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MIKIE SHERRILL
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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 8, 2026

Sent via email to: [REDACTED]

Melissa Gartner
4 Oakland Dr
Jackson Township, NJ 08527

RE: TPAF # [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Ms. Gartner:

At its meeting on April 9, 2026, the Board of Trustees ("Board") of the Teachers' Pension and Annuity Fund ("TPAF") considered your March 25, 2026 appeal of the Board's March 5, 2026 determination that denied your request for a retroactive enrollment to October 1, 2018 in the TPAF.

After careful consideration, at the April 9, 2026 meeting, the Board denied reconsideration and affirmed its March 5, 2026 determination, and finding no genuine issue of material fact in dispute, the Board directed the Secretary to prepare Findings of Fact and Conclusions of Law as outlined below, which was approved by the Board at its May 7, 2026 meeting.

FINDINGS OF FACT

The record before the Board establishes that on February 20, 2015, the Middlesex Regional Educational Services Commission ("MRESC")¹ approved your employment as a Substitute Nurse – Chapter 226², at a salary of \$28.00 per hour, "as needed," from February 3, 2015-June 30, 2015. On April 29, 2016, MRESC approved your continued employment as a Substitute Registered Nurse – Chapter 226, at a salary of \$28.00 per hour, "as needed," from September 1, 2016 – June 30, 2017.

¹ On March 2, 2016 the New Jersey State Board of Education approved Middlesex Regional Educational Services name change to Educational Services Commission of New Jersey. The name change was affirmed by the New Jersey Appellate Division on February 2, 2018. In re Middlesex Regional Educ. Services Com'n Name Change Request, 453 N.J. Super. 243, 249 (App. Div. 2018).

² N.J.S.A. 18A:40-23 to -31.

On April 28, 2017, the Educational Services Commission of New Jersey (“ESCNJ”) approved your employment as a Registered Nurse- Chapter 226, at a salary of \$28 per hour, “as needed,” from September 1, 2017 – June 30, 2018. ESCNJ provided the Division records which show that you were hired as a Chapter 226 Nurse, at a salary of \$28 per hour, “as needed” from November 1, 2018 through June 30, 2019; September 1, 2019 through June 30, 2020; September 1, 2020 through June 30, 2021; and September 1, 2021 through June 30, 2022. On April 29, 2022, ESCNJ approved your employment as a Chapter 226 Nurse, at a salary of \$32 per hour, “as needed,” from September 1, 2022 through June 30, 2023.

On November 1, 2018, you were enrolled in the New Jersey Defined Contribution Retirement Program (“DCRP”) because of your employment with ESCNJ as a Nurse with an annual base salary of \$20,160.00. ESCNJ remitted pension contributions on your behalf to your DCRP account from November 1, 2018 through June 30, 2023.

On August 1, 2023, Jackson Township Board of Education (“Jackson”) enrolled you in the TPAF effective September 1, 2023 following your acceptance of a full-time 10-month position as a certificated School Nurse with an annual salary of \$61,787.00. Jackson certified that the position was an unclassified professional requiring a certificate; you had the certificate or a pending application for the certificate, and the job had hours fixed at 32 or more hours a week. The Board notes that on October 23, 2023, you were issued a School Nurse Non-Instructional Substitute credential and subsequently obtained a School Nurse Non-Instructional certificate on September 17, 2025.

On or about September 14, 2023, you contacted the Division’s Office of Client Services (“Client Services”) to inquire about transferring your contributions from the DCRP to the TPAF. The counselor advised you that you are unable to transfer from the DCRP to the TPAF and provided you with information regarding the contributions in your vested DCRP account.

On November 13, 2024, you wrote a letter to the Division and claimed you were originally hired on a part-time basis with ESCNJ, but you worked over the required 32 hours to be enrolled in the TPAF. In the letter, you explained that you ended up working over 32 hours a week beginning October 1, 2018

because “the person I took over for [REDACTED] and was suppose[d] to come back but due to the [REDACTED] [she] was unable to and I ended up with 32+ hours.”

The Division subsequently requested records (i.e. hiring documents, employment contract, or governing body meeting minutes) from ESCNJ to determine if your status was changed to a regularly scheduled 32 hours per week. These records showed that the entire period you worked for ESCNJ, you were employed as a Chapter 226 Nurse on an “as needed” basis. Accordingly, on October 8, 2025, the Division denied your request for retroactive enrollment date of October 1, 2018 in the TPAF and confirmed that you were correctly enrolled in the DCRP on November 1, 2018.

You subsequently filed a second appeal, which the Division received on December 8, 2025. In support of your appeal, you submitted copies of your contracts, your assignments for the 2020-2021 and 2021-2022 school years, performance reports, and additional supporting records.

Upon reviewing the information provided, the Division issued two additional administrative denial letters dated December 11, 2025, and February 10, 2026. The letters reiterated that you were correctly enrolled in the TPAF, effective September 1, 2023, and that your previous employment with ESCNJ was on “as needed” basis, and therefore ineligible for membership in the TPAF.

While the records confirm that you were employed with ESCNJ and may have worked over 32 hours, the contemporaneous records substantiate that you were employed on an “as needed” basis and your hours were not fixed. You also did not receive the School Nurse Non-Instructional Substitute certificate until September 2023. Accordingly, the Board decided on March 5, 2026 to deny your request for a retroactive enrollment date of October 1, 2018 in the TPAF because you were not hired as a teacher as defined in N.J.S.A. 18A:66-2(p); you did not hold a certificate required by N.J.A.C. 17:3-21 until October 23, 2023; and did not have a position which met the hours requirement of N.J.S.A. 18A:66-4(b)(4) until September 1, 2023.

