

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Mark Castiglione,
Petitioner,

Docket No.: CR-25-0629

Dated: September 18, 2026

v.

Milford Retirement System,
Respondent.

Appearances:

For Petitioner: Alan H. Shapiro, Esq.

For Respondent: Katherine McNamara Feodoroff, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner, a police officer, was assigned to work in several school buildings and their surroundings. When he received a text message from an ex-girlfriend to the effect that she was suicidal, the petitioner drove to the scene in his cruiser, summoned backup, and performed CPR. All in all, the petitioner performed the precise tasks that his public employer required of him in the circumstances. The incident left the petitioner with disabling mental-health symptoms. Despite the unusual context, the petitioner sustained his disability “in the performance of [his] duties,” G.L. c. 32, § 7(1), and is entitled to retire for accidental disability.

DECISION

Petitioner Mark Castiglione appeals from a decision of the Milford Retirement System (board) declining to retire him for accidental disability. I held a hearing on July 15, 2026, at which the witnesses were Castiglione himself and Milford police sergeant Anthony Bavosi. I admitted exhibits marked 1-38. The record closed with the submission of hearing briefs.

Findings of Fact

I find the following facts.

1. Castiglione grew up in Hopedale. He obtained a bachelor's degree and served in the Air Force for six years, leaving with an honorable discharge. (Castiglione testimony.)

2. In 2013, Castiglione took a job as a police officer in Woonsocket, Rhode Island. He worked in that department for three years. In 2016, Castiglione joined the Milford police department, where he was assigned to work as a patrol officer. (Castiglione testimony.)

3. Castiglione experienced emotionally distressing incidents as an officer. In particular, in 2016, Castiglione was the first officer on the scene of a car crash at which a local teenager suffered a fatal head injury. And during 2017, Castiglione responded to two suicide attempts by the same Milford resident, the second of which was successful. This sequence of events especially bothered Castiglione. (Castiglione testimony; exhibit 1.)

4. In 2018, Castiglione was assigned to serve as a school resource officer (SRO) in Milford's elementary and middle schools. Castiglione and Bavosi credibly and consistently described the nuances of the SRO position in their hearing testimonies, which were corroborated in some respects by a letter from department deputy chief Carlos Sousa. (Castiglione testimony; Bavosi testimony; exhibits 1, 24, 33-35.)

5. SROs remain members of the police department and subject to its rules and procedures. Each SRO wears a police badge or insignia but no uniform. Each SRO drives a marked cruiser and carries a gun, a radio, and handcuffs. Each SRO is responsible for multiple school buildings; Castiglione was responsible for five. Each SRO is required to travel among the pertinent buildings and their surroundings, using his or her judgment about where to be situated at each point in time. (Castiglione testimony; Bavosi testimony; exhibits 24, 33.)

6. Working with school administrators and staff, SROs are responsible for maintaining secure school environments and for addressing juvenile misconduct, including issues with drugs and violence. As needed and feasible, SROs also are expected to respond to incidents in the surrounding community. In some instances, they are alerted to such incidents on their department-issued radios. In others, SROs are contacted by community members by telephone or text message. In an effort to encourage such interactions, the schools actively disseminate the SROs' department-issued telephone numbers to their communities.

(Castiglione testimony; Bavosi testimony; exhibit 1.)

7. Examples of the types of situations to which SROs respond outside of the schools include noise complaints, illegally parked vehicles, traffic accidents, reports of domestic violence, and wellness checks on behalf of concerned neighbors. The individuals involved are sometimes but not always members of the school community, such as teachers, students, and their families. On occasion, the incidents involve the SROs' own relatives or friends. On average, SROs are called out of the schools to incidents elsewhere once or twice per week. On their way, they generally are expected to alert the department's dispatch desk to their plans; but they possess some discretion to refrain from troubling dispatch about potentially frivolous issues. (Castiglione testimony; Bavosi testimony; exhibit 31.)

8. During September 2019, Castiglione and his longtime girlfriend ended their relationship. They continued to engage in fraught conversations by text and telephone. On the morning of September 17, the girlfriend called Castiglione's department-issued phone several times, talking about her anxiety and deteriorating mood. At approximately 10:30 am, she told Castiglione by telephone that she no longer wished to live. She texted him shortly afterwards,

“I know how [the Milford resident whose suicide troubled Castiglione] felt.” (Castiglione testimony.)

