



*Mailing Address:*  
P.O. Box 295  
Trenton, NJ 08625-0295  
Location:  
50 West State Street  
Trenton, New Jersey

MIKIE SHERRILL  
*Governor*  
DR. DALE G. CALDWELL  
*Lt. Governor*

**STATE OF NEW JERSEY**  
DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
(609) 292-7524/TRS 711 (609) 292-6683  
[www.nj.gov/treasury/pensions](http://www.nj.gov/treasury/pensions)

AARON BINDER  
*State Treasurer*  
SONIA RIVERA-PEREZ  
*Acting Director*

May 21, 2026

**Sent via email and regular mail**

O'TOOLE SCRIVO  
Christine Baker, Esq.  
[REDACTED]

RE: Jimmy Homsi  
PERS [REDACTED]

Dear Ms. Baker:

**FINAL ADMINISTRATIVE DETERMINATION**

I am writing in reference to the request of your client, Jimmy Homsi, for PERS membership through his current employment with Saddle Brook Township (Saddle Brook) as Business Administrator and Qualified Purchasing Agent (QPA).

At its meeting on December 10, 2025,<sup>1</sup> the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) denied the aforementioned request. The Board also found that Mr. Homsi's employment with the Borough of Tenafly as Administrator is not PERS-eligible. You filed a timely appeal, which the Board considered at its meeting on March 18, 2026. Finding no genuine issue of material fact in dispute, the Board denied a hearing in the Office of Administrative Law and directed the undersigned to draft this 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**

---

<sup>1</sup> The Board considered these matters at its meetings of May 21, 2025 and October 15, 2025 but tabled them in order to obtain additional information. At these meetings and the meeting of December 10, 2025, Mr. Homsi was represented by Albert J. Seibert, from the Law Offices of Steven A. Varano.

The Board made the following findings of fact:

The record before the Board establishes that Jimmy Homs was enrolled in the PERS effective June 1, 2014, as a result of his employment with Riverdale Borough as Assistant Clerk/Bookkeeper. He remained employed by Riverdale until August 16, 2016. On September 15, 2016, the Division received a *Report of Transfer* form from Milburn Township (Milburn), which indicated that Mr. Homs had accepted employment at its location on August 17, 2016, as an Assistant Business Administrator. Pension contributions were remitted from Milburn until December 31, 2020.

Mr. Homs accepted employment with the Borough of Tenafly (Tenafly) who contacted the Division regarding his eligibility to remain in the PERS. On December 2, 2020, the Division confirmed that Mr. Homs could remain in the PERS after leaving Milburn for Tenafly. The Division received a *Report of Transfer*, which indicated that Mr. Homs had accepted a new position at Tenafly on January 11, 2021, as Borough Administrator with an annual salary of \$115,000. The Board notes that Mr. Homs provided the second required signature of the Supervising Certifying Officer (SCO) on his own *Report of Transfer* and in doing so certified that he met the eligibility criteria for membership in the retirement system as required by law, pursuant to N.J.S.A. 43:3C-15.<sup>2</sup> Mr. Homs remained employed with Tenafly until January 17, 2023. He accrued PERS service credit based on his employment at the aforementioned locations.

On November 27, 2023, Saddle Brook submitted an *EPIC Intrafund Transfer (Report of Transfer)* form on Mr. Homs's behalf through the Employer Pension Information Connection (EPIC), which indicated that he had accepted the position of Administrator effective November 6, 2023, at an annual salary of

---

<sup>2</sup> Under N.J.S.A. 43:3C-15, both the Certifying Officer and the Supervisor of the Certifying Officer must complete required training on pension enrollments and each must certify that the information submitted is correct and that the person enrolled is eligible for enrollment in the pension fund or retirement system in accordance with the relevant rules or regulations and law. By submitting the enrollment certification, the Certifying Officer and the Supervisor of the Certifying Officer each acknowledge that knowingly making a false statement, falsifying, or permitting to be falsified any record, application, form, or report of a pension fund or retirement system, is an attempt to defraud the fund or system and any such act is punishable with prosecution as a crime of the fourth degree.