On March 25, 2026, you filed an appeal of the Board’s March 9, 2026 decision. In your appeal, you assert that you met the statutory requirement for membership in the TPAF for the 2020-2021, 2021-2022, and 2022-2023 school years, and as a result, you should have been enrolled in the TPAF on September 1, 2020.

CONCLUSIONS OF LAW

The issue before the Board is whether you are eligible for retroactive enrollment date of September 1, 2020 in the TPAF based on your position as a Chapter 226 Nurse with ESCNJ. N.J.A.C. 17:3-2.1 consolidates the statutory requirements for a person to be a member of the TPAF.

N.J.A.C. 17:3-2.1 states in pertinent part:

(a) Any person appointed by the State, local board of education, or charter school to a position listed in the definition of "teacher" found at N.J.S.A. 18A:66-2.p or as a regular, full-time employee in a position that meets the following conditions shall be required to become a member of the Fund effective as of the date of their employment:

1. The position requires a valid certificate issued by the State Board of Examiners, pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.A.C. 6A:9, and the person employed holds this valid certificate;
2. The position is covered by Social Security; and
3. Salary requirements and full-time weekly work hours to qualify for enrollment are met, based on the date of eligibility for enrollment:

....

iii. If eligibility for enrollment began after May 21, 2010, regular full-time hours of 32 hours per week are required for enrollment, pursuant to the provisions of N.J.S.A. 18A:66-4.b(4);

[Ibid. (Emphasis added).]

Thus, to be eligible for enrollment in the TPAF pursuant to N.J.A.C. 17:3-2.1, you must establish: (1) that you meet the definition of a teacher as defined in N.J.S.A. 18A:66-2(p) or (2) be a regular, full-time employee who works 32 hours per week pursuant to N.J.S.A. 18A:66-4(b)(4) in a certificated position.

From October 2018 to June 2023, you were not a "teacher" as defined by N.J.S.A. 18A:66-2(p). N.J.S.A. 18A:66-2(p) defines as teacher as:

any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff_and other members of the teaching or professional staff of any class

[N.J.S.A. 18A:66-2(p) (emphasis added).]

You did not hold any of the positions listed. Furthermore, N.J.S.A. 18A:40-27 specifies that “nursing services provided to nonpublic schools under sections 3 and 4 of this act shall not include instructional services.” Therefore, you did not meet the definition of a teacher under N.J.S.A. 18A:66-2(p) at any point from October 2018 to June 2023 while you were working as a Chapter 226 Nurse for ESCNJ.

You also were not a regular, full-time employee who worked 32 hours per week because you were employed on an “as needed basis.” N.J.S.A. 18A:66-4(b)(4), states, in relevant part:

no person in employment, office or position with a board of education or other education employer for which the hours of work are fixed by a resolution of the board of education or other education employer at fewer than 32 per week shall be eligible to become a member of the retirement system.

[ibid. (Emphasis added).]

Thus, N.J.S.A. 18A:66-4(b)(4) excludes any person from TPAF who does not hold a position with fixed hours of 32 or more hours a week. ibid. Although you claim to have worked over 32 hours a week while employed by ESCNJ, the documentation received from ESCNJ shows that your hours were on an “as needed” basis from February 3, 2015 to June 30, 2023. Your hours were not fixed. In your letter dated November 13, 2024, you state that you were hired part time but ended up working full time because the person you covered for [REDACTED]. However, the documents from ESCNJ and your letter show that your hours were not fixed and would fluctuate based on the needs of the school.

Finally, you were not employed in a certificated position, nor did you hold a certification from the State Board of Examiners. Although you became a Registered Nurse on October 1, 2018, you did not receive your certification as a School Nurse Non-Instructional Substitute from the State Board of Examiners until October 23, 2023 according to the New Jersey Educator Certification Portal.³

Accordingly, you were correctly enrolled in the Defined Contribution Retirement Program (“DCRP”) because you did not qualify for TPAF under N.J.S.A. 18A:66-2(p), N.J.S.A. 18A:66-4(b)(4), N.J.A.C. 17:3-2.1, and N.J.S.A. 43:15C-2(a)(6). Your position with ESCNJ as a Chapter 226 nurse with hours of “as

³ <https://njdoe.my.site.com/manage/s/>

needed” remained unchanged from November 1, 2018, when you were enrolled in the DCRP until the expiration of your final contract with ESCNJ on June 30, 2023.

You were properly enrolled in the TPAF on September 1, 2023 based on Jackson’s certification that the position was an unclassified professional requiring a certificate; you had the certificate or a pending application for the certificate, and the position had hours fixed at 32 or more hours a week.

The Board finds that the requirements for enrollment in N.J.A.C. 17:3-2.1, N.J.S.A. 18A:66-2, and N.J.S.A. 18A:66-4 and are clear and unambiguous. Accordingly, the Board found that you did not qualify for TPAF enrollment while employed as a Chapter 226 Nurse with ESCNJ. The Board was able to reach its Findings of Fact and Conclusions of Law in this matter without the need for an administrative hearing, because there were no disputes of material fact about your employment as a Chapter 226 Nurse with ESCNJ. Accordingly, this correspondence constitutes the Final Administrative Determination of the Board of Trustees of the Teachers’ Pension and Annuity Fund.

You have the right, if you wish, to appeal this final administrative determination to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter, in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,



Saretta Dudley, Secretary
Board of Trustees
Teachers’ Pension and Annuity Fund

G-5/SD

c: S. Scott (ET); A. Haugen (ET)
DAG Alison Keating (ET)

Educational Services Commission of New Jersey
Russell Hudson, Certifying Officer

