

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

James Camire,
Petitioner

v.

Docket No. CR-25-0569

Date: May 29, 2026

Essex Regional Retirement System,
Respondent

Appearance for Petitioner:

James Camire, *pro se*

Appearance for Respondent:

Michael Sacco, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY

The Essex Regional Retirement System properly applied the “anti-spiking” law, G.L. c. 32, § 5(2)(f), when it reduced the last two of the petitioner’s highest three years of regular compensation. Petitioner’s salary was not “specified by law” because his employer still had discretion how much to pay him within a fairly broad salary range.

DECISION

Petitioner James Camire appeals from a decision of the Essex Regional Retirement System applying the anti-spiking law, G.L. c. 32, § 5(2)(f), to the calculation of his retirement allowance. DALA suggested that the appeal could be submitted on the papers under 801 CMR 1.01(10)(c). Neither party objected. The Board submitted a

memorandum and 7 proposed exhibits. I am treating Mr. Camire's letter of appeal as his memorandum, as he filed no further papers. (Mr. Camire submitted one proposed exhibit, but the Board has already submitted it as proposed exhibit 6.) Exhibits 1-7 are hereby entered into evidence as marked.

FINDINGS OF FACT

Based on the exhibits, I find the following facts:

1. James Camire worked for North Andover Housing Authority (NAHA) from March 6, 1995, through July 31, 2025, when he retired. During all periods relevant to this appeal, Mr. Camire worked as a Maintenance Supervisor and was a member of the Essex Regional Retirement System. (Exs. 1, 2.)

2. Mr. Camire's pay for his last five years was:

i. Year 1: 8/1/2024-7/31/2025	\$95,428.00
ii. Year 2: 8/1/2023-7/31/2024	\$82,761.21
iii. Year 3: 8/1/2022-7/31/2023	\$75,031.24
iv. Year 4: 8/1/2021-7/31/2022	\$72,882.50
v. Year 5: 8/1/2020-7/31/2021	\$72,342.41

(Ex. 4.)

3. To determine Mr. Camire's yearly retirement allowance, the Board used the average annual rate of regular compensation for the last three years (2024-2025, 2023-2024 and 2022-2023) that he worked, which were also his highest years of annual compensation. (Ex. 4.)

4. The Board determined that Mr. Camire's 2023-2024 regular compensation of \$82,761.21 exceeded the average of the prior two years (\$73,956.87) by over 10% (110% of the prior two-year average being \$81,352.56). The Board applied

the anti-spiking provision to the 2023-2024 year, reducing the salary used to determine his retirement benefit by \$1,408.65. (Ex. 4.)

5. The Board also determined that Mr. Camire's 2024-2025 regular compensation of \$95,428.00 exceeded the average of the prior two years (\$78,896.23) by over 10% (110% of the prior two-year average being \$86,785.85). The Board applied the anti-spiking provision to the 2024-2025 year, reducing the salary used to determine his retirement benefit by \$8,642.15. (Ex. 4.)

6. Wage rates for local housing authority employees, like Mr. Camire, are controlled by the Executive Office of Housing and Livable Communities (EOHLC). EOHLC gives housing authorities discretion to set salaries within certain ranges.¹ Until fiscal year 2023, EOHLC guidelines limited compensation for Maintenance Supervisors to a rate \$3.00 per hour more than the maintenance mechanic prevailing wage rate set by the Department of Labor Standards. In fiscal year 2024, EOHLC increased that differential to \$8.00 per hour more than the prevailing wage. (Ex. 6.)

7. At some time after the Board performed the anti-spiking calculations, NAHA contacted the Board to relay its opinion that Mr. Camire's pay was specified by law, *see* G.L. c. 32, § 5(2)(f), and was therefore not subject to the anti-spiking law's limitations. (Ex. 2.)

¹ See, e.g., ["FY24 Local Housing Authority Budget Guidelines"](#) (last visited May 18, 2026), specifically provides: "Maintenance staff in a supervisory capacity may exceed the [Department of Labor and Workforce Development] rate by up to \$8.00 per hour *at the discretion of the LHA.*" (Emphasis added.)

8. The Board sought the Public Employee Retirement Administration Commission's (PERAC) opinion on the matter. PERAC opined that Mr. Camire's pay was *not* specified by law because the EOHLC guidelines provided only a salary *range* and left the local housing authorities with the discretion to specify the individual salaries within that range. For the salary to be "specified" by law, according to PERAC, the employer must have no discretion over the amount. (Ex. 2.)

9. On September 15, 2025, the Board informed Mr. Camire that the regular compensation used to calculate his retirement allowance was being reduced because his pay triggered the anti-spiking statute. (Ex. 5.)

10. In a letter dated September 26, 2025, Petitioner timely appealed the decision. (Ex. 7.)

11. Attached to his appeal letter was a September 25, 2025 letter from NAHA to the retirement board requesting that it reconsider its decision. NAHA again asserted that Mr. Camire should not have been subjected to the anti-spiking statute because his pay qualified for one of the law's exemptions: that it was specified by law. NAHA explained how Mr. Camire's wages were set under the EOHLC guidelines. The Board declined to reconsider its decision. (Ex. 6.)

