




Employees' Retirement System of Rhode Island

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

Schedule	Wednesday, July 10, 2019 9:00 AM — 11:30 AM EDT
Venue	50 Service Avenue, Warwick, Rhode Island, 2nd Floor Conference Room
Description	Retirement Board Meeting
Notes for Participants	<p>Parking is available in front of our building. Additional parking is available in the parking lot as you pass through the gate which will open using your identification. You can enter either by the back parking lot entrance to come up the stairs to the 2nd floor or you can walk around to the main entrance which is in the front of the building to enter. If you forget or lose your ID badge, you will need to enter through the front door.</p> <p>If you are unable to attend the July meeting, please contact Frank at 462-7610 or Roxanne at 462-7608.</p>
Organizer	Frank J. Karpinski

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Employees' Retirement System of Rhode Island



Posted Agenda



EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
RETIREMENT BOARD MONTHLY MEETING

Wednesday, July 10, 2019
9:00 a.m.
2nd Floor Conference Room
50 Service Avenue, Warwick, RI

- I. Chairperson Call to Order
- II. Roll Call
- III. Election Subcommittee Report
 - Oath of Office for New Members – Raymond J. Pouliot, Retiree Representative and Michael J. Twohey, Active Teacher Representative
- IV. Nominations and Election of Vice-Chairperson of the Retirement Board
- V. Approval of the Draft Meeting Minutes of the May 17, 2019 Retirement Board Meeting
- VI. Chairperson's Report
 - Consideration of Treasurer's Nominations for Subcommittee Chairs
 - Discussion and Consideration of ERSRI Assuming Management of Central Falls Public Safety Retirement Plan.
 - 2019 Legislative Update
- VII. Executive Director's Report
 - Discussion Regarding the Appointment of the Assistant Executive Director
 - Discussion and Consideration of 2019 Strategic Plan
- VIII. Administrative Decisions
 - Administrative Appeals:
Mitchell D. Adams, et. al. vs. ERSRI
- IX. Approval of the May and June Pensions as Presented by ERSRI
- X. Legal Counsel Report
- XI. Committee Reports
 - Disability Subcommittee – (See Attachments I and II)*
 - Governance Subcommittee – Recommendation and Consideration of Draft Amendment to Regulation No. 1.1 - General Administrative Rules of the Retirement Board Regarding a Second Vice-Chairperson of the Board*
 - Member Services Subcommittee – Update on Member Survey*
- XII. Adjournment

Attachment I

Disability Applications and Hearings on June 7, 2019

- * David Marzella
- * Ted Dion
- * Albert Campanini
- * Albert Lafazia
- * Cornelius Tay
- * Christopher Konturas
- * Ellen Cuomo
- * Robert Peloquin
- * Renee Hill
- * Margaret Dixon
- * Donna Carew
- * Marybeth Lombardi
- * Jay Szaro
- * Sandra Turgeon
- ** Inez Travers
- ** Ray Williams

*Votes by the full Board on these applications will be limited to approvals made by the Disability Subcommittee at their June 7, 2019 meeting.

**Recommendations on these denied applications or decisions reversing prior denials were approved by the Disability Subcommittee at their June 7, 2019 meeting.

Attachment II

Disability Applications and Hearings on July 3, 2019

- * Paula McVeigh
- * Donald Fravala
- * Christopher Konturas
- * Renee Hill
- * Scott Rossi
- * Olga Beauregard
- * Karen Bachus
- * Michael Petit
- * Kevin Swanson
- * Danny Price
- * Gregg Snowling
- * Ruth Carpenter
- * David Thacker
- * Laura Baker
- * John Guadagni
- * Janet Casavant
- * Yvette Mongeon
- ** David Marzella
- ** Albert Campanini
- ** Margaret Dixon

** Donna Carew

** Mary Beth Lombardi

** Jay Szaro

*Votes by the full Board on these applications will be limited to approvals made by the Disability Subcommittee at their July 3, 2019 meeting.

**Recommendations on these denied applications or decisions reversing prior denials were approved by the Disability Subcommittee at their July 3, 2019 meeting.

Employees' Retirement System of Rhode Island



1. Chairperson Call to Order

Call to Order

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



2. Roll Call

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



3. Election Subcommittee Report

For Discussion and Recommendation to the Full Board

Presented by Jean Rondeau

Employees' Retirement System of Rhode Island



3.1. Oath of Office for New Members – Raymond J. Pouliot, Retiree Representative and Michael J. Twohey, Active Teacher Representative

For Report

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



4. Nominations and Election of Vice-Chairperson of the Retirement Board

For Discussion and Consideration

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



5. Approval of the Draft Meeting Minutes of the May 17, 2019 Retirement Board Meeting

For Vote

Presented by Treasurer Seth Magaziner



**Employees' Retirement Board of Rhode Island
Meeting Minutes**

Friday, May 17, 2019 ,8:30 a.m.

**University of Rhode Island, Alton Jones Campus,
Whispering Pines Conference Center,**

Laurel Lodge, 59 Louttit Lane, West Greenwich, RI 02817

The Meeting of the Retirement Board was called to order at 8:47 a.m., Friday, May 17, 2019 in the Laurel Lodge Conference Room, 59 Louttit Lane, West Greenwich, RI 02817

I. Roll Call of Members

The following members were present at roll call: General Treasurer Seth Magaziner; Roger P. Boudreau, Mark A. Carruolo; Brian M. Daniels; Michael DiBiase; Paul L. Dion, Ph.D.; Thomas M. Lambert; John P. Maguire; Thomas A. Mullaney; Claire M. Newell; Jean Rondeau; Laura Shawhughes; Lisa A. Whiting.

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

Recognizing a quorum, Treasurer Magaziner called the meeting to order.

II. Approval of Minutes

On a motion duly made by Roger P. Boudreau and seconded by Paul L. Dion, Ph.D., it was unanimously

VOTED: To approve the regular Draft Meeting Minutes and the Executive Session draft minutes of the March 18, 2019 meeting of the Retirement Board of the Employees' Retirement System of the State of Rhode Island.

III. Disability Subcommittee

The Disability Subcommittee recommended the following actions on disability applications as a result of its April 5, 2019 meeting for approval by the full Board.

	Name	Membership Group	Type	Action
1.	Kerri-Anne Ryan	State	Accidental	Approved at 50%
2.	Jean-Marie Sjostedt	State	Accidental	Approved at 66 2/3%
3.	Joseph Frezza, Jr.	State	Accidental	Approved at 50%
4.	Rosa Del Carmen Cruz Vida	Teacher	Accidental	Approved 66 2/3%
5.	Paul Deltoro	State	Ordinary	Approved

	Name	Membership Group	Type	Action
6.	Laverne Applegate	State	Ordinary	Approved
7.	Marguerite Cote	State	Ordinary	Approved
8.	Steven Casalino	State	Accidental	The Board's previous decision on 12-18-2018 to approve Mr. Casalino 50% was overturned and approved for 66 2/3%

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of April 5, 2019 on items 1, 4, 7, and 8.

Claire M. Newell recused herself (on items 1, 4, 7 and 8).

On a motion by Laura Shawhughes and seconded by Roger P. Boudreau it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of April 5, 2019 on item 5.

John P. Maguire recused himself (on item 5).

On a motion by Laura Shawhughes and seconded by Roger P. Boudreau it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of April 5, 2019 on items 2, 3, 6 and 9.

The Disability Subcommittee recommended the following actions on disability applications as a result of its May 10, 2019 meeting for approval by the full Board.

	Name	Membership Group	Type	Action
1.	Kirk Sedgley	State	Accidental	Approved at 50%
2.	Vincenza Rosa	State	Accidental	Approved at 50%
3.	Denise Cecere	State	Accidental	Approved at 66 2/3%
4.	Paul Juneau	Municipal	Accidental	Approved
5.	Paul O'Donnell	State	Accidental	Approved at 66 2/3%
6.	Henry Araujo	Municipal	Accidental	Approved
7.	James Phelan	Teacher	Ordinary	Approved

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of May 10, 2019 on items 1, 2, 3, 5 and 6.

Claire M. Newell recused herself (on items 1, 2, 3, 5 and 6).

On a motion by Laura Shawhughes and seconded by Roger P. Boudreau it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of May 10, 2019 on item 8.

John P. Maguire recused himself (on item 8).

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of May 10, 2019 on items 4 and 7.

IV. Approval of the March and April Pensions as presented by ERSRI

On a motion by Roger P. Boudreau and seconded by Thomas A. Mullaney, it was unanimously

VOTED: To approve the March and April Pensions as presented.

V. Nominations and Election of Vice-Chairperson of Retirement Board

Treasurer Magaziner noted that William B. Finelli resigned from the Board and said there will be an election of a new Vice Chair, but suggested that the election be delayed to the next Board meeting, scheduled for July 10, 2019.

Paul L. Dion, Ph.D. noted that in the event both the Chairman and Vice Chair are absent from a meeting there should be a second Vice Chair. Treasurer Magaziner agreed and said it would be prudent for the Governance Subcommittee to review this matter and formalize a rule. Mr. Boudreau recommended adding the request to the agenda of the next subcommittee meeting on July 9th.

On a motion by Paul L. Dion, Ph.D., and seconded by Roger P. Boudreau, it was unanimously

VOTED: To table the election of a Vice Chairperson to the next Board meeting and request the Governance Subcommittee formalize a rule to create a second Vice Chairperson in the event both the Chairperson and the Vice Chairperson are absent.

VI. Board Fiduciary Training and Continuing Education Session

- **Joseph P. Newton – ERSRI Sensitivity Analysis** – Mr. Joseph P. Newton, F.S.A., E.A., Senior Consultant & Actuary of Gabriel, Roeder, Smith & Company provided an overview to the Board on a Sensitivity Analysis of the ERSRI plans.

Mr. Newton discussed a closed plan policy for the Board to consider. He recommended keeping the process similar to current policy in which GRS and ERSRI Staff evaluate the situation and develop an appropriate policy based on the individual situation. Mr. Newton recommended that the Board consider approval of the final policy. The Treasurer agreed and suggested the Governance Subcommittee take up the matter and report to the Board.

- **ERSRI Website Demonstration/Tutorial** -- Ms. Tara Corcelli, ERSRI Special Projects Manager, provided the Board an overview of ERSRI's website for both active and retired members. She also discussed the user id and password usage for a member's profile and projection tool.
- **Board Strategic Plan Development** – Mr. Andrew Manca, Chief Operating Officer, provided an overview of the compilation of the Board Subcommittees' responses regarding the SWOT (*Strengths, Weaknesses, Opportunities and Threats*) analysis performed with them. Director Karpinski provided an update summarizing the previous strategic plan. Mr. Manca identified the previous plan's successes and opportunities and began a discussion with the Subcommittee on the SWOT analysis performed, and documented the feedback to create objectives and key results identified by the Board.
- **Disability Statistics and Data** – Director Frank J. Karpinski, Gayle C. Mambro-Martin Esq. and Disability Pension Manager Amanda D. Lucas provided a report, required by the Disability Subcommittee charter, to report to the Board statistics on cases adjudicated and the disposition by the subcommittee. They also reported on the number and type of physicians engaged by the committee and their determination statistics.

VII. Adjournment

There being no other business to come before the Board, on a motion by Claire M. Newell and seconded by Roger P. Boudreau, the meeting adjourned at 3:30 p.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director

Employees' Retirement System of Rhode Island



6. Chairperson's Report

For Report

Employees' Retirement System of Rhode Island



6.1. Consideration of Treasurer's Nominations for Subcommittee Chairs For Discussion and Consideration Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



6.2. Discussion and Consideration of ERSRI Assuming Management of Central Falls Public Safety Retirement Plan.

For Discussion and Consideration

Presented by Frank J. Karpinski

Update on Central Falls Entry in ERSRI



*Employees' Retirement System of Rhode
Island*

www.ersri.org

Background

- ▶ Central Falls Mayor James Diossa, members of its police department, F.O.P. Lodge 3, fire department, I.A.F.F. Local 1485, and the Office of the General Treasurer, have agreed on a plan to bring city's locally administered pension plan into the state's Municipal Employees Retirement System (MERS).
- ▶ Enabling Legislation is H6236 Sub A and S991 Sub A
- ▶ MERS currently manages the following plans under the MERS benefit structure:
 - Central Falls Municipal
 - Central Falls Non-Certified (school employees)
 - Central Falls Housing



Current Plan Status

As of 6/30/18 Valuation	
Projected Contributions FY2020	\$2,903,769
Funded Ratio	26.5%
<i>Active Members</i>	76
<i>Retirees and Beneficiaries</i>	66
<i>Disabled Retirees</i>	53
Payroll of Active Members	\$4,684,587
Average Salary	\$61,639
Pension Payroll – Service Retirees	\$988,114
Pension Payroll – Disabled Retirees	\$1,211,758
Actuarial Accrued Liabilities	\$37,631,989
Actuarial Value of Assets (<i>set equal to Market Value</i>)	\$9,988,424
Unfunded Actuarial Accrued Liability	\$27,643,565

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Background History on Bankruptcy

- ▶ On August 2, 2011, the Receiver filed a Chapter 9 petition on behalf of the City with the Bankruptcy Court.
- ▶ Prior to January 9, 2012, the Settlement Agreement was executed by the Receiver, the Director of Revenue, the Participating Retirees, and the Central Falls Police Retirees Association, Inc. and the Central Falls Firefighters Retirees Association.
- ▶ On January 9, 2012, the Bankruptcy Court entered an Order approving the Settlement Agreement.



Background History on Bankruptcy

- ▶ The Participating Retirees' pension benefits were reduced by up to fifty-five (55%) of their pre-bankruptcy pension payments.
- ▶ The General Assembly authorized appropriations during Fiscal Years 2012 and to the present for participating retirees to receive transition payments, so that their combined reduced pension payments and transition payments would not aggregate to less than seventy-five percent (75%) of their pre-bankruptcy pension payments.
- ▶ The Participating Retirees of the Central Falls Police and Firefighters waived substantially all of their claims against the City and the State.



What the Legislation Enables – Existing Plan

- ▶ Closing of the existing plan to new Police and Fire members.
- ▶ ERSRI will assume management of the existing plan as a separate entity.
- ▶ ERSRI will manage all administration:
 - Payroll, actuarial valuations, disability determinations and administration of state supplemental payments to retirees.
 - Investments will be comingled with the rest of ERSRI and managed by the SIC
 - The plan will adopt ERSRI actuarial assumptions.
 - The liability rests with the town.



What the Legislation Enables – Existing Plan

- ▶ Benefits will remain as currently constituted within the current Collective Bargaining Agreement (CBA) except:
 - Change in contribution rate from 10.5% to 11.7%
 - Elimination of partial disability benefit
- ▶ ERSRI will have discretion to set amortization schedule
 - Recommendation on amortization will be presented to Board once a new valuation is produced



Current Benefit Structure per CBA

Active Police and Fire Members

- ▶ May retire upon completion of twenty-five (25) years of credited service and age fifty-three (53)
- ▶ Receives two percent (2%) per year of credited service equal to fifty percent (50%)
- ▶ The average salary includes longevity and holiday pay for the highest consecutive five (5) years within the final ten (10) years of employment.
- ▶ An employee who remains in the department after twenty-five (25) years receives an additional one percent (1%) for each additional complete year of credited service up to 5 years.
- ▶ The maximum pension is fifty-five (55%) of the Average Salary.



Current Benefit Structure per CBA

- ▶ No member can collect any annual non-disability pension benefit prior to age 50.
- ▶ Any member with at least five (5) years of service who chooses to retire and collect a pension between the ages of fifty (50) and fifty-three (53) will have their pension benefit reduced by an early retirement factor (ERF).
- ▶ All members in service prior to July 1, 2019 who subsequently retire shall receive a two percent (2%) non-compounding COLA.
 - Cost of living adjustments are made effective July 1 following a member's retirement date and every July 1 thereafter.



Current Benefit Structure per CBA

- ▶ A disability resulting from an act of duty and determined to be totally permanently disabled is entitled to sixty-six and two thirds percent (66 2/3 %) pay of the salary including longevity and holiday pay of the rank held at the time of his disability for life.
- ▶ A member with more than five (5) years of credited service but less than twenty-five (25) years service may also elect to take a refund of accumulated contributions with interest.
- ▶ A member determined to be totally and permanently disabled as a result of a non-service connected injury or disease is entitled to receive a pension of fifty percent (50%) of the highest salary including longevity and holiday pay of the rank held at the time of his disability.



Current Benefit Structure per CBA

Retired Police and Fire Members

- ▶ Retired former Central Falls police officers or fire fighters who retired prior to September 1, 2019 will also be administered by ERSRI
- ▶ Central Falls retirees and their beneficiaries, and also all other retired former employees and their beneficiaries who are entitled to benefits under the "settlement agreement" , will retain all of the benefits accrued and calculated to them as provided in the settlement agreement.
- ▶ They will continue to receive the 2% COLA as provided for in the CBA



New Members – New Plan

- ▶ Police and Fire members hired after September 1, 2019 will become members of MERS.
- ▶ They will be subject to all of the provisions of §45–21.2 (*Optional Retirement for Members of Police Force and Fire Fighters*)
 - Will have the MERS COLA under 45–21–52
 - Will also be subject to the TIAA 401(a) plan as they do not participate in Social Security.



Retirement Board Acceptance

- ▶ Approval process (City, bargaining units)
 - Recommend that Board accepts this plan
 - It is contingent on no other changes made to benefits in the CBA through August 30 other than to raise the employee contribution rate in the closed plan to 11.7% and elimination of the partial disability benefit option
- ▶ All labor organizations and Retirees must assent to participation of their respective memberships, through a CBA and ratification of the decision by a majority vote of those members.
- ▶ A copy of the resolution or ordinance and proof of assent must be forwarded to the retirement board for review.



2019 LEGISLATION PASSED BY RI GENERAL ASSEMBLY

Retirement Board meeting – 7/10/19



CONTRIBUTION TIMING

- Proposal based on 2018 recommendation of Retirement Board
- Will speed transmission of employee contributions to Retirement System
 - Shortened from 45 days to 3 days
- This legislation will address two issues
 - Reduce delay in providing first retirement check
 - ERSRI must wait for the final contribution of the retiree before beginning to calculate their benefit
 - Forgone investment earnings, as no investment income is earned on contributions before they are transferred to ERSRI
- Effective date: July 1, 2020

CORRECTION OFFICER RETIREMENT

- Legislation had been introduced for several years to address a discrepancy for members who had rendered service both as Correctional Officers and as state employees
- In 2019, the legislation allows members to combine their time as a Correctional Officer and as a state employee in determining their retirement eligibility date and the calculation of their retirement benefits
 - Applicable to approximately 33 active members and two retirees.
- GRS reviewed the proposal and calculated a projected contribution increase of \$227,000 due to these changes

Employees' Retirement System of Rhode Island



6.3. 2019 Legislative Update

For Report

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



7. Executive Director's Report For Report

Employees' Retirement System of Rhode Island



7.1. Discussion Regarding the Appointment of the Assistant Executive Director

For Report

Presented by Frank J. Karpinski

Employees' Retirement System of Rhode Island



7.2. Discussion and Consideration of 2019 Strategic Plan

For Discussion and Consideration

Presented by Frank J. Karpinski



EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND 2019 STRATEGIC PLAN

Mission Statement

ERSRI exists to provide financial security in retirement to its members. This mission is accomplished through the adoption of policies and practices that maintain the sustainability of the retirement system, delivering relevant and timely retirement planning resources to members, providing its membership with superior customer service, and executing prudent fiscal administration of the retirement system.

