universal indoor masking, has placed

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it is advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

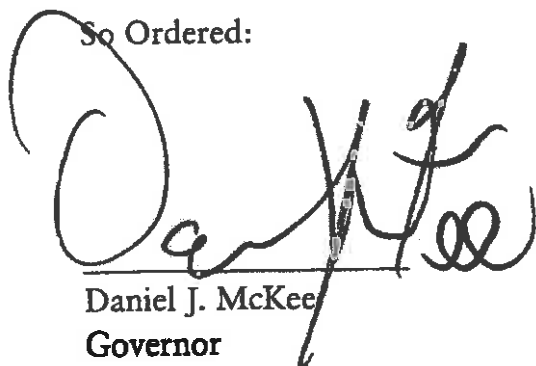
NOW THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19 and its variants, the LEA shall execute and deliver to the State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2021-2022 school year and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19 and its variants.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Executive Order shall take effect immediately and remain in full force and effect through October 7, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in black ink, appearing to read "Daniel J. McKee", written over a horizontal line. The signature is stylized and cursive.

Daniel J. McKee
Governor

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**§ 16-16-24.1. Substitute teaching and post-retirement
employment related to covid-19**

(a) Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member, who has retired under the provisions of title 16, 36, or 45 may, as part of the public health crisis caused by COVID-19, exceed the ninety - day (90) cap on post-retirement employment upon:

(1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety - day(90) **cap on post-retirement employment;**

(2) There exists a good -faith basis that those retired teachers, administrators, and staff members being asked to exceed the ninety - day (90) cap on post-retirement employment, possess the skills, training, and knowledge necessary to help address the public health crisis, caused by COVID-19; and

(3) The local education authority has notified the state retirement board, that it has determined that exceeding the ninety - day (90) cap on post-retirement employment, is necessary to help address the public health crisis caused by COVID-19.

(b) Any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45, and has been employed or re-employed under the provisions of this section, shall not be entitled to additional service credits for such employment.

(c) Unless extended by the general assembly, this section shall sunset upon the conclusion of the 2021-2022 school year.

History:

Added by 2022 Pub. Laws, ch. 7,§1, eff. 3/28/2022. Added by 2022 Pub. Laws, ch. 8,§1, eff. 3/28/2022.

Appellant's
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§ 16-16-24.2. [Expires Effective 6/20/2024] Substitute teaching and post-retirement employment related to statewide staffing

(a) Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45 may exceed the ninety- day (90) cap on post-retirement employment upon:

- (1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety- day(90) cap on post-retirement employment;
- (2) Retired teachers, administrators, and staff members being asked to exceed the ninety- day (90) cap on post-retirement employment possess the skills, training, and knowledge necessary to help address teacher and administrative staffing shortages; and
- (3) The local education authority has notified the state retirement board that it has determined that exceeding the ninety- day (90) cap on post-retirement employment is necessary to help address teacher and administrative staffing shortages.

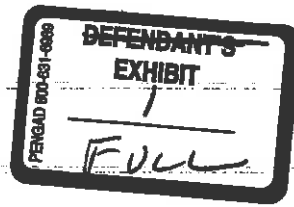
Provided, however, that no employment may be offered to a retiree subject to this section unless the employer has made a good-faith effort each school year to fill the position with a nonretired employee without success, and certifies, in writing, that it has done so to the employees' retirement system and to the bargaining agents of all education unions with whom the employer has collective bargaining agreements.

(b) Any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45, and has been employed or re-employed under the provisions of this section, shall not be entitled to additional service credits for such employment.

(c) Unless extended by the general assembly, this section shall sunset on June 20, 2024.

History:

Added by 2023 Pub. Laws, ch. 2,§1, eff. 3/22/2023, exp. 6/20/2024. Added by 2023 Pub. Laws, ch. 1,§1, eff. 3/22/2023, exp. 6/20/2024.



Respondent's

ERSRI BOARD:

April 7, 2023

SENT VIA U.S. FIRST CLASS MAIL AND CERTIFIED MAIL RRR

James A. Diosa
General Treasurer Chair

Patricia Dubois

91 7199 9991 7035 4498 0349

John P. Maguire
Vice Chair

Ernest Almonte

RE: *Post Retirement Employment – 2020-2021 School year*

Roger P. Boudreau

Dear Ms. Dubois:

Mark A. Carruolo

We write regarding your participation in post-retirement employment with the Gloucester School Department as Superintendent and to notify you of the actions the retirement system will take with respect to your pension benefit.

Joseph Codega

Paul L. Dion

You retired under Title 16, Chapter 16 of the Rhode Island General Laws on July 1, 2009 as a teacher. According to the Gloucester School Department, you worked a total of 109 full days in the 2020-2021 school year (August 25, 2020 through August 24, 2021). You had worked a total of 93.5 days through June 25, 2021. From June 26, 2021 through August 24, 2021 you worked a total of 15.5 days.

Matthew K. Howard

Claire M. Newell

Rhode Island General Laws (RIGL) §16-16-24 permits a retired teacher to work no more than 90 full days in a school year without interruption to their pension benefit. RIGL § 16-16-1 defines "teacher" and includes the title Superintendent.

Raymond J. Poulliot

Jean Rondeau

16-16-1 (12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement. (emphasis added)

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

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ERSRI

§ 16-16-24. Substitute teaching and employment after retirement.

(a) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher. Notice of the employment shall be sent monthly to the state retirement board by the school committee employing the teacher and by the employer and by the retired teacher at the end of each teaching assignment. (emphasis added)

On December 30, 2020, then Governor Gina Raimondo instituted Executive Order (EO) 20-110 which increased teaching and administrative staff capacity for those retirees who retired under the provisions of RIGLs Title 16, 36 or 45. Specifically the EO suspended the prohibitions and restrictions for retirees contained in RIGLs §16-16-24 and §36-10-36 through the school year ending on June 25, 2021. That Order was extended monthly by EOs 21-08, 21-16, and by Governor Dan McKee's EOs 21-28, 21-37, 21-56, 21-71. The final EO, 21-71, was "to remain in full force and effect through June 25, 2021" (emphasis added).

Given the expiration date of the EO 21-71 (June 25, 2021), any retiree who exceeded the 90 limit on or prior to June 25, 2021 would not have their pension benefit impacted. Benefits would be impacted for those retirees who opted to continue working beyond June 25, 2021.

You had indicated that your school's attorney advised that it didn't apply to you; however, had it been intended that Superintendents could work beyond the expiration date of EO 21-71, the EO would have stated so.

As of June 25, 2021, the expiration of the EO, you had worked a total of 93.5 full days. You opted to continue to work an additional 15.5 full days for the 2020-2021 school year. Therefore, we are required by law to recoup 15.5 full days from your pension benefit. The total amount which must be recouped is \$3,129.66.

We will offset that amount from your April 2023 pension check.

Sincerely,


Frank J. Karpinski
Executive Director

Cc: Kathy Lamontagne

Respondent's
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FULL

May 4, 2023

Dear Mr. Frank Karpinski,

I am requesting an appeal of the decision regarding my post-retirement employment for the 2020-2021 school year in a letter to me dated April 7, 2023. There was an unfairness encountered with EO 21-71 ending on June 25, 2021 which adversely impacted my position in the Gloucester School District. I believe RIGL 16-16-24.1 and 16-16-24.2 were passed to correct this and applies retroactively to my situation. Thank you for your consideration.

Sincerely,

Patricia Dubois

Patricia Dubois
Superintendent
Gloucester School Department

Response 3 Full

ERSRI BOARD:

May 22, 2023

James A. Diosa
General Treasurer/Chair

Patricia Dubois

John P. Maguire
Vice Chair

RE: Post Retirement Employment – 2020-2021 School Year

Ernest Almonte

Dear Ms. Dubois:

Roger P. Boudreau

We write in response to your letter of May 4, 2023 regarding your participation in post-retirement employment for the 2020-2021 school year.

Mark A. Carruolo

Joseph Codega

Our position remains as stated in our letter of April 7, 2023, attached hereto.

Paul L. Dion

Matthew K. Howard

This letter constitutes official notification of an administrative denial. Pursuant to the Regulations of the Employees' Retirement System of Rhode Island, 120-RICR-10-1.4, entitled Rules of Practice and Procedure for Hearings in Contested Cases, Section C., any member aggrieved by an administrative action may request a hearing before a Hearing Officer whose decision shall be subject to approval by the full Retirement Board. Upon such request, the matter will be deemed a contested case. Such request shall be in writing and shall be sent to the Retirement Board, 50 Service Avenue, 2nd Floor, Warwick, RI 02886, Attention: Frank J. Karpinski, Executive Director, within 60 days of date of the letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial. A request for hearing shall be signed by the member and shall contain the name of the member; date and nature of decision to be contested; a clear statement of the objection to the decision which must include the reasons the member feels he or she is entitled to relief; and a concise statement of the relief sought. Failure to strictly comply with the procedures outlined above shall be grounds to deny a request for a hearing.

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Sincerely,


Frank J. Karpinski
Executive Director

Enclosure: Regulation 1.4



**Employees'
Retirement System
of Rhode Island**

ERSRI BOARD:

April 7, 2023

SENT VIA U.S. FIRST CLASS MAIL AND CERTIFIED MAIL RRR

91 7199 9991 7035 4498 0349

James A. Diosa
General Treasurer Chair

Patricia Dubois

John P. Maguire
Vice Chair

RE: *Post Retirement Employment – 2020-2021 School year*

Ernest Almonte

Dear Ms. Dubois:

Roger P. Boudreau

We write regarding your participation in post-retirement employment with the Gloucester School Department as Superintendent and to notify you of the actions the retirement system will take with respect to your pension benefit.

Mark A. Carruolo

Joseph Codega

You retired under Title 16, Chapter 16 of the Rhode Island General Laws on July 1, 2009 as a teacher. According to the Gloucester School Department, you worked a total of 109 full days in the 2020-2021 school year (August 25, 2020 through August 24, 2021). You had worked a total of 93.5 days through June 25, 2021. From June 26, 2021 through August 24, 2021 you worked a total of 15.5 days.

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Rhode Island General Laws (RIGL) §16-16-24 permits a retired teacher to work no more than 90 full days in a school year without interruption to their pension benefit. RIGL § 16-16-1 defines "teacher" and includes the title Superintendent.

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

16-16-1 (12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement. (emphasis added)

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

§ 16-16-24. Substitute teaching and employment after retirement.

(a) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher. Notice of the employment shall be sent monthly to the state retirement board by the school committee employing the teacher and by the employer and by the retired teacher at the end of each teaching assignment. (emphasis added)

On December 30, 2020, then Governor Gina Raimondo instituted Executive Order (EO) 20-110 which increased teaching and administrative staff capacity for those retirees who retired under the provisions of RIGLs Title 16, 36 or 45. Specifically the EO suspended the prohibitions and restrictions for retirees contained in RIGLs §16-16-24 and §36-10-36 through the school year ending on June 25, 2021. That Order was extended monthly by EOs 21-08, 21-16, and by Governor Dan McKee's EOs 21-28, 21-37, 21-56, 21-71. The final EO, 21-71, was "to remain in full force and effect through June 25, 2021" (emphasis added).

Given the expiration date of the EO 21-71 (June 25, 2021), any retiree who exceeded the 90 limit on or prior to June 25, 2021 would not have their pension benefit impacted. Benefits would be impacted for those retirees who opted to continue working beyond June 25, 2021.

You had indicated that your school's attorney advised that it didn't apply to you; however, had it been intended that Superintendents could work beyond the expiration date of EO 21-71, the EO would have stated so.

As of June 25, 2021, the expiration of the EO, you had worked a total of 93.5 full days. You opted to continue to work an additional 15.5 full days for the 2020-2021 school year. Therefore, we are required by law to recoup 15.5 full days from your pension benefit. The total amount which must be recouped is \$3,129.66.

We will offset that amount from your April 2023 pension check.

Sincerely,


Frank J. Karpinski
Executive Director

Cc: Kathy Lamontagne

1.4 Rules of Practice and Procedure for Hearings in Contested Cases

A. Introduction

These Rules of Practice and Procedure are promulgated pursuant to R.I. Gen. Laws § 36-8-3. The Rules shall be in effect during any hearing on a contested case before the Retirement Board or its duly authorized representatives.

B. Definitions

1. The definitions set forth in R.I. Gen. Laws §§ 36-8-1, 45-21-2, 45-21.2-2 and 16-16-1, and as further set forth in Regulations promulgated by the Retirement Board, are specifically incorporated by reference herein.
 - a. "Contested case" means a matter for which a member requests a hearing because they are aggrieved by an administrative action other than a Disability decision. The term shall apply to hearings conducted before Hearing Officers, and thereafter in proceedings before the full Retirement Board.
 - b. "Party" means any member, beneficiary, Retirement System, or such other person or organization deemed by the Hearing Officer to have standing.
 - c. "Hearing officer" means an individual appointed by the Retirement Board to hear and decide a contested case.

C. Request for Hearing and Appearance

1. Any member aggrieved by an administrative action other than a Disability decision, may request a hearing of such grievance. Upon such request, the matter will be deemed a contested case. The procedure for Disability decisions and appeals therefrom shall be governed by the procedures set forth in § 1.9 of this Part, Rules Pertaining to the Application to Receive an Ordinary or Accidental Disability Pension.
2. Such request shall be in writing and shall be sent to the Retirement Board within sixty (60) days of the date of a letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial.
3. A request for hearing shall be signed by the member and shall contain the following information:
 - a. Name of member;
 - b. Date and nature of decision being contested;
 - c. A clear statement of the objection to the decision which must include the reasons the member feels they are entitled to relief; and
 - d. A concise statement of the relief sought.
4. Requests for hearing should be sent to the Retirement Board at 50 Service Avenue, 2nd Floor, Warwick, RI 02886-1021.
5. Failure to strictly comply with the procedures outlined in this Section shall be grounds to deny any request for a hearing.

D. Contested Cases – Notice of Hearing

1. Upon receipt of a request for hearing in matters other than Disability decisions and appeals therefrom, the Retirement Board or its designee shall appoint a Hearing Officer. The appointed Hearing Officer shall hear the matter, find facts and offer conclusions of law to the Retirement Board. The decision of a Hearing Officer shall be subject to approval by the full Retirement Board. The Retirement System's action shall not be deemed final until such time as the Hearing Officer's recommendation has been voted upon by the Retirement Board.
2. Within forty-five (45) days after receipt by the Retirement Board of a request for hearing, the Retirement Board shall give notice that the matter has been assigned to a Hearing Officer for consideration.
3. In any contested case, all parties shall be afforded an opportunity to be heard after reasonable notice.
4. The notice described in § 1.4(D)(2) of this Part, above, shall include:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and Rules involved;
 - d. The name, official title and mailing address of the Hearing Officer, if any;
 - e. A statement of the issues involved and, to the extent known, of the matters asserted by the parties; and
 - f. A statement that a party who fails to attend or participate in the hearing may be held to be in default and have their appeal dismissed.
5. The notice may include any other matters the Hearing Officer or the Retirement Board considers desirable to expedite the proceedings.

E. Contested Cases – Hearings in General

1. All parties shall be afforded an opportunity to respond and present evidence and argument on all issues involved.
2. Members must appear at hearings either personally, or by appearance of legal counsel. Members may represent themselves or be represented by legal counsel at their own expense. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law", any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island) cannot represent the member in the hearing.
3. Continuances and postponements may be granted by the Hearing Officer or the Retirement Board at their discretion.
4. Disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.
5. Should the Hearing Officer or Retirement Board determine that written memoranda are required, the member will be notified by the Hearing Officer or the Retirement Board of the need to file a written document which discusses the issues of the case. Memoranda of law may always be offered in support of arguments offered by the member or the representative of the Retirement Systems.

6. The Executive Director may, when they deems appropriate, retain independent legal counsel to prosecute any contested case.
7. A recording of each hearing shall be made. Any party may request a transcript or copy of the tape at their own expense.

F. Contested Cases – Conduct of Hearings before Hearing Officers

1. Hearings shall be conducted by the Hearing Officer who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence.
2. The Hearing shall be convened by the Hearing Officer. Appearances shall be noted and any motions or preliminary matters shall be taken up. Each party shall have the opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing written evidence.
3. The Member shall first present their case followed by presentation of the Retirement System's case.
4. The Hearing Officer shall have the authority to continue or recess any hearing and to keep the record open for the submission of additional evidence.
5. If for any reason a Hearing Officer cannot continue on a case, another Hearing Officer will be appointed who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.
6. Each party shall have the opportunity to examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues in the case.
7. Any objections to testimony or evidence and the basis for the objection shall be made at the time the testimony or evidence is offered.
8. The Hearing Officer may question any party or any witness for the purpose of clarifying their understanding or to clarify the record.
9. The scope of hearing shall be limited to those matters specifically outlined in the request for hearing.
10. Written evidence will be marked for identification. If the original is not readily available, written evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.
11. Findings of fact shall be based solely on the evidence and matters officially noticed.
12. If a member fails to attend or participate in the hearing as requested, the Hearing Officer may default such member and dismiss their appeal with prejudice.

G. Contested Cases – Record of Proceedings before Hearing Officers

1. The record in a contested case shall include:
 - a. All pleadings, motions, intermediate rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Questions and offers of proof and rulings thereon;

- e. Proposed findings and exceptions;
- f. Any decision, opinion, or report by the Hearing Officer at the hearing;
and
- g. All staff memoranda or data submitted to the Hearing Officer in
connection with their consideration of the case.

H. *Ex Parte* Communications (Communications by one (1) party)

There shall be no communications between the Hearing Officer and either a member, the Retirement System or the Retirement Board, or any of their representatives regarding any issue of fact or law in a case, without notice and opportunity for all parties to participate. There shall be no written communications by any party that are not transmitted at the same time to all parties.

I. Rules of Evidence in Contested Cases

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. Evidence not usually admitted under the Rules of Evidence for civil cases may be admitted where it is shown that such evidence is necessary to ascertain facts not capable of being proved otherwise. The Hearing Officer and the Retirement Board shall give effect to the Rules of Privilege (such as attorney/client privilege) recognized by law. Objections to evidence may be made and shall be noted in the record. Any part of the evidence may be received in written form when a hearing needs to be expedited and the interests of the parties will not be hurt substantially.

J. Final Decision and Member Right of Appeal

1. Within twenty-five (25) days after receipt of the Hearing Officer's recommendation, a copy thereof shall be served upon all parties to the proceeding and each party shall be notified of the time and place when the matter shall be considered by the Retirement Board. Each party to the proceeding shall be given the right to make exceptions, to file briefs and to make oral arguments before the Retirement Board. No additional evidence will be considered by the Retirement Board once the Hearing Officer has issued a recommendation. A party wishing to file a brief or make exceptions to the recommendation of the Hearing Officer shall be required to submit the same to the Executive Director not later than ten (10) days prior to the date when the Retirement Board is scheduled to hear and act upon the recommendation of the Hearing Officer. The aggrieved party and their representative shall have the right to appear before the Retirement Board and make oral argument at the time of such hearing. No new testimony will be taken, or evidence considered at this time. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law" any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island), cannot represent the member before the Retirement Board. After consideration of the decision of the Hearing Officer and such other argument as shall be presented by any party to the

proceeding, the Retirement Board shall vote on the recommendation of the Hearing Officer.

2. In the event of a tie vote of a quorum present and voting on a contested matter, the matter will automatically be placed on the agenda of the next Retirement Board meeting.
3. In the event of a tie vote of a quorum present and voting on a contested matter rescheduled from a prior meeting, the Retirement Board may vote to postpone and re-consider the matter at a subsequent hearing, when a larger number of voting members may be present. If no such vote to postpone and re-consider is taken, or if a vote to postpone and re-consider the matter at a later date fails, the underlying action appealed from will be deemed affirmed.

K. Requests for Rehearing

1. A request for rehearing which is submitted prior to the issuance of the Hearing Officer's recommendation should be made in writing. The request must detail the substance of any additional evidence to be offered, and the reason for the failure of the party to offer it at the prior proceedings.
2. A rehearing will be denied if the evidence does not bear on any issue in contest in the original proceedings, will not likely affect the final recommendation, or if the request appears to be merely for purposes of delaying a final decision. A second (2nd) request for rehearing after the granting or denial of a prior request for rehearing will not be permitted.

ERSRI

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POST HEARING

BRIEF OF

PATRICIA DUBOIS

**STATE OF RHODE ISLAND
EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND**

APPEAL OF:

PATRICIA DUBOIS, Appellant

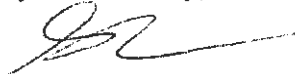
vs.

**EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent**

**PATRICIA DUBOIS' STATEMENT OF EXCEPTION TO
HEARING OFFICER DECISION**

Appellant Patricia Dubois hereby states her exception to the decision of the Hearing Officer in this matter and relies upon her previously filed brief before the Hearing Officer, dated August 22, 2023 (see attached).

Respectfully submitted,
Patricia Dubois,
By her Attorney,



/s/Gregory P. Piccirilli, Esq., #4582
2 Starline Way #7
Cranston, RI 02921
Phone: (401) 578-3340
gregory@splawri.com

CERTIFICATION

I hereby certify that on January 4, 2024, a copy of the within was emailed to the following:

Michael Robinson (mrobinson@savagelawpartners.com), Larissa DeLisi (ldelisi@savagelawpartners.com) Frank Karpinski, Frank.Karpinski@ersri.org; Gayle Mambro-Martin, Gayle.Mambro-Martin@ersri.org

/s/ Gregory P. Piccirilli

**STATE OF RHODE ISLAND
EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND**

IN RE: APPEAL OF PATRICIA DUBOIS

POST-HEARING BRIEF OF PATRICIA DUBOIS

BACKGROUND:

Patricia Dubois is a retired school administrator employed as Superintendent of the Gloucester School District during the 2020-21 school year, and through the summer of 2021. She appeals a decision of the Executive Director, Frank Karpinski, reducing her pension for violating the provisions governing post-retirement employment. On April 7, 2023, Director Karpinski sent a letter to Superintendent Dubois stating that Employees' Retirement System of RI (ERSRI), would deduct a total of 15.5 days' worth of her pension valued at \$3,129.66, from her April 2023 pension check. (Exh. 1) The letter noted that Superintendent Dubois worked a total of 109 days during the "school year (August 25, 2020 through August 24, 2021)", including 93.5 days worked through June 25, 2021. The letter claimed that the 15.5 days worked by the Superintendent from June 26 through August 24, 2021, were in excess of the days of work allowed by R.I. § Gen. Laws 16-16-24. This amount has already been deducted from Superintendent Dubois' pension and she seeks to have those funds reimbursed to her.

The Director determined that the Governor's Executive Order, 20-110 (Exh. A), and its successor, EO 21-71 (Exh. B), which "suspended" the effects of the post-retirement employment statute for the 2020-21 school year, only applied to the period of work up to June 25, 2021.

Director Karpinski wrote:

Given the expiration of EO 21-71 (June 25, 2021), any retiree who exceeded the 90 limit [sic.] on or prior to June 25, 2021 would not have their pension impacted. Benefits would be impacted for those retirees who opted to continue working beyond June 25, 2021.

Under Director Karpinski's interpretation of the EOs, the days worked during the period of time

the post-retirement statute was “suspended” still accrued to the retiree members account and started up again after June 25. Therefore, he calculated that: “As of June 25, 2021, the expiration of the EO, you worked a total of 93.5 days. You opted to continue to work an additional 15.5 full days for the 2020-21 school year. Therefore, we are required by law to recoup 15.5 full days from your pension benefit.”

Superintendent Dubois didn’t just “opt” to work these extra days in the summer of 2021, she was obligated to do so given the ongoing needs of the Glocester School District during the Governor’s declared state of emergency due to the ongoing COVID-19 pandemic. The District is small, encompassing only the elementary grades K-5 of approximately 550 students; the middle and high school students attend the Foster-Glocester Regional School District which employs a different Superintendent. (Tr. 5-6) Superintendent Dubois testified as to the work she needed to complete during the summer of 2021 for the safe reopening of schools in the fall of 2021, given the ongoing challenge presented by the continuing pandemic. As Superintendent Dubois testified, she spent many days during the summer of 2021 preparing schools to reopen and was required to do so by two state agencies, both the RI Department of Education and Department of Health.

In response to the COVID-19 pandemic, then Governor Raimondo on December 20, 2020, issued Executive Order, 20-110, entitled “ONE HUNDRED AND FIFTH SUPPLEMENTAL EMERGENCY DECLARATION – INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY.” This order suspended the post-retirement employment restrictions in R.I. Gen. Laws § 16-16-24, for those teachers and administrators whom the district identified as possessing the skills, training, and knowledge necessary to address the public health crisis caused by COVID-19. The order was for the duration of the 2020-21 school year ending on June 25, 2021. (Exh. A) This order was renewed by Governor

McKee on a number of occasions, including on June 18, 2021. (Exh. B, EO 21-71)

Both of these orders contained language that, “The Rhode Island Department of Education (RIDE) and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs) for the reopening of schools.” Because, “ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;” the Governor found that “as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service”. The Governor also found that, “retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended;” and “it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.”

Since the pandemic emergency did not end in June of 2021, Governor McKee issued another Executive Order, 21-86, on August 19, 2021, renewing the state of emergency to address the Delta variant of COVID-19. (Exh. C) Then, on September 8, 2021, he issued Executive Order 21-96, which renewed the suspension of the restrictions on post-retirement employment for the 2021-22 school year. (Exh. D). No specific mention of a June 25 date was added to this Order.

To reinforce the effect of these executive orders, the General Assembly enacted two statutes, R.I. Gen. Laws §§ 16-16-24.1 and 16-16-24.2. (Exhs. E, F) Each statute reiterates the

language of the executive orders, emphasizing the need to suspend the restrictions on post-retirement employment by teachers and administrators as a necessary response to the COVID-19 public health crisis. Section 24.1 was enacted in March of 2022, and was sunset at the conclusion of the 2021-22 school year. Section 24.2 extended the suspension through June 30, 2024.

STANDARD OF REVIEW:

Recently, in *Grasso v. Raimondo*, 177 A.3d 482 (R.I. 2018), the Rhode Island Supreme Court has clarified the standard of review courts will give to agency decisions:

We have generally followed the principle that, if a statute's requirements "are unclear or subject to more than one reasonable interpretation, the construction given by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized." *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006) (*internal quotation marks omitted*); *see also Town of Richmond v. Rhode Island Department of Environmental Management*, 941 A.2d 151, 157 (R.I. 2008). However, as we have recently stated, we do not owe any "administrative agency's interpretation blind obeisance; rather, the true measure of a court's willingness to defer to an agency's interpretation of a statute depends, in the last analysis, on the persuasiveness of the interpretation, given all the attendant circumstances." *Mancini v. City of Providence*, 155 A.3d 159, 168 (R.I. 2017) (*internal quotation marks omitted*). Moreover, "regardless of * * * deference due, this Court always has the final say in construing a statute." *In re Proposed Town of New Shoreham Project*, 25 A.3d 482, 506 (R.I. 2011); *see also Mancini*, 155 A.3d at 168. As such, while the Court affords an agency's factual findings great deference, "questions of law— including statutory interpretation—are reviewed *de novo*." *Iselin v. Retirement Board of Employees' Retirement System of Rhode Island*, 943 A.2d 1045, 1049 (R.I. 2008).

For the reasons which will be set forth below, the hearing officer should not give "blind obeisance" to the Director's opinion that Superintendent Dubois' post-retirement employment in the summer of 2021 was not exempt from the 90-day rule.

ARGUMENT:

1. The literal effect of EOs 20-110 and 21-71 was to reset the 90-day post-retirement work limitation to zero, and so Superintendent Dubois did not violate the 90-day rule in the summer of 2021.

If taken at its most literal interpretation, the effect of the Governors' Executive Orders 20-110 and 21-71, essentially erased the number of days post-retirement that a teacher could

work in the 2020-21 school year. The orders state:

The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby **suspended** with respect to those specific retired teaching and administrative staff members identified by the LEA.

(emphasis added). “The definition of the word ‘suspension’ can be found in Black’s Law Dictionary, Revised 4th Edition, and it states as follows: ‘A temporary stop, a temporary delay, interruption or cessation.’...” 91-10510 (1993). TINA M. (O’NEILL) GARCIA VS. BROOKS DRUG. (Rhode Island Worker’s Compensation Decisions, 1989). (See attached)

Even were we to concede that the effect of the order ended on June 25, 2021, what that did was set Superintendent Dubois and every other retired teacher’s bank of allowable days to work post-retirement from 90 to zero. Therefore, from June 25 to August 25, 2021, Superintendent Dubois could work up to 90 days without punishment.

In his letter to Superintendent Dubois, Director Karpinski makes no effort to define “suspension”. Neither he nor the Retirement Board made any effort to issue a rule, regulation or policy statement as to what the effect of the “suspension” of R.I. Gen. Laws § 16-16-24 had on post-retirement employment. It was only after the fact, over two years later, that Director Karpinski on his own decided to interpret suspension to mean something other than a temporary cessation. The Director conceded that he made no effort to reach out to the Governor to discuss the nature or effect of the executive order.¹ (Tr. at 31)

¹ The Board had plenty of time to issue some guidance or regulation on the matter. In fact, as a state agency it could have issued an emergency regulation, as other agencies have done. See R.I. Gen. Laws § 42-35-2.10. Emergency rule.

If an agency finds that an imminent peril to the public health, safety, or welfare or the loss of federal funding for an agency program requires the immediate promulgation of an emergency rule and publishes in a record with the secretary of state and on its agency website reasons for that finding, the agency, without prior notice or hearing or on any abbreviated notice and hearing that it finds practicable, may promulgate an emergency rule without complying with §§ 42-35-2.7 through 42-35-2.9. The agency head and the governor, or the governor’s designee, must sign the emergency rule to become effective. The emergency rule may be effective for not longer than one hundred twenty (120) days, renewable once for a period not exceeding sixty (60) days. The promulgation of an emergency rule does not preclude the promulgation of a

Given the lack of any attempt by ERSRI to define “suspension”, one is left with its most common definition, *i.e.*, temporary cessation. Thus, like the tolling of a statute of limitation, the days worked do not accrue during the suspension; they are frozen.

In *Artis v. Dist. of Columbia*, 138 S. Ct. 594, 598 (2018), the Supreme Court found that the word “toll” means to “to hold it in abeyance, *i.e.*, to stop the clock.” The Court specifically found that the statute of limitations did not continue to run while a state claim was pending in federal court. When the federal claims were dismissed, and the state claims were permitted to be refiled in state court, the clock on the statute of limitations began to run again. The Court rejected the argument that tolling established a mere grace period in which to refile the claim.

Ordinarily, “tolled,” . . . means that the limitations period is suspended (stops running) while the claim is sub judice elsewhere, then starts running again when the tolling period ends, picking up where it left off. *See* Black's Law Dictionary 1488 (6th ed. 1990) (“toll,” when paired with the grammatical object “statute of limitations,” means “to suspend or stop temporarily”). This dictionary definition captures the rule generally applied in federal courts. *See, e.g., Chardon v. Fumero Soto* . . . (Court's opinion “use[d] the word ‘tolling’ to mean that, during the relevant period, the statute of limitations ceases to run”). **Our decisions employ the terms “toll” and “suspend” interchangeably.** For example, in *American Pipe & Constr. Co. v. Utah* . . ., we characterized as a “tolling” prescription a rule “suspend[ing] the applicable statute of limitations,” . . . ; accordingly, we applied the rule to stop the limitations clock. . . .

Id. At 601-2. For the Director to assume that the work days continued to accrue during the period of the Executive Orders is an illogical interpretation of the term “suspension”.

2. The clear intention of the various Executive Orders and Statutory Amendments to the Post-Retirement Statute is to permit retired members such as Superintendent Dubois to work through the summer of 2021 without penalty to her pension.

Were the hearing officer and the Board to determine that the post-retirement days continued to accrue during the suspension of § 16-16-24, that is not the end of the analysis. The

rule under §§ 42-35-2.6 through 42-35-2.9. The agency shall file with the secretary of state a rule created under this section as soon as practicable given the nature of the emergency and publish the rule on its agency website. The secretary of state shall notify persons that have requested notice of rules related to that subject matter.

clear implication of the various executive orders and amended statutes compels the interpretation that there be no punishment to retirees like Superintendent Dubois who continued to work through the pandemic.

In his April 7, 2023, letter to Superintendent Dubois, Director Karpinski concedes that a school year is on an annual basis (August 25 to August 24). See Exh. 1. Yet, in his testimony, the Director insists that the term “school year” means only the number of days that state law requires school to be in session.

There is a regulation of the ERSRI which states that: “‘School year’ shall be defined as the number of days required by R.I. Gen. Laws § 16-2-2 that school be in session.’ See, 120-RICR-00-00-1.21. Additional Benefits Payable to Retired Teachers. However, that definition comes from a specific statutory reference, R.I. Gen. Laws § 16-16-5, **Service creditable:** “(c) Any teacher who serves or who has served during a school year the number of days that the public schools are required by law to be in session during the year shall be given credit for a year of service for that year.” No such definition of school year is included in R.I. Gen. Laws § 16-16-24, governing post-retirement employment.²

On one hand, the Director insists that administrators are just teachers: “They’re defined in the statute as teacher. So when we see the word “teacher,” we refer back to the definition of teacher, and they don’t get treated any differently than a math teacher, a science teacher, or what have you.” (Tr. at 34). Yet on the other hand, the Director recognizes that administrators and some teachers (like guidance counselors) work in excess of the days that school is in session, so the Retirement System does not adhere to the strict definition of school year (Tr. at 16, 20).

² While the Director insists that administrators are, by definition, “teachers”, under R.I. Gen. Laws § 16-16-1(2), the Executive Orders (Exhs. B-D) reference “retired teaching and administrative staff members.” Similarly, both R.I. Gen. Laws §§ 16-16-24.1 and 16-16-24.2, reference “any teacher, administrator, or staff member, who has retired under the provisions of title 16, 36, or 45”. Why make specific reference to administrators unless the intent of the orders and statutes was to recognize that such administrators are distinct from “teachers”?

Thus, a Superintendent gets service credit for working the 180 school days, but salary credit toward retirement is based upon the entire year salary, including the summer.

This is why the Director references a “school year” of August 25 to August 24 in his April 7, 2023, letter. Under this interpretation, the 2020-21 school year didn’t end on June 25, 2021, it ended on August 25.

Why this differentiation from the ERSRI? Because it’s the only logical interpretation of the statutory scheme. Schools are not just open during the days that students are present, as suggested by the Director. “What school do you know does 365 days?” (Tr. at 31) The answer is as given by Superintendent Dubois:

Q. Between the end of school in June and the beginning of school in August, did you just take the summer off?

A. No, absolutely not.

Q. What did you do during the summer of '21?

A. Many -- The usual, the usual things. We usually have a lot of people that need to be hired. A lot of changes go on during, during the summer. There was a lot of RIDE and RIDOH meetings that you had to attend weekly to give you updates on where COVID was at this time, what they were expecting for when school was opening, and then there was different grants they had, the ELC grant, there were different grants that you needed to prepare for and make sure, you know, had to make sure through the nurses there were enough masks and anything else that they wanted you to have at the time, enough cleaning supplies with the custodians. But it was, on top of the usual things, it was all the mitigation factors.

(Tr. at 8-9). Simply put, while administrators are akin to teachers for service credit in the teachers’ retirement system, they are treated differently when determining their work year because it would be illogical to assume they work only 180 days.

Thus, the issue for this case is whether, taken together, the executive orders and statutes envisioned an unbroken suspension of the 90-day rule on post-retirement employment by administrators from the beginning of the pandemic in March of 2020, through the end of the

pandemic, and then beyond until June of 2024. The answer must be yes.

First, the pandemic did not take the summer of 2021 off. Superintendent Dubois, as all public-school administrators, had to work through the issues presented by the COVID-19 pandemic during that summer of 2021. Indeed, throughout that summer, issues related to the COVID-19 response involved preparing a COVID-19 response and back to school plan for the fall of 2021. For example, Superintendent Dubois was required to attend weekly meetings with the RI Department of Education and RI Department of Health throughout the summer of 2021 to prepare for the latest issues related to COVID-19 and the re-opening of schools. This was highlighted by the new state of emergency related to the Delta wave of COVID-19, as evidenced by the Governor's Executive Order 21-86 on August 19, 2021. (Exh. C)

Director Karpinski's April 7, 2023, letter also fails to account for the legislation enacted to remedy the situation faced by someone such as Superintendent Dubois. This legislation by necessary implication was intended to provide an unbroken period of time to suspend the 90-day rule throughout the COVID-19 state of emergency. Moreover, since it is remedial in nature, it must be considered to apply retroactively to the summer 2021. See *DARE v. Gannon*, 819 A.2d 651 (R.I. 2003).

Curiously, Director Karlinski suggests he is not capable of interpreting these executive orders and legislative amendments: "Not sure I am certified to talk about pandemics". (Tr. at 47). But he then insists that he has the right to interpret these statutes to specifically exclude the exemption for work performed by administrators during the summer:

Q. So what you just testified is wrong, isn't that true, that if an administrator works through or anyone works through the summer of 2023 and it's beyond 90 days, by this statute they cannot be punished?

A. That's not how we're interpreting it. We're, again, interpreting it by school year.

Q. Where in here does it say school year?

A. Where does it say that it can go all summer? Where does it go back and say anything else?

(Tr. at 48-49). The manner in which Director Karpinski attempts to interpret the various executive orders and amended statutes produces the quintessential absurd result.

[A] Court will not construe a statute “to achieve [a] meaningless or absurd result[].” *Id.* (quoting *Ryan v. City of Providence*, 11 A.3d 68, 71 (R.I. 2011)). Rather, when interpreting statutes, a court should construe “each part or section * * * in connection with every other part or section to produce a harmonious whole.” 2A Norman J. Singer & J.D. Shambie Singer, *Sutherland Statutes and Statutory Construction* § 46:5 at 189–90 (7th ed. 2007).

Zambarano v Retirement Bd. of Employees Ret. System of State of RI, 61 A3d 432, 436 (RI 2013). Quoting from the original Executive Order of December 20, 2020:

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs) for the reopening of schools;

WHEREAS, **ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures**, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, **has placed additional demands on teachers and other school employees**, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, **as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;**

WHEREAS, Rhode Island General Laws §§ 16-15-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of

titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.

(Exh. A, *emphasis added*).

Every part of this Executive Order, and the subsequent orders and amended legislation, has as its intent to “ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures” and to address the “additional demands on teachers and other school employees”. To do so, these orders and statutes acknowledge that “retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended”. Therefore, “it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.”

What Director Karpinski did was violate the very intent of these orders and statutes by punishing a school administrator such as Superintendent Dubois for utilizing her critical skills to address the public health emergency without fear of having her pension benefits being

suspended. Such an absurd result cannot stand.

On a final note, it should not escape the hearing officer's notice that all state employees, including non-union employees of the Department of Treasury, such as Director Karpinski (see attached),³ were given \$3,000 retention bonuses for working through the COVID-19 pandemic. Penalizing Superintendent Dubois for doing the same is not just irrational, it's wrong.

CONCLUSION:

For the foregoing reasons, Superintendent Dubois asks that the recommendation from this Hearing Officer to the full Retirement Board be that she have reinstated the funds deducted from her pension as a result of working 15.5 days between June 25 and August 24, 2021.

Respectfully submitted,
Patricia Dubois,
By her Attorney,



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CERTIFICATION

I hereby certify that on August 22, 2023, a copy of the within was emailed to the following:
Teresa Odell (tmrri03@gmail.com), Michael Robinson (mrobinson@savagelawpartners.com),
Larissa DeLisi (ldelisi@savagelawpartners.com)

/s/ Gregory P. Piccirilli

³ See, e.g., <https://www.providencejournal.com/story/news/politics/2022/03/03/ri-retention-bonuses-judges-lifetime-appointments/9358520002/>

**Rhode Island Worker Compensation
January 1989 - December 1993.**

91-10510 (1993). TINA M. (O'NEILL) GARCIA VS. BROOKS DRUG

Term: January 1989 - December 1993

W.C.C. 91-10510

TINA M. (O'NEILL) GARCIA VS. BROOKS DRUG

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

WORKERS' COMPENSATION COURT APPELLATE DIVISION

DECISION OF THE APPELLATE DIVISION

ROTONDI, J.

This matter came on to be heard before the Appellate Division upon an appeal of the employer from a decision and decree of the trial judge which was entered on October 7, 1992. This matter was heard in the nature of an employee's petition to review alleging that the employer refuses to provide or pay for necessary services, and requested that partial disability benefits be reinstated. The decision of the trial judge contained the following findings:

1. That the petitioner remains partially disabled as a result of the work-related injury under review.
2. That the petitioner forfeited any right to benefits between October 1, 1990 and the present time.

It is, therefore, ordered:

1. That the respondent resume benefit payments for partial disability."

From said decree the respondent/employer has duly claimed its right of appeal and has filed one reason of appeal in support thereof, alleging that the decision is against the law and the evidence in that the Workers' Compensation Court had no jurisdiction to hear the employee's petition because there was no dispute between the employee and the employer as required by Sec. 28-35-12, since suspension of the employee's benefits for



failure to appear for an ordered Donley Center evaluation was final, and no procedure to recommence benefits under the circumstances is allowed for in the Workers' Compensation Act. Normally, when considering an appeal of the trial judge's decree, the Appellate Division conducts in essence a de novo review, examining and weighing the evidence, drawing its conclusions, making its own findings of fact, and ultimately deciding whether the evidence preponderates in favor of or against the findings embodied in the decree. e.g., *Bottiglieri vs. Caldarone*, 486 A.2d 1085, 1087, (R.I. 1985); *Moretti vs. Turin, Inc.*, 112 R.I. 220, 223, 308 A.2d 500, 502 (1973). Cognizant of this legal duty imposed upon us, we have carefully reviewed and examined the entire record in this matter, have independently weighed the evidence contained in the record, and for reasons hereinafter set forth, we find no error on the part of the trial judge. A review of the chronology in this matter, which is somewhat convoluted, is essential. The employee sustained an injury on March 13, 1988 which is described as a "cervical strain", all of which was contained in a memorandum of agreement. A petition was filed on January 31, 1990 by the employer at the Department of Workers' Compensation for a review of a memorandum of agreement, and also containing a request that the employee attend the Donley Rehabilitation Center. A preliminary determination from the Department of Workers' Compensation, which was heard on April 19, 1990, was admitted into evidence. The preliminary determination contained the following statement:

"No objections are raised with regard to a Donley Center evaluation. The employee did not attend the hearing despite notification."

It was therefore ordered that the request was granted and the employee was defaulted. Thereafter, the employer filed another petition on June 12, 1990 seeking that benefits be discontinued as a result of the employee's failure to attend the Donley Center. The preliminary determination order from the Department of October 1, 1990 indicates that the employee's benefits were suspended. Thereafter, the employee appealed to the Workers' Compensation Court and it appears that the petition was withdrawn without prejudice on October 30, 1990. The employee filed a petition to review requesting continuation of benefits.

Another petition was filed in the nature of an employee's original petition requesting benefits for total disability from October 1, 1990 and continuing, and requesting a Donley Center review. This petition, W.C.C. 86-08337, was heard at pretrial on March 25, 1991. The court granted the employee's petition for a Donley Center evaluation. Pursuant to said court order, the employee complied and the report from the Donley Center from Mr. Robert J. Aneyci, addressed to the Chief Judge, Robert F. Arrigan dated August 2, 1991, was received by the court and admitted into evidence. This report contained the following statement: "An evaluation of Ms. Garcia's progress

towards rehabilitation has been completed at the Dr. John E. Donley Rehabilitation Center per your decree."

The deposition of Dr. Michael Judge, D.O., was introduced into evidence as an exhibit. This medical evidence was uncontradicted. A review of the deposition indicates that Dr. Judge is of the opinion that the employee remains partially disabled.

The determinative issue in this matter is whether the employee, whose benefits were suspended for failure to comply with an order for her to seek an evaluation at the John Donley Rehabilitation Center, is entitled to a renewal of benefits insofar as her evaluation at the center has been completed. The definition of the word "suspension" can be found in Black's Law Dictionary, Revised 4th Edition, and it states as follows: "A temporary stop, a temporary delay, interruption or cessation."

The petitioner in her memorandum of law cites the case of Molony and Rubien Construction Co. vs. Segrella, 118 RI 340, 373 A.2d 816 in which the court states at page 44, the following: "...However, this court has made it clear that the traditional view of res judicata does not apply to proceedings conducted before the Workmen's Compensation Commission. In DiVona v. Haverhill Shoe Novelty Co., 85 R.I. 122, 127 A.2d 503 (1956), we said that res judicata could not be strictly applied in compensation cases because the General Assembly, by its adoption of what is now G. L. 1956, (1968 Reenactment) 28-35-45, has declared that any agreement or decree calling for the payment of compensation can be reviewed at any time during the time compensation is being paid...."

The court in the Segrella case went on to state at page 347: "We have observed that when an employee suffers an injury which results in an agreement calling for the payment of compensation or the filing of an original petition, all proceedings before the commission which are based on that injury are part of a seamless robe which reaches completion only after all the employee's rights connected with such injury have been finally exhausted. Proulx v. French Worsted Co., 98 R.I. 114, 199 A.2d 901 (1964)...."

It appears from the evidence and the case law as referred to above, that the employee's benefits were suspended as a result of a failure to comply with the order of the Department. Thereafter, the employee in this matter submitted herself for said evaluation. Insofar as her benefits were suspended, which connotes an interruption of a temporary nature, there still existed an outstanding memorandum of agreement ordering payments of workers' compensation benefits. It is the opinion of this tribunal that once the employee complied with the order, the suspension of her payments was



91-10510 (1993). TINA M. (O'NEILL) GARCIA VS. BROOKS
DRUG. (Rhode Island Worker's Compensation Decisions, 1989)

no longer in effect, and that she is entitled to payments of workers' compensation benefits for partial incapacity as a result of the open memorandum of agreement and the fact that she has shown a continuing incapacity for work. For the foregoing reasons, we find no error on the part of the trial judge, and as a result, the employer's reasons of appeal are denied and dismissed, and the decree appealed from is affirmed. In accordance with Sec. 2.20 of the Rules of Practice of the Workers' Compensation Court, a final decree, copy of which is enclosed, shall be entered on

Healy and Olsson, JJ, concur.

FINAL DECREE OF THE APPELLATE DIVISION

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

WORKERS' COMPENSATION COURT APPELLATE DIVISION

TINA M. (O'NEILL) GARCIA VS. BROOKS DRUG W.C.C. 91-10510

This cause came on to be heard by the Appellate Division upon the appeal of the employer and upon consideration thereof, the appeal is denied and dismissed, and it is:

ORDERED, ADJUDGED, AND DECREED:

The findings of fact and the orders contained in a decree of this Court entered on October 7, 1992 be, and they hereby are affirmed.

Entered as the final decree of this Court this day of

BY ORDER:

Dennis I. Revens, Administrator

ENTER: Gilroy, J. Rotondi, J. McConnell, J.



138 S.Ct. 594
199 L.Ed.2d 473

Stephanie C. ARTIS, Petitioner

v.

DISTRICT OF COLUMBIA.

No. 16–460.

Supreme Court of the United States

Argued Nov. 1, 2017.
Decided Jan. 22, 2018.

Adam G. Unikowsky, Washington, DC, for
Petitioner.

Loren L. AliKhan, Washington, DC, for
Respondent.

David A. Strauss, Sarah M. Konsky, Jenner &
Block, Supreme Court and Appellate Clinic at The
University of Chicago Law School, Chicago, IL,
Matthew S. Hellman, Adam G. Unikowsky,
Tassity S. Johnson, Jenner & Block LLP, Donald
M. Temple, Temple Law Offices, Washington, DC,
for Petitioner.

Karl A. Racine, General for the District of
Columbia, Todd S. Kim, Solicitor General, Loren
L. AliKhan, Deputy Solicitor General, Sonya L.
Lebsack, Assistant Attorney General, D.C. Office
of the Attorney General, Washington, D.C., for
Respondent.

Justice GINSBURG delivered the opinion of the
Court.

The Supplemental Jurisdiction statute, 28 U.S.C.
§ 1367, enables federal district courts to entertain
claims not otherwise within their adjudicatory
authority when those claims "are so related to
claims ... within [federal-court competence] that
they form part of the same case or controversy." §
1367(a). Included within this supplemental
jurisdiction are state claims brought along with
federal claims arising from the same episode.
When district courts dismiss all claims
independently

[138 S.Ct. 598]

qualifying for the exercise of federal jurisdiction,
they ordinarily dismiss as well all related state
claims. See § 1367(c)(3). A district court may also
dismiss the related state claims if there is a good
reason to decline jurisdiction. See § 1367(c)(1),
(2), and (4). This case concerns the time within
which state claims so dismissed may be refiled in
state court.

Section 1367(d), addressing that issue, provides:

"The period of limitations for any
[state] claim [joined with a claim
within federal-court competence]
shall be tolled while the claim is
pending [in federal court] and for a
period of 30 days after it is
dismissed unless State law provides
for a longer tolling period."

The question presented: Does the word "tolled,"
as used in § 1367(d), mean the state limitations
period is suspended during the pendency of the
federal suit; or does "tolled" mean that, although
the state limitations period continues to run, a
plaintiff is accorded a grace period of 30 days to
refile in state court post dismissal of the federal
case? Petitioner urges the first, or stop-the-clock,
reading. Respondent urges, and the District of
Columbia Court of Appeals adopted, the second,
or grace-period, reading.

In the case before us, plaintiff-petitioner
Stephanie C. Artis refiled her state-law claims in
state court 59 days after dismissal of her federal
suit.¹ Reading § 1367(d) as a grace-period
prescription, her complaint would be time barred.
Reading § 1367(d) as stopping the limitations
clock during the pendency of the federal-court
suit, her complaint would be timely. We hold that
§ 1367(d)'s instruction to "toll" a state limitations
period means to hold it in abeyance, *i.e.*, to stop
the clock. Because the D.C. Court of Appeals held
that § 1367(d) did not stop the D.C. Code's
limitations clock, but merely provided a 30-day
grace period for refile in D.C. Superior Court,
we reverse the D.C. Court of Appeals' judgment.



I

A

Section 1367, which Congress added to Title 28 as part of the Judicial Improvements Act of 1990, 104 Stat. 5089, codifies the court-developed pendent and ancillary jurisdiction doctrines under the label "supplemental jurisdiction." See *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 552–558, 125 S.Ct. 2611, 162 L.Ed.2d 502 (2005) (describing the development of pendent and ancillary jurisdiction doctrines and subsequent enactment of § 1367); *id.*, at 579–584, 125 S.Ct. 2611 (GINSBURG, J., dissenting) (same). The House Report accompanying the Act explains that Congress sought to clarify the scope of federal courts' authority to hear claims within their supplemental jurisdiction, appreciating that "[s]upplemental jurisdiction has enabled federal courts and litigants to ... deal economically—in single rather than multiple litigation—with related matters." H.R. Rep. No. 101–734, p. 28 (1990) (H.R. Rep.). Section 1367(a) provides, in relevant part, that a district court with original jurisdiction over a claim "shall have supplemental jurisdiction over all other claims ... form[ing] part of the same case or controversy."

[138 S.Ct. 599]

"[N]ot every claim within the same 'case or controversy' as the claim within the federal courts' original jurisdiction will be decided by the federal court." *Jinks v. Richland County*, 538 U.S. 456, 459, 123 S.Ct. 1667, 155 L.Ed.2d 631 (2003). Section 1367(c) states:

"The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

"(1) the claim raises a novel or complex issue of State law,

"(2) the claim substantially predominates over the claim or

claims over which the district court has original jurisdiction,

"(3) the district court has dismissed all claims over which it has original jurisdiction, or

"(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction."

If a district court declines to exercise jurisdiction over a claim asserted under § 1367(a) and the plaintiff wishes to continue pursuing it, she must refile the claim in state court. If the state court would hold the claim time barred, however, then, absent a curative provision, the district court's dismissal of the state-law claim without prejudice would be tantamount to a dismissal with prejudice. See, e.g., *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 352, 108 S.Ct. 614, 98 L.Ed.2d 720 (1988) (under the doctrine of pendent jurisdiction, if the statute of limitations on state-law claims expires before the federal court "relinquish[es] jurisdiction[,] ... a dismissal will foreclose the plaintiff from litigating his claims"). To prevent that result, § 1367(d) supplies "a tolling rule that must be applied by state courts." *Jinks*, 538 U.S., at 459, 123 S.Ct. 1667. Section 1367(d) provides:

"The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period."

This case requires us to determine how § 1367(d)'s tolling rule operates.

B



Petitioner Artis worked as a health inspector for respondent, the District of Columbia (the "District"). In November 2010, Artis was told she would lose her job. Thirteen months later, Artis sued the District in the United States District Court for the District of Columbia, alleging that she had suffered employment discrimination in violation of Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. § 2000e *et seq.* She also asserted three allied claims under D.C. law: retaliation in violation of the District of Columbia Whistleblower Act, D.C. Code § 1-615.54 (2001) ; termination in violation of the District of Columbia False Claims Act, § 2-381.04; and wrongful termination against public policy, a common-law claim. Artis alleged that she had been subjected to gender discrimination by her supervisor, and thereafter encountered retaliation for reporting the supervisor's unlawful activities. See *Artis v. District of Columbia*, 51 F.Supp.3d 135, 137 (2014).

On June 27, 2014, the District Court granted the District's motion for summary judgment on the Title VII claim. Having dismissed Artis' sole federal claim, the District Court, pursuant to § 1367(c)(3), declined to exercise supplemental jurisdiction over her remaining state-law claims. "Artis will not be prejudiced," the court noted, "because 28 U.S.C. § 1367(d) provides for a tolling of the statute of limitations during

[138 S.Ct. 600]

the period the case was here and for at least 30 days thereafter." *Id.*, at 142.

Fifty-nine days after the dismissal of her federal action, Artis refiled her state-law claims in the D.C. Superior Court, the appropriate local court. The Superior Court granted the District's motion to dismiss, holding that Artis' claims were time barred, because they were filed 29 days too late. See App. to Pet. for Cert. 14a. When Artis first asserted her state-law claims in the District Court, nearly two years remained on the applicable three-year statute of limitations.² But two and a half years passed before the federal court relinquished jurisdiction. Unless § 1367(d) paused

the limitations clock during that time, Artis would have had only 30 days to refile. The Superior Court rejected Artis' stop-the-clock reading of § 1367(d), reasoning that Artis could have protected her state-law claims by "pursuing [them] in a state court while the federal court proceeding [was] pending." *Ibid.* In tension with that explanation, the court noted that duplicative filings in federal and state court are "generally disfavored ... as 'wasteful' and ... 'against [the interests of] judicial efficiency.'" *Id.*, at 14a, n. 1 (quoting *Stevens v. ARCO Management of Wash. D.C., Inc.*, 751 A.2d 995, 1002 (D.C.2000) ; alteration in original).

The D.C. Court of Appeals affirmed. That court began by observing that two "competing approaches [to § 1367(d)] have evolved nationally": the stop-the-clock reading and the grace-period reading. 135 A.3d 334, 337 (2016).³ Without further comment on § 1367(d)'s text, the D.C. Court of Appeals turned to the legislative history. Section 1367(d)'s purpose, the court noted, was "to prevent the loss of claims to statutes of limitations where state law might fail to toll the running of the period of limitations while a supplemental claim was pending in federal court." *Id.*, at 338 (quoting H.R. Rep., at 30; internal quotation marks omitted). Following the lead of the California Supreme Court, the D.C. Court of Appeals determined that Congress had intended to implement a 1969 recommendation by the American Law Institute (ALI) to allow refiling in state court "within 30 days after dismissal." 135 A.3d, at 338 (quoting *Los Angeles v. County of Kern*, 59 Cal.4th 618, 629, 174 Cal.Rptr.3d 67, 328 P.3d 56, 63 (2014)).

[138 S.Ct. 601]

The D.C. Court of Appeals also concluded that the grace-period approach "better accommodates federalism concerns," by trenching significantly less on state statutes of limitations than the stop-the-clock approach. 135 A.3d, at 338-339. Construing § 1367(d) as affording only a 30-day grace period, the court commented, was "consistent with [its] presumption favoring



narrow interpretations of federal preemption of state law." *Id.*, at 339.

To resolve the division of opinion among State Supreme Courts on the proper construction of § 1367(d), see *supra*, at 600, n. 3, we granted certiorari. 580 U.S. ———, 137 S.Ct. 1202, 197 L.Ed.2d 245 (2017).

II

A

As just indicated, statutes that shelter from time bars claims earlier commenced in another forum generally employ one of two means.

First, the period (or statute) of limitations may be "tolled" while the claim is pending elsewhere.⁴ Ordinarily, "tolled," in the context of a time prescription like § 1367(d), means that the limitations period is suspended (stops running) while the claim is *sub judice* elsewhere, then starts running again when the tolling period ends, picking up where it left off. See Black's Law Dictionary 1488 (6th ed. 1990) ("toll," when paired with the grammatical object "statute of limitations," means "to suspend or stop temporarily"). This dictionary definition captures the rule generally applied in federal courts. See, e.g., *Chardon v. Fumero Soto*, 462 U.S. 650, 652, n. 1, 103 S.Ct. 2611, 77 L.Ed.2d 74 (1983) (Court's opinion "use[d] the word 'tolling' to mean that, during the relevant period, the statute of limitations ceases to run").⁵ Our decisions employ the terms

[138 S.Ct. 602]

"toll" and "suspend" interchangeably. For example, in *American Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 94 S.Ct. 756, 38 L.Ed.2d 713 (1974), we characterized as a "tolling" prescription a rule "suspend[ing] the applicable statute of limitations," *id.*, at 554, 94 S.Ct. 756; accordingly, we applied the rule to stop the limitations clock, *id.*, at 560–561, 94 S.Ct. 756.⁶ We have similarly comprehended what tolling means in decisions on equitable tolling. See, e.g., *CTS Corp. v.*

Waldburger, 573 U.S. ———, ———, 134 S.Ct. 2175, 2183, 189 L.Ed.2d 62 (2014) (describing equitable tolling as "a doctrine that pauses the running of, or 'tolls' a statute of limitations" (some internal quotation marks omitted)); *United States v. Ibarra*, 502 U.S. 1, 4, n. 2, 112 S.Ct. 4, 116 L.Ed.2d 1 (1991) (*per curiam*) ("Principles of equitable tolling usually dictate that when a time bar has been suspended and then begins to run again upon a later event, the time remaining on the clock is calculated by subtracting from the full limitations period whatever time ran before the clock was stopped.").

In lieu of "tolling" or "suspending" a limitations period by pausing its progression, a legislature might elect simply to provide a grace period. When that mode is adopted, the statute of limitations continues to run while the claim is pending in another forum. But the risk of a time bar is averted by according the plaintiff a fixed period in which to refile. A federal statute of that genre is 28 U.S.C. § 2415. That provision prescribes a six-year limitations period for suits seeking money damages from the United States for breach of contract. § 2415(a). The statute further provides: "In the event that any action ... is timely brought and is thereafter dismissed without prejudice, the action may be recommenced within one year after such dismissal, regardless of whether the action would otherwise then be barred by this section." § 2415(e).⁷ Many States have enacted similar grace-period provisions. See App. to Brief for National Conference of State Legislatures et al. as *Amici Curiae* 1a–25a. For example, Georgia law provides:

"When any case has been commenced in either a state or federal court within the applicable statute of limitations and the plaintiff discontinues or dismisses the same, it may be recommenced in a court of this state or in a federal court either within the original applicable period of limitations or within six months after the discontinuance or dismissal,



whichever is later...." Ga. Code Ann. § 9-2-61(a) (2007).