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 3

\$160,000.<sup>3</sup> The Board notes that the CO for Saddle Brook answered “Yes” to Question Eight, which asks whether the applicant was appointed under the authority of a local ordinance to a statutory-based, untenured chief administrative position such as business administrator, county or municipal administrator, or county or municipal manager. The CO also answered “Yes” to Question Nine, which asks whether the applicant is filling a position with principal operating responsibility of a government function(s), commonly called ‘department head’ or similar title, that are filled by action of the governing body or who directly reports to an elected official(s) or chief administrative officer. Based on the Division’s review of the documentation submitted, the Division determined that the title of Administrator is not PERS-eligible, and thus denied the application.

The Division received a paper *Report of Transfer* that was completed and signed by the CO and Mr. Homs as the SCO, dated November 29, 2023. This *Report of Transfer* was also denied via letter dated December 4, 2023. After reviewing additional information provided by Saddle Brook, including Mr. Homs’s contract as Township Administrator; the *Employee/Independent Contractor Checklist – PERS and the Defined Contribution Retirement Plan (DCRP)*; the organization chart; the *Township of Saddle Brook Resolution Appointing a Qualified Purchasing Agent*, the Division denied Mr. Homs’s request for PERS membership and determined that the title qualifies for enrollment in the DCRP. The Division issued a denial letter to Mr. Homs, dated July 1, 2024. Mr. Homs subsequently filed an appeal via letter dated July 3, 2024.

The Division requested additional information from Saddle Brook, including the identity of the person who held the QPA position prior to Mr. Homs; meeting minutes (including closed session minutes) relating to Mr. Homs’s employment; job descriptions for each position held; applicable salary ordinances; the individual who held the Business Administrator position before Mr. Homs; and the job posting for Mr. Homs’s position. After careful review of the additional documentation, the Division administratively denied

---

<sup>3</sup> The Board notes that Jimmy Homs again certified his own Report of Transfer as the SCO.

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 4

Mr. Homs's request for PERS enrollment via letter dated January 24, 2025 and indicated that he could appeal to the PERS Board of Trustees.

In its denial letter, the Division noted that Mr. Homs's positions at both Tenafly and Saddle Brook do not qualify for membership in the PERS but are eligible for enrollment in the DCRP. N.J.S.A. 43:15C-2. The Division determined that Mr. Homs was erroneously enrolled in the PERS when he transferred to Tenafly and held the position of Borough Administrator. As a result, under the correction of errors statute, N.J.S.A. 43:15A-54, the Division reduced the service credit in Mr. Homs's PERS membership account accordingly.

The Division further indicated that eligibility for PERS membership is based one position, and that "the retirement system shall designate the position providing the higher or highest compensation for the person with concurrent positions as the basis for eligibility for membership and the compensation base for contributions and calculations." N.J.S.A. 43:15A-25.2. The Division also determined that although the additional title of QPA is excluded from enrollment in the DCRP, that title was not listed on Mr. Homs's enrollment application nor was it listed on the *Report of Transfer* application. Via letter dated April 15, 2025, Mr. Homs's former counsel, Mr. Seibert, filed an appeal of the Division's decision.

At its meeting on May 21, 2025, the Board considered Mr. Homs's matter but tabled it in order to obtain additional information. The Board considered the matter at its October 15, 2025 meeting, but again tabled it for further administrative review. Subsequently, at its meeting on December 10, 2025, the Board considered the written submissions of Mr. Seibert, the personal statements of Mr. Homs, and all relevant documentation in the record in regard to Mr. Homs's request for PERS membership through his current employment with Saddle Brook as Business Administrator and QPA. The Board also considered Mr. Homs's appeal of the Division's determination that under N.J.S.A. 43:15A-54, his employment with the Borough of Tenafly as Administrator is not PERS-eligible.

In Mr. Seibert's submissions, he asserted that the Division incorrectly applied the correction of errors statute with respect to Mr. Homs's Tenafly employment and must apply equity and permit Mr. Homs

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 5

to remain in the PERS. He also asserted that Mr. Homs is statutorily excluded from membership in the DCRP as he holds the title of QPA. However, the Board disagreed with Mr. Seibert's arguments and affirmed the Division's determination that Mr. Homs's employment with both Tenafly and Saddle Brook was not eligible for membership in the PERS but rather, DCRP.