Vision

To provide all members of ERSRI with a secure and predictable retirement. To provide members with knowledge of their retirement benefits, and understanding of their replacement income needs at retirement, and access to robust counseling services to assist with their retirement planning. Upon retirement, for members to attain benefit payments in a timely manner. To provide members and their beneficiaries with efficient, courteous, and timely service in all interactions with the retirement system.

ERSRI Strategic Plan

Objective 1 - Improve Member Services - Processing and Service.

Key Result 1. *Transition to 1 on 1 counseling for members at time of retirement*

- *Educate member at 1 on 1 to use on-line estimator and website*

Key Result 2. *Provide 1 on 1 Counseling to eligible members 5 years from normal retirement age, either due to data cleansing or clean accounts.*

- *Transition to 5-year estimate statement and 1 on 1 counselling of eligible members*

Key Result 3. *Proactively provide benefit estimate to eligible members who are 5 years from retirement as part of data cleansing project.*

- *As member accounts are fixed during the data cleansing project, if they are eligible, a benefit estimate will be provided, and a 1 on 1 counselling session offered.*

Data used for calculating member transactions requires significant cleansing by staff prior to processing benefits. Completion of a data validation project will significantly enhance members' customer experience, education and expedite benefit processing. (Note: this is the first step in a multi-year project to clean up member data and deliver system enhancements.)

Key Result 4. *Reduce pension processing time: process 75% of cases in 60 days or less.*

- *As data is corrected during the project, less time will be required to process the benefit*
 - *Options to consider for expediting processing:*
 - *After education of employers (see objective 2 key result 3), cease reconciliation of data to employer and use employer data as posted in system by employer.*
 - *Consider expedited service credit calculation for data conversion – contributed during month, awarded month credit.*
 - *Reorganize staff to benefit calculation team and data collection team (e.g., day counts, salary verification)*

ERSRI Strategic Plan

Key Result 5. *Address data issue for members with time in both MERS/State*

- *Currently being working on by data project team. Retrain staff or consider reorganizing responsibilities*
-

Objective 2 - Improve Member Engagement and Education

Key Result 1. *Provide retirement information at time of hire and upon termination of state service if prior to retirement*

- *Provide new members information about their plan and contact information*
- *Include summary plan description with new enrollment application*
 - *Include link to website and/or email for member handbooks*
- *Begin new hire training in group sessions*
 - *Include TIAA in session and explain benefits and fund selection*
- *Begin mid-career training*
 - *Focus on TIAA and fund selection*

Key Result 2. *Develop and implement life cycle member communications calendar*

- *Engage public relations firm or in-house communications resources to develop communication schedule and strategy*
 - *Simplify communication, use more 1-page newsletters or bullets to be provided on specific issues more frequently*
 - *Increase use of social media to communicate bullets of information*

Key Result 3. *Train the Trainer: Engage with HR groups and unions representing Municipal Employers/School Departments to ensure members are getting accurate information from their employers and ERSRI is fully utilizing employers as a communication channel to members*

ERSRI Strategic Plan

- *Obtain email contact and/or secondary contact for State Employees, Teachers and Municipal Employees, or create a means of contact through the state/municipal agencies and schools; utilize outreach methods currently used by agencies/schools.*
- *Develop Employer training education program*
 - *Develop training program for employers on how to fill out needed forms, how to process transactions through website, educate why various information is needed, membership and benefit eligibility.*
 - *Develop documentation and training to employers on how to process members e.g. rules on contributions, what are eligible stipends, what constitutes membership, how to post transactions etc.*
- *Educate labor groups on applicable benefit structure.*
 - *Reach out to Union Representatives, RIASBO, RIDE, RILCT, and DOA to attempt to obtain email lists and educate on membership and benefits.*
 - *Reach out to agency/school HR/payroll reps to confirm a point of contact for current internal outreach and educate on membership and benefits.*
 - *Determine how agencies/schools reach their members with other benefit needs (i.e., healthcare, retirement incentives)*
 - *Meet with contacts to create outreach partnerships so that we can stay up to date as members are hired into or leave the system*

Key Result 4. *Educate Members via ERSRI or TIAA. Complete a redesign of the ersri.org website to improve navigation and ease of access to information. This will also include a content refresh that includes the development of new content.*

- *Website enhancement to see full retirement picture (i.e. DC, 457, DB and social security info on same page)*
- *Integrate multiple DC plans and to member website by engaging software provider.*
- *Develop RFI and design requirements to get cost. Also consider current vendor, Morneau Shepell, to design*
- *Simplify ERSRI website- engage consultant to redesign website to provide more user-friendly screens and easier navigation*
 - *Provide video links on ERSRI Website on services offered by ERSRI and specific transactions:*

ERSRI Strategic Plan

- *Example - how to fill out forms, how COLA is paid, how benefit is computed, how TSB works and is computed*

Key Result 5. *Produce and make available handbooks for ERSRI plan benefits, Disability benefits and TIAA plan structure (hardcopy and online)*

- *Inform new hires of ERSRI website and available information through new hire training and enrollment packet mailing*

Key Result 6. *Secure 3rd party vendor for counseling services*

- *Develop requirement document and incorporate info from member survey of needs (if applicable)*

Objective 3 - Improve Cybersecurity

Key Result 1. *Utilize SENET audit to establish baseline security needs*

- *Finalize contract for Information Systems security risk assessment audit. The purpose is to request an independent assessment of ERSRI's operations, internal controls and its policies and procedures as well as an audit of its SaaS line of business system hosted by Morneau Shepell (MS) located in Toronto, Canada*
- *Audit critical systems security model and workflows to identify vulnerabilities and threats.*
- *Conduct a physical security assessment of the premises of ERSRI and surrounding area and its Application Service Provider for benefits administration, MS in Toronto, Canada. Recommend the corrective and preventative solutions, should they be required, for ERSRI or MS to implement in an effort to improve the informational environment.*
- *Draft appropriate security policies and procedures.*
- *Perform periodic on-site risk management and review of cyber security procedures, analysis of system output data to identify potential breaches, suggest best practice, apprise senior management of known threats.*
- *Connections to External Partners, review ERSRI's connection and security posture to our external partners through wide area networks, dedicated circuits, ASP's, remote clients, and remote server technologies; Assess remote access and security of*

ERSRI Strategic Plan

network connections and data traffic to and from external partners (External partners include, but is not limited to, ERSRI's custodian banks, system actuary and deposit banks.)

Key Result 2. *Develop, implement, and educate staff on security plan using SENET audit results.*

- *Upon completion of the assessment, SENET will provide a comprehensive training/presentation to all ERSRI staff outlining best practices for security awareness. Online testing of employee comprehension of security awareness will be required by SENET.*

Objective 4 - Address Disability Process

Key Result 1. *Reduce application process duration by identifying and deploying case management software and that will also allow for better application tracking, monitoring approvals, earnings, and health improvements.*

- *Develop RFI to look for vendors on disability case management system and engage vendor.*

Objective 5 - Manage System Funding

Key Result 1. *Continue to maintain GFOA Certificate in excellence of financial reporting status*

- *Application to be filed for 2019 Reporting*

Key Result 2. *Use experience studies to make sure assumptions are reasonable*

- *Experience study is currently part of GRS contract.*

NOTES



	DUE DATE	Q1FY20	Q2FY20	Q3FY20	Q4FY20	Q1FY21	Q2FY21	Q3FY21	Q4FY21	Overall
OBJECTIVE 5	Manage System Funding									
Key Result 1	Continue to maintain GFOA Certificate in excellence of financial reporting status									
Key Result 2	Use experience studies to make sure assumptions are reasonable									

NOTES

Employees' Retirement System of Rhode Island



8. Administrative Decisions

For Decision

Presented by Treasurer Seth Magaziner

Employees' Retirement System of Rhode Island



8.1. Mitchell D. Adams, et. al. vs. ERSRI

For Vote

Presented by Michael P. Robinson

MITCHELL D. ADAMS VS. ERSRI



Employees' Retirement System of Rhode Island

ERSRI Board:

May 14, 2019

Seth Magaziner
General Treasurer
Chair

Edward C. Roy, Esq.
ROY & COOK, Attorneys at Law
577 Tiogue Avenue, 2nd Floor
Coventry, RI 02816

William B. Finelli
Vice Chair

RE: Notice of Full Board Meeting – *Mitchell Adams et. al. vs ERSRI*

Roger P. Boudreau

Dear Attorney Roy:

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 overpayments it made to retirees of the Town of North Providence.

Brian M. Daniels

Michael DiBiase

In accordance with Regulation 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 July 10, 2019 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.

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Thomas A. Mullaney

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

Claire M. Newell

Marcia B. Reback

DATE: Wednesday, July 10, 2019
TIME: 9:15 a.m.
LOCATION: 50 Service Avenue, 2nd Floor Conference Room
Warwick, Rhode Island 02886

Jean Rondeau

Laura Shawhughes

Lisa A. Whiting

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.

Frank J. Karpinski
Executive Director

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

Sincerely,


Roxanne Donoyan
Administrative Assistant

Ccs: Timothy M. Bliss, Esq. via email: tbliss@timblisslaw.com
Vincent F. Ragosta, Jr., Esq. via email: v.ragosta@vfr-law.com
Maria Vallee, Finance Director, Town of North Providence, mvallee@northprovidenceri.gov
Michael P. Robinson, Esq.

1.4 Rules of Practice and Procedure for Hearings in Contested Cases

A. Introduction

1. These Rules of Practice and Procedure are promulgated pursuant to R.I. General Laws Section 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. General Laws Sections 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 he or she is 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 Section 1.9, 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 he or she is 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 subsection (2), 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 his or her 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 RIGL §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 he or she 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 his or her case followed by presentation of the Retirement System's case.

APPEAL OF:

MITCHELL ADAMS et. al., Appellants

vs.

EMPLOYEES' RETIREMENT SYSTEM
OF RHODE ISLAND, Respondent

Appearance for Appellants: EDWARD C. ROY, ESQ.,
1130 Ten Rod Road, A-103
North Kingstown, Rhode Island 02852

Appearance for Respondent: MICHAEL P. ROBINSON, ESQ.
Legal Counsel
Employees Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

Hearing Officer: TERESA M. RUSBINO, ESQ.
Employees' Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
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, Mitchell Adams, et. al., collectively, retired North Providence, Rhode Island firefighters (hereinafter referred to as "Appellants"), are appealing the February 14, 2018 administrative denial of the Employees' Retirement System of Rhode Island (hereinafter "Respondent"). In its decision, the Respondent denied Appellants' request to reverse its prior action, in which Respondent recalculated the pension benefits of the Appellants. The Appellants' request was denied on the basis that the compensation used in

the calculation of Appellants' pension benefits improperly included longevity payments based on overtime pay. By letter dated March 9, 2018, the Appellants appealed the February 14, 2018 decision, which was subsequently referred for hearing to this hearing officer. The appeal was perfected in accordance with the Rules of Practice. A hearing was held on October 1, 2018 at the offices of the Employees' Retirement System of Rhode Island, 50 Service Avenue, Warwick, Rhode Island. Both parties submitted pre-hearing memoranda of law. At the hearing, each party introduced a set of exhibits by agreement. See Appellants' Exhibits A-F and H-K [Appellants' Exhibit G was marked for identification only] and Respondent's Exhibits 1-6. The parties also submitted post hearing memoranda of law in support of their respective positions.

FINDINGS OF FACT:

1. Appellants are all retired firefighters formally employed by the North Providence, Rhode Island Fire Department ("NPFDF").¹
2. Pursuant to an arbitration decision involving the collective Bargaining Agreement ("CBA") between the NPFDF and the Town of North Providence, longevity pay based on overtime (also referred to as holiday pay) was included in the gross pay of North Providence firefighters.
3. At all times relevant to this matter, the NPFDF was a participant in the pension system administered by MERS.

¹ Appellant Mitchell Adams is no longer a party to this appeal per the representation of Appellants' counsel at the October 1, 2018 hearing. See Transcript, dated October 1, 2018, Page 7, Lines 16-22.

4. The Town of North Providence ("Town") was required to contribute an amount equal to six percent (6%) of the salary or compensation earned and accruing to the member.
5. In calculating the Appellants' employer and employee contributions, the Town included longevity payments based upon overtime pay.
6. From the period January, 2011 to March, 2011, both the Town and the Respondent became aware that the Town was including longevity payments based upon overtime pay in its calculation of Appellants' employer and employee contributions.
7. By emails dated March 13, 2011 and March 23, 2011, Respondent informed the Town that longevity payments based upon overtime pay should not be included in its calculation of Appellants' employer and employee contributions that are provided to the retirement system for the calculation of retirement benefits.
8. During the period March, 2011, to March, 2017, there were numerous email exchanges between Respondent and the Town regarding the issue of how the Town had calculated Appellants' employer and employee contributions. The Town provided Respondent with a copy of the CBA between the Town and the NPF, as well as a copy of the Rhode Island Superior Court decision in Town of North Providence v. Local 2334, IAFF, 763 A.2d 604 (R.I. 2000), upholding the Appellants' arbitration award relative to the longevity and overtime pay issue.

9. By letter and email, both dated August 2, 2011, the Respondent reiterated its position to the Town that longevity payments based on overtime pay must not be included in its calculation of Appellants' employer and employee contributions provided to the retirement system for the calculation of retirement benefits. Respondent further informed the Town that adjustments needed to be made to members' pensions, due to the Town's excess contributions to the retirement system.
10. During the period May, 2017, to June, 2017, Respondent sent letters to Appellants recalculating their monthly pension benefits and informing them of the process to recoup the overpayments through monthly deductions from their pension benefit.
11. On or about May 1, 2017, Appellants brought an action in Providence Superior Court, seeking a declaratory judgment that Respondent's calculation method of excluding longevity based upon overtime pay was incorrect.
12. Respondent moved to dismiss the action referred to in Section 11, above, due to Appellants' failure to exhaust their administrative remedies with the Respondent, in accordance with the Administrative Procedures Act. Respondent's motion was granted on or about December 19, 2017.

13. By letter dated February 14, 2018, Respondent denied the Appellants' request to reverse its prior decision recalculating the pension benefits of the Appellants, retroactive to their dates of retirement.

14. By letter dated March 9, 2018, the Appellants appealed Respondent's Administrative Denial and requested an administrative hearing.

ISSUE ON APPEAL:

Did the Respondent err in denying the Appellants' request to reverse its prior decision to recalculate the Appellants' pension benefits, retroactive to their dates of retirement, due to the fact that the compensation used to calculate said benefits included longevity payments based on overtime pay?

CONCLUSION AND ORDER:

R.I.G.L. Section 45-21-41(a) provides the basis of the calculations of the Appellants' contributions. It reads in relevant part as follows:

(a) Prior to July 1, 2012, each member shall contribute an amount equal to six percent (6%) of salary or compensation earned and accruing to the member; provided, that contributions by any member cease when the member has completed the maximum amount of service credit attainable. Special compensation for additional fees shall not be considered as compensation for contribution purposes.... (emphasis supplied)

Additionally, R.I.G.L. Section 36-8-1(8) defines "compensation" in relevant part as follows:

(7) "Compensation" as used in chapters 8—10 of this title, chapters 16 and 17 of Title 16, and chapter 21 of Title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but

shall not include payments made for overtime or any other reason other than performance of duties.... (emphasis supplied)

Appellants argue that longevity payments based on overtime pay should be included within the definition of "compensation" for contribution purposes and included as a basis for the calculation of contributions used to determine pension benefits. Appellants' argument, however, is wholly inconsistent with the language of the statutes referred to above. R.I.G.L. Section 31-8-1(8) specifically excludes from the definition of compensation those payments made for overtime. R.I.G.L. Section 45-21-41(a) specifically excludes special compensation for additional fees from the compensation to be considered for contribution purposes. If overtime pay is specifically excluded from the statutory definition of compensation set forth in R.I.G.L. Section 31-8-1(8), then it is reasonable to conclude that longevity payments based upon said overtime pay are also excluded.

As support for their claim that contributions should be paid on all longevity payments, including those based on overtime pay, the Appellants point to their CBA, as well as the arbitration decision based upon it, both of which require the payment of contributions on all longevity payments, including those based on overtime pay. However, it is well established that municipalities may not contract to provide benefits that either conflict with state law or usurp the authority of the state agency vested with the power to interpret and enforce those laws. See City of Cranston v. Int'l Brd. of Police Officers, Local 301, 115 A.3d 971, 979 (R.I. 2015). It is apparent that the Retirement Board has been granted authority to

establish and implement rules and regulations for the administration of the retirement system and to effectuate the provisions of the retirement statutes. See Perotti v. Solomon, 657 A.2d 1045, 1048 (R.I. 1995). Specifically, in this instance, they have been charged with determining what constitutes “compensation” within the meaning of R.I.G.L. Section 36-8-1(8) for the purpose of calculating Appellants’ retirement benefits. No CBA, or arbitration decision arising out of a CBA, can divest the Respondent of its authority to implement and interpret the provisions of the retirement statutes. The same principle applies to the Fair Labor Standards Act, 29 U.S.C. Section 201, et.seq. (“FLSA”), also cited by the Appellants in support of their argument. Regardless of whether the FLSA defines longevity based on overtime as “regular longevity,” it is irrelevant to the issue of whether Respondent has erred in its interpretation of R.I.G.L. Sections 36-8-1(8) and 45-21-41(a). Even if the language of the retirement statutes at issue were ambiguous, it is well settled 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. Dep’t of Env’tl. Mgmt., 941 A.2d 151, 157 (R.I. 2008). In fact, its interpretation is entitled to substantial deference, even if the agency’s interpretation is not the only permissible interpretation that could be applied. Lyman v. Employees’ Retirement Sys., 693 A.2d 1030, 1031 (R.I. 1997).

Appellants also argue that Respondent is estopped from recalculating their pension benefits, because Respondent did not notify Appellants of the miscalculated contributions sooner. The doctrine of estoppel may be applied

against public agencies, “to prevent injustice and fraud when the agency or its officers make representations that cause a person to act or refrain from acting in a particular manner to his or her detriment.” Caron v. Town of N. Smithfield, 885 A.2d 1163, 1164 (R.I. 2005) citing Romano v. Ret. Board of the Employees’ Ret. Sys., 767 A.2d 35 (R.I. 2001). In this instance, there is no evidence of any representations made by Respondent to Appellants concerning the inclusion of longevity payments based on overtime pay. Rather, there are a series of communications between Respondent and the Town in which Respondent informs the Town that it should not have included longevity payments based on overtime pay in its compensation calculation. Moreover, Respondent repeatedly sought adjusted compensation information from the Town over the course of several years, in order to properly recalculate the Appellants’ pension benefits.

