COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Lisa Ando,
Petitioner, Docket No.: CR-25-0470

v.

Brockton Retirement Board,
Respondent.

Appearances:
For Petitioner: Lisa Ando (pro se)
For Respondent: Gregory F. Galvin, Esq.

Administrative Magistrate:
Karen T. Guthrie

SUMMARY OF DECISION

Petitioner, who was named as the G.L. c. 32, § 11(2)(c) beneficiary of a member, but was not his spouse, is not entitled to the deceased member's retirement benefits. Because the member had a child under the age of twenty-two who was enrolled full-time in an accredited institution of learning, Petitioner's benefit was negated, and the child is entitled to the member's retirement benefits pursuant to G.L. c. 32, § 12B.

DECISION

Petitioner, Lisa Ando, timely appealed the decision of the Brockton Retirement Board ("Board") that she was not entitled to the retirement benefits of deceased member, Daniel Vigeant. I conducted an evidentiary hearing on June 18, 2026 via Webex at the Division of Administrative Law Appeals in Malden, MA. I admitted into evidence nine exhibits (Exhibits 1-9) referenced in the Joint Pre-Hearing Memorandum. I also have admitted into evidence as Exhibit 10, the decision of the Board. Ms. Ando and Ms. Mackenzie Vigeant testified at the evidentiary hearing. The parties submitted closing memoranda, and on July 16, 2026, the record closed.

Findings of Fact

Based on the evidence presented by the parties, I make the following findings of fact:

1. On June 6, 2012, Daniel Vigeant, a member of the Brockton Retirement System, completed the Beneficiary Selection Form pursuant to G.L. c. 32, § 11(2)(c), naming Petitioner, Lisa Ando, as his beneficiary. (Ex. 1).
2. Sometime in 2012, Ms. Ando designated Mr. Vigeant as beneficiary of her retirement account. (Agreed fact).
3. In October 2024, Mr. Vigeant corresponded via email to the Brockton Retirement Office with various questions about retirement planning, and Ms. Ando was copied on these emails. (Ex. 2-4).
4. This correspondence included Mr. Vigeant's Separation Agreement from his 2011 divorce, with a reference to his two children, Sophie Vigeant, born in 2003 and Mackenzie Vigeant, born in 2005. (Ex. 2-3).
5. It also included a different email to the Brockton Retirement Office stating that he and Ms. Ando wanted to elect Option C – Joint & Last Survivor Allowance, and a response from the retirement office that to be eligible for Option C, they would need to be married. (Ex. 2-4).
6. On October 24, 2024, Mr. Vigeant and Ms. Ando met with a representative of the Brockton Retirement Office to discuss retirement accounts, options, and beneficiary designations. (Agreed fact; testimony of Ms. Ando).
7. Mr. Vigeant passed away on May 22, 2025. (Agreed fact).
8. At the time of his death, Mr. Vigeant and Ms. Ando were engaged to be married. (*Id*).

9. At this time, Mr. Vigeant's daughter, Mackenzie Vigeant, was under the age of twenty-two and a full-time student at Endicott College. (Ex. 7-8).

10. On May 29, 2025, the Brockton Retirement Board sent a letter to Ms. Ando, stating that although she was designated as Mr. Vigeant's beneficiary of record under G.L. c. 32, § 11(2)(c), the benefit would be negated if Mr. Vigeant's child, who was under the age of twenty-two, was enrolled in a full-time accredited institution of learning, pursuant to § 12B. (Ex.5).

11. On July 28, 2025, the Brockton Retirement Board sent a letter to Ms. Ando, stating that Mr. Vigeant's daughter, Mackenzie Vigeant, had elected to exercise this option under § 12B, and had submitted the paperwork for the funds to be issued to her. (Ex. 10).

Analysis

A member of a public employee retirement system may designate one or more beneficiaries to receive the accumulated deductions in his retirement account in the event he dies while a member in service. G.L. c. 32, § 11(2)(c). However, a beneficiary's right to receive the accumulated deductions is subject to the provisions of G.L. c. 32, § 12(2)(d) and G.L. c. 32, § 12B:

> Payment shall not be made under this subdivision if the deceased member is survived by a beneficiary appointed under option (d) of subdivision (2) of section twelve who is eligible to receive the allowance provided for in section twelve B . . .

G.L. c. 32, § 11(2)(c).

Specifically,

> If a member in service . . . leaves a spouse to whom such member had been married for not less than one year, . . . an election may be made by such spouse to receive the member-survivor allowance under this option.

G.L. c. 32, § 12(2)(d). This permits a surviving spouse to override the member's § 11(2)(c) designation.