Tellingly, the District has not identified any federal statute in which a grace-period meaning has been ascribed to the word "tolled" or any word similarly rooted. Nor has the dissent, for all its mighty strivings, identified even one federal statute that fits its bill, *i.e.*, a federal statute that says "tolled" but means something other than "suspended," or "paused," or

[138 S.Ct. 603]

"stopped." From what statutory text, then, does the dissent start? See *post*, at 610.²

Turning from statutory texts to judicial decisions, only once did an opinion of this Court employ tolling language to describe a grace period: *Hardin v. Straub*, 490 U.S. 536, 109 S.Ct. 1998, 104 L.Ed.2d 582 (1989). In *Hardin*, we held that, in 42 U.S.C. § 1983 suits, federal courts should give effect to state statutes sheltering claims from time bars during periods of a plaintiff's legal disability. We there characterized a state statute providing a one-year grace period as "tolling" or "suspend[ing]" the limitations period "until one year after the disability has been removed." 490 U.S., at 537, 109 S.Ct. 1998. This atypical use of "tolling" or "suspending" to mean something other than stopping the clock on a limitations period is a feather on the scale against the weight of decisions in which "tolling" a statute of limitations signals stopping the clock.

B .

In determining the meaning of a statutory provision, "we look first to its language, giving the words used their ordinary meaning." *Moskal v. United States*, 498 U.S. 103, 108, 111 S.Ct. 461, 112 L.Ed.2d 449 (1990) (citation and internal quotation marks omitted). Section 1367(d) is phrased as a tolling provision. It suspends the statute of limitations for two adjacent time periods: while the claim is pending in federal court and for 30 days postdismissal. Artis urges that the phrase "shall be tolled" in § 1367(d) has

the same meaning it does in the statutes cited *supra*, at 601, n. 4. That is, the limitations clock stops the day the claim is filed in federal court and, 30 days postdismissal, restarts from the point at which it had stopped.

The District reads "tolled" for § 1367(d)'s purposes differently. To "toll," the District urges, means to "remove or take away an effect." Brief for Respondent 12-13. To "toll" a limitations period, then, would mean to "remov[e] the bar that ordinarily would accompany its expiration." *Id.*, at 14.² "[T]here is nothing special," the District maintains, "about tolling limitations periods versus tolling any other fact, right, or consequence." *Id.*, at 13. But the District offers no reason why, in interpreting "tolled" as used in § 1367(d), we should home in only on the

[138 S.Ct. 604]

word itself, ignoring the information about the verb's ordinary meaning gained from its grammatical object. Just as when the object of "tolled" is "bell" or "highway traveler," the object "period of limitations" sheds light on what it means to "be tolled."

The District's reading, largely embraced by the dissent, is problematic for other reasons as well. First, it tenders a strained interpretation of the phrase "period of limitations." In the District's view, "period of limitations" means "the effect of the period of limitations as a time bar." See *id.*, at 18 ("Section 1367(d)... provides that 'the period of limitations'—here its effect as a time bar—'shall be [removed or taken away] while the claim is pending [in federal court] and for a period of 30 days after it is dismissed.'" (alterations in original)). Second, the first portion of the tolling period, the duration of the claim's pendency in federal court, becomes superfluous under the District's construction. The "effect" of the limitations period as a time bar, on the District's reading, becomes operative only after the case has been dismissed. That being so, what need would there be to remove anything while the claim is pending in federal court?



Furthermore, the District's reading could yield an absurdity: It could permit a plaintiff to refile in state court even if the limitations period on her claim had expired before she filed in federal court. To avoid that result, the District's proposed construction of "tolled" as "removed" could not mean simply "removed." Instead, "removed" would require qualification to express "removed, unless the period of limitations expired before the claim was filed in federal court." In sum, the District's interpretation maps poorly onto the language of § 1367(d), while Artis' interpretation is a natural fit.

C

The D.C. Court of Appeals adopted the District's grace-period construction primarily because it was convinced that in drafting § 1367(d), Congress embraced an ALI recommendation. 135 A.3d, at 338. Two decades before the enactment of § 1367(d), the ALI, in its 1969 Study of the Division of Jurisdiction Between State and Federal Courts, did recommend a 30-day grace period for refile certain claims. The ALI proposed the following statutory language:

"If any claim in an action timely commenced in a federal court is dismissed for lack of jurisdiction over the subject matter of the claim, a new action on the same claim brought in another court shall not be barred by a statute of limitations that would not have barred the original action had it been commenced in that court, if such new action is brought in a proper court, federal or State, within thirty days after dismissal of the original claim has become final or within such longer period as may be available under applicable State law." ALI, Study of the Division of Jurisdiction Between State and Federal Courts § 1386(b), p. 65 (1969) (ALI Study).

Congress, however, did not adopt the ALI's grace-period formulation. Instead, it ordered tolling of the state limitations period "while the claim is pending" in federal court. Although the provision the ALI proposed, like § 1367(d), established a 30-day federal floor on the time allowed for refile, it did not provide for tolling the period of limitations while a claim is pending.¹⁰ True, the House Report contained

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a citation to the ALI Study, but only in reference to a different provision, 28 U.S.C. § 1391 (the general venue statute). There, Congress noted that its approach was "taken from the ALI Study." H.R. Rep., at 23. Had Congress similarly embraced the ALI's grace-period formulation in § 1367(d), one might expect the House Report to have said as much.¹¹

D

The District asks us to zero in on § 1367(d)'s "express inclusion" of the "period of 30 days after the claim is dismissed" within the tolling period. Brief for Respondent 20 (internal quotation marks omitted). Under Artis' stop-the-clock interpretation, the District contends, "the inclusion of 30 days within the tolling period would be relegated to insignificance in the mine-run of cases." *Id.*, at 21 (citation and internal quotation marks omitted). In § 1367(d), Congress did provide for tolling not only while the claim is pending in federal court, but also for 30 days thereafter. Including the 30 days within § 1367(d)'s tolling period accounts for cases in which a federal action is commenced close to the expiration date of the relevant state statute of limitations. In such a case, the added days give the plaintiff breathing space to refile in state court.

Adding a brief span of days to the tolling period is not unusual in stop-the-clock statutes. In this respect, § 1367(d) closely resembles 46 U.S.C. § 53911, which provides, in a subsection titled "Tolling of limitations period," that if a plaintiff submits a claim for war-related vessel damage to



the Secretary of Transportation, "the running of the limitations period for bringing a civil action is suspended until the Secretary denies the claim, and for 60 days thereafter." § 5391(d). Numerous other statutes similarly append a fixed number of days to an initial tolling period. See, e.g., 22 U.S.C. § 1631k(c) ("Statutes of limitations on assessments ... shall be suspended with respect to any vested property ... while vested and for six months thereafter...."); 26 U.S.C. § 6213(f)(1) ("In any case under title 11 of the United States Code, the running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to any deficiency shall be suspended for the period during which the debtor is prohibited by reason of such case from filing a petition in the Tax Court with respect to such deficiency, and for 60 days thereafter."); § 6503(a)(1) ("The running of the period of limitations provided in section 6501 or 6502 ... shall ... be suspended for the period during which the Secretary is prohibited from making the assessment ... and for 60 days thereafter."); 50 U.S.C. § 4000(c) ("The running of a statute of limitations against the collection of tax deferred under

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this section ... shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter."). Thus, the "30 days" provision casts no large shadow on Artis' interpretation.

Section 1367(d)'s proviso, "unless State law provides for a longer tolling period," could similarly aid a plaintiff who filed in federal court just short of the expiration of the state limitations period. She would have the benefit of § 1367(d)'s 30-days-to-refile prescription, or such longer time as state law prescribes.¹² It may be that, in most cases, the state-law tolling period will not be longer than § 1367(d)'s. But in some cases it undoubtedly will. For example, Indiana permits a plaintiff to refile within three years of dismissal. See Ind. Code § 34-11-8-1 (2017). And Louisiana provides that after dismissal the limitations period "runs anew." La. Civ. Code Ann., Arts. 3462, 3466 (West 2007).

III

Satisfied that Artis' text-based arguments overwhelm the District's, we turn to the District's contention that the stop-the-clock interpretation of § 1367(d) raises a significant constitutional question: Does the statute exceed Congress' authority under the Necessary and Proper Clause, Art. I, § 8, cl. 18, because its connection to Congress' enumerated powers is too attenuated or because it is too great an incursion on the States' domain? Brief for Respondent 46-49. To avoid constitutional doubt, the District urges, we should adopt its reading. "[W]here an alternative interpretation of [a] statute is fairly possible," the District reminds, we have construed legislation in a manner that "avoid[s] [serious constitutional] problems" raised by "an otherwise acceptable construction." *INS v. St. Cyr*, 533 U.S. 289, 299-300, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001) (internal quotation marks omitted). But even if we regarded the District's reading of § 1367(d) as "fairly possible," our precedent would undermine the proposition that § 1367(d) presents a serious constitutional problem. See *Jinks*, 538 U.S., at 461-465, 123 S.Ct. 1667.

In *Jinks*, we unanimously rejected an argument that § 1367(d) impermissibly exceeds Congress' enumerated powers.¹³ Section 1367(d), we held, "is necessary and proper for carrying into execution Congress's power '[t]o constitute Tribunals inferior to the supreme Court,' ... and to

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assure that those tribunals may fairly and efficiently exercise '[t]he judicial Power of the United States.' " *Id.*, at 462, 123 S.Ct. 1667 (quoting U.S. Const., Art. I, § 8, cl. 9, and Art. III, § 1).

In two principal ways, we explained, § 1367(d) is "conducive to the due administration of justice in federal court." 538 U.S., at 462, 123 S.Ct. 1667 (internal quotation marks omitted). First, "it provides an alternative to the unsatisfactory options that federal judges faced when they decided whether to retain jurisdiction over

supplemental state-law claims that might be time barred in state court." *Ibid.* Section 1367(d) thus "unquestionably promotes fair and efficient operation of the federal courts." *Id.*, at 463, 123 S.Ct. 1667. Second, § 1367(d) "eliminates a serious impediment to access to the federal courts on the part of plaintiffs pursuing federal- and state-law claims" arising from the same episode. *Ibid.* With tolling available, a plaintiff disinclined to litigate simultaneously in two forums is no longer impelled to choose between forgoing either her federal claims or her state claims.

Moreover, we were persuaded that § 1367(d) was "plainly adapted" to Congress' exercise of its enumerated power: there was no cause to suspect that Congress had enacted § 1367(d) as a " 'pretext' for 'the accomplishment of objects not entrusted to [it],' "; nor was there reason to believe that the connection between § 1367(d) and Congress' authority over the federal courts was too attenuated. *Id.*, at 464, 123 S.Ct. 1667 (quoting *McCulloch v. Maryland*, 4 Wheat. 316, 423, 4 L.Ed. 579 (1819)).

Our decision in *Jinks* also rejected the argument that § 1367(d) was not "proper" because it violates principles of state sovereignty by prescribing a procedural rule for state courts' adjudication of purely state-law claims. 538 U.S., at 464–465, 123 S.Ct. 1667. "Assuming [without deciding] that a principled dichotomy can be drawn, for purposes of determining whether an Act of Congress is 'proper,' between federal laws that regulate state-court 'procedure' and laws that change the 'substance' of state-law rights of action," we concluded that the tolling of state limitations periods "falls on the [permissible] 'substantive' side of the line." *Ibid.*

The District's contention that a stop-the-clock prescription serves "no federal purpose" that could not be served by a grace-period prescription is unavailing. Brief for Respondent 49. Both devices are standard, off-the-shelf means of accounting for the fact that a claim was timely pressed in another forum. Requiring Congress to choose one over the other would impose a tighter

constraint on Congress' discretion than we have ever countenanced.

The concern that a stop-the-clock prescription entails a greater imposition on the States than a grace-period prescription, moreover, may be more theoretical than real. Consider the alternative suggested by the D.C. Superior Court. Plaintiffs situated as Artis was could simply file two actions and ask the state court to hold the suit filed there in abeyance pending disposition of the federal suit. See *supra*, at 600. Were the dissent's position to prevail, cautious plaintiffs would surely take up the D.C. Superior Court's suggestion. How it genuinely advances federalism concerns to drive plaintiffs to resort to wasteful, inefficient duplication to preserve their state-law claims is far from apparent. See, e.g., *Stevens*, 751 A.2d, at 1002 (it "work[s] against judicial efficiency ... to compel prudent federal litigants who present state claims to file duplicative and wasteful protective suits in state court").

We do not gainsay that statutes of limitations are "fundamental to a well-ordered

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judicial system." *Board of Regents of Univ. of State of N.Y. v. Tomanio*, 446 U.S. 478, 487, 100 S.Ct. 1790, 64 L.Ed.2d 440 (1980). We note in this regard, however, that a stop-the-clock rule is suited to the primary purposes of limitations statutes: "preventing surprises" to defendants and "barring a plaintiff who has slept on his rights." *American Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 554, 94 S.Ct. 756, 38 L.Ed.2d 713 (1974) (internal quotation marks omitted). Whenever § 1367(d) applies, the defendant will have notice of the plaintiff's claims within the state-prescribed limitations period. Likewise, the plaintiff will not have slept on her rights. She will have timely asserted those rights, endeavoring to pursue them in one litigation.

* * *

For the reasons stated, we resist unsettling the usual understanding of the word "tolled" as it



appears in legislative time prescriptions and court decisions thereon. The judgment of the D.C. Court of Appeals is therefore reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

Chesterton reminds us not to clear away a fence just because we cannot see its point. Even if a fence doesn't seem to have a reason, sometimes all that means is we need to look more carefully for the reason it was built in the first place.

The same might be said about the law before us. Section 1367(d) provides that "[t]he period of limitations ... shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period." 28 U.S.C. § 1367(d). Grown from a rich common law and state statutory tradition, this provision serves a modest role. If a federal court dismisses a party's state law claim without ruling on its merits, the law ensures the party will enjoy whatever time state law allows, or at least 30 days, to refile the claim in state court.

Today the Court clears away this traditional rule because it overlooks the original reasons for it. For the first time in the statute's history the Court now reads the law to guarantee parties not 30 days or whatever state law permits but months or years more to refile their dismissed state law claims in state court. Rather than reading the statute as generally deferring to state law judgments about the appropriate lifespan of state law claims brought in state courts, the Court now reads the statute as generally displacing them in favor of a new federal rule. Indeed, the Court today tells state courts that they must routinely disregard clearly expressed state law defining the appropriate length of time parties should have to sue on state law claims in state tribunals. Under the Court's rule, too, the disregard of state limitations law promises to be not only routine but substantial. The Court's approach will require state courts to entertain state law claims that state law deems untimely not only by weeks or months but by many years, as 24 States, the National

Conference of State Legislatures, and the Council of State Governments warn us. And the Court demands all this without offering any rational account why it is necessary or proper to the exercise of one of the federal government's limited and enumerated powers. It may only be a small statute we are interpreting, but the result the Court reaches today represents no small intrusion on traditional state functions and no small departure from our foundational principles of federalism. Respectfully, I dissent.

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Start with the statute's key term. Where, as here, a law instructs us to "toll" a limitations period, we know it may be telling us to do one of (at least) two different things. The dictionary informs that to "toll" means "[t]o take away, bar, defeat, [or] annul." See 18 Oxford English Dictionary 204 (2d ed. 1989); Webster's New International Dictionary 2662 (2d ed. 1957) ("[t]o take away; to vacate; to annul"); Oxford Latin Dictionary 1947 (1982) ("tollere," the Latin origin, means to "remove" or "lift"). So when a statute speaks of tolling a limitations period it can, naturally enough, mean *either* that the running of the limitations period is suspended *or* that the effect of the limitations period is defeated. The first understanding stops the limitations clock running until a specified event begins it running again: call it the stop clock approach. The second understanding allows the limitations clock to continue to run but defeats the effect of the clock's expiration for an additional specified period of time: call it the grace period approach.

That both of these understandings of the word "toll" are indeed possible and in fact historically common this Court has already explained in *Chardon v. Fumero Soto*, 462 U.S. 650, 103 S.Ct. 2611, 77 L.Ed.2d 74 (1983) :

" 'Tolling effect' refers to the method of calculating the amount of time available to file suit after tolling has ended. The statute of limitations *might merely be suspended* ; if so, the plaintiff must file within the

amount of time left in the limitations period.... *It is also possible to establish a fixed period such as six months or one year during which the plaintiff may file suit, without regard to the length of the original limitations period or the amount of time left when tolling began.* *Id.*, at 652, n. 1, 103 S.Ct. 2611 (emphasis added).

When it comes to federal law today, *Chardon* has further explained, both kinds of tolling can be found. "[S]ome federal statutes provide for suspension" of the running of the limitations period, or the stop clock approach, while "other statutes establish a variety of different tolling effects," including grace periods for refile after dismissal. *Id.*, at 660, n. 13, 103 S.Ct. 2611.

Neither is it a surprise that *Chardon* acknowledged tolling statutes might come in (at least) these two varieties. At common law, both types of tolling were well and long known, if often employed in different circumstances to address different problems in equitably tailored ways.

Take the stop clock approach. While any generalization is subject to its exceptions, the stop clock approach was often used at common law to suspend a plaintiff's duty to bring a timely lawsuit if, and for the period, the plaintiff was prevented from coming to court due to some disability. And this common law rule made common sense in those circumstances. After all, if (say) a defendant's fraud prevented the plaintiff from discovering his injury, it's easy enough to see why the limitations clock should stop running until the fraud is revealed; and the disability thus dissipated.¹

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By contrast, the grace period approach was commonly used in cases where, as here, the plaintiff made it to court in time but arrived in the wrong court and had to refile in the right one. In this situation, equity didn't necessarily call for suspending the running of the limitations period

for whatever arbitrary period of time—weeks or months or years—the suit happened to sit in court before dismissal. It's not as if the defendant or uncontrollable circumstances had conspired to prevent the plaintiff from proceeding during that period. Instead, the law commonsensically held that in these circumstances a grace period would suffice to allow the plaintiff a brief time to find his way to and refile in the correct court.²

Indeed, grace periods appear to find their roots in a common law rule known as the "journey's account" that expressly sought to account for and afford to a dismissed party "the number of days which [he] must spend in journeying to the court" to refile his claim. 37 C.J., Limitations of Actions § 526, p. 1082 (1925); see E. Coke, *The Second Part of the Institutes of the Laws of England* 567 (1642) (reprint 1797) ("[T]he common law set downe the certaine time of 15 dayes," because "a dayes journey is accounted in law 20 miles," as "a reasonable time ... within which time wheresoever the court of justice sate in England, the party ... wheresoever he dwelt in England ... might ... by the said account of dayes journies appeare in court"); *Spencer's Case*, 77 Eng. Rep. 267, 267–268 (1603) (party has "the benefit of a new writ by journeys accompts" after first writ "abated"); *Elstob v. Thorowgood*, 91 Eng. Rep. 1086, 1087 (1697) (party has 30 days to bring an action "by journeys account" to avoid "the Statute of Limitations").

When it comes to the statute before us, the textual and contextual clues point in the same and unsurprising direction. Much like the journey's account from which it originated, section 1367(d)'s "tolling" provision seeks to provide the plaintiff who finds her case dismissed because she filed in the wrong court a reasonable grace period to journey to the right court to refile. No more and no less.

Take the textual clues. Section 1367(d) says that "the period of limitations ... shall be *tolled* while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer *tolling* period." Note that the law uses the words "tolled" and "tolling" in the same sentence.



Normally, we assume that when Congress repeats a term in a statute the term's meaning remains constant throughout. And that assumption is surely "at its most vigorous" where, as here, Congress repeats the same term in the same sentence. *Brown v. Gardner*, 513 U.S. 115, 118, 115 S.Ct. 552, 130 L.Ed.2d 462 (1994).

This traditional rule of construction tells us a great deal. It does because no one doubts that the state law "tolling period[s]" referenced in the second half of the sentence were at the time of section 1367(d)'s enactment—and still are—grace

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periods allowing parties a specified number of days or months after dismissal to refile in the proper court. See, e.g., Colo.Rev.Stat. § 13-80-111 (1990) (providing that the plaintiff "may commence a new action upon the same cause of action within ninety days after the termination of the original action").³ In fact, these statutes were often self-consciously patterned on the journey's account doctrine, seeking to address much the same problem the common law faced with much the same solution.⁴ And the fact that Congress used a variant of the word "toll" in the second half of the sentence to refer to grace periods strongly suggests it did so in the first half of the sentence too. So that the first phrase "shall be *tolled* while the claim is pending and for a period of 30 days" should be understood to extend a grace period of 30 days after dismissal much as the second phrase "*tolling* period" is understood to refer the reader to parallel state law grace periods affording short periods for refile after dismissal.

The alternative reading endorsed by the Court today extends too little respect to Congress's competency as drafter. It asks us to assume the legislature was so garbled in its expression that it switched the meaning of the term "toll" halfway through a single sentence without telling anyone. It asks us to conclude that when Congress spoke of the period "tolled" in the first part of the sentence it meant to refer (unambiguously, no less) to a stop clock approach even though it used the term "tolling period" to refer to existing state

law grace periods in the second part of the sentence. The statute's text drops no hint of such a silent switch and it's a lexicographical leap our traditional rules of statutory interpretation warn against.

That, though, represents just the beginning of the textual troubles with the approach the Court adopts. Consider next the fact that section 1367(d) tells us to apply its federal tolling rule "unless" state law provides a "longer tolling period." In this way, the statute asks us to compare the length of the state "tolling period" with the length of the federal "tolling period" set by section 1367(d) and apply the longer one. See *ante*, at 605 – 606 (courts apply the federal rule if "the state-law tolling period will not be longer than § 1367(d)'s"). The equation we're asked to perform is straightforward and sensible

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if we understand both the state and federal "tolling periods" discussed in this statute as grace periods. We simply pick the longer grace period: is it the federal 30 day period or one provided by state law?

By contrast, the equation is anything but straightforward or sensible under the Court's approach. The Court tells us that, under its reading of the statute, the federal "tolling period" is the "duration of the claim's pendency in federal court" plus 30 days. See *ante*, at 603 – 604, 605. So the decision whether to apply the federal or the state tolling period turns not on the sensible question which would afford the plaintiff more time to refile but instead on the happenstance of how long the plaintiff's claim sat in federal court before dismissal. Under the Court's interpretation, we apply the federal stop clock rule if, but only if, the time the case happened to linger in federal court before dismissal (plus 30 days) is longer than the relevant state grace period. But to state the test is to see it is a nonsense—one we would not lightly attribute to any rational drafter, let alone Congress.



Consider some examples of the absurdities that follow from the apples-to-oranges comparison the Court's test requires. Say state law provides a 5 year statute of limitations and a 1 year grace period for refiling. The plaintiff files in federal court one day before the statute of limitations expires. The litigation in federal court lasts 1 year. Under the Court's view, the federal "tolling period" would be 1 year plus 30 days—the time the claim was pending in federal court plus 30 days after dismissal. That period is longer than the state tolling period of 1 year and so the federal tolling rule, not the state rule, controls—leaving the plaintiff only 31 days to refile her claim after dismissal even though state law would have allowed a full year.

That may be curious enough, but curiously it gets. Now suppose the litigation in federal court lasts only 10 months. That makes the federal tolling period only 11 months (10 months plus 30 days). Under the Court's view, state law now provides a longer tolling period (1 year) and the litigant gets a full year to refile in state court instead of 31 days. No one has offered a reason why the happenstance of how long the federal litigation lasted should determine how much time a litigant has to refile in state court. Yet that is what the Court's reading of section 1367(d) demands.

Of course, it's easy enough to imagine the rule the Court really wants to adopt today: it would like to afford litigants as a matter of federal law the benefit of a stop clock approach whenever doing so would yield more time to refile than the state's grace period would permit. But to accomplish so much we would need a very different statute than the one we have. We would need to be able to compare the relevant state law grace "tolling period" *not* with the federal "tolling period" as the statute says but with the *amount of time left under the relevant state limitations period on the date the plaintiff filed her federal suit*. The problem is, no one has even hinted how we might lawfully superimpose all those italicized words (entirely of our own devise) onto the statutory text.⁵

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There are still more textual clues that we have lost our way today. Congress spoke of the federal tolling period as embracing "30 days after ... dismissal." That language sounds like and fits with a traditional grace period or journey's account approach. As we've seen, grace periods often speak about affording parties some short period of time after dismissal to refile their claims. Meanwhile, this language proves no small challenge to square with a stop clock approach. Generally we say a clock is stopped due to the onset of a particular event like a disability: *something* usually causes the stopping of the clock and when that *something* goes away, the clock restarts. Here, the Court says, the clock stops once a claim is pending in federal court. Yet it doesn't restart when that something—the claim's pendency—goes away but instead waits another 30 days before ticking again. All without any apparent reason for the additional delay.

This case illustrates the oddity. The petitioner filed her suit in federal court with 23 months remaining on the three year statute of limitations. The case remained in federal district court for nearly three years before dismissal. Under the grace period approach the 30 day provision does just as it appears, providing petitioner with 30 days to journey to and refile in the correct court. Under the stop clock approach, though, the statute affords the petitioner 23 months *plus* a random 30 days more to refile. Indeed, on the stop clock approach the *only* work the 30 day period is even imaginably left to do comes in cases where the plaintiff filed her federal suit at the very end of the limitations period. And if that's the only problem Congress sought to address, it chose a mighty murky way to do it, for the parties point to not a single stop clock provision in all of federal law that includes language anything like this. All while (again) this language fits hand in glove with every grace period statute known.⁶

Beyond all these textual clues lie important contextual ones too. When Congress replants the roots of preexisting law in the federal code, this Court assumes it brings

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with it the surrounding soil, retaining the substance of the tradition it engages. Respect for Congress, this Court has held, means assuming it knows and "legislate[s] against a background of [the] common law ... principles" found in the field where it is working. *Samantar v. Yousuf*, 560 U.S. 305, 320, n. 13, 130 S.Ct. 2278, 176 L.Ed.2d 1047 (2010) ; see also *Goodyear Atomic Corp. v. Miller*, 486 U.S. 174, 184–185, 108 S.Ct. 1704, 100 L.Ed.2d 158 (1988). And, as we've seen, the state law of tolling Congress expressly referenced and replanted in section 1367(d) comes heavily encrusted with meaning. In cases involving dismissal and refiling, state statutory law and the common law from which it grew have long afforded a grace period to allow the litigant an appropriately tailored time to find his way to the proper court. Meanwhile, a stop clock approach isn't usually part of this ecosystem for nothing has disabled the litigant from reaching a court in the first place and all he must do is journey from the old court to the new one. We don't assume Congress strips replanted statutes of their soil, and we should not assume Congress displaced so much tradition in favor of something comparatively foreign.⁷

The Court's reformation of the statute introduces another problem still—one of significantly greater magnitude yet. In our constitutional structure, the federal government's powers are supposed to be "few and defined," while the powers reserved to the States "remain ... numerous and indefinite." The Federalist No. 45, p. 328 (B. Wright ed. 1961) (Madison); *McCulloch v. Maryland*, 4 Wheat. 316, 405, 4 L.Ed. 579 (1819). No doubt, the Constitution affords Congress the authority to make laws that are "necessary and proper" to carry out its defined duties. Art. I, § 8, cl. 18. But it is difficult to see how, on the Court's interpretation, section 1367(d) might be said to survive that test—how it might be said to be necessary and proper to effectuate any recognized federal power or how it could be called anything other than an unconstitutional intrusion on the core state power to define the terms of state law claims litigated in state court proceedings.⁸

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Under our precedent, the analysis here begins with *Jinks v. Richland County*, 538 U.S. 456, 123 S.Ct. 1667, 155 L.Ed.2d 631 (2003). Without some tolling rule for dismissed state law supplemental claims, the Court in *Jinks* noted, federal courts would be left with "three basic choices:" (1) "condition dismissal of the state-law claim on the defendant's waiver of any statute-of-limitations defense in state court"; (2) "retain jurisdiction over the state-law claim even though it would more appropriately be heard in state court"; or (3) "dismiss the state-law claim but allow the plaintiff to reopen the federal case if the state court later held the claim to be time barred." *Id.*, at 462–463, 123 S.Ct. 1667. All three choices, the Court held, would negatively affect the " 'administration of justice' in federal court" and thus impair the exercise of the enumerated "judicial power" of the federal government in Article III. *Id.*, at 462, 123 S.Ct. 1667 (emphasis added). Accordingly, the Court reasoned, some tolling rule "assur[ing] that state-law claims asserted under [the supplemental jurisdiction statute] will not become time barred while pending in federal court" is necessary and proper to the execution of the federal judicial power. *Id.*, at 464, 123 S.Ct. 1667.

The necessary and proper federal interest *Jinks* recognized is fully discharged by a grace period. Even petitioner appears to concede this. See Brief for Petitioner 27 ("Of course, the grace period approach also guarantees a plaintiff who is unsuccessful in federal court the opportunity to bring a claim in state court"). Nor could anyone easily argue otherwise. *Jinks* itself proceeded to uphold the constitutionality of section 1367(d) as necessary and proper on the basis of an understanding that the statute guaranteed just 30 days to a disappointed litigant to refile in state court. No one in *Jinks* even hinted that a longer period might be necessary or proper to serve any valid federal interest.⁹

For good reason, it turns out. Trying to imagine how the Court's novel twist on section 1367(d) might serve a necessary and proper federal



interest is a hard business. To discharge the federal interest in preventing state law claims from "becom[ing] time barred while pending in federal court" it may be necessary to impose a short grace period. But how is it necessary to do anything more than that, like consult the happenstance of how long the federal court took to dismiss the case and then tack an equivalent number of months or years onto state law limitations periods? What federal interest could *that* even plausibly serve? The Court does not and cannot attempt an answer because its proffered solution is simply orthogonal to any federal concern.

To be sure, the Court suggests that its approach will help the States. See *ante*, at 607 – 608. But a great many States have suggested the opposite, complaining to us that the Court's approach will regularly

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relegate to the dustbin their own state limitations policy choices. See Brief for State of Wisconsin et al. as *Amici Curiae* 22–27; Brief for National Conference of State Legislatures et al. as *Amici Curiae* 6–29. And surely they would seem better positioned than we to know their own interests. To this, the Court replies that "[w]ere the dissent's position to prevail, cautious plaintiffs would surely" file "two actions [one in federal, the other in state court] and ask the state court to hold the suit filed there in abeyance pending disposition of the federal suit," causing "plaintiffs to resort to wasteful, inefficient duplication." *Ante*, at 607. But, of course, this observation does nothing to tell us whether stop clock tolling is necessary to serve a *federal* interest. Nor does it even tell us whether stop clock tolling is necessary to help the *States*. A very long historical record before us suggests that grace periods have worked well to obviate the need for simultaneous filings in state and federal court; the Court offers no account why its innovation might be needed only now to rescue States from their own legislative choices about the appropriate lifespan of their state law claims.

The Court's approach isn't just unnecessary; it isn't proper either. A law is not "proper for carrying into [e]xecution" an enumerated power if it "violates the principle of state sovereignty" reflected in our constitutional tradition. *Printz v. United States*, 521 U.S. 898, 923–924, 117 S.Ct. 2365, 138 L.Ed.2d 914 (1997). The word "proper" was "used during the founding era to describe the powers of a governmental entity as peculiarly within the province or jurisdiction of that entity." Lawson & Granger, *The "Proper" Scope of Federal Power: A Jurisdictional Interpretation of the Sweeping Clause*, 43 *Duke L.J.* 267, 297 (1993). Limitations periods for state law claims fall well within the peculiar province of state sovereign authority. As Chancellor Kent explained, "[t]he period sufficient to constitute a bar to the litigation of sta[te] demands, is a question of municipal policy and regulation, and one which belongs to the discretion of every government, consulting its own interest and convenience." *Sun Oil Co. v. Wortman*, 486 U.S. 717, 726, 108 S.Ct. 2117, 100 L.Ed.2d 743 (1988) (quoting 2 J. Kent, *Commentaries on American Law* 462–463 (2d ed. 1832)). Described as "laws for administering justice," time bars are "one of the most sacred and important of sovereign rights and duties." *Hawkins v. Barney's Lessee*, 5 Pet. 457, 466, 8 L.Ed. 190 (1831). And "from a remote antiquity," they have been the province of the sovereign "by which it exercises its legislation for all persons and property within its jurisdiction." *McElmoyle ex rel. Bailey v. Cohen*, 13 Pet. 312, 327, 10 L.Ed. 177 (1839). Our States have long "exercise[d] this right in virtue of their sovereignty." *Ibid.*

The decision today gives short shrift to these traditional interests. Just consider how differently the two approaches treat States when it comes to one of their most "important of sovereign rights." Under a grace period approach, Congress simply fills a void, for the great bulk of States provide for grace periods of 30 days or longer; only a few States don't allow that much or don't speak to the question. See n. 3, *supra*. So on the grace period account, Congress provides a modest backstop consistent with existing state law. By contrast, under the stop clock interpretation, state law



grace periods are displaced whenever the federal litigation (plus those odd 30 days) happens to be longer than the state law grace period. And that, of course, is sure to happen often, for federal litigation is no quick business and state law grace periods often are. Any time federal litigation (plus, again, 30 days)

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lasts longer than the 30 or 60 or 90 or 365 day grace period found in state law, state law will be forced to give way, and a federally mandated stop clock approach will usurp its place.

The stop clock approach, then, ensures that traditional state law judgments about the appropriate lifespan of state law claims will be routinely displaced—and displaced in favor of nothing more than a fortuity (the time a claim sits in federal court) that bears no rational relationship to any federal interest. The Court's approach forces state courts to entertain routinely state law claims that the state legislatures treat as no claims at all. And it forces state courts to entertain claims that aren't just stale by days or weeks under state law, but stale by months or even many years too. So, for example, take a plaintiff who files suit in federal court shortly after a six year state law limitations period begins running and the litigation lasts six years before it's finally dismissed. Under the Court's approach, federal law will now promise the plaintiff nearly six years more (plus those stray 30 days again) to refile his claim in state court. Neither is this illustration fiction; it is drawn from the facts of *Berke v. Buckley Broadcasting Corp.*, 359 N.J.Super. 587, 821 A.2d 118, 121 (N.J.Super.Ct.App.Div.2003). See also *Krause v. Textron Fin. Corp.*, 2007 WL 8054628, *1–2 (Fla.Cir.Ct.2007) ; Brief for State of Wisconsin et al. as Amici Curiae 20–21 (offering many more examples). Given all this, it's no wonder that 24 States, the National Conference of State Legislatures, and the Council of State Governments complain that the result the Court reaches today flies in the face of federalism.¹²

The Court today clears away a fence that once marked a basic boundary between federal and state power. Maybe it wasn't the most vital fence and maybe we've just simply forgotten why this particular fence was built in the first place. But maybe, too, we've forgotten because we've wandered so far from the idea of a federal government of limited and enumerated powers that we've begun to lose sight of what it looked like in the first place. If the federal government can now, without any rational reason, force States to allow state law causes of action in state courts even though the state law limitations period expired many years ago, what exactly can't it do to override the application of state law to state claims in state court? What boundaries remain then?

I respectfully dissent.

Notes:

¹ The nonfederal claims Artis asserted arose under the D.C. Code and common law; on dismissal of her federal-court suit, she refiled those claims in D.C. Superior Court. For the purpose at hand, District of Columbia law and courts are treated as state law and courts. See 28 U.S.C. § 1367(e) ("As used in this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.").

² The D.C. False Claims Act and the tort of wrongful termination each have a three-year statute of limitations that started to run on the day Artis lost her job in November 2010. See D.C. Code § 2–311.04(c) (2001) (D.C. False Claims Act); *Stephenson v. American Dental Assn.*, 789 A.2d 1248, 1249, 1252 (D.C.2002) (tort of wrongful termination governed by D.C.'s catchall three-year limitations period and claim accrues on the date when plaintiff has unequivocal notice of termination). Artis' whistleblower claim had a one-year limitations period, which began to accrue when Artis "first bec[a]m[e] aware" that she had been terminated for reporting her



supervisor's misconduct. D.C. Code § 1-615.54(a)(2). The parties dispute the date the whistleblower claim accrued. See Brief for Petitioner 10, n. 2; Brief for Respondent 8, n. 2.

³ The high courts of Maryland and Minnesota, along with the Sixth Circuit, have held that § 1367(d)'s tolling rule pauses the clock on the statute of limitations until 30 days after the state-law claim is dismissed. See *In re Vertrue Inc. Marketing & Sales Practices Litigation*, 719 F.3d 474, 481 (C.A.6 2013) ; *Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 759-760 (Minn.2010) ; *Turner v. Kight*, 406 Md. 167, 180-182, 957 A.2d 984, 992-993 (2008). In addition to the D.C. Court of Appeals, the high courts of California and the Northern Mariana Islands have held that § 1367(d) provides only a 30-day grace period for the refiling of otherwise time-barred claims. See *Los Angeles v. County of Kern*, 59 Cal.4th 618, 622, 174 Cal.Rptr.3d 67, 69, 328 P.3d 56, 58 (2014) ; *Juan v. Commonwealth*, 2001 MP 18, 6 N.M.I. 322, 327 (2001).

⁴ Among illustrations: 21 U.S.C. § 1604 (allowing suits to proceed against certain biomaterial providers and providing that "[a]ny applicable statute of limitations shall toll during the period from the time a claimant files a petition with the Secretary under this paragraph until such time as either (i) the Secretary issues a final decision on the petition, or (ii) the petition is withdrawn," § 1604(b)(3)(C)); 28 U.S.C. § 1332 (permitting the removal of "mass actions" to federal court and providing that "[t]he limitations periods on any claims asserted in a mass action that is removed to Federal court pursuant to this subsection shall be deemed tolled during the period that the action is pending in Federal court," § 1332(d)(11)(D)); 42 U.S.C. § 233 (providing a remedy against the United States for certain injuries caused by employees of the Public Health Service, and stating that "[t]he time limit for filing a claim under this subsection ... shall be tolled during the pendency of a [n] [administrative] request for benefits," § 233(p)(3)(A)(ii)). See also Wis. Stat. § 893.15(3) (2011-2012) ("A Wisconsin law limiting the time for commencement of an action on a Wisconsin cause of action is tolled from the

period of commencement of the action in a non-Wisconsin forum until the time of its final disposition in that forum."). The dissent maintains that "stop clock examples [from the U.S. Code] often involve situations where some disability prevents the plaintiff from proceeding to court." *Post*, at 614, n. 7. Plainly, however, the several statutes just set out do not fit that description: They do not involve "disabilities." Instead, like § 1367(d), they involve claims earlier commenced in another forum.

⁵ As we recognized in *Chardon v. Fumero Soto*, 462 U.S. 650, 103 S.Ct. 2611, 77 L.Ed.2d 74 (1983), there may be different ways of "calculating the amount of time available to file suit *after tolling has ended*." *Id.*, at 652, n. 1, 103 S.Ct. 2611 (emphasis added). In addition to the "common-law" stop-the-clock effect, *id.*, at 655, 103 S.Ct. 2611, under which the plaintiff must file within the amount of time left in the limitations period, a statute might either provide for the limitations period to be "renewed," so that "the plaintiff has the benefit of a new period as long as the original," or "establish a fixed period such as six months or one year during which the plaintiff may file suit, without regard to the length of the original limitations period or the amount of time left when tolling began." *Id.*, at 652, n. 1, 103 S.Ct. 2611. Notably, under each of the "tolling effect[s]" enumerated in *Chardon*, *ibid.*, the word "tolled" means that the progression of the limitations clock is stopped for the duration of "tolling."

⁶ The dissent's notion that federal tolling periods may be understood as grace periods, not stop-the-clock periods, see *post*, at 611 -612, is entirely imaginative.

⁷ Also illustrative, the Equal Credit Opportunity Act prescribes a five-year limitations period for certain suits. 15 U.S.C. § 1691e(f). Where a government agency has brought a timely suit, however, an individual may bring an action "not later than one year after the commencement of that proceeding or action." *Ibid.*

⁸ Reasons of history, context, and policy, the dissent maintains, would have made it sensible for Congress to have written a grace-period



statute. See *post*, at 609 – 610. But "[t]he controlling principle in this case is the basic and unexceptional rule that courts must give effect to the clear meaning of statutes as written[,] ... giving each word its ordinary, contemporary, common meaning." *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 580 U.S. ———, ———, 137 S.Ct. 1002, 1010, 197 L.Ed.2d 354 (2017) (internal quotation marks omitted).

⁹ This is indeed a definition sometimes used in reference to a right. See, e.g., *Ricard v. Williams*, 7 Wheat. 59, 120, 5 L.Ed. 398 (1822) ("[A]n adverse possession ... toll[s] the right of entry of the heirs, and, consequently, extinguish[es], by the lapse of time, their right of action for the land."). See also Black's Law Dictionary 1488 (6th ed. 1990) ("toll" can mean "bar, defeat, or take away; thus, to toll the entry means to deny or take away the right of entry"). The dissent, also relying on this sense of the word "toll," cites *Chardon* as support for the proposition that § 1367(d)'s tolling instruction is ambiguous. See *post*, at 609; *supra*, at 601 – 602, n. 5. But, importantly, the grace-period statutes noted in *Chardon*, 462 U.S., at 660, n. 13, 103 S.Ct. 2611, were precise about their operation. *Chardon* provides no support for the notion that a statute's instruction that a "period of limitations shall be tolled" plausibly could mean that the limitations clock continues to run but its effect as a bar is removed during the tolling. See *post*, at 608 – 609.

¹⁰ The District emphasizes that the Reporter's note accompanying the ALI's proposed statute stated: "[A]ny governing statute of limitations is tolled by the commencement of an action in a federal court, and for at least thirty days following dismissal ... in any case in which the dismissal was for lack of jurisdiction." ALI Study 66. The similarity between *this* language and § 1367(d), the District argues, rebuts any argument that Congress did not adopt the ALI's recommendation. We are unpersuaded. The District offers no explanation why, if Congress wanted to follow the substance of the ALI's grace-period recommendation, it would neither cite the ALI Study in the legislative history of § 1367(d), see *infra* this page, nor adopt the precise language

of either the proposed statute or the Reporter's note. The ALI Study, moreover, cautions that the Reporter's notes reflect "the Reporter's work alone," not a position taken by the Institute. ALI Study, p. x.

¹¹ The dissent offers a history lesson on the ancient common-law principle of "journey's account," see *post*, at 610 – 611, and n. 4, but nothing suggests that the 101st Congress had any such ancient law in mind when it drafted § 1367(d). Cf. *post*, at 612 – 613. More likely, Congress was mindful that "suspension" during the pendency of other litigation is "the common-law rule." *Chardon*, 462 U.S., at 655, 103 S.Ct. 2611.

¹² The dissent, *post*, at 612 – 613, conjures up absurdities not presented by this case, for the District of Columbia has no law of the kind the dissent describes. All agree that the phrase "unless State law provides for a longer tolling period" leaves room for a more generous state-law regime. The dissent posits a comparison between the duration of the federal suit, plus 30 days, and a state-law grace period. But of course, as the dissent recognizes, *post*, at 612 – 613, the more natural comparison is between the amount of time a plaintiff has left to refile, given the benefit of § 1367(d)'s tolling rule, and the amount of time she would have to refile under the applicable state law. Should the extraordinary circumstances the dissent envisions in fact exist in a given case, the comparison the dissent makes would be far from inevitable.

¹³ The dissent refers to an "understanding," *post*, at 615, by the Court in *Jinks v. Richland County*, 538 U.S. 456, 123 S.Ct. 1667, 155 L.Ed.2d 631 (2003), that § 1367(d) accords only a 30-day "window" for refile in state court. Scattered characterizations in the *Jinks* briefing might be seen as conveying that understanding. See *post*, at 615, n. 9. The opinion itself, however, contains nary a hint of any such understanding. And indeed, one year earlier, we described § 1367(d) as having the effect of stopping the clock, i.e., "toll[ing] the state statute of limitations for 30 days in addition to however long the claim had

been pending in federal court." *Raygor v. Regents of Univ. of Minn.*, 534 U.S. 533, 542, 122 S.Ct. 999, 152 L.Ed.2d 27 (2002).

¹ See *Developments in the Law: Statutes of Limitations*, 63 Harv. L. Rev. 1177, 1220 (1950) ("[C]ircumstances which—despite the existence of a right to sue—hinder or prevent suit have been recognized by courts and legislatures as cause for postponing the start of the statutory period until the occurrence of some additional fact, or for interrupting the running of limitations while some condition exists"); 13 *American and English Encyclopaedia of Law* 739–745 (1890) (discussing "disabilities which postpone the running of the statute," such as infancy, absence of the defendant, insanity, and imprisonment).

² See, e.g., *Woods v. Houghton*, 67 Mass. 580, 1 Gray 580, 583 (1854) (grace period allowed after plaintiff filed in the "wrong county"); *Pittsburg, C., C. & St. L. R. Co. v. Bemis*, 64 Ohio St. 26, 27–28, 59 N.E. 745 (1901) (grace period allowed after suit was dismissed by federal court); *Cox v. Strickland*, 120 Ga. 104, 47 S.E. 912, 915 (1904) (grace period allowed for refile "in the proper forum"). Indeed, courts have rejected the stop clock approach in determining the time to refile. See *Martin v. Archer*, 3 Hill (SC) 211, 215 (S.C.App. 1837) ("A former suit is not a suspension of the statute during the time it is pending"). Simply put, when it came to tolling effects, the "pendency of legal proceedings" was "quite different from disabilities." 13 *American and English Encyclopaedia of Law*, at 745–746.

³ At the time of section 1367(d)'s enactment, it appears at least 31 of 36 States that provided tolling of some kind guaranteed a grace period. See also Brief for National Conference of State Legislatures et al. as *Amici Curiae* 1a–25a (discussing current state statutes).

⁴ The "[p]rinciple of journeys account became definitely fixed and somewhat enlarged in England by an early statute.... This statute, with varying changes, has been enacted in nearly all of the states of the Union." 19 *American and English Encyclopaedia of Law* 262 (2d ed. 1901); *Cox*, 47 S.E., at 915 (explaining that, "in lieu" of the

journey's account, the colonial act of 1767 permitted "a new action within one year" of dismissal, and then the act of 1847 allowed a new action within six months of dismissal "notwithstanding the intervening bar of the statute"); *Denton v. Atchison*, 76 Kan. 89, 90 P. 764, 765 (1907) (statute adopted "the common-law rule of 'journeys account' "); *English v. T.H. Rogers Lumber Co.*, 68 Okla. 238, 173 P. 1046, 1048 (1918) ("Statutes such as ours are said to have their origin in the common law rule of 'journeys account' "); *Baker v. Cohn*, 266 A.D. 236, 41 N.Y.S.2d 765, 767 (1943) ("Historically, the extension of one year's time ... is said to be an outgrowth of the ancient common law rule of 'journey's account' "); *Sorensen v. Overland Corp.*, 142 F.Supp. 354, 362 (D.Del.1956) ("The statute of 'journeys' account' is one founded under English law, and enacted in most jurisdictions today"); *Wilt v. Smack*, 147 F.Supp. 700, 702 (E.D.Pa.1957) ("Statutes of Journey's Account originated in England and have long existed, in varying forms, among the states").

⁵ In footnote 12 of its opinion, the Court suggests that a comparison between state and federal tolling periods may not be "inevitable" and that in "extraordinary circumstances" like those discussed above a comparison between the state tolling period and the time left on the clock before the federal filing might prove "more natural." *Ante*, at 606, n. 12. But even here the Court does not attempt to explain how the latter comparison might be fairly extracted from the statutory text—let alone only in "extraordinary circumstances."

⁶ The Court offers a couple of competing textual arguments but neither can bear much weight.

First, the Court suggests that deriving a grace period from the statutory term "period of limitations" requires "strain[ing]." *Ante*, at 603 – 604. But the fact is both the grace period and stop clock interpretations require some (and some very similar) inferences. The grace period approach construes the term "period of limitations" as directing us to the "effect of the period of limitations" that is tolled or taken away. For its part meanwhile, the stop clock approach



construes "period of limitations" to refer to the "running of the period of limitations" that is tolled or taken away. The question is which inference is more persuasive. And in light of the dual kinds of tolling the law has long recognized, as well as the textual and contextual clues before us (some still to be discussed), the better answer is clear.

Second, the Court complains that the grace period interpretation renders "superfluous" the phrase "while the claim is pending." *Ante*, at 603 –604. But the phrase does important work under the grace period approach, ensuring that the expiration of limitations period does not take effect while the claim is pending in federal court. Indeed and somewhat paradoxically, the Court itself implicitly recognizes that the language *does* real work when it suggests (in its next sentence no less) that the grace period approach could "yield an absurdity" by working to revive a claim that has already expired before it is brought in federal court. *Ante*, at 603 – 604. There is of course no absurdity in it, for the term "while the claim is pending" does the important work of addressing that very concern, preventing the expiration of the statute of limitations from taking effect while the claim is pending even as the language also and sensibly permits the statute of limitations to take effect if it expires before the plaintiff files his claim in federal court.

² The Court dismisses this "history lesson" on the ground that it doesn't know if Congress had "the ancient common-law ... in mind." *Ante*, at 605, n. 11. But respect for Congress's competency means we presume it knows the substance of the state laws it expressly incorporates into its statutes and the common law against which it operates. See *supra*, at 613 – 614. When the Court turns to offer its own competing contextual evidence, it observes that a stop clock approach can be found in many other places in the U.S. Code. See *ante*, at 600 – 601, and n. 4, 605 – 606. But it turns out the Court's stop clock examples often involve situations where some disability prevents the plaintiff from proceeding to court. See, *e.g.*, 26 U.S.C. § 6213(f)(1) (limitations period for filing a petition in the Tax Court "shall be suspended for the period during which the debtor is prohibited

... from filing a petition"); § 6503(a)(1) (limitations period on making an assessment shall "be suspended for the period during which the Secretary is prohibited from making the assessment"). Notably, not one of the Court's examples purports to address a situation like the one we face: where the plaintiff has proven able to come to court but merely chosen the wrong one. The Court's own contextual evidence, then, serves to illustrate just how unusual and out of place a stop clock approach would be here.

³ Of course, the case before us arises from litigation in the District of Columbia where the federal government enjoys plenary power. See Art. I, § 8, cl. 17. But the federalism concern here cannot be ignored, as the Court today rightly acknowledges (*ante*, at 605 – 608), because the statute at issue applies nationwide and the vast bulk of its applications come in the States and implicate state causes of action, state limitations laws, and state court proceedings.

⁴ See Brief for Petitioner in *Jinks v. Richland County*, O.T. 2002, No. 02–258, p. 9 ("The tolling window created lasts only 30 days after dismissal without prejudice from district court[.]"); *id.*, at 37 (section 1367(d)"provides a *de minimis* window in which a plaintiff may refile in state court if the limitations period expires during the pendency of the federal district court action"); Brief for Respondent in No. 02–258, p. 31 (describing section 1367(d) as providing "a thirty-day tolling window"); Brief for United States in No. 02–258, pp. 16, 22 (describing section 1367(d) as "minimally intrusive on state prerogatives" since it ensures that the "statute of limitations on the pendent claim will not expire during the pendency of the federal-court action"); Pet. for Cert. in No. 02–258, p. 22 ("Section 1367(d) merely saves—for a maximum excess period of 30 days—a preexisting lawsuit that must be refiled to allow the matter to be heard in a forum preferable to the State, namely, in its own courts"); see also Brief for State of Wisconsin et al. as *Amici Curiae* 8–9.

⁵ The Court's reply—that stop clock tolling is "standard" and "off-the-shelf"—is no answer.



Ante, at 607 – 08. The propriety of a legal tool in one area does not establish its propriety in all; while stop clock tolling may be standard and off-the-shelf in other contexts (such as for equitable tolling) that doesn't mean it is necessary and proper here. Indeed, and as we've seen, the "standard" and "off-the-shelf" solution to the problem of dismissal and the need to refile is the one adopted at common law and by state law: a grace period. If we're interested in looking for the right shelf, that's the one.



819 A.2d 651

**DIRECT ACTION FOR RIGHTS AND
EQUALITY**

v.

**Bernard E. GANNON, in his capacity as
Chief of Police of the City of Providence.**

Nos. 99-22-Appeal, 99-221-Appeal.

Supreme Court of Rhode Island.

April 10, 2003.

[819 A.2d 652]

[819 A.2d 653]

[819 A.2d 654]

Present: WILLIAMS, C.J., FLANDERS,
GOLDBERG, JJ., and SHEA, J.(Ret.).

Dennis T. Grieco, II/Michael G. Sarli,
Providence, for plaintiff.

Richard G. Riendeau/Edward C. Roy, Jr.,
Providence, for defendant.

OPINION

WILLIAMS, Chief Justice.

In this case, the plaintiff, Direct Action for Rights and Equality (DARE or plaintiff), an incorporated, non-profit community action group based in Providence, Rhode Island, brought an action pursuant to the Access to Public Records Act, G.L.1956 chapter 2 of title 38 (APRA), to compel the defendant, Bernard E. Gannon,¹ in his official capacity as Chief of Police of the City of Providence (city or defendant), to produce various documents relating to civilian complaints of police misconduct.² Both the plaintiff and the defendant appealed the order of the trial justice in this matter, and those appeals were consolidated for a single disposition by this Court. We also note that this is the second appeal heard by this Court

concerning the current action. See *Direct Action for Rights and Equality v. Gannon*, 713 A.2d 218, 225 (R.I.1998) (*DARE I*) (holding that the city must provide to DARE certain requested documents with only directly identifying factors redacted, such as the names of the complainants and officers against whom the complaints were made). The facts pertinent to the immediate appeal are as follows.

I

Facts and Travel

In a letter dated September 17, 1993, plaintiff requested several documents from the city pursuant to the APRA. Specifically, plaintiff requested the following information:

"a.) Every 'Providence Police Civilian Complaint report' (Form 210) filed within the Providence Police Dept. from 1986 to present.

b.) A listing of all findings from investigations that was [sic] conducted by the Bureau of Internal Affairs, in reference to all 'Providence Police Civilian Complaint reports' (Form 210) on record from 1986 to present.

c.) All reports made by the 'Providence Police Department Hearing officers' on their decisions from the findings of investigations conducted in Re: 'Providence Police Civilian Complaints' (Form 210) from 1986 to present.

d.) Reports on all disciplinary action that's [sic] been taken as a result of recommendations made by the Hearing Officers Division since 1986 to present."

On November 28, 1994, Providence City Solicitor Charles Mansolillo (Mansolillo), responded to plaintiff by stating that records only existed from 1988 to present and, further, he refused to produce the

[819 A.2d 655]



records sought in categories (a), (b) and (d), but agreed to provide the information in category (c) in redacted form. In response to Mansolillo's denial, plaintiff initiated the present action on May 5, 1995. In its complaint, DARE sought the production of all four categories of documents, \$1,000 in damages pursuant to § 38-2-9, plus costs, statutory interest, attorneys' fees and any other relief that the court deemed proper. Both parties filed cross-motions for summary judgment. In June 1996, the trial justice granted plaintiff's motion in part and denied defendant's motion. Specifically, he ordered defendant to produce all the requested records in unredacted form.

The defendant appealed the trial justice's order to this Court. On appeal, we determined that DARE was entitled to get access to the public records in categories (a), (c) and (d), redacting only the names of the complaining citizens and the police officers who were the subjects of the complaints. *See DARE I*, 713 A.2d at 225. DARE was not entitled to the requested records in category (b). *See id.* Furthermore, we remanded the matter back "to the Superior Court for further proceedings consistent with [our] opinion." *Id.*

In a hearing on remand conducted in Superior Court on December 17, 1998, DARE requested that fees for reproducing the documents be waived and that the city be fined and ordered to pay attorneys' fees. The trial justice reserved his decision on those issues for a later date, but ordered defendant to "produce all records that are the subject of this litigation (1986 to and including the present) to the plaintiff on or before January 8, 1999." The defendant then filed a motion requesting that the trial justice reconsider his order and provide the city with more time to comply because "some 700 closed case files exist" and it would need additional time to retrieve and redact the relevant information. Additionally, defendant appealed the trial justice's order to this Court, stating that:

"The City's objection was primarily predicated upon the [o]rder requiring the City to provide copies of records that the Supreme Court

had opined in the instant matter were unavailable to D.A.R.E. The [o]rder as entered clearly mandates that the City must provide all records to the [p]laintiff that are the subject of the litigation. The [o]rder does *not* state that these records be provided in redacted form. All records means *all* records."

This argument was advanced despite a letter from plaintiff's counsel reaffirming DARE's request for defendant to produce only "those things that the Supreme Court has previously said DARE is entitled to."

At an emergency conference requested by the city on its motion for stay, this Court stated that the trial justice's order required defendant to produce only the documents that this Court required in *DARE I*. Consequently, on January 21, 1999, this Court issued an order denying defendant's motion to stay the trial justice's order.

On February 11, 1999, the parties were once again before the trial justice. Besides redacting the names of the complaining witnesses and officers against whom the complaints were made, defendant redacted the names of witnesses, locations, police officers on the scene and in some cases, the race of the parties involved in the incidents. Furthermore, plaintiff expressed concerns that it was not receiving all the records to which it was entitled.³

[819 A.2d 656]

Consequently, besides requesting attorneys' fees and costs, plaintiff moved that defendant be held in civil contempt.

On May 12, 1999, the trial justice issued a bench decision in which he held that the city had no authority to redact location, even if the complaining witness lived there, nor did defendant have license to redact the names of non-complainant witnesses, whether they were police officers or civilians.⁴ The trial justice determined, however, that the city did not intentionally attempt to interfere with the workings of the court, and thus denied plaintiff's

motion to hold defendant in civil contempt and refused to order a fine. Additionally, the trial justice relied on the 1998 amendment to the APRA, which allowed him to waive the fees to be charged to plaintiff for the cost of retrieval and redaction of the requested documents because the "information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Section 38-2-4(e), as amended by P.L.1998, ch. 378, § 1. Furthermore, the trial justice ordered that defendant pay to plaintiff all attorneys' fees incurred after July 20, 1998, the date the general assembly amended § 38-2-9(d) (P.L. 1998, ch. 378, § 1). In an order dated May 13, 1999, the trial justice ordered defendant (1) to "produce all records that are the subject of this litigation[, redacting] only the names of complainants and the officers against whom complaints have been made * * *," (2) to bear the costs for production, retrieval and redaction of relevant documents, and (3) to pay plaintiff reasonable attorneys' fees and costs incurred by plaintiff from July 20, 1998, through the present. The defendant immediately filed a notice of appeal in this Court, as well as a stay of the trial justice's order, which we denied.

On May 17, 1999, the trial justice heard arguments from the city on why it should be allowed to redact the Social Security numbers of the complainants and the badge numbers of the police officers against whom the complaints were made. Thereafter, he issued an order allowing defendant to redact the Social Security and badge numbers. The plaintiff timely filed notice of a cross-appeal of the trial justice's decisions. This Court granted defendant's motion to consolidate those appeals on March 29, 2000.