Regardless of the above, the United States Supreme Court has held that, “[the government] is neither bound nor estopped by acts of its officers or agents in entering into an arrangement or agreement to do or cause to be done what the law does not sanction or permit.” Office of Personnel Management v. Richmond, 496 U.S. 414 (1990) citing Utah Power & Light Co. v. United States, 243 U.S. 389, 408-409 (1917). The case law that restricts the availability of the equitable estoppel doctrine for use against governmental entities is based upon the principle that, “public funds will be spent according to the letter of the difficult judgments reached by [the elected legislature] as to the common good and not according to...the individual pleas of litigants.” Romano v. Ret. Board of the Employees’ Ret. Sys., 767 A.2d 35 (R.I. 2001) citing Office of Personnel

Management v. Richmond, 496 U.S. 414, 428 (1990). The Respondent, therefore, is entitled to recover the overpayments it made to the Appellants, based upon the incorrect compensation and contribution information it received from the Town.

For the reasons set forth herein, the Decision of the Respondent, dated February 14, 2018, is hereby affirmed.

It is so ordered.

DATED: April 22, 2019

Teresa M. Rusbino, Esq.

TERESA M. RUSBINO, ESQ.
Hearing Officer
Employees' Retirement System
of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

CERTIFICATION

I hereby certify that on the 22nd day of April, 2019, I caused to be delivered via email to the following: edward_roy@hotmail.com (Edward C. Roy, Esq., counsel for the Appellants); mrobinson@shslawfirm.com (Michael P. Robinson, counsel for Respondent ERSRI); FKarpinski@ersri.org (Frank Karpinski, Executive Director, ERSRI); Gayle.Mambro-Martin@ersri.org (Gayle Mambro-Martin, Deputy General Counsel, ERSRI); v.ragosta@vfr-law.com (Vincent Ragosta, Esq., counsel for the Town of North Providence); tbliss@timblisslaw.com (Timothy Bliss, Esq.)

Teresa M. Rusbino, Esq.

In The Matter Of:
Employees Retirement System Hearing

Adams, et al vs. Town of North Providence
October 1, 2018



ALLIED

COURT REPORTERS, INC.

—AND—

VIDEO CONFERENCE CENTERS

Min-U-Script® with Word Index

Page 1

1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
 2
 3 *****
 4 IN RE: *
 5 ADAMS, ET AL *
 6 VS. *
 7 TOWN OF NORTH PROVIDENCE *
 8 *****
 9 DATE: October 1st, 2018
 10 TIME: 2:00 P.M.
 11 PLACE: RI EMPLOYEES' RETIREMENT SYSTEM
 50 Service Road
 Warwick Rhode Island 02886
 12
 13 APPEARANCES:
 14 HEARD BEFORE:
 HEARING OFFICER TERESA RUSBINO, ESQUIRE
 15
 16 FOR THE APPELLANTS:
 LAW OFFICES OF ROY & COOK
 BY: EDWARD C. ROY, JR., ESQUIRE
 17
 18 FOR THE RESPONDENTS:
 ERSRI'S BOARD COUNSEL
 BY: MICHAEL P. ROBINSON, ESQUIRE
 19
 20 FOR THE TOWN OF NORTH PROVIDENCE:
 LAW OFFICES OF VINCENT F. RAGOSTA
 BY: VINCENT F. RAGOSTA, ESQUIRE
 TIMOTHY M. BLISS, ESQUIRE
 21
 22
 23 ALSO PRESENT:
 24 ERSRI EXECUTIVE DIRECTOR: FRANK KARPINSKI
 TOWN REPRESENTATIVE NORTH PROVIDENCE
 25 FINANCE DIRECTOR MARIA VALLEE

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E-X-H-I-B-I-T-S		
APPELLANTS' NO.	DESCRIPTION	PAGE
4 Exhibit A	Town of North Providence vs. Local 2334 - 763 A2d (RI2000) (7 pgs).....	9
6 Exhibit B	Letter From Frank Karpinski dated 2/14/18 (3 pgs).....	10
8 Exhibit C	Letter from Edward Roy to Frank Karpinski dated 3/9/18 (4 pgs)	10
9 Exhibit D	Excerpt from 2015-'18 CBA (5 pgs).....	10
11 Exhibit E	Excerpt from 2012-'15 CBA (3 pgs).....	11
12 Exhibit F	Excerpt from 2001-'04 CBA (Article 10, Section 1(D) (6 pgs).....	11
14 Exhibit G	E-mail "chain" beginning 1/1/11 (6 pgs).....	11
16 Exhibit H	E-mail "chain" beginning 3/22/11 (4 pgs).....	11
17 Exhibit I	E-mail "chain" beginning 4/20/11 (2 pgs).....	12
19 Exhibit J	E-mail "chain" beginning 6/23/11 (3 pgs).....	12
20 Exhibit K	Employer's Certification of Retirement and Final Wages (3 pgs).....	13

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E-X-H-I-B-I-T-S		
RESPONDENTS' NO.	DESCRIPTION	PAGE
4 Exhibit 1	E-mail chain Re: North Prov. Fire (2 pgs).....	17
6 Exhibit 2	E-mail chain Re: NFPD retiree data (6 pgs).....	17
7 Exhibit 3	Chart (1 pg).....	18
8 Exhibit 4	Letter dated 8/2/11 to Maria Vallee from Frank Karpinski (2 pgs).....	19
10 Exhibit 5	Letter dated 5/17/17 to Frank Karpinski from John Midgley (22 pgs).....	19
12 Exhibit 6	Letter dated 2/14/18 to Edward Roy from Michael Robinson (1 pg).....	20

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1 (HEARING COMMENCED AT 2:21 P.M.)
 2 HEARING OFFICER RUSBINO: So, we are on
 3 the record in the appeal of Adams versus
 4 Employees' Retirement System of Rhode Island. My
 5 name is Teresa Rusbino. I am the Hearing Officer
 6 that has been assigned to this appeal, and if the
 7 parties and others who are present here today for
 8 this hearing would kindly identify themselves for
 9 the record, beginning with the appellant and
 10 appellants' counsel.
 11 MR. ROY: Good afternoon, Ms. Rusbino. My
 12 name is Edward C. Roy, and I am representing the
 13 Adams, Plaintiffs/Appellants. Seating next to me
 14 is --
 15 MR. GRANDE: James P. Grande, Sr.,
 16 President of the Retirees' Association for North
 17 Providence Firefighters.
 18 MR. KARPINSKI: I am Frank Karpinski, the
 19 Executive Director of the Retirement System.
 20 MR. ROBINSON: I'm Michael Robinson,
 21 counsel to the Employees' Retirement System of
 22 Rhode Island.
 23 MR. RAGOSTA: I'm Vincent Ragosta. I'm
 24 outside counsel for the Town of North Providence.
 25 MS. VALLEE: I'm Maria Vallee, the interim

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1 finance director for the Town of North Providence.
 2 MR. BLISS: Timothy Bliss, also attorney
 3 on behalf of the Town of North Providence.
 4 HEARING OFFICER RUSBINO: All right.
 5 Thank you. So, at the start of this hearing, is
 6 it -- I believe it's my understanding that both
 7 counsel for the Appellant and Counsel to the
 8 Respondent, Employees' Retirement System, have
 9 stipulated to a set of facts; is that correct?
 10 MR. ROBINSON: I'm not quite sure it's
 11 that crystallized, Madam Hearing Officer. I think
 12 it would be fair to say that Mr. Roy has
 13 identified a number of exhibits that he wishes to
 14 introduce, which may go in without objection from
 15 me, and I have a number of exhibits that I would
 16 like to introduce on behalf of the Retirement
 17 System. My understanding is that Mr. Roy will not
 18 be objecting to those either.
 19 HEARING OFFICER RUSBINO: All right.
 20 That's fine.
 21 MR. ROY: That's correct, and I have
 22 previously provided a set of exhibits to all of
 23 the parties with a pre-hearing brief that we
 24 submitted back in June, and I have a copy of all
 25 the exhibits for you and for the stenographer. I

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1 be helpful because we do have additional
 2 appellants, correct, other than Mr. Mitchell
 3 Adams?
 4 MR. ROY: Correct.
 5 MR. BLISS: I have a list. I mean, I have
 6 the caption from the Superior Court action, if you
 7 want me to read it into the record, if that's
 8 easier.
 9 MR. ROBINSON: Ed, does that make sense?
 10 MR. ROY: I'm sorry. I was talking to my
 11 client.
 12 MR. BLISS: I have the names from the
 13 Superior Court action, so if you just want me to
 14 read it into the record, it might save you the
 15 time.
 16 MR. ROY: Sure. I appreciate it. There's
 17 two guys that are not involved in the case any
 18 longer. Mr. Adams and Mr. Wheeler are no longer
 19 involved.
 20 MR. ROBINSON: Okay. And you're not
 21 pursuing any remedies on their behalf here today?
 22 MR. ROY: Correct.
 23 MR. ROBINSON: Then, yes, with those
 24 exceptions, perhaps it would make sense to have
 25 Mr. Bliss just read the names into the record.

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1 can either go through them now, if you'd like.
 2 HEARING OFFICER RUSBINO: All right. Do
 3 those constitute the exhibits to which you were
 4 referring, Mr. Robinson, that the Employees'
 5 Retirement System would not be objecting to an
 6 introduction of those as full exhibits?
 7 MR. ROBINSON: That's correct. The only
 8 other sort of housekeeping matter that I think
 9 might be helpful is -- I don't know, Ed, if you
 10 have a copy of any document that has the names of
 11 all of the actual appellants that you're
 12 representing.
 13 MR. ROY: I'm sure I have a pleading with
 14 me; if you'll just give me a few minutes.
 15 MR. ROBINSON: That's fine. I just went
 16 back and looked the administrative denial letters
 17 and some of the letters that bring this matter
 18 here today, and they're all referred to as
 19 "et.al." So, it would be nice if we could just
 20 make sure that we know who is actually going to be
 21 named appellants in this case.
 22 MR. ROY: Mr. Grande has a document, and I
 23 can probably make a redaction or two, and we can
 24 submit that at some point this afternoon.
 25 HEARING OFFICER RUSBINO: Yes, that would

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1 HEARING OFFICER RUSBINO: All right, Mr.
 2 Bliss, if you could do that. I would appreciate
 3 it if you could, just for the stenographer's
 4 benefit, if you can spell the names, that would be
 5 helpful.
 6 MR. BLISS: Certainly. The first
 7 individual is Frank Andre (A-n-d-r-e). Eric
 8 Bazzle (B-a-z-z-l-e). Stephen Bishop
 9 (B-i-s-h-o-p). James Bomba (B-o-m-b-a). Gerald
 10 Capaldi (C-a-p-a-l-d-i). Robert Cardin
 11 (C-a-r-d-i-n). Anthony Ceprano (C-e-p-r-a-n-o).
 12 David DiOrio (D-i-O-r-i-o). James P. Grande
 13 (G-r-a-n-d-e), Sr. Robert Morrissey
 14 (M-o-r-r-i-s-s-e-y). Douglas Randall
 15 (R-a-n-d-a-l-l). Anthony Rossi (R-o-s-s-i).
 16 Kenneth Scandariato (S-c-a-n-d-a-r-i-a-t-o).
 17 David Vartian (V-a-r-t-i-a-n). The last
 18 individual is Andrew Zarlenga (Z-a-r-l-e-n-g-a).
 19 HEARING OFFICER RUSBINO: All right.
 20 Thank you, Mr. Bliss, for reading those names into
 21 the record.
 22 MR. ROY: Can I make one point, Madam
 23 Hearing Officer?
 24 HEARING OFFICER RUSBINO: Absolutely, Mr.
 25 Roy.

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1 MR. ROY: David DiOrio has passed away.
 2 So, if there's any relief awarded, we'll need to
 3 substitute his estate. I intend to take care of
 4 that. I just haven't had a chance to meet with
 5 his widow to go over that.
 6 HEARING OFFICER RUSBINO: Thank you for
 7 clarifying that for the record. All right. Then,
 8 as to the exhibits, Mr. Roy, the exhibits on
 9 behalf of appellants that you have in terms of an
 10 agreement with the Respondent Employees'
 11 Retirement System you're seeking to introduce as
 12 full exhibits with no objection from Respondent,
 13 you may proceed to identify those for the record.
 14 MR. ROY: Sure. I'll identify each
 15 exhibit.
 16 MR. ROBINSON: Thank you.
 17 HEARING OFFICER RUSBINO: You're very
 18 welcome.
 19 MR. ROY: Exhibit A is a decision of the
 20 Rhode Island Supreme Court in the Matter of the
 21 Town of North Providence versus Local 2334, IAFF,
 22 and that's found at 763 Atlantic 2nd 604, a 2000
 23 decision of the Rhode Island Supreme Court.
 24 That's Exhibit A.
 25 EXHIBIT A - APPELLANTS' MARKED AS FULL

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1 local 2334 and the Town of North Providence for
 2 the term of 2012, 2015, and the excerpt is Article
 3 10, Section 1(D).
 4 EXHIBIT E - APPELLANTS' MARKED AS FULL
 5 MR. ROY: Exhibit F is an excerpt of the
 6 2001, 2004 Collective Bargaining Agreement between
 7 Local 2334 and the Town of North Providence,
 8 Article 1, section 1(D) again.
 9 EXHIBIT F - APPELLANTS' MARKED AS FULL
 10 MR. ROY: Exhibit G that I had previously
 11 submitted is not going to be submitted as a full
 12 exhibit.
 13 EXHIBIT G - APPELLANTS' MARKED FOR I.D.
 14 MR. ROY: So, we'll move next to Exhibit
 15 H, which is an e-mail chain beginning in March
 16 22nd, 2011, up to March 23rd of 2011. It involves
 17 the Town of North Providence and also Gayle
 18 Mambro-Martin of the Retirement System.
 19 EXHIBIT H - APPELLANTS' MARKED AS FULL
 20 HEARING OFFICER RUSBINO: Is that a letter
 21 or a document?
 22 MR. ROY: It's an e-mail chain back and
 23 forth.
 24 HEARING OFFICER RUSBINO: All right.
 25 Thank you.

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1 MR. ROY: Exhibit B is a letter from
 2 Executive Director, Frank Karpinski, addressed to
 3 Edward C. Roy, dated, February 14, 2018, and that
 4 letter is what began the administrative process
 5 that's before you today.
 6 HEARING OFFICER RUSBINO: So that is the
 7 administrative denial that serves for the basis
 8 for this appeal.
 9 MR. ROY: Exactly. That's Exhibit B.
 10 HEARING OFFICER RUSBINO: Thank you.
 11 EXHIBIT B - APPELLANTS' MARKED AS FULL.
 12 MR. ROY: Exhibit C is a letter from
 13 myself to Executive Director Karpinski, dated
 14 March 9th, 2018. Again, that's submitted just to
 15 show the proper steps taken to begin the
 16 administrative process.
 17 EXHIBIT C - APPELLANTS' MARKED AS FULL
 18 MR. ROY: Exhibit D is an excerpt of the
 19 2015 to 2018 Collective Bargaining Agreement
 20 between the Firefighters Union and North
 21 Providence Local 2334 and the Town. The excerpt
 22 is Article 10, Section 1(D).
 23 EXHIBIT D - APPELLANTS' MARKED AS FULL
 24 MR. ROY: Exhibit E is also an excerpt
 25 from the Collective Bargaining Agreement between

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1 MR. ROY: We received those exhibits from
 2 Mr. Robinson during an exchange of discovery
 3 earlier on in the case.
 4 HEARING OFFICER RUSBINO: All right.
 5 Thank you.
 6 MR. ROY: Exhibit I is an e-mail chain
 7 beginning April 20, 2011, involving Melissa
 8 Malone, Gayle Mambo-Martin. It's dated beginning
 9 April 20, 2011.
 10 EXHIBIT I - APPELLANTS' MARKED AS FULL
 11 MR. ROY: Exhibit J is also an e-mail
 12 chain beginning June 23rd, 2011.
 13 EXHIBIT J - APPELLANTS' MARKED AS FULL
 14 HEARING OFFICER RUSBINO: Is that
 15 regarding the same participants as "I"?
 16 MR. ROY: That involves Maria Vallee,
 17 Zachary Saul, copies to Melissa Malone and Gayle
 18 Mambro-Martin.
 19 HEARING OFFICER RUSBINO: All right.
 20 Thank you.
 21 MR. ROY: And, finally -- I may have it
 22 out of order, and I will defer to Mr. Robinson
 23 regarding the proper order -- but Exhibit K is an
 24 "Employers' Certification of Retirement and Final
 25 Wages" for James Grande, Sr. I have down "May 14,

1 2017" on my cover sheet, but, obviously, he
 2 retired before that. It's really, more than
 3 anything else, submitted to show it's a specimen
 4 document to show the kind of document that
 5 retirees sign when they retire. Issued May 14th
 6 of '07. It says "2017" on the cover.
 7 EXHIBIT K - APPELLANTS' MARKED AS FULL
 8 HEARING OFFICER RUSBINO: All right. So
 9 it's May 14th of 2007; correct?
 10 MR. ROY: Correct.
 11 HEARING OFFICER RUSBINO: Thank you.
 12 MR. ROBINSON: In proper order are those
 13 forms, by the way, with the actual exhibit itself,
 14 would begin with the "Employers' Certification of
 15 Retirement and Final Wages." That's a two-page
 16 form, and then the third document is the "Option
 17 Selection Form."
 18 HEARING OFFICER RUSBINO: All right.
 19 Thank you, Mr. Robinson.
 20 MR. ROY: Thank you Mike, again.
 21 MR. ROBINSON: Just so we're clear, there
 22 is no Exhibit G. So the Petitioner's --
 23 HEARING OFFICER RUSBINO: Well, that's
 24 what I was going to go back to was Exhibit G. Are
 25 you saying there's no Exhibit G that has been

1 Albanese, the former chief of the department.
 2 HEARING OFFICER RUSBINO: All right.
 3 That's fine. Thank you very much.
 4 MR. ROY: And with that, having said that,
 5 that's all the exhibits we intended to introduce.
 6 I'll provide you with a copy of the exhibits, and
 7 we can give them to the court reporter or however
 8 you wish.
 9 HEARING OFFICER RUSBINO: If you have
 10 those, I can take those, and then I can put the
 11 exhibit letters on those.
 12 MR. ROY: Thank you very much.
 13 HEARING OFFICER RUSBINO: Thank you, Mr.
 14 Roy. All right. Mr. Roy, do you have anything
 15 else by way of either additional documentation or
 16 testimony that you wish to present at this time?
 17 MR. ROY: No evidentiary issues other than
 18 what we submitted as full exhibits, and I thank
 19 Mr. Robinson for his cooperation regarding that.
 20 HEARING OFFICER RUSBINO: All right.
 21 Thank you. So, at this time, is the Appellant --
 22 are you resting at this time?
 23 MR. ROY: Other than making a legal
 24 argument at some point in time at your discretion.
 25 HEARING OFFICER RUSBINO: That's fine.

