



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
P. O. Box 295

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*State Treasurer*

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*Acting Director*

PHILIP D. MURPHY  
*Governor*

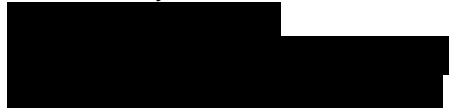
SHEILA Y. OLIVER  
*Lt. Governor*

July 13, 2018

BERGMAN & BARRETT  
Michael T. Barrett, Esq.



RE: Gene Bailey



Dear Mr. Barrett:

At its meeting on July 12, 2018 the Board of Trustees of the Teachers' Pension and Annuity Fund (TPAF) considered the following in your appeal on behalf of your client, Gene Bailey:

- a) All exhibits; and
- b) Administrative Law Judge (ALJ) Dorothy Incarvito-Garrabrant's Initial Decision, dated May 25, 2018.

The Board voted to adopt the Initial Decision of ALJ Incarvito-Garrabrant thereby reversing its original determination and approving Accidental Disability retirement benefits. Mr. Bailey is totally and permanently disabled as a direct result of a work-related event on May 13, 2010; his injury was not the result of any pre-existing conditions. Mr. Bailey is approved for Accidental Disability retirement benefits effective February 1, 2012, under his payment selection of the maximum option.

***Mr. Bailey has the right to change this selection to another retirement option by filing written notification with the Division of Pensions and Benefits' Retirement Bureau within 30 days from the date of Board approval, otherwise the retirement will stand as approved and cannot be changed for any other reason.***

Once the Board approves a member for a disability retirement allowance, the member's retirement application shall not be withdrawn or canceled, or amended to a later retirement date than the date specified in the approved retirement application.

This matter is being referred to the Retirement Bureau to process the difference between Ordinary Disability and Accidental Disability retirement benefits, retroactive to February 1, 2012. Please allow approximately four weeks for the processing of this benefit.

Michael T. Barrett, Esq.  
Re: Gene Bailey  
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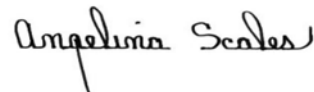
Mr. Bailey should be aware that a retirement allowance payable to a disability retiree is subject to adjustment if earnings from employment after retirement exceed the difference between the pension portion of the retirement allowance and the salary attributable to the former position.

The statute permits the Board of Trustees to require disability retirees to undergo annual medical examinations to determine if they continue to be totally and permanently disabled and, therefore, eligible for continued receipt of a disability retirement allowance.

Pension laws require re-enrollment of a retiree under certain conditions. Disability retirees needing guidance on returning to employment should visit our website at [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions) and refer to the Certifying Officer Memorandum dated August 22, 2014. Retirees needing additional clarification should contact the Division to determine the impact of a return to employment would have on their disability retirement benefits.

The Board of Trustees of the Teachers' Pension and Annuity Fund hereby adopts the findings of fact and conclusions of law of the Administrative Law Judge's Initial Decision and further adopts the recommendations contained therein.

Sincerely,



Angelina Scales, Secretary  
Board of Trustees  
Teachers' Pension and Annuity Fund

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c: V. McManus; L. Milton, P. Sarti, M. Munko; S. Schreckengost; L. Williams (ET)  
DAG Nicholas DePaolo (ET)  
OAL, Attn: Library (OAL Decisions) (ET)  
Gene Bailey