On appeal, plaintiff argues that (1) the trial justice erred in failing to hold defendant in civil contempt and should have imposed a \$1,000 fine pursuant to § 38-2-9(d); (2) the trial justice should have ordered defendant to pay plaintiff's attorneys' fees from the commencement of this action; and (3) the trial justice erred in permitting defendant to redact the Social Security numbers

of complainants and badge numbers of police officers against whom complaints were made. The defendant argues (1) that the trial justice erred by applying the 1998 amendments to the APRA in the instant matter, and (2) that even if they did apply, they did not authorize the trial justice to waive the costs charged to plaintiff for production and redaction and he should not have awarded attorneys' fees because defendant did not commit a knowing and willful violation of the statute. We address these arguments below after providing general background on APRA.

[819 A.2d 657]

II

The Purpose of the APRA

"A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."⁵ The Rhode Island General Assembly has effectively codified this philosophy by enacting the APRA and stating that the purpose of such legislation is as follows:

"The public's right to access to records pertaining to the policy making responsibilities of government and the individual's right to dignity and privacy are both recognized to be principles of the utmost importance in a free society. The purpose of this chapter is to facilitate public access to governmental records which pertain to the policy making functions of public bodies and/or are relevant to the public health, safety, and welfare. It is also the intent of this chapter to protect from disclosure information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy." Section 38-2-1.

Consequently, this Court has long adhered to this purpose and recognized that the underlying policy of the APRA is the promotion of the free flow and disclosure of information to the public. *Providence Journal Co. v. Sundtun*, 616 A.2d 1131, 1134 (R.I. 1992); *Hydron Laboratories, Inc. v. Department of Attorney General*, 492 A.2d 135, 137 (R.I.1985). Accordingly, in construing the APRA this Court is sensitive to the General Assembly's explicitly stated intent provided in § 38-2-1. *See The Rake v. Gorodetsky*, 452 A.2d 1144, 1147 (R.I.1982).

III

The Retroactivity of the 1998 Amendments to the APRA

In an effort to further promote access to public information, the General Assembly promulgated amendments to the APRA in 1998 that (1) allow a trial justice to "award reasonable attorney fees and costs to the prevailing plaintiff," § 38-2-9(d), and (2) grant a trial justice the power to waive "costs charged for search or retrieval if [he or she] determines that the information requested is in the public interest because it is likely to contribute significantly to public understating of the operations or activities of the government and is not primarily in the commercial interest of the requester." Section 38-2-4(e).

The defendant asserts that the trial justice erred in waiving plaintiff's costs and awarding it attorneys' fees because those amendments to the APRA did not go into effect until after this action began. We disagree with defendant's contention.

In *Solas v. Emergency Hiring Council of Rhode Island*, 774 A.2d 820, 821 (R.I. 2001), the Emergency Hiring Council (EHC) held a closed meeting to consider the hiring of a hearing officer for the State Building Commission. After being informed that the meeting was closed to the public, Gregory Solas (Solas) filed a complaint alleging violations of the Open Meetings Act (OMA), G.L.1956 chapter 46 of title 42, and

requesting a temporary restraining order to prevent the hiring of the

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hearing officer until the applicability of the OMA was resolved. *See id.* The trial justice found that the OMA did apply to the meeting and permanently enjoined EHC from failing to act in accordance with the OMA. *See id.* at 822. Furthermore, the trial justice granted Solas's request for attorneys' fees pursuant to § 42-46-8(d). *See id.*

On appeal, EHC argued that the trial justice erred in awarding attorneys' fees because Solas filed the action in September 1997, and the amendment to the OMA providing for attorneys' fees did not become effective until July 20, 1998. *See Solas*, 774 A.2d at 825. This Court found EHC's argument unpersuasive. *See id.* In making our decision we relied on the axiom that courts "should apply the law in effect at the time a decision is rendered even though that law was enacted after the events that gave rise to the suit * * * [and noted that] `a trial court should apply the law in effect at the time it makes its decision if such application would implement the legislative intent.'" *Id.* at 825-26. Although the amendment providing for the award of reasonable attorneys' fees was enacted subsequent to Solas's filing of his complaint, it became effective before the trial justice's decision. *See id.* at 826. Thus, the trial justice properly applied the attorneys' fees provision of the OMA to Solas's case. *See id.*

As in *Solas*, the attorneys' fees and waiver of costs provisions in § 38-2-9(d) were enacted subsequent to DARE's filing of its complaint but before the trial justice made a final decision. Thus, we conclude that there is no discernible difference between the two situations and hold that the trial justice did not err in applying §§ 38-2-4 and 38-2-9(d) to the present case.

Although the trial justice properly applied § 38-2-9(d)² to the current action, plaintiff argues that the trial justice should have awarded attorneys' fees from the time the action began



rather than from the date the amendment went into effect. We agree with plaintiff's contention.

Ordinarily, this Court presumes that statutes and their amendments operate prospectively unless there is clear, strong language or a necessary implication that the General Assembly intended to give the statute retroactive effect. *See Pion v. Bess Eaton Donuts Flour Co.*, 637 A.2d 367, 371 (R.I.1994). When, however, a statute lacks such clear, strong language or there is no necessary implication concerning its retroactive application, the distinction between a substantive statute and a remedial, or procedural, statute becomes important. *See id.* "Substantive statutes, which create, define, or regulate substantive legal rights, must be applied prospectively. * * * In contrast, remedial and procedural statutes, which do not impair or increase substantive rights but rather prescribe methods for enforcing such rights, may be construed to operate retroactively." *Id.*

Again, we refer to *Solas* for guidance. In *Solas*, we held that the OMA, which was enacted before *Solas* initiated his lawsuit, was "an existing substantive right available to the citizens of this state at the time [*Solas* filed this action]." *Solas*, 774 A.2d at 826. The attorneys' fees provision codified in § 42-46-8(d), however, "merely

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added an additional remedial measure to that already existing substantive right." *Solas*, 774 A.2d at 826. Thus, an award of attorneys' fees from the time the suit began was appropriate. *Id.*

In the case before us, we conclude that, at the time plaintiff brought this action, the APRA conferred upon the public the substantive right to have access to public records. Section 38-2-9(d) merely provides the additional remedial measure of attorneys' fees to that already existing substantive right. Therefore, the trial justice should have ordered defendant to pay attorneys' fees to plaintiff from May 5, 1995 — the date plaintiff filed its complaint — to the date of this decision.

IV

Awarding Attorneys' Fees under § 38-2-9(d)

Alternatively, defendant argues that, even if § 38-2-9(d) applies retrospectively, the trial justice erred in awarding plaintiff attorneys' fees because he should not have made such an award absent a showing of a knowing and willful violation of the APRA. We disagree.

Section 38-2-9(d) provides in pertinent part:

"The court shall impose a civil fine not exceeding one thousand dollars (\$1,000) against a public body or official found to have committed a knowing and willful violation of this chapter, and shall award reasonable attorney fees and costs to the prevailing plaintiff."

The crux of defendant's argument is that the scienter requirement of § 38-2-9(d) — that there be a knowing and willful violation of the APRA — is necessary for imposing a civil fine and for awarding attorneys' fees and costs to the prevailing plaintiff. The trial justice disagreed and determined that the "knowing and willful" language only modified the civil fine provision rather than the attorneys' fees provision.⁷

This Court reviews *de novo* questions of statutory interpretation. *See Pier House Inn, Inc. v. 421 Corporation, Inc.*, 812 A.2d 799, 804 (R.I.2002). When a statute is clear and unambiguous, we adopt its plain and ordinary meaning. *See id.* When a statute is ambiguous, however, "there is room for statutory construction and we examine the statute in its entirety in order to glean the intent and purpose of the Legislature." *State v. Ceraso*, 812 A.2d 829, 834 (R.I.2002) (quoting *RIH Medical Foundation, Inc. v. Nolan*, 723 A.2d 1123, 1126 (R.I.1999)). In this case, there is patent ambiguity about whether the "knowing and willful" language modifies an award of attorneys' fees to the "prevailing plaintiff." Therefore, we must look to the APRA as a whole to clarify the requirements of § 38-2-9(d).

Section 38-2-2(6) of the APRA, provides that the term "prevailing plaintiff" is equivalent to "those persons and entities deemed prevailing parties pursuant to 42 U.S.C. § 1988." Congress enacted 42 U.S.C. § 1988 in derogation of the "American Rule" that courts should not award attorneys' fees absent explicit statutory authority. *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health and Human Resources*, 532 U.S. 598, 602, 121 S.Ct. 1835, 1839, 149 L.Ed.2d 855, 861 (2001). Section 1988 of 42 U.S.C. authorizes courts to award "reasonable attorneys' fees to prevailing parties

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in proceedings in vindication of civil rights." *Raishevich v. Foster*, 247 F.3d 337, 344 (2d Cir.2001). "[T]he term 'prevailing party' [is] a legal term of art." *Buckhannon Board & Care Home, Inc.*, 532 U.S. at 603, 121 S.Ct. at 1839, 149 L.Ed.2d at 862. It includes any "party in whose favor a judgment is rendered, regardless of the amount of damages awarded * * * [a]lso termed *successful party*." *Id.* (quoting Black's Law Dictionary 1145 (7th ed.1999)). The bad faith on the part of a defendant is irrelevant in determining whether to award attorneys' fees to a prevailing plaintiff. *Christiansburg Garment Co. v. Equal Employment Opportunity Commission*, 434 U.S. 412, 416-17, 98 S.Ct. 694, 698, 54 L.Ed.2d 648, 653 (1978). Rather, the "prevailing plaintiff" in a civil rights case ordinarily should receive attorneys' fees "unless special circumstances would render such an award unjust." *Id.* This is consistent with the policy behind 42 U.S.C. § 1988, which encourages "the bringing of meritorious civil rights claims which might otherwise be abandoned because of the financial imperatives surrounding the hiring of competent counsel." *Raishevich*, 247 F.3d at 344.

Applying the interpretations of 42 U.S.C. § 1988 to § 38-2-9(d), we conclude that the "knowing and willful" requirement is not a consideration when determining whether a court should award attorneys' fees to a prevailing plaintiff. Rather, that language is only relevant for determining whether a court should authorize a

\$1,000 fine against a "public body or official." This interpretation gives effect to the legislative intent that a "prevailing plaintiff" be awarded attorneys' fees as he or she would under 42 U.S.C. § 1988 — with the inquiry focusing only on whether the plaintiff is successful, not the defendant's subjective intent. Furthermore, we believe that the General Assembly's intent in enacting the APRA would best be served by providing litigants an incentive to bring meritorious claims when they otherwise may be dissuaded from bringing such claims based on the costly nature of hiring competent counsel. If we held that an award of attorneys' fees to the prevailing plaintiff depended on the subjective intent of the defendant, we would discourage the public from bringing such suits and thereby would ignore the stated purpose behind the APRA.

In this case, it is clear that DARE is a prevailing plaintiff. It sought and was entitled to the records from the city. When the city denied its request, DARE brought this suit to compel production of the requested documents. The trial justice and this Court determined that plaintiff was entitled to these records and, accordingly, the trial justice ordered defendant to produce them. Regardless of whether defendant knowingly and willfully violated the APRA, we hold that the trial justice did not err in awarding DARE attorneys' fees under § 38-2-9(d).

V

Willful and Knowing Violation of the APRA under § 38-2-9(d)

DARE further contends that the trial justice should have ordered defendant to pay the \$1,000 civil fine authorized by § 38-2-9(d) because defendant willfully and knowingly violated the APRA. Our standard of review of a trial justice's findings of fact is deferential, and we will overturn such findings only when the trial justice has overlooked or misconceived material evidence or if they are clearly wrong. *Samos v. 43 East Realty Corp.*, 811 A.2d 642, 644 (R.I.2002). In this case, we do not find that the trial justice misconceived

or overlooked material evidence or was clearly wrong indetermining that defendant did not knowingly or willfully violate

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the APRA. DARE presented no evidence to the trial justice showing that defendant intentionally disregarded the APRA. Therefore, DARE is not entitled to the civil fine authorized by § 38-2-9(d).

VI

Civil Contempt

In addition to our determination that the trial justice did not err in declining to award to DARE the \$1,000 fine authorized by § 38-2-9(d), we affirm the trial justice's decision not to hold defendant in civil contempt for failing to comply with either this Court's or the trial justice's own order for defendant to produce three of the four categories of the requested documents.

"A civil contempt proceeding is an appropriate vehicle to enforce compliance with court orders and decrees when attempting to preserve and enforce the rights of parties litigant." *Trahan v. Trahan*, 455 A.2d 1307, 1311 (R.I.1983). A complaining party can establish civil contempt on behalf of his opponent when there is clear and convincing evidence that a lawful decree has been violated. *Id.* Findings of contempt are within the discretion of the trial justice and this Court will only overturn such findings where they are clearly wrong. *Durfee v. Ocean State Steel, Inc.*, 636 A.2d 698, 704 (R.I. 1994). In this case, there was no clear and convincing evidence that defendant intentionally violated either this Court's decree in *DARE I*, or the trial justice's order. Rather, it is more likely that the orders were misinterpreted to include a wider array of redactable information that would directly identify the complainant or officer against whom the complaint was made. Therefore, we hold that the trial justice did not abuse his discretion in refusing to find defendant in contempt and we affirm his decision.

VII

The Cost of Redaction

The defendant argues that the redaction of the names of the complainants and police officers against whom the complaints were made requires an extraordinary effort and that DARE should bear the cost of such effort. In support of its position, defendant relies on *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1139 (R.I.1998), in which we observed that § 38-2-4(a) and (b), require that a party seeking production of public records pay the costs relating to copying, search and retrieval of such documents. Based on those subsections, we determined that the costs of redaction should be borne by the requesting party because it is part of the process of retrieving and producing the requested documents. *See id.* In our decision, however, we noted that the General Assembly, by enacting legislation, could make requested public records available to a requesting party free of cost. *See id.* Shortly thereafter, the 1998 amendments to the APRA went into effect.⁸ The portion of the APRA entitled "Cost" was amended to permit a trial justice to waive "costs charged for search or retrieval if it determines that the information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government * * *." Section 38-2-4(e),

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as amended by P.L.1998, ch. 378, § 1. Thus, interpreting this amendment in context with our decision in *Rodgers*, we conclude that, although the requesting party bears the cost of redaction as part of the search and retrieval costs, a trial judge has discretion to waive those costs when the request is in the public interest and is likely to contribute to the public understanding or operation of government. *See* § 38-2-4(e).

The question of whether the production by defendant of the requested documents was in the public interest presented a mixed question of law and fact. A mixed question of law and fact is one



in which "the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard." *Pullman-Standard v. Swint*, 456 U.S. 273, 289 n.19, 102 S.Ct. 1781, 1790 n.19, 72 L.Ed.2d 66, 80 n.19 (1982). In this case, the rule of law is clear. A trial justice may waive costs if the request is in the public interest and is likely to contribute to the public understanding of government. See § 38-2-4(e). The only issue was whether DARE's request satisfied the standard of being in the public interest. Because this Court reviews mixed questions of law and fact with the same amount of deference that we accord to a trial justice's findings of fact, we will not overturn a trial justice's findings of fact absent a showing that the trial justice overlooked or misconceived material evidence or was otherwise clearly wrong. See *Associated Builders & Contractors of Rhode Island, Inc. v. Department of Administration*, 787 A.2d 1179, 1184 (R.I.2002). The defendant has made no showing that the trial justice's decision that DARE's request was in the public interest resulted from his misconceiving or overlooking evidence or was otherwise clearly wrong. Therefore, we affirm the trial justice's decision to waive the costs of producing the requested records.

VIII

Trial Justice's Modification of his Order

The plaintiff avers that the trial justice should not have modified his order of May 13, 1999, to allow defendant to redact the Social Security numbers of the complainants and the badge number of the officers against whom the complaints were made. We disagree.

Litigants have the option of petitioning a trial justice for a modification of an order pursuant to Rule 60(b) of the Superior Court Rules of Civil Procedure. A trial justice's decision to modify his own order is entitled to deference and "will not be disturbed on appeal absent a showing of abuse of discretion or error of law." *Zannini v. Downing Corp.*, 701 A.2d 1016, 1017 (R.I.1997) (per curiam).

In this case, defendant did not file a motion to modify pursuant to Rule 60(b). Nevertheless, on May 17, 1999, the trial justice modified his previous order based on defendant's informal request. Although we prefer that litigants abide by the rules of court, we decline to overturn the trial justice's decision to modify based on the absence of a formal motion to vacate. To do so would elevate form over substance. Therefore, we proceed to determine whether the trial justice abused his discretion in modifying his order of May 13, 1999. We determine that he did not.

The APRA does not provide the press and the public with "carte blanche" authority to demand all records held by public agencies. *Providence Journal Co. v. Kane*, 577 A.2d 661, 663 (R.I.1990). Rather, it provides exceptions to the general

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requirement of public disclosure. Section 38-2-2(4)(i)(A)(I) exempts "[a]ll records which are identifiable to an individual applicant for benefits, client, patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare, employment security * * *."

In *Kane*, we held that employee numbers are the kind of record that would specifically identify an employee, thus exempting them from disclosure. See *Kane*, 577A.2d at 665. In this case, police officer badge numbers are sufficiently similar to the employee numbers in *Kane* to be exempt from disclosure under the APRA. Additionally, a Social Security number is a unique, identifying record that the United States government assigns to every citizen. Because we held that the names of the complainants should be redacted, the trial justice's exemption of their Social Security numbers is likewise worthy of protection because it can specifically identify an individual. Furthermore, this expounds upon this Court's rulings in *DARE I* — that redactable information should include any information that directly could identify a complainant or officer against whom a complaint was made. See *DARE I*, 713 A.2d at 223. Finally, we note that the ruling



by the trial justice is entirely consistent with DARE's original request in this action, which called for the production of certain records redacting any information directly identifying the complainant or the officer against whom the complaint was made. Therefore, the trial justice properly allowed the defendant to redact the Social Security numbers and badge numbers from the requested documents.

Conclusion

The judgment of the Superior Court is affirmed in part and reversed in part. The papers in this case are to be remanded to the Superior Court for a hearing to determine attorneys' fees pursuant to this decision.

Notes:

1. Bernard Gannon was succeeded as Police Chief by Urbano Prignano, Jr., Richard T. Sullivan (interim) and Dean Esserman.

2. At oral arguments the city also argued that the trial justice erred in not redacting addresses and names of complainants' family members from the requested records. But because the city did not preserve this issue for appeal at trial, and did not brief the issue on appeal, we do not address these matters.

3. The plaintiff avers that it only received 275 reports of a possible 700 such reports since 1988. Further, defendant only produced reports from 1990 to present.

4. The city admitted that it should not have redacted race, the names of the hearing officers or the names of the attorneys.

5. Letter from James Madison to William T. Barry (Aug. 4, 1822) (on file with the Library of America).

6. We do not address the need for retroactive application of G.L.1956 § 38-2-4 because that provision deals with the waiver of costs associated with producing the requested documents. The defendant did not actually begin to produce such documents until after the trial justice's order issued on December 17, 1998. Because production of the documents did not begin until well after the enactment of § 38-2-4, there are no production costs predating the effective date of that provision.

7. The trial justice found that the use of the comma in § 38-2-9(d) indicated that the General Assembly was expressing two distinct thoughts. Thus, according to the trial justice, "the second portion of the sentence, following the comma[], could stand alone, and if it did so, would clearly not have the requirement of a knowing, willful violation."

8. As we noted above, there is no need to address the retroactive application of § 38-2-4(e) because production of the requested documents did not begin until after the amendments went into effect. Because we apply the law in effect at the time of a decision, the trial justice properly applied § 38-2-4(e) to this case. *See Solas v. Emergency Hiring Council of Rhode Island*, 774 A.2d 820, 825 (R.I.2001).



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John R. GRASSO
v.
Gina M. RAIMONDO et al.

John R. Grasso
v.
Employees' Retirement System of Rhode
Island.

No. 2016-83-Appeal.
PC 13-3121
No. 2015-378-M.P.
PC 14-4953

Supreme Court of Rhode Island.

February 12, 2018

Joseph F. Penza, Jr., Esq. for Plaintiff.

Michael P. Robinson, Esq., for Defendants.

Present: Suttell, C.J., Goldberg, Flaherty,
Robinson, and Indeglia, JJ.

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Justice Robinson, for the Court.

These consolidated cases come before the Supreme Court on an appeal and on a petition for the issuance of a writ of certiorari to review a November 5, 2015 bench decision in Providence County Superior Court in favor of the plaintiff, John R. Grasso.¹ The defendants, Gina Raimondo, Frank Karpinski, the Employees' Retirement System of Rhode Island (the ERSRI), and the State of Rhode Island, contend before this Court that the trial justice erred in determining that Mr. Grasso need not comply with G.L. 1956 §§ 45-21-23 and 45-21-24 in order to continue receiving his accidental disability pension because those sections were not applicable to his situation.

For the reasons set forth in this opinion, we vacate the judgment of the Superior Court.

I

Facts and Travel

The facts in the instant case are relatively limited and are not in dispute. We rely on the complaints filed in PC 13-3121 and PC 14-4953 for our recitation of the pertinent facts.

Mr. Grasso was a member of the Cranston police force when, on June 18, 2000, he suffered a debilitating injury while performing his duties as a police officer. When he was unable to return to work as a police officer, he applied for an accidental disability pension pursuant to the terms of G.L. 1956 chapter 21.2 of title 45. On September 12, 2002, Mr. Grasso was granted an accidental disability pension. Over ten years later, on September 20, 2012, Mr. Grasso received a letter from the Retirement Board of the ERSRI advising him that his pension "had been overpaid." The letter stated that, for that reason, his pension would be suspended on September 30, 2012. According to Mr. Grasso's complaint in PC 13-3121, the September 20, 2012 letter requested that he provide copies of his tax returns for the years 2003 to 2009 as well as "medical progress notes" from his treating physician from 2003 through 2011. The letter further informed him that he might be required to undergo an independent medical examination (IME) pursuant

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to § 45-21-23(a). After providing what the complaint in PC 13-3121 refers to as "certain medical documentation" to the Retirement Board, Mr. Grasso was notified that he was to contact a particular doctor to schedule an IME. On May 9, 2013, Mr. Grasso's counsel met with the Retirement Board's counsel to detail Mr. Grasso's belief that his pension was not governed by § 45-21-23, which states that the Retirement Board may require a disability annuitant to undergo an IME at least once a year, and § 45-21-24, which provides that the Retirement Board shall adjust the amount of a disability annuitant's pension based upon the beneficiary being engaged in a "gainful occupation."² Subsequent to that meeting, on June 27, 2013, Mr. Grasso proceeded

to file his declaratory judgment action in PC 13-3121.³

Also subsequent to that May 9, 2013 meeting, on May 28, 2013, the Executive Director of the ERSRI rendered an administrative decision wherein he rejected Mr. Grasso's contention that the ERSRI was not entitled to require him to undergo an IME or to adjust the amount of his pension based on his gainful employment as an attorney. Consequently, Mr. Grasso requested a hearing before the Retirement Board of the ERSRI. The Retirement Board appointed a hearing officer to hear Mr. Grasso's matter. On September 12, 2013, a hearing was conducted before the hearing officer; and, on August 1, 2014, the hearing officer issued a decision rejecting Mr. Grasso's arguments. On September 25, 2014, the Retirement Board rendered its decision upholding the hearing officer's determination in the case. Subsequently, on October 8, 2014, Mr. Grasso appealed the ERSRI's decision to affirm the hearing officer to the Superior Court in PC 14-4953.

On December 1, 2014, the Superior Court consolidated the two cases—PC 13-3121 and PC 14-4953. Thereafter, on June 22, 2015, Mr. Grasso moved for summary judgment in the declaratory judgment action (PC 13-3121) and, on August 28, 2015, a corresponding cross-motion for summary judgment was filed. Subsequently, on November 5, 2015, the trial justice rendered a bench decision in Mr. Grasso's favor in the consolidated cases. The defendants subsequently filed a notice of appeal in PC 13-3121 and a petition for the issuance of a writ of certiorari in PC 14-4953, which petition this Court granted.

II

Issues Presented

Before this Court, defendants contend that the trial justice erred in denying their motion to dismiss PC 13-3121. They further posit that the trial justice misinterpreted the effect that a 1980 amendment to G.L. 1956 § 45-21.2-10 had on Mr. Grasso's accidental disability pension in

reaching her decision in the case. Additionally, defendants aver the following: (1) that the trial justice did not give proper deference to the ERSRI's interpretation of the relevant statutes; (2) that the ERSRI is entitled to administer the pension authorized by chapter 21.2 of title 45 in the same manner as it administers pensions pursuant to chapter 21 of title 45, including applying §§ 45-21-23 and 45-21-24 ; (3) that the trial justice reached an absurd result; (4) that the trial justice incorrectly found § 45-21.2-10 to be unambiguous; and (5) that the General Assembly should not "be presumed to have granted a special

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pension benefit solely to one class of retirees in violation of statute."

III

Standard of Review

Due to the fact that these consolidated cases come before this Court in different procedural postures, we will detail the standard of review applicable to each action.

In PC 13-3121, the trial justice granted Mr. Grasso's motion for summary judgment and issued a declaratory judgment. This Court reviews a trial justice's decision to grant summary judgment in a *de novo* manner. *High Steel Structures, Inc. v. Cardi Corporation*, 152 A.3d 429, 433 (R.I. 2017); see also *Daniels v. Flurette*, 64 A.3d 302, 304 (R.I. 2013). This Court "will affirm a [trial] court's decision only if, after reviewing the admissible evidence in the light most favorable to the nonmoving party, we conclude that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law." *High Steel Structures, Inc.*, 152 A.3d at 433 (alteration in original) (internal quotation marks omitted); see also *Great American E & S Insurance Co. v. End Zone Pub & Grill of Narragansett, Inc.*, 45 A.3d 571, 574 (R.I. 2012).



With respect to the decision of a trial justice to grant or deny declaratory relief, our standard of review is deferential. *Bruce Brayman Builders, Inc. v. Lamphere*, 109 A.3d 395, 397 (R.I. 2015). However, "a trial justice's discretion to grant or deny declaratory relief is not absolute and is subject to appropriate appellate review." *Id.* (internal quotation marks omitted); *see also Rhode Island Republican Party v. Daluz*, 961 A.2d 287, 293 (R.I. 2008). Factual findings made by the trial justice "are afforded great weight by this Court, and will not be disturbed absent a showing that the trial justice overlooked or misconceived material evidence or was otherwise clearly wrong." *Plainfield Pike Development, LLC v. Victor Anthony Properties, Inc.*, 160 A.3d 995, 1002 (R.I. 2017) (internal quotation marks omitted). However, "[a] trial justice's findings on questions of law * * * are reviewed *de novo*." *Id.* (internal quotation marks omitted); *see also Town Houses at Bonnet Shores Condominium Association v. Langlois*, 45 A.3d 577, 581 (R.I. 2012).

The second case before this Court—PC 14–4953—was an administrative appeal. The standard of review to be applied in such cases is detailed in G.L. 1956 § 42–35–15(g) as follows:

"The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;

- (4) Affected by other error or law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."

We have generally followed the principle that, if a statute's requirements "are unclear or subject to more than one reasonable interpretation, the construction given

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by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized." *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006) (internal quotation marks omitted); *see also Town of Richmond v. Rhode Island Department of Environmental Management*, 941 A.2d 151, 157 (R.I. 2008). However, as we have recently stated, we do not owe any "administrative agency's interpretation blind obeisance; rather, the true measure of a court's willingness to defer to an agency's interpretation of a statute depends, in the last analysis, on the persuasiveness of the interpretation, given all the attendant circumstances." *Mancini v. City of Providence*, 155 A.3d 159, 168 (R.I. 2017) (internal quotation marks omitted). Moreover, "regardless of * * * deference due, this Court always has the final say in construing a statute." *In re Proposed Town of New Shoreham Project*, 25 A.3d 482, 506 (R.I. 2011); *see also Mancini*, 155 A.3d at 168. As such, while the Court affords an agency's factual findings great deference, "questions of law—including statutory interpretation—are reviewed *de novo*." *Iselin v. Retirement Board of Employees' Retirement System of Rhode Island*, 943 A.2d 1045, 1049 (R.I. 2008).



Accordingly, and in the interest of absolute clarity given the two actions before us, it is our judgment that, in reviewing the decision of the trial justice in the instant case, we shall apply a *de novo* standard of review. Our precedent makes clear that a *de novo* standard is applicable in this case due to the fact that we are confronted with a grant of summary judgment in a declaratory judgment action which encompasses a purely legal issue dealing with statutory construction. See *Plainfield Pike Development, LLC*, 160 A.3d at 1002; *High Steel Structures, Inc.*, 152 A.3d at 433; *Iselin*, 943 A.2d at 1049. We need not accord to the Retirement Board the deference we might otherwise accord if the issue presented to us were not one based in statutory construction. See *Mancini*, 155 A.3d at 168; *In re Proposed Town of New Shoreham Project*, 25 A.3d at 506.

IV

Analysis

In order to properly address defendants' contentions on appeal, we must discuss in detail the relevant statutory sections. We are concerned in the instant case with chapters 21 and 21.2 of title 45 of the Rhode Island General Laws. Chapter 21 of title 45 is entitled "Retirement of Municipal Employees," whereas chapter 21.2 of title 45 is entitled "Optional Retirement for Members of Police Force and Fire Fighters." It is undisputed that § 45-21.2-10 is the principal statute at issue and that it applies to Mr. Grasso. What is to be decided is the applicability of §§ 45-21-23 and 45-21-24.

Section 45-21.2-10 is entitled "Accidental disability allowance" and currently reads as follows:

"The amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22."⁴

However, prior to being amended in 1980 by P.L. 1980, ch. 59, § 2, § 45-21.2-10 read in its entirety as follows:

"Upon retirement for accidental disability, a member shall receive a retirement allowance equal to sixty-six and two-thirds per cent (66 2/3%) of the rate of

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his compensation at the date of disability. Any member retiring and receiving a disability allowance shall be subject to the provisions of §§ 45-21-23 and 45-21-24."

Mr. Grasso argued before the Superior Court that the 1980 amendment to § 45-21.2-10 rendered §§ 45-21-23 and 45-21-24 inapplicable to an individual receiving an accidental disability pension pursuant to chapter 21.2 of title 45.

Section 45-21-23, in pertinent part, provides a mechanism to require annual IMEs:

"(a) At least once each year the retirement board may, and upon application shall, require any disability annuitant under the minimum age for service retirement, whether in receipt of an ordinary disability retirement allowance or an accidental disability retirement allowance, to undergo a medical examination, the examination to be made at the place of residence of the annuitant, or other place mutually agreed upon, by a physician or physicians engaged by the retirement board."

Section 45-21-24 reads as follows:

"(a) Should the beneficiary be engaged in a gainful occupation or should the beneficiary be offered service as a result of the placing of his or her name on a list of candidates, the retirement board shall adjust, and from time to time readjust, the amount of his or her



disability allowance to an amount which, when added to the amount of compensation then earnable by the beneficiary, shall not exceed the rate of earnable compensation currently in force for the classification that the disability annuitant held prior to retirement.

"(b) Should any disability annuitant under the minimum age of retirement refuse to submit to a medical examination in any year by a physician or physicians designated by the retirement board, the annuitant's retirement allowance may be discontinued until the annuitant's withdrawal of the refusal, and should the annuitant's refusal continue for one year after a request has been made, all the annuitant's rights in and to the retirement allowance may be revoked by the retirement board. A disability annuitant, reinstated to active service, shall be reinstated as a member and participate in the benefits of the retirement system to the same extent as any other member."

Accordingly, the issues before the Court are whether or not, under the post-1980 version of § 45-21.2-10, the ERSRI can require an annuitant receiving an accidental disability pension pursuant to chapter 21.2 of title 45 to undergo annual IMEs—as provided for in § 45-21-23—and whether or not the ERSRI can consider the annuitant's other earnings in determining the amount of his or her pension—as provided for in § 45-21-24.

The trial justice held that Mr. Grasso was not subject to §§ 45-21-23 and 45-21-24. She began by addressing the declaratory judgment action that was pending before her. In her judgment, § 45-21.2-10 was "clear and unambiguous" and addressed "only the amount of the benefit," without reference to §§ 45-21-23 and 45-21-24.

She further found that § 45-21-22, to which § 45-21.2-10 refers, was also clear and unambiguous and required no "judicial interpretation." The trial justice proceeded to reject defendants' arguments that a ruling in Mr. Grasso's favor would produce an absurd result. She stated that "the Legislature knew what they were doing and made a decision to do it;" and she added the following:

"Police officers and firefighters are subject to a variety of very dangerous risks on a daily basis. The recognition of

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these risks likely prompted the alternate retirement system in the first place. The Legislature sought to retain the IME adjustment provisions for those firefighters and police officers who suffered from ordinary disability. But when it came time to look at it as it related to on-the-job injuries, they chose to go in a different direction.

"It is not absurd to find that the Legislature intended to provide those facing such risks with a more appealing retirement plan in the event that those risks materialized into actual harms."

The trial justice also opined that "the General Assembly knew exactly what they were doing when they amended 45-21.2-10 and did so * * * to remove the obligations under 45-21-23 and 24 * * *. The Court finds no support for any argument that they did it other than by design." In accord with that just-summarized reasoning, the trial justice then granted Mr. Grasso's motion for summary judgment and denied the cross-motion for summary judgment.⁵

The trial justice then turned her attention to the administrative appeal. She stated that she was giving the Retirement Board's interpretation a



"lower level of deference," as opposed to "broad deference," because the issue was "one of pure statutory interpretation," not requiring any "[t]echnical or specialized expertise." The trial justice then referred back to her bench decision with respect to the declaratory judgment action and found the Retirement Board's decision to be "erroneous;" she reversed that decision.

In conducting our *de novo* review in this case, we remain cognizant of Justice Felix Frankfurter's statement that "[t]he search for significance in the silence of [the Legislature] is too often the pursuit of a mirage." *Scripps-Howard Radio, Inc. v. Federal Communications Commission*, 316 U.S. 4, 11, 62 S.Ct. 875, 86 L.Ed. 1229 (1942). We have struggled long and hard in pursuing that mirage in the instant case. In the end, it is our judgment that, while we admire the trial justice's thoroughness and respect her perspective, we simply cannot agree with her conclusion. We do agree with the trial justice that granting an accidental disability pension which would continue with no requirement for submitting to IMEs or for the reporting of other gainful employment would not necessarily be absurd; the General Assembly may well have the residual right to provide for such a pension. However, the General Assembly would have to be pellucidly explicit if it should wish to do something so extraordinary. Statutory silence alone is quite inadequate to convey such an intent in a case of this nature.

We begin our analysis with the basic principle of statutory construction that, when a statutory section is clear and unambiguous, we apply the plain and ordinary meaning of the statute and we need not delve into any further statutory interpretation. *State v. Diamante*, 83 A.3d 546, 548 (R.I. 2014). "It is only when a statute is ambiguous that we apply the rules of statutory construction and examine the statute in its entirety to determine the intent and purpose of the Legislature." *Id.* (internal quotation marks omitted).

Prior to 1980, § 45-21.2-10 contained an explicit reference to §§ 45-21-23 and 45-21-24.

However, in 1980 the removal of the explicit reference to those statutory sections

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was not the only change made by the General Assembly. The entire then-existing section was removed and replaced by a simple cross-reference to § 45-21-22. It is unclear whether or not that reference to § 45-21-22 was meant to also encompass other sections of chapter 21, since those sections would apply to any pensions provided by § 45-21-22. Moreover, §§ 45-21-23(a) and 45-21-24(b), by their blunt language, apply to "any disability annuitant." (Emphasis added.) Creating further ambiguity, § 45-21.2-4 provides that the optional retirement system provided for in chapter 21.2 is to be "administered in the same manner provided in chapter 21"—while leaving the term "administered" utterly devoid of any clarifying definition.⁶ For these reasons, it is self-evident to us that there is substantial ambiguity as to which sections of chapter 21 apply to an accidental disability pension under chapter 21.2.

In attempting to resolve that ambiguity, we are mindful of the fact that, "[i]n matters of statutory interpretation our ultimate goal is to give effect to the purpose of the act as intended by the Legislature." *Alessi v. Bowen Court Condominium*, 44 A.3d 736, 740 (R.I. 2012) (internal quotation marks omitted); *see also Harvard Pilgrim Health Care of New England, Inc. v. Gelati*, 865 A.2d 1028, 1038 (R.I. 2004) ("We are mindful that our interpretation should not construe [the] statute to reach an absurd or unintended result.") (alteration in original) (emphasis added) (internal quotation marks omitted). As such, it would be inappropriate for us to look at § 45-21.2-10 in a vacuum; we must consider it in light of the entire statutory scheme. *See State v. Hazard*, 68 A.3d 479, 485 (R.I. 2013) ("[W]e must consider the entire statute as a whole; individual sections must be considered in the context of the entire statutory scheme, not as if each section were independent of all other sections.") (internal quotation marks omitted); *State v. Campbell*, 528 A.2d 321, 329 (R.I. 1987);



see also 2A Norman J. Singer and J.D. Shambie Singer, *Statutes and Statutory Construction* § 46:5 at 204 (7th ed. 2014) (stating that "each part or section [of a statute] should be construed in connection with every other part or section to produce a harmonious whole"). Moreover, we have stated that "[i]n effectuating the Legislature's intent, we review and consider the statutory meaning most consistent with the statute's policies or obvious purposes." *Bailey v. American Stores, Inc./Star Market*, 610 A.2d 117, 119 (R.I. 1992); see, e.g., *Harvard Pilgrim Health Care of New England, Inc.*, 865 A.2d at 1038 (stating that this Court was "[s]tepping back from the lower court's overly narrow focus on individual passages" and noting that "the purpose of these provisions appears to be protecting insurance companies teetering on the brink of insolvency from a feeding frenzy of litigation"). We consider the following venerable and perceptive maxim of statutory construction so felicitously worded by the California Supreme Court to be an especially helpful guide in this matter:

"Wherever possible, a statute is to be construed in a way which will render it reasonable, fair and harmonious with its manifest purpose, and which will conform with the spirit of the act. * * * Therefore, * * * when a suggested construction of a statute in any given case necessarily involves a decided departure from what may be fairly said to be the

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plain purpose of the enactment, such construction will not be adopted to the exclusion of a possible, plausible interpretation which will promote and put in operation the legislative intent." *Los Angeles County v. Frisbie* [19 Cal.2d 634], 122 P.2d 526, 532 (Cal. 1942) (internal quotation marks omitted).

The purpose of chapter 21.2 is to provide a retirement system for police officers and firefighters—a system municipalities in Rhode Island have the option of utilizing. Its specific purpose is to provide for an accidental disability pension for a police officer or firefighter who is injured on the job and cannot work due to his or her disability. We simply cannot say, based on the statutory scheme with which we are confronted, that the intent and purpose of the statutes was to provide such a benefit for life regardless of whether or not the police officer or firefighter is still disabled or is able to earn from another source the same (or greater) income than he or she would have earned as a police officer or firefighter. Based on the purpose of the statute—to provide a pension to a police officer or firefighter who is disabled and cannot work—it is our unblinking view that the most plausible interpretation of this ambiguous statutory scheme is that the General Assembly intended for an accidental disability pension under § 45–21.2–10 to be subject to the IME and income-reporting requirements of §§ 45–21–23 and 45–21–24. See *Frisbie*, 122 P.2d at 532; see also *Bailey*, 610 A.2d at 119. Otherwise, this Court would be failing to follow the most reasonable, fair, and harmonious construction of the statutory scheme. See *Frisbie*, 122 P.2d at 532.

We are buoyed in our conclusion about the statutory issue before us by the oft-repeated metaphorical maxim relied upon by the United States Supreme Court to the effect that a legislature, in enacting statutes, is not wont to "hide elephants in mouseholes." *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457, 468, 121 S.Ct. 903, 149 L.Ed.2d 1 (2001); see also *Czyzewski v. Jevic Holding Corp.*, ——— U.S. ———, 137 S.Ct. 973, 984, 147 L.Ed.2d 398 (2017); *Environmental Protection Agency v. EME Homer City Generation, L.P.*, ——— U.S. ———, 134 S.Ct. 1584, 1612, 188 L.Ed.2d 775 (2014) (Scalia, J., dissenting); *Bilski v. Kappos*, 561 U.S. 593, 645, 130 S.Ct. 3218, 177 L.Ed.2d 792 (2010) (Stevens, J., concurring). We have no reason to infer in the instant case that the General Assembly hid an elephant in a mousehole and intended an otherwise quite unlikely result in

such an important context when no language in the statute clearly evinces such an intent. *See, e.g.*, *Czyzewski*, 137 S.Ct. at 984 ("The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure."); *Puerto Rico v. Franklin California Tax-Free Trust*, --- U.S. ---, 136 S.Ct. 1938, 1947, 195 L.Ed.2d 298 (2016) ("Had Congress intended to alter th[is] fundamental detail of municipal bankruptcy, we would expect the text of the amended definition to say so.") (alteration in original) (internal quotation marks omitted); *Burwell v. Hobby Lobby Stores, Inc.*, --- U.S. ---, 134 S.Ct. 2751, 2796, 189 L.Ed.2d 675 (2014) (Ginsburg, J., dissenting) ("Had Congress intended [the Religious Freedom Restoration Act of 1993] to initiate a change so huge, a clarion statement to that effect likely would have been made in the legislation."); *Food and Drug Administration v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000) ("[W]e are confident that Congress could not have intended to delegate a decision of such economic and political significance to an

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agency in so cryptic a fashion."), *superseded by statute*, 21 U.S.C. § 387a.² To determine to the contrary would require us to answer the following question posed by defendants in the affirmative:

"Can a policeman, after being retired for accidental disability have a full recovery, become a major league baseball pitcher with a multimillion dollar annual contract, and still collect his full disability pension from the Municipal Employees' Retirement System of the State of Rhode Island?"

We have absolutely no statutory basis for doing so—at least not without an explicit statement from the General Assembly communicating such an intent. The General Assembly has not sounded a clarion call to that effect, but it has left us to grapple with the sounds of silence.

In conclusion, we acknowledge that the General Assembly may well have the residual right to provide for an accidental disability pension without the requirement of periodic IMEs or the reporting of other gainful employment. However, we reiterate that the General Assembly would have to be pellucidly explicit if it should wish to do something so extraordinary in such an important context; it would require much more tangible evidence of legislative intent than the stark statutory silence left after the 1980 amendment to § 45-21.2-10. Accordingly, we hold that Mr. Grasso is subject to §§ 45-21-23 and 45-21-24; and he may be required to undergo an IME from time to time at the direction of the Retirement Board and to submit such financial information as may be requested in accordance with § 45-21-24.

V

Conclusion

For the reasons stated in this opinion, we vacate the judgment of the Superior Court. We remand the record to that tribunal.

Chief Justice Suttell, dissenting.

The majority decries the lack of a clarion call signaling legislative intent and observes that it, therefore, must grapple with the sounds of silence. Yet it hears a veritable symphony within that statutory silence.

The first movement is a lively allegro of statutory references and cross-references in which the majority seeks to create dissonance and ambiguity. It reads into the post-1980 version of G.L. 1956 § 45-21.2-10 the pre-1980 references to G.L. 1956 §§ 45-21-23 and 45-21-24, references which the General Assembly conspicuously omitted in the 1980 amendment (P.L. 1980, ch. 59, § 2). The majority then looks to the cross-reference in the post-1980 version of § 45-21.2-10 to § 45-21-22 and opines that the General Assembly may have intended that one "simple cross-reference" to encompass other sections of chapter 21 of title 45—notwithstanding



the fact that it removed the specific cross-references to §§ 45-21-23 and 45-21-24.

The majority also finds disharmony in § 45-21.2-10 by examining the "blunt language" of §§ 45-21-23(a) and 45-21-24(b) which provide that these latter sections apply to "any disability annuitant." Finally, in a climactic crescendo, the majority notes that further ambiguity is created by § 45-21.2-4, which provides that the optional retirement system under chapter 45-21.2 is to be "administered in the same

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manner provided in chapter 21." Yet it turns a deaf ear to the second verse of § 45-21.2-4 that "where the provisions of [chapter 21] conflict with [chapter 21.2], then the provision of * * * chapter [21.2] control."

In the second movement, more of an adagio, the majority attempts to resolve the discord it has perceived by construing § 45-21.2-10 in a manner that is "reasonable, fair, and harmonious." It does so by scoring back into § 45-21.2-10 the independent medical examination and income-reporting requirements of §§ 45-21-23 and 45-21-24. Finally, the concluding coda poses a rhetorical question involving an injured, but fully recovered, policeman with a multimillion-dollar baseball contract.

Although I applaud the compositional skills of the majority, I respectfully must depart from its analysis. In my view, § 45-21.2-10 does not result in an auditory void, nor does it create ambiguity. Rather, in very clear and crystalline notes it prescribes the amount of retirement allowance for accidental disability for police and firefighters under the optional retirement system created by chapter 21.2. Section 45-21.2-10 provides in its entirety: "The amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22 [,]" which section is itself clear and unambiguous.² One need and ought to go no further. Neither §§ 45-21.2-10 nor 45-21-22

reprise the requirements of §§ 45-21-23 and 45-21-24.

I might agree with my colleagues in the majority that, as a matter of policy, an accidental disability beneficiary under chapter 21.2 of title 45 should be subject to periodic medical examinations and a reduction of disability allowance if gainfully employed. The situation before us concerning Mr. Grasso is a prime example; and, *a fortiori*, the multimillion-dollar baseball player scenario approaches the absurd. Yet there are legitimate reasons for treating police and firefighters who receive an accidental disability retirement allowance differently from other accidental disability beneficiaries. In my view, it is a question of policy properly assigned to the legislature. I am simply not prepared to attempt to divine what the General Assembly intended to mean when it spoke in such clear and comprehensible language. Consequently, I respectfully dissent.

Justice Flaherty, dissenting.

I respectfully dissent from the holding of the majority. I do so because G.L. 1956 § 45-21.2-10, clearly and unambiguously, states that "[t]he amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22." The question we have been asked to decide is whether the language of that statute subjects the plaintiff to the additional requirements that are set forth in G.L. 1956 §§ 45-21-23 and 45-21-24. It is readily apparent from the above-quoted language that § 45-21.2-10 is silent on that question. However, that silence does not in and of itself create ambiguity, as the majority concludes. Rather, I am of the opinion that the words of the statute are crystal clear, "[t]he amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22"—nothing more. A commonsense reading of § 45-21.2-10's plain language

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—language wholly devoid of any references to §§ 45-21-23 and 45-21-24 —compels me,



therefore, to conclude that the plaintiff is not subject to the IME and income-reporting requirements set forth in §§ 45-21-23 and 45-21-24. I must therefore dissent.

"Ambiguity exists only when a word or phrase in a statute is susceptible of more than one reasonable meaning." *Drs. Pass & Bertherman, Inc. v. Neighborhood Health Plan of Rhode Island*, 31 A.3d 1263, 1269 (R.I. 2011). As we have explained on multiple occasions, "[b]ecause ambiguity lurks in every word, sentence, and paragraph in the eyes of a skilled advocate * * * the question is not whether there is an ambiguity in the metaphysical sense, but whether the language has only one reasonable meaning when construed, not in a hypertechnical fashion, but in an ordinary, common sense manner." *In re Proposed Town of New Shoreham Project*, 25 A.3d 482, 505 n.30 (R.I. 2011) (quoting *Lazarus v. Sherman*, 10 A.3d 456, 464 (R.I. 2011)). In my opinion, § 45-21.2-10 is not susceptible of more than one reasonable meaning, either in the metaphysical sense or through the application of common sense. The statute simply makes no mention of §§ 45-21-23 and 45-21-24; therefore, the requirements of those statutes should not be grafted onto the plain terms of § 45-21.2-10.

Respectfully, I cannot fathom where or how the majority perceives ambiguity. It is true that chapter 21.2 of title 45, on the whole, contains a number of express references to chapter 21 and that pursuant to § 45-21.2-4, chapter 21.2 is to be "administered in the same manner provided in chapter 21 * * *." The majority correctly notes that there are a number of cross-references to chapter 21 in chapter 21.2. Importantly, § 45-21.2-10 is one of those sections, but it refers only to § 45-21-22 and to no other section in the chapter. The lack of further cross-references, particularly to §§ 45-21-23 or 45-21-24, in § 45-21.2-10 helps to render, in the view of the majority, this statutory scheme ambiguous. To be sure, the General Assembly included certain cross-references to chapter 21 throughout chapter 21.2. Yet it did not include any references to §§ 45-21-23 and 45-21-24 in § 45-21.2-10. Therefore, I am compelled to conclude that § 45-21.2-10 does not

require plaintiff to undergo an IME pursuant to § 45-21-23 or to report income pursuant to § 45-21-24.

We have long adhered to the presumption "that the General Assembly knows the 'state of existing relevant law when it enacts or amends a statute.'" *Power Test Realty Co. Limited Partnership v. Coit*, 134 A.3d 1213, 1222 (R.I. 2016) (quoting *Retirement Board of Employees' Retirement System of Rhode Island v. DiPrete*, 845 A.2d 270, 287 (R.I. 2004)). A corollary to that presumption is that we should "resist speculating whether [a legislative body] acted inadvertently." *Hamer v. Neighborhood Housing Services of Chicago*, ---U.S. ---, 138 S.Ct. 13, 20, 199 L.Ed.2d 249 (2017); *Dodd v. United States*, 545 U.S. 353, 357, 125 S.Ct. 2478, 162 L.Ed.2d 343 (2005) ("We must presume that [the] legislature says * * * what it means and means * * * what it says * * *." (quoting *Connecticut National Bank v. Germain*, 503 U.S. 249, 253-54, 112 S.Ct. 1146, 117 L.Ed.2d 391 (1992))). Thus, when the General Assembly amended chapter 21.2 in 1980 (P.L. 1980, ch. 59, § 2), we must presume that it knew exactly which provisions it deemed subject to chapter 21 and which it did not, and that it did not act through oversight, inadvertence, or neglect. With that in mind, I can conclude only that § 45-21.2-10 is deliberately silent on that point and that only § 45-21-22 applies to § 45-21.2-10 because that is the only section expressly

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mentioned. *See Shine v. Moreau*, 119 A.3d 1, 10 (R.I. 2015) ("[W]e adhere to 'the maxim that the plain statutory language is the best indicator of legislative intent.'" (quoting *Marques v. Pawtucket Mutual Insurance Co.*, 915 A.2d 745, 747 (R.I. 2007))). The statutory framework is not ambiguous and therefore should be construed as written.

Moreover, even if § 45-21.2-10 were ambiguous, as the majority has concluded, I would be persuaded nonetheless that its terms are not subject to §§ 45-21-23 and 45-21-24. In grappling with the ambiguity it somehow



discovers in the statute, the majority properly embarks on an examination of "the entire statute to ascertain the intent and purpose of the Legislature." *Prew v. Employee Retirement System of Providence*, 139 A.3d 556, 560 (R.I. 2016) (quoting *Trant v. Lucent Technologies*, 896 A.2d 710, 712 (R.I. 2006)); see also *Mancini v. City of Providence*, 155 A.3d 159, 162–63 (R.I. 2017). Certainly, I do not quarrel with the majority's conclusion that the overall purpose underlying chapter 21.2 is to provide a retirement system for municipal police officers and firefighters. I do, however, diverge from the majority's illation that interpreting § 45–21.2–10 in a manner that exempts plaintiff from the requirements set forth in §§ 45–21–23 and 45–21–24 would contravene legislative intent.

For me, to resolve any ambiguity which might lurk here, we need not look any further than the straightforward legislative history of § 45–21.2–10. To borrow a phrase from the venerable Justice Oliver Wendell Holmes, "a page of history is worth a volume of logic." *New York Trust Co. v. Eisner*, 256 U.S. 345, 349, 41 S.Ct. 506, 65 L.Ed. 963 (1921). As the majority succinctly explains, prior to 1980, § 45–21.2–10 contained express references to §§ 45–21–23 and 45–21–24. Significantly, though, the General Assembly amended § 45–21.2–10 in 1980, deleting any and all references to those sections. In their place, the General Assembly inserted a reference to § 45–21–22. Since 1980, § 45–21.2–10 has remained unchanged. I can reach only one conclusion from that history: The General Assembly decided, in its legislative wisdom, that pensions governed by § 45–21.2–10 should not be subject to the requirements set forth in §§ 45–21–23 and 45–21–24.

Again, we have long operated under the presumption that "the General Assembly knows the 'state of existing relevant law when it enacts or amends a statute.'" *Power Test Realty Co. Limited Partnership*, 134 A.3d at 1222 (quoting *DiPrete*, 845 A.2d at 287). And we ought to do so with the notion that the General Assembly does not do so unwittingly. *Hamer*, 138 S.Ct. at 20. When the General Assembly deleted the language

that would have subjected pensioners in plaintiff's position to §§ 45–21–23 and 45–21–24, the General Assembly made its intent known. See *Nolan v. Representative Council of Newport*, 73 R.I. 498, 501–02, 57 A.2d 730, 732 (1948) (explaining that this Court could not treat the General Assembly's deletion of a word "as a legislative oversight and supply the omitted word"); see also *Estate of Eglee*, 119 R.I. 786, 789–90, 383 A.2d 586, 588–89 (1978). The silence in § 45–21.2–10 was deliberate, and the meaning of that deliberate silence is abundantly clear: Plaintiff is not subject to the requirements set forth in §§ 45–21–23 and 45–21–24.

This conclusion is buttressed by the fact that the General Assembly has expressly informed us that pensions subject to chapter 21 and accidental disability pensions subject to chapter 21.2 are to be treated differently. Indeed, § 45–21.2–4 mandates, "where the provisions of [chapter 21] conflict with [chapter 21.2], then the provision[s]

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of [chapter 21.2] control." It could not be clearer that, in amending § 45–21.2–10, the General Assembly opted to exempt pensioners governed by chapter 21.2 from the requirements of §§ 45–21–23 and 45–21–24.

According to § 45–21.2–10's plain language, plaintiff is not subject to the requirements of §§ 45–21–23 and 45–21–24. It may be unpalatable that plaintiff is not subject to a yearly IME or to income-reporting requirements, but that is for the General Assembly to determine, not this Court.⁹ We should not rewrite the statute simply because we disagree with it.

Our holding today, adopting a rule that would require a clear, indeed "pellucid" statement by the General Assembly with respect to a municipal police officer's accidental disability pension is anathema to our case law and to political realities.¹⁰ There are times when legislative silence speaks volumes. This is one of those times. As we have held, "[w]here the legislature in amending an act thus purposely omits words in

the amended act the court has no authority to supply the omitted words." *Nolan*, 73 R.I. at 502, 57 A.2d at 732. I see no reason to depart from such sound reasoning now. For those reasons, I respectfully dissent.

Notes:

¹ The first case before us (PC 13-3121) was commenced in Providence County Superior Court as a declaratory judgment action seeking a judgment that Mr. Grasso was not subject to the terms of G.L. 1956 §§ 45-21-23 and 45-21-24 with respect to his accidental disability pension. The defendants named in the complaint were as follows: Gina M. Raimondo, individually and in her capacity as chairperson of the Employees' Retirement System of Rhode Island (the ERSRI); Frank J. Karpinski, individually and in his capacity as Executive Director of the ERSRI; the ERSRI; and the State of Rhode Island. Gina Raimondo (who is currently serving as Governor of the State of Rhode Island) and Frank Karpinski prevailed in Superior Court in their individual capacities, and that portion of the Superior Court judgment is not the subject of the appeal to this Court. Therefore, as to Governor Raimondo and Mr. Karpinski, we are concerned only with the claims against them in their representative capacities.

The second of the cases before us (PC 14-4953) came to the Superior Court, as an appeal by Mr. Grasso from a decision of the Retirement Board of the ERSRI finding that Mr. Grasso was subject to §§ 45-21-23 and 45-21-24. The sole adverse party in that case was the ERSRI.

The two cases, PC 13-3121 and PC 14-4953, were consolidated in Superior Court, and a single bench decision was issued. The defendants have appealed in PC 13-3121 and petitioned for the issuance of a writ of certiorari in PC 14-4953, which petition this Court granted on November 28, 2016. We have consolidated the cases for the purposes of this appeal.

² As the trial justice noted in her bench decision, Mr. Grasso was gainfully employed as an attorney at the pertinent time.

³ On September 9, 2013, defendants in PC 13-3121 filed a motion to dismiss, which was subsequently denied.

⁴ Section 45-21-22 provides as follows:

"Upon retirement for accidental disability, a member receives a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31."

⁵ The trial justice denied the cross-motion for summary judgment except for "the individual nature of the claims against Raimondo and Karpinski;" as previously discussed (*see* footnote 1, *supra*), Governor Raimondo and Mr. Karpinski prevailed in Superior Court on the claims against them in their individual capacities. That portion of the Superior Court judgment is not contested on appeal before this Court.

⁶ We acknowledge that, subsequent to the 1980 amendment to § 45-21.2-10, other sections of chapter 21.2 still contained cross-references to chapter 21. However, we cannot say that that fact is sufficient to render the pertinent statutory scheme unambiguous or to permit us to determine that §§ 45-21-23 and 45-21-24 are not applicable to Mr. Grasso.

⁷ Although the United States Supreme Court's opinion in *Food and Drug Administration v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000), has been superseded by statute, the approach to statutory construction articulated in that opinion on which we rely is not affected by the statute superseding its ultimate holding.

⁸ General Laws 1956 § 45-21-22 provides: "Upon retirement for accidental disability, a member receives a retirement allowance equal to sixty-six



and two-thirds percent ($66\frac{2}{3}\%$) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31." Section 45-21-31 concerns an offset for workers' compensation benefits or damages received in a personal injury action; it has no bearing on the issues raised in this appeal.

⁹ Of note, the statute governing the disability pensions of members of the state police is also silent with respect to whether the members of that department are subject to IME's or income-reporting requirements. *See* G.L. 1956 § 42-28-21(a).

¹⁰ In the view of the majority, to convey that pensions governed by G.L. 1956 § 45-21.2-10 are not subject to the requirements set forth in G.L. 1956 §§ 45-21-23 and 45-21-24, the General Assembly would have been required to amend § 45-21.2-10 to read something along the lines of, "The amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22. The requirements set forth in §§ 45-21-23 and 45-21-24 do not apply." Amendment by deletion is no longer an option. This is a remarkable statement by this Court.



§ 16-16-5. Service creditable

(a) In calculating "service", "prior service", or "total service" as defined in §16-16-1, every teacher shall be given credit for a year of service for each year in which he or she shall have served as a teacher; provided, that any teacher who through illness or leave of absence without pay does not serve a full school year may receive credit for a full school year of service by paying the full actuarial cost as defined in §36-8-1(9). Credit for leaves of absence shall be limited, in the aggregate, during the total service of a teacher to a period of four (4) years; provided, however, every teacher who had been required to resign for maternity reasons may receive credit for maternity reasons by making contribution to the system upon her return to teaching the amount she would have contributed to the retirement system, with regular interest, based upon her expected compensation but for her absence due to maternity reasons.

(b) The retirement board shall fix and determine the time when and the conditions under which the payments shall be made.

(c) Any teacher who serves or who has served during a school year the number of days that the public schools are required by law to be in session during the year shall be given credit for a year of service for that year. In determining the number of days served by a substitute teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. Any teacher shall be entitled to "prior service" credit for service prior to July 1, 1949, provided the teacher shall have been in service during the school year 1949-1950. The teacher shall be entitled to service credit for any year subsequent to July 1, 1949 in accordance with this chapter, by making contribution to the retirement system of the full actuarial cost for any such service credit.

(d) Any teacher employed in at least a half (1/2) program including a job share program, or working at least half the number of days that the public schools are required to be in session, shall remain a contributing member and shall receive credit for that part-time service on a proportional basis. The purchase of any remaining program or job share time in which the teacher did not work shall not be permitted.

(e) In computing service or in computing compensation, the retirement board shall credit no more than one year of service on account of all service in one calendar year.

(f) Notwithstanding any other section of law, no member of the retirement system shall be permitted to purchase service credit for any portion of a year

**RI Gen. Laws 16-16-5 Service creditable (Rhode Island General
Laws (2023 Edition))**

for which he or she is already receiving service credit in this retirement system.

History:

P.L. 1948, ch. 2101, § 3; P.L. 1951, ch. 2830, § 6; G.L. 1956, § 16-16-5; R. P.L. 1957, ch. 70, § 1; P.L. 1966, ch. 111, § 1; P.L. 1979, ch. 211, § 1; P.L. 1980, ch. 174, § 2; P.L. 1981, ch. 175, § 1; P.L. 1987, ch. 584, § 1; P.L. 1994, ch. 139, §6; P.L. 1994, ch. 142, §7; P.L. 1997, ch. 169, §1; P.L. 2001, ch. 86, §36; P.L. 2009, ch. 68, art. 7, § 4; P.L. 2011, ch. 408, §10; P.L. 2011, ch. 409, §10.



Searchable database: Non-union employees who received bonuses and their salaries

This list reflects the names, job titles and annual salaries of the non-union employees who received two back-to-back \$1,500 bonuses, totaling \$3,000 between January and July 1, 2022. You can search this database by name, department, or job title.

Quick Search

KARPINSKI

X v

DEPARTMENT

v

TITLE

v

DIVISION

v

SEARCH

11 results (0 selected)

FIRST	LAST	TITLE	DEPARTMENT	DIVISION	ANNUAL SALARY
<u>FRANK</u>	KARPINSKI	EXEC DIR (RETIREMENT SYST	TREASURY	EMPLOYEES RETIREMENT	\$174,967.78

Explore Data

Woonsocket employee salaries in 2022: Searchable payroll database

Salaries from 2022/FY 2022 of all educators in RI's six biggest cities

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John A. ZAMBARANO et al.

v.

The RETIREMENT BOARD OF the
EMPLOYEES' RETIREMENT SYSTEM OF
the STATE of Rhode Island.

No. 2012-155-Appeal.

Supreme Court of Rhode Island.

March 1, 2013.

[61 A.3d 433]

Neil P. Philbin, Esq., Peace Dale, for Plaintiff.

Michael P. Robinson, Esq., Pawtucket, for
Defendant.

Present: SUTTELL, C.J., GOLDBERG,
FLAHERTY, ROBINSON, and INDEGLIA,
JJ.

OPINION

Justice INDEGLIA, for the Court.

Yet again, we are called upon to resolve a dispute stemming from the consequences of public corruption. In this appeal, the Retirement Board of the Employees' Retirement System of the State of Rhode Island (defendant or board) asks us to decide whether the trial justice erred in finding that it could not refuse a demand for reimbursement of retirement contributions to John A. Zambarano (plaintiff or Zambarano). This case came before the Supreme Court for oral argument on February 6, 2013, pursuant to an order directing the parties to appear and show cause why the issues raised in this appeal should not be summarily decided. After carefully considering the written and oral submissions of the parties, we are satisfied that this appeal may be resolved without further briefing or argument.

For the reasons set forth in this opinion, we affirm the judgment of the Superior Court.

[61 A.3d 434]

I

Facts and Travel

On August 19, 2010, a federal grand jury indicted Zambarano on eight felony counts relating to his unethical conduct as a member of the North Providence Town Council.¹ Zambarano pled guilty to all counts on March 1, 2011, and was sentenced to a term of imprisonment on May 17, 2011. On the day of his sentencing, an order of forfeiture entered in the United States District Court for the District of Rhode Island which required Zambarano to forfeit \$46,000 to the federal government. According to the board, this order, which was also entered as a money judgment against Zambarano, "represents the amount of bribe money which [he] and his co-defendants received in exchange for agreeing to perform official acts as [members] of the North Providence Town Council." Zambarano was also ordered to pay a special assessment of \$800 and a fine of \$10,000.

On February 4, 2011, about one month before Zambarano pled to the charges, he resigned from his position at the Rhode Island Department of Corrections (DOC). He had been employed as a janitorial/maintenance supervisor at the DOC for approximately eight years and nine months, during which time he contributed \$30,554.20 to the Employees' Retirement System of Rhode Island (ERSRI). Over his approximately thirteen years and two months as a member of the North Providence Town Council, he had also contributed \$5,490.50 to the Municipal Employees' Retirement System (MERS). Both ERSRI and MERS are administered by the board. See G.L.1956 § 36-8-4.

On the day he resigned from his position at the DOC, Zambarano sent a letter to the DOC requesting a refund of his contributions to ERSRI. In a letter dated April 18, 2011, the board responded to Zambarano's demand as follows:



"In light of your plea agreement and the potential monetary judgments to be entered against you, pursuant to the Rhode Island Public Employee Pension Revocation and Reduction Act, [G.L.1956 chapter 10.1 of title 36,] it is our opinion that you are not entitled to a return of contributions. Consequently, at this time we cannot process your request."

Soon after, on April 25, 2011, Zambarano filed a complaint in Superior Court seeking declaratory relief, injunctive relief, and monetary damages against the board.² He alleged that G.L.1956 § 36-10-8 entitled him to a refund of the contributions he had made to ERSRI.³ In a motion filed on April 27, 2011, Zambarano contended that the board's refusal to return those contributions amounted to conversion and breach of its fiduciary duty. He cited G.L.1956 § 36-10.1-4(c) in support of his argument that the board was obligated to return his contributions to him. Section 36-10.1-4(c) provides as follows:

"[N]o payments in return of contributions shall be made or ordered unless and until the [S]uperior [C]ourt determines

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that the public official or public employee whose retirement or other benefits or payments have been revoked or reduced under this chapter has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution for losses incurred by any person as a result of the subject crime related to public office or public employment." Because the order to be entered against him in federal court would be an order of forfeiture, not an order of restitution, Zambarano asserted that the board had no basis for refusing to return his contributions.

In an answer filed on May 31, 2011—after the order of forfeiture had entered against Zambarano—the board denied the substantive allegations of the complaint, raised several affirmative defenses, and asserted counterclaims against Zambarano. On June 22, 2011,

Zambarano moved to amend his complaint. Among other things, he sought to add an "innocent spouse" claim by his wife, Kathy A. Zambarano, who was also named as a plaintiff.⁴ The board assented to the filing of Zambarano's amended complaint and filed its amended answer on June 29, 2011.

A bench trial was held before a justice of the Superior Court on September 15, 2011. The parties submitted a stipulated set of facts before the trial began. Two witnesses testified: Kathy Zambarano and Frank Karpinski, the executive director of ERSRI. Because the board has not appealed that portion of the judgment relating to Kathy Zambarano's "innocent spouse" claim, we will not summarize her testimony.

Karpinski's testimony confirmed certain facts regarding Zambarano's length of municipal and state service and his eligibility for pensions from MERS and ERSRI. Karpinski testified that Zambarano would be entitled to a municipal pension benefit once he reached the age of fifty-eight. This pension benefit would be about \$175.55 per month, or about \$154.45 per month if Zambarano's period of dishonorable service was excluded from the calculation. Karpinski stated that Zambarano's municipal pension benefit could not be paid to another individual before Zambarano attained the age of fifty-eight. Karpinski also testified that Zambarano was not entitled to a pension benefit for his service as a state employee because he had been a state employee for less than ten years when he resigned from his position at the DOC.

On December 13, 2011, after the parties presented arguments, the trial justice rendered a bench decision.⁵ Pursuant to § 36-10.1-3, the trial justice revoked Zambarano's MERS pension in its entirety, citing "the seriousness of the offense[s]" and Zambarano's "grievous breach of public trust." The trial justice also ordered the board to return to Zambarano the contributions he had made to ERSRI when he worked for the DOC. Interpreting § 36-10.1-4(c), he found that the phrase "judgments or orders" was modified by the



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phrase “for the payment of restitution.” A contrary reading, he explained, “would lead to an absurd result.” Based on the plain language of the statute, the trial justice inferred that the law was intended to reach “situation[s] where someone was injured, either economically or physically [,] by reason of conduct that occurred in the course of public employment.” He noted that “[i]f the General Assembly wanted [the statute] to apply * * * to any money owed for any purpose to anyone else, then they could have said that.”

The trial justice also found that Kathy Zambarano was “truly an innocent spouse within the meaning of [§ 36-10.1-3(d)].” Accordingly, he awarded Kathy the MERS pension to which her husband would have been entitled, excluding the period of Zambarano's dishonorable service. Finally, the trial justice ordered the board to return to Zambarano the contributions he had made to MERS during the period of his dishonorable service; these contributions totaled \$720.

Judgment entered on January 3, 2012. The board timely appealed the Superior Court's decision. It also moved, under Rule 62 of the Superior Court Rules of Civil Procedure, for a stay of the judgment pending appeal. The Superior Court granted that motion in an order entered on January 31, 2012.

II Issue on Appeal

The parties' dispute centers on the application of § 36-10.1-4(c) to the facts of this case. Zambarano acknowledges that he is obliged to forfeit \$46,000 to the federal government, but argues that he is nonetheless entitled to a return of his contributions to ERSRI and MERS. He maintains that, because no “judgments or orders * * * for the payment of restitution” have been entered against him, § 36-10.1-4(c) provides no basis upon which the board may refuse his request for a return of his contributions.

The board offers a different reading of § 36-10.1-4(c). It contends that the phrase “for the payment of restitution” modifies the word “orders” but does not modify the word “judgments.” Under this interpretation, the board argues that it may withhold Zambarano's contributions until the federal court's order of forfeiture has been satisfied in full.

III Standard of Review

This appeal presents us with a singular issue of statutory interpretation. We review such questions *de novo*, “with the ‘ultimate goal’ of giving effect to that purpose which our Legislature intended in crafting the statutory language.” *McCain v. Town of North Providence*, 41 A.3d 239, 243 (R.I.2012) (quoting *Webster v. Perrotta*, 774 A.2d 68, 75 (R.I.2001)). It is well settled that “the plain statutory language” is “the best indicator” of the General Assembly's intent. *Id.* (quoting *DeMarco v. Travelers Insurance Co.*, 26 A.3d 585, 616 (R.I.2011)). This Court will not construe a statute “to achieve [a] meaningless or absurd result[].” *Id.* (quoting *Ryan v. City of Providence*, 11 A.3d 68, 71 (R.I.2011)). Rather, when interpreting statutes, a court should construe “each part or section * * * in connection with every other part or section to produce a harmonious whole.” 2A Norman J. Singer & J.D. Shambie Singer, *Sutherland Statutes and Statutory Construction* § 46:5 at 189-90 (7th ed.2007).

IV Discussion

The Legislature enacted the Rhode Island Public Employee Pension Revocation

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and Reduction Act (PEPRRA), chapter 10.1 of title 36, in 1992. P.L.1992, ch. 306, art. 1, § 8. “PEPRRA was adopted because of the unfortunate misconduct of public officials.” *Retirement Board of the Employees' Retirement System of Rhode Island v. DiPrete*, 845 A.2d 270, 279 (R.I.2004).



The statute authorizes the Superior Court to revoke or reduce the retirement benefits of public officials or employees who are convicted of crimes relating to their public office or employment. Section 36-10.1-3(a). Under this statute, “[a]ny public official or public employee whose retirement or other benefits or payments are revoked * * * shall be entitled to a return of his or her contribution paid into the relevant pension fund(s), without interest.” Section 36-10.1-4(a).

At the outset, we note that § 36-10.1-4 may not apply to Zambarano's contributions to ERSRI. Because Zambarano had not yet accumulated sufficient years in state service to be eligible for a state pension, the trial justice did not revoke (and could not have revoked) a pension based on this employment. Thus, this provision of PEPRRA may not apply to the \$30,554.20 in contributions that Zambarano made to ERSRI. It is unclear to us whether the General Assembly intended § 36-10.1-4 to apply in all situations where the Superior Court has revoked a pension of an ex-employee, whether or not that individual has made contributions toward another pension that may not yet have vested. However, because the parties do not contest that § 36-10.1-4 applies to Zambarano's contributions to both MERS and ERSRI, we assume (without deciding) that it does, and proceed to consider whether the trial justice erred in interpreting the statute as applied to the facts of this case.⁴

As noted above, § 36-10.1-4(c) provides that “no payments in return of contributions shall be made or ordered unless and until * * * the public official or public employee * * * has satisfied in full” certain “judgments or orders.” The disjunctive phrase “judgments or orders” is followed by four modifying phrases: (1) “rendered by any court of competent jurisdiction;” (2) “for the payment of restitution;” (3) “for losses incurred by any person;” and (4) “as a result of the subject crime related to public office or public employment.” *Id.* After reading § 36-10.1-4(c) in its entirety, alongside PEPRRA's other provisions, we conclude that all four of these phrases modify the phrase “judgments or orders.”

We have previously observed that “[b]ecause the language of the statute is clear, PEPRRA must be applied literally.” *Smith v. Retirement Board of the Employees' Retirement System of Rhode Island*, 656 A.2d 186, 190 (R.I.1995). If the phrase “for the payment of restitution” is read to modify only the word “orders” and not the word “judgments,” then the three other modifying phrases quoted above must also be read in like manner. The word “judgments” would thus be unmodified, but the word “orders” would be modified by four phrases. The General Assembly could not have intended such a result. The board concedes that the phrase “as a result of the subject crime related to public office or public employment” modifies both “judgments” and “orders,” but argues that “for

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the payment of restitution” modifies only the word “orders.” Because this reading results in an illogical interpretation of the statute, we must reject it.²

The board argues that Zambarano's reading of § 36-10.1-4(c) “would render the word ‘judgment[s]’ mere redundant surplusage * * *.” We disagree. To us, the disjunctive phrase “judgments or orders” shows that the Legislature intended the provision to apply in the event that an order of restitution was not later entered as a judgment of restitution. The word “judgments” is not surplusage; rather, it is an alternative means by which restitution can be required.

To bolster its argument, the board also directs our attention to § 36-10.1-3(a), which states that “any retirement or other benefit or payment of any kind * * * shall be revoked or reduced” under certain circumstances. It contends that the phrase “of any kind” supports its reading of § 36-10.1-4(c). Because §§ 36-10.1-3 and 36-10.1-4(c) deal with two different subjects, this argument is unavailing. Section 36-10.1-3 authorizes the revocation or reduction of the pension or other benefits of a public official or employee. Its broad scope is evidence of the Legislature's intent that those who betray the

public trust receive no benefits whatsoever from the public fisc upon their separation from state or municipal employment. Section 36-10.1-4 applies not to pension benefits, but to the contributions made by the ex-employee. Under the plain language of § 36-10.1-4(c), the Superior Court may only consider whether certain specified kinds of judgments or orders for the payment of restitution have been satisfied before ordering the return of contributions to an ex-employee.

We decline to treat the order of forfeiture to which Zambarano is subject as an order of restitution. In so doing, we must briefly define and distinguish the concepts of restitution and forfeiture. “The word restitution means restoration. Restitution is a return or restoration of what the defendant has gained in a transaction.” 1 Dan B. Dobbs, *Law of Remedies* § 4.1(1) at 551 (2d ed.1993). “Liability in restitution derives from the receipt of a benefit whose retention without payment would result in the unjust enrichment of the defendant at the expense of the claimant.” Restatement (Third) *Restitution and Unjust Enrichment* § 1 cmt. a. at 3 (2011). Once liability is established, “the defendant must restore the benefit in question or its traceable product, or else pay money in the amount necessary to eliminate unjust enrichment.” *Id.*

Forfeiture is defined as “[t]he divestiture of property without compensation” or “[t]he loss of * * * property because of a crime, breach of obligation, or neglect of duty.” Black’s Law Dictionary 722 (9th ed.2009). The federal government is authorized “to seek forfeiture of the proceeds of virtually all serious federal crimes * * *.” Jimmy Gurulé et al., *The Law of Asset Forfeiture* § 5-3(b). at 193 n.59 (2d ed.2004). A forfeiture that is sought against a defendant in a criminal

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prosecution is punitive in nature, not remedial. See *United States v. Bajakajian*, 524 U.S. 321, 332, 118 S.Ct. 2028, 141 L.Ed.2d 314 (1998).

A key distinction between restitution and forfeiture is the recipient of payments made to satisfy those orders. Payments made to satisfy orders of restitution are made to the individual at whose expense the defendant was unjustly enriched. By contrast, payments made to satisfy orders of forfeiture are made to the sovereign that sought the forfeiture—either the state or federal government. Here, the federal court did not order Zambarano to restore the \$46,000 that he and his codefendants had accepted as bribe money to the individuals who had themselves broken the law by bribing public officials; instead, it ordered Zambarano to forfeit his ill-gotten gains to the federal government as part of the punishment it imposed for his crimes.

As Zambarano observed in his brief to this Court, “[s]imply stated, forfeiture is not restitution.” We cannot ignore the plain language of § 36-10.1-4(c); similarly, we cannot transmute the order of forfeiture into an order or judgment of restitution. Having concluded that the trial justice correctly found that “for the payment of restitution” modifies both “judgments” and “orders,” we hold that, because the federal court issued neither a judgment nor an order of restitution against Zambarano, § 36-10.1-4(c) provides the board no basis upon which it can refuse his demand for a return of his contributions.²

V Conclusion

For the reasons set forth in this opinion, we affirm the judgment of the Superior Court, to which we remand the record in this case.

Notes:

¹ In a separate indictment, Zambarano was also charged with other crimes which did not relate to his conduct as a member of the town council. Those charges are not at issue in this



appeal.

² Zambarano named the fifteen individuals who serve on the board as defendants (in their official capacities).

³ General Laws 1956 § 36-10-8 provides that “[a] member [of ERSRI] who withdraws from service * * * shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the annuity savings account, without interest.”

⁴ General Laws 1956 § 36-10.1-3(d) provides as follows:

“If the [S]uperior [C]ourt determines that the retirement or other benefits or payments of a public official or public employee should be revoked or reduced under this chapter, it may, in its discretion and after taking into consideration the financial needs and resources of any innocent spouse * * * order that some or all of the revoked or reduced benefits or payments be paid to [that] innocent spouse * * * as justice may require.”

⁵ Although the record indicates that the parties submitted post-trial memoranda, the record does not include copies of those documents.

⁶ Even if we were to decide that § 36-10.1-4 does not apply to Zambarano's contributions to ERSRI, we would affirm the trial justice's decision on alternate grounds. Section 36-10-8 states, in pertinent part, that “[a] member [of ERSRI] who withdraws from service or ceases to be a member for any reason other than death or retirement shall be paid on demand a refund [of his or her retirement contributions].” Under this statute, Zambarano was entitled to a return of his contributions to ERSRI.

⁷ In its papers to the Superior Court and to this Court, the board has repeatedly omitted the phrase “for the payment of restitution” when paraphrasing the language of § 36-10.1-4(c). This underscores our conclusion that the statute cannot be read as written according to the board's interpretation. Contrary to its argument, the Superior Court is not “fully empowered to determine whether or not Mr. Zambarano has satisfied in full *any* judgments or orders related to his criminal conduct * * *.” (Emphasis added.) As we have explained above, § 36-10.1-4(c) sets forth specific limitations on the kinds of judgments or orders that must be satisfied before payments in return of contributions are made or ordered.

⁸ Although the outcome of this appeal may appear unseemly to some observers, the fact that Zambarano is entitled to a return of his contributions does not change the reality that he remains liable on the federal court's \$46,000 forfeiture judgment against him.



- (2) The personnel action form signed by the Personnel Administrator, Town Manager, Mayor, or School Superintendent; or
 - (3) A memorandum of understanding/agreement; or
 - (4) Any other employer documentation deemed appropriate and approved by the ERSRI.
- G. Official Leave – If an employee takes a leave of absence without pay, the employee may purchase the leave service credit consistent with current law and policy. The purchase of salary is not permitted. All purchase requests are subject to the laws and Regulations governing the purchase of service credit.
- H. Partial Leave – In instances where an employee's position is thirty-five (35) or forty (40) hours per week and the employee works less than the required hours, they will receive service credit on a *pro rata* basis. If the employee takes partial leave, they will be allowed to purchase service credit for the remaining hours of their position, consistent with current law and policy. All purchase requests are subject to the laws and Regulations governing the purchase of service credit.
- 1. The following documentation must be provided to the ERSRI by an employee who wishes to purchase service credit for the time they were on an official or partial leave:
 - a. The personnel action form signed by the Personnel Administrator, Town Manager, School Principal, School Superintended, Appointing Authority or Mayor; and
 - b. Proof of approval of official or partial leave of absence without pay by the employee's appointing authority;
 - c. Official Leave Verification form completed by the employee's employer, current school official, or former employer; or
 - d. Any other employer documentation deemed appropriate and approved by ERSRI.

1.21 Additional Benefits Payable to Retired Teachers

- A. This Regulation governs the determination of eligibility for R.I. Gen. Laws § 16-16-40. This Regulation does not apply to any State employee members in the Employees' Retirement System (ERS), members of the Municipal Employees' Retirement System (MERS), or members of the Judicial Retirement Plan (RJFT and JRBT) or State Police Retirement Plan (SPRBT and NCSTPRFT).
- B. "School year" shall be defined as the number of days required by R.I. Gen. Laws § 16-2-2 that school be in session.

C. For all present and former teachers, active and retired teachers, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, the third (3rd) anniversary of the date of retirement for purposes of eligibility for the annual benefit adjustment provided in any calendar year, pursuant to R.I. Gen. Laws § 16-16-40, for a teacher who is in service until the school in which they are employed closes for the school year, shall be the month the school closes for the school year.

1. Example: A teacher is employed in School District A. The school year in District A begins on September 2 and ends on June 20 (i.e. the number of days required by law to be in session). Accordingly, the schools in District A officially close for the school year on June 20 after all students are dismissed.

a. The teacher, being eligible to retire, terminates their position effective at the close of the school year (in this instance June 20) and is reported on the payroll submitted to ERSRI as such. For purposes of eligibility for the annual benefit adjustment (if and when applicable), the anniversary month of retirement shall be June and consistent with R.I. Gen. Laws § 16-16-40, shall be payable in July.

1.22 Rules Regarding the Operation and Administration of R.I. Gen. Laws § 36-9-25, Entitled Standard for Years' Service Credits for Active Members of the Employees' Retirement System of Rhode Island; § 16-16-5, Entitled Service Creditable; and § 45-21-14 Entitled Computation of Years of Service

A. This Regulation governs the standard for a year of service credit for active and inactive members of the Employees' Retirement System of the State of Rhode Island ("ERSRI"). This Regulation shall not be applicable to retired members of ERSRI or the Municipal Employees' Retirement System of the State of Rhode Island ("MERS") and is not a replacement for the Rhode Island General Laws and § 1.6 of this Part governing the purchase of service credit.

B. Statutory Standard

1. The retirement board shall fix and determine, by appropriate Rules and Regulations, how much service in any year is equivalent to a year of service, but in computing that service or in computing the compensation it shall credit no period of more than a month's duration during which a member was absent without pay nor shall more than one (1) year of service be credited on account of all service in one (1) calendar year. See R.I. Gen. Laws §§ 36-9-25, 16-16-5, and 45-21-14.

2. Notwithstanding any other section of law, no member of the Retirement System shall be permitted to purchase service credit for any portion of a

POST HEARING

MEMO

ERSRI

EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND

IN RE: PATRICIA DUBOIS

**Before Hearing Officer
Teresa M. Rusbino, Esq.**

**EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND'S
POST-HEARING MEMORANDUM OF LAW**

A. INTRODUCTION

Now comes the Employees' Retirement System of the State of Rhode Island ("ERSRI" or the "Retirement System"), and hereby submits its Post-Hearing Memorandum of Law in support of its decision to recoup \$3,129.66 from Patricia Dubois' ("Ms. Dubois") pension benefits for the period of time that she engaged in post-retirement employment in excess of ninety (90) days during the 2020-2021 school year.

On or about April 7, 2023, Executive Director Frank Karpinski ("Executive Director Karpinski") sent a letter to Ms. Dubois regarding her participation in post-retirement employment. He notified Ms. Dubois that the additional days that she worked beyond the ninety (90) day limit on post-retirement employment during the 2020-2021 school year after the expiration of Executive Order 21-71 ("EO 21-71") on June 25, 2021 had impacted her pension benefits. Mr. Karpinski advised that prior to the expiration of EO 21-71, Ms. Dubois worked ninety-three and a half (93.5) full days during the 2020-2021 school year, and that her pension benefits were not impacted during that time. However, since she worked an additional fifteen and a half (15.5) days after the expiration of EO 21-71 and during the 2020-2021 school year, ERSRI was required to recoup those days from her pension benefits pursuant to § 16-16-24. Consequently, ERSRI was entitled to a recoupment of \$3,129.66.

ERSRI's deduction of pension benefits for the fifteen and a half (15.5) days Ms. Dubois worked beyond the 90 (ninety) day limit after the expiration of EO 21-71 is clearly required by the plain language of the relevant Executive Orders and § 16-16-24, and ERSRI's decision to recoup \$3,129.66 from Ms. Dubois pension benefits must be upheld.

B. BACKGROUND

On July 1, 2009, Ms. Dubois retired under Title 16, Chapter 16 of the Rhode Island General Laws as a Superintendent¹ of the Gloucester School Department. However, during the COVID-19 pandemic (the "pandemic") and during the 2020-2021 school year, Ms. Dubois resumed working as a substitute Superintendent by engaging in post-retirement employment.

During the 2020-2021 school year, which spanned from August 25, 2020 through August 24, 2021, Ms. Dubois worked a total of one hundred and nine (109) full days. *See* ERSRI Letter to Dubois dated 4/7/23, attached hereto as Exhibit 1. Specifically, Ms. Dubois worked a total of ninety-three and a half (93.5) days from August 25, 2020 through June 25, 2021, and worked a total of fifteen and a half (15.5) days from June 26, 2021 through August 24, 2021. *See id.* Ms. Dubois is in agreement with these calculations. *See* Hearing Transcript, attached hereto as Exhibit 2 at 11:19-12:15.

¹ Ms. Dubois retired as a Superintendent, and therefore, served as a superintendent during her post-retirement employment, which falls under the definition of a "teacher." A "teacher" is defined, in pertinent part as

a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, **superintendent**, or assistant superintendent of schools[.]

R.I. Gen. Laws § 16-16-1(2) (emphasis added).

R.I. Gen. Laws § 16-16-24 provides for the suspension of pension benefits of teachers who have retired and have worked more than ninety (90) days in a single school year. Specifically, § 16-16-24 states that a teacher “may substitute as a teacher at state schools and in public schools of this state for a period of **no more than ninety (90) days** in any one school year, without forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher.” (Emphasis added).

In response to the pandemic and the resulting staff shortages and additional demands at schools, then Governor Gina Raimondo instituted Executive Order 20-110 (“EO 20-110) on December 30, 2020 which temporarily suspended the ninety (90) day post-retirement employment restriction contained in R.I. Gen. Laws § 16-16-24. Pertinently, EO 20-110 stated as follows:

The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R.I. Gen. Laws Title 16, 36, or 45 contained R.I. Gen. Laws § 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.²

See Executive Order 20-110, attached hereto as **Exhibit 3**. It allowed teachers to become re-employed for a “finite duration during the 2020-2021 school year ending on June 25, 2021[.]” See *id.* The Executive Order was extended monthly until EO 21-71³ dated June 18, 2021. EO 21-71

² LEA is defined in the Executive Order as “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, a public elementary or secondary schools in a city, county, or township school district, or other political subdivision of a State or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.” See **Exhibit 3**.

³ Executive Order 21-71 also contained the same language as the prior Executive Orders which stated that:

The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R.I. Gen. Laws Title 16, 36, or 45 contained R.I. Gen. Laws § 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.

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stated that it was “to remain in full force and effect through June 25, 2021.” *See* Executive Order 21-71 attached hereto as Exhibit 4.

In the April 7, 2023 correspondence to Ms. Dubois, Executive Director Karpinski advised that “[g]iven the expiration date of the EO 21-71 (June 25, 2021) . . . [b]enefits would be impacted for those retirees who opted to continue working beyond June 25, 2021” and for those retirees who had worked more than ninety (90) days during the 2021-2022 school year. *See* Exhibit 1. He further noted that she worked a total of ninety-three and a half (93.5) full days as of the expiration date of June 25, 2021, and that her pension benefits would not be impacted for these dates of post-retirement employment. *See id.* However, he advised that her pension benefits would be impacted based on the additional fifteen and a half (15.5) full days that she worked during the 2020-2021 school year following the expiration of EO 21-71. *See id.* Thus, it was stated that ERSRI was “required by law to recoup 15.5 full days from [her] pension benefit.” *See id.*

Ms. Dubois filed an appeal of ERSRI’s determination on May 4, 2023. The parties submitted Pre-Hearing Memoranda and a hearing was conducted before Hearing Officer Rusbino on July 24, 2023. Ms. Dubois and Executive Director Karpinski testified at the hearing.

Executive Director Karpinski testified that for purposes of calculating the ninety (90) day cap, the Retirement System determined that the 2020-2021 school year spanned from August 25, 2020 through August 24, 2021. *See* Exhibit 2 at 15:17-23. Executive Director Karpinski also testified that the Retirement System has routinely and consistently over the past thirty (30) years, at a minimum, applied August 25th to August 24th as the school year cycle for purposes of service credit accrual and post-retirement employment calculations. *See id.* at 15:24-20:19. He stated that this cycle ensures uniformity because the ERSRI regulations require that service credits are earned during a school year which spans one hundred and eighty (180) days, and that the exact

start and end dates may vary within the school year depending on the type of teaching professional. *See id.* Thus, for purposes of consistency in calculating service credits and post-retirement employment restrictions for any given school year, the Retirement System uses the August 24th through August 25th cycle. *See id.*

C. STANDARD OF REVIEW

In Chapter 8 of Title 36, the Legislature expressly vested the Retirement Board of ERSRI with the "the general administration and the responsibility for the proper operation of the retirement system." *See* R.I. Gen Laws § 36-8-3; *Town of Richmond v. R.I. Dep't of Env't Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). The Legislature has also expressly granted the Retirement Board the power to "establish rules and regulations for the administration of the business of the retirement system." *See* § 36-8-3; *see also Perrotti v. Solomon*, 657 A.2d 1045, 1048 (R.I. 1995) ("The retirement board [] possesses the power to 'establish rules and regulations' for the administration and transaction of the retirement system and may 'perform other such functions as are required' for the administration of the retirement system").

Furthermore, it is long recognized that "an administrative agency will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency." *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). "Deference is accorded even when the agency's interpretation is not the only permissible interpretation that could be applied." *Pawtucket Power Assocs. Ltd. P'ship v. City of Pawtucket*, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, "the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not

clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)).

As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including § 16-16-24, and its interpretation of this statute and its application of the Executive Orders impacting this statute requires deference. See *Pawtucket Power Assocs. Ltd. P’ship*, 622 A.2d at 542 (stating that “deference will be accorded to an administrative agency when it interprets a statute whose administration and enforcement have been entrusted to the agency”).

D. ARGUMENT

1. **ERSRI is Entitled to Recoup Ms. Dubois’ Pension Benefits Based on the Plain and Clear Language of R.I. Gen. Laws § 16-16-24, EO 20-110, and EO 21-71.**

As set out in detail in Executive Director Karpinski’s April 7, 2023 correspondence (Exhibit 1), since Ms. Dubois’ post-retirement employment during the 2020-2021 school year exceeded the ninety (90) day limit following the expiration of EO 21-71 on June 25, 2021, her pension benefits were required to be reduced based on the additional days that she worked. ERSRI’s interpretation of the relevant Executive Orders and § 16-16-24 is entirely reasonable, consistent with the plain and clear language of the relevant provisions, and must be given deference.

EO-21-110 provides that beginning on December 30, 2020, “[t]he prohibitions and restrictions on post-retirement employment by persons who retired under the provisions of R.I. Gen. Laws Title 16 . . . contained in R.I. Gen. Laws § 16-16-24 . . . are hereby suspended[.]” See Exhibit 2 (emphasis added). The suspension was extended monthly up until EO 20-71 which expired on June 25, 2021. See Exhibit 3. The specific “prohibition” or “restriction” contained in § 16-16-24 that was suspended by the Executive Orders is that a retired teacher (as defined) could

teach “for a period of no more than ninety (90) days in any one school year without forfeiture of, or reduction in, the retirement benefits[.]” (Emphasis added). Therefore, pursuant to the plain and clear language of EO 20-110 and EO 21-71, the ninety (90) day “restriction” on post-retirement employment under § 16-16-24, was “suspended” from December 30, 2020 through June 25, 2021, and a retiree’s benefits would not be impacted *during that time* if the retiree worked more than ninety (90) days.⁴ However, once EO 21-71 expired on June 25, 2021, the “restriction” contained in § 16-16-24 was back in effect. Therefore, if the retiree had worked more than ninety (90) days from June 26, 2021 through the end of the school year on August 24, 2021, then the retiree’s pension benefits would be reduced accordingly.

ERSRI’s interpretation of § 16-16-24 and the corresponding Executive Orders as it pertains to Ms. Dubois’ pension benefits is consistent with their plain and clear language. When the language of a statute or enactment is “clear and unambiguous” then it must be interpreted “literally “and the words of the statute or enactment must be given “their plain and ordinary meanings.” See *Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005). Therefore, after a review of the clear and unambiguous language of Executive Orders 20-110 and 21-71, any retired teacher who exceeded the ninety (90) day limit under § 16-16-24 through June 25, 2021 would not have their pension benefits impacted. However, the relevant unambiguous language also makes it clear that the retired teacher’s pension benefits *would* be impacted if that teacher had already worked ninety (90) days during the 2020-2021 school year and proceeded to work additional days

⁴ Ms. Dubois worked ninety-three and a half (93.5) during the 2020-2021 school year through June 25, 2021. The additional three and a half (3.5) days that she worked beyond the ninety (90) days while EO 21-71 was in effect did not impact her pension benefits because the reduction of benefits was suspended during this time.

after June 25, 2021. See Exhibits C-D. Thus, since Ms. Dubois had worked a total of ninety-three and a half (93.5) full days through June 25, 2021, the additional fifteen and a half (15.5) days that she opted to work after the suspension period ended resulted in the reduction of her pension benefits under § 16-16-24.

Ms. Dubois argues that EO 20-110 and EO 21-71 “erased” or “tolled” the number of days post-retirement that she worked from December 30, 2020 through June 25, 2021, and that the days post-retirement that she worked only began to accrue on June 26, 2021. This interpretation is flawed as it ignores the plain and clear language of the Executive Orders, and it does not apply the language contained therein as it is written. See *Planned Environments Mgmt. Corp.*, 996 A.2d at 121. The Executive Orders do not state that the counting of the ninety (90) days that a teacher worked during the 2020-2021 school year would be “erased” or “tolled.” It is also “not the function of the Court to add language to an otherwise clear and unambiguous enactment.” *State v. Fuller-Balletta*, 996 A.2d 133, 143 (R.I. 2010).

Additionally, § 16-16-24 is not a statute of limitations. It merely restricts retired teachers from working more than ninety (90) days in a school year post-retirement without having their pension benefits affected. It would be illogical to interpret § 16-16-24 as containing a limitations period or a tolling provision. In support of her argument that the Executive Orders “tolled” the number of days worked under § 16-16-24, Ms. Dubois cites to *Artis v. District of Columbia*, 538 U.S. 71 (2018). However, in *Artis*, the United States Supreme Court interpreted a specific tolling provision under 28 U.S.C. § 1367(d) which states in relevant part “[t]he period of limitations or any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a) shall be tolled while the claim is pending[.]” The Supreme Court’s interpretation of the word

“tolled” in context of U.S.C. § 1367(d) is irrelevant to the language of the Executive Orders and § 16-16-24 which do not contain a “period of limitations” or “tolling” language. It is not the function of the Hearing Officer to add any additional language or meaning to provisions where the lawmakers have not.

Ms. Dubois also argues that the Executive Orders “envisioned an unbroken suspension of the 90-day rule” during the entirety of the 2020-2021 school year. However, since the Executive Orders are unambiguous and have clear expiration dates, they must be “literally construed” and the Court “do[es] not search behind the language” to determine “intent.” *See Angell v. Fire Dist. Of South Kingstown*, 935 A.2d 943, 946 (R.I. 2007).

Lastly, Ms. Dubois also references recent legislation that was enacted, presumably R.I. Gen. Laws § 16-16-24.1 which was enacted on March 28, 2022, and § 16-16-24.2 which was enacted on March 22, 2023. According to the plain and clear language of § 16-16-24.1, the ninety (90) day cap on post-retirement employment was suspended effective March 28, 2022 through the conclusion of the 2021-2022 school year “as part of the public health crisis caused by COVID-19”. Similarly, § 16-16-24.2 extended the suspension of the ninety (90) day cap on post-retirement employment related to statewide staffing issues through June 20, 2024, effective March 22, 2023. These newly enacted statutes simply do not apply to Ms. Dubois’ post-retirement employment because they were enacted *after* the 2020-2021 school year and must only be applied prospectively. The Rhode Island Supreme Court has consistently held that “statutes and their amendments are applied prospectively, absent clear, strong language, or by necessary implication that the Legislature intended a statute to have retroactive application[.]” *State v. Briggs*, 58 A.2d 164, 168 (R.I. 2013). As such, there has been no clear express or implied indication that either of these statutes shall be given retroactive application, or that they should be applied to Ms. Dubois’ post-

retirement employment between June 26, 2021 and August 24, 2021. Further, the Legislature “is presumed to know the state of existing law when it enacts or amends a statute.” *Simeone v. Charron*, 762 A.2d 442, 446 (R.I. 2000). Thus, if the Legislature wanted to apply either of these statutes retroactively to the 2020-2021 school year, it would have so indicated in the express language of the statutes.

Furthermore, ERSRI’s interpretation of the Executive Orders and § 16-16-24 requires deference. Even assuming *arguendo* that Ms. Dubois’ interpretation is feasible, deference still must be given to ERSRI’s interpretation because ERSRI has been entrusted with the administration of § 16-16-24 and its interpretation is reasonable and fully consistent with the plain and clear language. *See Grasso*, 177 A.3d at 486-87. Accordingly, per the clear language of § 16-16-24, Executive Order 20-110, and Executive Order 21-71, ERSRI was fully entitled to recoup Ms. Dubois’ pension benefit for the period of time that she engaged in post-retirement employment following the expiration of the Executive Orders and which exceeded the ninety (90) day cap on post-retirement employment during the 2020-2021 school year.

E. CONCLUSION

For all the reasons stated above and in ERSRI’s Pre-Hearing Memorandum, the Hearing Officer should uphold the decision of ERSRI to recoup \$3,129.66 from her pension benefits for the additional fifteen and a half (15.5) days that she worked following the expiration of the Executive Orders and in excess of the ninety (90) day limit on post-retirement employment during the 2020-2021 school year.

Respectfully submitted,

Employees' Retirement System of the State of
Rhode Island,

By its attorneys,

/s/Michael P. Robinson

Michael P. Robinson, Esq. (#6306)

Larissa B. DeLisi, Esq. (#9533)

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CERTIFICATE OF SERVICE

I hereby certify that, on the 1st day of September, 2023, a copy of the within was emailed to
Teresa Rusbino (tmrri03@gmail.com) and Gregory Piccirilli, Esq. (gregory@splawri.com)

/s/ Larissa B. DeLisi, Esq.

EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND

IN RE: PATRICIA DUBOIS

**Before Hearing Officer
Teresa M. Rusbino, Esq.**

**EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND'S
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A. INTRODUCTION

Now comes the Employees' Retirement System of the State of Rhode Island ("ERSRI" or the "Retirement System"), and hereby submits its Post-Hearing Memorandum of Law in support of its decision to recoup \$3,129.66 from Patricia Dubois' ("Ms. Dubois") pension benefits for the period of time that she engaged in post-retirement employment in excess of ninety (90) days during the 2020-2021 school year.

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B. BACKGROUND

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In Chapter 8 of Title 36, the Legislature expressly vested the Retirement Board of ERSRI with the "the general administration and the responsibility for the proper operation of the retirement system." *See* R.I. Gen Laws § 36-8-3; *Town of Richmond v. R.I. Dep't of Env't Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). The Legislature has also expressly granted the Retirement Board the power to "establish rules and regulations for the administration of the business of the retirement system." *See* § 36-8-3; *see also Perrotti v. Solomon*, 657 A.2d 1045, 1048 (R.I. 1995) ("The retirement board [] possesses the power to 'establish rules and regulations' for the administration and transaction of the retirement system and may 'perform other such functions as are required' for the administration of the retirement system").

Furthermore, it is long recognized that "an administrative agency will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency." *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). "Deference is accorded even when the agency's interpretation is not the only permissible interpretation that could be applied." *Pawtucket Power Assocs. Ltd. P'ship v. City of Pawtucket*, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, "the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not

clearly erroneous or unauthorized.” *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)).

As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including § 16-16-24, and its interpretation of this statute and its application of the Executive Orders impacting this statute requires deference. *See Pawtucket Power Assocs. Ltd. P’ship*, 622 A.2d at 542 (stating that “deference will be accorded to an administrative agency when it interprets a statute whose administration and enforcement have been entrusted to the agency”).

D. ARGUMENT

1. **ERSRI is Entitled to Recoup Ms. Dubois’ Pension Benefits Based on the Plain and Clear Language of R.I. Gen. Laws § 16-16-24, EO 20-110, and EO 21-71.**

As set out in detail in Executive Director Karpinski’s April 7, 2023 correspondence (Exhibit 1), since Ms. Dubois’ post-retirement employment during the 2020-2021 school year exceeded the ninety (90) day limit following the expiration of EO 21-71 on June 25, 2021, her pension benefits were required to be reduced based on the additional days that she worked. ERSRI’s interpretation of the relevant Executive Orders and § 16-16-24 is entirely reasonable, consistent with the plain and clear language of the relevant provisions, and must be given deference.

EO-21-110 provides that beginning on December 30, 2020, “[t]he prohibitions and restrictions on post-retirement employment by persons who retired under the provisions of R.I. Gen. Laws Title 16 . . . contained in R.I. Gen. Laws § 16-16-24 . . . are hereby suspended[.]” *See Exhibit 2* (emphasis added). The suspension was extended monthly up until EO 20-71 which expired on June 25, 2021. *See Exhibit 3*. The specific “prohibition” or “restriction” contained in § 16-16-24 that was suspended by the Executive Orders is that a retired teacher (as defined) could

teach “for a period of no more than ninety (90) days in any one school year without forfeiture of, or reduction in, the retirement benefits[.]” (Emphasis added). Therefore, pursuant to the plain and clear language of EO 20-110 and EO 21-71, the ninety (90) day “restriction” on post-retirement employment under § 16-16-24, was “suspended” from December 30, 2020 through June 25, 2021, and a retiree’s benefits would not be impacted *during that time* if the retiree worked more than ninety (90) days.⁴ However, once EO 21-71 expired on June 25, 2021, the “restriction” contained in § 16-16-24 was back in effect. Therefore, if the retiree had worked more than ninety (90) days from June 26, 2021 through the end of the school year on August 24, 2021, then the retiree’s pension benefits would be reduced accordingly.

ERSRI’s interpretation of § 16-16-24 and the corresponding Executive Orders as it pertains to Ms. Dubois’ pension benefits is consistent with their plain and clear language. When the language of a statute or enactment is “clear and unambiguous” then it must be interpreted “literally “and the words of the statute or enactment must be given “their plain and ordinary meanings.” *See Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005). Therefore, after a review of the clear and unambiguous language of Executive Orders 20-110 and 21-71, any retired teacher who exceeded the ninety (90) day limit under § 16-16-24 through June 25, 2021 would not have their pension benefits impacted. However, the relevant unambiguous language also makes it clear that the retired teacher’s pension benefits *would* be impacted if that teacher had already worked ninety (90) days during the 2020-2021 school year and proceeded to work additional days

⁴ Ms. Dubois worked ninety-three and a half (93.5) during the 2020-2021 school year through June 25, 2021. The additional three and a half (3.5) days that she worked beyond the ninety (90) days while EO 21-71 was in effect did not impact her pension benefits because the reduction of benefits was suspended during this time.

after June 25, 2021. See Exhibits C-D. Thus, since Ms. Dubois had worked a total of ninety-three and a half (93.5) full days through June 25, 2021, the additional fifteen and a half (15.5) days that she opted to work after the suspension period ended resulted in the reduction of her pension benefits under § 16-16-24.

Ms. Dubois argues that EO 20-110 and EO 21-71 “erased” or “tolled” the number of days post-retirement that she worked from December 30, 2020 through June 25, 2021, and that the days post-retirement that she worked only began to accrue on June 26, 2021. This interpretation is flawed as it ignores the plain and clear language of the Executive Orders, and it does not apply the language contained therein as it is written. See *Planned Environments Mgmt. Corp.*, 996 A.2d at 121. The Executive Orders do not state that the counting of the ninety (90) days that a teacher worked during the 2020-2021 school year would be “erased” or “tolled.” It is also “not the function of the Court to add language to an otherwise clear and unambiguous enactment.” *State v. Fuller-Balletta*, 996 A.2d 133, 143 (R.I. 2010).

Additionally, § 16-16-24 is not a statute of limitations. It merely restricts retired teachers from working more than ninety (90) days in a school year post-retirement without having their pension benefits affected. It would be illogical to interpret § 16-16-24 as containing a limitations period or a tolling provision. In support of her argument that the Executive Orders “tolled” the number of days worked under § 16-16-24, Ms. Dubois cites to *Artis v. District of Columbia*, 538 U.S. 71 (2018). However, in *Artis*, the United States Supreme Court interpreted a specific tolling provision under 28 U.S.C. § 1367(d) which states in relevant part “[t]he period of limitations or any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a) shall be tolled while the claim is pending[.]” The Supreme Court’s interpretation of the word

“tolled” in context of U.S.C. § 1367(d) is irrelevant to the language of the Executive Orders and § 16-16-24 which do not contain a “period of limitations” or “tolling” language. It is not the function of the Hearing Officer to add any additional language or meaning to provisions where the lawmakers have not.

Ms. Dubois also argues that the Executive Orders “envisioned an unbroken suspension of the 90-day rule” during the entirety of the 2020-2021 school year. However, since the Executive Orders are unambiguous and have clear expiration dates, they must be “literally construed” and the Court “do[es] not search behind the language” to determine “intent.” *See Angell v. Fire Dist. Of South Kingstown*, 935 A.2d 943, 946 (R.I. 2007).

Lastly, Ms. Dubois also references recent legislation that was enacted, presumably R.I. Gen. Laws § 16-16-24.1 which was enacted on March 28, 2022, and § 16-16-24.2 which was enacted on March 22, 2023. According to the plain and clear language of § 16-16-24.1, the ninety (90) day cap on post-retirement employment was suspended effective March 28, 2022 through the conclusion of the 2021-2022 school year “as part of the public health crisis caused by COVID-19”. Similarly, § 16-16-24.2 extended the suspension of the ninety (90) day cap on post-retirement employment related to statewide staffing issues through June 20, 2024, effective March 22, 2023. These newly enacted statutes simply do not apply to Ms. Dubois’ post-retirement employment because they were enacted *after* the 2020-2021 school year and must only be applied prospectively. The Rhode Island Supreme Court has consistently held that “statutes and their amendments are applied prospectively, absent clear, strong language, or by necessary implication that the Legislature intended a statute to have retroactive application[.]” *State v. Briggs*, 58 A.2d 164, 168 (R.I. 2013). As such, there has been no clear express or implied indication that either of these statutes shall be given retroactive application, or that they should be applied to Ms. Dubois’ post-

retirement employment between June 26, 2021 and August 24, 2021. Further, the Legislature “is presumed to know the state of existing law when it enacts or amends a statute.” *Simeone v. Charron*, 762 A.2d 442, 446 (R.I. 2000). Thus, if the Legislature wanted to apply either of these statutes retroactively to the 2020-2021 school year, it would have so indicated in the express language of the statutes.

Furthermore, ERSRI’s interpretation of the Executive Orders and § 16-16-24 requires deference. Even assuming *arguendo* that Ms. Dubois’ interpretation is feasible, deference still must be given to ERSRI’s interpretation because ERSRI has been entrusted with the administration of § 16-16-24 and its interpretation is reasonable and fully consistent with the plain and clear language. *See Grasso*, 177 A.3d at 486-87. Accordingly, per the clear language of § 16-16-24, Executive Order 20-110, and Executive Order 21-71, ERSRI was fully entitled to recoup Ms. Dubois’ pension benefit for the period of time that she engaged in post-retirement employment following the expiration of the Executive Orders and which exceeded the ninety (90) day cap on post-retirement employment during the 2020-2021 school year.

E. CONCLUSION

For all the reasons stated above and in ERSRI’s Pre-Hearing Memorandum, the Hearing Officer should uphold the decision of ERSRI to recoup \$3,129.66 from her pension benefits for the additional fifteen and a half (15.5) days that she worked following the expiration of the Executive Orders and in excess of the ninety (90) day limit on post-retirement employment during the 2020-2021 school year.

Respectfully submitted,

Employees' Retirement System of the State of
Rhode Island,

By its attorneys,

/s/Michael P. Robinson

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CERTIFICATE OF SERVICE

I hereby certify that, on the 1st day of September, 2023, a copy of the within was emailed to
Teresa Rusbino (tmrri03@gmail.com) and Gregory Piccirilli, Esq. (gregory@splawri.com)

/s/ Larissa B. DeLisi, Esq.

EXHIBIT 2

Page 1

1 STATE OF RHODE ISLAND
2 EMPLOYEES' RETIREMENT SYSTEM
3
4
5 IN RE: PATRICIA DUBOIS
6
7
8
9 ADMINISTRATIVE HEARING
10
11 - BEFORE -
12 ADMINISTRATIVE HEARING
13 Patricia Dubois
14 TERESA M. RUSBINO, ESQ.
15
16 JULY 24, 2023
17
18 2:00 P.M.
19
20
21 Warwick, Rhode Island
22
23
24
25 Lisa L. Crompton, CSR

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10	July 24, 2023	
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12	E X H I B I T S	
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14	EXHIBITS	DESCRIPTION PAGE NO.
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17	*** Reporter's Note ***	
18	All exhibits retained by The Hearing Officer.	
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21 ALSO PRESENT: Patricia Dubois
22 Frank J. Karpinski
23
24
25

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1 (COMMENCING AT 2:05 P.M.)
2 THE HEARING OFFICER: We are on
3 the record in the appeal of Patricia Dubois.
4 My name is Teresa Rusbino, and I am the hearing
5 officer that's been assigned to this appeal.
6 The parties are present, and I
7 would ask that each individual and the attorney
8 identify themselves for the record, beginning
9 with the member appellant.
10 MS. DUBOIS: Patricia Dubois.
11 MR. PICCIRILLI: Gregory
12 Piccirilli for the appellant.
13 MR. ROBINSON: I'm
14 Michael Robinson, counsel for the
15 Retirement System. With me is the executive
16 director, Frank Karpinski.
17 THE HEARING OFFICER: All
18 right. Very good.
19 So we will begin the hearing in
20 this matter.
21 Mr. Piccirilli, if you would
22 like to begin.
23 And just for the record as
24 well, although it will be attached to the
25 transcript later in this process, I just would

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1 like to indicate that both, attorneys for both
 2 parties, Ms. Dubois, the appellant, and the
 3 respondent, the Employees' Retirement System,
 4 presented pre-hearing statements and exhibits to
 5 those statements, and we will make sure that the
 6 exhibits are presented into the record at some
 7 point in time in this hearing so we have them as
 8 formal exhibits as well. I don't know if you
 9 would like your pre-hearing statements to also
 10 be presented as exhibits. We can -- However you
 11 would like to do that is fine by me.

12 So again, having just mentioned
 13 that as a, as a housekeeping measure,
 14 Mr. Piccirilli, you may begin.

15 MR. PICCIRILLI: Thank you.
 16 DIRECT EXAMINATION
 17 BY MR. PICCIRILLI:

18 Q. Ms. Dubois, you're the superintendent in the
 19 Gloucester School Department; correct?
 20 A. Correct.
 21 Q. Just to be clear, again, for the record, what
 22 does the Gloucester School District consist of?
 23 A. Just consists of the two elementary schools,
 24 Fogarty Memorial Elementary School and
 25 West Gloucester Elementary School.

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1 Q. Speak a little bit louder.
 2 A. Oh. All right. Two elementary schools.
 3 Q. Okay.
 4 A. Fogarty Memorial and West Gloucester
 5 Elementary School.
 6 Q. And so the Gloucester School Department, it
 7 consists of grades -- what grades?
 8 A. Pre-K to 5.
 9 Q. Okay. The middle and high school grades,
 10 6 through 12, where -- what district is that
 11 under?
 12 A. They belong to the Foster-Glocester Regional
 13 School District.
 14 Q. They have their own superintendent; is that
 15 correct?
 16 A. Correct.
 17 Q. Okay. So the superintendent -- So you're just a
 18 superintendent of the elementary grades in
 19 Gloucester.
 20 A. Correct.
 21 Q. And roughly, how many students in those two
 22 grades?
 23 A. About 550, 555.
 24 Q. Okay. Not to belabor it too much, but the
 25 pandemic hit in December of -- in March of 2020.

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1 A. Correct.
 2 Q. Schools closed. You went virtual for the
 3 remainder of that school year; correct?
 4 A. Correct.
 5 Q. Then after that, there was -- the pandemic
 6 continued through the '20/'21 school year;
 7 correct?
 8 A. Correct.
 9 Q. During that '20/'21 school year, to state the
 10 obvious, did you have an extra burden on your
 11 employment as superintendent in dealing with the
 12 response to the pandemic?
 13 A. Yes. There were a lot of extra things
 14 required of us from RIDE and from RIDOH during
 15 that year, that summer, the summer before, and
 16 the summer after, yes.
 17 Q. And just to be clear for the record, when you
 18 say RIDE, you mean the Rhode Island Department
 19 of Education.
 20 A. Correct.
 21 Q. And RIDOH is the Rhode Island Department of
 22 Health.
 23 A. Correct.
 24 Q. And I imagine a lot of that had to do with, the
 25 Department of Health end was mitigation of

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1 dealing with the COVID in the schools.
 2 A. Correct. And there was just a lot of
 3 organizational things, how to keep the children
 4 6 feet apart, do you have enough rooms to keep
 5 the children -- So there was a lot of
 6 organizational things that you had to do ahead
 7 of time to make sure that you were following all
 8 of RIDOH's instructions.
 9 Q. Okay. The end of the school year in Gloucester
 10 in June of '21, approximately when would that
 11 have been? Middle of June?
 12 A. Middle of June, yes.
 13 Q. Okay. And school started up again in the end of
 14 August?
 15 A. August 28th, 29th, yeah. Yes.
 16 Q. Okay. Between the end of school in June and the
 17 beginning of school in August, did you just take
 18 the summer off?
 19 A. No, absolutely not.
 20 Q. What did you do during the summer of '21?
 21 A. Many -- The usual, the usual things. We
 22 usually have a lot of people that need to be
 23 hired. A lot of changes go on during, during
 24 the summer. There was a lot of RIDE and RIDOH
 25 meetings that you had to attend weekly to give

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1 you updates on where COVID was at this time,
 2 what they were expecting for when school was
 3 opening, and then there was different grants
 4 they had, the ELC grant, there were different
 5 grants that you needed to prepare for and make
 6 sure, you know, had to make sure through the
 7 nurses there were enough masks and anything else
 8 that they wanted you to have at the time, enough
 9 cleaning surprise with the custodians. But it
 10 was, on top of the subs things, it was all the
 11 mitigation factors.

12 Q. The Federal government made available to school
 13 districts some money. I think they called it
 14 under ESSER? Is that the name?
 15 A. Yes. We had all of -- Yes, ESSER.
 16 Q. What does ESSER stand for? Or what was it for?
 17 A. Good question.
 18 THE HEARING OFFICER: How is
 19 that spelled?
 20 A. E-S-S-E-R. It was ESSER, ESSER 2, and
 21 ESSER 3.
 22 THE HEARING OFFICER: All
 23 right.
 24 A. I had to think about that one for a minute.
 25 Q. Well, the funding that you got, in general, what

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1 was purpose of those funds?
 2 A. That was to accelerate learning basically for
 3 Gloucester. There was a couple -- There was
 4 probably about three or four buckets that they
 5 had you -- that were available to you, but the
 6 only one that really applied to Gloucester was to
 7 accelerate learning. Because we had been in
 8 school full-time. We were one of the only
 9 schools that was in five days a week. A lot of
 10 people had done that hybrid schedule where they
 11 would stay home some of the days and come in
 12 some of the days. But we managed to stay in
 13 five days a week. We had the rooms available
 14 and the space available.
 15 So for us, it was just
 16 acceleration of learning. So we did extra
 17 teacher assistants. I had under one -- my
 18 grade two class over at West Gloucester was a
 19 little bit large, and those children were being
 20 effected -- grade one going into grade two were
 21 being effected, and we wanted to make sure we
 22 had the smallest class size possible. So we
 23 tried to hire extra teachers. I had permanent
 24 building subs because we never knew who was
 25 going to have to stay out with COVID; so...

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1 Q. And again, all of this extra work that you were
 2 doing, it was during the school year of 2021 but
 3 also during the summer --
 4 A. Correct.
 5 Q. -- of '21.
 6 A. Correct. Yes.
 7 MR. PICCIRILLI: I don't think
 8 I need to belabor the point any further. I just
 9 wanted to get that on the record.
 10 THE HEARING OFFICER: All
 11 right. That's fine. And any -- do you have any
 12 other direct?
 13 MR. PICCIRILLI: Not at this
 14 point, no.
 15 THE HEARING OFFICER: No.
 16 Cross, Mr. Robinson?
 17 CROSS-EXAMINATION
 18 BY MR. ROBINSON:
 19 Q. Just very, very few questions, Ms. Dubols.
 20 You retired in 2009; is that correct?
 21 A. Correct.
 22 Q. Okay. So everything that Mr. Piccirilli was
 23 asking you about regarding the 2020 time period,
 24 that was all post retirement.
 25 A. Correct.