1 agreed to, or there's just no Exhibit G?
 2 MR. ROBINSON: However you want to
 3 proceed.
 4 MR. ROY: I submitted the exhibits with my
 5 brief, and we're not going to submit that. It can
 6 be mark for identification. Since you already
 7 have it, I think, with my exhibits, we'll just
 8 move it -- not move it forward. It will be an
 9 exhibit for identification.
 10 HEARING OFFICER RUSBINO: So it would be
 11 for identification only. I'm just really doing
 12 that for purposes of the record because there
 13 would be a gap, and I just wanted to know if a
 14 document actually existed that the two of you
 15 simply didn't, you know, agree to in terms of not
 16 objecting or whether it was coming in for a
 17 different purpose. So, that's fine. We can mark
 18 that for identification only. Can you, just for
 19 the record, indicate what that document is, and we
 20 will, again, specify that for "Identification
 21 Only," and that it's not coming in as a full
 22 exhibit.
 23 MR. ROY: Certainly, Madam Hearing
 24 Officer. Exhibit G is an e-mail chain beginning
 25 January 1st, 2011, involving a Diane Bourne, Chief

1 And we'll also be putting together a schedule
 2 following the hearing for post-hearing memos if
 3 both sides feel that that is -- you know, if they
 4 have anything to add to the pre-hearing memos.
 5 MR. ROY: Certainly.
 6 HEARING OFFICER RUSBINO: Thank you. All
 7 right. Then, Mr. Robinson, on behalf of the
 8 Respondent, Employees' Retirement System, you may
 9 present your case.
 10 MR. ROBINSON: Thanks. I have a number of
 11 exhibits that I would asked to be marked. I guess
 12 probably it would make sense to do them
 13 numerically.
 14 HEARING OFFICER RUSBINO: Yes. Appellant
 15 did theirs based alphabetically, so we can do
 16 these numerically.
 17 MR. ROBINSON: So, Madam Stenographer, I
 18 have not pre-labeled anything. Do you want to do
 19 them at the end, or what's the best way to do it?
 20 HEARING OFFICER RUSBINO: I think if we're
 21 identifying them for the record, we can do it at
 22 the conclusion of the hearing.
 23 MR. ROBINSON: So the first document then
 24 that I would seek to submit as Respondents' 1 is
 25 an e-mail chain beginning with an e-mail on March

1 20th of 2017 from Sandra Longtin to Cheryl
 2 DerHagopian.
 3 EXHIBIT 1 - RESPONDENTS' MARKED AS FULL.
 4 MR. ROBINSON: The second exhibit would be
 5 an e-mail string commencing with an e-mail from
 6 Zachary Saul to Frank Karpinski, dated October 1st
 7 of 2018. Respondents' 2.
 8 HEARING OFFICER RUSBINO: Thank you.
 9 EXHIBIT 2 - RESPONDENTS' MARKED AS FULL
 10 MR. ROBINSON: Respondents' 3 is a chart
 11 indicating the amounts and period of time over
 12 which overpayments are being recouped by the
 13 Retirement System from the Petitioner
 14 Firefighters. Before this document gets finalized
 15 and submitted into the record, we need to redact
 16 the Social Security numbers that are contained on
 17 it.
 18 HEARING OFFICER RUSBINO: That's fine. I
 19 was going to ask you just to clarify if anything
 20 -- any information was going to be redacted from
 21 that. So, yes, based on the fact that Social
 22 Security numbers will be redacted, that will be
 23 introduced as Respondents' 3. And, again, as I
 24 clarified with the Appellant, the documents that
 25 Mr. Robinson is referring to that will go into

1 EXHIBIT 4 - RESPONDENTS' MARKED AS FULL
 2 MR. ROBINSON: If I can just have a
 3 moment. I'm going to whittle down, I think,
 4 Respondents' 5.
 5 HEARING OFFICER RUSBINO: Take your time.
 6 MR. ROBINSON: Respondents' 5 is a
 7 collection of communications from the Retirement
 8 System to the named Petitioners, identifying the
 9 overpayment and the efforts that would be made
 10 thereafter by the Retirement System to recoup
 11 those overpayments.
 12 EXHIBIT 5 - RESPONDENTS' MARKED AS FULL
 13 HEARING OFFICER RUSBINO: Are there dates?
 14 I know you said it's a series of communications.
 15 Is there a time period?
 16 MR. ROBINSON: They run approximately from
 17 April through June of 2017.
 18 HEARING OFFICER RUSBINO: All right.
 19 Thank you.
 20 MR. ROY: A point I wanted to make, Madam
 21 Hearing Officer, Mr. Robinson and Counsel for the
 22 Town, is that there were two Petitioners that are
 23 no longer part of the case. The first page is
 24 John Wheeler.
 25 MR. ROBINSON: I removed that.

1 evidence as full exhibits have been -- there was
 2 an agreement of the parties, so, Mr. Roy, you do
 3 not have any objection to these documents that Mr.
 4 Robinson is describing for the record and
 5 introducing those as full exhibits; is that
 6 correct?
 7 MR. ROY: That's correct, Madam Hearing
 8 Officer. The only caveat I have is I don't have a
 9 copy of that one that Mike is referring to. If at
 10 some point, I can get a copy.
 11 HEARING OFFICER RUSBINO: Are you talking
 12 about Exhibit 3, the chart?
 13 MR. ROY: That's correct. Mr. Karpinski
 14 is handing me a copy right now.
 15 MR. ROBINSON: Problem solved.
 16 HEARING OFFICER RUSBINO: Thank you very
 17 much.
 18 EXHIBIT 3 - RESPONDENTS' MARKED AS FULL
 19 HEARING OFFICER RUSBINO: All right. You
 20 may continue, Mr. Robinson.
 21 MR. ROBINSON: Respondents' 4 is a letter
 22 from Maria Vallee to Frank Karpinski, dated August
 23 2nd, 2011. I'm sorry. That's wrong. It's to Ms.
 24 Vallee from Mr. Karpinski, dated August 2nd of
 25 2011.

1 MR. ROY: As long as they're redacted or
 2 removed.
 3 MR. ROBINSON: Was there another one?
 4 MR. ROY: Adams.
 5 MR. ROBINSON: Was he in that? I didn't
 6 see him on here.
 7 MR. ROY: I went through --
 8 MR. ROBINSON: The only one I found that
 9 was not included was Wheeler.
 10 MR. RAGOSTA: You said Mitchell Adams and
 11 John Wheeler?
 12 MR. ROY: Yeah.
 13 MR. ROBINSON: Off the record.
 14 HEARING OFFICER RUSBINO: Off the record.
 15 (DISCUSSION WAS HELD OFF THE RECORD)
 16 HEARING OFFICER RUSBINO: Back on the
 17 record.
 18 MR. ROBINSON: Last, but not least, would
 19 be Respondents' 6. That is the February 14, 2018
 20 communication from the Retirement System to Mr.
 21 Roy assigning Ms. Rusbino, as the Hearing Officer,
 22 to hear this matter. That would conclude the
 23 Respondents' exhibits.
 24 EXHIBIT 6 - RESPONDENTS' MARKED AS FULL
 25 HEARING OFFICER RUSBINO: All right.

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1 Thank you, Mr. Robinson. Other than the exhibits
 2 that you've just listed that the Appellants'
 3 counsel had -- you know, had no objection to in
 4 terms of introducing as full exhibits, other than
 5 those exhibits, do you have any other documents or
 6 exhibits that you're wishing to introduce at this
 7 time?
 8 MR. ROBINSON: I do not, Madam Hearing
 9 Officer, subject, obviously, to making appropriate
 10 legal arguments.
 11 HEARING OFFICER RUSBINO: All right. Do
 12 you have any other evidence by way of testimony
 13 that you wish to present at this time?
 14 MR. ROBINSON: I do not.
 15 HEARING OFFICER RUSBINO: So, is
 16 Respondent, Employees' Retirement System of Rhode
 17 Island, resting in this matter subject to
 18 post-hearing legal argument?
 19 MR. ROBINSON: Correct. And, obviously,
 20 the City is here and represented by able counsel.
 21 So it might be appropriate, obviously, to find out
 22 whether the City has anything that they are
 23 interested in introducing or being heard.
 24 HEARING OFFICER RUSBINO: All right. Mr.
 25 Ragosta, Mr. Bliss, Ms. Vallee, is there anything

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1 that you wish to add to the hearing by way of
 2 either documentation or a statement of any sort
 3 that you wish to place on the record?
 4 MR. RAGOSTA: Just one moment, please.
 5 The Town considers the submission of Mr. Robinson
 6 on June 15, 2018, his pre-hearing memorandum, to
 7 be sufficient, outlining what the issues are, and
 8 we're satisfied that the universe of exhibits
 9 encapsulates what's necessary for you to make a
 10 decision.
 11 HEARING OFFICER RUSBINO: All right.
 12 Thank you. And, also, as I mentioned earlier in
 13 the hearing, we will -- once the hearing is
 14 concluded, we will come up with a mutually
 15 agreeable submission schedule for post-hearing
 16 memoranda in this case. Is that satisfactory to
 17 legal counsel for both sides?
 18 MR. ROBINSON: It is.
 19 MR. ROY: It is. Thank you.
 20 HEARING OFFICER RUSBINO: All right. So,
 21 based on that, we will conclude this hearing.
 22 Thank you very much.
 23 THE REPORTER: Can I place your transcript
 24 orders on the record?
 25 MR. ROY: Mini.

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1 MR. ROBINSON: Mini.
 2 MR. RAGOSTA: Mini.
 3 (HEARING CONCLUDED AT 2:45 P.M.)
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Page 24

C-E-R-T-I-F-I-C-A-T-I-O-N

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
 PROVIDENCE, SC.

I, SALLY BRASSARD, do hereby certify that
 the foregoing is a true, accurate, and complete
 transcript of my notes taken at the above-entitled
 proceeding.

IN WITNESS WHEREOF, I have hereunto set my
 hand this 5th day of October, 2018.

Sally Brassard
 Notary Public

SALLY BRASSARD, CSR/RPR
 NOTARY PUBLIC
 MY COMMISSION EXPIRES: 1/16/21

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Exhibit A

Town of North Providence v. Local 2334, I.A.F.F., 763 A.2d 604 (R.I. 2000) is attached

Supreme Court

No. 99-52-Appeal.
(PM 98-1845)

Town of North Providence :

v. :

Local 2334 International Association of Fire :
Fighters, AFL-CIO. :

Present: Weisberger, C.J., Lederberg, Bourcier, Flanders, and Goldberg, JJ.

OPINION

PER CURIAM. This case came before the Court for oral argument on November 8, 2000, pursuant to an order directing both parties to appear in order to show cause why the issues raised by this appeal should not be summarily decided. After hearing the arguments of counsel and examining the memoranda filed by the parties, we are of the opinion that cause has not been shown and that the issues raised by this appeal should be decided at this time. The facts insofar as pertinent to this appeal are as follows.

On April 30, 1997, Local 2334 International Association of Fire Fighters (Union) presented a grievance to the Town of North Providence (Town) based on the Town's failure to include holiday pay when calculating longevity compensation. The grievance specifically referenced Article X, Section 1, of the Collective Bargaining Agreement (CBA) between the Town and the Union. Article X provides, in pertinent part, as follows:

"Section 1. Longevity

A. Upon completion of five (5) years of service measured from the date of appointment, an employee shall receive an additional three (3%) percent of their base salary for longevity.

B. All employees who have been employed for eight (8) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A of this Article and to the pay provided for herein, an additional three percent (3%) per annum of their gross pay for longevity.

C. Effective July 1, 1988, all employees who have been employed for fifteen (15) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A. and B. of this Article and to the pay provided for herein, an additional two (2%) percent per annum of their gross pay for longevity.

D. Longevity payments shall be received in a lump sum, in a separate check * * * ."

For many years, the parties have had Article X in their CBA with precisely the same language quoted above. The parties have mutually interpreted Article X to exclude holiday pay from gross pay in the calculation of longevity pay. However, the Union, in its grievance, alleged that the Town had violated Article X by failing to include holiday pay in gross pay for the calculation of longevity. The Town asserted that it had never included holiday pay in that calculation and, thus, had not violated the CBA.

The parties were unable to resolve the grievance. Consequently, on October 10, 1997, the Union filed a demand for arbitration with the American Arbitration Association. The Union sought to have the Town directed to adjust the method of computation to conform with the contract and to repay affected firefighters a total of \$24,059.57. On February 14, 1998, arbitrator Orlando A. Andreoni

(arbitrator) issued an opinion and award in favor of the Union. The arbitrator found that "the [Town] and the Union, by past practice, [had] misinterpreted Article X of the Collective Bargaining Agreement." He further found "that Gross Pay as set forth in Article X should include Holiday pay in so far as longevity is concerned." As a result, the arbitrator ordered the Town to include holiday pay in the calculation of longevity from and after April 30, 1997.

Thereafter, the Town filed a motion to vacate the arbitration award with the Superior Court. Both parties submitted briefs on the issue. After hearing oral arguments, a justice of the Superior Court denied the Town's motion and confirmed the arbitrator's award. The Town appealed from the judgment. On appeal, the Town argues that the arbitrator exceeded his authority by reaching a decision that was irrational and that was in conflict with the parties' mutual interpretation of the CBA. Consequently, the Town argues that the Superior Court justice erred by declining to vacate the arbitrator's award.

Pursuant to G.L. 1956 § 28-9-18(a)(2), a reviewing court must vacate an arbitration award when the arbitrator exceeded his or her powers. Section 28-9-18(a)(2) provides in pertinent part:

"Grounds for vacating award -- (a) In any of the following cases the court must make an order vacating the award, upon the application of any party to the controversy which was arbitrated:

* * *

(2) Where the arbitrator or arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final, and definite award upon the subject matter submitted was not made."

However, both the Rhode Island and the United States Supreme Court have long recognized that the authority of the judiciary to "review * * * the merits of an arbitration award is extremely limited." State Department of Mental Health, Retardation, and Hospitals v. Rhode Island Council 94, 692 A.2d 318,

322 (R.I. 1997); see United Steelworkers of America v. American Manufacturing Co., 363 U.S. 564, 567-68, 80 S. Ct. 1343, 1346, 4 L. Ed. 2d 1403, 1407 (1960) (“[t]he function of the court is very limited when the parties have agreed to submit all questions of contract interpretation to the arbitrator”). “[G]enerally ‘[a]bsent a manifest disregard of a contractual provision or a completely irrational result, the [arbitration] award will be upheld.’” See Providence Teachers Union v. Providence School Board, 725 A.2d 282, 283 (R.I. 1999) (quoting Rhode Island Brotherhood of Correctional Officers v. State Department of Corrections, 707 A.2d 1229, 1234 (R.I. 1998)). Thus, it is only when an arbitration award fails to embody even a “passably plausible” interpretation of the contract that it must be struck down by the Court upon review. See Town of Smithfield v. Local 2050, 707 A.2d 260, 264 (R.I. 1998) (quoting Westcott Construction Corp. v. City of Cranston, 586 A.2d 542, 543 (R.I. 1991) (“‘[A]s long as the award draws its essence from the contract and is based upon a “passably plausible” interpretation of the contract,’ we shall uphold it.”); accord Town of Coventry v. Turco, 574 A.2d 143, 146 (R.I. 1990); Jacinto v. Egan, 120 R.I. 907, 912, 391 A.2d 1173, 1176 (1978).

The arbitrator’s award here was “passably plausible” because it was consistent with the plain language of Article X, which provides that longevity compensation for firefighters with eight or more years of service will be calculated based on “gross pay.” There is no language in Article X that restricts or defines what “gross pay” includes or excludes. Indeed, “gross income” is defined by Black’s Law Dictionary as “all income from whatever source derived.” (Emphasis added.) Black’s Law Dictionary 703 (6th ed. 1990). Given that words in a contract should be given their plain, ordinary, and usual meanings, Johnson v. Western National Life Insurance Co., 641 A.2d 47 (R.I. 1994), the arbitrator could plausibly have determined that, in the absence of restrictive language in the CBA, “gross pay” included holiday pay. See Silva v. Stanley-Bostitch, 651 A.2d 1222 (R.I. 1994) (overtime

compensation would not be included when calculating workers' compensation benefits where statute was amended and specifically excluded overtime from "gross wages"); McKenna v. Turnquist Lumber Co., 511 A.2d 298 (R.I. 1986) (workers' compensation statute that provided benefits would be calculated on "gross wages" required inclusion of overtime compensation). Because Article X uses different language in different sections (that is, "gross pay" versus "base pay"), it is "passably plausible" and, hence, completely rational for the arbitrator to have concluded that these different terms were not intended to be synonymous (that is, "gross pay" would include holiday pay, while "base pay" would not).

The Town additionally argues that because the Union did not grieve the Town's violation of Article X or the misinterpretation earlier (indeed, both parties had mutually misinterpreted the CBA), the arbitrator exceeded his authority. However, this Court has expressly stated that past practice may not form the basis to prevent enforcement of an award, unless the contract itself contains a "sufficiently clear past-practice provision." Town of Smithfield, 707 A.2d at 262 (citing Rhode Island Court Reporters Alliance v. State, 591 A.2d 376, 378 (R.I. 1991)). This was not the case here. Moreover,

"[t]he clear majority rule, as reflected in the reported decisions and the published commentary, is the traditional view that in the event of conflict between the language of the agreement and past practice, the language of the agreement, which represents the most direct and best evidence of the parties' intentions, must govern." Ira F. Jaffe, Past Practice, Maintenance of Benefits, and Zipper Clauses, 1 Labor and Employment Arbitration, § 10.03[3] at 10-24 (Tim Bornstein et al. eds., 1998).

Thus, because the arbitrator's award was grounded in the essence of the CBA and because there was no clear past-practice provision contained therein, the arbitrator did not exceed his authority and the Superior Court was correct in affirming his judgment.

For these reasons, the appeal is denied and dismissed, the judgment appealed from is affirmed, and the papers of the case are remanded to the Superior Court.

Exhibit B



Letter from Frank Karpinski, dated February 14, 2018



Employees' Retirement System of Rhode Island

ERSRI Board:

February 14, 2018

Seth Magaziner
General Treasurer
Chair

Edward C. Roy, Esq.
1130 Ten Rod Road, A-103
North Kingstown, RI 02852

William B. Finelli
Vice Chair

RE: *Adams, et. al. v. Town of North Providence, et. al.*
C.A. No. PC2017-1956

Roger P. Boudreau

Dear Attorney Roy:

Mark A. Carruolo

Brian M. Daniels

We write regarding the above matter. It is our understanding that you are seeking a reversal of the actions taken by the Employees' Retirement System of Rhode Island (ERSRI) and Municipal Employees' Retirement System (MERS) in recalculating the pension benefits of certain retired North Providence firefighters named as plaintiffs in this case.

