

**BEFORE THE BOARD OF TRUSTEES  
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS**

**In the Matter of:** )  
 )  
**Karen Maupin,** )  
 )  
**Petitioner.** )

**PROPOSED DECISION RECOMMENDED BY THE CLAIMS HEARING  
COMMITTEE IN THE ADMINISTRATIVE REVIEW OF KAREN MAUPIN**

**I. Introduction.**

Pursuant to 80 Ill. Admin. Code § 1650.610 *et seq.*, an administrative review hearing was held on August 12, 2015, in Springfield, Illinois, to consider the appeal of Karen Maupin (“Petitioner”) challenging the staff determination denying Petitioner’s request that Teachers’ Retirement System (“TRS”) waive interest on the purchase of two (2) years of pension credit for Recognized Illinois Non-public Service.

The TRS Board of Trustees (“Board”) is the trier of fact in this matter as provided in TRS Rule 1650.620 (80 Ill. Admin. Code § 1650.620). However, the material facts were not in dispute. Each party submitted a Motion for Summary Judgment as well as a respective response thereto. Petitioner was represented by Attorney Michelle N. Schneiderheinze; TRS was represented by Attorney Scott D. Spooner. Acting Chairperson, Mark Bailey, Daniel Winter, and Sonia Walwyn comprised the Claims Committee Hearing. The Committee was advised in its deliberations by Attorney Patrick J. O’Hara.

Petitioner claims that she detrimentally relied on misrepresentations allegedly made by TRS staff regarding the exclusion of a private school, Holiday School, (where Petitioner had previously taught), from the approved list of institutions where former employment rendered teachers, including Petitioner, eligible for purchasing additional service credits. As a consequence of her claimed detrimental reliance, Petitioner did not purchase the applicable credit in 2003 (nor has purchased it to date), thereby resulting in a substantial increase in the current cost of purchasing the credits as a result of interest accrual. Petitioner maintains that TRS has the discretionary authority to waive interest, and that such interest should be waived because the delay in her decision to purchase the credit was the fault of TRS and was in no way her fault. TRS denies that it was at fault, but, in any event, denies that it has the discretion to waive the interest (irrespective of whose fault led to the circumstances). TRS further asserts that Petitioner’s claim is essentially for equitable estoppel and that TRS does not have the authority to provide the equitable remedy that Petitioner seeks.

After reviewing the motions and memoranda in support thereof submitted by the parties, it is the determination of the Claims Hearing Committee that (1) TRS does not have the authority to provide the remedy sought by Petitioner, and (2) in any event, Petitioner is seeking relief based upon principles of equitable estoppel, and Petitioner cannot demonstrate that the elements of

equitable estoppel exist in this case, even if, assuming *arguendo*, an equitable remedy was available.

## **II. Relevant Statutes.**

In the instant case, the Claims Hearing Committee and the Board must apply the following statutes:

40 ILCS 5/16-127(b-1) [eff. in 2002; this provision was subsequently amended, but the amendment is not relevant for the Committee's determination here]:

A member may establish optional credit for up to 2 years of service as a teacher or administrator employed by a private school recognized by the Illinois State Board of Education, provided that the teacher (i) was certified under the law governing the certification of teachers at the time the service was rendered, (ii) applies in writing on or after June 1, 2002 and on or before June 1, 2005, (iii) supplies satisfactory evidence of the employment, (iv) completes at least 10 years of contributing service as a teacher as defined in Section 16-106, and (v) pays the contribution required in subsection (d-5) of Section 16-128. The member may apply for credit under this subsection and pay the required contribution before completing the 10 years of contributing service required under item (iv), but the credit may not be used until the item (iv) contributing service requirement has been met.

40 ILCS 5/16-128(d-5):

For each year of service credit to be established under subsection (b-1) of Section 16-127, a member is required to contribute to the System (i) the employee and employer contribution that would have been required had such service been rendered as a member based on the annual salary rate during the first year of full-time employment as a teacher under this Article following the private or parochial school service, plus, (ii) interest thereon at the actuarially assumed rate from the date of first full-time employment as a teacher under this Article following the private or parochial school service to the date of payment, compounded annually, at a rate determined by the Board.