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1 Q. Okay. And you don't have any -- You've had an
 2 opportunity to look at the official
 3 communications that have come from the
 4 Retirement System, essentially taking the
 5 position that you had exceeded the 90-day cap on
 6 post retirement employment; correct?
 7 A. Correct.
 8 Q. You don't challenge the actual data that came
 9 from the Gloucester School Department in terms of
 10 the numbers of days worked; --
 11 A. No.
 12 Q. -- is that correct?
 13 A. That's correct. I do not.
 14 Q. You're in agreement with the math at least?
 15 A. Yes. Absolutely.
 16 MR. ROBINSON: Okay. I have no
 17 other questions.
 18 THE HEARING OFFICER: All
 19 right. Thank you.
 20 Mr. Piccirilli, do you have
 21 anything further?
 22 MR. PICCIRILLI: Sure. Should
 23 I call him or would you --
 24 MR. ROBINSON: I mean, it's up
 25 to you. You're going to have a crack at him

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1 either way. But if I do it, then at least I can
 2 get a couple of the key documents on the record.
 3 THE HEARING OFFICER: Yup.
 4 MR. ROBINSON: And then you
 5 cross him on the –
 6 THE HEARING OFFICER: That's
 7 fine.
 8 MR. ROBINSON: Does that work
 9 for you, Greg?
 10 MR. ROBINSON: Very much so.
 11 So at that point we'll rest for
 12 now.
 13 THE HEARING OFFICER: All
 14 right. Because we'll have to get in -- So it
 15 doesn't matter if you put that in or if
 16 Mr. Robinson puts it in, as long as, you know,
 17 as long we have the decision and –
 18 MR. ROBINSON: I just want to
 19 put a couple of documents in.
 20 THE HEARING OFFICER: Yeah.
 21 And then if there's anything that he hasn't put
 22 in that you would want to put in, we'll do that.
 23 And then, regardless, because these were
 24 exhibits that were submitted prior to the
 25 hearing, I would probably say we'll put them in

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1 as joint exhibits. But we'll -- They'll all get
 2 in, so don't worry it.
 3 MR. PICCIRILLI: Okay. Thank
 4 you.
 5 THE HEARING OFFICER: You're
 6 welcome.
 7 MR. ROBINSON: Good?
 8 THE HEARING OFFICER: All
 9 right. Yes. You may proceed, Mr. Robinson.
 10 DIRECT EXAMINATION
 11 BY MR. ROBINSON:
 12 Q. Mr. Karpinski, you're the executive director of
 13 the Employees' Retirement System; correct?
 14 A. Correct.
 15 Q. And how long have you held that position?
 16 A. Since 2001.
 17 Q. And is part of your job function to assess
 18 claims related to post retirement employment and
 19 adjusting pensions as appropriate based on post
 20 retirement law?
 21 A. Yes.
 22 Q. And are you familiar with Ms. Dubois' particular
 23 case?
 24 A. I am.
 25 Q. Okay. I'm going to show you a letter dated

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1 April 7th of 2023 bearing your signature.
 2 MR. ROBINSON: Do you have
 3 this, Greg, or do you need a copy?
 4 MR. PICCIRILLI. No. I'm all
 5 set. Well, actually, if you do have an extra
 6 copy.
 7 MR. ROBINSON: Pass that down.
 8 Q. You've seen that letter before?
 9 A. Yeah, I have.
 10 Q. Okay. And that's your signature on it?
 11 A. That's correct.
 12 Q. Okay. The information that was used to issue
 13 this letter to Ms. Dubois regarding her post
 14 retirement employment, did that data come from
 15 the Gloucester School Department?
 16 A. Yes.
 17 Q. Okay. And I understand the letter speaks for
 18 itself. But I want to focus just specifically
 19 on the August 25th, 2020, through August 24th,
 20 2021, time period, because that is the period
 21 that the retirement system used to apply the
 22 90-day cap; is that correct?
 23 A. Correct.
 24 Q. Okay. And obviously, we're here to assert
 25 whatever positions we're asserting about whether

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1 the 90-day cap applied or didn't apply or how it
 2 was effected by executive orders. But just in
 3 terms of that question, the August 25th to 24th,
 4 2020, to 2021 time period, can you describe for
 5 the hearing officer where that cycle comes from?
 6 A. Sure. So as we all know, the school year is
 7 180 days. Our regulation talks to service
 8 credit being earned during a school year. We
 9 refer to a school year when students -- when
 10 school is in session, when students are sitting
 11 in classrooms. And that runs on or about maybe
 12 the end of August to mid to end of July. From
 13 our experience, we generally see guidance
 14 counselors starting a bit earlier, usually the
 15 week before Labor Day, before September 1st. So
 16 we kind of have a hash mark there.
 17 ~~And it's not~~
 18 superintendents. Superintendents only earn
 19 service credit during the school year. While we
 20 understand their contract may require that they
 21 work during the summer, they only contribute
 22 during the summer, for purposes of their salary.
 23 But they don't accrue anymore credit.
 24 Therefore, when we track when we apply post
 25 retirement, we're talking the school year,

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1 because, again, sometime in July – I mean,
2 September, give or take, maybe the last day of
3 August, whatever, because they do vary to
4 sometime in June. So that's the school year.
5 That's when post retirement kicks in.
6 The other – The August date is
7 really there to track when do we apply dollars
8 back and forth, when do we apply the school year
9 back and forth. Because if you, as a
10 superintendent, you are contributing in July
11 or August, well, are we talking for the
12 prospective school or the past school year, and
13 some of the genesis behind that was beyond my
14 30 years.
15 Q. How long has the Retirement System been applying
16 an August 25th to August 24th cycle?
17 A. Beat me at my punch. It was, it was before
18 my time. But the reason that that happened is,
19 back when teachers used to accrue credit at
20 135 days for a full year, superintendents would
21 sometimes work during the summer and would say,
22 okay, I'm going to start my days of service
23 credit, and they would reach 135 in December,
24 when the school year is really September to
25 June. So the purpose of establishing that date,

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1 and it's more for our IT systems, is to
2 understand where am I applying credits, where
3 are they going, where's that window of time
4 happening. So we have a regulation that says
5 you only accrue credit during the school year of
6 which we apply post retirement, because that's
7 when school is in session.
8 Q. And just to be clear, superintendents – you
9 understand superintendents have different job
10 functions –
11 A. Wholeheartedly, yeah.
12 Q. – than teachers; correct? But you apply the
13 same service credit accrual methodology to them;
14 is that correct?
15 A. Correct. And again, teachers earn – I mean,
16 as you see in 16, which is why we put it in this
17 particular letter, it's very broad in terms of
18 who fits the mold of the teacher. And it
19 specifically mentions superintendents. So
20 everybody earns credit the same way. Doesn't
21 matter if you're during the summer. But at the
22 end of the day, it's when you accrue credits and
23 when post retirement works, because it works the
24 school year.
25 Q. So superintendents are treated like teachers for

Page 19

1 purposes of service credit accrual?
2 A. Absolutely.
3 Q. And for post retirement employment?
4 A. Correct. Correct.
5 Q. And is it your experience that superintendents
6 and teachers have differing beginning and ending
7 of school calendars depending on what particular
8 school district they're talking about?
9 A. Yes.
10 Q. Okay. But for the Retirement System, was
11 uniformity something that was attempting –
12 something that was desirable?
13 A. We had to. Just by virtue of the different
14 start dates and end dates and when would we
15 apply – for example, if you're doing your high
16 five years, well, which window of time do I –
17 or high three years probably back then, where
18 would we apply, if you were working during the
19 summer, where would we apply that, would it be
20 the past school year or the prospective school
21 year.
22 So if you think about it, if
23 you were a superintendent and you were working
24 the first week of August, then you made
25 contributions on it, well, in your high three,

Page 20

1 is that the school year, like right now, would
2 that be the '24 – '23-'24 school year or is it
3 the '22-'23 school year. Where is the window of
4 time. Because you can't pick it off that way.
5 So that's where that date comes from.
6 And again, we have guidance
7 counselors that start the week before. Well,
8 if – you know, by not – if we had a date of
9 June 30, for example, where would that service
10 credit go to, would it go forward or go
11 backwards.
12 Q. So the August 25th to August 24th cycle has been
13 in effect you said since you've been involved in
14 the Retirement System?
15 A. Before my time, actually.
16 Q. Okay. And that's approximately 25 years?
17 A. Keeping going. Not 25 years.
18 Q. Almost 30 years?
19 A. Yeah.
20 Q. Okay. Has that, has that cycle, those dates,
21 been communicated to employers?
22 A. Yeah.
23 Q. How is it communicated to employers?
24 A. They go through our website. And when they
25 post the – you know, our team is always in

Page 21

1 contact with people in district of who's working
 2 during the summer, if they might be doing summer
 3 school, you know, and depends who it is.
 4 Q. And are your systems calibrated based on those
 5 dates?
 6 A. Yes.
 7 Q. Okay. Is that information also communicated to
 8 members of the Retirement System?
 9 A. Yes.
 10 Q. And how is that communicated?
 11 A. We put it in newsletters.
 12 Q. Okay. And has that been done on a number of
 13 occasions, in your experience?
 14 A. Yeah. I couldn't tell you the exacts but...
 15 MR. ROBINSON: All right. I'd
 16 ask that this be marked as a full exhibit.
 17 MR. PICCIRILLI: No objection.
 18 THE HEARING OFFICER: All
 19 right. So no objection from appellant's
 20 counsel. We will mark as Respondent's 1,
 21 Exhibit 1, as a full exhibit.
 22 MR. ROBINSON: Okay.
 23 THE HEARING OFFICER: It is a
 24 two-page letter addressed to the appellant
 25 Patricia Dubois from Frank J. Karpinski,

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1 executive director of the Employees' Retirement
 2 System.
 3 MR. ROBINSON: And Greg, I
 4 don't think I had need to ask the executive
 5 director about this unless you want me to. But
 6 I'd also like to put in Ms. Dubois' May 4th,
 7 2023, appeal --
 8 MR. PICCIRILLI: Yes.
 9 MR. ROBINSON: --
 10 communication.
 11 THE HEARING OFFICER: Yeah. I
 12 don't think I, I don't think I have that, when
 13 there was like actually a formal request.
 14 MR. ROBINSON: And the
 15 Retirement System's May 22nd, 2023, response
 16 constituting a final administrative denial or
 17 formal administrative denial.
 18 THE HEARING OFFICER: Any
 19 objection?
 20 MR. PICCIRILLI: No objection.
 21 MR. ROBINSON: And then lastly
 22 would be the communication from the
 23 Retirement System to Ms. Dubois appointing the
 24 hearing officer for a resolution of the claim.
 25 MR. PICCIRILLI: No objection.

Page 23

1 So would those be Exhibits 2, 3, 4?
 2 MR. ROBINSON: 2, 3, 4.
 3 THE HEARING OFFICER: Yes.
 4 MR. ROBINSON: Do you need
 5 copies or are you good?
 6 MR. PICCIRILLI: If you have an
 7 extra copy.
 8 MR. ROBINSON: I do, yup.
 9 And I have no other questions
 10 of the executive director.
 11 THE HEARING OFFICER: All
 12 right. Okay. For the record, we are
 13 introducing as Respondent's, full, Exhibit 2.
 14 No objection from appellant's counsel. It is a
 15 one-page document dated May 4, 2023, addressed
 16 to Mr. Frank Karpinski from the appellant
 17 Patricia Dubois.
 18 MR. ROBINSON: That's 2;
 19 correct?
 20 THE HEARING OFFICER: That's 2.
 21 MR. ROBINSON: Okay. Got it.
 22 THE HEARING OFFICER: And for
 23 the record, we have to mark Respondent's 3,
 24 full. No objection from --
 25 MR. PICCIRILLI: No objection.

Page 24

1 THE HEARING OFFICER: --
 2 appellant's counsel. And Respondent's 3, full,
 3 is an eight-page document dated May 22nd, 2023,
 4 from the -- from Frank J. Karpinski, executive
 5 director of the Employees' Retirement System,
 6 addressed to Patricia Dubois. And that will be
 7 marked, the eight pages in its entirety, as
 8 Respondent's Exhibit 3, full. No objection from
 9 appellant's counsel.
 10 All right. And then being
 11 marked as Respondent's 4, a full exhibit.
 12 Again, no objection from appellant's counsel.
 13 We have a one-page document dated May 22nd,
 14 2023, from the Employees' Retirement System,
 15 Gail Mambro-Martin, deputy general counsel,
 16 addressed to Patricia Dubois.
 17 All right. Are there any other
 18 documents, Mr. Robinson?
 19 MR. ROBINSON: No other
 20 documents. I just have two final questions of
 21 the executive director.
 22 THE HEARING OFFICER: All
 23 right. That's fine. You may proceed.
 24 Q. Mr. Karpinski, the analysis that's contained in
 25 Petitioner's Exhibit 1, that's the first and

Page 25

1 only document you've looked at here.
 2 A. Uh-huh.
 3 Q. Applying the Retirement Systems' assessment of
 4 post retirement employment law to Ms. Dubois'
 5 situation in light of the August 25 to
 6 August 24th cycle that you just discussed, does
 7 that remain the official position of the
 8 Retirement System regarding her exceeding of the
 9 cap, allowable cap on post retirement
 10 employment? ADMINISTRATIVE HEARING
 Patricia Dubois
 11 A. Yes.
 12 Q. And do you know whether or not the \$3,129.88 has
 13 already been recouped?
 14 A. I believe we did.
 15 MR. ROBINSON: Okay. I have no
 16 other question.
 17 THE HEARING OFFICER:
 18 Mr. Piccirilli, any cross-examination?
 19 MR. PICCIRILLI: Yes. Thank
 20 you.
 21 THE HEARING OFFICER: Yes.
 22 You're welcome.
 23 MR. PICCIRILLI: I've asked
 24 that Executive Order 21-10, the petitioner's or
 25 Appellant's A, Executive Order 21-71 dated

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1 June 18, 2021, be Appellant' B.
 2 MR. ROBINSON: Which one is
 3 that? 21-71?
 4 MR. PICCIRILLI: And Executive Order
 5 21-86 be Appellant's 3.
 6 MR. ROBINSON: 21-86?
 7 THE HEARING OFFICER: Do you
 8 want to do letters?
 9 MR. PICCIRILLI: Well, if the
 10 respondent's going to be letters - numbers, I
 11 thought we'd be letters.
 12 THE HEARING OFFICER: Yes.
 13 That's fine. So that'll be C.
 14 MR. PICCIRILLI: A, B, C, yes.
 15 Do you want to mark these now or...
 16 THE HEARING OFFICER:
 17 Mr. Robinson, do you have any objection?
 18 MR. ROBINSON: No objection.
 19 THE HEARING OFFICER: All
 20 right. No objection. We will mark those as
 21 full exhibits.
 22 MR. PICCIRILLI: Thank you.
 23 THE HEARING OFFICER: Very
 24 welcome.
 25 And for the record, we will be

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1 marking as Appellant's Exhibit A as a full
 2 exhibit. No objection from respondent,
 3 Employees' Retirement System. And this is a
 4 three-page document entitled Executive Order
 5 20-110 from Governor Gina M. Raimondo.
 6 Next, we have Appellant's B,
 7 full exhibit. No objection from counsel for the
 8 respondent, Employees' Retirement System. And
 9 that is a three-page document entitled State of
 10 Rhode Island Executive Order 21-11 dated
 11 June 18th, 2021, by Daniel J. McKee. And that
 12 will be marked Appellant's B, full exhibit.
 13 And finally, to be marked
 14 Appellant's C full is a - Do we have the
 15 signature page on - This one is
 16 Executive Order 21-86 dated August 19th, 2021.
 17 MR. PICCIRILLI: Maybe it's
 18 still in the packet there.
 19 THE HEARING OFFICER: It could
 20 be. Let me see if I can find it.
 21 MR. ROBINSON: I have it, but I
 22 only have one copy of this one.
 23 THE HEARING OFFICER: All
 24 right. I'm sure I have it.
 25 MR. PICCIRILLI: Oh, there it

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1 is.
 2 THE HEARING OFFICER: All
 3 right. And then we will mark Appellant's,
 4 again, Appellant's C, a full exhibit. No
 5 objection from counsel for respondent,
 6 Employees' Retirement System. Full exhibit is a
 7 four-page document dated August 19th, 2021,
 8 entitled State of Rhode Island Executive
 9 Order 21-86, signed by Daniel J. McKee,
 10 Governor.
 11 And just for the record,
 12 because I'm not sure on the very first one, if I
 13 mentioned that, Appellant's A, full exhibit, is
 14 Executive Order 21-110 that was dated
 15 December 30th, 2020, signed by
 16 Governor Gina Raimondo. And that's just to
 17 clarify the record in case I did not mention the
 18 date of the exhibit.
 19 All right.
 20 MR. PICCIRILLI: Thank you.
 21 THE HEARING OFFICER: There you
 22 go, Mr. Piccirilli.
 23 MR. PICCIRILLI: Thank you.
 24 THE HEARING OFFICER: You're
 25 very welcome. Got to stretch there.

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1 CROSS-EXAMINATION
2 BY MR. PICCIRILLI:
3 Q. Director Karpinski, thank you for being here.
4 Just so I can understand this.
5 Section 16-16-24, the statute that you rely upon
6 for –
7 A. Post retirement.
8 Q. -- the post retirement employment, it has -- the
9 provision states, no more than 90 days in any
10 one school year, correct? I'm sorry. You have
11 to say yes or no.
12 A. Correct.
13 Q. And it's your testimony that there's no
14 definition of "school year" in the statute;
15 correct?
16 A. There is. 16-22 defines school year to be
17 180 days or 1,080 hours, and that's in our
18 regulation.
19 Q. Okay. So you said that there was a regulation
20 that uses the August 25th date.
21 A. The regulation does not show the August 24th
22 date. It talks about the school year.
23 Q. So it talks about a school year as being
24 180 days.
25 A. Correct.

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1 Q. Okay. But it is your testimony that for years,
2 since presumably the statute has been in
3 existence, there's an understanding that
4 teachers, some teachers and most administrators
5 work beyond the 180 days; correct?
6 A. While they may work, there are only limited
7 people that actually get to contribute during
8 that. Because a teacher -- if a teacher had a
9 summer school job, nothing precludes them from
10 working that summer job, but they aren't able to
11 contribute on it because no CBA that we've seen
12 to date says that you shall do this and this in
13 the summertime. Generally, what we see are
14 principals and superintendents have longer
15 employment periods. But their service credit
16 stops in June. Stops at the school year. The
17 regulation specifically says that.
18 Q. Okay. So you would agree, then, the school year
19 is June 30.
20 A. On or about. Sometime between June 15th and
21 June 30.
22 Q. So the new school year starts July 1st.
23 A. The new school year, from what we've seen,
24 starts end of September -- I mean, end of
25 August, beginning of September, and they vary as

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1 well.
2 Q. Okay. The statute talks about a year, not
3 180 days. A year is 365 days; correct?
4 A. What school do you know does 365 days?
5 Q. I'm asking the question. The word says year.
6 It doesn't say 180 days. Correct?
7 A. It says school year.
8 Q. Now, when you -- This executive order that the
9 governor, then Governor Raimondo issued in
10 December of 2020, did you or anybody in the
11 Retirement System have any communication or
12 involvement in the preparation of that order?
13 A. No.
14 Q. Did they -- Did the governor attempt to
15 communicate with you or contact you for your
16 input on this?
17 A. No.
18 Q. Okay. So when you received this, and you saw
19 that there was language that said during the
20 2021 school year, ending June 25th, did that
21 raise any questions in your mind as to what that
22 meant?
23 A. No. Because every single school department
24 here has a school year that is sometime between
25 end of August, beginning in July -- I mean, in

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1 September to sometime in the middle to the end
2 of June, and it's been that way for at least as
3 long as I've been here.
4 Q. So you took the definition of school year as
5 stated in the executive order to mean July 1 to
6 June 30th?
7 A. No. September 1 to June 30.
8 Q. Well, let me ask you this: There's a second
9 executive order that now Governor McKee issued
10 in September of '21; correct?
11 A. Correct.
12 Q. And that talks about a school year, but it
13 doesn't have the date in it of June 25th;
14 correct?
15 A. I don't recall the exact language but...
16 Q. All right. Let me show you -- Do you have --
17 MR. PICCIRILLI: I do. You
18 didn't mark it. But I do. Are you talking
19 about 96?
20 MR. PICCIRILLI: 21-71, I
21 thought. Oh, no. You know what? You're right.
22 That should be --
23 Can we go off the record for a
24 second? I'm sorry.
25 THE HEARING OFFICER: Yes. No

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1 problem. We're off the record briefly.
 2 (DISCUSSION OFF THE RECORD)
 3 THE HEARING OFFICER: All
 4 right. So we're back on the record. And we are
 5 going to be marking as Appellant's D, no
 6 objection from counsel for the respondent,
 7 Employees' Retirement System, Respondent's D,
 8 full exhibit, and that is a three-page document
 9 dated September 8th, 2021, entitled State of
 10 Rhode Island Executive Order 21-96, and it's
 11 signed by Daniel J. McKee, Governor. All right.
 12 Q. If you want to review it, just let me know when
 13 you're ready, Mr. Karpinski.
 14 (PAUSE)
 15 A. Okay.
 16 Q. All right. Again, on Page 2 of the order, this
 17 is 21-96, September of '21, towards the bottom,
 18 second paragraph, after the "now, therefore"
 19 clause, there's a reference to the '21/'22
 20 school year, but there's no date. There's no
 21 June 25th or any other date mentioned in the
 22 order, correct?
 23 A. Correct.
 24 Q. Okay. How would you define the school year as
 25 presented in this order from '21 to '22? From

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1 what date to what date?
 2 A. Probably sometime in September of '21 to
 3 June, sometime in June of '22.
 4 Q. Is it your position that, if someone worked past
 5 the 90 days, past June 30th, 2022, that those
 6 dates would be -- would not be covered by this
 7 executive order?
 8 A. This refers to the school year. So you would
 9 have collected your 180 days at the end of June.
 10 So if you were working beyond that, it would be
 11 post retirement employment.
 12 Q. All right. But the order doesn't talk about
 13 just teachers, it talks about administrative
 14 staff, correct?
 15 A. Correct.
 16 Q. And superintendents and presumably most
 17 principals don't work 180 days. They work
 18 almost the whole year, correct?
 19 A. They're defined in the statute as teacher.
 20 So when we see the word "teacher," we refer back
 21 to the definition of teacher, and they don't get
 22 treated any differently than a math teacher, a
 23 science teacher, or what have you.
 24 Q. Okay.
 25 A. It's still the same window of time.

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1 Q. All right. Let me ask it this way. If
 2 Ms. Dubois worked more than 90 days between
 3 August 25th of 2021 and August 24th of 2022,
 4 those extra 90 days, would she have to have
 5 those deducted like she did under this --
 6 A. If she exceeded the 90 half days or 180 full
 7 days, yes, during the school year. That's the
 8 window of time.
 9 Q. So all administrators in the state of
 10 Rhode Island who work past the 90 days outside
 11 of this 180-day school year window that you're
 12 talking about, those would have to -- would have
 13 their retirement reduced for working those days?
 14 A. If they worked 180 school days, if they
 15 started in September and they ended in June,
 16 they are right at a full year of service credit.
 17 When they work during the summer, as I mentioned
 18 earlier, because their contracts bring them to
 19 220 or some other number of days, they're able
 20 to contribute on those for purposes of salary.
 21 The service credit stops on June 30 and the post
 22 retirement stops at June 30.
 23 Q. Well, let's be clear. There's two different
 24 things between regularly currently employed
 25 teachers and administrators who are accruing

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1 credit towards retirement and then there's post
 2 retirement. Those are two separate things;
 3 correct?
 4 A. There has to be -- Service credit drives post
 5 retirement. They're both in the same window.
 6 If you are a state employee, and you work
 7 260 business days a year, that's how you accrue
 8 credit. If you're doing post retirement,
 9 because they work a whole year, we would say
 10 we're counting on a calendar year basis, because
 11 they worked the entire year. But when you get
 12 other, like teachers, they're different. Their
 13 year is 180 days.
 14 Q. You just mentioned a calendar year.
 15 A. That's because it's state employees.
 16 Q. Okay. ~~800.211.DEPO (3376)~~
 17 A. They work 260 days. And there's not a
 18 similar definition, like a teacher, in 16-22
 19 that says 180 days or 1,080 hours.
 20 Q. Okay.
 21 A. So they're different. For example, post
 22 retirement for municipals, they can do 75 full
 23 days or 150 half days. It's just the way the
 24 law -- I understand the complexity, but that's
 25 the way the law is written.



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1 Q. I'm still trying to make sure that I understand
2 that there's a distinction between accruing
3 credit as a currently regularly employed either
4 teacher or administrator under either a
5 collective bargaining agreement or under an
6 employment contract and post retirement
7 employment. Because post retirees do not work
8 under a contract; correct?
9 A. They -- To the best of our knowledge, no.
10 Q. Right. So these are annualized contract. The
11 collective bargaining agreements are annualized
12 contracts; correct? They go from either July 1
13 to June 30, some go from September 1 to
14 August 31st; correct?
15 A. Correct.
16 Q. You haven't -- In your experience, you've seen
17 all collective bargaining agreements are either
18 of those two; correct?
19 A. Correct.
20 Q. Okay. The majority being July 1 to June 30;
21 correct?
22 A. Correct.
23 Q. Similarly, with administrators, be the
24 principals or superintendents, they operate
25 under contracts as well, individualized

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1 contracts.
2 A. Correct.
3 Q. And those contracts are either July 1 to June 30
4 or September 1 to August 31st; correct?
5 A. I've seen different variants of them, but
6 generally.
7 Q. All right. So when you're saying an
8 administrator accrues credit for their contract
9 year, and their contract year says they work
10 260 days or they work, the full year was five
11 weeks' vacation or whatever it is, it's for that
12 contract year; correct?
13 A. A school -- A superintendent may work more
14 days, but their service credit days stop the
15 same way a teacher does. Exactly the same. And
16 in order for you to be charged for post
17 retirement employment, the line in the sand is
18 school must be in session. That's when we're
19 counting the service credit, that's when we're
20 counting post retirement. We permitted
21 superintendent to get paid during the summer and
22 contribute on it for purposes of their pension
23 benefit. But there has to be -- Just like if
24 you're working for the state, the state has to
25 be open and it has to be doing business.

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1 Q. All right.
2 A. Teachers only do it 180 days.
3 Q. Well, isn't it true now that most teacher
4 contracts are 185 days? Because there's
5 mandatory professional developments? I mean --
6 A. They don't, --
7 Q. Most of the contracts I see now, --
8 A. -- they don't count.
9 Q. -- teachers have to -- their contracts are
10 185 days, for example.
11 A. They don't count.
12 Q. Those five days don't count.
13 A. They do not.
14 Q. So if they get paid for those five days, it
15 doesn't count --
16 A. That's correct.
17 Q. They don't approve for their retirement. But if
18 I'm an administrator, and I have a 260-day
19 contract, do those 260 days accrue to my
20 retirement?
21 A. Retirement is a very open word that you're
22 using. It adds for salary but it does not add
23 for service credit because -- I'm sorry to keep
24 repeating it. But the year that they work is a
25 September to June 30 date. That's 180 days.

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1 That's 1,080 hours. I believe what the statute
2 talks to, nothing would preclude a school
3 department from having a longer day and having
4 170 days. But when school is in session is when
5 they're earning credit and when post retirement
6 applies.
7 Q. When you say --
8 A. So when you say retirement, there's two
9 pieces to retirement. There's service credit
10 and there's salary.
11 Q. Okay. So the service credit is so they get a
12 credit for that year --
13 A. Correct.
14 Q. -- plus retirement.
15 A. Correct.
16 Q. So an administrator could have an 180-day
17 contract and get service credit for that entire
18 year; correct?
19 A. I don't know that I've -- at least I can't
20 recall a superintendent who has only 180-day
21 contract.
22 Q. I said administrator, not superintendent.
23 There's different administrators; correct?
24 A. Correct.
25 Q. So there could be a principal, for example, that

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1 has 180-day contract.
 2 A. Could be.
 3 Q. They'd get the full credit for that year.
 4 A. Correct.
 5 Q. If they work the 190 days, they get credit for
 6 the 180 days of service credit; correct?
 7 A. Correct.
 8 Q. But they get their full salary for the 190 days,
 9 is their retirement credit.
 10 A. Correct. You're jumbling words, but okay.
 11 Q. Well, how would you -- if it's their salary for
 12 that year --
 13 A. Correct.
 14 Q. And so when you -- I think you mentioned there's
 15 as high as three years, for example?
 16 A. Correct.
 17 Q. What if their high is three years? You count
 18 the entire contract, the whole 190 days.
 19 A. Correct.
 20 Q. Okay. All right. So again, let's get back to
 21 this second retirement -- the second executive
 22 order. So it's your testimony if --
 23 MR. ROBINSON: Which one are we
 24 looking at?
 25 MR. PICCIRILLI: I'm sorry.

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1 Exhibit D.
 2 Q. So it's your testimony that the 90-day waiver
 3 that the governor gave in this executive order
 4 only applies between September 1 and June 30.
 5 A. Correct.
 6 Q. Or the school year in that period of time.
 7 A. That's correct.
 8 Q. Whether it's a teacher or an administrator.
 9 A. That's correct.
 10 Q. You've made that interpretation yourself or did
 11 a team of people make that here?
 12 A. That has -- I will be here 29 and a half
 13 years. Prior to my coming here, it was always
 14 that.
 15 Q. Well, there's never been an executive order like
 16 this since your 30 years here.
 17 A. The point is, the fact that you use the word
 18 "school year," we've never had a reason to
 19 assume there is anything but September to June.
 20 Q. But you've never had this statute suspended by
 21 an executive order prior to COVID; correct?
 22 A. Correct.
 23 Q. This is a once in a, I've heard generation, I've
 24 heard once in a hundred years.
 25 A. Hopefully one --

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1 Q. I mean, this is unprecedented, uncharted
 2 territory; correct?
 3 A. Correct.
 4 Q. So when this executive order came out, the idea
 5 that this 90-day period was being waived, you
 6 could have interpreted that to mean the 90 days
 7 for the entire school year being July 1 to
 8 June 30 or September 1 to August 31st. You
 9 could have interpreted it that way; correct?
 10 A. I don't have a reason to interpret it that
 11 way.
 12 Q. Well, you have no reason not to. I mean, was --
 13 A. Everything that we've done has been school
 14 year. Unless, unless there was some specific
 15 language that changed that. And the fact that
 16 that's a definitional term in 16, I think it's
 17 22, the fact that it specifically says school
 18 year, 180, there would be no reason for us to
 19 think anything different than what's already
 20 been enacted.
 21 MR. PICCIRILLI: Could I just
 22 go off the record for a moment.
 23 THE HEARING OFFICER: Yes.
 24 We'll go off the record briefly.
 25 (DISCUSSION OFF THE RECORD)

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1 MR. PICCIRILLI: If we can go
 2 back on the record.
 3 THE HEARING OFFICER: Yes.
 4 We're back on the record.
 5 Mr. Piccirilli, do you have
 6 further exhibits or...
 7 MR. PICCIRILLI: Well, I'm
 8 going to reference 16-16-24.1 and 16-16-24.2.
 9 Those are statutes. I don't think I need to
 10 make them an exhibit, unless Mr. Robinson would
 11 prefer.
 12 MR. ROBINSON: No. I mean, I
 13 assume we're both going to be talking about
 14 them. They say what they say. We're not, you
 15 know; so...
 16 THE HEARING OFFICER: Well, I
 17 think it would be helpful to have them as
 18 exhibits.
 19 MR. PICCIRILLI: Okay. All
 20 right. Then I'll ask that 24.1 be Appellant's E
 21 and 24.2 as Appellant's....
 22 THE HEARING OFFICER: F.
 23 MR. PICCIRILLI: ...F.
 24 Thank you.
 25 THE HEARING OFFICER: All

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1 right. You're very welcome.
 2 All right. For the record, we
 3 are marking as Appellant's E, full exhibit. No
 4 objection from counsel for the
 5 Employees' Retirement System. It's a one-page
 6 document entitled 16-16-24.1, substitute
 7 teaching and post retirement employment related
 8 to COVID-19.
 9 And we're marking as
 10 Appellant's F, also a full exhibit. No
 11 objection from counsel for respondent
 12 Employees' Retirement System, a one-page
 13 document entitled 16-16-24.2, expires effective
 14 6/20/24, substitute teaching and post retirement
 15 employment related to statewide staffing. That
 16 will be marked Appellant's F as a full exhibit.
 17 All right. Thank you,
 18 Mr. Piccirilli.
 19 MR. PICCIRILLI: Thank you.
 20 Q. You're aware that two statutes were enacted by
 21 the general assembly; correct?
 22 A. Correct.
 23 Q. Let's start with Exhibit 24.1 – Section 24.1,
 24 Exhibit E.
 25 MR. ROBINSON: Do you have

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1 extra copies --
 2 MR. PICCIRILLI: No. I'm
 3 sorry.
 4 MR. ROBINSON: We'll just have
 5 to share it, then. One copy of each.
 6 Q. Would it be fair to say in a general sense that
 7 this statute endorses or ratifies the governor's
 8 executive order of 21-10 and 21-71 which
 9 suspended the 90-day cap on post retirement
 10 employment?
 11 A. Correct.
 12 Q. Now, this statute doesn't reference a specific
 13 date, like June 25th; correct?
 14 A. I don't believe it does.
 15 Q. Okay. At the end it says, in Section C --
 16 Paragraph C, the section, sunsets upon the
 17 conclusion of the '21/22 school year; correct?
 18 A. Correct.
 19 Q. And by your definition, that was June 30th --
 20 A. Correct.
 21 Q. -- of 2022. Okay. Then the general assembly
 22 passed 24.2, correct, Exhibit F?
 23 A. Correct.
 24 Q. This has a sunset, specific sunset date of
 25 June 20, 2024; correct?

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1 A. Correct.
 2 Q. Okay. You're aware generally that the pandemic
 3 has been declared over as of May of twenty -- of
 4 this year, 2023; correct?
 5 A. I hope so, yeah.
 6 Q. So this suspension of the extra days goes well
 7 beyond -- over a year beyond the official
 8 declaration of the pandemic; correct?
 9 A. I mean, I think that's a little deep for our
 10 interpretation. Because we're focusing on post
 11 retirement employment. We're focusing on school
 12 year. Those are the two drivers. Not sure I'm
 13 certified to talk about pandemics and --
 14 Q. Okay. Fair enough. Is it your -- So it's your
 15 testimony that, based on these two statutes,
 16 there's a -- the summer of 2023, the one we're
 17 coming up, if an administrator works during that
 18 summer more than -- and it's more than 90 days
 19 from September of '22, that they'll have their
 20 retirement reduced.
 21 A. If... So the '23 school year ended. I
 22 believe these refer again to the school year.
 23 But superintendents may be employed during the
 24 summer for salary purposes. I'm going to drive
 25 the train again at school year. And if they go

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1 beyond that, we're going to suspend. When the
 2 school year starts, they begin to -- whomever is
 3 working post retirement and service credit begin
 4 to kick off but for these particular statutes.
 5 We don't track that any further. They get to go
 6 beyond that date.
 7 Q. All right. This statute was enacted it looks
 8 like March of '23. March 22nd, 2023. Do you
 9 see that on the bottom?
 10 A. Yup, I do.
 11 Q. And it goes through June 20th of 2024; correct?
 12 A. Correct.
 13 Q. And there's nothing in here that says that it's
 14 limited to the school year. In fact, Section C
 15 just says it sunsets on June 20th; right?
 16 A. Correct.
 17 Q. It doesn't say in Section 24.1, the '21/22
 18 school year, this doesn't say the '23/24 school
 19 year.
 20 A. That's correct.
 21 Q. Or the '22/23 school year.
 22 A. Correct.
 23 Q. So what you just testified is wrong, isn't that
 24 true, that if an administrator works through or
 25 anyone works through the summer of 2023 and it's

Page 49

1 beyond 90 days, by this statute they cannot be
2 punished?
3 A. That's now how we're interpreting it. We're,
4 again, interpreting it by school year.
5 Q. Where in here does it say school year?
6 A. Where does it say that it can go all summer?
7 Where does it go back and say anything else?
8 Q. Well, it says from June -- from March 22nd to
9 June 20th. March 22nd of '23 to June 20th of
10 '24, if I'm a ~~respondent~~ ^{respondent} I would work every single
11 day and not be punished by this statute.
12 A. School is not in session during the summer.
13 Q. Tell me where it says school year in
14 Section 24.2.
15 A. That's the way we interpret it.
16 Q. So that's your interpretation of it.
17 A. Correct.
18 Q. I see. And that's not by any published
19 regulation or rule.
20 A. Correct.
21 Q. Okay.
22 A. All we have to define is school year, which
23 is the driver.
24 MR. PICCIRILLI: I have nothing
25 further. Thank you.

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1 THE HEARING OFFICER:
2 Mr. Robinson?
3 MR. ROBINSON: No questions.
4 THE HEARING OFFICER: All
5 right. Does either party have anything further
6 they choose to submit by way of testimony,
7 further documentation, further exhibits?
8 MR. PICCIRILLI: The only thing
9 I'd ask Mr. Robinson would be is what -- if I
10 could have a copy of the regulation that
11 Mr. Karpinski was talking about.
12 MR. ROBINSON: They're all
13 publicly available.
14 MR. PICCIRILLI: Do you have a
15 citation or anything that you could get me?
16 MR. ROBINSON: I don't, but I'm
17 sure I could find it.
18 MR. PICCIRILLI: Okay. I'll
19 find it.
20 MR. ROBINSON: Yeah.
21 MR. PICCIRILLI: I have nothing
22 further.
23 THE HEARING OFFICER: All
24 right. So you rest? Does each side rest?
25 Nothing further?

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1 MR. ROBINSON: If we could just
2 take 30 seconds for me to have a quick --
3 THE HEARING OFFICER:
4 Absolutely.
5 MR. ROBINSON: -- chat.
6 THE HEARING OFFICER: All
7 right. We're going to go off the record briefly
8 so that counsel for the Employees' Retirement
9 System can consult with Mr. Karpinski.
10 (PAUSE)
11 THE HEARING OFFICER: We're
12 back on the record.
13 I've checked with both
14 appellant's counsel and the respondent's
15 counsel. They both have nothing further to
16 introduce by way of testimony or exhibits at
17 this time.
18 Gentlemen, you both submitted
19 pre-hearing statements. Do either of you or
20 both of you, do you wish to submit anything post
21 hearing or would you prefer to, you know, rest
22 on your pre-hearing statements?
23 MR. PICCIRILLI: Would it be
24 appropriate to just do a brief closing argument
25 now or...

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1 THE HEARING OFFICER: You may
2 do that. I just want to know, just because we
3 would have to set up a briefing schedule, are
4 you fine with your pre-hearing memo or is there
5 anything you wish to brief post hearing?
6 MR. ROBINSON: I think I might
7 like to --
8 How long do you anticipate on
9 the transcript?
10 THE REPORTER: 7 to 10 days.
11 MR. ROBINSON: Oh, great. I
12 don't need more than like a week, Greg. But I
13 think I might like to just put something short
14 in writing.
15 THE HEARING OFFICER: All
16 right. ~~Then do you want to say for post hearing~~
17 memos -- ^{EsquireSolutions.com}
18 MR. ROBINSON: I can be quick.
19 It's not --
20 THE HEARING OFFICER: We can
21 say 30 days. Would 30 days from today be --
22 MR. ROBINSON: Simultaneous.
23 And then another week for reply. 30 days is
24 more than enough.
25 THE HEARING OFFICER: All

1 right.
 2 MR. PICCIRILLI: Yeah. Maybe
 3 two weeks, maybe two weeks after the --
 4 THE HEARING OFFICER: All
 5 right. So what we can do is we can set up a
 6 post hearing schedule for memos that, upon
 7 receipt of the electronic transcript of the
 8 hearing, each of the parties will have two weeks
 9 to submit post hearing memoranda, and subsequent
 10 to that, an additional two weeks for any
 11 response on memo.
 12 MR. PICCIRILLI: Or even a week
 13 after.
 14 MR. ROBINSON: Yeah. That's
 15 fine.
 16 THE HEARING OFFICER: We can do
 17 two and two. That's fine.
 18 MR. ROBINSON: That's perfectly
 19 acceptable to me.
 20 THE HEARING OFFICER: All
 21 right. Mr. Piccirilli, do you want to do a
 22 closing argument or do you want to put it in
 23 your post hearing?
 24 MR. PICCIRILLI: No. I'll just
 25 do it in a brief.

1 C E R T I F I C A T E
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 5 I, LISA L. CROMPTON, Certified Shorthand
 6 Reporter, hereby certify that the foregoing is a
 7 true and accurate transcription of my stenographic
 8 notes of the proceedings in this matter on the
 9 date and time specified in the caption hereof.
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 11
 12 IN WITNESS WHEREOF I have hereunto set my
 13 hand this 1st day of August, 2023.
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1 THE HEARING OFFICER: All
 2 right. That's fine.
 3 All right. Then the hearing in
 4 this matter is concluded. And I want to thank
 5 all the parties, the appellant, Ms. Dubois,
 6 Mr. Piccirilli, Mr. Robinson, and Mr. Karpinski,
 7 wherever you are, for attending the hearing.
 8 Thank you. The hearing is now
 9 adjourned.
 10 (The proceedings adjourned
 11 at 3:13 p.m.)
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EXHIBIT 3



State of Rhode Island

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-110

December 30, 2020

ONE HUNDRED AND FIFTH SUPPLEMENTAL EMERGENCY DECLARATION –
INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, I issued Executive Order 20-02 declaring a state of emergency due to the dangers to health and life posed by COVID-19 and that Order is in effect until at least January 20, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township,

SECRETARY OF STATE
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WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19, the LEA shall execute and deliver to the

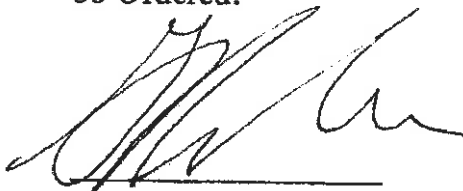
school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.” *Id.*

State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2020-2021 school year ending on June 25, 2021 and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Order shall take effect immediately and remain in full force and effect until January 28, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in black ink, appearing to read 'Gina M. Raimondo', written over a horizontal line.

Gina M. Raimondo

Governor

EXHIBIT 4



SECRETARY OF STATE
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State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-71

June 18, 2021

ONE HUNDRED AND SEVENTY-FOURTH SUPPLEMENTAL EMERGENCY DECLARATION – INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19 and that Order has been extended to remain in effect at least through July 9, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction

WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36, are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19, the LEA shall execute and deliver to the

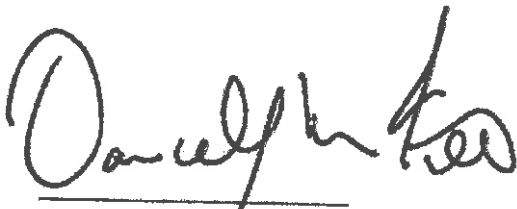
of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2020-2021 school year ending on June 25, 2021 and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Executive Order, superseding Executive Order 20-110, shall take effect immediately and remain in full force and effect through June 25, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Daniel J. McKee

Governor

EXHIBIT 1

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ERSRI BOARD:

April 7, 2023

SENT VIA U.S. FIRST CLASS MAIL AND CERTIFIED MAIL RRR

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James A. Diossa
General Treasurer Chair

Patricia Dubois



John P. Maguire
Vice Chair

RE: *Post Retirement Employment – 2020-2021 School year*

Ernest Almonte

Dear Ms. Dubois:

Roger P. Boudreau

We write regarding your participation in post-retirement employment with the Gloucester School Department as Superintendent and to notify you of the actions the retirement system will take with respect to your pension benefit.

Mark A. Carruolo

Joseph Codega

You retired under Title 16, Chapter 16 of the Rhode Island General Laws on July 1, 2009 as a teacher. According to the Gloucester School Department, you worked a total of 109 full days in the 2020-2021 school year (August 25, 2020 through August 24, 2021). You had worked a total of 93.5 days through June 25, 2021. From June 26, 2021 through August 24, 2021 you worked a total of 15.5 days.

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Raymond J. Pouillot

Rhode Island General Laws (RIGL) §16-16-24 permits a retired teacher to work no more than 90 full days in a school year without interruption to their pension benefit. RIGL § 16-16-1 defines "teacher" and includes the title Superintendent.

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

16-16-1 (12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement. (emphasis added)

Frank J. Karpinski
Executive Director

§ 16-16-24. Substitute teaching and employment after retirement.

(a) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher. Notice of the employment shall be sent monthly to the state retirement board by the school committee employing the teacher and by the employer and by the retired teacher at the end of each teaching assignment. (emphasis added)

On December 30, 2020, then Governor Gina Raimondo instituted Executive Order (EO) 20-110 which increased teaching and administrative staff capacity for those retirees who retired under the provisions of RIGLs Title 16, 36 or 45. Specifically the EO suspended the prohibitions and restrictions for retirees contained in RIGLs §16-16-24 and §36-10-36 through the school year ending on June 25, 2021. That Order was extended monthly by EOs 21-08, 21-16, and by Governor Dan McKee's EOs 21-28, 21-37, 21-56, 21-71. The final EO, 21-71, was "to remain in full force and effect through June 25, 2021" (emphasis added).

Given the expiration date of the EO 21-71 (June 25, 2021), any retiree who exceeded the 90 limit on or prior to June 25, 2021 would not have their pension benefit impacted. Benefits would be impacted for those retirees who opted to continue working beyond June 25, 2021.

You had indicated that your school's attorney advised that it didn't apply to you; however, had it been intended that Superintendents could work beyond the expiration date of EO 21-71, the EO would have stated so.

As of June 25, 2021, the expiration of the EO, you had worked a total of 93.5 full days. You opted to continue to work an additional 15.5 full days for the 2020-2021 school year. Therefore, we are required by law to recoup 15.5 full days from your pension benefit. The total amount which must be recouped is \$3,129.66.

We will offset that amount from your April 2023 pension check.

Sincerely,


Frank J. Karpinski
Executive Director

Cc: Kathy Lamontagne

HEARING

TRANSCRIPT

ADMINISTRATIVE HEARING
Patricia Dubois

July 24, 2023
1-4

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1 STATE OF RHODE ISLAND
2 EMPLOYEES' RETIREMENT SYSTEM
3
4
5 IN RE: PATRICIA DUBOIS
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8
9 ADMINISTRATIVE HEARING
10
11 ~ BEFORE ~
12 ADMINISTRATIVE HEARING
13 Patricia Dubois
14 TERESA M. RUSBINO, ESQ.
15
16 JULY 24, 2023
17
18 2:00 P.M.
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1 APPEARANCES:
2 For Appellant Patricia Dubois
3 Sciacca & Piccirilli
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11 For Respondent Employees' Retirement System
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19 mrobinson@savagelawpartners.com
20
21 ALSO PRESENT: Patricia Dubois
22 Frank J. Karpinski
23
24
25

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1 (COMMENCING AT 2:05 P.M.)
2 THE HEARING OFFICER: We are on
3 the record in the appeal of Patricia Dubois.
4 My name is Teresa Rusbino, and I am the hearing
5 officer that's been assigned to this appeal.
6 The parties are present, and I
7 would ask that each individual and the attorney
8 identify themselves for the record, beginning
9 with the member appellant.
10 MS. DUBOIS: Patricia Dubois.
11 MR. PICCIRILLI: Gregory
12 Piccirilli for the appellant.
13 MR. ROBINSON: I'm
14 Michael Robinson, counsel for the
15 Retirement System. With me is the executive
16 director, Frank Karpinski.
17 THE HEARING OFFICER: All
18 right. Very good.
19 So we will begin the hearing in
20 this matter.
21 Mr. Piccirilli, if you would
22 like to begin.
23 And just for the record as
24 well, although it will be attached to the
25 transcript later in this process, I just would



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1 you updates on where COVID was at this time,
 2 what they were expecting for when school was
 3 opening, and then there was different grants
 4 they had, the ELC grant, there were different
 5 grants that you needed to prepare for and make
 6 sure, you know, had to make sure through the
 7 nurses there were enough masks and anything else
 8 that they wanted you to have at the time, enough
 9 cleaning supplies with the custodians. But it
 10 was, on top of the mitigation factors, it was all the
 11 mitigation factors.

12 Q. The Federal government made available to school
 13 districts some money. I think they called it
 14 under ESSER? Is that the name?
 15 A. Yes. We had all of -- Yes, ESSER.

16 Q. What does ESSER stand for? Or what was it for?
 17 A. Good question.

18 THE HEARING OFFICER: How is
 19 that spelled?
 20 A. E-S-S-E-R. It was ESSER, ESSER 2, and
 21 ESSER 3.

22 THE HEARING OFFICER: All
 23 right.
 24 A. I had to think about that one for a minute.

25 Q. Well, the funding that you got, in general, what

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1 was purpose of those funds?
 2 A. That was to accelerate learning basically for
 3 Gloucester. There was a couple -- There was
 4 probably about three or four buckets that they
 5 had you -- that were available to you, but the
 6 only one that really applied to Gloucester was to
 7 accelerate learning. Because we had been in
 8 school full-time. We were one of the only
 9 schools that was in five days a week. A lot of
 10 people had done that hybrid schedule where they
 11 would stay home some of the days and come in
 12 some of the days. But we managed to stay in
 13 five days a week. We had the rooms available
 14 and the space available.

15 So for us, it was just
 16 acceleration of learning. So we did extra
 17 teacher assistants. I had under one -- my
 18 grade two class over at West Gloucester was a
 19 little bit large, and those children were being
 20 effected -- grade one going into grade two were
 21 being effected, and we wanted to make sure we
 22 had the smallest class size possible. So we
 23 tried to hire extra teachers. I had permanent
 24 building subs because we never knew who was
 25 going to have to stay out with COVID; so...

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1 Q. And again, all of this extra work that you were
 2 doing, it was during the school year of 2021 but
 3 also during the summer --
 4 A. Correct.

5 Q. -- of '21.
 6 A. Correct. Yes.

7 MR. PICCIRILLI: I don't think
 8 I need to belabor the point any further. I just
 9 wanted to get that on the record.

10 THE HEARING OFFICER: All
 11 right. That's fine. And any -- do you have any
 12 other direct?
 13 MR. PICCIRILLI: Not at this
 14 point, no.

15 THE HEARING OFFICER: No.
 16 Cross, Mr. Robinson?
 17 CROSS-EXAMINATION
 18 BY MR. ROBINSON:

19 Q. Just very, very few questions, Ms. Dubols.
 20 You retired in 2009; is that correct?
 21 A. Correct.

22 Q. Okay. So everything that Mr. Piccirilli was
 23 asking you about regarding the 2020 time period,
 24 that was all post retirement.
 25 A. Correct.

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1 Q. Okay. And you don't have any -- You've had an
 2 opportunity to look at the official
 3 communications that have come from the
 4 Retirement System, essentially taking the
 5 position that you had exceeded the 90-day cap on
 6 post retirement employment; correct?
 7 A. Correct.

8 Q. You don't challenge the actual data that came
 9 from the Gloucester School Department in terms of
 10 the numbers of days worked; --
 11 A. No.

12 Q. -- is that correct?
 13 A. That's correct. I do not.

14 Q. You're in agreement with the math at least?
 15 A. Yes. Absolutely.

16 MR. ROBINSON: Okay. I have no
 17 other questions.
 18 THE HEARING OFFICER: All
 19 right. Thank you.
 20 Mr. Piccirilli, do you have
 21 anything further?
 22 MR. PICCIRILLI: Sure. Should
 23 I call him or would you --
 24 MR. ROBINSON: I mean, it's up
 25 to you. You're going to have a crack at him

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1 either way. But if I do it, then at least I can
2 get a couple of the key documents on the record.
3 THE HEARING OFFICER: Yup.
4 MR. ROBINSON: And then you
5 cross him on the --
6 THE HEARING OFFICER: That's
7 fine.
8 MR. ROBINSON: Does that work
9 for you, Greg?
10 MR. ROBINSON: Very much so.
11 So at that point we'll rest for
12 now.
13 THE HEARING OFFICER: All
14 right. Because we'll have to get in -- So it
15 doesn't matter if you put that in or if
16 Mr. Robinson puts it in, as long as, you know,
17 as long we have the decision and --
18 MR. ROBINSON: I just want to
19 put a couple of documents in.
20 THE HEARING OFFICER: Yeah.
21 And then if there's anything that he hasn't put
22 in that you would want to put in, we'll do that.
23 And then, regardless, because these were
24 exhibits that were submitted prior to the
25 hearing, I would probably say we'll put them in

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1 as joint exhibits. But we'll -- They'll all get
2 in, so don't worry it.
3 MR. PICCIRILLI: Okay. Thank
4 you.
5 THE HEARING OFFICER: You're
6 welcome.
7 MR. ROBINSON: Good?
8 THE HEARING OFFICER: All
9 right. Yes. You may proceed, Mr. Robinson.
10 DIRECT EXAMINATION
11 BY MR. ROBINSON:
12 Q. Mr. Karpinski, you're the executive director of
13 the Employees' Retirement System; correct?
14 A. Correct.
15 Q. And how long have you held that position?
16 A. Since 2001.
17 Q. And is part of your job function to assess
18 claims related to post retirement employment and
19 adjusting pensions as appropriate based on post
20 retirement law?
21 A. Yes.
22 Q. And are you familiar with Ms. Dubois' particular
23 case?
24 A. I am.
25 Q. Okay. I'm going to show you a letter dated

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1 April 7th of 2023 bearing your signature.
2 MR. ROBINSON: Do you have
3 this, Greg, or do you need a copy?
4 MR. PICCIRILLI. No. I'm all
5 set. Well, actually, if you do have an extra
6 copy.
7 MR. ROBINSON: Pass that down.
8 Q. You've seen that letter before?
9 A. Yeah, I have.
10 Q. Okay. And that's your signature on it?
11 A. That's correct.
12 Q. Okay. The information that was used to issue
13 this letter to Ms. Dubois regarding her post
14 retirement employment, did that data come from
15 the Gloucester School Department?
16 A. Yes.
17 Q. Okay. And I understand the letter speaks for
18 itself. But I want to focus just specifically
19 on the August 25th, 2020, through August 24th,
20 2021, time period, because that is the period
21 that the retirement system used to apply the
22 90-day cap; is that correct?
23 A. Correct.
24 Q. Okay. And obviously, we're here to assert
25 whatever positions we're asserting about whether

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1 the 90-day cap applied or didn't apply or how it
2 was effected by executive orders. But just in
3 terms of that question, the August 25th to 24th,
4 2020, to 2021 time period, can you describe for
5 the hearing officer where that cycle comes from?
6 A. Sure. So as we all know, the school year is
7 180 days. Our regulation talks to service
8 credit being earned during a school year. We
9 refer to a school year when students -- when
10 school is in session, when students are sitting
11 in classrooms. And that runs on or about maybe
12 the end of August to mid to end of July. From
13 our experience, we generally see guidance
14 counselors starting a bit earlier, usually the
15 week before Labor Day, before September 1st. So
16 we kind of have a hash mark there.
17 FROM THE RECORD
18 superintendents. Superintendents only earn
19 service credit during the school year. While we
20 understand their contract may require that they
21 work during the summer, they only contribute
22 during the summer, for purposes of their salary.
23 But they don't accrue anymore credit.
24 Therefore, when we track when we apply post
25 retirement, we're talking the school year,

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1 because, again, sometime in July – I mean,
2 September, give or take, maybe the last day of
3 August, whatever, because they do vary to
4 sometime in June. So that's the school year.
5 That's when post retirement kicks in.
6 The other – The August date is
7 really there to track when do we apply dollars
8 back and forth, when do we apply the school year
9 back and forth. Because if you, as a
10 superintendent, ^{ADMINISTRATIVE HEARING} were contributing in July
11 or August, well, are we talking for the
12 prospective school or the past school year, and
13 some of the genesis behind that was beyond my
14 30 years.
15 Q. How long has the Retirement System been applying
16 an August 25th to August 24th cycle?
17 A. Beat me at my punch. It was, it was before
18 my time. But the reason that that happened is,
19 back when teachers used to accrue credit at
20 135 days for a full year, superintendents would
21 sometimes work during the summer and would say,
22 okay, I'm going to start my days of service
23 credit, and they would reach 135 in December,
24 when the school year is really September to
25 June. So the purpose of establishing that date,

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1 and it's more for our IT systems, is to
2 understand where am I applying credits, where
3 are they going, where's that window of time
4 happening. So we have a regulation that says
5 you only accrue credit during the school year of
6 which we apply post retirement, because that's
7 when school is in session.
8 Q. And just to be clear, superintendents – you
9 understand superintendents have different job
10 functions –
11 A. Wholeheartedly, yeah.
12 Q. – than teachers; correct? But you apply the
13 same service credit accrual methodology to them;
14 is that correct?
15 A. Correct. And again, teachers earn – I mean,
16 as you see in 16, which is why we put it in this
17 particular letter, it's very broad in terms of
18 who fits the mold of the teacher. And it
19 specifically mentions superintendents. So
20 everybody earns credit the same way. Doesn't
21 matter if you're during the summer. But at the
22 end of the day, it's when you accrue credits and
23 when post retirement works, because it works the
24 school year.
25 Q. So superintendents are treated like teachers for

Page 19

1 purposes of service credit accrual?
2 A. Absolutely.
3 Q. And for post retirement employment?
4 A. Correct. Correct.
5 Q. And is it your experience that superintendents
6 and teachers have differing beginning and ending
7 of school calendars depending on what particular
8 school district they're talking about?
9 A. Yes.
10 Q. Okay. ^{July 24, 2023} But for the Retirement System, was
11 uniformity something that was attempting –
12 something that was desirable?
13 A. We had to. Just by virtue of the different
14 start dates and end dates and when would we
15 apply – for example, if you're doing your high
16 five years, well, which window of time do I –
17 or high three years probably back then, where
18 would we apply, if you were working during the
19 summer, where would we apply that, would it be
20 the past school year or the prospective school
21 year.
22 So if you think about it, if
23 you were a superintendent and you were working
24 the first week of August, then you made
25 contributions on it, well, in your high three,

Page 20

1 is that the school year, like right now, would
2 that be the '24 – '23-'24 school year or is it
3 the '22-'23 school year. Where is the window of
4 time. Because you can't pick it off that way.
5 So that's where that date comes from.
6 And again, we have guidance
7 counselors that start the week before. Well,
8 if – you know, by not – if we had a date of
9 June 30, for example, where would that service
10 credit go to, would it go forward or go
11 backwards.
12 Q. So the August 25th to August 24th cycle has been
13 in effect you said since you've been involved in
14 the Retirement System?
15 A. Before my time, actually.
16 Q. Okay. And that's approximately 25 years?
17 A. Keep going. It's almost 30 years.
18 Q. Almost 30 years?
19 A. Yeah.
20 Q. Okay. Has that, has that cycle, those dates,
21 been communicated to employers?
22 A. Yeah.
23 Q. How is it communicated to employers?
24 A. They go through our website. And when they
25 post the – you know, our team is always in

Page 21

1 contact with people in district of who's working
2 during the summer, if they might be doing summer
3 school, you know, and depends who it is.
4 Q. And are your systems calibrated based on those
5 dates?
6 A. Yes.
7 Q. Okay. Is that information also communicated to
8 members of the Retirement System?
9 A. Yes.
10 Q. And how is that communicated?
11 A. We put it in newsletters.
12 Q. Okay. And has that been done on a number of
13 occasions, in your experience?
14 A. Yeah. I couldn't tell you the exacts but...
15 MR. ROBINSON: All right. I'd
16 ask that this be marked as a full exhibit.
17 MR. PICCIRILLI: No objection.
18 THE HEARING OFFICER: All
19 right. So no objection from appellant's
20 counsel. We will mark as Respondent's 1,
21 Exhibit 1, as a full exhibit.
22 MR. ROBINSON: Okay.
23 THE HEARING OFFICER: It is a
24 two-page letter addressed to the appellant
25 Patricia Dubois from Frank J. Karpinski,

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1 executive director of the Employees' Retirement
2 System.
3 MR. ROBINSON: And Greg, I
4 don't think I had need to ask the executive
5 director about this unless you want me to. But
6 I'd also like to put in Ms. Dubois' May 4th,
7 2023, appeal --
8 MR. PICCIRILLI: Yes.
9 MR. ROBINSON: --
10 communication.
11 THE HEARING OFFICER: Yeah. I
12 don't think I, I don't think I have that, when
13 there was like actually a formal request.
14 MR. ROBINSON: And the
15 Retirement System's May 22nd, 2023, response
16 constituting a final administrative denial or
17 formal administrative denial.
18 THE HEARING OFFICER: Any
19 objection?
20 MR. PICCIRILLI: No objection.
21 MR. ROBINSON: And then lastly
22 would be the communication from the
23 Retirement System to Ms. Dubois appointing the
24 hearing officer for a resolution of the claim.
25 MR. PICCIRILLI: No objection.