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

ERSRI/MERS maintains its position that longevity payments which are based on overtime pay shall be excluded from compensation used in the calculation of pension benefits.

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newel

The authority for this determination is found in the R.I.G.L. §36-8-1(8) definition of the term "compensation", which includes salary and wages earned and paid for the performance of service, including regular longevity, but which specifically excludes overtime.

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

§36-8-1(8) "Compensation" as used in chapters 8 – 10 of this title, chapters 16 and 17 of title 16, and chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or any other reason other than performance of duties, including but not limited to the types of payments listed below:

- (i) Payments contingent on the employee having terminated or died;
- (ii) Payments made at termination for unused sick leave, vacation leave, or compensatory time;
- (iii) Payments contingent on the employee terminating employment at a specified time in the future to secure voluntary retirement or to secure release of an unexpired contract of employment;
- (iv) Individual salary adjustments which are granted primarily in anticipation of the employee's retirement;

Frank J. Karpinski
Executive Director

(v) Additional payments for performing temporary or extra duties beyond the normal or regular work day or work year.

Consistent with the law, once it was discovered that the Town of North Providence was providing compensation which included longevity based on overtime, ERSRI/MERS notified the town that it needed to correct the information and resubmit it to our office. Once the correct compensation amounts were received by our office, adjustments were made to the pension benefits of the affected members retroactive to the dates of retirement for those that had already retired.

This letter constitutes official notification of an administrative denial of your request that MERS/ERSRI reverse the administrative actions referenced above. Pursuant to the Rules and Regulations of the Employees' Retirement System of Rhode Island, Regulation No. 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 the 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 each affected 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.

Your Hearing Officer assignment letter is enclosed.

Sincerely,



Frank J. Karpinski
Executive Director

Enclosure: Regulation 4

cc: Vincent F. Ragosta, Esq.
Timothy M. Bliss, Esq.
Peter DeSimone, Esq.

Exhibit C



Letter from Edward C. Roy, Esq. to Frank Karpinski, dated March 9, 2018



ROY & COOK
Attorneys at Law

Edward C. Roy, Jr., Esquire
edward_roy@hotmail.com
Admitted in Rhode Island

Geralyn M. Cook, Esquire
gerl.cook@hotmail.com
Admitted in Rhode Island and New York

577 Tiquog Avenue, 2nd Floor, Coventry, RI 02816

(401)823-0486 / (401)823-0486 (fax)

www.royandcooklaw.com

March 9, 2018

Frank J. Karpinski
Executive Director
Employees Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886-1021

RE: *Adams, et al v. Town of North Providence, et al*
PC-2017-1956.

Dear Mr. Karpinski:

This will acknowledge my receipt of your letter of February 14, 2018. Please treat this letter as my request, on behalf of the "Adams" plaintiffs, in PC-2017-1956, for an administrative hearing regarding the reduction in pension benefits that my clients have sustained. We rely upon the following arguments in requesting that the ERSRI reverse the determinations set out in your letter of February 14, 2018:

The provisions of 36-8-1(8), which provide, in pertinent part, as you reference in your letter of February 14, 2018:

"(8) 'Compensation' as used in chapters 8-10 of this title, chapters 16 and 17 of title 16, and chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or any other reason other than performance of duties, ...".

Rhode Island General Laws § 36-8-1(8). (Emphasis added).

Here, my clients believe that the Town was correct in including longevity earned on overtime in the calculation of their pension allowances. The plaintiffs concede that the Town of North Providence cannot base their pension calculations on overtime, however, there is an ambiguity as to what is meant by the phrase "regular longevity". For a significant period of time, both the Town and ERSRI concluded that the longevity for

Mr. Frank Karpinski
March 7, 2018
Page two, continued

overtime payments made to the plaintiffs coincided with the statutory obligations governing pension calculations.

The term “regular” includes the following:

“ 1 :belonging to a religious order
2 a :formed, built, arranged, or ordered according to some established rule, law, principle, or type

* * *

3 a :ORDERLY, METHODICAL

regular habits

b :recurring, attending, or functioning at fixed, uniform, or normal intervals

a *regular* income

a *regular* churchgoer

regular bowel movements”.

See www.merriam-webster.com/dictionary/regular (Emphasis supplied).

The plaintiffs believe that the term “regular longevity” set out in RIGL § 36-8-1(8) could reasonably be interpreted to apply to the longevity payments they received for overtime because longevity-based overtime is mandated by the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”). Under the FLSA, firefighters must receive overtime based upon their “regular rate”, which includes overtime for all hours worked beyond 53 hours. The FLSA mandates that firefighters receive overtime at the “regular rate”, which is deemed to include longevity, for hours worked over 216 in a 28 day “work period”. Municipalities are free to establish work periods of any length as long as firefighters receive overtime at the regular rate at the 216 hour/28 day ratio. See 29 U.S.C. § 207(k). See also Martin v. Coventry Fire District, 981 F.2d 1358(1st Cir. 1992); O’Brien v. Agawam, 350 F.3d 279 (1st Cir. 2003) (Longevity payments must be included in FLSA “regular rate” for overtime purposes).

In this case, in light of the FLSA’s requirements that longevity payments be included in all overtime over the threshold of 53 hours, it is entirely reasonable that the term “regular longevity” could be interpreted to mean longevity paid under the FLSA’s requirements. Under this argument, longevity paid under the FLSA is paid at “fixed intervals” when it is included in overtime hours over the 53 hour threshold.

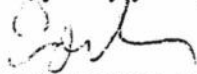
See www.merriam-webster.com/dictionary/regular.

Mr. Frank Karpinski
March 7, 2018
Page three, continued

For all of the reasons set forth herein, we respectfully urge the Employees' Retirement System of Rhode Island to reverse the administrative determination that is referenced in your letter of February 14, 2018.

Thank you for your consideration.

Very truly yours,



EDWARD C. ROY, ESQUIRE

ECR/slw

cc: Michael Robinson, Esq.
Vincent F. Ragosta, Jr., Esq.

Exhibit D

Excerpt from 2015-18 CBA
(Article 10, Section 1(D))



61

TOWN OF NORTH PROVIDENCE

AND

LOCAL 2334,
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS,
AFL-CIO

COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2015 - JUNE 30, 2018

DÓC NO 00002764
BOOK 3009 P# 92

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No more than two (2) employees may discharge a personal day on the same shift at any time.

There shall be no carrying over of unused personal days from one calendar year to the next.

ARTICLE 10

Section 1. Longevity

- A. Upon completion of five (5) years of service measured from the date of employment, an employee shall receive an additional six and one-half percent (6.5%) of their gross salary for longevity.
- B. All employees who have been employed for eight (8) years measured from the date of employment by the Town shall receive, in addition to the percentage provided for in sub-section A of this Article, an additional three percent (3%) per annum of their gross pay for longevity.
- C. All employees who have been employed for fifteen (15) years measured from the date of employment by the Town shall receive, in addition to the percentages provided for in sub-sections A and B of this Article, an additional two percent (2%) per annum of their gross pay for longevity.
- D. Longevity payments shall be paid in a lump sum, by a check separate from the payroll check, and within thirty (30) days after an employee's anniversary date of hire. Retirement contributions on the overtime portion of longevity will not be deducted from said payment.

Exhibit E

Excerpt from 2012-15 CBA
(Article 10, Section 1(D))



cc

upon the death of said employee. Payment shall be made to the duly authorized personal representative of the employee's estate.

Section 7. Personal Days

All employees shall be entitled to one (1) personal day per year; provided, however, that an employee must give a four (4) day notice of his request for the personal day and no more than two (2) employees may be on a personal day on the same shift at any time.

ARTICLE 10

Section 1. Longevity

- A. Upon completion of five (5) years of service measured from the date of employment, an employee shall receive an additional six and one-half percent (6.5%) of their gross salary for longevity.
- B. All employees who have been employed for eight (8) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A of this Article and to the pay provided for herein, an additional three percent (3%) per annum of their gross pay for longevity.
- C. All employees who have been employed for fifteen (15) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A. and B. of this Article, and to the pay provided for herein, an additional two percent (2%) per annum of their gross pay for longevity.
- D. Longevity payments shall be received in a lump sum, in a separate check other than the payroll check, on or before the anniversary date which said employee

cc

completed his years of service. Retirement and taxes shall be deducted from said payment.

ARTICLE 11

Section 1. Injuries and Illness

Employees who are injured or who contract illness in the line of duty shall receive such benefits as are provided by the General Laws of the State of Rhode Island, subject to the conditions specified in the Appendix to ARTICLE 11 attached to and made a part of this Agreement.

Upon the request of the Town, employees shall execute such authorizations as are required to permit the Town to obtain medical reports relating solely to the injury or illness incurred by an employee in the line of duty.

Section 2. Medical Care for Injuries or Illness in the Line of Duty

- A. Those employees injured or who contract illness in the line of duty whose condition requires admittance to a hospital shall have the right to select a hospital in the State of Rhode Island and a physician from the staff of that hospital. The choice shall be made by the employee or if his condition prevents him from making his choice, his choice shall be made by his nearest relative who may be available at the time; or in the case of an emergency, by a resident physician at the hospital. The physician so selected shall be the injured employee's private physician.
- B. In other cases of injury in the line of duty which do not require hospitalization,

Exhibit F

Excerpt from 2001-04 CBA
(Article 10, Section 1(D))



TOWN OF NORTH PROVIDENCE
AND
LOCAL 2334 - INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, AFL-CIO

CONTRACT

JULY 1, 2001 - JUNE 30, 2004

PH
JL

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in writing to each employee upon request or by January 31 of each year.

Section 5. Personal Leave

The employees shall be allowed time off for important personal matters at the discretion of the Director of Public Safety or the Chief of Department; provided, however, that said request is received in writing by the Chief of Department at least twenty-four (24) hours prior to the time-off being requested, except in the case of emergency.

Section 6. Beneficiaries

Beneficiaries of employees shall be paid all accumulated sick leave and vacation days upon the death of said employee. Payment shall be made to the beneficiaries designated by the employee. The Town shall supply a form to be filled out by the employee and it shall be kept in his personal file.

Section 7. Personal Days

All employees shall be entitled to one (1) personal day per year; provided, however, that an employee must give a four (4) day notice of his request for the personal day and no more than two (2) employees may be on a personal day on the same shift at any time.

ARTICLE X

Section 1. Longevity

A. Upon completion of five (5) years of service measured from the date of employment, an employee shall receive an additional three percent (3%) of their gross salary for longevity. Effective July 1, 2000, an employee pursuant to this paragraph shall receive an additional half percent (.5%) of their base salary, for a total of 3.5% of their gross salary for longevity.

Handwritten signature and initials in the bottom right corner of the page.

B. All employees who have been employed for eight (8) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A of this Article and to the pay provided for herein, an additional three percent (3%) per annum of their gross pay for longevity.

C. Effective July 1, 1988, all employees who have been employed for fifteen (15) years measured from the date of employment by the Town shall receive, in addition to Sub-Section A. and B. of this Article, and to the pay provided for herein, an additional two percent (2%) per annum of their gross pay for longevity.

D. Longevity payments shall be received in a lump sum, in a separate check other than the payroll check, on or before the anniversary date which said employee completed his years service. Retirement and taxes shall be deducted from said payment.

ARTICLE XI

Section 1. Injuries and Illness

Employees who are injured or who contract illness in the line of duty shall receive such benefits as are provided by the General Laws of the State of Rhode Island, subject to the conditions specified in the Appendix to ARTICLE XI attached to and made a part of this Agreement.

Upon the request of the Town, employees shall execute such authorizations as is required to permit the Town to obtain medical reports relating solely to the injury or illness incurred by an employee in the line of duty.

Section 2. Medical Care for Injuries or Illness in the Line of Duty

A. Those employees injured or who contract illness in the line of duty whose condition

Handwritten initials and number:
A.M.
56

Exhibit G

Email "chain" beginning January 11, 2011



From: Fire Chief
To: Bourne, Diane
Subject: RE: Lt. Singleton
Date: Tuesday, January 18, 2011 1:51:23 PM

David Singleton

I believe he did file and was approved. I would like a copy of your paper work showing his approval and the reasons. Our fax is 231-4867

Thanks,

Leonard A. Albanese Jr.
Acting Chief of Department

North Providence Fire Department
1951 Mineral Spring Avenue
North Providence, RI 02904
firechief@northprovidenceri.gov
(p) 401-231-8505 (f) 401-231-4867

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the North Providence Fire Department, Chief of Department at 401-231-8505; and, destroy all copies of this message as well as any documents which may be attached.

From: Bourne, Diane [mailto:DBourne@ersri.org]
Sent: Tuesday, January 18, 2011 1:49 PM
To: firechief@northprovidenceri.gov
Subject: Lt. Singleton

Chief Albanese;

Due to the change in administration, Arne Perry is no longer employed here. I am following up on his emails. Your email asked if Lt Singleton had filed for retirement, please provide his first name and I'll check on it.

Thanks,
Diane

Diane S. Bourne
Assistant Executive Director
Employees' Retirement System of Rhode Island
40 Fountain Street
Providence, RI 02903

ERSRI 00122

Phone 401.457.3940
Fax 401.222.2430
Email dbourne@ersri.org

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. Thank you.

ERSRI 00123

From: Fire Chief
To: Bourne, Diane
Subject: RE: Lt. Singleton
Date: Tuesday, January 18, 2011 2:24:44 PM

I have a letter for Singleton retiring on January 15. I believe he must have gone on a regular service or ordinary disability. Can you recheck his file.

From: Bourne, Diane [mailto:DBourne@ersri.org]
Sent: Tuesday, January 18, 2011 2:12 PM
To: Fire Chief
Subject: RE: Lt. Singleton

Chief,
Have faxed copies to you but is showing busy/no response. David Singleton was denied June 2010, never appealed decision, file has been closed.
Nathan Trouve was approved in December, need termination. I have tried to fax correspondence to you but getting "busy". Let me know if you don't receive and I'll try sending again.
Diane

Diane S. Bourne
Assistant Executive Director
Employees' Retirement System of Rhode Island
40 Fountain Street
Providence, RI 02903
Phone 401.457.3940
Fax 401.222.2430
Email dbourne@ersri.org

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From: Fire Chief [mailto:firechief@northprovidenceri.gov]
Sent: Tuesday, January 18, 2011 1:49 PM
To: Bourne, Diane
Subject: RE: Lt. Singleton

David Singleton

I believe he did file and was approved. I would like a copy of your paper work showing his approval and the reasons. Our fax is 231-4867

ERSRI 00124

Thanks,

Leonard A. Albanese Jr.
Acting Chief of Department

North Providence Fire Department
1951 Mineral Spring Avenue
North Providence, RI 02904
firechief@northprovidenceri.gov
(p) 401-231-8505 (f) 401-231-4867

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From: Bourne, Diane [mailto:DBourne@ersri.org]
Sent: Tuesday, January 18, 2011 1:49 PM
To: firechief@northprovidenceri.gov
Subject: Lt. Singleton

Chief Albanese;

Due to the change in administration, Arne Perry is no longer employed here. I am following up on his emails. Your email asked if Lt Singleton had filed for retirement, please provide his first name and I'll check on it.

Thanks,
Diane

Diane S. Bourne
Assistant Executive Director
Employees' Retirement System of Rhode Island
40 Fountain Street
Providence, RI 02903
Phone 401.457.3940
Fax 401.222.2430
Email dbourne@ersri.org

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ERSRI 00125

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ERSRI 00126

Exhibit H



Email "chain" beginning March 22, 2011

40 Fountain Street 1st Floor
Providence, RI 02903
Tel: 401.457.3900
Fax: 401.222.2430
MPernorio@ersri.org

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From: Lynda Labbadia [mailto:llabbadia@northprovidenceri.gov]
Sent: Tuesday, March 22, 2011 1:41 PM
To: Pernorio, Maryann
Subject: RE: DAVID SINGLETON

MARCH 22, 2011

DEAR MARYANN,

THE DIFFERENCES IN DAVID SINGLETON'S LONGEVITY IS DUE TO THE FACT THAT HE WAS OUT WORK IN 2009 AND DID NOT WORK AT ALL IN 2010. THE LONGEVITY FIGURE USUALLY INCLUDES OVERTIME. MR. SINGLETON DID NOT WORK SO THERE WAS NOT OVERTIME TO BRING HIS LONGEVITY AMOUNT HIGHER LIKE THE PAST YEAR. THE 2008 WAGES SHOW A DIFFERENCE DUE TO THE FACT THAT HE RECEIVED A 1% CUT IN PAY FROM THE CONTRACT FOR PAYROLLS 3-16-09 - 06/30-09. THE 2008 DIFFERENCE IS DUE TO THE FACT THAT HE WAS GETTING AN OUT OF RANK PAY FOR A FEW PAYROLLS.

FEEL FREE TO CONTACT ME IF YOU NEED ANYTHING ELSE.

THANKS,

LYNDA

**LYNDA LABBADIA
PAYROLL MANAGER
TOWN OF NORTH PROVIDENCE
2000 SMITH STREET
NORTH PROVIDENCE RI 02911
PHONE : (401) 232-0900 EXT 247
FAX: (401) 231-9855**

ERSRI 003

From: MAMBRO MARTIN, Gayle
To: labbadia@northprovidenceri.gov
Cc: Pernorio, Maryann; Stevenson, Jodi
Subject: David Singleton, John Cagno
Date: Monday, March 28, 2011 10:13:13 AM

Hi Linda,

In following up with the email I sent you last week (see below), we have come across another firefighter who is retiring this month and who may have had retirement contributions taken on his longevity associated with his overtime pay: John Cagno.

Once these two members' accounts are corrected, it will be necessary to correct all accounts in which longevity associated with overtime has been subject to retirement contributions.

We appreciate your immediate attention to this matter.

If you have any questions, please feel free to contact me. Thank you.

Gayle C Mambro-Martin, Esq
Internal Legal Counsel/ Policy Analyst
Employees' Retirement System of Rhode Island
40 Fountain Street 1st Floor
Providence, RI 02903
Phone: 401-457-3949
Fax: 401-222-2430
Email: gmambro@ersri.org

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From: MAMBRO MARTIN, Gayle
Sent: Wednesday, March 23, 2011 12:15 PM
To: 'labbadia@northprovidenceri.gov'
Cc: Pernorio, Maryann; Bourne, Diane; Malone, Melissa
Subject: FW: DAVID SINGLETON

Hi Linda,

Maryann forwarded your email to me to address the longevity associated with overtime for Mr. Singleton.

Longevity or any payments associated with overtime must not be included in the

ERSRI 005

compensation when provided to the retirement system for a calculation of retirement benefits. This is pursuant to RIGL 36-8-1(7) which provides that compensation as used in chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment including *regular longevity* or incentive plans approved by the board, *but shall not include payments made for overtime or reasons other than the performance of duties or activities....*

If you have any questions, please feel free to contact me.