CONCLUSION AND ORDER

The Board's application of the "anti-spiking" provision, under which it reduced Mr. Camire's 2023-2024 and 2024-2025 regular compensation for the purpose of calculating his retirement allowance, is affirmed. *See* G.L. c. 32, § 5(2)(f).

For members like Mr. Camire, who were members of a retirement system before April 2, 2012, § 5(2)(a) directs that the member's yearly retirement allowance be calculated based, in part, on the highest average three-year period of regular compensation. For Mr. Camire, these were the years 2022-2023, 2023-2024, and 2024-2025.

Section 5(2)(f), referred to as the "anti-spiking" statute, provides, in relevant part:

In calculating the average annual rate of regular compensation for purposes of this section, regular compensation in any year shall not include regular compensation that exceeds the average of regular compensation received in the 2 preceding years by more than 10 percent.

Mr. Camire's regular compensation in the years 2023-2024 and 2024-2025 exceeded the average of the prior two years by more than 10 percent. These calculations are not in dispute.

There are a number of exceptions to the application of anti-spiking limits.² The only one that Mr. Camire argues applies to his situation is that his increases in salary were "specified by law." The power to issue local housing authority budget guidelines is found in G.L. c. 121B, § 29, which describes salary ranges for "architects, technical engineers, draftsmen, technicians, laborers and mechanics." Section 29 does not

² "This paragraph shall not apply to an increase in the annual rate of regular compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, from a modification in the salary or salary schedule negotiated for bargaining unit members under chapter 150E, from an increase in salary for a member whose salary amount is specified by law, or in the case of a teacher, from the performance of any services set forth in the third sentence of the first paragraph of the definition of 'regular compensation' in section 1." G.L. c. 32, § 5(2)(f).

specify particular salaries; it merely provides a salary floor of no less than 80 percent of the prevailing wage set by the Department of Labor Standards under G.L. c. 149, §§ 26, 27. The remaining power to set the full salary *range* is left to EOHLC's discretion. Once EOHLC sets the range, the local housing authorities retain the power to specify actual salaries anywhere in the EOHLC ranges. *See* 760 CMR 4.04, 4.16.

Mr. Camire's claim fails because neither the statute nor the EOHLC guidelines "specify" a salary for his job. That final decision was left to his employer. A salary range does not meet the requirement; the law must provide a precise and explicit amount. *See Solomon v. Methuen Ret. Bd.*, CR-21-0371, CR-21-0274, at *9-10 (Div. Admin. L. App. Sept. 8, 2023) (police chief's pay not specified where two statutes he cited provided no specific salary for his position). The necessary conclusion is that Mr. Camire's salaries during the years in question were not specified by law. Consequently, he is not entitled to that exception to the anti-spiking law, and his retirement allowance must be calculated taking that into account.

"In PERAC's view, the purpose of § 5(2)(f) is to shield retirement systems from the disproportionate burdens of late-breaking upsurges in compensation." *Willette and Heuston v. Somerville Ret. Bd. and PERAC*, CR-20-282, CR-20-381, at *7 (Div. Admin. L. App. May 7, 2021). The exceptions to anti-spiking in § 5(2)(f) also must be read with this purpose in mind. *Id.* at *7-8. In Mr. Camire's case, EOHLC changed the upper limit of his salary range from 3 percent above prevailing wage in his second last year to 8 percent above prevailing wage in his last year. A cursory examination of his actual salaries shows how easy it was to generate large salary swings during a period critical to the

calculation of his retirement allowance. Year over year, Mr. Camire's salary increased more than 10 percent in his second last year and then more than 15 percent in his last year. G.L. c. 121B, § 29 does not specify a particular salary or even a maximum salary. Thus, it does nothing to govern or limit "late-breaking upsurges in compensation."

Willette and Heuston, supra.

Mr. Camire complains that he was not attempting to spike his regular compensation in the first place, especially since he had no control over his salary. However, the anti-spiking provision is agnostic as to the intent of a salary increase. All the provision does is provide a mechanical calculation to limit increases to salary unless an enumerated exception applies. The language of the anti-spiking statute is plain and thus conclusive as to the Legislature's intent. *See Allegaert v. Harbor View Hotel Owner LLC*, 100 Mass. App. Ct. 483, 486 (2021). The Legislature enumerated specific exceptions to anti-spiking limits, and nothing in the text of the statute implies a legislative intent to enlarge upon those exceptions. *Bender v. State Bd. of Ret.*, CR-20-0279, at *11 (Div. Admin. L. App. Feb. 18, 2022).

For the above-stated reasons, the Board's calculation is affirmed. The Board is directed to return to Mr. Camire any excess withholdings, with interest.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Dated: May 29, 2026