By letter dated March 3, 2026, you appealed the Board's determination on behalf of Mr. Homs and in support of your arguments, you provided exhibits 1-4. At its meeting on March 18, 2026, the Board considered your submissions and the personal statements of your associate, Thomas Scrivo. Finding no genuine issue of material fact in dispute, the Board denied a hearing in the Office of Administrative Law 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:

After careful consideration, the Board affirmed the Division's administrative determination substantially for the reasons set forth in its letter dated January 2, 2026 and denied Mr. Homs's request for PERS enrollment pursuant to N.J.S.A. 43:15A-54, inter alia, N.J.S.A. 43:15C-2 which controls the DCRP, inter alia and N.J.S.A. 43:15A-25.2.

The Correction of Errors statute, N.J.S.A. 43:15A-54, states, in pertinent part:

If any change or error results in an employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive, then on discovery of the error, the retirement system shall correct it and, so far as practicable, adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

[N.J.S.A. 43:15A-54.]

N.J.S.A. 43:15C-2 (Eligibility for Participation in the Defined Contribution Retirement Program) provides, in pertinent part:

- a. The following persons shall be eligible and shall participate in the Defined Contribution Retirement Program:

...

(3) A person who commences service on or after the effective date [July 1, 2007] of this section in an employment, office or position in a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a subdivision, pursuant to an appointment by an elected public official or elected governing body, that requires the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs or the Department of Education, as appropriate to the elected governing body. This paragraph shall not be deemed to include ... a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

[N.J.S.A. 43:15C-2(a)(3).]

The Local Finance Board Guidance 2008-10, usually referred to as Local Finance Notice (“LFN”) 2008-10, provides employers guidance with respect to DCRP enrollment.<sup>4</sup> L. 2007, c. 92 directed the Local Finance Board to adopt guidelines to assist public employers in determining whether their appointed employees were eligible for DCRP enrollment. The LFN advises Certifying Officers (CO) that it is their responsibility to:

ensure that correct information is reported through enrollment procedures to the Division of Pensions and Benefits. Local unit auditors will be required to test compliance with the law as part of the annual audit. The Pension Certifying Officer has critical responsibility to ensure the local unit is in compliance with the law.

The LFN also advises that:

... the following are DCRP positions when the individuals are employed as *bona fide* legitimate employees and not employed pursuant to a professional services resolution:

- The statutory-based, untenured chief administrative officer of the organization, such as: Business Administrator; County

---

<sup>4</sup> LFN 2008-10 is the administrative guidance issued by the Local Finance Board within the New Jersey Department of Community Affairs after the enactment of the 2007 pension reform legislation, Chapter 92.

Administrator; or Municipal or County Manager; or Municipal of County Administrator appointed under the authority of a local ordinance; or similar positions.

N.J.S.A. 43:15A-25.2(a) states:

a. Notwithstanding the provisions of any law to the contrary, after the effective date [May 21, 2010] of P.L.2010, c.1, a person who is or becomes a member of the Public Employees' Retirement System and becomes employed in more than one office, position, or employment covered by the retirement system or commences service in a covered office, position, or employment with more than one employer shall be eligible for membership in the retirement system based upon only one of the offices, positions, or employments held concurrently. In the case of a person who holds more than one office, position, or employment covered by the retirement system, the retirement system shall designate the position providing the higher or highest compensation for the person with such concurrent positions as the basis for eligibility for membership and the compensation base for contributions and pension calculations.

[N.J.S.A. 43:15A-25.2(a)(Emphasis added).]

The Board notes that Mr. Homs's positions with both the Borough of Tenafly and Township of Saddle Brook as Administrator constituted statutory-based chief administrative positions subject to mandatory DCRP enrollment pursuant to N.J.S.A. 43:15C-2 and Chapter 92 pension reforms.