If there is no surviving spouse, the member's children can elect to receive the member-survivor allowance under certain circumstances:

> If there is no surviving spouse of such member…such amount of the member-survivor allowance as would have been payable or would be payable to a spouse under the provisions of Option (d) of subdivision (2) of section twelve shall be paid for the benefit of such surviving children. . .
>
> Allowances payable under this section for the benefit of a child shall terminate upon. . . reaching the age of eighteen. . . or if a full-time student upon reaching the age of 22 . . .

G.L. c. 32, § 12B; *see also Horgan and Spencer v. Boston Ret. Bd.*, No. CR-00-073 (Contributory Ret. App. Bd. Jan. 14, 2002). A child under the age of twenty-two and a full-time student must be at an "accredited educational institution" to receive the benefits. G.L. c. 32, § 12B; *see also Casey v. State Bd. of Ret.*, No. CR-03-56 (Div. Admin. Law App. March 7, 2003).

Here, Ms. Ando was not married to Mr. Vigeant at the time of his death, so she was not a "surviving spouse," entitled to a member-survivor allowance under § 12(2)(d). Thus, the § 11(2)(c) designation naming Ms. Ando as beneficiary was subject to the interests of Mr. Vigeant's two surviving children. One of them, Mackenzie Vigeant, was under the age of twenty-two and enrolled as a full-time student at Endicott College, an accredited educational institution. Ms. Vigeant exercised her right under G.L. c. 32, § 12B to elect to receive the member-survivor allowance from her father's retirement benefits, which acted to override the beneficiary designation of Mr. Vigeant's fiancé, Ms. Ando, made under G.L. c. 32, § 11(2)(c).

Ms. Ando argues that the decision of the Brockton Retirement Board should be reversed because Mr. Vigeant was misled by the Brockton Retirement Office; specifically, the Board did not tell him that his children could override the § 11(2)(c) beneficiary designation he made in 2012 if they met the qualifications of § 12B and chose to elect a membership-survivor allowance.

She seeks to estop the Board from denying her Mr. Vigeant's retirement benefits. However, estoppel requires

> that a party prove a material misrepresentation and acts in reasonable reliance on this misrepresentation that ultimately led to a situation changed to the detriment of the party seeking estoppel.

Sherwood v. Essex Regional Ret. Bd., No. CR-11-266 (Div. Admin. Law App. March 27, 2013); *Harrington v. Fall River Housing Auth.*, 27 Mass. App. Ct. 301, 308 (1989).

This is no evidence of misrepresentation by the Brockton Retirement Office. Mr. Vigeant named Ms. Ando as his beneficiary in 2012, and he exchanged emails with the Brockton Retirement Office in October 2024, which included information that Mr. Vigeant and Ms. Ando would need to be married to effectuate the Option C referenced on the retirement estimates provided. Also in October 2024, Mr. Vigeant, Ms. Ando and a representative from the Brockton Retirement Office had a meeting. At the evidentiary hearing, no evidence was presented by Ms. Ando regarding the specific information exchanged in the meeting, or relied upon by Mr. Vigeant, so there is no basis for a claim of misrepresentation. *See Hathaway-Medeiros v. State Bd. of Ret.*, No. CR-07-492 (Div. Admin. Law App. Dec. 4, 2009).

Ms. Ando argues the Brockton Retirement office had a duty to tell Mr. Vigeant that if he died before retirement, and his children met the qualifications of § 12B and elected the member-survivor allowance, this could override the beneficiary designation of Ms. Ando which he made in 2012. She further argues that if Mr. Vigeant had been told, he would have made other financial arrangements for Ms. Ando.

Retirement board members and staff are required to provide information to members about their benefits. However, there is no general fiduciary duty of a retirement board in administration of the system, nor is there a duty to inform members of every potential benefit or every contingent retirement possibility. *See Erhard v. State Bd. of Ret.*, No. CR-14-740 (Div. Admin. Law App. March 25, 2016); *DeGraff v. State Bd. of Ret.*, No. CR-08-499 (Div. Admin. Law App. July 20, 2012). Also, a retirement board has no duty specific to a member as his or her counsel or financial advisor. *See McDonald v. State Bd. of Ret.*, CR-08-193, CR-09-549 and 103 (Div. Admin. Law App. April 15, 2011).

Lastly, Ms. Ando seeks an equitable remedy for information she alleges was not provided to Mr. Vigeant; however, this forum does not have such equitable power. *Bristol County Ret. Rd. v. Contributory Ret. App. Bd.*, 65 Mass. App. Ct. 443, 450-451 (2006).

Conclusion and Order

For the foregoing reasons, the decision of the Board is hereby AFFIRMED.

Dated: July 31, 2026

/s/ Karen T. Guthrie
Karen T. Guthrie
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer St., 4th Floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala