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STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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AARON BINDER
State Treasurer

DR. DALE G. CALDWELL
Lt. Governor

SONIA RIVERA-PEREZ
Acting Director

May 21, 2026

Sent via email and regular mail

Desha Jackson Law Group, LLC
Desha L. Jackson, Esq.



RE: Ginger Garrett
PERS [REDACTED]

Dear Ms. Jackson:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the determination of the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) regarding the request of your client, Ginger Garrett, to change her June 1, 2016, Early retirement to a Service retirement. The Board originally denied Ms. Garrett's request at its meeting on January 21, 2026. You filed a timely appeal on behalf of Ms. Garrett, which the Board considered at its meeting on April 15, 2026. Finding no genuine issue of material facts in dispute, the Board denied a hearing in the Office Administrative Law (OAL) and directed the undersigned to draft a Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its May 20, 2026, meeting.

FINDINGS OF FACT

The Board made the following findings of fact:

The record before the Board establishes that Ms. Garrett was enrolled in the PERS effective April 1, 1990, as a Tier 1¹ member, as a result of her employment with Union County Board of Social Services (UCBSC) as an Income Maintenance Technician. Her employment continued with UCBSC and pension

¹ Tier 1 members were enrolled before July 1, 2007.

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contributions were remitted through January 31, 2016. On March 24, 2016, via her Member Benefits Online System (MBOS) account, Ms. Garrett applied for an Early retirement effective June 1, 2016, under the Maximum Option. As of June 1, 2016, Ms. Garrett had accrued 25 years and 7 months of PERS service credit and was 52 years of age. Thus, Ms. Garrett had the requisite service credit to qualify for an Early retirement but due to her age, she was subject to a reduction of her monthly retirement allowance pursuant to N.J.A.C. 17:2-6.11 and N.J.S.A. 43:15A-41.

UCBSC advised the Division by way of letter dated April 4, 2016, that Ms. Garrett had an outstanding *Preliminary Notice of Disciplinary Action*. By letter dated May 3, 2016, Ms. Garrett wrote to the Board claiming that UCBSC filed false criminal charges against her and requested that the Board not penalize her for her Early retirement. Subsequently, UCBSC provided the Board Office with Ms. Garrett's Disciplinary Notices, the Settlement Agreement and General Release (Agreement) dated May 16, 2016, and the Final Notice of Disciplinary Action. Per the Agreement, Ms. Garrett was able to retire in good standing, effective June 1, 2016 and in exchange, UCBSC dropped the administrative charges.

By way of the Division of Pensions and Benefits' (Division) *Quotation of Retirement Benefits* dated July 11, 2016, Ms. Garrett was advised of the amount of the monthly benefit payable under her June 1, 2016, Early retirement. The quotation included:

If you selected Early Retirement and your age at retirement is under 55, the benefit calculation below includes a reduction of 1/4 of 1% for each month you are under the age of 55.

At its meeting on July 20, 2016, the Board approved Ms. Garrett's June 1, 2016, Early retirement. However, when the Board approved her retirement, it was unaware of the Agreement and her disciplinary matter. By letter dated March 30, 2017, the Board Office notified Ms. Garrett that at its meeting on May 17, 2017, the Board would consider the Agreement and the circumstances surrounding her separation from employment in accordance with N.J.S.A. 43:1-3. Subsequently, Ms. Garrett was notified that the Board determined there was no basis for a forfeiture of service or salary credit as the disciplinary charges were

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dropped. Therefore, the Board approved the continuation of her retirement benefits which she continues to collect.

It was not until March 3, 2025, approximately 9 years after Ms. Garret had been approved for and began receiving the Early retirement benefit with the appropriate reduction, that Ms. Garrett wrote to the Board “to formally appeal the decision to award [her] half pension as a result of early retirement due to an unjust and prolonged campaign of workplace harassment.” In response, on June 10, 2025, the Division’s Retirement Bureau informed Ms. Garrett that her monthly retirement benefit was reduced from \$3,047.87 to \$2,788.8 (an 8.5% reduction, not half) and cited N.J.A.C. 17:2-6.11, which indicates “the statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55.”

By letter dated December 23, 2025, the Division’s Retirement Bureau reaffirmed its prior determination and advised Ms. Garrett that her request to change her June 1, 2016, Early retirement to a Service retirement would be considered by the Board at its meeting on January 21, 2026. At the meeting, the Board considered Ms. Garrett’s submissions and personal statements as well as all documentation in the record. Thereafter, the Board affirmed the Division’s December 23, 2025, administrative determination and denied Ms. Garrett’s request pursuant to N.J.S.A. 43:15A-41 and N.J.A.C. 17:2-6.11. The Board memorialized its decision by way of letter to Ms. Garrett, dated February 6, 2026.

By letter dated March 14, 2026, you noted your representation of Ms. Garrett and appealed the Board’s determination. At its meeting on April 15, 2026, the Board considered your appeal and finding no genuine issue of material facts in dispute, the Board denied a hearing in the OAL and directed the undersigned to draft detailed Findings of Fact and Conclusions of Law for review at its May 20, 2026, meeting.

CONCLUSIONS OF LAW

The Board made the following conclusions of law:

For PERS Tier 1 members such as Ms. Garrett, N.J.S.A. 43:15A-41 sets forth that “[s]hould a member resign after having established 25 years of creditable service before reaching age 60... (s)he may elect ‘early retirement’” and that the allowance will be reduced “by $\frac{1}{4}$ of 1% for each month that the member lacks of being age 55”.

N.J.A.C. 17:2-6.11 states in pertinent part:

(a) The qualifications for an “early retirement” depend on a member’s date of enrollment in the PERS, and are as follows:

ii. For a member whose enrollment date is on or before July 1, 2007:

ii. Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as an “early” retirement, unless the member retires on a veterans’ retirement allowance.

ii. The statutory reduction of $\frac{1}{4}$ of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if the member’s 55th birthday occurs after the 15 day of the month.

...

[(Emphasis added.)]

In your appeal, you argue that UCBSC used intimidation, coercion and deception to force Ms. Garrett to retire as a result of filing false criminal charges against her. Thus, if not for a prolonged campaign of workplace harassment, Ms. Garrett would have remained in the employ of UCBSC beyond the age of 55 and would have obtained the requisite years of service and age at retirement, and her pension would not be subject to the reduction. However, Ms. Garret was afforded the opportunity to litigate the charges against her by UCBSC in a departmental hearing, along with the process of appealing any unfavorable decision. A potential outcome of this process could have been the continuation of her employment with UCBSC, thereby allowing her to accrue PERS service credit past the age of 55. Nevertheless, to resolve the pending disciplinary matters, Ms. Garret and UCBSC executed the Agreement, a term of which was her consenting to retire effective June 1, 2016. As of that date, Ms. Garrett had accrued 25 years and 7 months of PERS service credit and was 52 years of age. Thus, Ms. Garrett had the requisite service credit

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to qualify for an Early retirement but due to her age, she was subject to a reduction of her monthly retirement allowance pursuant to N.J.A.C. 17:2-6.11 and N.J.S.A. 43:15A-41. Most importantly, she was not eligible for any other retirement benefit at the time she retired.

It is not within the Board's purview to re-litigate the underlying disciplinary matters that led to the Agreement. In fact, any adverse employment action is strictly between the member and their employer.

Next, you claim that the Board has the authority to reconsider Ms. Garrett's retirement classification where good cause exists and equitable considerations justify relief. New Jersey courts have recognized that in certain pension cases equitable principles may prevent the strict application of a regulatory or statutory provision if fairness so dictates. See generally Sellers v. Bd. of Trs., Police & Firemen's Ret. Sys., 399 N.J. Super. 51, 62 (App. Div. 2008) (finding that pension boards have "the authority to apply equitable principles to provide a remedy when justice so demands, provided the power is used rarely and sparingly, and does no harm to the overall pension scheme").

Under the doctrine of equitable estoppel, "one may, by voluntary conduct, be precluded from taking a course of action that would work injustice and wrong to one who with good reason and in good faith has relied upon such conduct." Summer Cottagers' Ass'n v. Cape May, 19 N.J. 493, 503-04 (1955). The doctrine requires "a knowing and intentional misrepresentation by the party sought to be estopped under circumstances in which the misrepresentation would probably induce reliance, and reliance by the party seeking estoppel to his or her detriment." O'Malley v. Dep't of Energy, 109 N.J. 309, 317 (1987). And while "[e]quitable estoppel is rarely invoked against a governmental entity," "particularly when estoppel would 'interfere with essential governmental functions[.]' . . . equitable considerations are relevant to assessing governmental conduct, and may be invoked to prevent manifest injustice." Id. at 316 (first citing Cipriano v. Dep't of Civil Serv., 151 N.J. Super. 86, 91 (App. Div. 1977); then quoting Vogt v. Borough of Belmar, 14 N.J. 195, 205 (1954); then citing Skulski v. Nolan, 68 N.J. 179, 198 (1975)).

It is undisputed that neither the Division nor the Board made any misrepresentation which induced Ms. Garrett's detrimental reliance and the equitable principles you cite in your brief have no application to

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the within matter. From the Board's perspective, Ms. Garrett was only eligible to apply for an Early retirement because she had not reached the statutorily required age to apply for a Service retirement. Ms. Garrett knew and understood that applying for such a benefit would result in the statutory reduction of her retirement benefit, and has continued to receive the reduced benefit for approximately 9 years. Even assuming, *arguendo*, the merits of Ms. Garrett's assertions that the charges filed against her by her employer were baseless, the Board is not permitted to grant an enhanced benefit to a member not otherwise entitled based on her unproven allegations. Rather, Ms. Garrett could have availed herself of the various avenues of appeal in order to challenge these allegations. She did not and the Board is not authorized to make her whole to correct an alleged wrong. While pension statutes "should be liberally construed and administered in favor of the persons intended to be benefited thereby," *Geller v. Department of Treasury*, 53 N.J. 591, 593 (1969), "eligibility is not be liberally permitted." *Smith v. State, Dept. of Treasury, Div. of Pensions & Benefits*, 390 N.J. Super. 209, 213, (App. Div. 2007).

The Board notes that the reduction of Ms. Garrett's monthly retirement benefit is not due to any forfeiture of service or salary credit pursuant to N.J.S.A. 43:1-3, which stipulates that the receipt of retirement benefits is expressly conditioned upon the rendering of honorable service by the member. Rather, the reduction of Ms. Garrett's retirement benefit is the result of her age being less than 55 at the time of her effective retirement date pursuant to N.J.S.A. 43:15A-41 and N.J.A.C. 17:2-6.11. Ms. Garrett's retirement benefit was correctly calculated by the Division. The Board cannot direct the Division to recalculate Ms. Garrett's benefit under a Service retirement now that she is past Tier 1 Service retirement age. Accordingly, the Board denied Ms. Garrett's request to change her Early retirement benefit to a Service retirement benefit.

As noted above, the Board has considered Ms. Garrett's personal statements, all written submissions and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly,

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this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625
Phone: (609) 292-4822

Sincerely,



Jeff S. Ignatowitz, Secretary
Board of Trustees
Public Employees' Retirement System

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C: J. Ehrmann
Ginger Garrett (sent via email)