Page 23

1 So would those be Exhibits 2, 3, 4?
2 MR. ROBINSON: 2, 3, 4.
3 THE HEARING OFFICER: Yes.
4 MR. ROBINSON: Do you need
5 copies or are you good?
6 MR. PICCIRILLI: If you have an
7 extra copy.
8 MR. ROBINSON: I do, yup.
9 And I have no other questions
10 of the executive director.
11 THE HEARING OFFICER: All
12 right. Okay. For the record, we are
13 introducing as Respondent's, full, Exhibit 2.
14 No objection from appellant's counsel. It is a
15 one-page document dated May 4, 2023, addressed
16 to Mr. Frank Karpinski from the appellant
17 Patricia Dubois.
18 MR. ROBINSON: That's 2;
19 correct?
20 THE HEARING OFFICER: That's 2.
21 MR. ROBINSON: Okay. Got it.
22 THE HEARING OFFICER: And for
23 the record, we have to mark Respondent's 3,
24 full. No objection from --
25 MR. PICCIRILLI: No objection.

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1 THE HEARING OFFICER: --
2 appellant's counsel. And Respondent's 3, full,
3 is an eight-page document dated May 22nd, 2023,
4 from the -- from Frank J. Karpinski, executive
5 director of the Employees' Retirement System,
6 addressed to Patricia Dubois. And that will be
7 marked, the eight pages in its entirety, as
8 Respondent's Exhibit 3, full. No objection from
9 appellant's counsel.
10 All right. And then being
11 marked as Respondent's 4, a full exhibit.
12 Again, no objection from appellant's counsel.
13 We have a one-page document dated May 22nd,
14 2023, from the Employees' Retirement System,
15 Gall Mambro-Martin, deputy general counsel,
16 addressed to Patricia Dubois.
17 All right. Are there any other
18 documents, Mr. Robinson?
19 MR. ROBINSON: No other
20 documents. I just have two final questions of
21 the executive director.
22 THE HEARING OFFICER: All
23 right. That's fine. You may proceed.
24 Q. Mr. Karpinski, the analysis that's contained in
25 Petitioner's Exhibit 1, that's the first and

Page 25

1 only document you've looked at here.
 2 A. Uh-huh.
 3 Q. Applying the Retirement Systems' assessment of
 4 post retirement employment law to Ms. Dubois'
 5 situation in light of the August 25 to
 6 August 24th cycle that you just discussed, does
 7 that remain the official position of the
 8 Retirement System regarding her exceeding of the
 9 cap, allowable cap on post retirement
 10 employment? ADMINISTRATIVE HEARING
Patricia Dubois
 11 A. Yes.
 12 Q. And do you know whether or not the \$3,129.66 has
 13 already been recouped?
 14 A. I believe we did.
 15 MR. ROBINSON: Okay. I have no
 16 other question.
 17 THE HEARING OFFICER:
 18 Mr. Piccirilli, any cross-examination?
 19 MR. PICCIRILLI: Yes. Thank
 20 you.
 21 THE HEARING OFFICER: Yes.
 22 You're welcome.
 23 MR. PICCIRILLI: I've asked
 24 that Executive Order 21-10, the petitioner's or
 25 Appellant's A, Executive Order 21-71 dated

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1 June 18, 2021, be Appellant' B.
 2 MR. ROBINSON: Which one is
 3 that? 21-71?
 4 MR. PICCIRILLI: And Executive Order
 5 21-86 be Appellant's 3.
 6 MR. ROBINSON: 21-86?
 7 THE HEARING OFFICER: Do you
 8 want to do letters?
 9 MR. PICCIRILLI: Well, if the
 10 respondent's going to be letters - numbers, I
 11 thought we'd be letters.
 12 THE HEARING OFFICER: Yes.
 13 That's fine. So that'll be C.
 14 MR. PICCIRILLI: A, B, C, yes.
 15 Do you want to mark these now or...
 16 THE HEARING OFFICER:
 17 Mr. Robinson, do you have any objection?
 18 MR. ROBINSON: No objection.
 19 THE HEARING OFFICER: All
 20 right. No objection. We will mark those as
 21 full exhibits.
 22 MR. PICCIRILLI: Thank you.
 23 THE HEARING OFFICER: Very
 24 welcome.
 25 And for the record, we will be

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1 marking as Appellant's Exhibit A as a full
 2 exhibit. No objection from respondent,
 3 Employees' Retirement System. And this is a
 4 three-page document entitled Executive Order
 5 20-110 from Governor Gina M. Raimondo.
 6 Next, we have Appellant's B,
 7 full exhibit. No objection from counsel for the
 8 respondent, Employees' Retirement System. And
 9 that is a three-page document entitled State of
 10 Rhode Island Executive Order 21-11 dated
 11 June 18th, 2021, by Daniel J. McKee. And that
 12 will be marked Appellant's B, full exhibit.
 13 And finally, to be marked
 14 Appellant's C full is a - Do we have the
 15 signature page on - This one is
 16 Executive Order 21-86 dated August 19th, 2021.
 17 MR. PICCIRILLI: Maybe it's
 18 still in the packet there.
 19 THE HEARING OFFICER: It could
 20 be. Let me see if I can find it.
 21 MR. ROBINSON: I have it, but I
 22 only have one copy of this one.
 23 THE HEARING OFFICER: All
 24 right. I'm sure I have it.
 25 MR. PICCIRILLI: Oh, there it

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1 is.
 2 THE HEARING OFFICER: All
 3 right. And then we will mark Appellant's,
 4 again, Appellant's C, a full exhibit. No
 5 objection from counsel for respondent,
 6 Employees' Retirement System. Full exhibit is a
 7 four-page document dated August 19th, 2021,
 8 entitled State of Rhode Island Executive
 9 Order 21-86, signed by Daniel J. McKee,
 10 Governor.
 11 And just for the record,
 12 because I'm not sure on the very first one, if I
 13 mentioned that, Appellant's A, full exhibit, is
 14 Executive Order 21-110 that was dated
 15 December 30th, 2020, signed by
 16 Governor Gina Raimondo. And that's just to
 17 clarify the record in case I did not mention the
 18 date of the exhibit.
 19 All right.
 20 MR. PICCIRILLI: Thank you.
 21 THE HEARING OFFICER: There you
 22 go, Mr. Piccirilli.
 23 MR. PICCIRILLI: Thank you.
 24 THE HEARING OFFICER: You're
 25 very welcome. Got to stretch there.



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1 CROSS-EXAMINATION
2 BY MR. PICCIRILLI:
3 Q. Director Karpinski, thank you for being here.
4 Just so I can understand this,
5 Section 16-16-24, the statute that you rely upon
6 for –
7 A. Post retirement.
8 Q. – the post retirement employment, it has – the
9 provision states, no more than 90 days in any
10 one school year, is that correct? I'm sorry. You have
11 to say yes or no.
12 A. Correct.
13 Q. And it's your testimony that there's no
14 definition of "school year" in the statute;
15 correct?
16 A. There is. 16-22 defines school year to be
17 180 days or 1,080 hours, and that's in our
18 regulation.
19 Q. Okay. So you said that there was a regulation
20 that uses the August 25th date.
21 A. The regulation does not show the August 24th
22 date. It talks about the school year.
23 Q. So it talks about a school year as being
24 180 days.
25 A. Correct.

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1 Q. Okay. But it is your testimony that for years,
2 since presumably the statute has been in
3 existence, there's an understanding that
4 teachers, some teachers and most administrators
5 work beyond the 180 days; correct?
6 A. While they may work, there are only limited
7 people that actually get to contribute during
8 that. Because a teacher – if a teacher had a
9 summer school job, nothing precludes them from
10 working that summer job, but they aren't able to
11 contribute on it because no CBA that we've seen
12 to date says that you shall do this and this in
13 the summertime. Generally, what we see are
14 principals and superintendents have longer
15 employment periods. But their service credit
16 stops in June. Stops at the school year. The
17 regulation specifically says that.
18 Q. Okay. So you would agree, then, the school year
19 is June 30.
20 A. On or about. Sometime between June 15th and
21 June 30.
22 Q. So the new school year starts July 1st.
23 A. The new school year, from what we've seen,
24 starts end of September – I mean, end of
25 August, beginning of September, and they vary as

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1 well.
2 Q. Okay. The statute talks about a year, not
3 180 days. A year is 365 days; correct?
4 A. What school do you know does 365 days?
5 Q. I'm asking the question. The word says year.
6 It doesn't say 180 days. Correct?
7 A. It says school year.
8 Q. Now, when you – This executive order that the
9 governor, then Governor Raimondo issued in
10 December of 2020, did you or anybody in the
11 Retirement System have any communication or
12 involvement in the preparation of that order?
13 A. No.
14 Q. Did they – Did the governor attempt to
15 communicate with you or contact you for your
16 input on this?
17 A. No.
18 Q. Okay. So when you received this, and you saw
19 that there was language that said during the
20 2021 school year, ending June 25th, did that
21 raise any questions in your mind as to what that
22 meant?
23 A. No. Because every single school department
24 here has a school year that is sometime between
25 end of August, beginning in July – I mean, in

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1 September to sometime in the middle to the end
2 of June, and it's been that way for at least as
3 long as I've been here.
4 Q. So you took the definition of school year as
5 stated in the executive order to mean July 1 to
6 June 30th?
7 A. No. September 1 to June 30.
8 Q. Well, let me ask you this: There's a second
9 executive order that now Governor McKee issued
10 in September of '21; correct?
11 A. Correct.
12 Q. And that talks about a school year, but it
13 doesn't have the date in it of June 25th;
14 correct?
15 A. I don't recall the exact language but...
16 Q. All right. Let me show you – Do you have –
17 *Esquire Solutions*
18 MR. ROBINSON: I do. You
19 didn't mark it. But I do. Are you talking
20 about 96?
21 MR. PICCIRILLI: 21-71, I
22 thought. Oh, no. You know what? You're right.
23 That should be –
24 Can we go off the record for a
25 second? I'm sorry.
THE HEARING OFFICER: Yes. No

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1 problem. We're off the record briefly.
 2 (DISCUSSION OFF THE RECORD)
 3 THE HEARING OFFICER: All
 4 right. So we're back on the record. And we are
 5 going to be marking as Appellant's D, no
 6 objection from counsel for the respondent,
 7 Employees' Retirement System, Respondent's D,
 8 full exhibit, and that is a three-page document
 9 dated September 8th, 2021, entitled State of
 10 Rhode Island Executive Order 21-96, and it's
 11 signed by Daniel J. McKee, Governor. All right.
 12 Q. If you want to review it, just let me know when
 13 you're ready, Mr. Karpinski.
 14 (PAUSE)
 15 A. Okay.
 16 Q. All right. Again, on Page 2 of the order, this
 17 is 21-96, September of '21, towards the bottom,
 18 second paragraph, after the "now, therefore"
 19 clause, there's a reference to the '21/'22
 20 school year, but there's no date. There's no
 21 June 25th or any other date mentioned in the
 22 order, correct?
 23 A. Correct.
 24 Q. Okay. How would you define the school year as
 25 presented in this order from '21 to '22? From

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1 what date to what date?
 2 A. Probably sometime in September of '21 to
 3 June, sometime in June of '22.
 4 Q. Is it your position that, if someone worked past
 5 the 90 days, past June 30th, 2022, that those
 6 dates would be -- would not be covered by this
 7 executive order?
 8 A. This refers to the school year. So you would
 9 have collected your 180 days at the end of June.
 10 So if you were working beyond that, it would be
 11 post retirement employment.
 12 Q. All right. But the order doesn't talk about
 13 just teachers, it talks about administrative
 14 staff, correct?
 15 A. Correct.
 16 Q. And superintendents and presumably most
 17 principals don't work 180 days. They work
 18 almost the whole year, correct?
 19 A. They're defined in the statute as teacher.
 20 So when we see the word "teacher," we refer back
 21 to the definition of teacher, and they don't get
 22 treated any differently than a math teacher, a
 23 science teacher, or what have you.
 24 Q. Okay.
 25 A. It's still the same window of time.

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1 Q. All right. Let me ask it this way. If
 2 Ms. Dubois worked more than 90 days between
 3 August 25th of 2021 and August 24th of 2022,
 4 those extra 90 days, would she have to have
 5 those deducted like she did under this --
 6 A. If she exceeded the 90 half days or 180 full
 7 days, yes, during the school year. That's the
 8 window of time.
 9 Q. So all administrators in the state of
 10 Rhode Island who work past the 90 days outside
 11 of this 180-day school year window that you're
 12 talking about, those would have to -- would have
 13 their retirement reduced for working those days?
 14 A. If they worked 180 school days, if they
 15 started in September and they ended in June,
 16 they are right at a full year of service credit.
 17 When they work during the summer, as I mentioned
 18 earlier, because their contracts bring them to
 19 220 or some other number of days, they're able
 20 to contribute on those for purposes of salary.
 21 The service credit stops on June 30 and the post
 22 retirement stops at June 30.
 23 Q. Well, let's be clear. There's two different
 24 things between regularly currently employed
 25 teachers and administrators who are accruing

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1 credit towards retirement and then there's post
 2 retirement. Those are two separate things;
 3 correct?
 4 A. There has to be -- Service credit drives post
 5 retirement. They're both in the same window.
 6 If you are a state employee, and you work
 7 260 business days a year, that's how you accrue
 8 credit. If you're doing post retirement,
 9 because they work a whole year, we would say
 10 we're counting on a calendar year basis, because
 11 they worked the entire year. But when you get
 12 other, like teachers, they're different. Their
 13 year is 180 days.
 14 Q. You just mentioned a calendar year.
 15 A. That's because it's state employees.
 16 Q. Okay. 800.211.DEPO (3376)
 17 A. They work 260 days. And there's not a
 18 similar definition, like a teacher, in 16-22
 19 that says 180 days or 1,080 hours.
 20 Q. Okay.
 21 A. So they're different. For example, post
 22 retirement for municipals, they can do 75 full
 23 days or 150 half days. It's just the way the
 24 law -- I understand the complexity, but that's
 25 the way the law is written.

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1 Q. I'm still trying to make sure that I understand
2 that there's a distinction between accruing
3 credit as a currently regularly employed either
4 teacher or administrator under either a
5 collective bargaining agreement or under an
6 employment contract and post retirement
7 employment. Because post retirees do not work
8 under a contract; correct?
9 A. They -- To the best of our knowledge, no.
10 Q. Right. So there is an annualized contract. The
11 collective bargaining agreements are annualized
12 contracts; correct? They go from either July 1
13 to June 30, some go from September 1 to
14 August 31st; correct?
15 A. Correct.
16 Q. You haven't -- In your experience, you've seen
17 all collective bargaining agreements are either
18 of those two; correct?
19 A. Correct.
20 Q. Okay. The majority being July 1 to June 30;
21 correct?
22 A. Correct.
23 Q. Similarly, with administrators, be the
24 principals or superintendents, they operate
25 under contracts as well, individualized

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1 contracts.
2 A. Correct.
3 Q. And those contracts are either July 1 to June 30
4 or September 1 to August 31st; correct?
5 A. I've seen different variants of them, but
6 generally.
7 Q. All right. So when you're saying an
8 administrator accrues credit for their contract
9 year, and their contract year says they work
10 260 days or they work, the full year was five
11 weeks' vacation or whatever it is, it's for that
12 contract year; correct?
13 A. A school -- A superintendent may work more
14 days, but their service credit days stop the
15 same way a teacher does. Exactly the same. And
16 in order for you to be charged for post
17 retirement employment, the line in the sand is
18 school must be in session. That's when we're
19 counting the service credit, that's when we're
20 counting post retirement. We permitted
21 superintendent to get paid during the summer and
22 contribute on it for purposes of their pension
23 benefit. But there has to be -- Just like if
24 you're working for the state, the state has to
25 be open and it has to be doing business.

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1 Q. All right.
2 A. Teachers only do it 180 days.
3 Q. Well, isn't it true now that most teacher
4 contracts are 185 days? Because there's
5 mandatory professional developments? I mean --
6 A. They don't, --
7 Q. Most of the contracts I see now, --
8 A. -- they don't count.
9 Q. -- teachers have to -- their contracts are
10 185 days, for example.
11 A. They don't count.
12 Q. Those five days don't count.
13 A. They do not.
14 Q. So if they get paid for those five days, it
15 doesn't count --
16 A. That's correct.
17 Q. They don't approve for their retirement. But if
18 I'm an administrator, and I have a 260-day
19 contract, do those 260 days accrue to my
20 retirement?
21 A. Retirement is a very open word that you're
22 using. It adds for salary but it does not add
23 for service credit because -- I'm sorry to keep
24 repeating it. But the year that they work is a
25 September to June 30 date. That's 180 days.

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1 That's 1,080 hours. I believe what the statute
2 talks to, nothing would preclude a school
3 department from having a longer day and having
4 170 days. But when school is in session is when
5 they're earning credit and when post retirement
6 applies.
7 Q. When you say --
8 A. So when you say retirement, there's two
9 pieces to retirement. There's service credit
10 and there's salary.
11 Q. Okay. So the service credit is so they get a
12 credit for that year --
13 A. Correct.
14 Q. -- plus retirement.
15 A. Correct.
16 Q. So an administrator could have an 180-day
17 contract and get service credit for that entire
18 year; correct?
19 A. I don't know that I've -- at least I can't
20 recall a superintendent who has only 180-day
21 contract.
22 Q. I said administrator, not superintendent.
23 There's different administrators; correct?
24 A. Correct.
25 Q. So there could be a principal, for example, that

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1 has 180-day contract.
 2 A. Could be.
 3 Q. They'd get the full credit for that year.
 4 A. Correct.
 5 Q. If they work the 190 days, they get credit for
 6 the 180 days of service credit; correct?
 7 A. Correct.
 8 Q. But they get their full salary for the 190 days,
 9 is their retirement credit.
 10 A. Correct. You're juggling words, but okay.
 11 Q. Well, how would you -- if it's their salary for
 12 that year --
 13 A. Correct.
 14 Q. And so when you -- I think you mentioned there's
 15 as high as three years, for example?
 16 A. Correct.
 17 Q. What if their high is three years? You count
 18 the entire contract, the whole 190 days.
 19 A. Correct.
 20 Q. Okay. All right. So again, let's get back to
 21 this second retirement -- the second executive
 22 order. So it's your testimony if --
 23 MR. ROBINSON: Which one are we
 24 looking at?
 25 MR. PICCIRILLI: I'm sorry.

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1 Exhibit D.
 2 Q. So it's your testimony that the 90-day waiver
 3 that the governor gave in this executive order
 4 only applies between September 1 and June 30.
 5 A. Correct.
 6 Q. Or the school year in that period of time.
 7 A. That's correct.
 8 Q. Whether it's a teacher or an administrator.
 9 A. That's correct.
 10 Q. You've made that interpretation yourself or did
 11 a team of people make that here?
 12 A. That has -- I will be here 29 and a half
 13 years. Prior to my coming here, it was always
 14 that.
 15 Q. Well, there's never been an executive order like
 16 this since your 30 years here.
 17 A. The point is, the fact that you use the word
 18 "school year," we've never had a reason to
 19 assume there is anything but September to June.
 20 Q. But you've never had this statute suspended by
 21 an executive order prior to COVID; correct?
 22 A. Correct.
 23 Q. This is a once in a, I've heard generation, I've
 24 heard once in a hundred years.
 25 A. Hopefully one --

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1 Q. I mean, this is unprecedented, uncharted
 2 territory; correct?
 3 A. Correct.
 4 Q. So when this executive order came out, the idea
 5 that this 90-day period was being waived, you
 6 could have interpreted that to mean the 90 days
 7 for the entire school year being July 1 to
 8 June 30 or September 1 to August 31st. You
 9 could have interpreted it that way; correct?
 10 A. I don't have a reason to interpret it that
 11 way.
 12 Q. Well, you have no reason not to. I mean, was --
 13 A. Everything that we've done has been school
 14 year. Unless, unless there was some specific
 15 language that changed that. And the fact that
 16 that's a definitional term in 16, I think it's
 17 22, the fact that it specifically says school
 18 year, 180, there would be no reason for us to
 19 think anything different than what's already
 20 been enacted.
 21 MR. PICCIRILLI: Could I just
 22 go off the record for a moment.
 23 THE HEARING OFFICER: Yes.
 24 We'll go off the record briefly.
 25 (DISCUSSION OFF THE RECORD)

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1 MR. PICCIRILLI: If we can go
 2 back on the record.
 3 THE HEARING OFFICER: Yes.
 4 We're back on the record.
 5 Mr. Piccirilli, do you have
 6 further exhibits or...
 7 MR. PICCIRILLI: Well, I'm
 8 going to reference 16-16-24.1 and 16-16-24.2.
 9 Those are statutes. I don't think I need to
 10 make them an exhibit, unless Mr. Robinson would
 11 prefer.
 12 MR. ROBINSON: No. I mean, I
 13 assume we're both going to be talking about
 14 them. They say what they say. We're not, you
 15 know; so...
 16 THE HEARING OFFICER: Well, I
 17 think it would be helpful to have them as
 18 exhibits.
 19 MR. PICCIRILLI: Okay. All
 20 right. Then I'll ask that 24.1 be Appellant's E
 21 and 24.2 as Appellant's....
 22 THE HEARING OFFICER: F.
 23 MR. PICCIRILLI: ...F.
 24 Thank you.
 25 THE HEARING OFFICER: All

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1 right. You're very welcome.
 2 All right. For the record, we
 3 are marking as Appellant's E, full exhibit. No
 4 objection from counsel for the
 5 Employees' Retirement System. It's a one-page
 6 document entitled 16-16-24.1, substitute
 7 teaching and post retirement employment related
 8 to COVID-19.
 9 And we're marking as
 10 Appellant's F, ~~as a full exhibit~~ ^{ADMINISTRATIVE HEARING} exhibit. No
 11 objection from counsel for respondent
 12 Employees' Retirement System, a one-page
 13 document entitled 16-16-24.2, expires effective
 14 6/20/24, substitute teaching and post retirement
 15 employment related to statewide staffing. That
 16 will be marked Appellant's F as a full exhibit.
 17 All right. Thank you,
 18 Mr. Piccirilli.
 19 MR. PICCIRILLI: Thank you.
 20 Q. You're aware that two statutes were enacted by
 21 the general assembly; correct?
 22 A. Correct.
 23 Q. Let's start with Exhibit 24.1 – Section 24.1,
 24 Exhibit E.
 25 MR. ROBINSON: Do you have

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1 extra copies –
 2 MR. PICCIRILLI: No. I'm
 3 sorry.
 4 MR. ROBINSON: We'll just have
 5 to share it, then. One copy of each.
 6 Q. Would it be fair to say in a general sense that
 7 this statute endorses or ratifies the governor's
 8 executive order of 21-10 and 21-71 which
 9 suspended the 90-day cap on post retirement
 10 employment?
 11 A. Correct.
 12 Q. Now, this statute doesn't reference a specific
 13 date, like June 25th; correct?
 14 A. I don't believe it does.
 15 Q. Okay. At the end it says, in Section C –
 16 Paragraph C, the section, sunsets upon the
 17 conclusion of the '21/'22 school year; correct?
 18 A. Correct.
 19 Q. And by your definition, that was June 30th –
 20 A. Correct.
 21 Q. – of 2022. Okay. Then the general assembly
 22 passed 24.2, correct, Exhibit F?
 23 A. Correct.
 24 Q. This has a sunset, specific sunset date of
 25 June 20, 2024; correct?

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1 A. Correct.
 2 Q. Okay. You're aware generally that the pandemic
 3 has been declared over as of May of twenty -- of
 4 this year, 2023; correct?
 5 A. I hope so, yeah.
 6 Q. So this suspension of the extra days goes well
 7 beyond – over a year beyond the official
 8 declaration of the pandemic; correct?
 9 A. I mean, I think that's a little deep for our
 10 interpretation. ^{July 24, 2023} Because we're focusing on post
 11 retirement employment. We're focusing on school
 12 year. Those are the two drivers. Not sure I'm
 13 certified to talk about pandemics and –
 14 Q. Okay. Fair enough. Is it your – So it's your
 15 testimony that, based on these two statutes,
 16 there's a – the summer of 2023, the one we're
 17 coming up, if an administrator works during that
 18 summer more than – and it's more than 90 days
 19 from September of '22, that they'll have their
 20 retirement reduced.
 21 A. If... So the '23 school year ended, I
 22 believe these refer again to the school year.
 23 But superintendents may be employed during the
 24 summer for salary purposes. I'm going to drive
 25 the train again at school year. And if they go

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1 beyond that, we're going to suspend. When the
 2 school year starts, they begin to – whomever is
 3 working post retirement and service credit begin
 4 to kick off but for these particular statutes.
 5 We don't track that any further. They get to go
 6 beyond that date.
 7 Q. All right. This statute was enacted it looks
 8 like March of '23. March 22nd, 2023. Do you
 9 see that on the bottom?
 10 A. Yup, I do.
 11 Q. And it goes through June 20th of 2024; correct?
 12 A. Correct.
 13 Q. And there's nothing in here that says that it's
 14 limited to the school year. In fact, Section C
 15 just says it sunsets on June 20th; right?
 16 A. Correct. ^{800.211.DEPO (3376)}
 17 Q. It doesn't say in Section 24.1, the '21/'22
 18 school year, this doesn't say the '23/'24 school
 19 year.
 20 A. That's correct.
 21 Q. Or the '22/'23 school year.
 22 A. Correct.
 23 Q. So what you just testified is wrong, isn't that
 24 true, that if an administrator works through or
 25 anyone works through the summer of 2023 and it's

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1 beyond 90 days, by this statute they cannot be
2 punished?
3 A. That's now how we're interpreting it. We're,
4 again, interpreting it by school year.
5 Q. Where in here does it say school year?
6 A. Where does it say that it can go all summer?
7 Where does it go back and say anything else?
8 Q. Well, it says from June -- from March 22nd to
9 June 20th. March 22nd of '23 to June 20th of
10 '24, if I'm a respondent, would work every single
11 day and not be punished by this statute.
12 A. School is not in session during the summer.
13 Q. Tell me where it says school year in
14 Section 24.2.
15 A. That's the way we interpret it.
16 Q. So that's your interpretation of it.
17 A. Correct.
18 Q. I see. And that's not by any published
19 regulation or rule.
20 A. Correct.
21 Q. Okay.
22 A. All we have to define is school year, which
23 is the driver.
24 MR. PICCIRILLI: I have nothing
25 further. Thank you.

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1 THE HEARING OFFICER:
2 Mr. Robinson?
3 MR. ROBINSON: No questions.
4 THE HEARING OFFICER: All
5 right. Does either party have anything further
6 they choose to submit by way of testimony,
7 further documentation, further exhibits?
8 MR. PICCIRILLI: The only thing
9 I'd ask Mr. Robinson would be is what -- if I
10 could have a copy of the regulation that
11 Mr. Karpinski was talking about.
12 MR. ROBINSON: They're all
13 publicly available.
14 MR. PICCIRILLI: Do you have a
15 citation or anything that you could get me?
16 MR. ROBINSON: I don't, but I'm
17 sure I could find it.
18 MR. PICCIRILLI: Okay. I'll
19 find it.
20 MR. ROBINSON: Yeah.
21 MR. PICCIRILLI: I have nothing
22 further.
23 THE HEARING OFFICER: All
24 right. So you rest? Does each side rest?
25 Nothing further?

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1 MR. ROBINSON: If we could just
2 take 30 seconds for me to have a quick --
3 THE HEARING OFFICER:
4 Absolutely.
5 MR. ROBINSON: -- chat.
6 THE HEARING OFFICER: All
7 right. We're going to go off the record briefly
8 so that counsel for the Employees' Retirement
9 System can consult with Mr. Karpinski.
10 (PAUSE)
11 THE HEARING OFFICER: We're
12 back on the record.
13 I've checked with both
14 appellant's counsel and the respondent's
15 counsel. They both have nothing further to
16 introduce by way of testimony or exhibits at
17 this time.
18 Gentlemen, you both submitted
19 pre-hearing statements. Do either of you or
20 both of you, do you wish to submit anything post
21 hearing or would you prefer to, you know, rest
22 on your pre-hearing statements?
23 MR. PICCIRILLI: Would it be
24 appropriate to just do a brief closing argument
25 now or...

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1 THE HEARING OFFICER: You may
2 do that. I just want to know, just because we
3 would have to set up a briefing schedule, are
4 you fine with your pre-hearing memo or is there
5 anything you wish to brief post hearing?
6 MR. ROBINSON: I think I might
7 like to --
8 How long do you anticipate on
9 the transcript?
10 THE REPORTER: 7 to 10 days.
11 MR. ROBINSON: Oh, great. I
12 don't need more than like a week, Greg. But I
13 think I might like to just put something short
14 in writing.
15 THE HEARING OFFICER: All
16 right. Then do you want to say for post hearing
17 memos --
18 MR. ROBINSON: I can be quick.
19 It's not --
20 THE HEARING OFFICER: We can
21 say 30 days. Would 30 days from today be --
22 MR. ROBINSON: Simultaneous.
23 And then another week for reply. 30 days is
24 more than enough.
25 THE HEARING OFFICER: All

1 right.
 2 MR. PICCIRILLI: Yeah. Maybe
 3 two weeks, maybe two weeks after the --
 4 THE HEARING OFFICER: All
 5 right. So what we can do is we can set up a
 6 post hearing schedule for memos that, upon
 7 receipt of the electronic transcript of the
 8 hearing, each of the parties will have two weeks
 9 to submit post hearing memoranda, and subsequent
 10 to that, an additional two weeks for any
 11 response on memo.
 12 MR. PICCIRILLI: Or even a week
 13 after.
 14 MR. ROBINSON: Yeah. That's
 15 fine.
 16 THE HEARING OFFICER: We can do
 17 two and two. That's fine.
 18 MR. ROBINSON: That's perfectly
 19 acceptable to me.
 20 THE HEARING OFFICER: All
 21 right. Mr. Piccirilli, do you want to do a
 22 closing argument or do you want to put it in
 23 your post hearing?
 24 MR. PICCIRILLI: No. I'll just
 25 do it in a brief.

1 CERTIFICATE
 2
 3
 4
 5 I, LISA L. CROMPTON, Certified Shorthand
 6 Reporter, hereby certify that the foregoing is a
 7 true and accurate transcription of my stenographic
 8 notes of the proceedings in this matter on the
 9 date and time specified in the caption hereof.
 10
 11
 12 IN WITNESS WHEREOF I have hereunto set my
 13 hand this 1st day of August, 2023.
 14
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1 THE HEARING OFFICER: All
 2 right. That's fine.
 3 All right. Then the hearing in
 4 this matter is concluded. And I want to thank
 5 all the parties, the appellant, Ms. Dubois,
 6 Mr. Piccirilli, Mr. Robinson, and Mr. Karpinski,
 7 wherever you are, for attending the hearing.
 8 Thank you. The hearing is now
 9 adjourned.
 10 (The proceedings adjourned
 11 at 3:13 p.m.)
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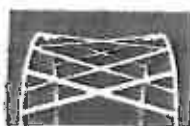
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PRE-HEARING MEMOS

ERSRI

And

PATRICIA DUBOIS



SAVAGE

LAW PARTNERS

PROVIDENCE, RI

Law and Business Advisors

July 17, 2023

Teresa Rusbino, Esq.
ERSRI Hearing Officer
Tmri03@gmail.com
(401) 741-7378

Dear Hearing Officer Rusbino:

This law firm represents the Employees' Retirement System of the State of Rhode Island ("ERSRI") regarding the appeal submitted by Patricia Dubois with respect to her pension benefit. It is my understanding that this matter is scheduled for a hearing on July 24, 2023. Please allow this correspondence to outline the position of ERSRI in advance of the hearing and with respect to Patricia Dubois' assertions that her pension benefit should not have been suspended during the fifteen and a half (15.5) days that she worked from June 26, 2021 through August 24, 2021.

It is the position of ERSRI that Ms. Dubois' pension benefits were required to be suspended for the fifteen and a half (15.5) days that she worked as Superintendent of the Gloucester School Department following the expiration of Executive Order 21-17 on June 25, 2021, and that it was required to recoup \$3,129.66 from her pension benefits because she had worked over ninety (90) days during the 2020-2021 school year.

By way of background, Ms. Dubois retired under Title 16, Chapter 16 of the Rhode Island General Laws on July 1, 2009 as a teacher¹. However, during the pandemic, she resumed working as Superintendent of the Gloucester School Department and worked a total of one hundred and nine (109) full days in the 2020-2021 school year which spanned from August 25, 2020 through August 24, 2021. Specifically, Ms. Dubois worked a total of ninety-three and a half (93.5) days through

¹ A "teacher" is defined, in pertinent part as

a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools[.]

R.I. Gen. Laws § 16-16-1(2) (emphasis added). Ms. Dubois retired as a Superintendent, and thereafter served as a superintendent during her post-retirement employment, which falls under the definition of a "teacher."

564 South Water Street, Providence, RI 02903 p. 401.238.8500 f. 401.648.6748

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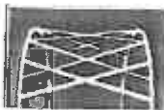
June 25, 2021, and worked a total of fifteen and a half (15.5) days from June 26, 2021 through August 24, 2021.

R.I. Gen. Laws § 16-16-24 permits a retired teacher to “substitute as a teacher at state schools and in public schools of this state for a period of **no more than ninety (90) days** in any one school year, without forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher.” (Emphasis added). However, in response to the Covid-19 pandemic and the resulting staff shortages at schools, then Governor Gina Raimondo instituted Executive Order 20-110 on December 30, 2020 which suspended “[t]he prohibitions and restrictions on post-retirement employment by persons who retired under the provisions of R.I. Gen. Laws Title 16[.]” See Executive Order 20-110 attached hereto as **Exhibit A**. It allowed teachers to become re-employed for a “finite duration during the 2020-2021 school year ending on June 25, 2021[.]” See *id.* The Executive Order was extended monthly through June 18, 2021 and until Executive Order 21-71, which stated that it was “to remain in full force and effect through June 25, 2021[.]” See Executive Order 21-71, attached hereto as **Exhibit B**. There were no further extensions or renewals.

When the language of a statute or enactment is “clear and ambiguous” then it must be interpreted “literally “and the words of the statute or enactment must be given “their plain and ordinary meanings.” See *Planned Environments Mgmt. Corp. v. Robert*, 996 A.2d 117, 121 (R.I. 2009). Further, when a statute or enactment is unambiguous “there is no room for statutory construction and we must apply the statute as written.” *State v. Oliveira*, 882 A.2d 1092, 110 (R.I. 2005). Therefore, after a review of the clear and unambiguous language of Executive Orders 20-110 and 21-71, any retired teacher who exceeded the ninety (90) day limit under § 16-16-24 through June 25, 2021 would not have their pension benefit impacted. However, it is also clear that pension benefits would be impacted for those retired teachers who had already worked ninety (90) days during the 2020-2021 school year, and proceeded to work additional days after June 25, 2021. See **Exhibits A-B**. Thus, since Ms. Dubois had worked a total of ninety-three and a half (93.5) full days through June 25, 2021, any additional days that she opted to work after that time and after the expiration of the Executive Orders would result in the suspension of her pension benefits under § 16-16-24.

Ms. Dubois does not dispute this but appears to contend that expiration of the Executive Order allowing exceedance of the ninety (90) days of authorized post-retirement employment was an “oversight”, because the 2020-2021 school year ended on August 24, 2021 and the Executive Order thus expired before the end of the school year. However, since the Executive Orders are unambiguous, the language must be applied as written. See *Planned Environments Mgmt. Corp.*, 996 A.2d at 121. It is “not the function of the Court to add language to an otherwise clear and unambiguous enactment.” *State v. Fuller-Balletta*, 996 A.2d 133, 143 (R.I. 2010).

Ms. Dubois also references R.I. Gen. Laws § 16-16-24.1 which was enacted on March 28, 2022, and § 16-16-24.2 which was enacted on March 22, 2023. According to the plain and clear language of § 16-16-24.1, the ninety (90) day cap on post-retirement employment was suspended through the conclusion of the 2021-2022 school year, effective March 28, 2022. Similarly, § 16-16-24.2 extended the suspension of the ninety (90) day cap on post-retirement employment through June 20, 2024, effective March 23, 2023. These newly enacted statutes do not apply to



Ms. Dubois' post-retirement employment because they were enacted after the 2020-2021 school year and must only be applied prospectively. The Rhode Island Supreme Court has consistently held that "statutes and their amendments are applied prospectively, absent clear, strong language, or by necessary implication that the Legislature intended a statute to have retroactive application[.]" *State v. Briggs*, 58 A.2d 164, 168 (R.I. 2013). As such, there has been no clear express or implied indication that either of these statutes shall be given retroactive application, or that they should be applied to Ms. Dubois' post-retirement employment between June 26, 2021 and August 24, 2021. Further, the Legislature "is presumed to know the state of existing law when it enacts or amends a statute." *Simeone v. Charron*, 762 A.2d 442, 446 (R.I. 2000). Thus, if the Legislature wanted to apply either of these statutes retroactively to the 2020-2021 school year, it would have so indicated in the express language of the statutes.

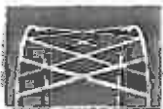
Moreover, the Legislature has vested the "general administration and the responsibility for the proper operation for the retirement system" of Rhode Island in ERSRI. See R.I. Gen. Laws § 36-8-3. As you are aware, it is long recognized that an administrative agency, such as ERSRI, "will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency." *Town of Richmond v. R.I. Dept. of Environmental Mgmt.*, 941 A.2d 151, 157 (R.I. 2008). Deference shall also be given to ERSRI's interpretation even if it "is not the only permissible interpretation that could be applied." *Pawtucket Power Assocs. Ltd. P'ship v. City of Pawtucket*, 622 A.2d 452, 456-57 (R.I. 1993). Moreover, "the construction given [a statute] by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized." *Grasso v. Raimondo*, 177 A.3d 482, 486-87 (R.I. 2018) (citing *State v. Swindell*, 895 A.2d 100, 105 (R.I. 2006)). As such, ERSRI routinely interprets the statutes it has been entrusted with administering, including § 16-16-16 *et seq.* Its interpretation of the relevant legislation and the corresponding Executive Orders addressed herein, and its resulting determination that Ms. Dubois' pension should be suspended to account for the fifteen and a half (15.5) days that she engaged in post-retirement employment after June 25, 2021, is entirely reasonable and in accordance with the plain and clear language of the relevant provisions.

Accordingly, per the clear language of § 16-16-24, Executive Order 20-110, and Executive Order 21-71, ERSRI was fully entitled to recoup Ms. Dubois' pension benefit for the period of time that she engaged in post-retirement employment following the expiration of the Executive Orders and because she exceeded the ninety (90) day cap on post-retirement employment thereafter during the 2020-2021 school year.

I look forward to presenting this position to you in person on July 25, 2023. Please do not hesitate to contact me should you have any questions or concerns prior to that time.

Very truly yours,


Michael P. Robinson, Esq.



SAVAGE
LAW PARTNERS
— LLP —

cc: Gregory P. Piccirilli, Esq.
Frank Karpinski
Gayle Mambro-Martin, Esq.



SAVAGE
LAW PARTNERS
LLP

Exhibit A



State of Rhode Island

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-110

December 30, 2020

**ONE HUNDRED AND FIFTH SUPPLEMENTAL EMERGENCY DECLARATION –
INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY**

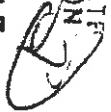
WHEREAS, on March 9, 2020, I issued Executive Order 20-02 declaring a state of emergency due to the dangers to health and life posed by COVID-19 and that Order is in effect until at least January 20, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township,

SECRETARY OF STATE
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WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19, the LEA shall execute and deliver to the

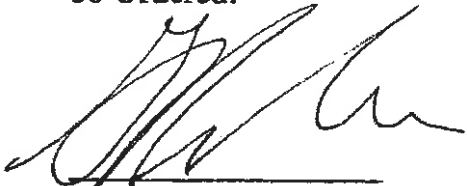
school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2020-2021 school year ending on June 25, 2021 and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Order shall take effect immediately and remain in full force and effect until January 28, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in black ink, appearing to read 'Gina M. Raimondo', written over a horizontal line.

Gina M. Raimondo

Governor

Exhibit B



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State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-71

June 18, 2021

ONE HUNDRED AND SEVENTY-FOURTH
SUPPLEMENTAL EMERGENCY DECLARATION –
INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19 and that Order has been extended to remain in effect at least through July 9, 2021;

WHEREAS, the COVID-19 public health emergency has led to the closure of all school buildings in Rhode Island for what remained of the 2019-2020 school year, with distance learning for all students taking place while school buildings are closed;

WHEREAS, the Rhode Island Department of Elementary and Secondary Education (RIDE) has issued a uniform, statewide 2020-2021 school calendar;

WHEREAS, RIDE and the Rhode Island Department of Health (RIDOH) have been collaborating on designing regulations and providing guidance to local school districts and other local educational agencies throughout the State (LEAs¹) for the reopening of schools;

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes “a public board of education or other public authority legally constituted within a State for either administrative control or direction

WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including physical distancing, and meeting the need of vulnerable subpopulations of students for in-person support and oversight, has placed additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it may be advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

NOW THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19, the LEA shall execute and deliver to the

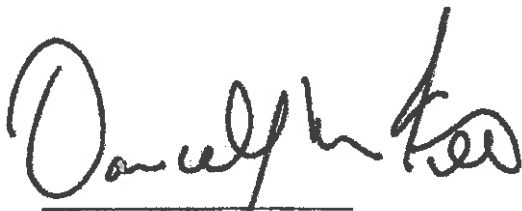
of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2020-2021 school year ending on June 25, 2021 and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Executive Order, superseding Executive Order 20-110, shall take effect immediately and remain in full force and effect through June 25, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Daniel J. McKee
Governor

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State of Rhode Island

Daniel J. McKee
Governor

EXECUTIVE ORDER

21-96

September 8, 2021

INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued for a declaration of a state of emergency due to the dangers to health and life posed by COVID-19, and that Order has been extended through at least October 2, 2021;

WHEREAS, on August 19, 2021, I issued Executive Order 21-86 declaring a disaster emergency for new COVID-19 variants;

WHEREAS, Rhode Island Department of Elementary and Secondary Education (RIDE) and the Rhode Island Department of Health (RIDOH) have been collaborating on designing and providing back-to-school protocols and guidance to local school districts and other local educational agencies throughout the State (LEAs¹);

WHEREAS, ensuring safe and effective teaching during the pandemic while complying with requisite health and safety measures, including universal indoor masking, has placed

¹ As used herein, LEA has the same meaning as used in 34 C.F.R. § 300.28, and thus includes "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools." *Id.*

additional demands on teachers and other school employees, leading to the need for flexibility in scheduling and additional staff at the schools;

WHEREAS, as a result of staff shortages at schools, it is advisable to call upon the knowledge, skills and expertise of certain retired staff members and to bring them back into active state service;

WHEREAS, Rhode Island General Laws §§ 16-16-24 and 36-10-36 provide for the suspension of pension benefits of retirees who have retired under the provisions of titles 16, 36 or 46 and return to state service;

WHEREAS, retirees who may have critical skills necessary to address this public health emergency may be reluctant to re-enter state service if their pension benefits will thereby be suspended; and

WHEREAS, it is advisable to remove any disincentive to re-employment of skilled and knowledgeable retirees by the state for limited periods and for limited personnel in order to address this health emergency.

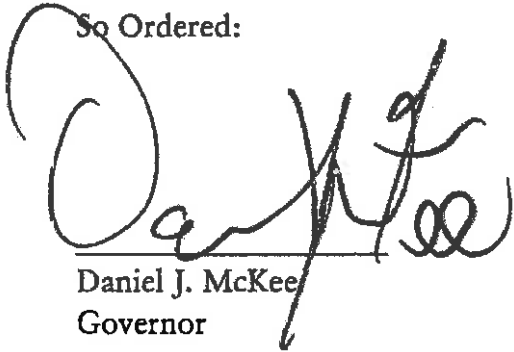
NOW THEREFORE, I, DANIEL J. MCKEE, by virtue of the authority vested in me as Governor of the State of Rhode Island, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby find, order and direct that:

1. The prohibitions and restrictions on post-retirement employment by persons who have retired under the provisions of R. I. Gen. Laws Title 16, 36, or 45 contained in R. I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby suspended with respect to those specific retired teaching and administrative staff members identified by an LEA.
2. With respect to each retired teaching or administrative staff member identified by an LEA as possessing the skills, training, or knowledge necessary to address the public health crisis engendered by COVID-19 and its variants, the LEA shall execute and deliver to the State Retirement Board of the Employees Retirement System of the State of Rhode Island a written certification that such re-employment (a) is of finite duration during the 2021-2022 school year and (b) is necessitated by the good faith belief that the skills, training, or knowledge of such retiree is needed to address the public health crisis caused by COVID-19 and its variants.

3. Any retired teaching or administrative staff so employed or re-employed by an LEA shall not be entitled to additional service credits for retirement.

This Executive Order shall take effect immediately and remain in full force and effect through October 7, 2021 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

A handwritten signature in black ink, appearing to read "Daniel J. McKee", written over a horizontal line. The signature is stylized and cursive.

Daniel J. McKee
Governor

**STATE OF RHODE ISLAND
EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND**

IN RE: APPEAL OF PATRICIA DUBOIS

PRE-HEARING STATEMENT OF PATRICIA DUBOIS

This matter involves an appeal by the Employees' Retirement System of RI (ERSRI), to recoup a total of 15.5 days' worth of Patricia Dubois' pension. This amount has already been deducted from Ms. Dubois' pension and she seeks to have those funds credited back to her.

In a letter dated April 7, 2023, Executive Director Frank Karpinski notified Ms. Dubois that these 15.5 days, valued at \$3,129.66, were being deducted from her April 2023 pension check. The basis for the deduction was Ms. Dubois worked these days in excess of the 90 days permitted by R.I. Gen. Laws § 16-16-24. The Director did not believe that Ms. Dubois could take advantage of the Governor's Executive Order, 20-110, which permitted retired teachers and administrators to work in excess of the 90-day rule limit on post-retirement public employment.

BACKGROUND:

In response to the COVID-19 pandemic, then Governor Raimondo on December 20, 2020, issued Executive Order, 20-110, entitled "ONE HUNDRED AND FIFTH SUPPLEMENTAL EMERGENCY DECLARATION – INCREASING TEACHING AND ADMINISTRATIVE STAFF CAPACITY." This order suspended the post-retirement employment restrictions in R.I. Gen. Laws §§ 16-16-24 and 36-10-36, to those teachers and administrators whom the district identified as possessing the skills, training, and knowledge necessary to address the public health crisis caused by COVID-19. The order was for the duration during the 2020-21 school year ending on June 25, 2021. The order failed to take into account that administrators work year, as determined by the Retirement Board, is from August 25 to August 24.

Since the pandemic emergency did not end in June of 2021, now Governor McKee issued another Executive Order, 21-96, on September 8, 2021. This Order essentially continued the suspension of the restrictions on post-retirement employment of teachers and administrators, for the 2021-22 school year. No specific mention of a June 25 date was added to this Order.

To reinforce the effect of these executive orders, the General Assembly enacted two statutes, R.I. Gen. Laws §§ 16-16-24.1 and 16-16-24.2. Each statute reiterates the language of the executive orders, emphasizing the need to suspend the restrictions on post-retirement employment by teachers and administrators as a necessary response to the COVID-19 public health crisis. Section 24.1 was enacted in March of 2022, and was sunset at the conclusion of the 2021-22 school year. Section 24.2 extended the suspension through June 30, 2024.

ARGUMENT:

The issue for this case is whether, taken together, the executive orders and statutes envisioned an unbroken suspension of the 90-day rule on post-retirement employment by administrators from the beginning of the pandemic in March of 2020, through the end of the pandemic, and then beyond until June of 2024. The answer must be yes.

First, the pandemic did not take the summer of 2021 off. Superintendent Dubois, as all public-school administrators, had to work through the issues presented by the COVID-19 pandemic during that summer of 2021. Indeed, throughout that summer, issues related to the COVID-19 response involved preparing a COVID-19 response and back to school plan for the fall of 2021. For example, Ms. Dubois, as Superintendent, was required to attend weekly meetings with the RI Department of Education and RI Department of Health throughout the summer of 2021 to prepare for the latest issues related to COVID-19 and the re-opening of schools. This was highlighted by the new state of emergency related to the Delta wave of COVID-19, as evidenced by the Governor's executive order 21-86 on August 19, 2021.

Director Karpinski's April 7, 2023, letter fails to account for the legislation enacted to remedy the situation faced by someone such as Ms. Dubois. This legislation by necessary implication was intended to provide an unbroken period of time to suspend the 90-day rule throughout the COVID-19 state of emergency. Moreover, since it is remedial in nature, it must be considered to apply retroactively to the summer 2021. See *DARE v. Gannon*, 819 A.2d 651 (R.I. 2003).

For the foregoing reasons, Ms. Dubois asks the hearing officer to recommend to the full Retirement Board that she been reinstated the funds deducted from her pension as a result of working 15.5 days between June 25 and August 24, 2021.

Respectfully submitted,
Patricia Dubois,
By her Attorney,



/s/Gregory P. Piccirilli, Esq., #4582
2 Starline Way #7
Cranston, RI 02921
Phone: (401) 578-3340
gregory@splawri.com

CERTIFICATION

I hereby certify that on July 17, 2023, a copy of the within was emailed to the following: Teresa Odell (tmrri03@gmail.com), Michael Robinson (mrobinson@savagelawpartners.com), Larissa DeLisi (ldelisi@savagelawpartners.com)

/s/ Gregory P. Piccirilli

CORRESPONDENCE

ERSRI BOARD:

May 22, 2023

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Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

RE: Request for Hearing

Dear Ms. Dubois:

Enclosed please find an official denial letter.

In accordance with Rhode Island General Laws (RIGL) §36-8-3 and the Rules of Practice and Procedure for Hearings in Contested Cases, your request for a hearing has been assigned to:

HEARING OFFICER: Teresa M. Rusbino, Esq.
Email: tmrri03@gmail.com
Phone: 401.741.7378

LOCATION: Employees' Retirement System of R.I.
50 Service Ave.
Warwick, RI 02886

Kindly contact the hearing officer to arrange a mutually convenient time to hold the hearing.

Should you have any questions, please feel free to contact me at 401.462.7616 or gayle.mambro-martin@ersri.org.

Sincerely,


Gayle C. Mambro-Martin
Deputy General Counsel

cc: Teresa M. Rusbino, Esq.
Michael P. Robinson, Esq.

Enclosures

May 4, 2023

Dear Mr. Frank Karpinski,

I am requesting an appeal of the decision regarding my post-retirement employment for the 2020-2021 school year in a letter to me dated April 7, 2023. There was an unfairness encountered with EO 21-71 ending on June 25, 2021 which adversely impacted my position in the Gloucester School District. I believe RIGL 16-16-24.1 and 16-16-24.2 were passed to correct this and applies retroactively to my situation. Thank you for your consideration.

Sincerely,



Patricia Dubois
Superintendent
Gloucester School Department

Title 16 Education

Chapter 16

Teachers' Retirement [See Title 16 Chapter 97 — The Rhode Island Board of Education Act]

R.I. Gen. Laws § 16-16-24.1

§ 16-16-24.1. Substitute teaching and post-retirement employment related to COVID-19.

(a) Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45 may, as part of the public health crisis caused by COVID-19, exceed the ninety-day (90) cap on post-retirement employment upon:

- (1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety-day (90) cap on post-retirement employment;
 - (2) There exists a good-faith basis that those retired teachers, administrators, and staff members being asked to exceed the ninety-day (90) cap on post-retirement employment possess the skills, training, and knowledge necessary to help address the public health crisis, caused by COVID-19; and
 - (3) The local education authority has notified the state retirement board that it has determined that exceeding the ninety-day (90) cap on post-retirement employment is necessary to help address the public health crisis caused by COVID-19.
- (b) Any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45, and has been employed or re-employed under the provisions of this section, shall not be entitled to additional service credits for such employment.
- (c) Unless extended by the general assembly, this section shall sunset upon the conclusion of the 2021-2022 school year.

History of Section.
P.L. 2022, ch. 7, § 1, effective March 28, 2022; P.L. 2022, ch. 8, § 1, effective March 28, 2022.

CHAPTER 001
2023 -- H 5040 SUBSTITUTE A
Enacted 03/22/2023

AN ACT
RELATING TO EDUCATION -- TEACHERS' RETIREMENT

Introduced By: Representatives O'Brien, Biah, Slater, Serpa, Carson, Corvese, Azzinaro, Kazarian, Spears,
and DeSimone

Date Introduced: January 11, 2023

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 16-16 of the General Laws entitled "Teachers' Retirement [See Title 16 Chapter 97 — The Rhode Island Board of Education Act]" is hereby amended by adding thereto the following section:

16-16-24.2. Substitute teaching and post-retirement employment related to statewide staffing.

(a) Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45 may exceed the ninety-(90) day (90) cap on post-retirement employment upon:

(1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety-(90) day (90) cap on post-retirement employment;

(2) Retired teachers, administrators, and staff members being asked to exceed the ninety-(90) day (90) cap on post-retirement employment possess the skills, training, and knowledge necessary to help address teacher and administrative staffing shortages; and

(3) The local education authority has notified the state retirement board that it has determined that exceeding the ninety-(90) day (90) cap on post-retirement employment is necessary to help address teacher and administrative staffing shortages.

Provided, however, that no employment may be offered to a retiree subject to this section unless the employer has made a good-faith effort each school year to fill the position with a nonretired employee without success, and certifies, in writing, that it has done so to the employees' retirement system and to the bargaining agents of all education unions with whom the employer has collective bargaining agreements.

(b) Any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45, and has been employed or re-employed under the provisions of this section, shall not be entitled to additional service credits for such employment.

(c) Unless extended by the general assembly, this section shall sunset on June 20, 2024.

SECTION 2. This act shall take effect upon passage and sunset on June 20, 2024.

LC000448/SUB A



ERSRI BOARD:

May 22, 2023

James A. Diosa
General Treasurer Chair

Patricia Dubois



John P. Maguire
Vice Chair

RE: Post Retirement Employment – 2020-2021 School Year

Ernest Almonte

Dear Ms. Dubois:

Roger P. Boudreau

We write in response to your letter of May 4, 2023 regarding your participation in post-retirement employment for the 2020-2021 school year.

Mark A. Carruolo

Joseph Codega

Our position remains as stated in our letter of April 7, 2023, attached hereto.

Paul L. Dion

This letter constitutes official notification of an administrative denial. Pursuant to the Regulations of the Employees' Retirement System of Rhode Island, 120-RICR-10-1.4, entitled Rules of Practice and Procedure for Hearings in Contested Cases, Section C., any member aggrieved by an administrative action may request a hearing before a Hearing Officer whose decision shall be subject to approval by the full Retirement Board. Upon such request, the matter will be deemed a contested case. Such request shall be in writing and shall be sent to the Retirement Board, 50 Service Avenue, 2nd Floor, Warwick, RI 02886, Attention: Frank J. Karpinski, Executive Director, within 60 days of date of the letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial. A request for hearing shall be signed by the member and shall contain the name of the member; date and nature of decision to be contested; a clear statement of the objection to the decision which must include the reasons the member feels he or she is entitled to relief; and a concise statement of the relief sought. Failure to strictly comply with the procedures outlined above shall be grounds to deny a request for a hearing.

Matthew K. Howard

Claire M. Newell

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Sincerely,

Frank J. Karpinski
Executive Director

Enclosure: Regulation 1.4



Employees' Retirement System of Rhode Island

ERSRI BOARD:

April 7, 2023

SENT VIA U.S. FIRST CLASS MAIL AND CERTIFIED MAIL RRR

91 7199 9991 7035 4498 0349

Jarnes A. Diosa
General Treasurer Chair

Patricia Dubois

John P. Maguire
Vice Chair

RE: Post Retirement Employment – 2020-2021 School year

Ernest Almonte

Dear Ms. Dubois:

Roger P. Boudreau

We write regarding your participation in post-retirement employment with the Gloucester School Department as Superintendent and to notify you of the actions the retirement system will take with respect to your pension benefit.

Mark A. Carruolo

Joseph Codega

You retired under Title 16, Chapter 16 of the Rhode Island General Laws on July 1, 2009 as a teacher. According to the Gloucester School Department, you worked a total of 109 full days in the 2020-2021 school year (August 25, 2020 through August 24, 2021). You had worked a total of 93.5 days through June 25, 2021. From June 26, 2021 through August 24, 2021 you worked a total of 15.5 days.

Paul L. Dion

Matthew K. Howard

Claire M. Newell

Rhode Island General Laws (RIGL) §16-16-24 permits a retired teacher to work no more than 90 full days in a school year without interruption to their pension benefit. RIGL § 16-16-1 defines "teacher" and includes the title Superintendent.

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

16-16-1 (12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement. (emphasis added)

James E. Thorsen

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

§ 16-16-24. Substitute teaching and employment after retirement.

(a) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title, who has retired under the provisions of any law of this state, may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher. Notice of the employment shall be sent monthly to the state retirement board by the school committee employing the teacher and by the employer and by the retired teacher at the end of each teaching assignment.
(emphasis added)

On December 30, 2020, then Governor Gina Raimondo instituted Executive Order (EO) 20-110 which increased teaching and administrative staff capacity for those retirees who retired under the provisions of RIGLs Title 16, 36 or 45. Specifically the EO suspended the prohibitions and restrictions for retirees contained in RIGLs §16-16-24 and §36-10-36 through the school year ending on June 25, 2021. That Order was extended monthly by EOs 21-08, 21-16, and by Governor Dan McKee's EOs 21-28, 21-37, 21-56, 21-71. The final EO, 21-71, was "to remain in full force and effect through June 25, 2021" (emphasis added).

Given the expiration date of the EO 21-71 (June 25, 2021), any retiree who exceeded the 90 limit on or prior to June 25, 2021 would not have their pension benefit impacted. Benefits would be impacted for those retirees who opted to continue working beyond June 25, 2021.

You had indicated that your school's attorney advised that it didn't apply to you; however, had it been intended that Superintendents could work beyond the expiration date of EO 21-71, the EO would have stated so.

As of June 25, 2021, the expiration of the EO, you had worked a total of 93.5 full days. You opted to continue to work an additional 15.5 full days for the 2020-2021 school year. Therefore, we are required by law to recoup 15.5 full days from your pension benefit. The total amount which must be recouped is \$3,129.66.