## **III. Issues to be Decided.**

There are two issues to be decided. First, whether TRS is estopped from charging Petitioner interest in the purchase of optional service pension credit, as a result of Petitioner's detrimental reliance on erroneous information received from TRS staff; and (2) if TRS is not estopped, can TRS, in any event, exercise its discretion and waive such interest.

## **IV. Facts.**

In March, 2003, Petitioner Karen Maupin contacted TRS, inquiring about purchasing optional service pension credit. Petitioner had previously worked as a teacher for a private school, Holiday School, and, if the Holiday School was included on the approved list issued by the Illinois State Board of Education, her work there qualified her for eligibility to purchase up to two years of optional service pension credit. After a series of correspondences (including emails), TRS sent Petitioner an estimated cost of purchasing two years of pension credit at approximately \$20,640.64. However, Petitioner did not fill out a Recognized Illinois Non-public Service

Certification form, (the standard form developed by TRS), provided to her by TRS on March 17, 2003, and again on June 29, 2012, because Petitioner had been informed by TRS staff that the Holiday School was not on the TRS computer's list of approved institutions where former employment rendered teachers, including Petitioner, eligible for purchasing additional service credit.

In 2013, Petitioner again contacted TRS to inquire about purchasing optional service pension credit. TRS staff again informed Petitioner that the Holiday School was not on the TRS computer list for approved schools. Petitioner inquired about a "hard [paper] copy" of the list, and it was thereafter determined that the TRS computer list and the "hard [paper] copy" list, (both of which were supplied to TRS by the Illinois State Board of Education), differed in that the Holiday School was, in fact, included on the "hard [paper] copy" version of the list.

As a consequence of discovering that the Holiday School was on the approved list, TRS accepted Petitioner's initial written inquiry in 2003 as a written application for purchase of the optional service pension credit. Petitioner did not provide TRS with the "satisfactory evidence of employment" as required by law until June 21, 2013, when TRS received a copy of a Verification of Previous Employment form completed by an official of the Holiday School and provided to the Special Education Association of Peoria County in August, 1989. Due to the accrual of post-2003 interest (at TRS's established rate of return of 8.5% applicable to all applicants for the optional service pension credit from private school employment), the cost of purchasing the two years of pension credit increased to \$57,383.75 as of December 10, 2014, when Petitioner filed for Administrative Review. Petitioner thereafter appealed seeking to have TRS waive the post-2003 interest so as to permit her to purchase the credit at the 2003 figure of \$20,640.64.

## **V. Position of the Parties.**

Petitioner argues that she would have had to pay only \$20,640.64 for the optional service pension credits if she had been correctly informed by TRS that the Holiday School was, in fact, on the approved list. She asserts that the accumulated interest resulting in an increased cost of \$57,383.75 resulted through no fault of her own. Petitioner further asserts that TRS knew its database was not complete and that TRS should have taken additional steps to assure that correct information regarding the inclusion of the Holiday School on the list provided to Petitioner. She also asserts that TRS has discretion over setting interest rates pursuant to 40 ILCS 5/16-128(d-5); that the exercise of such discretion is within TRS's statutory authority; and, therefore, exercising such discretion is not equitable in nature.

TRS argues that the relief sought by Petition is equitable, in that Petitioner is essentially asserting that TRS should be estopped from charging the additional interest, since Petitioner would have purchased the optional service pension credit "but for" the faulty information provided to Petitioner. TRS asserts that equitable estoppel does not lie against TRS, as an agency of the State of Illinois. TRS also asserts that even if equitable estoppel did apply, Petitioner cannot prevail because all the elements of equitable estoppel are not evident in this case.

## **VI. Decision and Analysis.**

For the reasons explained herein, the Committee agrees with TRS staff that Petitioner is seeking equitable relief, and TRS does not have authority to provide such relief. The Committee

also finds that even if TRS could provide equitable relief, the elements of equitable estoppel have not been shown.

### **1. Petitioner is seeking equitable relief.**

Petitioner claims that the relevant statutory provision – 40 ILCS 5/16-128(d-5) – “gives TRS exclusive discretion over setting interest rates in cases such as this.” Petitioner’s Response to Respondent’s Motion for Summary Judgment, p. 3. [Emphasis in the original.] Petitioner states that the last seven words of the provision grants such discretionary authority:

For each year of service credit to be established under subsection (b-1) of Section 16-127, a member is required to contribute to the System (i) the employee and employer contribution that would have been required had such service been rendered as a member based on the annual salary rate during the first year of full-time employment as a teacher under this Article following the private or parochial school service, plus, (ii) interest thereon at the actuarially assumed rate from the date of first full-time employment as a teacher under this Article following the private or parochial school service to the date of payment, compounded annually, at a rate determined by the Board. [Emphasis added.]

Petitioner, however, provides no legal authority that the underscored phrase permits TRS to determine varying rates of interest (or to determine to waive any rate altogether) for different members/applicants, depending on the circumstances of the application. The provision is plainly understood as permitting TRS to determine a rate of interest that applies to all members/applicants. Nothing in the provision expresses or implies that TRS has authority to waive (or vary) an interest rate that TRS has already determined. If the legislature intended to give TRS such wide discretionary authority, it would have set forth the criteria to apply in such cases or it would have stated that the Board had the discretion to invent new conditions for doing so. *Cf., Prazen v. Shoop*, 2013 IL 115035, ¶37, 998 N.E.2d 1 (2013) (“We also agree that had the legislature intended to give the [IMRF] Board discretion to invent conditions to find forfeiture of ERI, it surely would have stated so.”) In the absence of an express or implied authority, interest can be waived only if TRS may be equitably estopped from imposing the interest rate on the cost of the optional service pension credit to Petitioner.

### **2. TRS Board does not possess power to grant equitable relief.**

TRS is an administrative agency. As the Illinois Supreme Court stated in *Homefinders, Inc. v. City of Evanston*, 65 Ill. 2d 115, 129, 357 N.E.2d 785 (1976): “Since an administrative agency is a creature of the legislative body from which it derives its existence and authority, any of its acts or orders which are unauthorized by the enabling statute or ordinance are void.” An administrative agency possesses no general or common law powers. *Prazen v. Shoop*, 2013 IL 115035 (2013). Rather, its powers are limited to those granted to it by the state legislature. “It is well settled that an administrative agency is a creature of statute and therefore any power or authority claimed by it must find its source in the provisions of the statute that created it.” *Id.* at 36. “The agency’s authority must either arise from the express language of the statute or ‘devolve by fair implication and intendment from the express provisions of the [statute] as an incident to achieving the objectives for which the [agency] was created.’” *Crittenden v. Cook County Comm’n on Human Rights*, 2012 IL App (1<sup>st</sup>) 112437, at ¶78, 973 N.E.2d 408, 362 Ill.Dec. 308 (2012), quoting *Vuagniaux v. Dept. of Professional Regulation*, 208 Ill.2d 173, 186 (2003).

There is no grant of authority to TRS in the Pension Code, generally, or in 40 ILCS 5/16-128(d-5), specifically, to assess (or waive) interest on an individual basis. TRS lacks the authority to grant such equitable relief. *Cf., Village of Westmont v. IMRF*, 2015 IL App.2d 141070 (4<sup>th</sup> Dist. 2015) (doctrine of estoppel is unavailable when its effect conflicts with a statute).