Thank you.

Gayle C. Mambro-Martin, Esq.
Internal Legal Counsel/Policy Analyst
Employees' Retirement System of Rhode Island
40 Fountain Street 1st Floor
Providence, RI 02903
Phone: 401-457-3949
Fax: 401-222-2430
Email: gmambro@ersri.org

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From: Perrorio, Maryann
Sent: Wednesday, March 23, 2011 12:06 PM
To: MAMBRO MARTIN, Gayle
Cc: Azulay, Paula
Subject: FW: DAVID SINGLETON

Hi Gayle,

Below is the email I received from Lynda at Town of North Providence re: why the longevity payments went down from 2008-2010 for David Singleton, Fire Lieutenant. Is this something they need to adjust in Anchor since overtime involved in the longevity calculations? This member was denied an accidental disability and we are trying to process his service retirement benefit. Thank you for your help.

Regards,
Maryann

Maryann Perrorio
Employees' Retirement System of Rhode Island

ERSRI 006



Exhibit I

Email "chain" beginning April 20, 2011

From: MAMBRO MARTIN, Gayle
To: Malone, Melissa
Subject: FW: DAVID SINGLETON
Date: Wednesday, April 20, 2011 2:06:33 PM

Melissa, Just an FYI.
This is the email I had sent to North Providence.
Gayle

Gayle C. Mambro-Martin, Esq.
Internal Legal Counsel/Policy Analyst
Employees' Retirement System of Rhode Island
40 Fountain Street 1st Floor
Providence, RI 02903
Phone: 401-457-3949
Fax: 401-222-2430
Email: gmambro@ersri.org

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From: MAMBRO MARTIN, Gayle
Sent: Wednesday, March 23, 2011 12:15 PM
To: 'labbadia@northprovidenceri.gov'
Cc: Pernorio, Maryann; Bourne, Diane; Malone, Melissa
Subject: FW: DAVID SINGLETON

Hi Linda,

Maryann forwarded your email to me to address the longevity associated with overtime for Mr. Singleton.

Longevity or any payments associated with overtime must not be included in the compensation when provided to the retirement system for a calculation of retirement benefits. This is pursuant to RIGL 36-8-1(7) which provides that compensation as used in chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment including *regular longevity* or incentive plans approved by the board, *but shall not include payments made for overtime* or reasons other than the performance of duties or activities....

If you have any questions, please feel free to contact me.

Thank you

ERSRI 009



Exhibit J

Email "chain" beginning June 23, 2011

From: Saul, Zachary
To: Maria G Vallee
Cc: MAMBRO MARTIN, Gayle; Malone, Melissa
Subject: RE: North Providence Fire Department employment contracts
Date: Thursday, June 23, 2011 11:02:01 AM

Maria

Can you send me a copy of the contract from July 1, 2003 to June 30, 2004?

Thank you,
Zack

From: Maria G Vallee [mailto:mvallee@northprovidenceri.gov]
Sent: Thursday, April 21, 2011 2:42 PM
To: Saul, Zachary
Subject: RE: North Providence Fire Department employment contracts

Hi Zachary - It was a pleasure speaking with you today. Per your request attached you will find the information you requested (Local 2334 - International Association of Firefighters contract).

In the future if you don't get an answer please feel free to call me. This is the first time that I am being made aware that we have a problem with the retirements. Lynda has not mentioned to anything therefore, in the future please forward to my attention any findings or questions.

Thank you.

Maria G. Vallee
Acting Finance Director
Town of North Providence
2000 Smith Street
North Providence, RI 02911
(401) 232-0900
mvallee@northprovidenceri.gov

From: Saul, Zachary [mailto:zsaul@ersri.org]
Sent: Wednesday, April 20, 2011 9:53 AM
To: mvallee@northprovidenceri.gov
Subject: North Providence Fire Department employment contracts
Importance: High

Maria

I wanted to follow up on my voicemail from this morning. Our office is trying to complete the retirement process for a few members for the NPF that are seeking to retire. Some of our retirement counselors have questioned the salaries that are being used to calculate their pensions. Therefore, we need a copy of the contract between the town and the fire department to help clarify some issues. We have attempted to contact Linda Labbadia several times to obtain this information, but she has failed to return our calls. I appreciate your help in this matter. Any questions please feel free to contact me at 457-3999.

ERSRI 00138

Thank you,
Zack

Zachary J. Saul
Assistant Director – Finance
Employees' Retirement System of Rhode Island
40 Fountain Street, 1st Floor
Providence, RI 02903

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ERSRI 00139

Exhibit K

Employer's Certification of Retirement and Final Wages

James Grande, Sr.
May 14, 2017



EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND

46 Fountain Street
 Providence, RI 02903 - 1854
 Office (401) 222-2203, TDD (401) 521-8980, Fax (401) 222-2430
 E-Mail: ersri@ersri.org Web Site: www.ersri.org

Employers' Certification of Retirement and Final Wages

DO NOT SUBMIT THIS FORM MORE THAN 3 MONTHS PRIOR TO MEMBER'S RETIREMENT

MEMBER INFORMATION

Name: JAMES P GRANDE		SSN: [REDACTED]
Address: [REDACTED]		Date of Birth: [REDACTED]
City: NORTH PROVIDENCE	State: RI	ZIP: 02911
Telephone Number:		

EMPLOYMENT INFORMATION

Name of the Employer:	Employment Start Date:	Employment End Date:
Position of the Member:	Position Start Date:	Position End Date: 5-14-07

TERMINATION INFORMATION

Date of Termination: 5-14-07	Last Pay Date:	Date of Last Wage & Contribution Report Submitted:
Type of Retirement:	Service Retirement <input type="checkbox"/>	Disability Retirement <input checked="" type="checkbox"/>
Retirement Sub Type:	Ordinary <input type="checkbox"/>	Accidental <input checked="" type="checkbox"/>
Annual Salary Rate:		63,546.27

UNREPORTED WAGES, CONTRIBUTIONS AND SERVICE CREDIT

Pay Period Start Date	Pay Period End Date	Wages	Contributions	Types of Wages	Service Credited for this period

SUPPLEMENTAL PENSION INFORMATION

Is your Municipality accepting the provisions of §16-7-19.1 (Optional Incentive Bonus)? Yes No

If yes, please give the number of years in your municipality and amount of bonus: # of years _____ \$ _____ per year



SALARY CERTIFICATION

This section to be completed for Teachers and Municipal Employees (including Police & Fire) Only.

REPORT 3 HIGHEST CONSECUTIVE YEARS OF SALARY OR LAST 3 YEARS SALARY, WHICHEVER IS GREATER. SALARY REPORTED MUST NOT INCLUDE OVERTIME, UNUSED SICK OR VACATION TIME, COMPENSATORY TIME, OR PAYMENTS MADE IN ANTICIPATION OF MEMBER'S RETIREMENT.

Year	Number of Pay Periods	Salary

DISCLAIMER AND SIGNATURES

DISCLAIMER

The member understands that the EMPLOYMENT INFORMATION, TERMINATION INFORMATION and UNREPORTED WAGES, CONTRIBUTIONS AND SERVICE CREDIT contained on the Employers' Certification of Retirement and Final Wages (ECRFW) have been provided solely by the employer. The member acknowledges that he/she has voluntarily made the determination to submit the Employer's Certification of Retirement and Final Wages to the Employees' Retirement System of Rhode Island. The member understands that the employer has determined the member's projected final wages and service credits through the date of member's termination using information contained within the employer's records and using information provided by the member. The member acknowledges that the submission of the ECRFW is the final statement of termination date and a request for payment of retirement benefits. Upon receipt of the ECRFW and all requisite paperwork necessary to process the member's pension, the member's pension will be processed for the first eligible estimated monthly benefit. The estimated monthly benefit is not binding on the Employees' Retirement System of Rhode Island and is subject to audit, adjustment and correction prior to the monthly benefit being finalized. The monthly benefit amount will be finalized after ERSRI has received and posted all contributions through the date of termination. If the member makes the determination to not terminate after submission of the ECRFW, the member must notify ERSRI immediately. After the member's pension has been processed, no further contributions will be accepted after the date of termination provided on the ECRFW. Once the member has cashed a pension check, the member's retirement is final and can not be rescinded.

The undersigned acknowledges that he/she has read the foregoing Disclaimer and understands the contents thereof and is signing it freely and voluntarily.

SIGNATURES

I understand that any person who makes a false statement or shall falsify or permit to be falsified any record of the retirement system in an attempt to defraud the system may be subject to criminal prosecution, and with that understanding, I certify that all information on page 1 and page 2 of this form is true and correct.

Authorized Employer Signature <i>Christine M. Poulacqua</i>	Date (mm/dd/yyyy) 5-14-07
Title Payroll Manager	Business Tel. 232-0900
Member Signature <i>James J. Johnson</i>	Date (mm/dd/yyyy) 05/14/2007

This form must be completed in entirety and signed by both the Member and Employer.
Return both pages of completed form to:

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
40 Fountain Street, 1st Floor
Providence, RI 02903 - 1854
Office (401) 222-2203, Fax (401) 222-2430



EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
 40 Fountain Street
 Providence, RI 02903 - 1854
 Office (401) 222-2203 Fax (401) 222-2430
 E-Mail: ersri@ersri.org Web Site: www.ersri.org

OPTION SELECTION FORM
(Municipal Employees Retirement System)

Instructions: Please type or print clearly using black ink.

MEMBER INFORMATION

Name:

JAMES P. GRANDE

SSN:

PLAN INFORMATION

Plan: **Municipal Employees Retirement System**

Benefit Structure: **PF20**

RETIREMENT BENEFIT SELECTION

Figures given below are ESTIMATES ONLY, prepared to assist you in selecting a payment option. Your final benefit amount may vary, as it will be computed after verification of salary and service credit. Place your initials in the column adjoining the payment option you wish to select. Initial ONE choice only.

INITIALS	Type of Option	Retiree's Benefit Amount	Survivor Benefit Amount
JPG	SRA - Service Retirement Allowance Regular monthly pension, no survivor benefit.	\$ 39,335.28	Zero
	OPTION 1 - Joint & Survivor 100% Reduced member benefit, but survivor receives same amount. See *NOTE* below.	\$ 31,861.56	\$ 31,861.56
	OPTION 2 - Joint & Survivor 50% Reduced member benefit, but survivor receives 50% of pension amount. See *NOTE* below.	\$ 35,008.32	\$ 17,504.16
	SRA PLUS - Social Security Option (Not available for Police/Fire, disability, or Schedule B retirees) Provides increased monthly benefit until age 62, and a predetermined reduction the month following your 62 nd birthday. No survivor benefit.		Zero
	SRA Plus amount at retirement:	\$0.00	
	SRA Plus amount with COLA at Age 62:	\$0.00	
	Less REDUCTION amount at Age 62:	- 0.00	
	Reduced benefit amount, with COLA, month after 62 nd birthday:	\$0.00	

MEMBERS' STATEMENT AND SIGNATURE

I, the undersigned, certify that I understand my rights and benefits as a member of the Employees Retirement System of Rhode Island. I understand that should I elect to receive my retirement allowance under the SRA Maximum Plan or the SRA Plus Option, that upon my death, the pension will cease and my beneficiary will be entitled to only a one-time death benefit.

NOTE Further, I understand that should I choose to receive my retirement allowance under Option One or Option Two, I have the right to change my retirement option only one time, provided that I have not divorced my beneficiary at the time of the election, or am not involved in divorce proceedings.

OPTION 1 or 2 BENEFICIARY INFORMATION - TO BE COMPLETED ONLY IF SELECTING Option 1 or Option 2

** ALSO ATTACH COPY OF BENEFICIARY'S BIRTH CERTIFICATE **

Beneficiary's First Name	MI	Beneficiary's Last Name:
Beneficiary's Social Security Number	Beneficiary's Date of Birth (mm/dd/ccyy) 1 / 1	

MEMBER'S & COUNSELOR'S SIGNATURE

Signature of Member <i>James P. Grande</i>	Date (mm/dd/ccyy) 05/14/2007
Counselor's Signature	Date (mm/dd/ccyy)



From: Sandra Longtin
Sent: Monday, March 20, 2017 11:01 AM
To: Cheryl DerHagopian <Cheryl.DerHagopian@ersri.org>
Subject: FW: North Providence - Fire (Agency #1385) Longevity

Cheryl,

FYI...

From: Sandra Longtin
Sent: Monday, March 20, 2017 9:44 AM
To: 'Maria Vallee' <mvallee@northprovidenceri.gov>
Cc: Zachary Saul <Zachary.Saul@ersri.org>
Subject: RE: North Providence - Fire (Agency #1385) Longevity

Good morning Maria,

Start by creating the file using the template used for Gerald Capaldi. Once completed I can help you load the file into the system. Please call if you have any questions.

Thank you,

Sandra

Employees' Retirement System of Rhode Island
401-462-7614
50 Service Avenue
Warwick, RI 02886

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From: Maria Vallee [<mailto:mvallee@northprovidenceri.gov>]
Sent: Sunday, March 19, 2017 7:33 PM
To: Sandra Longtin <Sandra.Longtin@ersri.org>
Cc: Zachary Saul <Zachary.Saul@ersri.org>
Subject: North Providence - Fire (Agency #1385) Longevity

Hi Sandra -

I hope you had a nice weekend!

I have 20 retired firefighters longevity calculations that need to be corrected (IE Gerald Capaldi). Please let me know how you want me to proceed.

If you have any questions, feel free to call me.

Thank you for your cooperation.

Maria G. Vallee

Controller

Town of North Providence

2000 Smith Street

North Providence, RI 02911

(401) 232-0900

mvallee@northprovidenceri.gov

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Frank Karpinski

From: Zachary Saul
Sent: Monday, October 1, 2018 9:30 AM
To: Frank Karpinski
Subject: FW: NPDF retiree data
Attachments: Copy of Retirees from 1385_without SSN_for M. Vallee_10-5-13.xls



Thank you,
Zack

From: Saul, Zachary
Sent: Thursday, December 5, 2013 4:33 PM
To: Maria Vallee <mvallee@northprovidenceri.gov>
Subject: NPDF retiree data

Maria

Attached is the data in a lower version of excel. Please confirm you can open the file.

Thank you,
Zack

Zachary J. Saul
Director of Finance
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886

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Frank Karpinski

From: Zachary Saul
Sent: Monday, October 1, 2018 9:37 AM
To: Frank Karpinski
Subject: FW: North Providence Firefighters (Retirees)

Thank you,
Zack

From: Zachary Saul
Sent: Monday, March 13, 2017 11:04 AM
To: Maria Vallee <mvallee@northprovidenceri.gov>
Cc: Gayle Mambro-Martin <Gayle.Mambro-Martin@ersri.org>
Subject: RE: North Providence Firefighters (Retirees)

Maria

We have reviewed the opinion that you provided. RI General Law 36- 8-1(8), states that overtime wages are to be excluded for retirement purposes. Also, the law does not provide any exclusions for including overtime as it applies to longevity.

We believe the Town will still have to make the necessary adjustments to appropriately correct the wage and contribution data as it relates to the longevity issue.

Please let us know if you have any questions.

Thank you,
Zack

From: Maria Vallee [<mailto:mvallee@northprovidenceri.gov>]
Sent: Tuesday, March 7, 2017 12:28 PM
To: Zachary Saul <Zachary.Saul@ersri.org>
Subject: North Providence Firefighters (Retirees)

Good Afternoon Zach -

I hope this email finds you well.

Due to the Gerald Capaldi longevity issue (Agency 1385), we had a meeting today with James Grande, Retired Firefighter and currently president of the NP Firefighters Retiree Association. He provide us with the attached Supreme Court ruling regarding the longevity and gross income (see page 4), based on the attached court ruling, they believe that their State pensions should not be adjusted.

Please review that attached document and provide us with the State's legal interpretation. I will not proceed with any calculations until we receive a response from the State regarding this issue.

If you have any questions, feel free to call me.

Thank you for your help in this matter.

Maria G. Vallee

Controller

Town of North Providence

2000 Smith Street

North Providence, RI 02911

(401) 232-0900

mvallee@northprovidenceri.gov

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Gayle Mambro-Martin

From: Fire Chief
Sent: Monday, September 29, 2014 11:44 AM
To: MAMBRO MARTIN, Gayle; MAMBRO MARTIN, Gayle
Subject: Re: Refunding contributions

Yes, we are correcting the longevity on overtime as they retire, but I don't know exactly what the members contribution on that amount is. I'm assuming if we exclude 1000 of earnings that was miscalculated, and the member paid 7%, then we owe them \$70. I just don't know where we would see that amount recorded.

Leonard A. Albanese Jr.
Chief of Department

North Providence Fire Department
1951 Mineral Spring Avenue
North Providence, RI 02904

phone (401) 231-8505 fax (401) 231-4867

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On Mon, Sep 29, 2014 at 11:41 AM, MAMBRO MARTIN, Gayle <gmambro@ersri.org> wrote:

I think the refunds will be done as the member retires since it is currently at that point that we know the amount, right?

Gayle C. Mambro-Martin, Esq.

Legal Counsel/Policy Analyst/Working State Social Security Administrator

Employees' Retirement System of Rhode Island

50 Service Avenue, 2nd Floor

Warwick, RI 02886

Phone: [401-462-7616](tel:401-462-7616)

Fax: [401-462-7691](tel:401-462-7691)

Email: gmambro@ersri.org

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From: Fire Chief [<mailto:firechief@northprovidenceri.gov>]
Sent: Monday, September 29, 2014 11:39 AM
To: MAMBRO MARTIN, Gayle
Subject: Re: Refunding contributions

How would we know that amount? would we see it on a report?

Leonard A. Albanese Jr.

Chief of Department

North Providence Fire Department

1951 Mineral Spring Avenue

North Providence, RI 02904

phone (401) 231-8505 fax (401) 231-4867

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On Mon, Sep 29, 2014 at 10:58 AM, MAMBRO MARTIN, Gayle <gmambro@ersri.org> wrote:

Good Morning Chief,

I have been able to confirm that because refunds are done through an adjustment report, the employer would take credit and in turn pass it on to the employee.

Hope this answers your question.

Gayle

Gayle C. Mambro-Martin, Esq.

Legal Counsel/Policy Analyst/Working State Social Security Administrator

Employees' Retirement System of Rhode Island

50 Service Avenue, 2nd Floor

Warwick, RI 02886

Phone: 401-462-7616

Fax: 401-462-7691

Email: gmambro@ersri.org

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. Thank you.