Although Mr. Homs was incorrectly enrolled in the PERS when he transferred to Tenafly, the erroneous enrollment does not create a continuing entitlement to PERS membership. Pursuant to N.J.S.A. 43:15A-54, the Board possesses continuing authority to correct errors in membership enrollment and service credit where a member was enrolled contrary to law. The Board additionally notes that Mr. Homs, acting as Supervising Certifying Officer, completed the required pension enrollment certifications and acknowledged responsibility for ensuring that the enrollment complied with applicable statutes and regulations.

Although Saddle Brook appointed Mr. Homs to perform the duties of both Township Administrator and QPA, Saddle Brook did not establish, define, or compensate a distinct QPA position separate from the Township Administrator appointment. Saddle Brook did not allocate or separately assign Mr. Homs's annual salary of \$160,000 between the two functions, nor did it specify separate hours or duties attributable

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 8

to a distinct QPA position. The employment agreement further requires Mr. Homs to work a minimum of 35 hours per week in his capacity as Township Administrator. Under these circumstances, the Board does not find that Mr. Homs's concurrent designation as QPA permits him to bootstrap his primary Township Administrator position—which is mandatorily and exclusively subject to DCRP coverage—into eligibility for PERS membership pursuant to N.J.S.A. 43:15C-2(a)(3). The Board further finds that the record does not establish the existence of a separately identifiable QPA employment independent of the DCRP-covered Administrator appointment. The Board considered N.J.S.A. 43:15A-25.2(a), which provides that where a member holds concurrent positions covered by the retirement system, the retirement system shall designate the position providing the higher or highest compensation as the basis for membership eligibility and pension contributions. The Board's determination is not based upon the existence of multiple employers or multiple simultaneous PERS enrollments. Rather, the Board considered whether Mr. Homs's employment with Saddle Brook constituted a separately identifiable PERS-eligible position independent of his mandatorily DCRP-covered Administrator appointment.

The Board recognizes that LFN 2008-10 permits simultaneous participation in both PERS and DCRP where an employer establishes distinct responsibilities with separately assigned compensation, one subject to PERS and the other subject to DCRP. Specifically, the LFN 2008-10 provides that:

Because a person can be a member of both PERS and DCRP at the same time, governing bodies can assign salaries for both responsibilities, one with PERS and one with DCRP applicability. Membership should be treated accordingly.

Consistent with that guidance, the Board recognizes that a separately identifiable QPA position may independently qualify for PERS membership provided that all applicable PERS eligibility requirements are satisfied. However, because Saddle Brook did not separately establish, compensate, or define a distinct QPA employment, the Board is unable to conclude that Mr. Homs held an independently pensionable PERS-eligible position. Accordingly, the Board denied Mr. Homs's request to remain enrolled in the PERS. In making its determination, the Board concludes that the QPA exception contained in N.J.S.A. 43:15C-2(a)(3) applies only to the separately identifiable QPA position itself and does not convert

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 9

an otherwise mandatorily DCRP-covered chief administrative position into PERS-eligible employment. The Board further concludes that interpreting the QPA exception to permit full PERS enrollment for an otherwise mandatorily DCRP-covered administrator would undermine the Legislature's pension reform objectives under Chapter 92 by allowing appointing authorities to circumvent mandatory DCRP participation through the assignment of ancillary licensed duties.

In your submission, you argue that the Board misinterpreted and misapplied the correction of errors statute, N.J.S.A. 43:15A-54, in determining that Mr. Homs was improperly enrolled in the PERS during his employment with Tenafly and Saddle Brook and should instead have been enrolled in the DCRP. You further contend that Mr. Homs reasonably relied upon the Division's prior acceptance of his enrollment and transfer applications and that the subsequent removal of service credit is inconsistent with the purpose of the correction of errors statute, which you assert was intended to be liberally construed and administered in favor of the member intended to be benefited rather than divest them of accrued pension credit. In support of this argument, you rely upon *Burkhart v. Public Employees Retirement System*, 158 N.J. Super 414, 423 (App. Div. 1978).

The Board rejects that argument. N.J.S.A. 43:15A-54 expressly authorizes the Board to correct errors in enrollment and service credit where a member was enrolled in a retirement system contrary to law. The statute does not permit continued participation in the PERS based upon administrative error, prior acceptance of enrollment forms, or detrimental reliance where the underlying position was statutorily ineligible for PERS membership. Although the Board acknowledges that Mr. Homs accrued service credit while employed by Tenafly, the Board cannot confer pension eligibility where none existed under the governing statutes. Notably, "[i]n spite of liberal construction, an employee has only such rights and benefits as are based upon and within the scope of the provisions of the statute." *Francois v. Bd. of Trs., Pub. Emps.' Ret. Sys.*, 415 N.J. Super. 335, 349 (App. Div. 2010) (quoting *Casale v. Pension Com. of the Employees' Ret. Sys. of Newark*, 78 N.J. Super. 38, 40 (Law Div. 1963)). Therefore, "eligibility is not to be liberally permitted. Instead, in determining one's eligibility for a pension, the applicable guidelines must be

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 10

carefully interpreted so as not to 'obscure or override considerations of . . . a potential adverse impact on the financial integrity of the [fund].'" *Smith v. State, Dep't of Treasury, Div. of Pensions & Benefits*, 390 N.J. Super. 209, 213 (App. Div. 2007) (alterations in original) (quoting *Chaleff v. Teachers' Pension & Annuity Fund Trustees*, 188 N.J. Super. 194, 197 (App. Div. 1983)).

The Board further notes that Mr. Homs, acting as Supervising Certifying Officer, certified that the enrollment information submitted to the Division was accurate and that the positions at issue satisfied the applicable statutory eligibility requirements for PERS enrollment. As such, this matter does not involve a circumstance in which the member lacked knowledge of, or responsibility for, the statutory enrollment requirements.

You further argue that the Board improperly characterized Mr. Homs's employment as involving "concurrent positions" and that the Board's determination is inconsistent with N.J.A.C. 17:2-2.1 and N.J.A.C. 17:2-2.2 governing multiple enrollments. Specifically, you contend that those regulations apply only where a member is simultaneously employed by more than one PERS-participating employer, which is not the case here.

The Board's determination, however, is not based upon the multiple-enrollment regulations or upon the existence of multiple employers. Rather, the issue before the Board is whether Mr. Homs held a separately identifiable PERS-eligible position independent from his statutorily mandated DCRP-covered Administrator appointment. In analyzing that issue, the Board considered N.J.S.A. 43:15C-2, N.J.S.A. 43:15A-25.2, and LFN 2008-10 together in order to determine whether Saddle Brook established distinct employments with separate pension eligibility treatment.

The Board also rejects the argument that it improperly "manufactured" a second position out of duties assigned within the Administrator appointment. To the contrary, the Board recognizes that Saddle Brook assigned QPA responsibilities to Mr. Homs within the same overall employment structure, chain of command, and compensation arrangement. However, that fact does not support PERS eligibility for the

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 11

Administrator position. Rather, it supports the Board's conclusion that Saddle Brook did not establish a separately identifiable QPA employment independent from the Township Administrator position.

The Board interprets the statutory and regulatory exception for QPA service as applying to a bona fide, separately identifiable professional position requiring the appropriate licensure or certification, not as converting an otherwise mandatorily DCRP-covered chief administrative position into PERS-eligible employment merely because QPA responsibilities were additionally assigned to that employee. Interpreting the statute otherwise would undermine the Legislature's intent under Chapter 92 by permitting employers to circumvent mandatory DCRP participation through the assignment of ancillary licensed duties to otherwise DCRP-covered administrative positions.

Moreover, although LFN 2008-10 recognizes that an individual may simultaneously participate in both PERS and DCRP, it expressly contemplates circumstances in which the employer separately assigns responsibilities and compensation attributable to each position. Here, Saddle Brook did not separately establish, compensate, or define a distinct QPA position. Accordingly, the record does not support a finding that Mr. Homs held an independently pensionable PERS-eligible employment separate from his DCRP-covered Administrator position.

As noted above, the Board has considered Mr. Homs'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, 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:

O'TOOLE SCRIVO  
Christine Baker, Esq.  
RE: Jimmy Homs  
May 21, 2026  
Page 12

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Ignatowicz". The signature is fluid and cursive, with a large loop at the end.

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

G-6 SD/WT

C: S. Scott (ET); A. Haugen (ET)

Jimmy Homs (via email)