**3. Even assuming arguendo that TRS is authorized to grant equitable relief, Petitioner cannot demonstrate that equitable estoppel applies.**

Illinois courts have understandably looked to the well-developed law governing the Employee Retirement Income Security Act (ERISA) as guidance when deciding issues involving the Illinois Pension Code. *See, e.g., Board of Trustees of the Village of Barrington Police Pension Fund v. Department of Insurance*, 211 Ill.App.3d 698, 570 N.E.2d 622 (1<sup>st</sup> Dist. 1991). The underlying goals of protecting the financial integrity of the pension funds, and, as a consequence, the limits of relief available to claimants under each system are parallel: Illinois pensions are bound to apply the Pension Code as written; ERISA funds are bound by an ERISA's fund's plan as written. In order to prevail on an estoppel claim under ERISA, a claimant must show: (1) a knowing misrepresentation; (2) made in writing; (3) reasonable reliance on that representation; (4) to the claimant's detriment. *Vallone v. CNA Fin. Corp.*, 375 F.3d 623,631 (7<sup>th</sup> Cir. 2004); *Coker v. Tran World Airlines*, 165 F.3d 579, 585 (7<sup>th</sup> Cir. 1999).

Petitioner avers that TRS staff provided faulty information to her, but does not suggest that there was a knowing misrepresentation (much less a knowing misrepresentation in writing) to her. Nor can a case for such be made on the facts of this case. Moreover, the issue of whether the Illinois State Board of Education was the sole responsible source for the approved school list, as well as the issues and circumstances resulting in the exclusion of the Holiday School on one list (*i.e.*, TRS computer list) and its inclusion on the "hard [paper] copy" list, were not well-developed in the record. In any event, the record – when viewed most favorably toward Petitioner – demonstrates, at best [for the Petitioner], a showing of an error (unintentional and not in writing) by the TRS staff. Even assuming that conclusion (which is by no means necessarily the correct conclusion), ERISA guidance would preclude a case for equitable estoppel. *Cf., Kannapien v. Quaker Oats Company*, 507 F.3d 629, 636 (2007) (“...the record clearly established that these mistakes were solely clerical errors and not knowing misrepresentations” resulting in summary judgment for the ERISA fund). Thus, even if equitable relief was available to Petitioner, the record does not support a case for equitable estoppel under the parallel guidance of ERISA.

In any event, given the constraints on the scope of authority of an administrative agency, *Homefinders, Inc.* 65 Ill. 2d at 129, equitable relief is simply unavailable here. It is well-settled that estoppel is particularly disfavored when public revenues are at stake. *Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 1113148, at ¶ 40 (2012) (estoppel sought against a municipality). TRS, as an administrative agency, cannot validly perform acts beyond the pale of its statutory authority. As stated above, nothing in the applicable statutory provisions governing the purchase of optional service pension credits permits TRS to waive interest for an individual claimant. As stated in *Evans v. Benjamin School District No. 25*, 134 Ill.App.3d 875, 882, 89 Ill.Dec. 637, 480 N.E.2d 1380 (2<sup>nd</sup> Dist. 1985):

It is clear that the doctrine of estoppel cannot be invoked against a public body when the action taken by it [would be] *ultra vires*, *i.e.*, beyond its authority and void. *Eertmoed v. City of Pekin* (1980), 83 Ill.App.3d 362, 364, 39 Ill.Dec. 351, 404 N.E.2d 942, appeal denied; *Board of Education v. Chicago Teachers' Union* (1975), 26

Ill.App.3d 806, 811, 326 N.E.2d 158.) As earlier discussed, section 24-11 of the School Code plainly describes the circumstances under which tenure may be granted to a teacher and does not authorize a school board to avoid those conditions...The doctrine of estoppel may not be applied to validate an *ultra vires* act and we will not do so here.

*See, also, Lewis-Connelly v. Board of Education of Deerfield Public School District 109*, 277 Ill.App.3d 554, 600 N.E.2d 283 (2<sup>nd</sup> Dist. 1996).

## **VII. Conclusion.**

The Committee finds in favor of the staff in this matter in that (1) TRS does not have the authority to provide the remedy sought by Petitioner, and (2) in any event, Petitioner is seeking relief based upon the principles of equitable estoppel, and Petitioner cannot demonstrate that the elements of equitable estoppel exist in this case, even if, assuming *arguendo*, an equitable remedy was available.

## **VIII. Notice of Right to File Exceptions.**

Exceptions to this Recommended Decision must be filed within 15 days of receipt by the Petitioner. A Final Decision will be issued by the TRS Board after it has considered this Recommended Decision and any exceptions filed by Petitioner.