We will offset that amount from your April 2023 pension check.

Sincerely,



Frank J. Karpinski
Executive Director

Cc: Kathy Lamontagne

1.4 Rules of Practice and Procedure for Hearings in Contested Cases

A. Introduction

These Rules of Practice and Procedure are promulgated pursuant to R.I. Gen. Laws § 36-8-3. The Rules shall be in effect during any hearing on a contested case before the Retirement Board or its duly authorized representatives.

B. Definitions

1. The definitions set forth in R.I. Gen. Laws §§ 36-8-1, 45-21-2, 45-21.2-2 and 16-16-1, and as further set forth in Regulations promulgated by the Retirement Board, are specifically incorporated by reference herein.
 - a. "Contested case" means a matter for which a member requests a hearing because they are aggrieved by an administrative action other than a Disability decision. The term shall apply to hearings conducted before Hearing Officers, and thereafter in proceedings before the full Retirement Board.
 - b. "Party" means any member, beneficiary, Retirement System, or such other person or organization deemed by the Hearing Officer to have standing.
 - c. "Hearing officer" means an individual appointed by the Retirement Board to hear and decide a contested case.

C. Request for Hearing and Appearance

1. Any member aggrieved by an administrative action other than a Disability decision, may request a hearing of such grievance. Upon such request, the matter will be deemed a contested case. The procedure for Disability decisions and appeals therefrom shall be governed by the procedures set forth in § 1.9 of this Part, Rules Pertaining to the Application to Receive an Ordinary or Accidental Disability Pension.
2. Such request shall be in writing and shall be sent to the Retirement Board within sixty (60) days of the date of a letter from the Executive Director or Assistant Executive Director constituting a formal administrative denial.
3. A request for hearing shall be signed by the member and shall contain the following information:
 - a. Name of member;
 - b. Date and nature of decision being contested;
 - c. A clear statement of the objection to the decision which must include the reasons the member feels they are entitled to relief; and
 - d. A concise statement of the relief sought.
4. Requests for hearing should be sent to the Retirement Board at 50 Service Avenue, 2nd Floor, Warwick, RI 02886-1021.
5. Failure to strictly comply with the procedures outlined in this Section shall be grounds to deny any request for a hearing.

D. Contested Cases – Notice of Hearing

1. Upon receipt of a request for hearing in matters other than Disability decisions and appeals therefrom, the Retirement Board or its designee shall appoint a Hearing Officer. The appointed Hearing Officer shall hear the matter, find facts and offer conclusions of law to the Retirement Board. The decision of a Hearing Officer shall be subject to approval by the full Retirement Board. The Retirement System's action shall not be deemed final until such time as the Hearing Officer's recommendation has been voted upon by the Retirement Board.
2. Within forty-five (45) days after receipt by the Retirement Board of a request for hearing, the Retirement Board shall give notice that the matter has been assigned to a Hearing Officer for consideration.
3. In any contested case, all parties shall be afforded an opportunity to be heard after reasonable notice.
4. The notice described in § 1.4(D)(2) of this Part, above, shall include:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and Rules involved;
 - d. The name, official title and mailing address of the Hearing Officer, if any;
 - e. A statement of the issues involved and, to the extent known, of the matters asserted by the parties; and
 - f. A statement that a party who fails to attend or participate in the hearing may be held to be in default and have their appeal dismissed.
5. The notice may include any other matters the Hearing Officer or the Retirement Board considers desirable to expedite the proceedings.

E. Contested Cases – Hearings in General

1. All parties shall be afforded an opportunity to respond and present evidence and argument on all issues involved.
2. Members must appear at hearings either personally, or by appearance of legal counsel. Members may represent themselves or be represented by legal counsel at their own expense. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law", any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island) cannot represent the member in the hearing.
3. Continuances and postponements may be granted by the Hearing Officer or the Retirement Board at their discretion.
4. Disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.
5. Should the Hearing Officer or Retirement Board determine that written memoranda are required, the member will be notified by the Hearing Officer or the Retirement Board of the need to file a written document which discusses the issues of the case. Memoranda of law may always be offered in support of arguments offered by the member or the representative of the Retirement Systems.

6. The Executive Director may, when they deems appropriate, retain independent legal counsel to prosecute any contested case.
7. A recording of each hearing shall be made. Any party may request a transcript or copy of the tape at their own expense.

F. Contested Cases – Conduct of Hearings before Hearing Officers

1. Hearings shall be conducted by the Hearing Officer who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence.
2. The Hearing shall be convened by the Hearing Officer. Appearances shall be noted and any motions or preliminary matters shall be taken up. Each party shall have the opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing written evidence.
3. The Member shall first present their case followed by presentation of the Retirement System's case.
4. The Hearing Officer shall have the authority to continue or recess any hearing and to keep the record open for the submission of additional evidence.
5. If for any reason a Hearing Officer cannot continue on a case, another Hearing Officer will be appointed who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.
6. Each party shall have the opportunity to examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues in the case.
7. Any objections to testimony or evidence and the basis for the objection shall be made at the time the testimony or evidence is offered.
8. The Hearing Officer may question any party or any witness for the purpose of clarifying their understanding or to clarify the record.
9. The scope of hearing shall be limited to those matters specifically outlined in the request for hearing.
10. Written evidence will be marked for identification. If the original is not readily available, written evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.
11. Findings of fact shall be based solely on the evidence and matters officially noticed.
12. If a member fails to attend or participate in the hearing as requested, the Hearing Officer may default such member and dismiss their appeal with prejudice.

G. Contested Cases – Record of Proceedings before Hearing Officers

1. The record in a contested case shall include:
 - a. All pleadings, motions, intermediate rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Questions and offers of proof and rulings thereon;

- e. Proposed findings and exceptions;
- f. Any decision, opinion, or report by the Hearing Officer at the hearing;
and
- g. All staff memoranda or data submitted to the Hearing Officer in connection with their consideration of the case.

H. *Ex Parte* Communications (Communications by one (1) party)

There shall be no communications between the Hearing Officer and either a member, the Retirement System or the Retirement Board, or any of their representatives regarding any issue of fact or law in a case, without notice and opportunity for all parties to participate. There shall be no written communications by any party that are not transmitted at the same time to all parties.

I. Rules of Evidence in Contested Cases

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. Evidence not usually admitted under the Rules of Evidence for civil cases may be admitted where it is shown that such evidence is necessary to ascertain facts not capable of being proved otherwise. The Hearing Officer and the Retirement Board shall give effect to the Rules of Privilege (such as attorney/client privilege) recognized by law. Objections to evidence may be made and shall be noted in the record. Any part of the evidence may be received in written form when a hearing needs to be expedited and the interests of the parties will not be hurt substantially.

J. Final Decision and Member Right of Appeal

1. Within twenty-five (25) days after receipt of the Hearing Officer's recommendation, a copy thereof shall be served upon all parties to the proceeding and each party shall be notified of the time and place when the matter shall be considered by the Retirement Board. Each party to the proceeding shall be given the right to make exceptions, to file briefs and to make oral arguments before the Retirement Board. No additional evidence will be considered by the Retirement Board once the Hearing Officer has issued a recommendation. A party wishing to file a brief or make exceptions to the recommendation of the Hearing Officer shall be required to submit the same to the Executive Director not later than ten (10) days prior to the date when the Retirement Board is scheduled to hear and act upon the recommendation of the Hearing Officer. The aggrieved party and their representative shall have the right to appear before the Retirement Board and make oral argument at the time of such hearing. No new testimony will be taken, or evidence considered at this time. Consistent with R.I. Gen. Laws § 11-27-2 entitled, "Practice of law" any person accompanying the member who is not a lawyer (certified member of the bar of the State of Rhode Island), cannot represent the member before the Retirement Board. After consideration of the decision of the Hearing Officer and such other argument as shall be presented by any party to the

proceeding, the Retirement Board shall vote on the recommendation of the Hearing Officer.

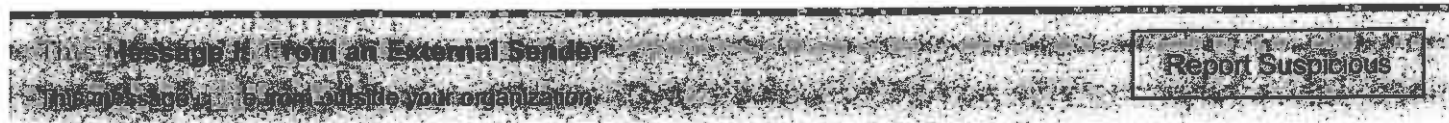
2. In the event of a tie vote of a quorum present and voting on a contested matter, the matter will automatically be placed on the agenda of the next Retirement Board meeting.
3. In the event of a tie vote of a quorum present and voting on a contested matter rescheduled from a prior meeting, the Retirement Board may vote to postpone and re-consider the matter at a subsequent hearing, when a larger number of voting members may be present. If no such vote to postpone and re-consider is taken, or if a vote to postpone and re-consider the matter at a later date fails, the underlying action appealed from will be deemed affirmed.

K. Requests for Rehearing

1. A request for rehearing which is submitted prior to the issuance of the Hearing Officer's recommendation should be made in writing. The request must detail the substance of any additional evidence to be offered, and the reason for the failure of the party to offer it at the prior proceedings.
2. A rehearing will be denied if the evidence does not bear on any issue in contest in the original proceedings, will not likely affect the final recommendation, or if the request appears to be merely for purposes of delaying a final decision. A second (2nd) request for rehearing after the granting or denial of a prior request for rehearing will not be permitted.

Gayle Mambro-Martin

From: Teresa Odell <tmrri03@gmail.com>
Sent: Tuesday, June 6, 2023 10:51 PM
To: Michael Robinson
Cc: Gayle Mambro-Martin; Allison Charette; Larissa DeLisi
Subject: [EXTERNAL]Fwd: pension denial letter



Good evening, Mike,

Please see below the initial email thread regarding the Appeal of Patricia Dubois (Patricia Dubois v. ERSRI). Part of this email thread includes Appellant's pre hearing statement, which she forwarded to me via email on June 2nd.

Should you have any questions, please do not hesitate to contact me.

Best regards,

Teresa M. Rusbino, Esq.
ERSRI Hearing Officer
tmrri03@gmail.com
(401) 741-7378

Sent from my iPhone

Begin forwarded message:

From: Teresa Odell <tmrri03@gmail.com>
Date: June 4, 2023 at 9:29:16 AM EDT
To: [REDACTED]
Subject: Re: pension denial letter

Sounds good, Pat. Enjoy the rest of your weekend. I may forward the email I sent to Mike Robinson to an updated email address I have found for him. I think they have changed their law firm email address, so you may see that go out today. I am just going to forward the original email.

Sent from my iPhone

On Jun 4, 2023, at 8:15 AM, [REDACTED] wrote:

Hi Teresa,

Thank you for the update. I will call you on Tuesday.

Thank you,

Pat

-----Original Message-----

From: Teresa Odell <tmrri03@gmail.com>

To: p[REDACTED]

Sent: Fri, Jun 2, 2023 4:49 pm

Subject: Re: pension denial letter

Hi Patricia,

Thank you for your email. I will take a look at it over the weekend. We do need to loop ERSRI counsel Mike Robinson in on any correspondence that has to do with the case. I am first going to send him a follow up email regarding the scheduling of the hearing. I will double check my messages again, but I don't think I have heard from him yet.

Please touch base with me on Tuesday. I will send him a follow up email on Monday. Have a good weekend.

Best regards,

Teresa Rusbino
ERSRI Hearing Officer
tmrri03@gmail.com
(401) 741-7378

Sent from my iPhone

On Jun 2, 2023, at 2:13 PM, p[REDACTED] wrote:

Hi Teresa,

Thank you for taking my call yesterday. I was very appreciative of the information you provided. I'm not exactly sure how to proceed but I will tell you what happened to me.

I am a retiree and the part-time Superintendent for the Gloucester School Department. During the 20-21 school year, there were Executive Orders allowing retirees to work more than 90 days. Then on June 25, 2021, the Executive Order ended. This created a problem for retirees because the calendar for retirees goes from August 25, 2020 - August 24, 2021. So basically, the rules were changed in the middle of the game for retirees. Retirees were asked to please work more than 90 days and help out the schools in any way possible during the pandemic and then on June 25, 2021, the rules changed, even though a retiree's calendar goes through August 24, 2021. I had to work over that summer in order to ensure that schools could open safely, we were required by RIDE to write back to school plans, there were weekly RIDOH meetings we needed to attend, new teachers needed to be hired, safety protocols needed to be implemented, etc. So all these days after June 25th and before August 24th counted against me according to ERSRI because a retiree's calendar goes through August 24th and the EO ended those "extra" days on June 25, 2021.

I can't imagine anyone was trying to penalize retirees during a pandemic who were trying to open schools as safely as possible and were being asked to do so by RIDE, RIDOH and the Governor. So I'm thinking that it's possible the Governor's office didn't realize they would

be putting retirees in jeopardy by ending the EO on June 25th. They probably didn't know a retiree's calendar goes through August 24th.

There is also RIGL 16-16-24.1 that states "Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45 may, as part of the public health crisis caused by COVID-19, exceed the ninety-day (90) cap on post-retirement employment". It sounds like I should probably be protected under this law seeing I was working during the public health crisis caused by COVID-19. My school attorney also referenced RIGL 16-16-24.2 but I'm not sure about that one.

So, although I completely agree with the interpretation of the EO that ended on June 25, 2021, it doesn't sound like the Governor's Office had all the information needed. I find it hard to believe that the intent of ending the EO on June 25, 2021 was to intentionally penalize any retiree that needed to work through the summer in order to open schools safely during a pandemic. I would think that they just weren't aware that the retiree's calendar goes through August. Also, I think it is unfair that we were told we could work more than the 90 days by an EO in January 2021 but then told we couldn't on June 25, 2021, even though our days are still being counted through August.

I don't know the best way to approach this so I am hoping you can help me.

Thank you,
Patricia Dubois
[REDACTED]

-----Original Message-----

From: Teresa Odell <tmrri03@gmail.com>
To: [REDACTED]
Sent: Wed, May 31, 2023 10:50 pm
Subject: Re: pension denial letter

Good evening, Patricia,

My apologies for not responding sooner, but I was away for a short vacation. In order to schedule a hearing date, I generally ask each party to submit three dates and times that they are available. I have availability the week of July 10 and July 24. I would need to check with Attorney Michael Robinson, ERSRI counsel, as well. Do you have any availability during the week of July 10 and/or July 24. If so, please provide those dates and times, and I will contact Mr. Robinson to inquire about his availability.

Please let me know if you have any questions about the scheduling process or about any other procedural matters for this hearing.

Best regards,

Teresa M. Rusbino, Esq.
ERSRI Hearing Officer
tmrri03@gmail.com
(401) 741-7378

Sent from my iPhone

On May 26, 2023, at 4:19 PM,
[REDACTED] wrote:

Hi Teresa,

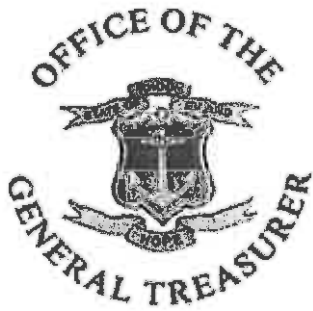
I received an official denial letter with regards to my pension for April and was directed to contact you to arrange a mutually convenient time to hold a hearing.

Thank you,
Patricia Dubois

Gayle Mambro-Martin

From: Gayle Mambro-Martin
Sent: Wednesday, May 24, 2023 12:01 PM
To: Teresa Odell; Michael Robinson
Subject: Patricia Dubois - Request for Hearing
Attachments: Dubois, Patricia Appeal 2023-05-22.pdf

Good Afternoon,
Please see attached.
Thank you.



Gayle C. Mambro-Martin
Deputy General Counsel - Employees' Retirement System
of Rhode Island
Office of Rhode Island General Treasurer James A. Diossa
50 Service Avenue
Warwick, RI 02886
Phone: (401) 462.7616
Fax: (401) 462.7691
www.ersri.org www.treasury.ri.gov



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6. Approval of the December 2023 Pensions as Presented by ERSRI

For Vote

Presented by Treasurer James A. Diossa

DECEMBER 2023 NEW RETIREE REPORT

Name of Member	Rtmt Type	RtmtOptn	Rtmt Date	Plan Code	Plan	Employer	AgeMember	InitialCheckTotal	YrlyPensionTotal	Participation Service
CARNEVALE JR, JOSEPH	Service	SRA	09/30/23	ERS	Correctional Officer	DOC	62	\$4,340.23	\$52,082.76	32.43
COURNOYER JR, JOSEPH	Service	Option1	11/01/23	ERS	Correctional Officer	DOC	64	\$4,673.85	\$56,086.20	44.67
SNYDER, CRAIG	Service	Option1	11/01/23	ERS	Correctional Officer	DOC	62	\$4,174.08	\$50,088.96	33.22
YEADON, MATTHEW	Service	Option1	11/01/23	ERS	Correctional Officer	DOC	59	\$4,451.77	\$53,421.24	35.41
BAFFONI, JEANNE	Service	SRA	07/28/23	ERS	State Employee	DOC	63	\$2,888.90	\$34,666.80	26.81
BAUTISTA, MANUEL	Service	Option2	10/07/23	ERS	State Employee	DOC	67	\$3,944.94	\$47,339.28	37.36
BROWN, KATHLEEN	Service	Option1	09/30/23	ERS	State Employee	LEGISLATIVE	70	\$515.30	\$6,183.60	15.79
BRUNELLE, JEFFREY	Service	Option1	10/15/23	ERS	State Employee	RIC	75	\$2,140.44	\$25,685.28	30.04
CONLEY, CAROL	Service	SRA	11/04/23	ERS	State Employee	RI COUNCIL ON THE ARTS	68	\$909.01	\$10,908.12	18.05
DEMUS JR, JOHN	Service	SRA	09/01/23	ERS	State Employee	OHHS	64	\$5,039.40	\$60,472.80	34.03
EHWE, JOSEPH	Service	Option1	10/29/23	ERS	State Employee	BHDDH	68	\$1,391.75	\$16,701.00	27.55
FOGLI-TERRY, STEPHANIE	Service	SRAP	10/28/23	ERS	State Employee	DHS	59	\$9,602.02	\$115,224.24	34.64
GLENNON, CHERYL	Service	SRA	11/01/23	ERS	State Employee	URI	61	\$4,026.99	\$48,323.88	38.42
KOOLIOIAN, ELIZABETH	Service	SRA	10/28/23	ERS	State Employee	JUDICIAL	66	\$1,813.51	\$21,762.12	28.41
LANG, BONNIE	Service	Option1	11/01/23	ERS	State Employee	OHHS	67	\$1,847.75	\$22,173.00	23.87
MACCOY, DENISE	Service	Option1	11/04/23	ERS	State Employee	DHS	66	\$1,522.57	\$18,270.84	24.22
MAGGIACOMO, CHERYL	Service	SRA	11/01/23	ERS	State Employee	DOR	64	\$6,958.29	\$83,499.48	40.44
MAGGIO, JOSEPH	Service	Option2	08/29/23	ERS	State Employee	DPS	71	\$2,698.98	\$32,387.76	30.96
MCGREAVY, CONNIE	Service	Option1	12/19/23	ERS	State Employee	EXECUTIVE (Military Staff)	66	\$377.98	\$4,535.76	6.68
SKIDMORE, GAIL	Service	SRA	11/01/23	ERS	State Employee	URI	70	\$742.31	\$8,907.72	21.69
SWEENEY, MICHAEL	Disability	SRA	10/14/23	ERS	State Employee	DBR	57	\$1,377.04	\$16,524.48	16.85
SZYLIN, MICHELLE	Service	SRAP	10/27/23	ERS	State Employee	DHS	59	\$8,897.88	\$106,774.55	34.02
CASEY TORREY, SUSAN	Service	Option2	09/30/23	ERS	Teacher	South Kingstown School Dept.	62	\$5,246.32	\$62,955.84	35.36
CIVIC, SARAH	Service	SRA	11/25/23	ERS	Teacher	Exeter/West Greenwich Reg. Schools	65	\$2,172.56	\$26,070.72	20.50
COLBERT, JAMES	Service	Option1	11/08/23	ERS	Teacher	Providence School Dept.	66	\$449.03	\$5,388.36	7.32
CRYAN, KAREN	Service	SRA	11/21/23	ERS	Teacher	Cranston School Dept.	65	\$1,425.52	\$17,106.24	16.48
DOWNES, DEBORAH	Service	SRA	11/21/23	ERS	Teacher	North Smithfield School Dept.	66	\$1,079.28	\$12,951.36	13.00
FARRAR, JANET	Service	Option1	08/01/23	ERS	Teacher	Scituate School Dept.	66	\$1,627.76	\$19,533.12	19.00
FINLAN, KAREN	Service	SRA	11/22/23	ERS	Teacher	North Kingstown School Dept.	65	\$1,319.79	\$15,837.48	13.52
GUILMETTE, MARGARET	Service	SRA	11/04/23	ERS	Teacher	Johnston School Dept.	59	\$4,613.67	\$55,364.04	35.23
HERSEY, NICHOLE	Disability	SRA	10/03/23	ERS	Teacher	Providence School Dept.	51	\$3,063.35	\$36,760.20	28.09
MAO, SEIHAK	Disability	Option1	10/07/23	ERS	Teacher	Providence School Dept.	58	\$2,507.52	\$30,090.24	28.58
MOULD, CYNTHIA	Service	SRA	11/01/23	ERS	Teacher	Pawtucket School Dept.	66	\$4,299.41	\$51,592.92	32.99
O'BRIEN, KATHLEEN	Service	SRA	08/01/23	ERS	Teacher	Northern Rhode Island Collaborative	63	\$2,770.66	\$33,247.92	27.44
PILLAY, KATRINA	Disability	Option2	06/02/23	ERS	Teacher	Cranston School Dept.	61	\$2,954.19	\$35,450.28	25.78
ROBERTS, PATRICIA	Disability	Option1	07/03/23	ERS	Teacher	Pawtucket School Dept.	63	\$2,245.92	\$26,951.04	25.25
SIROIS, CHRISTINE	Disability	SRA	09/23/23	ERS	Teacher	Coventry Public Schools	60	\$2,483.49	\$29,801.88	24.99
THEROUX, ANDREA	Service	SRA	11/29/23	ERS	Teacher	South Kingstown School Dept.	62	\$2,122.05	\$25,464.60	25.91
ZARRELLA, JULIE-ANNE	Service	SRA	10/21/23	ERS	Teacher	Johnston School Dept.	59	\$6,405.44	\$76,865.28	33.21
AKE, KEVIN	Service	SRA	10/21/23	MERS	General Municipal	West Warwick School NC (Legacy)	62	\$2,745.91	\$32,950.97	23.05
BOK, SUSAN	Service	Option1	10/28/23	MERS	General Municipal	Hope Valley-Wyoming Fire Dist.	67	\$981.16	\$11,773.92	24.00
CLARK, VICTOR	Disability	Option2	03/25/23	MERS	General Municipal	City of Pawtucket	60	\$1,804.63	\$21,655.56	25.81
COLALUCA, LISA	Service	SRA	12/14/23	MERS	General Municipal	Smithfield Housing Authority	60	\$1,189.81	\$14,277.72	21.67
DAVIS, DENISE	Service	SRA	11/04/23	MERS	General Municipal	Town of North Smithfield	73	\$1,080.69	\$12,968.28	20.24
FORTIN, DAVID	Service	Option2	11/04/23	MERS	General Municipal	Scituate School Dept. (NC)	68	\$1,610.12	\$19,321.44	27.98
FREEMAN, TINA	Service	Option1	10/15/23	MERS	General Municipal	Town of Cumberland	60	\$1,890.42	\$22,685.04	26.04
GARCIA, RAFAEL	Service	SRA	10/29/23	MERS	General Municipal	Town of North Providence	62	\$823.97	\$9,887.64	16.71
GASKIN, JEFFREY	Disability	SRA	10/14/23	MERS	General Municipal	Town of Johnston	57	\$1,585.14	\$19,021.68	24.26
HOAGUE, ELIZABETH	Service	Option1	09/16/23	MERS	General Municipal	Town of Warren	64	\$792.87	\$9,514.44	18.10
IWANSKI, MAUREEN	Service	SRA	12/14/23	MERS	General Municipal	Town of Tiverton	66	\$386.20	\$4,634.40	12.49
KENNEDY, DAVID	Service	Option1	11/02/23	MERS	General Municipal	Charlho Regional School Dist. (NC)	63	\$985.48	\$11,825.76	21.02
MELLO, CYNTHIA	Service	Option2	10/17/23	MERS	General Municipal	Bristol Warren Reg. School Dist. (NC)	66	\$1,705.72	\$20,468.58	31.01
PECCHIA, STEPHEN	Disability	Option1	05/27/23	MERS	General Municipal	City of Cranston	59	\$1,831.17	\$21,974.04	28.63
QUADROS, MIGUEL	Service	Option1	10/15/23	MERS	General Municipal	Pawtucket School Dept. (NC)	69	\$901.10	\$10,813.20	19.42
RODRIGUES, DAVID	Service	SRA	11/01/23	MERS	General Municipal	Middletown Public Schools (NC)	61	\$2,487.77	\$29,853.24	30.02

DECEMBER 2023 NEW RETIREE REPORT

Name of Member	Rtmt Type	RtmtOptn	Rtmr Date	Plan Code	Plan	Employer	AgeMember	InitialCheckTotal	YrlyPensionTotal	Participation Service
SHANLEY, STEPHEN	Service	Option2	09/26/23	MERS	General Municipal	City of East Providence	66	\$1,608.56	\$19,302.72	23.34
SPOONER, LEE ANN	Service	SRA	09/02/23	MERS	General Municipal	City of Pawtucket	62	\$1,086.30	\$13,035.61	20.28
SULLIVAN, JEFFREY	Service	SRA	10/24/23	MERS	General Municipal	City of Newport	58	\$1,808.05	\$21,696.60	25.32
TALAMINI, LESLIE	Service	SRA	11/01/23	MERS	General Municipal	Woonsocket School Dept. (NC)	66	\$806.72	\$9,680.64	23.09
THACKER, CYNTHIA	Service	SRA	11/03/23	MERS	General Municipal	Scituate School Dept. (NC)	66	\$369.32	\$4,431.84	10.13
VIEIRA, STEPHANIE	Service	SRA	10/27/23	MERS	General Municipal	North Providence School Dept. (NC)	62	\$337.85	\$4,054.14	14.00
WELESKO, CAROL	Service	Option1	10/07/23	MERS	General Municipal	North Kingstown School Dept. (NC)	66	\$672.28	\$8,067.36	22.05
CARLOW, ROBERT	Service	Option2	08/01/23	MERS	Police and Fire	Coventry Fire Dist.	59	\$4,377.75	\$52,533.00	29.93
KELLEY, PATRICK	Service	SRA	12/01/23	MERS	Police and Fire	West Warwick Police Dept (Legacy)	40	\$1,941.98	\$23,303.76	14.00
MULLIGAN, JOEL	Service	SRA	10/23/23	MERS	Police and Fire	North Kingstown Police Dept.	53	\$4,330.08	\$51,960.96	25.14
WOOD, MYRON	Service	SRA	10/25/23	MERS	Police and Fire	North Kingstown Fire Dept.	63	\$1,997.04	\$23,964.48	21.02



7. Committee Reports



7.1. Disability Committee

For Vote

Presented by Dr. Laura Shawhughes



7.1.1. January 5, 2024 Disability Committee Recommendations

For Vote

Presented by Dr. Laura Shawhughes

**Disability Committee
Recommendations**

January 5, 2024

Hearings

Senyo Kuada

Correctional Officer, Department of Corrections (estimated service credits, 11 years 9 months 24 days)

RIBCO

NO RECOMMENDATION

The Disability Committee voted to uphold its original decision to award Mr. Kuada an Accidental Disability at 50%

VOTE: 4-1, Dr. Shawhughes voted nay

Ernest Ragosta

Special Ed Teacher, Providence School Dept. (estimated service credits: 25 years 0 months 20 days)

PTU

NO RECOMMENDATION

Postponed

VOTE: 5-0

Eligibility to Apply for Accidental Disability - Previously Postponed

Serena Swartz

Teacher/Librarian, Providence School Department (estimated service credits 10 years 2 months 13 days)

Local 958

NO RECOMMENDATION

The Disability Committee voted to deny Ms. Swartz's eligibility to apply for an accidental disability on the basis that her application was untimely filed.

VOTE: 5-0

Accidental

Robert Nyzio

Firefighter, Cranston Fire Department (estimated service credits 24 years 10 months 29 days)

**IAFF
Local 1363**

NO RECOMMENDATION

Accidental Denied

VOTE: 5-0

1. **Robert Nyzio**

Firefighter, Cranston Fire Department (estimated service credits 24 years 10 months 29 days) (66 2/3%)

Ordinary Approved

5-0

2. **Scott Cancelliri**

Housekeeper, CCRI (estimated service credits 8 years, 6 months 17 days)

Approved at 50%

VOTE: 5-0

NEARI

3.	Dennis Drury	Juvenile Program Worker, RI Training School (estimated service credits 31 years 9 months 18 days) Approved at 50% VOTE: 5-0	Council 94
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Ordinary

4.	Laura Blais	Institutional Attendant, Eleanor Slater Hospital (estimated service credits 21 years 8 months 6 days) Approved VOTE: 5-0	Council 94 Local 1350
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Consideration and Approval of Decisions

**Approved as written
VOTE: 5-0**

5.	Cathleen Hickey	School Nurse, Portsmouth School Department (estimated service credits: 10 years 5 months 4 days) The Disability Committee voted to reverse its original decision and approve Ms. Hickey's application for accidental at 66 2/3% VOTE: 5-0	NEA Portsmouth
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6.	Krislynn Mattscheck	Customer Service Representative 3, Department of Motor Vehicles (estimated service credits: 5 years 2 months 21 days) Accidental and Ordinary Denied VOTE: 5-0	AFSCME 94 Local 2874
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7.	Shawn Lindell	Firefighter, City of Cranston (estimated service credits: 8 years 8 months 1 day) Accidental Denied VOTE: 5-0	IAFF Local 1363
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8.	Shawn Richards	University Police Officer, University of Rhode Island (estimated service credits: 19 years 4 months 21 days) Ordinary Approved VOTE: 4-0, 1 Recusal	PTAA
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7.2. *Governance Committee -

Governance Committee Recommendation to Retirement Board regarding Performance Evaluation of Executive Director Frank J. Karpinski

* Committee members may seek to convene in Executive Session pursuant to Rhode Island General Laws §42-46-5 (a) (1) to discuss the job performance of the Executive Director.

For Discussion and Recommendation to the Full Board

Presented by Mark A. Carruolo



8. Legal Counsel Report

For Report

Presented by Michael P. Robinson

**EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND
REPORT AS OF JANUARY 2024
ON LITIGATED MATTERS FILED BY OR AGAINST ERSRI**

I. MATTERS WITH PROCEDURAL OR SUBSTANTIVE CHANGES

Raymond Lamont v. Municipal Employees' Retirement System

Workers' Compensation Court; 202306589

Change. Petitioner, a South Kingstown police officer, appeals the denial of his application for an Accidental Disability Retirement pursuant to R.I.G.L. § 45-21.2-9. MERS filed its Designation of Administrative Record. **A pre-trial conference was conducted on January 11, 2024, and a further pre-trial conference has been scheduled for March 20, 2023 to accommodate for the anticipated filing of dispositive motions.**

Alyssa S. Lahar; Alyssa S. Lahar as parent and friend of Matthew S. Lahar; Alyssa S. Lahar, as parent and friend of William J. Lahar; Alyssa S. Lahar as the Executrix of the Estate of John C. Lahar; Jack G. Lahar v. James Diossa, in his capacity as the General Treasurer of the State of Rhode Island and Employee Retirement System of the State of Rhode Island

Providence County Superior Court; C.A. No. PC-2023-02217

Change. Plaintiff, Alyssa S. Lahar filed this action seeking to be named as the beneficiary of her late husband John Lahar's pension benefits. John Lahar was employed by the City of Warwick and Town of North Smithfield as a schoolteacher prior to his death. An Answer to the Complaint was filed on June 22, 2023. **Plaintiffs filed a Motion to Enter Judgment seeking an order and judgment reforming John Lahar's pension documents so that they designate Alyssa Lahar as the beneficiary of his pension and death benefits. The motion is scheduled for hearing on January 24, 2024.**

II. MATTERS WITH NO PROCEDURAL OR SUBSTANTIVE CHANGES

Robert Bell v. Employees' Retirement System of Rhode Island

Workers' Compensation Court; 202200815

No change. Plaintiff, a former Fire Captain with the North Providence Fire Department, appeals MERS' denial of his Application for Accidental Disability Retirement pursuant to R.I. Gen. Laws § 45-21.2-9. MERS has filed a Designation of Record of Administrative Appeal with the Court.

A pretrial conference took place on March 7, 2022 at which time a pro forma denial of the appeal was entered, and Mr. Bell thereafter filed a claim for trial. Initial hearings have been conducted. The Court scheduled the matter for trial on September 27, 2022, at which time Mr. Bell appeared and presented testimony. Based upon Mr. Bell's trial testimony, the parties are cooperating on securing updated medical records from a variety of medical care providers. The continued trial was conducted on April 26, 2023. Post-trial memoranda have been filed and the matter was taken under advisement by the Court.

Sean O'Connell v. Retirement Board, Employees' Retirement System of the State of Rhode Island; Frank J. Karpinski, Executive Director, Employees' Retirement System of the State of Rhode Island; James A. Diossa, Chairman of the Retirement Board, Employees' Retirement System of the State of Rhode Island

Providence County Superior Court; PC-2023-03076

Sean O'Connell v. Employees' Retirement System of Rhode Island

Workers' Compensation Court; 202303812

No change. Plaintiff, a Deputy Sheriff with the Rhode Island Department of Public Safety, Division of Sheriffs, appeals ERSRI's denial of his Application for Accidental Retirement pursuant to R.I. Gen. Laws § 36-10-14. An appeal was filed in both the Superior Court and the Workers' Compensation Court. A pre-trial hearing was conducted in the Workers' Compensation Court on September 14, 2023 and the Court entered a briefing schedule. ERSRI has filed a Motion to Dismiss for lack of subject matter jurisdiction and Plaintiff has filed an Opposition. The Motion to Dismiss is scheduled for oral argument on January 22, 2024.

ERSRI has filed an Answer and Designation of Record of Administrative Appeal in the Superior Court action.

The Retirement Board of the Employees' Retirement System of the State of Rhode Island v. Paul LaFrance

Providence County Superior Court; C.A. No. PC-2016-1524

No change. This is an action to revoke or reduce Mr. LaFrance's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Mr. LaFrance, a former teacher for the Warwick School Department, pled *nolo contendere* to felony charges related to third degree sexual assault of a student. An Answer to the Complaint has been filed, and the parties are engaged in discovery. The depositions of Mr. LaFrance and his wife, who is asserting a claim to some or all of his pension benefits as an innocent spouse, were conducted on November 16, 2023.

Michael Bronson v. Employees' Retirement System of Rhode Island

Workers' Compensation Court; 202201111

No change. Plaintiff, a police officer with the South Kingstown Police Department, appeals MERS' denial of his Application for Accidental Disability Retirement pursuant to R.I. Gen. Laws § 45-21.2-9. MERS has filed a Designation of Record of Administrative Appeal with the Court. A pretrial conference took place on March 21, 2022 at which time a pro forma denial of the appeal was entered, and Bronson thereafter filed a claim for trial. An initial hearing was conducted on August 19, 2022. A status conference was conducted on September 7, 2023 at which time depositions were admitted into evidence. An initial hearing was conducted on December 5, 2023 for submission of additional evidence, and the trial has been scheduled for February 5, 2024.

Dawn Eidam v. Employees' Retirement System of Rhode Island (ERSRI).

Kent County Superior Court; C.A. No. KC-2022-0659

No change. Plaintiff, a Community Living Aide with the State of Rhode Island/RICLAS, challenges the Retirement Board's approval of her application for an accidental disability pension at the 50% benefit allowance pursuant to R.I.G.L. §36-10-15(b). The Designation of Administrative Record and an Answer have been filed with the court, along with a stipulated briefing schedule. Plaintiff and ERSRI have filed their Briefs with the Superior Court. A Motion to Assign the matter for decision was heard and granted, and the matter is in the process of being assigned to a justice of the Superior Court for decision.

Anganie Williams v. Employees' Retirement System of Rhode Island (ERSRI).

Providence Superior Court; C.A. No. PC-2022-06276

No change. Plaintiff, an employee at the Rhode Island Department of Motor Vehicles, challenges the Retirement Board's denial of her application for an accidental disability pension. The Designation of Administrative Record and an Answer have been filed with the court, and the parties have agreed upon a briefing schedule. Plaintiff and ERSRI have filed their Briefs with the Superior Court. The matter has been assigned to Justice Rodgers for decision.

The Retirement Board of the Employees' Retirement System of the State of Rhode Island v. Shanice In

Providence County Superior Court; C.A. No. PC-2020-07704

No change. This is an action to revoke or reduce Defendant, Shanice In's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Ms. In, a former Clerk for the Bureau

of Criminal Identification Department for the State of Rhode Island, pled *nolo contendere* to felony charges related to illegally tampering with records at the Attorney General's BCI Office for the purpose of fraudulently clearing the criminal records of other individuals. Ms. In was served on July 14, 2021. The Court granted ERSRI's application for default for Ms. In's failure to answer the Complaint.

Richard P. D'Addario v. Employees' Retirement System of Rhode Island and Rhode Island State Employees' Retirement Board

Providence Superior Court; C.A. No. PC-2019-10351

No change. Plaintiff, a probate judge in the Town of Tiverton, appeals from the Retirement Board's determination that he is not eligible for membership in the Retirement System. The Designation of Record and Answer have been filed with the Court.

Retirement Board v. Ambulai Sheku

Providence County Superior Court; C.A. No. PC-2017-3146

No change. This is an action to revoke or reduce Mr. Sheku's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Mr. Sheku, a former employee of the Rhode Island Department of Labor and Training, pled guilty to charges of conspiracy to commit mail fraud, theft of government funds, and accessing a protected computer to commit fraud, all in connection with his public employment. Mr. Sheku has been defaulted for failure to respond to the Complaint.

Margaret Provoyeur v. Employees' Retirement System of the State of Rhode Island

Providence Superior Court; C.A. No. PC-2015-2609

No change. Plaintiff, a Providence schoolteacher, appeals the denial of her application for an accidental disability pension. On August 24, 2016, Plaintiff filed a motion to remand the matter to the Disability Committee for the consideration of additional evidence. ERSRI filed an objection, and on October 28, 2016, the Superior Court denied the motion to remand.

Albert DelMastro, Jr. v. Employees' Retirement System of Rhode Island

Providence County Superior Court; C.A. No. PC-2014-1850

No change. Plaintiff, an electrician with the Community College of Rhode Island, appeals the denial of his application for an accidental disability pension. The Retirement System has filed an Answer and the Designation of Record of Administrative Appeal with the Court.

Retirement Board v. Rachel Arruda

Providence County Superior Court; C.A. No. PC-2014-6174

No change. This is an action to revoke or reduce Ms. Arruda's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Ms. Arruda, a former employee of the City of Woonsocket, pled *nolo contendere* to a felony charge related to conversion of funds in connection with her municipal employment. At a hearing on January 29, 2015, Arruda stipulated to the suspension of her pension pending adjudication of the action.

The Retirement Board of the Employees' Retirement System of the State of Rhode Island v. Gerard M. Martineau

Providence County Superior Court; C.A. No. PC-2015-1268

No change. This is an action to revoke or reduce Mr. Martineau's pension pursuant to the Public Employee Pension Revocation and Reduction Act. Mr. Martineau, a former elected official of the State of Rhode Island, pled *nolo contendere* to charges of Honest Services Mail Fraud in connection with his public employment. Mr. Martineau was served with the Complaint on April 2, 2015. Mr. Martineau has agreed to voluntarily relinquish any entitlement to a pension or other benefit he might otherwise have been entitled to, and documents necessary to obtain court approval of revocation of his pension have been sent to him for review.

Benita Fernandez v. Employee's Retirement System of Rhode Island

Providence County Superior Court; C.A. No. PC-2015-5489

No change. Plaintiff, a Social Caseworker II with DCYF, appeals the denial of her application for an accidental disability pension. The Retirement System has filed an Answer and the Designation of Record of Administrative Appeal with the Court.

Employees' Retirement System of Rhode Island v. Thomas McSoley, Marlene A. Palumbo, and Michael E. McSoley.

Providence Superior Court; C.A. No. PC-2016-1144

No change. ERSRI brought suit to recover monies overpaid to a direct deposit account of Thomas McSoley, following his death in 2011. The defendants are believed to be joint account holders with the decedent. ERSRI effectuated service of process, and sought an injunction preventing the defendants from accessing or withdrawing the funds. On March 18, 2016, the parties entered into

a Consent Order that restrains the defendants from accessing, withdrawing, encumbering, or otherwise spending or disposing of the funds on account until further order of the Court.

West's General Laws of Rhode Island Annotated
Title 36. Public Officers and Employees
Chapter 10.1. Rhode Island Public Employee Pension Revocation and Reduction Act

Gen.Laws 1956, § 36-10.1-1

§ 36-10.1-1. Short title

Currentness

This chapter shall be known and may be cited as the “Public Employee Pension Revocation and Reduction Act”.

Credits

P.L. 1992, ch. 306, art. 1, § 8.

Gen. Laws, 1956, § 36-10.1-1, RI ST § 36-10.1-1

Current with effective legislation through Chapter 398 of the 2023 Regular Session of the Rhode Island Legislature.

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West's General Laws of Rhode Island Annotated
Title 36. Public Officers and Employees
Chapter 10.1. Rhode Island Public Employee Pension Revocation and Reduction Act

Gen.Laws 1956, § 36-10.1-3

§ 36-10.1-3. Revocation and reduction of benefits

Currentness

(a) Notwithstanding any other provision of law, any retirement or other benefit or payment of any kind to which a public official or public employee is otherwise entitled under this chapter, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 shall be revoked or reduced, in accordance with the provisions of this chapter, or § 11-41-31 if, after January 1, 1993, the public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment. Any such conviction or plea shall be deemed to be a breach of the public officer's or public employee's contract with his or her employer.

(b) Whenever any public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment, the retirement board, if no finding is made by the judge in the criminal action pursuant to § 11-41-31, shall:

(1) Initiate a civil action in the superior court for the revocation or reduction of any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42.

(2) The superior court shall order the public official or employee to appear and show cause as to why any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 should not be withheld pending adjudication of the civil action in the superior court.

(3) Legal standing is hereby conferred upon the retirement board to initiate and maintain a civil action, and jurisdiction over that civil action is hereby conferred upon the superior court.

(c)(1) In any civil action under this chapter for the revocation or reduction of retirement or other benefits or payments, the superior court shall determine:

(i) Whether the public employee has been convicted of or pled guilty or nolo contendere to any crime related to his or her public office or public employment and, if so;

(ii) Whether the retirement or other benefits or payments to which the public official or public employee is otherwise entitled should be revoked or diminished and, if so;

(iii) In what amount or by what proportion such revocation or reduction should be ordered.

(2) In rendering its decision hereunder, the superior court shall consider and address each of the following factors:

(i) The fact that the allowance of retirement or other benefits or payments for service under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, and under chapter 28 of title 42 presumes and requires that the service shall have been honorably rendered;

(ii) The severity of the crime related to public office or public employment of which the public official or public employee has been convicted or to which the public official or public employee has pled guilty or nolo contendere;

(iii) The amount of monetary loss suffered by the public official's or public employee's employer or by any other person as a result of the subject crime related to public office or public employment;

(iv) The degree of public trust reposed in the subject public official or public employee by virtue of his or her public office or public employment; and

(v) Any such other factors as, in the judgment of the superior court, justice may require.

(d) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should be revoked or reduced under this chapter, it may, in its discretion and after taking into consideration the financial needs and resources of any innocent spouse or domestic partner, dependents and/or designated beneficiaries of the public official or public employee, order that some or all of the revoked or reduced benefits or payments be paid to any innocent spouse or domestic partner, dependent or beneficiary as justice may require.

(e) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should not be revoked or reduced under this chapter, it shall order that the retirement or other benefits or payments be made to the public official or public employee as if the initiation of the civil action had not occurred.

Credits

P.L. 1992, ch. 306, art. 1, § 8; P.L. 1995, ch. 212, § 1; P.L. 1996, ch. 292, § 2; P.L. 2007, ch. 510, § 13, eff. Oct. 30, 2007.

[Notes of Decisions \(37\)](#)

Gen. Laws, 1956, § 36-10.1-3, RI ST § 36-10.1-3

Current with effective legislation through Chapter 398 of the 2023 Regular Session of the Rhode Island Legislature.

West's General Laws of Rhode Island Annotated
Title 36. Public Officers and Employees
Chapter 10.1. Rhode Island Public Employee Pension Revocation and Reduction Act

Gen.Laws 1956, § 36-10.1-4

§ 36-10.1-4. Return of contribution

Currentness

(a) Any public official or public employee whose retirement or other benefits or payments are revoked pursuant to this chapter shall be entitled to a return of his or her contribution paid into the relevant pension fund(s), without interest.

(b) Any public official or employee whose retirement or other benefits or payments are reduced pursuant to this chapter shall be entitled to a pro rata return of a portion of his or her contribution paid into the relevant pension fund(s) in an amount proportionate to the amount of any such reduction, without interest.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, no payments in return of contributions shall be made or ordered unless and until the superior court determines that the public official or public employee whose retirement or other benefits or payments have been revoked or reduced under this chapter has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution for losses incurred by any person as a result of the subject crime related to public office or public employment. If the superior court determines that the public official or employee whose retirement or other benefits or payments have been revoked or reduced under this chapter has failed to satisfy any outstanding judgment or order of restitution rendered by any court of competent jurisdiction, it may order that any funds otherwise due to the public official or public employee as a return of contribution, or any portion thereof, be paid in satisfaction of the judgment or order.

Credits

P.L. 1992, ch. 306, art. 1, § 8.

Notes of Decisions (6)

Gen. Laws, 1956, § 36-10.1-4, RI ST § 36-10.1-4

Current with effective legislation through Chapter 398 of the 2023 Regular Session of the Rhode Island Legislature.

End of Document

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West's General Laws of Rhode Island Annotated
Title 36. Public Officers and Employees
Chapter 10.1. Rhode Island Public Employee Pension Revocation and Reduction Act

Gen.Laws 1956, § 36-10.1-5

§ 36-10.1-5. Municipal employee pension revocation and reduction

[Currentness](#)

The superior court shall have jurisdiction to review any decisions, appeals, or other proceedings initiated pursuant to any municipal ordinance providing for the revocation or reduction of the pension of any municipal employee for circumstances constituting dishonorable service as defined by municipal ordinances.

Credits

P.L. 2014, ch. 497, § 1, eff. July 8, 2014; P.L. 2014, ch. 526, § 1, eff. July 8, 2014.

[Notes of Decisions \(2\)](#)

Gen. Laws, 1956, § 36-10.1-5, RI ST § 36-10.1-5

Current with effective legislation through Chapter 398 of the 2023 Regular Session of the Rhode Island Legislature.

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RESTRICTED PAGE



9. Adjournment

For Vote

Presented by Treasurer James A. Diossa



10. Appendix



11. Post Retirement Employment - January 2024 and Year-End December 2023

For Reference

ERSRI Memorandum

ERSRI BOARD:

James A. Diossa
General Treasurer Chair

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega

Paul L. Dion

Matthew K. Howard

Brenna McCabe

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Date: January 11, 2024

To: Retirement Board

From: Frank J. Karpinski, Executive Director

Subject: Post Retirement Employment Reports

Enclosed are the listings of reported retirees working under the various post-retirement employment statutes.

For the K-12 schools, registered nurses and municipalities, the column *Number of Days* lists the up-to-date totals of working days provided by the agency(ies) to ERSRI.

A retired member who returned to work as a substitute teacher is indicated by a *Title/Function* column as *PRSB*.

A retired member who returned to work as an administrator, guidance counselor, or other certified position in a school department, and is working in a vacant position is labeled in the *Title/Function* column as *PRAM*. Certification letters (good faith letters) need to be provided by the agency and forwarded to ERSRI consistent with RIGL §16-16-24.

A retired member who retired from service as a registered nurse may be employed for the purpose of providing professional nursing care and/or services at a state-operated facility in Rhode Island, including employment as a faculty member of a nursing program at a state-operated college or university. That is indicated by a *Title/Function* column as *PRNR*.

Municipal retirees returning to work in a school system are indicated in the *Title/Function* column as *PRMS*. Municipal retirees returning to work for a participating city/town are indicated by a *Title/Function* column as *PRME*.

For the state colleges/universities (recently included Driver's Education Report, (the column *Earnings (gross)* lists the up-to-date dollar earnings.

If a retired member is returning to work for the purpose of providing classroom instruction, academic advising of students and/or coaching, that is labeled in *Title/Function* column as *PRIS*.

If a retired member is returning to work for the purpose of providing classroom instruction in driver education courses and/or motorcycle driver education courses, that is labeled in *Title/Function* as *PRDE*.

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
MICHAEL	C	TRAFICANTE	1111	Cranston School Dept.	PRAM	91.00	Per RIGL 16-16-24.2
JO ANN	M	FEDE	1281	Johnston School Dept.	PRSB	78.00	
BEVERLY		BERNIER	1113	Cranston School Dept. (NC)	PRMS	70.50	Close to limit
MAUREEN	A	PINKSAW	1441	Providence School Dept.	PRSB	70.00	
LESLIE	R	WALTON	1441	Providence School Dept.	PRSB	69.00	
JEAN	M	CARMODY	1111	Cranston School Dept.	PRSB	68.00	
DONNA		PERROTTA	1441	Providence School Dept.	PRSB	67.00	
ELLEN	S	HOUSE	1441	Providence School Dept.	PRSB	67.00	
SALLY		GARABEDIAN	1441	Providence School Dept.	PRSB	66.00	
LOUIS		TORO	1441	Providence School Dept.	PRSB	65.50	
JUAN	A	RODRIGUEZ	1441	Providence School Dept.	PRSB	65.00	
LAWRENCE	P	BYRNE	1441	Providence School Dept.	PRSB	65.00	
LISA	D	MACCHIONI	1441	Providence School Dept.	PRSB	64.00	
RAFAEL	E	LUNA	1441	Providence School Dept.	PRSB	64.00	
FRANK	C	PICCIRILLI	1441	Providence School Dept.	PRAM	63.00	
ARLENE		KIBARIAN	1441	Providence School Dept.	PRSB	62.00	
BRUCE	C	WELLER	1151	East Greenwich School Dept.	PRSB	60.00	
MARY	B	CULLEN	1441	Providence School Dept.	PRAM	60.00	
RICHARD	D	D'AGOSTINO	1411	Pawtucket School Dept.	PRSB	60.00	
ROBERT	E	LITTLEFIELD	1491	South Kingstown School Dept.	PRAM	60.00	
HELAINÉ	F	HAGER	1441	Providence School Dept.	PRSB	59.00	
JOSEPH		CROWLEY	1491	South Kingstown School Dept.	PRAM	58.55	
KENNETH	L	PECKHAM	1631	Woonsocket School Dept.	PRSB	58.50	
FRANCIS	A	PALAZZI	1441	Providence School Dept.	PRSB	58.00	
SANDRA	G	LEWIS	1441	Providence School Dept.	PRSB	58.00	
RICHARD		ZAGRODNY	1631	Woonsocket School Dept.	PRSB	57.50	
SARA		MELIN	1441	Providence School Dept.	PRSB	57.00	
SUSAN		CHIN	1441	Providence School Dept.	PRSB	56.00	
CATHERINE	E	FOX	1281	Johnston School Dept.	PRSB	55.50	
EMILY	M	ELLIS	1441	Providence School Dept.	PRSB	55.00	
PATRICIA		AMORE	1613	West Warwick School Dept (NC)	PRMS	55.00	
ZITA		BUTLER	1411	Pawtucket School Dept.	PRSB	55.00	
DONNA	M	HEROUX-EVERSON	1441	Providence School Dept.	PRSB	53.00	
MICHAEL	J	GERAGHTY	1441	Providence School Dept.	PRSB	53.00	
ALEXIS		MEYER	1491	South Kingstown School Dept.	PRAM	52.50	
JOHN		CANNADY	1441	Providence School Dept.	PRSB	52.00	
SHIRLEY	A	MCBRIDE	1441	Providence School Dept.	PRSB	52.00	
PATRICIA	A	WILLIAMS	1111	Cranston School Dept.	PRSB	50.00	
DONNA		LOMBARDI	1441	Providence School Dept.	PRSB	49.00	
GEORGIA		FORTUNATO	1321	Middletown Public Schools	PRSB	48.00	

**TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024**

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
GLADYS		OLAGBEGI-FAKUNLE	1441	Providence School Dept.	PRSB	48.00	
ANN		BARRY	1411	Pawtucket School Dept.	PRSB	47.00	
EILEEN		LARIVIERE	1631	Woonsocket School Dept.	PRSB	46.00	
DOROTHY		MURRAY	1031	Burrillville School Dept.	PRAM	44.00	
MICHAEL		TOPAZIO	1001	Barrington Public Schools	PRSB	43.50	
MARIE	F	LUPINO	1111	Cranston School Dept.	PRSB	43.00	
CAROL		LANOIE	1631	Woonsocket School Dept.	PRSB	42.50	
PEARL		HOLLOWAY	1441	Providence School Dept.	PRSB	42.00	
THERESA	M	CONNOR	1441	Providence School Dept.	PRSB	42.00	
KATHERINE		SIPALA	1271	Jamestown School Dept.	PRAM	41.50	
ANN-MARIE		D AMBROSIO	1441	Providence School Dept.	PRSB	41.00	
JOHN	A	ABBATE	1033	Burrillville School Dept. (NC)	PRMS	40.00	
ANTHONY		FASCIA	1441	Providence School Dept.	PRSB	39.00	
CAROLE	A	REGO	1161	East Providence Schools	PRSB	39.00	
CHRISTINE	F	EGAN	1073	Chariho Regional School Dist. (NC)	PRMS	39.00	
DENISE	M	MORETTI-FOGGO	1613	West Warwick School Dept (NC)	PRMS	39.00	
LAURIE	G	SULLIVAN	1571	Warwick School Dept.	PRSB	39.00	
PATRICIA	L	FEDELI	1111	Cranston School Dept.	PRSB	39.00	
THOMAS		MCGHEE	1441	Providence School Dept.	PRSB	39.00	
BERNADETTE	A	BOWEN	1111	Cranston School Dept.	PRSB	38.50	
JUDY	P	CAMBIO	1911	Times2 Academy	PRAM	38.50	
LINDA		COLVIN	1031	Burrillville School Dept.	PRSB	38.50	
ANDY		BARNES	1491	South Kingstown School Dept.	PRAM	38.00	
ANTHONY		DELSIGNORE	1111	Cranston School Dept.	PRSB	38.00	
CAROLYN	J	ROSEMAN	1281	Johnston School Dept.	PRSB	38.00	
MAUREEN	H	AVENO	1121	Cumberland School Dept.	PRSB	38.00	
ANNE	M	DIAMOND	1441	Providence School Dept.	PRSB	37.00	
DAVID	M	VALEDOFSKY	1441	Providence School Dept.	PRSB	37.00	
ELIZABETH	A	HURLEY	1441	Providence School Dept.	PRSB	37.00	
JAYNE	G	BOUCHARD	1621	Westerly School Dept.	PRSB	37.00	
LORY	I	FITZGERALD	1441	Providence School Dept.	PRSB	37.00	
CARMEN	M	ROBICHAUD	1441	Providence School Dept.	PRSB	36.00	
CINDY	A	NORMAND	1341	New Shoreham School Dist.	PRAM	36.00	
DIANE	M	DESIMONE	1441	Providence School Dept.	PRSB	36.00	
CAROL		PIZZUTI	1731	The Greene School	PRAM	35.50	
CLAUDE	M	WATSKY	1491	South Kingstown School Dept.	PRSB	35.00	
FRANCES		COLA	1441	Providence School Dept.	PRSB	35.00	
LEONARDA	A	URENA	1441	Providence School Dept.	PRSB	33.50	
CATHERINE	A	CHATOWSKY	1411	Pawtucket School Dept.	PRSB	33.00	
PAULA	M	CHIODO	1441	Providence School Dept.	PRSB	33.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
THERESA	A	HAWKINS	1373	North Kingstown School Dept. (NC)	PRMS	33.00	
WILLIAM	J	PARE	1441	Providence School Dept.	PRSB	33.00	
ANA	M	FEENSTRA	1441	Providence School Dept.	PRSB	32.00	
BARBARA		MCARDLE	1441	Providence School Dept.	PRSB	32.00	
BARBARA		RIX	1001	Barrington Public Schools	PRSB	32.00	
CINDY	D	ENGELHARDT	1441	Providence School Dept.	PRSB	32.00	
DONNA	E	NASSA	1571	Warwick School Dept.	PRAM	32.00	
EILEEN	A	MULLANEY	1441	Providence School Dept.	PRSB	32.00	
PETER		SMITH	1441	Providence School Dept.	PRSB	32.00	
DEBORAH	A	MANCUSO	1281	Johnston School Dept.	PRSB	31.00	
GERALD	A	FOGEL	1441	Providence School Dept.	PRSB	31.00	
JOSE		DAJER	1441	Providence School Dept.	PRSB	31.00	
KATHLEEN	M	PERRY	1111	Cranston School Dept.	PRSB	31.00	
ROSE	M	CACCHIOTTI	1441	Providence School Dept.	PRSB	31.00	
MARYELLEN		PIERCE	1373	North Kingstown School Dept. (NC)	PRMS	30.50	
PATRICIA	L	GIARRUSSO	1491	South Kingstown School Dept.	PRSB	30.00	
FRANCIS		LALIBERTE	1411	Pawtucket School Dept.	PRAM	29.50	
TERESA		EAGAN	1341	New Shoreham School Dist.	PRAM	29.50	
DEBRA	A	SIMONE	1031	Burrillville School Dept.	PRSB	29.00	
PAULA	J	VENTRONE	1441	Providence School Dept.	PRSB	29.00	
CHARLAYNE	R	EKELUND	1111	Cranston School Dept.	PRSB	28.50	
JOYCE		BERNAU	1441	Providence School Dept.	PRSB	28.00	
REBECCA	A	FLORI	1441	Providence School Dept.	PRSB	28.00	
AGNES	M	SUMMERLY	1441	Providence School Dept.	PRSB	27.50	
PATRIZIA		DEWEY	1321	Middletown Public Schools	PRSB	27.50	
CLAUDIA		VIEIRA	1411	Pawtucket School Dept.	PRSB	27.00	
CYNTHIA		AUBIN	1441	Providence School Dept.	PRSB	27.00	
MARILYN	A	LADD	1373	North Kingstown School Dept. (NC)	PRMS	27.00	
MARY	W	THAKE	1441	Providence School Dept.	PRSB	27.00	
FRANCES		LANDRY	1691	Blackstone Academy Charter School, Inc.	PRAM	26.50	
LINDA	M	LOMAX	1411	Pawtucket School Dept.	PRAM	26.00	
MARIA	J	MANSELLA	1031	Burrillville School Dept.	PRAM	26.00	
MARY	E	FARGNOLI-LEONE	1571	Warwick School Dept.	PRAM	26.00	
MAUREEN	T	BRACEWELL	1441	Providence School Dept.	PRSB	26.00	
OLGA		GARIEPY	1631	Woonsocket School Dept.	PRSB	26.00	
PERLA		MCGUINNESS	1441	Providence School Dept.	PRSB	26.00	
LINDA		KARSULAVITCH	1411	Pawtucket School Dept.	PRAM	25.50	
ELEANOR		VANHOUWE	1631	Woonsocket School Dept.	PRSB	25.00	
JOHN	D	MAZZOCCA	1441	Providence School Dept.	PRSB	25.00	
MARY		PALUMBO	1491	South Kingstown School Dept.	PRSB	25.00	

**TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
 PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024**

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
RONALD	F	MARA	1441	Providence School Dept.	PRSB	25.00	
BRIAN	R	BUCK	1321	Middletown Public Schools	PRSB	24.50	
EILEEN		AFONSO	1441	Providence School Dept.	PRSB	24.50	
LAURENCE		HALL	1111	Cranston School Dept.	PRSB	24.50	
ANN	L	BUCKLEY	1161	East Providence Schools	PRSB	24.00	
DEBORAH	A	LOCKWOOD	1441	Providence School Dept.	PRSB	24.00	
DENNIS	T	RINALDI	1441	Providence School Dept.	PRSB	24.00	
JOSEPH	D	HURLEY	1001	Barrington Public Schools	PRAM	24.00	
KIMBERLY	R	ALVES	1441	Providence School Dept.	PRSB	24.00	
LINDA MARIE		LE PAGE	1531	Tiverton School Dept.	PRSB	24.00	
MAUREEN	E	FARRELL	1441	Providence School Dept.	PRSB	24.00	
ROUAIDA	J	AGHIA	1441	Providence School Dept.	PRSB	24.00	
MICHAEL		PETRARCA	1191	Foster School Dist.	PRAM	23.50	
SANDRA	A	SHAW	1001	Barrington Public Schools	PRAM	23.50	
C	T	BONZAGNI	1441	Providence School Dept.	PRSB	23.00	
DANIEL		LILLEY	1441	Providence School Dept.	PRSB	23.00	
ELIZABETH	A	CLESAS	1441	Providence School Dept.	PRSB	23.00	
JOHN	P	A'VANT	1111	Cranston School Dept.	PRSB	23.00	
PATRICIA	L	ROCK	1111	Cranston School Dept.	PRSB	23.00	
NANCY	P	MCGOVERN	1111	Cranston School Dept.	PRSB	22.50	
RICHARD	F	KINSLOW	1411	Pawtucket School Dept.	PRAM	22.50	
CAROL		BLISS	1441	Providence School Dept.	PRSB	22.00	
DEBORAH		BOLTON	1411	Pawtucket School Dept.	PRSB	22.00	
DEBRA		MILLER	1411	Pawtucket School Dept.	PRSB	22.00	
JUDITH	H	SMITH	1271	Jamestown School Dept.	PRSB	22.00	
KATHLEEN		CUSHING	1441	Providence School Dept.	PRSB	22.00	
KATHY		DIAS	1441	Providence School Dept.	PRSB	22.00	
THELMA	E	BURBANK	1411	Pawtucket School Dept.	PRSB	22.00	
SUSAN		VERRECCHIA	1441	Providence School Dept.	PRSB	21.50	
ANDY		BARNES	1491	South Kingstown School Dept.	PRSB	21.00	
PAMELA	L	LAW	1071	Chariho Regional School Dist.	PRSB	21.00	
PATRICIA	A	SMITH	1531	Tiverton School Dept.	PRSB	21.00	
SANDRA		LENORE	1471	Smithfield School Dept.	PRSB	21.00	
GAIL	M	PALUMBO	1473	Smithfield School Dept. (NC)	PRMS	20.00	
GIL	S	MONTEIRO	1441	Providence School Dept.	PRSB	20.00	
LAWRENCE	A	OLIVIERI	1441	Providence School Dept.	PRSB	20.00	
SUZANNE	M	SOUZA	1111	Cranston School Dept.	PRSB	20.00	
CAROL	A	ROSA	1421	Portsmouth School Dept.	PRSB	19.50	
JUDITH ANN		ANTONIO	1161	East Providence Schools	PRSB	19.00	
MARIA		MARQUIS	1441	Providence School Dept.	PRSB	19.00	

**TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
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First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
MICHELLE		GAUTREAU	1631	Woonsocket School Dept.	PRSB	19.00	
PAMELA	R	RINALDI	1411	Pawtucket School Dept.	PRSB	19.00	
FRANCES	D	BEAUPRE	1621	Westerly School Dept.	PRSB	18.50	
ALISON		ARRUDA	1421	Portsmouth School Dept.	PRAM	18.00	
CHRISTINE	F	EGAN	1071	Chariho Regional School Dist.	PRAM	18.00	
DEBORAH		STELLMACH	1441	Providence School Dept.	PRSB	18.00	
DEBRA		MCCLELLAND	1411	Pawtucket School Dept.	PRSB	18.00	
DIANNE	E	PINTO	1161	East Providence Schools	PRSB	18.00	
FRANCESCA		ORSINI	1441	Providence School Dept.	PRSB	18.00	
MARGUERITE		DELPONTE	1381	North Providence School Dept.	PRAM	18.00	
PAUL	W	VIGEANT	1491	South Kingstown School Dept.	PRAM	17.50	
RALPH	A	MONTELLA	1911	Times2 Academy	PRAM	17.50	
WILLIAM		WEBB	1281	Johnston School Dept.	PRSB	17.50	
BARBARA		KELLY	1411	Pawtucket School Dept.	PRSB	17.00	
ELIZABETH	E	MORRIS	1441	Providence School Dept.	PRSB	17.00	
JUDITH		FAHEY	1161	East Providence Schools	PRSB	17.00	
LINDA	M	LEFEBVRE	1441	Providence School Dept.	PRSB	17.00	
MARCIA	A	LINBACK	1123	Cumberland School Dept. (NC)	PRMS	17.00	
MARIE		FERAGNE	1441	Providence School Dept.	PRSB	17.00	
NETTIE	L	ALEXANDER	1441	Providence School Dept.	PRSB	17.00	
PHYLLIS	R	OELBAUM	1441	Providence School Dept.	PRSB	17.00	
ROBERT	D	MELVIN	1113	Cranston School Dept. (NC)	PRMS	17.00	
KAREN		POTTER	1323	Middletown Public Schools (NC)	PRMS	16.50	
ANN	C	CAMPBELL	1123	Cumberland School Dept. (NC)	PRMS	16.00	
BARBARA		RUGGIERI	1113	Cranston School Dept. (NC)	PRMS	16.00	
LISA		WALSH	1491	South Kingstown School Dept.	PRSB	16.00	
MICHELLE	C	JAQUES	1031	Burrillville School Dept.	PRSB	16.00	
ROBIN		FRICCHIONE	1421	Portsmouth School Dept.	PRSB	16.00	
ROSEMARY HAYES		SANTOS	1441	Providence School Dept.	PRSB	16.00	
RUSSELL	D	NOBLE	1001	Barrington Public Schools	PRSB	16.00	
DIANE		ENGELS	1631	Woonsocket School Dept.	PRSB	15.50	
BRADLEY	W	MORGAN	1633	Woonsocket School Dept. (NC)	PRMS	15.00	
BRENDA	L	WARNOCK	1411	Pawtucket School Dept.	PRSB	15.00	
CAROL		SCHLINK	1441	Providence School Dept.	PRSB	15.00	
CLAIRE		LAQUERRE	1631	Woonsocket School Dept.	PRSB	15.00	
DAVID	F	DESJARDINS	1781	South Side Elementary Charter School	PRSB	15.00	
GERARD	S	ZANNELLA	1071	Chariho Regional School Dist.	PRAM	15.00	
JOHN	J	SCANLON	1111	Cranston School Dept.	PRSB	15.00	
LINDA	A	TERRANOVA	1621	Westerly School Dept.	PRSB	15.00	
NANCY		INZER	1031	Burrillville School Dept.	PRSB	15.00	

**TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
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First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
PAUL	W	VIGEANT	1731	The Greene School	PRAM	15.00	
LORI		MARSHALL	1671	International Charter School	PRAM	14.50	
JOHN		JASIONOWSKI	1413	Pawtucket School Dept. (NC)	PRMS	14.10	
ELIZABETH	L	BOEHMKE	1001	Barrington Public Schools	PRAM	14.00	
JOAO		ARRUDA	1421	Portsmouth School Dept.	PRSB	14.00	
LORNA		O'CONNELL	1411	Pawtucket School Dept.	PRSB	14.00	
JUDITH	A	CALABRETTA	1321	Middletown Public Schools	PRSB	13.50	
NANCY		SOUZA	1421	Portsmouth School Dept.	PRSB	13.50	
DEBRA	J	ZEPP	1491	South Kingstown School Dept.	PRSB	13.00	
DEBRA	L	MORIARTY	1123	Cumberland School Dept. (NC)	PRMS	13.00	
ERIC	S	PETTINE	1621	Westerly School Dept.	PRSB	13.00	
HORTENCIA		ZABALA BUSTILLOS	1441	Providence School Dept.	PRSB	13.00	
JAMES	C	WILDE	1441	Providence School Dept.	PRSB	13.00	
KAREN	T	MUIR	1441	Providence School Dept.	PRSB	13.00	
KATHLEEN	A	CONNELL	1471	Smithfield School Dept.	PRSB	13.00	
LORI	A	MILLER	1321	Middletown Public Schools	PRSB	13.00	
PAMELA	M	ARDIZZONE	1441	Providence School Dept.	PRSB	13.00	
SUSAN		MROCZKA	1631	Woonsocket School Dept.	PRSB	13.00	
SUSAN	A	MARTIN	1491	South Kingstown School Dept.	PRSB	13.00	
DIANE		ASKAR	1631	Woonsocket School Dept.	PRSB	12.50	
STEVEN	B	KENNY	1091	Coventry Public Schools	PRSB	12.50	
ANTHONY	J	TUTALO	1441	Providence School Dept.	PRSB	12.00	
CLAUDIA		BARRETT	1441	Providence School Dept.	PRSB	12.00	
DONNA		DINUCCI	1441	Providence School Dept.	PRSB	12.00	
JUDITH	A	ANDREOZZI	1441	Providence School Dept.	PRSB	12.00	
KATHLEEN		WINSOR	1441	Providence School Dept.	PRSB	12.00	
KATHLEEN	E	MARDO	1121	Cumberland School Dept.	PRSB	11.50	
SUSAN	G	SQUILLANTE	1091	Coventry Public Schools	PRSB	11.50	
ANNE	T	PARISEAU	1441	Providence School Dept.	PRSB	11.00	
ELIZABETH		LESPERANCE	1411	Pawtucket School Dept.	PRSB	11.00	
JAMES	E	HAWORTH	1111	Cranston School Dept.	PRSB	11.00	
KAREN	A	KING	1191	Foster School Dist.	PRSB	11.00	
KERRI		LITTLE	1441	Providence School Dept.	PRSB	11.00	
LAURA		BARRETO	1413	Pawtucket School Dept. (NC)	PRMS	11.00	
LAURIE	A	MAGNETTE	1441	Providence School Dept.	PRSB	11.00	
MARY JO		REIDY	1111	Cranston School Dept.	PRSB	11.00	
ROSANNE		BADWAY	1411	Pawtucket School Dept.	PRSB	11.00	
THOMAS		RICHARDSON	1073	Chariho Regional School Dist. (NC)	PRMS	11.00	
VIOLETTE		FALK	1441	Providence School Dept.	PRSB	11.00	
YVETTE	Y	LAMBERT	1123	Cumberland School Dept. (NC)	PRMS	11.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
DAVID	F	DESJARDINS	1781	South Side Elementary Charter School	PRAM	10.50	
EDNA	M	DUNN	1151	East Greenwich School Dept.	PRSB	10.50	
GIANNA		ZANNINI	1441	Providence School Dept.	PRSB	10.00	
JOHANNA	L	CADORET	1321	Middletown Public Schools	PRSB	10.00	
LISA	J	TUTAJ-HARPIN	1031	Burrillville School Dept.	PRAM	10.00	
MARY KATE		CORRY	1413	Pawtucket School Dept. (NC)	PRMS	10.00	
TERESA		SANGERMANO	1441	Providence School Dept.	PRSB	10.00	
WILLIAM	L	SMITH	1091	Coventry Public Schools	PRAM	10.00	
CATHY	A	FALES	1001	Barrington Public Schools	PRSB	9.50	
ELIZABETH	M	RUEST	1111	Cranston School Dept.	PRSB	9.50	
GEORGE		MCFADDEN	1441	Providence School Dept.	PRSB	9.50	
RUSSELL	E	SPENCER	1153	East Greenwich School Dist. (NC)	PRMS	9.50	
ANN	M	LIGUORI	1621	Westerly School Dept.	PRSB	9.00	
ANN MARIE		MOLLO	1381	North Providence School Dept.	PRAM	9.00	
CHRISTOPHER	D	ROBERTSON	1161	East Providence Schools	PRSB	9.00	
DEBORAH	A	DEION	1621	Westerly School Dept.	PRSB	9.00	
ELIZABETH	S	STONER	1001	Barrington Public Schools	PRSB	9.00	
KENDRA	L	HAGGERTY	1441	Providence School Dept.	PRSB	9.00	
MARYANNE		GREGORY	1121	Cumberland School Dept.	PRSB	9.00	
SALLY	A.	MITCHELL	1191	Foster School Dist.	PRSB	9.00	
SHARON		DUNN	1341	New Shoreham School Dist.	PRAM	9.00	
SUSAN	A	MARTIN	1441	Providence School Dept.	PRSB	9.00	
CAROL	A	MUNDY	1121	Cumberland School Dept.	PRSB	8.50	
MARY LYNNE		MILLER	1121	Cumberland School Dept.	PRSB	8.50	
AUDREY	A	KILSEY	1441	Providence School Dept.	PRSB	8.00	
DAVID	R	BENTLEY	1273	Jamestown School Dept. (NC)	PRMS	8.00	
DEBORAH	C	RUDE	1123	Cumberland School Dept. (NC)	PRMS	8.00	
DENISE	T	ZAVOTA	1471	Smithfield School Dept.	PRSB	8.00	
JAMES		COLBERT	1441	Providence School Dept.	PRSB	8.00	
LINDA	A	BEVILAQUA	1571	Warwick School Dept.	PRSB	8.00	
MARION	K	WOOLF	1411	Pawtucket School Dept.	PRSB	8.00	
MARGARET		MCCABE	1413	Pawtucket School Dept. (NC)	PRMS	7.50	
STEVEN	W	COOPER	1413	Pawtucket School Dept. (NC)	PRMS	7.50	
DIANE		DYER	1153	East Greenwich School Dist. (NC)	PRMS	7.00	
ELIZABETH	S	PERRY	1007	Barrington COLA NonCertifieds	PRMS	7.00	
LORRAINE	L	FUSCO	1411	Pawtucket School Dept.	PRSB	7.00	
PATRICIA	E	GENTILE	1621	Westerly School Dept.	PRSB	7.00	
RAYMOND		PITA	1411	Pawtucket School Dept.	PRSB	7.00	
ROBERT	J	LECHMAN	1473	Smithfield School Dept. (NC)	PRMS	7.00	
THOMAS	J	DIPIPO	1441	Providence School Dept.	PRSB	7.00	

TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
CHERYL		LARIVIERE	1301	Lincoln School Dept.	PRSB	6.50	
JOYCE	P	FINLEY	1381	North Providence School Dept.	PRAM	6.50	
LORRAINE	S	MOSCHELLA	1381	North Providence School Dept.	PRAM	6.50	
CHARLES	M	MOREAU	1007	Barrington COLA NonCertifieds	PRMS	6.00	
DIANNE	E	PERETTI	1381	North Providence School Dept.	PRAM	6.00	
DONNA		LANGTON	1411	Pawtucket School Dept.	PRSB	6.00	
EDWARD	J	KOSTKA	1411	Pawtucket School Dept.	PRSB	6.00	
JAMES	H	DILLON	1091	Coventry Public Schools	PRAM	6.00	
JOSEPH	D	HURLEY	1001	Barrington Public Schools	PRSB	6.00	
ROSINA	J	GUISE	1411	Pawtucket School Dept.	PRSB	6.00	
SCOTT	M	NELSON	1341	New Shoreham School Dist.	PRAM	6.00	
SHEILA		MORGAN	1091	Coventry Public Schools	PRSB	6.00	
LAURA	J	PELLEGRINO	1621	Westerly School Dept.	PRSB	5.50	
PATRICIA	J	BRISSETTE	1001	Barrington Public Schools	PRSB	5.50	
PAULEEN	M	SLATER	1121	Cumberland School Dept.	PRSB	5.50	
ANN		SAN ANTONIO	1441	Providence School Dept.	PRSB	5.00	
CAROL	A	SHEA	1161	East Providence Schools	PRSB	5.00	
CAROLYN	M	PELZMAN	1471	Smithfield School Dept.	PRSB	5.00	
GENE	P	DUFAULT	1091	Coventry Public Schools	PRSB	5.00	
JAYNE	S	BAILEY	1091	Coventry Public Schools	PRSB	5.00	
KENNETH	C	PERRY	1441	Providence School Dept.	PRSB	5.00	
KRISTINE		BELL	1073	Chariho Regional School Dist. (NC)	PRMS	5.00	
PATRICIA		LYNCH	1321	Middletown Public Schools	PRSB	5.00	
ROSEMARY		STEIN	1471	Smithfield School Dept.	PRSB	5.00	
SANDRA	M	REGO	1091	Coventry Public Schools	PRSB	5.00	
ELGERINE		ROBERTS	1441	Providence School Dept.	PRSB	4.50	
JANICE	E	DEFRANCES	1781	South Side Elementary Charter School	PRAM	4.50	
LISA	A	MOTT	1281	Johnston School Dept.	PRSB	4.50	
CANDACE	A	MCCALL	1441	Providence School Dept.	PRSB	4.00	
CAROL	A	BROWN	1151	East Greenwich School Dept.	PRAM	4.00	
CYNTHIA	D	FERREIRA	1123	Cumberland School Dept. (NC)	PRMS	4.00	
DEBORAH	D	MELLION	1631	Woonsocket School Dept.	PRSB	4.00	
DENNIS	T	RINALDI	1441	Providence School Dept.	PRAM	4.00	
DIANE		ENGELS	1381	North Providence School Dept.	PRAM	4.00	
JANE	P	DOYLE	1273	Jamestown School Dept. (NC)	PRMS	4.00	
JANICE	E	ABRAHAM	1091	Coventry Public Schools	PRSB	4.00	
KAREN	A	SORRENTINE	1411	Pawtucket School Dept.	PRSB	4.00	
NELLIE		MAKAROVA	1441	Providence School Dept.	PRSB	4.00	
SARAH	S	GOLDBERG	1123	Cumberland School Dept. (NC)	PRMS	4.00	
THOMAS	P	MONTAQUILA	1441	Providence School Dept.	PRSB	4.00	

**TEACHER RETIREES AND NON-CERTIFIED RETIREES WORKING 2023-2024 SCHOOL YEAR
 PRSB--SUBSTITUTE AND IN A STATE SCHOOL SUB; PRAM--VACANCY; PRMS--MUNICIPAL IN A SCHOOL REPORT DTD 01-05-2024**

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
DEBORAH	A	ALMAGNO	1441	Providence School Dept.	PRSB	3.50	
MICHAEL	T	CAHILL	1413	Pawtucket School Dept. (NC)	PRMS	3.50	
BARBARA		SWIENTON	1341	New Shoreham School Dist.	PRAM	3.00	
BETSY		VONSPRECKELSEN	1411	Pawtucket School Dept.	PRSB	3.00	
DEBBI	A	MICELI	1071	Chariho Regional School Dist.	PRSB	3.00	
PATRICIA	J	GEARY	1441	Providence School Dept.	PRSB	3.00	
PAULA M	M	SEROWIK	1161	East Providence Schools	PRSB	3.00	
THOMAS	R	HINES	1471	Smithfield School Dept.	PRSB	3.00	
VIOLETTE		FALK	1441	Providence School Dept.	PRAM	3.00	
KENNETH	C	PERRY	1441	Providence School Dept.	PRAM	2.50	
NANCY	E	PHILLIPS	1631	Woonsocket School Dept.	PRSB	2.50	
ALISON		ARRUDA	1421	Portsmouth School Dept.	PRSB	2.00	
DIANNE	E	PERETTI	1411	Pawtucket School Dept.	PRSB	2.00	
GEORGIA		FORTUNATO	1401	Northern Rhode Island Collaborative	PRAM	2.00	
JOAN	D	OSTER	1381	North Providence School Dept.	PRAM	2.00	
JO-ANN	E	WUNSCHER	1411	Pawtucket School Dept.	PRSB	2.00	
LORI		DESIMONE	1381	North Providence School Dept.	PRAM	2.00	
MARTIN		JOHNSTON	1491	South Kingstown School Dept.	PRSB	2.00	
SCOTT	M	NELSON	1343	New Shoreham School Dist. (NC)	PRMS	2.00	
ANN		HORGAN	1091	Coventry Public Schools	PRSB	1.50	
DIANE	L	BRENNAN	1201	Foster/Glocester Reg. School Dist.	PRAM	1.50	
FAITH		PARADIS	1001	Barrington Public Schools	PRSB	1.50	
JOAN	D	OSTER	1631	Woonsocket School Dept.	PRSB	1.50	
BRIAN	M	DELAIRE	1001	Barrington Public Schools	PRSB	1.00	
CAROL		VESEERA	1411	Pawtucket School Dept.	PRSB	1.00	
DOLORES	E	O'ROURKE	1091	Coventry Public Schools	PRSB	1.00	
GAIL		DUCHARME	1633	Woonsocket School Dept. (NC)	PRMS	1.00	
IRENE	B	SULLIVAN	1271	Jamestown School Dept.	PRSB	1.00	
JEANNINE	I	RUE	1123	Cumberland School Dept. (NC)	PRMS	1.00	
JOHN	E	LAWRENCE	1471	Smithfield School Dept.	PRSB	1.00	
JOHN L	P	BREGUET	1471	Smithfield School Dept.	PRSB	1.00	
JOSEPH		BRAGANCA	1413	Pawtucket School Dept. (NC)	PRMS	1.00	
JUDITH		VALENTE	1201	Foster/Glocester Reg. School Dist.	PRAM	1.00	
KATHRYN		MANSFIELD	1631	Woonsocket School Dept.	PRSB	1.00	
MARIA	G	JONES	1621	Westerly School Dept.	PRSB	1.00	
BETTY	A	NADROWSKI	1091	Coventry Public Schools	PRSB	0.50	
MARY SUE		FRISHMAN	1621	Westerly School Dept.	PRSB	0.50	
RAYMOND		MCGEE	1413	Pawtucket School Dept. (NC)	PRMS	0.50	

PRME--RETIRES WORKING MUNICIPALITIES IN 2023 CALENDAR YEAR --REPORT DTD 12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
EMERSON	J	MARVEL	1162	City of East Providence	PRME	239.00	Suspended Pension
MICHAEL	A	DEMELLO	1015	Bristol Fire Dept.	PRME	227.00	Suspended Pension
ROBERTA	A	TURCHETTA	1112	City of Cranston	PRME	78.50	Verifying with employer
THEODORE	J	PRZYBYLA	1462	Town of Scituate	PRME	78.00	Verifying with employer
DENNIS	J	DE JESUS	1112	City of Cranston	PRME	73.00	Close to limit
MICHAEL	D	CASSIDY	1412	City of Pawtucket	PRME	73.00	Close to limit
ROBERT	F	STROM	1012	Town of Bristol	PRME	73.00	Close to limit
MARY	A	MICHALCZYK	1356	Newport Housing Auth.	PRME	72.50	Close to limit
KENNETH	R	MASON	1112	City of Cranston	PRME	71.50	Close to limit
JOHN	J	TOOLAN	1009	Barrington COLA Group	PRME	71.00	Close to limit
MICHAEL		WILDENHAIN	1412	City of Pawtucket	PRME	71.00	Close to limit
WAYNE		BARNES	1162	City of East Providence	PRME	70.50	Close to limit
DANIEL	J	MEUNIER	1157	EAST GREENWICH-COLA	PRME	69.50	Close to limit
JACLYNN		DIPIETRO	1192	Town of Foster	PRME	69.00	Close to limit
JEANNE	L	HODGE	1412	City of Pawtucket	PRME	69.00	Close to limit
JESSICA		DESROCHERS	1632	City of Woonsocket	PRME	69.00	Close to limit
MICHAEL	L	HOULE	1632	City of Woonsocket	PRME	68.50	Close to limit
NORA		HAWKINS	1116	Cranston Housing Auth.	PRME	68.00	Close to limit
BRENDA	C	PANNONE	1382	Town of North Providence	PRME	67.00	Close to limit
DENNIS	W	BROD	1492	Town of South Kingstown	PRME	67.00	Close to limit
EDWARD	R	FRATELLI	1478	Town of Smithfield (COLA)	PRME	67.00	Close to limit
GREGORY	A	JONES	1125	Cumberland Fire Dist.	PRME	67.00	Accidental Disability
RICHARD		ARPIN JR	1122	Town of Cumberland	PRME	66.50	
KENNETH	A	BROWN JR	1474	Smithfield Police Dept.	PRME	66.00	Close to limit
LOUIS	A	LANNI	1382	Town of North Providence	PRME	65.00	Close to limit
LYNN	L	BURKHARDT	1009	Barrington COLA Group	PRME	65.00	Close to limit
ARNOLD		VECCHIONE	1286	Johnston Housing Auth.	PRME	63.50	
KAREN	M	ASSELIN	1412	City of Pawtucket	PRME	63.00	
JOHN N	N	BUCCI	1112	City of Cranston	PRME	62.00	
DONNA		PINTO	1412	City of Pawtucket	PRME	61.50	
JOANNE		TOLCHINSKY	1116	Cranston Housing Auth.	PRME	59.50	
CHARLENE	R	GAGNON	1412	City of Pawtucket	PRME	59.00	
JOAO		PATITA	1610	West Warwick School NC (Legacy)	PRME	59.00	
LOUIS	J	CHARELLO	1705	Lincoln Fire Dept	PRME	59.00	
THOMAS	E	DUQUETTE	1602	Town of West Greenwich	PRME	57.50	
GLORIA	J	RADO	1412	City of Pawtucket	PRME	57.00	
EDWARD	A	BURNETT	1352	City of Newport	PRME	56.00	
SCOTT		GOODWIN	1392	Town of North Smithfield	PRME	55.00	
KATHLEEN		SAWKA	1412	City of Pawtucket	PRME	54.00	

PRME--RETIRES WORKING MUNICIPALITIES IN 2023 CALENDAR YEAR --REPORT DTD 12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
LAURIE	S	SIMPSON	1412	City of Pawtucket	PRME	54.00	
LINDA	M	DIPRETE	1112	City of Cranston	PRME	53.00	
PAULINE	S	PAYEUR	1632	City of Woonsocket	PRME	52.50	
PAUL		FAGAN	1352	City of Newport	PRME	51.50	
RONALD	J	WOODS	1032	Town of Burrillville	PRME	51.00	
GAIL		TOPAKIAN	1112	City of Cranston	PRME	50.50	
KEVIN		CROKE	1162	City of East Providence	PRME	50.00	
DONALD	L	GAGNON	1632	City of Woonsocket	PRME	49.50	
RUSSELL	E	SPENCER	1158	EAST GREENWICH-COLA-NC	PRME	49.50	
MICHAEL	J	DELYI	1272	Town of Jamestown	PRME	46.00	
ANNA	E	MARINO	1112	City of Cranston	PRME	45.00	
DEBRA	A	MCDOLE	1412	City of Pawtucket	PRME	44.00	
FRANK	E	JUDGE	1082	Town of Charlestown	PRME	44.00	
DAVID		ARUSSO	1286	Johnston Housing Auth.	PRME	41.50	
ROBERT	E	BENSON	1412	City of Pawtucket	PRME	41.50	
LAURA	A	SILVIA	1009	Barrington COLA Group	PRME	40.50	
ERNEST		DE PARI	1112	City of Cranston	PRME	40.25	
DIANE	M	WALSH	1112	City of Cranston	PRME	40.00	
LINDA	C	ARCHETTO	1112	City of Cranston	PRME	40.00	
PRUDENCE	M	FALLON	1532	Town of Tiverton	PRME	38.50	
JOSEPH	D	ANDREOZZI	1386	North Providence Hsg. Auth.	PRME	37.60	
PAMELA	J	GOULD	1322	Town of Middletown	PRME	36.00	
ANGELA	M	JALETTE	1034	Burrillville Police Dept.	PRME	34.00	
ERNEST		MARINARO	1157	EAST GREENWICH-COLA	PRME	34.00	
LEE	A	SOITO	1004	Barrington Police Dept.	PRME	34.00	
ERNEST	R	HUTTON	1412	City of Pawtucket	PRME	33.50	
DAVID	M	BEAUCHEMIN	1034	Burrillville Police Dept.	PRME	33.00	
WILLIAM	A	HANLEY II	1352	City of Newport	PRME	32.00	
JEROME	D	MOYNIHAN	1632	City of Woonsocket	PRME	30.00	
CATHERINE	T	OCHS	1610	West Warwick School NC (Legacy)	PRME	29.00	
DENNIS	P	MANN	1412	City of Pawtucket	PRME	27.50	
JOHN		RAO JR	1158	EAST GREENWICH-COLA-NC	PRME	27.00	
STEVEN	M	IACOBUCCI	1112	City of Cranston	PRME	26.50	
LINDA	H	JAMES	1009	Barrington COLA Group	PRME	22.00	
MICHAEL	C	RHEAUME	1474	Smithfield Police Dept.	PRME	19.50	
LOUIS	M	PRATA	1282	Town of Johnston	PRME	18.50	
JUNE		REGAN	1342	Town of New Shoreham	PRME	17.00	
PETER	S	LAPOLLA	1112	City of Cranston	PRME	17.00	
MADELYN		GERMANI	1382	Town of North Providence	PRME	16.50	

PRME--RETIRES WORKING MUNICIPALITIES IN 2023 CALENDAR YEAR --REPORT DTD 12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
CARL	E	VIEIRA	1372	Town of North Kingstown	PRME	15.00	
DENNIS	J	MCLAUGHLIN	1412	City of Pawtucket	PRME	14.00	
LARETO	P	GUGLIETTA	1034	Burrillville Police Dept.	PRME	14.00	
SALLY	A	INGEGNERI-SIMONE	1282	Town of Johnston	PRME	14.00	
KAREN	M	LECLAIRE	1412	City of Pawtucket	PRME	13.00	
LOUIS	P	CIRILLO	1009	Barrington COLA Group	PRME	11.50	
JANET	C	RICHARDSON	1009	Barrington COLA Group	PRME	11.00	
JANET	A	EBERTS	1478	Town of Smithfield (COLA)	PRME	10.00	
MARY	E	MADONNA	1412	City of Pawtucket	PRME	9.50	
MICHAEL	K	MOONEY	1382	Town of North Providence	PRME	9.00	
ROBERT		ST ANDRE	1148	Cumberland Rescue	PRME	9.00	
CATHY	A	KEIGHLEY	1016	Bristol Housing Authority	PRME	8.00	
DAVID	E	DESJARLAIS	1154	East Greenwich Police Dept.	PRME	8.00	
HARRY	N	MCCRAY	1372	Town of North Kingstown	PRME	8.00	
RICHARD	J	DENICE	1154	East Greenwich Police Dept.	PRME	8.00	
EDWARD	A	DAVIDSON	1282	Town of Johnston	PRME	7.50	
CHRISTOPHER		RAFFERTY	1154	East Greenwich Police Dept.	PRME	6.00	
STEVEN		GAMACHE	1632	City of Woonsocket	PRME	6.00	
CAROL ANN		AQUILANTE	1382	Town of North Providence	PRME	5.00	
DIANE		DYER	1158	EAST GREENWICH-COLA-NC	PRME	5.00	
LARETO	P	GUGLIETTA	1032	Town of Burrillville	PRME	5.00	
STEPHANIE		SUSI	1282	Town of Johnston	PRME	4.50	
JOHN	T	OHARA	1154	East Greenwich Police Dept.	PRME	3.50	
WILLIAM	J	FLATLEY	1492	Town of South Kingstown	PRME	3.50	
DAVID	A	CARPENTER	1392	Town of North Smithfield	PRME	3.00	
MARK	R	HEALY	1492	Town of South Kingstown	PRME	3.00	
GAIL	G	DIPIERRO	1009	Barrington COLA Group	PRME	2.50	
DAVID		ARUSSO	1282	Town of Johnston	PRME	2.00	
ELIZABETH		RYNDA	1162	City of East Providence	PRME	2.00	
MARIE	A	FISHER	1116	Cranston Housing Auth.	PRME	2.00	
WILLIAM	S	HIGGINS	1154	East Greenwich Police Dept.	PRME	2.00	
JOSEPH	L	DINOBILE	1492	Town of South Kingstown	PRME	1.50	
PAUL	G	MASSE	1412	City of Pawtucket	PRME	1.50	
ARTHUR	M	RHODES	1154	East Greenwich Police Dept.	PRME	1.00	
CAROL ANN		AQUILANTE	1352	City of Newport	PRME	1.00	
DAVID	B	HULING	1157	EAST GREENWICH-COLA	PRME	1.00	
FRANCES	X	ETHIER	1492	Town of South Kingstown	PRME	1.00	
HILDING	T	MUNSON	1492	Town of South Kingstown	PRME	1.00	
JOHN	T	OHARA	1492	Town of South Kingstown	PRME	1.00	

PRME--RETIRES WORKING MUNICIPALITIES IN 2023 CALENDAR YEAR --REPORT DTD 12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
STEVEN	J	DAIGLE	1492	Town of South Kingstown	PRME	1.00	
JUDITH		QUATTRUCCI	1162	City of East Providence	PRME	0.50	

RETIREES WORKING UNDER 18K AT STATE COLLEGES/UNIVS (EMPLOYER CODE = 2000)
PRIS--State colleges/univs/--Instructor at a state school - Calendar Year 2023--Report dtd -12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Earnings	Footnote
ANDRES	R	ZUNIGA	2000	CCRI	PRIS	\$ 32,527.03	Recoupment - Reg 1.17
RICHARD	G	SWEARINGEN	2000	CCRI	PRIS	\$ 24,637.62	Recoupment - Reg 1.17
BRUNA	M	BOYLE	2000	URI	PRIS	\$ 22,414.81	Recoupment - Reg 1.17
ANDREW		EGAN	2000	CCRI	PRIS	\$ 21,155.38	Recoupment - Reg 1.17
CAROL	A	SPAZIANO	2000	CCRI	PRIS	\$ 19,191.92	Recoupment - Reg 1.17
ROBERT	N	MASSE	2000	CCRI	PRIS	\$ 18,907.90	Recoupment - Reg 1.17
WILLIAM	T	BEHREND JR	2000	URI	PRIS	\$ 18,426.22	Recoupment - Reg 1.17
MICHELLE		BROUSSEAU	2000	CCRI	PRIS	\$ 17,713.92	Close to limit
ANDREW	A	BONNER	2000	CCRI	PRIS	\$ 17,359.68	Close to limit
NORMAN	P	FORTIN	2000	URI	PRIS	\$ 16,560.00	Close to limit
DAVID		NEVES	2000	URI	PRIS	\$ 16,511.36	Close to limit
GAIL	S	O'ROURKE	2000	CCRI	PRIS	\$ 16,133.50	Close to limit
EILEEN	P	ZISK	2000	CCRI	PRIS	\$ 15,520.54	Close to limit
CLAIRE		DUMAS	2000	CCRI	PRIS	\$ 15,519.60	Close to limit
THOMAS	H	MITCHELL	2000	CCRI	PRIS	\$ 15,519.60	Close to limit
DONNA M		PATCH	2000	CCRI	PRIS	\$ 14,625.00	
WILLIAM	H	GREEN	2000	CCRI	PRIS	\$ 14,457.02	
JOHN ALAN	A	LONGIARU	2000	CCRI	PRIS	\$ 14,400.00	
WENDY		ARONOFF	2000	CCRI	PRIS	\$ 14,325.00	
LORRAINE	E	BELLO	2000	CCRI	PRIS	\$ 13,325.28	
BONNIE	B	RIPSTEIN	2000	RIC	PRIS	\$ 12,268.50	
MARIE	H	BAGUCHINSKY	2000	URI	PRIS	\$ 11,917.07	
VANESSA	G	DELGIUDICE	2000	RIC	PRIS	\$ 11,392.00	
ALFRED	R	CRUDALE	2000	URI	PRIS	\$ 11,382.41	
ALFRED	L	PERROTTI	2000	CCRI	PRIS	\$ 10,784.00	
LESLIE	H	ARCHIBALD	2000	CCRI	PRIS	\$ 10,558.08	
PETER	J	PETRONE	2000	CCRI	PRIS	\$ 10,437.72	
LAWRENCE	P	BYRNE	2000	CCRI	PRIS	\$ 10,319.16	
WILLIAM	C	OKERHOLM JR	2000	CCRI	PRIS	\$ 10,222.75	
JO-ANN		PHILLIPS	2000	URI	PRIS	\$ 9,707.31	
VICTOR	R	OSTERMAN	2000	CCRI	PRIS	\$ 9,244.12	
GARY	C	COMUNALE	2000	URI	PRIS	\$ 8,492.44	
SUSAN	L	HAWKSLEY	2000	CCRI	PRIS	\$ 7,520.16	

RETIREES WORKING UNDER 18K AT STATE COLLEGES/UNIVS (EMPLOYER CODE = 2000)
PRIS--State colleges/univs/--Instructor at a state school - Calendar Year 2023--Report dtd -12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Earnings	Footnote
ANTHONY	J	CIOTOLA	2000	CCRI	PRIS	\$ 7,038.72	
THOMAS	A	CONBOY	2000	CCRI	PRIS	\$ 7,038.72	
GERALD		SILBERMAN	2000	CCRI	PRIS	\$ 6,920.16	
WILLIAM	A	TRIBELLI	2000	CCRI	PRIS	\$ 6,887.62	
GEORGE		PAGE	2000	CCRI	PRIS	\$ 6,801.60	
PATRICIA	A	ROSE	2000	CCRI	PRIS	\$ 6,249.15	
HUGO	J	DEASCENTIS JR	2000	CCRI	PRIS	\$ 6,120.00	
CHARLES	P	LEHOURITES	2000	CCRI	PRIS	\$ 5,292.08	
SUSANNE	M	RACCA	2000	CCRI	PRIS	\$ 5,162.76	
JAMES	E	GUARINO	2000	CCRI	PRIS	\$ 2,730.92	
PAUL	C	MELARAGNO	2000	CCRI	PRIS	\$ 2,536.00	
KIRK		LAMBOY	2000	CCRI	PRIS	\$ 2,275.00	
MARLYCE	L	ADAMS	2000	RIC	PRIS	\$ 2,136.00	
KARIN	E	LUKOWICZ	2000	CCRI	PRIS	\$ 1,824.00	
MICHAEL	J	PAUL	2000	RIC	PRIS	\$ 1,628.00	
NANCY		MURPHY	2000	RIC	PRIS	\$ 1,389.00	
WILLIAM	J	IZZI	2000	RIC	PRIS	\$ 780.00	
DAVID	C	MARANDOLA	2000	CCRI	PRIS	\$ 712.00	
GREGG		NOURY	2000	CCRI	PRIS	\$ 437.58	
RICHARD	J	BENEDUCE	2000	CCRI	PRIS	\$ 256.00	

RETIREES WORKING UNDER DRIVER'S EDUCATION INSTRUCTION and/or MOTORCYCLE DRIVER EDUCATION COURSES - (EMPLOYER CODE = 2000)

PRDE--State colleges/univs/ - Calendar Year 2023--Report dtd -12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Earnings	Footnote
KATHLEEN	D	HUDSON	2000	CCRI	PRDE	\$ 14,290.08	Close to limit
PETER	V	RIVELLI	2000	CCRI	PRDE	\$ 14,227.46	Close to limit
LORENZO		TETREAUULT	2000	CCRI	PRDE	\$ 10,154.50	
ALBERT	K	AUBIN	2000	CCRI	PRDE	\$ 7,271.45	
KATHLEEN		CRESCENZO	2000	CCRI	PRDE	\$ 6,015.48	
PATRICIA	L	DIONNE	2000	CCRI	PRDE	\$ 4,199.06	
DAYUS		METTS	2000	CCRI	PRDE	\$ 3,139.46	

RETIRED REGISTERED NURSES WORKING AT A STATE-OPERATED FACILITY IN RI INCLUDING EMPLOYMENT AS A FACULTY MEMBER OF A NURSING PROGRAM AT A STATE-OPERATED COLLEGE OR UNIVERSITY--CALENDAR YEAR 2023 (EMPLOYER CODE --2000)--REPORT DTD 12-31-2023

First Name	Middle Initial	Last Name	Employer Code	Employer	Title/Function	Number of Days	Footnote
LINDA		MASSE	2000	BHDDH--ZAMBARANO	PRNR	66.5	Close to Limit
ERIN	M	SCANLON	2000	BHDDH--ESH	PRNR	44.5	
KEVIN	M	WILKS	2000	RIC	PRNR	16	



11.1. Report of Contributions

For Reference



Employees' Retirement System of Rhode Island

**Report of Received Contributions
Period Ending: 12/31/2023**


	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1001	Barrington Public Schools	BIWK	\$227,868.83		
1007	Barrington COLA Non-Certified	BIWK	\$27,981.59		
1009	Barrington COLA Group	BIWK	\$20,020.60		
1012	Town of Bristol	BIWK	\$6,757.24		
1014	Bristol Police Department	BIWK	\$14,076.48		
1016	Bristol Housing Authority	WKLY	\$2,534.84		
1019	Town of Bristol EE Highway	BIWK	\$11,023.75		
1021	Bristol Warren Reg. School District	BIWK	\$94,608.96		
1023	Bristol Warren Reg. School District (NC)	BIWK	\$12,968.54		
1031	Burrillville School Department	BIWK	\$119,891.21		
1032	Town of Burrillville	BIWK	\$17,855.16		
1033	Burrillville School Department (NC)	BIWK	\$15,391.68		
1036	Burrillville Housing Authority	WKLY	\$1,486.45		
1052	City of Central Falls	BIWK	\$13,403.26		
1054	Central Falls Police	BIWK	\$12,134.28		
1056	Central Falls Housing Authority	WKLY	\$4,598.49		
1061	Central Falls Collaborative	BIWK	\$176,380.75	^A	\$7,046.38
1063	Central Falls School District (NC)	BIWK	\$32,276.22	^A	\$3,592.61
1071	Chariho Regional School District	BIWK	\$130,019.85		
1073	Chariho Regional School District (NC)	BIWK	\$25,120.24		
1082	Town of Charlestown	BIWK	\$19,402.14		
1091	Coventry Public Schools	BIWK	\$291,333.74		
1095	Coventry Fire District	BIWK	\$3,113.28		
1096	Coventry Housing Authority	BIWK	\$3,534.70		
1098	Coventry Lighting District	BIWK	\$257.28		
1111	Cranston School Department	BIWK	\$1,176,425.03		
1112	City of Cranston	BIWK	\$60,124.87		
1113	Cranston School Department (NC)	BIWK	\$111,101.48		
1114	Cranston Police Department	BIWK	\$56,083.10	*	
1115	Cranston Fire Department	BIWK	\$69,946.32	*	
1116	Cranston Housing Authority	BIWK	\$5,873.29		
1121	Cumberland School Department	BIWK	\$277,375.60		
1122	Town of Cumberland	BIWK	\$27,935.32		
1123	Cumberland School Department (NC)	BIWK	\$16,355.89		
1126	Cumberland Housing Authority	WKLY	\$2,672.08		
1151	East Greenwich School Department	BIWK	\$168,180.75		
1152	Town of East Greenwich	WKLY	\$7,453.46		
1153	East Greenwich School District (NC)	BIWK	\$2,134.58		
1156	East Greenwich Housing Authority	BIWK	\$4,054.68		
1157	East Greenwich - COLA	WKLY	\$13,005.52		
1158	East Greenwich - COLA - NC	BIWK	\$15,836.82		
1159	East Greenwich Fire District (NC)	WKLY	\$206.24		
1161	East Providence School Department	BIWK	\$322,283.49		
1162	City of East Providence	BIWK	\$52,016.27		
1163	East Providence School Department (NC)	BIWK	\$46,752.77		
1166	East Providence Housing Authority	WKLY	\$3,236.31		
1181	Exeter/West Greenwich Reg. School Department	BIWK	\$33,468.98		



Employees' Retirement System of Rhode Island

Report of Received Contributions
Period Ending: 12/31/2023

	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1183	Exeter/West Greenwich Reg. School Department (NC)	BIWK	\$7,883.67		
1191	Foster School District	BIWK	\$18,196.84		
1192	Town of Foster	WKLY	\$4,233.08		
1193	Foster School District (NC)	BIWK	\$3,298.63		
1201	Foster/Glocester Reg. School District	BIWK	\$99,659.62		
1203	Foster/Glocester Reg. School District (NC)	BIWK	\$12,229.27		
1211	Glocester School District	BIWK	\$29,873.26		
1212	Town of Glocester	BIWK	\$10,566.12		
1213	Glocester School District (NC)	BIWK	\$6,260.78		
1227	Greenville Water District	WKLY	\$2,015.95		
1242	Hope Valley-Wyoming Fire District	BIWK	\$1,261.28		
1255	Hopkins Hill Fire Department	BIWK	\$5,420.64		
1262	Town of Hopkinton	BIWK	\$9,790.14		
1271	Jamestown School Department	BIWK	\$20,768.30		
1272	Town of Jamestown	BIWK	\$13,520.13		
1273	Jamestown School Department (NC)	BIWK	\$6,804.42		
1281	Johnston School Department	BIWK	\$429,059.74		
1282	Town of Johnston	BIWK	\$22,423.07		
1283	Johnston School Department (NC)	BIWK	\$37,038.44		
1286	Johnston Housing Authority	WKLY	\$2,385.85		
1293	Limerock Adm. Services	WKLY	\$335.53		
1301	Lincoln School Department	BIWK	\$270,427.87		
1302	Town of Lincoln	BIWK	\$2,201.06		
1303	Lincoln School Department (NC)	BIWK	\$1,078.74		
1306	Lincoln Housing Authority	BIWK	\$3,583.50		
1311	Little Compton School Department	BIWK	\$22,189.68		
1321	Middletown Public Schools	BIWK	\$179,268.99		
1322	Town of Middletown	BIWK	\$15,744.51		
1323	Middletown Public School Department (NC)	BIWK	\$20,697.68		
1331	Narragansett School Department	BIWK	\$110,335.13		
1336	Narragansett Housing Authority	MNLY	\$1,255.26		
1341	New Shoreham School District	BIWK	\$10,751.08		
1342	Town of New Shoreham	BIWK	\$12,788.89		
1343	New Shoreham School District (NC)	BIWK	\$2,969.57		
1351	Newport School Department	BIWK	\$194,222.58		
1352	City of Newport	BIWK	\$50,162.46		
1353	Newport School Department (NC)	BIWK	\$13,120.02		
1354	City of Newport - Monthly	MNLY	\$10.83		
1356	Newport Housing Authority	WKLY	\$16,259.45		
1364	Newport Police Department	BIWK	\$8,721.90		
1371	North Kingstown School Department	BIWK	\$160,888.01		
1372	Town of North Kingstown	BIWK	\$50,749.50		
1373	North Kingstown School Department (NC)	BIWK	\$35,530.72		
1381	North Providence School Department	BIWK	\$124,804.21		
1382	Town of North Providence	BIWK	\$41,350.34		
1383	North Providence School Department (NC)	BIWK	\$18,105.12		
1386	North Providence Housing Authority	BIWK	\$4,738.97		

 Employees' Retirement System of Rhode Island					
Report of Received Contributions Period Ending: 12/31/2023					
	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1391	North Smithfield School Department	BIWK	\$104,461.31		
1392	Town of North Smithfield	BIWK	\$10,929.00		
1393	North Smithfield School Department (NC)	BIWK	\$11,698.23		
1401	Northern Rhode Island Collaborative	BIWK	\$0.00		
1403	Northern Rhode Island Collaborative (NC)	BIWK	\$646.68		
1411	Pawtucket School Department	BIWK	\$367,766.07		
1412	City of Pawtucket	WKLY	\$65,424.71		
1413	Pawtucket School Department (NC)	BIWK	\$47,262.14		
1416	Pawtucket Housing Authority	WKLY	\$13,660.77		
1421	Portsmouth School Department	BIWK	\$236,210.16		
1441	Providence School Department	BIWK	\$787,571.29		
1447	Providence School Department Long Term Subs	WKLY	\$3,244.66		



Employees' Retirement System of Rhode Island

Report of Received Contributions
Period Ending: 12/31/2023

	Organization	Frequency	Received Employer/Employee Contributions	Delinquent Contributions	Delinquent Loss/Earnings Calculation
1761	The Village Green Virtual Charter School	SMON	\$5,586.52		
1771	Nowell Leadership Academy	BIWK	\$12,811.89		
1781	South Side Elementary Charter School	BIWK	\$3,316.80		
1791	Charette Charter School	SMON	\$3,418.46		
1901	Providence Preparatory Charter School	WKLY	\$16,350.68		
1911	Times 2 Academy	WKLY	\$1,239.72		
1921	Nuestro Mundo Charter School	BIWK	\$11,206.56		
2000	State	BIWK	\$3,243,401.20		
2300	Narragansett Bay Commission	BIWK	\$26,339.23		
			\$13,087,690.36		
Column Definitions:					
Frequency = BIWK = Bi-Weekly; WKLY = Weekly; SMON = Semi-Monthly					
Received Employer/Employee contributions = Contributions received during the reporting period					



Employees' Retirement System of Rhode Island

Employer Aging
 Period Ending: 12/15/23

Account	Organization	Employer	Balance as of 12/15/2023	0 -30 days	30 - 60 days	60 - 90 days	90 + days	Last Invoice Loaded	Comments
1021	Bristol/Warren Regional School Department	ERS	1,306.47	-	-	-	-	12/31/2023	
1031	Burrillville School Department	ERS	182.10	-	-	-	-	1/6/2024	
1061	Central Falls School District - Collaborative	ERS	403,046.39	28,041.06	-	-	-	12/27/2023	
1121	Cumberland School Department	ERS	484.25	-	-	-	-	12/30/2023	
1151	East Greenwich School Department	ERS	161,785.16	-	-	-	-	1/12/2024	
1181	Exeter-West Greenwich Regional School District	ERS	118,183.08	-	-	-	-	1/5/2024	
1201	Foster-Glocester Regional School District	ERS	0.06	-	-	-	-	1/5/2024	
1211	Glocester School District	ERS	806.79	-	-	-	-	1/6/2024	
1341	New Shoreham School Department	ERS	18,518.61	-	-	-	-	1/6/2024	
1441	Providence School Department	ERS	2,251.36	-	-	-	-	1/7/2024	
1461	Scituate School Department	ERS	-	-	-	-	-	11/12/2023	
1471	Smithfield School Department	ERS	132,558.00	-	-	-	-	12/30/2023	
1631	Woonsocket School Department	ERS	383,081.16	-	-	-	-	1/3/2024	
1641	Highlander Charter School	ERS	2,164.62	-	-	-	-	12/9/2023	
1651	Paul Cuffee School	ERS	54,763.08	-	-	-	-	12/23/2023	
1661	Kingston Hill Academy, Inc.	ERS	24,103.44	-	12,076.92	-	-	12/16/2023	
1701	Beacon Charter School	ERS	-	-	-	-	-	1/15/2024	
1731	The Greene School	ERS	0.02	-	-	-	-	1/6/2024	
1921	Nuestro Mundo Charter School	ERS	34,999.95	-	-	-	-	12/27/2023	
Grand total			1,338,234.54	28,041.06	12,076.92	0.00	0.00		
			100.00%	2.10%	0.90%	0.00%	0.00%		



Employees' Retirement System of Rhode Island

Employer Aging
Period Ending: 12/15/23

Account	Organization	Employer	Balance as of 12/15/2023	0 - 30 days	30 - 60 days	60 - 90 days	90 + days	Last Invoice Loaded	Comments
1008	Barrington Fire Department (25 Year Plan)	MERS	16,017.10		-	-	-	1/5/2024	
1014	Bristol Police Department	MERS	18,770.80	16.89	-	-	-	12/22/2023	
1015	Bristol Fire Department	MERS	1,646.16	-	-	-	-	12/22/2023	
1019	Town of Bristol -General EE's Highway	MERS	0.49	-	-	-	-	12/22/2023	
1023	Bristol/Warren Regional School Department Non-Certified Employees	MERS	37,088.44	-	-	-	-	12/31/2023	
1036	Burrillville Housing Authority	MERS	2.00	-	-	-	-	12/16/2023	
1082	Town of Charlestown	MERS	9,752.78	-	-	-	-	1/9/2024	
1084	Charlestown Police Department	MERS	26,329.14	-	-	-	-	1/9/2024	
1122	Town of Cumberland	MERS	27,210.36	-	-	-	-	1/6/2024	
1148	Cumberland Rescue	MERS	8,913.06	-	-	-	-	1/6/2024	
1153	East Greenwich School Department Non-Certified Employees	MERS	1,153.46	-	-	-	-	1/12/2024	
1158	Town of E. Greenwich - COLA - Non-Certified Employees	MERS	9,123.13	-	-	-	-	1/12/2024	
1183	Exeter/W Greenwich School District Non-Certified Employees	MERS	20,427.23	-	-	-	-	1/5/2024	
1227	Greenville Water District	MERS	322.58	-	-	-	-	12/27/2023	
1282	Town of Johnston	MERS	42,492.04	-	-	-	-	1/5/2024	
1283	Johnston School Department Non-Certified Employees	MERS	262.90	-	-	-	-	12/29/2023	
1284	Johnston Police Department	MERS	17,813.11	-	-	-	-	1/5/2024	
1285	Johnston Fire Department	MERS	42,100.41	-	-	-	-	1/5/2024	
1302	Town of Lincoln	MERS	2,237.73	-	-	-	-	1/7/2024	
1305	Lincoln Rescue	MERS	12,506.20	-	-	-	-	1/7/2024	
1343	New Shoreham School Department Non-Certified	MERS	2,077.47	-	-	-	-	1/6/2024	
1413	Pawtucket School Department	MERS	-	-	-	-	-	11/25/2023	
1465	Smithfield Fire Department	MERS	10,179.52	-	-	-	-	1/6/2024	
1474	Smithfield Police Department	MERS	14,873.13	-	-	-	-	1/6/2024	
1493	South Kingstown School Department Non-Certified Employees	MERS	112.32	-	-	-	-	12/29/2023	
1515	Union Fire District	MERS	-	-	-	-	-	11/19/2023	
1562	Town of Warren	MERS	-	-	-	-	-	10/1/2023	
1564	Warren Police Department	MERS	-	-	-	-	-	10/1/2023	
1602	Town of West Greenwich	MERS	7,690.91	-	-	-	-	12/29/2023	
1604	West Greenwich Police and Rescue	MERS	17,596.71	-	-	-	-	12/29/2023	
1610	West Warwick School Dept (NC) - legacy	MERS	47,900.32	-	-	-	-	1/6/2024	
1613	West Warwick School Department (NC) new	MERS	4,989.87	-	2,273.68	-	-	1/6/2024	
1616	West Warwick Housing Authority	MERS	1,360.25	-	-	-	-	12/24/2023	
1633	Woonsocket School Department Non-Certified Employees	MERS	42,169.54	-	-	-	-	1/3/2024	
1802	Pascoag Fire District - Administration	MERS	108.09	-	-	-	-	1/13/2024	
1805	Pascoag Fire District	MERS	1,347.02	-	-	-	-	1/13/2024	
Grand total			444,574.27	16.89	2,273.68	0.00	0.00		
			100.00%	0.00%	0.51%	0.00%	0.00%		



11.2. State Investment Commission (SIC)

For Reference

ERSRI Memorandum

ERSRI BOARD:

James A. Diossa
General Treasurer Chair

John P. Maguire
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Joseph Codega, Jr.

Paul L. Dion

Matthew K. Howard

Brenna McCabe

Claire M. Newell

Andrew E. Nota

Raymond J. Pouliot

Jean Rondeau

Laura Shawhughes

Michael J. Twohey

Lisa A. Whiting

Frank J. Karpinski
Executive Director

Date: January 11, 2024

To: Retirement Board

From: Frank J. Karpinski, Executive Director

Subject: No State Investment Commission Report This Month

Please be advised that there was no State Investment Commission December 2023 meeting.



11.3. Retirement Application Processing Report

For Reference

Pension Application Processing Report
as of 12/31/2023

For Month of October 23

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	28	23	14	65
0-30 Days	6	8	5	19
30-60 Days	3	8	2	13
60-90 Days	-	2	2	4
90-120 Days	-	3	1	4
120 + Days	6	5	2	13
Total	43	49	26	118

For Month of November 23

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	23	20	12	55
0-30 Days	5	5	4	14
30-60 Days	-	1	3	4
60-90 Days	1	2	1	4
90-120 Days	-	1	1	2
120 + Days	1	7	3	11
Total	30	36	24	90

For Month of December 23

	Teachers	State Employees	Municipal Employees	Totals
Total Outstanding				
Less than 0	14	17	17	48
0-30 Days	6	21	7	34
30-60 Days	3	6	1	10
60-90 Days	-	1	-	1
90-120 Days	-	1	-	1
120 + Days	1	8	2	11
Total	24	54	27	105

	Teachers	State Employees	Municipal Employees	Totals
December 22	13	14	14	41
January 23	7	29	17	53
February 23	24	48	31	103
March 23	14	21	28	63
April 23	2	46	17	65
May 23	11	47	36	94
June 23	6	25	20	51
July 23	93	46	13	152
August 23	109	32	66	207
September 23	51	38	30	119
October 23	36	31	26	93
November 23	21	36	15	72
December 23	17	22	27	66
Total (rolling year)	391	421	326	1,138
Total (since 07/01/03)	8,397	9,784	5,471	23,652

Fiscal Year Totals

FY 2004 Total	689	665	199	1,553
FY 2005 Total	534	574	256	1,364
FY 2006 Total	493	507	221	1,221
FY 2007 Total	462	464	239	1,165
FY 2008 Total	409	659	195	1,263
FY 2009 Total	565	1,368	303	2,236
FY 2010 Total	562	283	263	1,108
FY 2011 Total	325	261	302	888
FY 2012 Total	458	346	292	1,096
FY 2013 Total	369	334	276	979
FY 2014 Total	266	311	209	786
FY 2015 Total	271	375	192	838
FY 2016 Total	301	345	262	908
FY 2017 Total	311	378	239	928
FY 2018 Total	300	570	269	1,139
FY 2019 Total	308	324	313	945
FY 2020 Total	349	405	281	1,035
FY 2021 Total	396	588	316	1,300
FY 2022 Total	380	467	336	1,183
FY 2023 Total	322	355	331	1,008
FY 2024 Total	327	205	177	709