9. When he received the girlfriend’s final call and message, Castiglione was in his cruiser outside the schools.¹ He activated his lights and siren and sped toward the girlfriend’s home, two or three miles away. He did not contact the dispatch desk on the way. He and the girlfriend’s mother found the girlfriend hanging by a belt from the rafters of the attic. Castiglione extricated the girlfriend, called for backup, and began to perform CPR. He dropped or placed his gun and radio on the floor nearby. Other emergency personnel arrived two or three minutes later. Another officer took over the CPR effort. An ambulance took the girlfriend to the hospital. She was placed on life support but pronounced dead five days later. Castiglione remained in contact with the girlfriend’s family throughout her hospitalization, death, and services. (Castiglione testimony; exhibits 1, 20, 36.)

10. Later in September 2019, Castiglione was placed on leave and assigned to attend the mental-health program at the On-Site Academy. He followed up the program with individual counseling. In November of that year, after being taken to McLean Hospital by his therapist and former colleagues, Castiglione attended the LEADER program. Eventually he returned to work. (Exhibits 1, 8, 12, 16, 17, 28, 29.)

11. As of mid-2022, the department was concerned about Castiglione’s performance, specifically including incidents of him sleeping on the job. The department

¹ A double-hearsay medical report states that Castiglione left a violent incident at a school in response to his girlfriend’s communications. (Exhibit 13.) I credit Castiglione’s cross-examined testimony to the contrary.

placed Castiglione on leave and sent him to a mental-health program at the Westborough Behavioral Hospital. Castiglione remained there for approximately three months. He has not returned to work. He continues to be treated with psychotherapy and with several psychiatric drugs. (Exhibits 1, 8, 9, 11-14, 16, 17, 29.)

12. In November 2024, Castiglione applied to retire for accidental disability, identifying his disabling condition as PTSD. A medical panel consisting of three psychiatrists was convened. After separate examinations, the panelists all returned certificates supportive of the application. They diagnosed Castiglione with PTSD, anxiety, and major depression. The numerous symptoms they described included nightmares, flashbacks, intrusive thoughts, hypervigilance, hyperarousal, trouble sleeping, variable appetite, diminished self-esteem, shortness of breath, and panic attacks. The panelists all concluded that Castiglione was permanently incapable of performing his job duties safely and effectively. With immaterial variations among their narratives, they attributed the disability to the incidents surrounding and followed by the September 2019 suicide of Castiglione's girlfriend. (Exhibits 17, 28-30.)

13. The board at first allowed Castiglione's retirement application. The Public Employee Retirement Administration Commission (PERAC) then remanded, directing the board to consider whether Castiglione was acting "in his official capacity as a police officer" at the scene of his girlfriend's suicide. In October 2025, after an evidentiary hearing, the board reconsidered its original vote and denied the application. Castiglione timely appealed. (Exhibits 1, 18, 26, 27, 38.)

Analysis

To be entitled to accidental disability retirement, a public employee is required to prove that he or she has become permanently disabled “by reason of a personal injury . . . sustained . . . while in the performance of [the employee’s] duties.” G.L. c. 32, § 7(1). The parties agree that significant aspects of this test are satisfied here. Specifically, there is no dispute that Castiglione is permanently disabled as a result of the events of his girlfriend’s suicide.²

The question presented is whether Castiglione was “in the performance of [his] duties,” § 7(1), while responding to the suicide. To satisfy this requirement, it is not necessarily sufficient for an employee to have been chronologically “on the clock” or geographically “at work” at the time of the injurious incident. *See Boston Ret. Bd. v. Contributory Ret. Appeal Bd. (Palmeri)*, 340 Mass. 109, 109 (1959); *Damiano v. Contributory Ret. Appeal Bd.*, 72 Mass. App. Ct. 259, 260 (2008). Instead, the employee needs to have been engaged with some articulable task or tasks that the employer required the employee to perform. *See Retirement Bd. of Salem v. Contributory Ret. Appeal Bd. (Cole)*, 453 Mass. 286, 291 (2009); *Connolly v. Contributory Ret. Appeal Bd.*, 73 Mass. App. Ct. 1127 (2009) (unpublished memorandum opinion); *Gale v. Contributory Ret. Appeal Bd.*, No. 93-6003-G, 2000 WL 1466138 (Suffolk Super. Sept. 20, 2000).