SocialSecurityNumber	LastName	FirstName	Status	Old Pension	New Monthly Pension	Monthly Difference	Total Due	Letter Sent	A/R Created	A/R Adjustment to be made	A/R Ends
[REDACTED]	Charello	David	recalculated *Alternate payee for David	\$2,897.13	\$2,752.06	\$ (145.07)	\$12,330.58	yes	yes	\$145.07 over 85 months	7/31/2024
[REDACTED]	Zackarian	Mary	Charello	\$1,267.56	\$1,202.86	\$ (64.70)	\$5,499.00	yes		\$64.69 over 85 months	7/31/2024
[REDACTED]	Zarlenga	Andrew	recalculated *Alternate payee for Andrew	\$2,905.63	\$2,798.47	\$ (107.16)	\$13,515.82	yes	yes	\$155.35 over 87 months	9/30/2024
[REDACTED]	Zarlenga	Deborah	Zarlenga	\$1,452.82	\$1,399.02	\$ (53.80)	\$484.20	yes		\$53.8 over 9 months	3/31/2018
[REDACTED]	Rossi	Anthony	recalculated	\$2,986.52	\$2,830.05	\$ (156.47)	\$22,342.14	yes	yes	\$157.34 over 142 months	4/30/2029
[REDACTED]	Adams	Mitchell	recalculated	\$ 3,260.88	\$3,255.71	\$ (5.17)	\$ 577.21	yes	yes	\$5.20 over 111 months	paid lump sum
[REDACTED]	Di Iorio	David	recalculated	\$ 2,696.30	\$2,620.81	\$ (75.49)	\$ 7,324.97	yes	yes	\$75.52 over 97 months	6/30/2025
[REDACTED]	Bomba	James	recalculated	\$ 2,189.69	\$2,141.69	\$ (48.00)	\$ 6,227.61	yes	yes	\$48.27 over 129 months	2/29/2028
[REDACTED]	Grande	James	recalculated	\$ 3,530.52	\$3,192.53	\$ (337.99)	\$40,406.16	yes	yes	\$339.54 over 119 months	4/30/2027
[REDACTED]	Morrissey	Robert	recalculated	\$ 2,609.70	\$2,533.76	\$ (75.94)	\$ 9,852.60	yes	yes	\$76.37 over 129 months	2/29/2028
[REDACTED]	Scandariato	Kenneth	recalculated	\$ 3,289.28	\$3,231.48	\$ (57.80)	\$ 6,961.09	yes	yes	\$58.00 over 120 months	5/31/2027
[REDACTED]	Cardin	Robert	recalculated	\$ 3,268.86	\$3,173.04	\$ (95.82)	\$ 8,030.31	yes	yes	\$96.75 over 83 months	4/30/2024
[REDACTED]	Vartian	David	recalculated	\$2,712.22	\$2,698.52	\$ (13.70)	\$1,456.70	yes	yes	\$13.74 over 106 months	3/31/2026
[REDACTED]	Iavarone	Lawrence	recalculated	\$ 2,216.47	\$2,190.45	\$ (26.02)	\$ 2,680.06	yes	yes	\$26.02 over 103 months	12/31/2025
[REDACTED]	Wheeler	John	recalculated	\$ 3,516.96	\$3,527.81	\$ 10.85	\$ 859.37	yes	n/a	\$859.37 owed to member	NO AR
[REDACTED]	Andre	Frank	recalculated	\$ 3,049.96	\$3,036.27	\$ (13.69)	\$ 1,350.91	yes	yes	\$13.64 over 99 months	8/31/2025
[REDACTED]	De Angelis	Thomas	recalculated	\$3,226.40	\$3,154.61	\$ (71.79)	\$6,700.44	yes	yes	\$55.38 over 120 months \$54.84 121st month	6/30/2027
[REDACTED]	Morrissey	William	recalculated	\$ 2,337.28	\$2,280.30	\$ (56.98)	\$ 5,683.29	yes	yes	\$57.41 over 98 months \$7.11 99th month	9/30/2025
[REDACTED]	Randall	Douglas	Recalculated	\$ 2,272.80	\$2,256.88	\$ (15.92)	\$1,300.82	yes	yes	\$16.06 over 81 months	2/29/2024
[REDACTED]	Ceprano	Anthony	recalculated Previously Recalculated	\$ 3,358.78	\$3,340.49	\$ (18.29)	\$ 2,217.57	yes	yes	\$18.33 over 120 months \$17.97 remaining 121 month	6/31/2027
[REDACTED]	Bishop	Stephen	no impact								NO AR
[REDACTED]	Bazzle	Eric	Recalculated	\$ 2,541.75	\$2,457.18	\$ (84.57)	\$ 8,229.94	yes	yes	83.84 over 99 months	8/31/2025



Employees' Retirement System of Rhode Island



Via Email and U.S. First Class Mail

August 2, 2011

Maria G. Vallee, Controller
Finance Department
North Providence Town Hall
2000 Smith Street
North Providence, RI 02911

RE: Longevity and Overtime Firefighters' Pensions

Dear Ms. Vallee:

We write as a follow up to the discussions and correspondence regarding the longevity payments and contributions for the Town of North Providence's firefighters. Based upon the contracts that have been provided to our office, and our analysis it appears that adjustments need to be made to members' pensions, and contributions received by the retirement plan.

Rhode Island General Law § 36-8-1(7) provides that compensation as used in chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or reasons other than the performance of duties or activities. However, since at least 2004 contracts with Local 2334 International Association of Firefighters-AFL-CIO have incorporated gross compensation (including overtime) in longevity payments. This calculation resulted in overtime being included in the calculation of retirees' benefits.

Consequently, any and all payments associated with overtime must be excluded from the longevity contributions to the retirement system. This means that the Town of North Providence may have over contributed to the retirement system, and some retirees' pensions will need to be adjusted.

We would like to meet with the union leadership, John Silva, and the appropriate city officials to work through the corrections that must be made to ensure compliance with Rhode Island law. Please confirm your availability for the end of this week or next week. While we understand this is short notice, we would like to have

ERSRI Board:

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Michael R. Boyce

M. Carl Heintzelman

Richard A. Licht

John P. Maguire

John J. Meehan

Thomas A. Mullaney

Louis M. Prata

Linda C. Riendeau

Jean Rondeau

Frank J. Karpinski
Executive Director

a discussion on this matter sooner rather than later to mitigate the number of corrections that will have to be made. I look forward to speaking with you.

Sincerely,



Frank J. Karpinski
Executive Director
FJK/MAM/GMM

cc: Charles A. Lombardi, The Honorable Mayor
of the Town of North Providence (via email, and First Class U.S. Mail)
✓ Vincent Rogosta, Esq. (via email and First Class U.S. Mail)
Leonard A. Albanese, Chief of Fire Department
✓ John Silva, President Local 2334 International Association of Firefighters
AFL-CIO



Employees' Retirement System of Rhode Island



ERSRI Board:

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General Treasurer
Chair

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Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 17, 2017

Frank Andre
[REDACTED]

North Providence, RI 02911

Dear Mr. Andre,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$3,036.27 will begin on 5/1/2017.

Since your date of retirement, you have been overpaid a total of \$1350.91. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$13.64 beginning 6/1/2017 for 99 consecutive months through 9/1/2025. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 6/12/2017.

If you do not respond to this letter prior to 6/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
*General Treasurer
Chair*

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mulaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

Sincerely,

John P. Midgley
Retirement Benefit Analyst
Employees' Retirement System of RI



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Caruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dixon

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Nowell

Marisa B. Rebeck

Jean Rondan

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 18, 2017

Mr. David Vartian

[REDACTED]
McKinney, TX 75076

Dear Mr. Vartian,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2698.52 will begin on May 1, 2017.

Since your date of retirement, you have been overpaid a total of \$1456.70. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$13.70 beginning June 1, 2017 for 106 consecutive months through March 31, 2026. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by June 12, 2017.

If you do not respond to this letter prior to June 06/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Page 2 of 2
May 18, 2017

Sincerely,

A handwritten signature in black ink that reads "Jodie Stevenson". The signature is written in a cursive style with a large initial "J".

Jodie Stevenson



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Moutc

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondesu

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 17, 2017

Mr. Robert L. Cardin
[REDACTED]
Coventry, RI 02816

Dear Mr. Cardin,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(B), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$3173.04 will begin on May 1, 2017.

Since your date of retirement, you have been overpaid a total of \$8030.31. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$96.75 beginning June 1, 2017 for 83 consecutive months through April 30, 2024. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by June 12, 2017.

If you do not respond to this letter prior to the 06/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of

Page 2 of 2
May 17, 2017

contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

A handwritten signature in black ink that reads "Jodie Stevenson". The signature is written in a cursive style with a large, looped initial "J".

Jodie Stevenson



Employees' Retirement System of Rhode Island

ERSRI Board:

May 18, 2017

Seth Magaziner
General Treasurer
Chair

Mr. Kenneth Scandariato

William B. Finelli
Vice Chair

[REDACTED]
Norwich, CT 06360

Roger P. Boudreau

Mark A. Carruolo

Dear Mr. Scandariato,

Brian M. Daniels

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Thomas A. Mullaney

Claire M. Newell

Your new monthly pension benefit of \$3231.48 will begin on May 2017.

Marcia B. Reback

Jean Rondeau

Since your date of retirement, you have been overpaid a total of \$6961.09. ERSRI must recoup this overpayment through one of the below repayment options.

Laura Shawbushes

Frank J. Karpinski
Executive Director

- A monthly deduction from your pension payroll of \$58.00 beginning June 1, 2017 for 120 consecutive months through 05/31/2027. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 06/12/2017.

If you do not respond to this letter prior to 06/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of

Page 2 of 2
May 18, 2017

contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

A handwritten signature in cursive script that reads "Jodie Stevenson".

Jodie Stevenson



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondese

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 18, 2017

Mr. David Di Iorio

Providence, RI 02908

Dear Mr. Di Iorio:

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2,620.81 will begin on 5/1/2017.

Since your date of retirement, you have been overpaid a total of \$7,324.97. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$75.51 beginning 6/1/2017 for 97 consecutive months through 7/1/2024. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 6/12/2017.

If you do not respond to this letter prior to the 6/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Claudia Cardona
Retirement Benefit Analyst



Employees' Retirement System of Rhode Island

ERSRI Board: June 22, 2017

Seth Magaziner
*General Treasurer
Chair*

Mr. Anthony Rossi

Saunderstown, RI 02874

William B. Finelli
Vice Chair

Daniel L. Beardsley

Dear Mr. Rossi,

Roger P. Boudreau

It was a pleasure speaking with you this morning. Enclosed please find a copy of the spreadsheet which North Providence provided to ERSRI.

Mark A. Caruolo

Michael DiBiase

Please feel free to contact me if you have any questions.

Paul L. Dion

Best Regards,

Thomas M. Lambert

John P. Maguire

Cheryl Melise

Joanne A. Matisewski

Senior Retirement Benefit Analyst

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director



Employees' Retirement System of Rhode Island

ERSRI Board:

April 10, 2017

Seth Magaziner
General Treasurer
Chair

Eric Bazzle

William B. Finelli
Vice Chair

████████████████████
North Providence, RI 02904

Roger P. Boudreau

Mark A. Carruolo

Dear Mr. Bazzle,

Brian M. Daniels

Michael DiBiase

Paul L. Dion

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

Thomas M. Lambert

John P. Maguire

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Your new monthly pension benefit of \$2457.18 will begin on 5/1/2017.

Jean Rondeau

Since your date of retirement, you have been overpaid a total of \$8299.94. ERSRI must recoup this overpayment through one of the below repayment options.

Laura Shawhughes

- A monthly deduction from your pension payroll of \$83.84 beginning 6/1/2017 for 99 consecutive months through 9/1/2017. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 5/31/2017.

Frank J. Karpinski
Executive Director

If you do not respond to this letter prior to the 5/31/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Tara Corcelli
Retirement Counselor Manager
Employees' Retirement System of RI



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 15, 2017

James Bomba
[REDACTED]
North Smithfield, RI 02896

Dear Mr. Bomba,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2141.69 will begin on 5/1/2017.

Since your date of retirement, you have been overpaid a total of \$6227.61. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$48.27 beginning 5/1/2017 for 129 consecutive months through January 31, 2028. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 6/12/2017.

If you do not respond to this letter prior to the 6/12/2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Jackie Coughlin
Retirement Benefit Analyst
Employees' Retirement System of RI



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 15, 2017

Robert Morrissey

North Providence, RI 02911

Dear Mr. Morrissey,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-B-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2533.76 will begin on 05/01/2017.

Since your date of retirement, you have been overpaid a total of \$9852.60. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$76.37 beginning 05/01/2017 for 129 consecutive months through January 31, 2028. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by June 12, 2017.

If you do not respond to this letter prior to the June 12, 2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Jackie Coughlin
Retirement Benefit Analyst



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 16, 2017

Douglas Randall
[REDACTED]

Cranston, RI 02920

Dear Mr. Randall,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2,256.88 will begin on May 1, 2017.

Since your date of retirement, you have been overpaid a total of \$1,300.82. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$16.06 beginning June 1, 2017 for eighty-one (81) consecutive months through February 28, 2024. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by June 12, 2017.

If you do not respond to this letter prior to June 12, 2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Kimberly C. DeCosta



Employees' Retirement System of Rhode Island

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

May 16, 2017

Anthony Ceprano

[REDACTED]
North Providence, RI 02904

Dear Mr. Ceprano,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$3,340.49 will begin on May 1, 2017.

Since your date of retirement, you have been overpaid a total of \$2,217.57. ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$18.33 beginning June 1, 2017 for 121 consecutive months through June 30, 2027. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by June 12, 2017.

If you do not respond to this letter prior to June 12, 2017, ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Kimberly C. DeCosta



Employees' Retirement System of Rhode Island

June 6, 2017

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

Andrew Zarlenga

[REDACTED]
Pawtucket, RI 02860

Dear Mr. Zarlenga,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(B), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$2,798.47 will begin on 6/1/2016

Since your date of retirement, you have been overpaid a total of \$13,515.82 ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$155.35 beginning 7/1/2017 for 87 consecutive months through 10/1/2024. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 7/7/2017.

If you do not respond to this letter prior to the 7/7/2017 ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Cheryl Melise
Senior Retirement Benefit Analyst

50 Service Avenue 2nd Floor, Warwick, RI 02886-1021 (401) 462-7600 Fax: (401) 462-7691

E-Mail: ersri@ersri.org Web Site: www.ersri.org



Employees' Retirement System of Rhode Island

June 6, 2017

ERSRI Board:

Seth Magaziner
General Treasurer
Chair

William B. Finelli
Vice Chair

Roger P. Boudreau

Mark A. Carruolo

Brian M. Daniels

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

John P. Maguire

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

Deborah Zarlenga

[REDACTED]
Cranston, RI 02920

Dear Ms. Zarlenga,

From 2003 through 2010 the North Providence Fire Department was incorrectly reporting salary and contributions to the Employees' Retirement System of RI (ERSRI). When calculating longevity payments, your employer included overtime hours. Under Rhode Island law 36-8-1(8), overtime hours are not pensionable and these wages should not have been included in your pension calculation.

At the time of your retirement, we used salaries which included some or all the years in question. Therefore, we have recalculated your pension based on the corrected salary provided by North Providence.

Your new monthly pension benefit of \$1,399.02 will begin on 6/1/2016

Since your date of retirement, you have been overpaid a total of \$484.20 ERSRI must recoup this overpayment through one of the below repayment options.

- A monthly deduction from your pension payroll of \$53.80 beginning 7/1/2017 for 9 consecutive months through 3/1/2018. This is the same period that you have been overpaid.
- A lump sum for the overpayment amount payable by check to the Employees' Retirement System of Rhode Island. If you would like to make a lump sum payment, please contact our office at 401-462-7600 by 7/7/2017.

If you do not respond to this letter prior to the 7/7/2017 ERSRI will process the above monthly deduction to recoup the overpayment.

We are very sorry for this inconvenience. ERSRI has returned the erroneously made contributions to your employer. If you have any questions regarding the return of contributions made during the above years, please contact the North Providence Fire Department.

Sincerely,

Cheryl Melise
Senior Retirement Benefit Analyst



Employees' Retirement System of Rhode Island



ERSRI Board:

February 14, 2018

Seth Magaziner
*General Treasurer
Chair*

Edward C. Roy, Esq.
1130 Ten Rod Road, A-103
North Kingstown, RI 02852

William B. Finelli
Vice Chair

**RE: *Adams, et. al. vs. Town of North Providence, et. al.
Request for Administrative Hearing***

Roger P. Boudreau

Dear Attorney Roy:

Mark A. Carruolo

Brian M. Daniels

In accordance with Rhode Island General Laws §36-8-3 and Regulation 1.4, Rules of Practice and Procedures for Hearings in Contested Cases, your request for a hearing has been assigned to:

Michael DiBiase

Paul L. Dion

Thomas M. Lambert

HEARING OFFICER: Teresa M. Rusbino, Esq.
Phone: (401) 741-7378

John P. Maguire

LOCATION: Employees Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newel

Marcia B. Reback

Jean Rondeau

Laura Shawhughes

Frank J. Karpinski
Executive Director

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

Members must appear at hearings either personally or by appearance of legal counsel. Consistent with RIGL §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.

Should you have any additional questions, please do not hesitate to contact me at 401-462-7608.

Sincerely,

Roxanne Donoyan
Administrative Assistant

cc: Michael P. Robinson, Esq.



A Limited Liability Partnership

Michael P. Robinson, Esq.
mrobinson@shslawfirm.com

June 15, 2018

Teresa M. Rusbino, Esquire
Law Office of Teresa Rusbino
P.O. Box 8767
Cranston, RI 02920-0767

Re: ERSRI/Mitchell Adams, et al.

Dear Hearing Officer Rusbino:

Thank you for your email dated May 15, 2018 in the above-referenced matter. Please allow this letter to confirm my understanding that this matter has been scheduled for a hearing on Monday, June 25, 2018 at 12:00 noon at the office of the Employees' Retirement System, located at 50 Service Avenue, Warwick, Rhode Island. Please also allow this correspondence to outline the position of the Employees' Retirement System with respect to Mr. Adams's assertions that he and his fellow retirees (hereafter the "Retirees") have a right to receive pension benefits based on compensation that included overtime pay as a component thereof.

As procedural background for this matter, the Retirees filed a petition in Providence County Superior Court on or about May 1, 2017. The Municipal Employees' Retirement System of Rhode Island ("MERS") moved to dismiss that action, *inter alia*, for the Retirees' failure to exhaust their administrative remedies, which motion was granted on or about December 19, 2017.

The facts, as taken solely from Retirees' petition, are that they are all retired from service with the North Providence Fire Department ("NPF"). At all relevant times, the NPF was a participant in the pension system administered by MERS, and was subject to the laws and regulations applicable thereto, including R.I.G.L. § 45-21-41(a). It is alleged that the Town

1080 Main Street
Pawtucket, Rhode Island 02860
401.272.1400 / 401.272.1403

www.shslawfirm.com

calculated the Retirees' retirement allowance¹ by including longevity that was owed for overtime pay and that the Retirees made contributions based upon the Town's method of calculating "salary or compensation." The Collective Bargaining Agreement ("CBA") between the Town and Local 2334 of the International Association of Firefighters (the "Union") provided that "[o]nly the employee's income derived from the Town's fire department **annual salary, holiday pay and longevity pay** shall be considered for retirement benefit contributions." (Emphasis in the original). The Town also made pension contribution deductions based upon the language in the CBA. During 2011, the Town and MERS investigated whether the Town had properly calculated the pension contributions for its firefighters.

It is the position of the Town and MERS that MERS over-calculated the pension benefits owed to the Retirees because the Town had over-calculated its and the Retirees' contributions because the Retirees should not have received pension benefits based on compensation that included overtime pay as a component thereof. The Retirees seek to have R.I.G.L. § 45-21-41(a) interpreted in a manner inconsistent with its language. Section 45-21-41(a) states, in pertinent part:

(a) Prior to July 1, 2012, each member shall contribute an amount equal to six (6%) of salary or compensation earned and accruing to the member; provided, that contributions by any member cease when the member has completed the maximum amount of service credit attainable. **Special compensation for additional fees shall not be considered as compensation for contribution purposes.**

R.I.G.L. § 45-21-41 (emphasis added). Retirees seek to have this provision interpreted to include overtime pay as a component of compensation, which is directly contradicted by the language of the statute that says: "Special compensation for additional fees shall not be considered as compensation for contribution purposes." *Id.*

If that were not clear enough, there is further statutory authority for the notion that contributions should not include longevity earned on overtime pay:

(8) "Compensation" as used in chapters 8 -- 10 of this title, chapters 16 and 17 of title 16, and chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or any

¹ The Retirees alleged in their Complaint that the Town had calculated their retirement allowance. In fact, the Town calculated the Retirees' employer and employee contributions, from which, upon retirement, MERS calculated their retirement allowance.

other reason other than performance of duties, including but not limited to the types of payments listed below:

- (i) Payments contingent on the employee having terminated or died;
- (ii) Payments made at termination for unused sick leave, vacation leave, or compensatory time;
- (iii) Payments contingent on the employee terminating employment at a specified time in the future to secure voluntary retirement or to secure release of an unexpired contract of employment;
- (iv) Individual salary adjustments which are granted primarily in anticipation of the employee's retirement;
- (v) Additional payments for performing temporary or extra duties beyond the normal or regular work day or work year.

R.I.G.L. § 36-8-1(8) (emphasis added). As such, it is clear that applicable statutes contradict the contribution methodology used by the Town.

It is also beyond cavil that municipalities may not contract to provide benefits that conflict with state law or seek to usurp authority that is vested in a state agency. *City of Cranston v. Int'l Bhd. of Police Officers, Local 301*, 115 A.3d 971, 979 (R.I. 2015). It has long been the law in the state of Rhode Island that a contract entered into in contravention of a statute is illegal and that no rights derive therefrom. *Pawtucket Sch. Comm. v. Pawtucket Teachers All.*, 601 A.2d 1104, 1106 (R.I. 1992); citing *Birkett v. Chatterton*, 13 R.I. 299, 302 (1881). As such, any CBA provision which provides for a determination of compensation inconsistent with statute is unenforceable.

Even if § 45-21-41(a) could be deemed to be ambiguous with regard to the inclusion of overtime as a component of compensation, the plain language of § 36-8-1(8) negates any such argument because it explicitly excludes overtime from the definition of compensation. As §45-21-41(a) is inconsistent with the provisions of the CBA, that provision of the CBA is unenforceable, and MERS is entitled to recoup the overpayments of pension benefits which resulted from the Town's miscalculation of the Retirees' compensation.

As you know, the Retirement System's interpretation of R.I.G.L. § 45-21-41(a) is entitled to substantial deference, even if the agency's interpretation is not the only permissible interpretation that could be applied. See *Lyman v. ERSRI*, 693 A.2d 1030, 1031 (R.I. 1997). The Rhode Island Supreme Court has consistently held that an administrative agency will be accorded great deference in interpreting a statute whose administration and enforcement have been entrusted to the agency. See *Town of Richmond v. R.I. Dep't of Envtl. Mgmt.*, 941 A.2d 151, 157 (R.I. 2008).

In Chapter 8 of Title 36, the Legislature vested "the general administration and the responsibility for the proper operation of the retirement system" of Rhode Island in the Retirement Board. R.I.G.L. §36-8-3. The Retirement Board has been endowed by the

Legislature with a broad grant of authority over the state retirement system. *See Iselin v. Ret. Bd. of the Emples. Ret. Sys.*, R.I. Super. LEXIS 75, *aff'd* at 943 A.2d 1045 (R.I. 2008), *quoting Perotti v. Solomon*, 657 A.2d 1045, 1047-48 (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." *Perotti*, 657 A.2d at 1048, *quoting* R.I.G.L. § 36-8-3. The Retirement System routinely interprets the statutes and regulations it has been entrusted with administering, including R.I.G.L. §45-21-41(a), and has been entirely reasonable in its interpretation of the statute to determine that the Retirees are not entitled to a retirement pension calculated by including overtime pay as a component thereof.

I look forward to presenting this position to you in person on June 25, 2018. Please do not hesitate to contact me should you have any questions or concerns prior to that time. Kindest regards.

Very truly yours,

/s/Michael P. Robinson

MPR/

cc: Frank Karpinski, Executive Director
Gayle Mambro-Martin, Esq.
Edward C. Roy, Esq.
Vincent F. Ragosta, Esq.

STATE OF RHODE ISLAND
EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND

IN RE: *Adams, et al v. Town of North Providence, et al*
C.A. No. PC-2017-1956

BRIEF OF NORTH PROVIDENCE FIRE RETIREES

1. Travel of the case

Each of the plaintiffs in the *Adams* lawsuit is a retired firefighter formerly employed by the Town of North Providence. In the initial pension calculations that were prepared by the Town of North Providence and, approved by the Employees' Retirement System of Rhode Island ("ERSRI"), the *Adams* plaintiffs' earnings for longevity that is based upon overtime were included. No pension contributions based on overtime itself were paid by either the *Adams* retirees or by the Town. Historically, the longevity for overtime had been included in the gross pay of North Providence Firefighters based upon an arbitration decision that was ultimately confirmed by the Superior Court. The confirmation of the arbitration award was eventually affirmed by the Rhode Island Supreme Court. (A copy of the Rhode Island Supreme Court decision in *Town of North Providence v. Local 2334, I.A.F.F.*, 763 A.2d 604 (R.I. 2000) is attached hereto as Exhibit A).

On May 1, 2017, the plaintiffs filed a complaint in Providence County Superior Court against the Town of North Providence and against the ERSRI, seeking a declaratory judgment, among other relief, that the ERSRI calculation method was incorrect.

On September 20, 2017, the ERSRI filed a motion to dismiss, arguing, among other arguments, that the plaintiffs should have exhausted their administrative remedies within the ERSRI regulatory framework. On December 6, 2017, Superior Court Justice Melissa A. Long granted ERSRI's motion to dismiss on the grounds of failure to exhaust administrative remedies.

After the plaintiffs' counsel requested to begin the administrative process, ERSRI Executive Director Frank J. Karpinski wrote a letter to counsel on February 14, 2018. (Copy attached as Exhibit B). Mr. Karpinski's letter framed the core issue in this matter, when he wrote that,

"ERSRI/MERS maintains its position that longevity payments which are based on overtime pay shall be excluded from compensation used in the calculation of pension benefits."

(Exhibit B, Karpinski letter, February 14, 2018, at p. 1.)

On March 9, 2018, plaintiffs' counsel requested the administrative review of Mr. Karpinski's February 14, 2018 decision. Counsel's letter to Mr. Karpinski is attached hereto as Exhibit C). The administrative hearing is scheduled to begin before ERSRI hearing officer Teresa Rusbino, Esq. at 12:00 p.m. on June 25, 2018. This brief will serve to support the plaintiffs' argument that the ERSRI decision to exclude longevity based on overtime pay is erroneous in light of both the applicable statute and the facts.

2. Factual background of the plaintiffs' retirement benefit calculations

As mentioned above, each of the Adams plaintiffs retired from the North Providence Fire Department. In the time period between January 11, 2011 and March 22, 2011, both the Town of North Providence and ERSRI became aware of what was claimed

as a miscalculation of retirement benefits, including longevity based on overtime, for retired members of the North Providence Fire Department. The ERSRI never made any formal reduction in benefits until 2017, despite knowing for more than six (6) years that there was a potential overpayment to the plaintiffs. (The email “chain” beginning on January 18, 2011 is attached as Exhibit G). (The email “chain” beginning on March 22, 2011 is attached as Exhibit H). The email “chain” beginning on April 20, 2011 is attached as Exhibit I). (The email “chain” beginning on June 23, 2011 is attached as Exhibit J). These emails involving the Town of North Providence and the ERSRI staff establish conclusively that both entities were on notice early in 2011 that the plaintiffs may have been over paid. Despite this notice, no action or notice took place for six (6) years.

The June 23, 2011 email is particularly significant because that document demonstrates that ERSRI’s staff used the particular provisions of the North Providence Fire CBA to determine the exact parameters of the pension calculations.

Despite having this knowledge of “overpayments”, ERSRI did not act until June 30, 2017, when the ERSRI notified the plaintiffs, and other affected retirees, that their pensions were being adjusted and that the “overpayments” were being recouped through deductions. The letter advised retirees that, if they had questions, to contact the Town. Previously, the Town had notified retirees by a letter dated March 24, 2017 that the Town had received notification from ERSRI that there had been an error in longevity calculations.

Each of the plaintiffs participated in the ERSRI process by signing a form entitled “Employer’s Certification of Retirement and Final Wages”. (The copy signed by

plaintiff Jame Grande, Sr. on May 14, 2007 is attached as Exhibit J). The form contains a disclaimer which states, in pertinent part, that:

“The member understands that the EMPLOYMENT INFORMATION, TERMINATION INFORMATION and UNREPORTED WAGES, CONTRIBUTIONS AND SERVICE CREDIT contained on the Employer’s Certification of Retirement and Final Wages (ECRFW) have been provided solely by the employer. . . . Upon receipt of the ECRFW and all requisite paperwork necessary to process the member’s pension, the member’s pension will be processed for the first eligible estimated monthly benefit. The estimated monthly benefit is not binding on the Employees’ Retirement System of Rhode Island and is subject to audit, adjustment and correction prior to the monthly benefit being finalized. The monthly benefit amount will be finalized after ERSRI has received and posted all contributions through the date of termination. If the member makes the determination to not terminate after submission of the ECRFW, the member must notify ERSRI immediately. After the member’s pension has been processed, no further contributions will be accepted after the date of termination provided on the ECRFW. Once the member has cashed a pension check, the member’s retirement is final and can not be rescinded.”

(Exhibit J. Emphasis added).

The above-noted excerpt from Exhibit J is evidence that, once calculations are completed by an employer and ERSRI has completed its computations, the retirement calculus is completed. Nowhere in the notice to a retiree does ERSRI reserve the right to re-calculate a member’s pension.

3. Argument

A) The Employees’ Retirement System of Rhode Island Has Improperly Excluded Longevity Pay Earned On Overtime From The Plaintiffs’ Pension Calculations

The plaintiffs believe that this administrative hearing involves a relatively straightforward interpretation of a statute, Rhode Island General Law § 36-1-8(8), which provides the following.

“§ 36-1-8(8) “Compensation” as used in chapters 8 – 10 of this title, chapters 16

and 17 of title 16, and chapter 21 of Title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or any other reason other than performance of duties, including but not limited to the types of payments listed below:

- (i) Payments contingent on the employee having terminated or died;
- (ii) Payments made at termination for unused sick leave, vacation leave, or compensatory time;
- (iii) Payments contingent on the employee terminating employment at a specified time in the future to secure voluntary retirement or to secure release of an unexpired contract of employment;
- (iv) Individual salary adjustments which are granted primarily in anticipation of the employee's retirement;
- (v) Additional payments for performing temporary or extra duties beyond the normal or regular work day or work year."

Rhode Island General Laws, § 36-1-8(8) (Emphasis added).

The error in the ERSRI's analysis is reflected in its conclusion to equate longevity earned on overtime with the overtime payment itself. The fact that the Town's decision to include longevity on overtime in the overall compensation paid to North Providence Firefighters is predicated upon an arbitration award serves to support the conclusion espoused here by the plaintiffs: longevity based on overtime constitutes "regular" longevity, within the meaning of Section 36-8-1(8).

The term "regular longevity" is not defined in Section 36-8-1(8), the statute governing the definition of the term "compensation", as it applies to pensions for municipal workers. Accordingly, a basic rule of statutory construction is to give terms their "plain and ordinary" meanings. The Rhode Island Supreme Court has stated that "[i]n matters of statutory interpretation our ultimate goal is to give effect to the purpose of the act." State v. Hazard, 68 A.3d, 479, 485 (R.I. 2013). The Court also noted that "[W]hen the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings."

Id. Finally, the Court noted that "However, the plain meaning approach must not be confused with 'myopic literalism'; even when confronted with a clear and unambiguous statutory provision, 'it is entirely proper for us to look to the sense and meaning fairly deducible from the context.'" *Id.* (internal citations omitted).

Here, the term "longevity" is easily defined, in light of the provisions of the North Providence Firefighters' CBA. Article 10, Section 1, governs longevity. The term "longevity" is defined as a percentage of a firefighter's gross salary. Section 1(A) states that "Upon completion of five (5) years of service measured from the date of employment, a employee shall receive an additional six and on-half percent (6.5%) of their gross salary for longevity." (A copy of the current version of Article 10, Section 1 is attached hereto as Exhibit D). Up until the most recent CBA, 2015-18, between Local 2334 and the Town, Article 10, Section 1(D) contained the following language:

"D. Longevity payments shall be received in a lump sum, in a separate check other than the payroll check, or before the anniversary date which said employee completed his years of service. Retirement and taxes shall be deducted from said payment."

See 2013-15 Local 2334 CBA (Emphasis added) (Attached as Exhibit).

The current version of Article 10, Section 1(D) contained in the 2015-18 Local 2334 CBA contains the following language.

"D. Longevity payments shall be paid in a lump sum, by a check separate from the payroll check, and within thirty (30) days after an employees' anniversary date of hire. Retirement contributions on the overtime portion of longevity will not be deducted from said payment."

Article 10, Section 1(D), 2015-18 Local 2334 CBA. (Emphasis added).

Each of the plaintiffs in PC-2017-1956 retired prior to the 2015-18 CBA. Under the common law, each plaintiff's retirement benefits vested as of the date of retirement.

See Arena v. Providence, 919 A.2d 379 (R.I. 2007). Writing for the Court, then-Chief

Justice Williams wrote that:

“[w]e hold that the council did not have the authority to reduce plaintiffs' COLA benefit by subsequent ordinance because their right to receive the COLA provided by Ordinance 1991-5, which constitutes a vital part of their retirement allowance, vested upon their retirement.”

Arena v. Providence, 919 A.2d, at 395.

The pre-2015 version of Article 10, Section 1(D), the version in existence at the time of each plaintiffs' retirement, clearly supports the argument that the term “regular longevity”, contained in RIGL § 36-1-8(8), includes the longevity payments on overtime, as mandated by the parties' collective bargaining agreement. (A copy of the pre-2015 Article 1, Section 1(D) language is attached hereto as Exhibit E). The language contained in Article 10, Section 1(D) of the CBA that provided that pension contributions would be paid on longevity earned on overtime dates back to the 2001-04 CBA. (A copy is attached hereto as Exhibit F).

While the plaintiffs concede that the Town of North Providence cannot base their pension calculations on overtime, there is, however, an ambiguity as to what is meant by the phrase “regular longevity”. For a significant period of time, both the Town and ERSRI concluded that the longevity for overtime payments made to the plaintiffs coincided with the statutory obligations governing pension calculations, again, as reflected in the CBA language contained in Article 10, Section 1(D). The plain and ordinary meaning of “regular” supports the plaintiffs' arguments here.

The term “regular” includes the following:

“ 1 :belonging to a religious order
2 a :formed, built, arranged, or ordered according to some established rule, law, principle, or type

* * *

3 a :ORDERLY, METHODICAL

regular habits

b :recurring, attending, or functioning at fixed, uniform, or normal intervals

a *regular* income

a *regular* churchgoer

regular bowel movements”.

See www.merriam-webster.com/dictionary/regular (Emphasis supplied).

The plaintiffs believe that the term “regular longevity” set out in RIGL § 36-8-1(8) could reasonably be interpreted to apply to the longevity payments they received for overtime because longevity-based overtime is mandated by the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”). Under the FLSA, firefighters must receive overtime based upon their “regular rate”, which includes overtime for all hours worked beyond 53 hours. The FLSA mandates that firefighters receive overtime at the “regular rate”, which is deemed to include longevity, for hours worked over 216 in a 28 day “work period”. Municipalities are free to establish work periods of any length as long as firefighters receive overtime at the regular rate at the 216 hour/28 day ratio. See 29 U.S.C. § 207(k). See also Martin v. Coventry Fire District, 981 F.2d 1358(1st Cir. 1992); O’Brien v. Agawam, 350 F.3d 279 (1st Cir. 2003) (Longevity payments must be included in FLSA “regular rate” for overtime purposes).

In this case, in light of the FLSA’s requirements that longevity payments be included in all overtime over the threshold of 53 hours, it is entirely reasonable that the term “regular longevity” could be interpreted to mean longevity paid under the FLSA’s requirements. Under this argument, longevity paid under the FLSA’s requirements is paid at “fixed intervals” when it is included in overtime hours over the 53 hour threshold. Longevity based on overtime is “regular longevity” under the FLSA.

In interpreting the meaning of Rhode Island General Laws § 36-1-8(8), it is also important for the hearing officer to consider that the statute requires that compensation shall include “salary and wages earned and paid for the performance of duties for covered employment”. Salary is different than wages. The plain and ordinary meaning of the term wage is: “a. : a payment usually of money for labor or services usually according to contract and on an hourly, daily, or piecework basis —often used in plural”. See <https://www.merriam-webster.com/dictionary/wage>.

In view of the fact that the CBA provides that longevity on overtime be paid to North Providence Firefighters, consistent with the mandates of the Fair Labor Standards Act, it is permissible for longevity earned on overtime, as opposed to overtime itself, to be included as compensation under Rhode Island General Laws § 36-1-8(8). ERSRI’s contrary interpretation, as set out in Mr. Karpinski’s letter of February 14, 2018, is clearly erroneous and violative of Section 36-1-18(D), and should be reversed by the hearing officer.

B) The doctrine of laches bars ERSRI from retroactively seeking for reimbursement from the plaintiffs for claimed overpayments.

The Rhode Island Supreme Court has long recognized the doctrine of laches as a bar to a claim. The Supreme Court has consistently recognized that laches constitutes “an equitable defense that precludes a lawsuit by a plaintiff who negligently sat on his or her rights to the detriment of the defendant.” O’Reilly v. Town of Glocester, 621 A.2d 697, 702 (R.I. 1993) (citing Fitzgerald v. O’Connell, 120 R.I. 240, 245, 386 A.2d 1384, 1387 91978)). Here, ERSRI has six (6) years notice of the possibility, the validity of