² Subject to exceptions, an application for accidental disability retirement must be filed within two years after the disabling occurrences. G.L. c. 32, § 7(1), (3). The board does not challenge the timeliness of Castiglione’s application, presumably because his employer received prompt incident reports and other records memorializing the suicide and its impact on Castiglione’s health. *See id.*

Castiglione sustained his disability while performing tasks that the Milford police department required of him. More specifically, it was part of the job for Milford's SROs to respond as needed and feasible to incidents in the communities surrounding the schools at which they were stationed.³ This obligation covered incidents involving actual or potential physical harm to community members. It covered incidents reported to SROs by radio or by telephone. It included incidents involving students, teachers, family members, strangers, or personal relations.⁴

Taking its cue from PERAC, the board questions whether Castiglione was acting "in his official capacity" at the scene of the suicide. As Castiglione points out, the "official capacity" formula does not appear in the pertinent case law. Arguably, the formula may usefully paraphrase the case law's holdings: if so, then an employee acts in her official capacity when she is on duty, at work, performing an obligation of her job. Castiglione satisfied these objective criteria. On top of them, he was wearing a police-department insignia, driving a marked cruiser, and carrying a department-issued weapon and other equipment.

It is fair to assume that personal emotions and motivations weighed heavily in Castiglione's mind during the disabling events. But his mental state is not at issue. The Appeals Court so indicated in *Damiano*, where it declined to consider the member's "subjective intent"

³ The board does not argue or demonstrate that the 2-3-mile distance from the Milford schools to the girlfriend's home placed her crisis beyond the reach of Castiglione's duties.

⁴ This was essentially deputy chief Sousa's assessment. He wrote in his letter that Castiglione "[r]esponded immediately to a mental health emergency received via department-issued phone," "[t]ook appropriate law enforcement and first-responder actions, including CPR, requesting backup, and coordinating medical assistance," and "fulfilled all duties required of a sworn law enforcement officer during [the] incident." (Exhibit 1.)

at the time of her accident. 72 Mass. App. Ct. at 264. This approach is eminently sensible. It is only natural for public employees to be driven by amalgams of civic-minded and personal objectives. They may perform well partly in an effort to earn recognition, advancement, and satisfaction. They may hope that fruitful projects will please their own neighbors, communities, and families. The strands of any mental state are notoriously difficult to divine and untangle. *Cf. Gupta v. Deputy Dir. of the Div. of Employment & Training*, 62 Mass. App. Ct. 579, 584 n.5 (2004). It would be unreasonable and unfeasible to investigate the purity of each injured employee's devotion to the public good.

It may be useful to observe that employees engaged with personal matters or interests may easily cross the line from true job duties to outwardly similar tasks that the job does not actually require. An employee whose duties require him to review incoming paperwork might slide into optional territory when he opens personal letters. *Cf. Murphy v. Contributory Ret. Appeal Bd.*, 463 Mass. 333, 348-51 (2012). Along similar lines, an employee charged with procuring supplies by mail may cross into non-duties when she retrieves her own family's packages. *Cf. Melchionda v. Massachusetts Tchrs.' Ret. Syst.*, No. CR-21-0674, 2024 WL 1486095, at *4 (Div. Admin. Law App. Mar. 29, 2024). Even in such cases, the analysis turns on the employer's requirements, objectively interpreted, not on the employee's subjective intent.

Castiglione sustained his disabling injury while on duty, at work, carrying out the tasks that his employer required him to perform. The complex of motives and emotions that he must have felt at the time does not impact the analysis. They did not cause Castiglione to cross into activities that the police department did not truly expect and require of him.

As the board points out, Castiglione's performance may have included missteps: he failed to contact dispatch on his way to the scene of the suicide; he dropped or placed his gun on the floor while performing CPR. But employees are not viewed as having exceeded their job duties simply because they did their work imperfectly or abnormally. *See Loura v. Taunton Ret. Bd.*, No. CR-13-186, 2021 WL 12297908, at *21 (Contributory Ret. App. Bd. July 14, 2021); *Sanko v. Worcester Reg'l Ret. Bd.*, No. CR-12-659, 2017 WL 11905796, at *4 (Contributory Ret. App. Bd. May 25, 2017); *Michel v. Massachusetts Tchrs.' Ret. Syst.*, No. CR-24-0216, 2025 WL 2634176, at *4-5 (Div. Admin. Law App. Sept. 5, 2025). Professional errors defeat applications for accidental disability retirement only when they involved "serious and willful misconduct." G.L. c. 32, § 7(1). *See Jones v. Weymouth Ret. Bd.*, No. CR-04-181, at *6 (Contributory Ret. App. Bd. Sept. 30, 2005). The board rightly refrains from alleging such misconduct here, where Castiglione at most made errors of judgment.⁵

Conclusion and Order

Castiglione sustained his disabling accident while "in the performance of [his] duties," G.L. c. 32, § 7(1), i.e., performing the tasks that his public employer required of him. The remaining aspects of Castiglione's entitlement to accidental disability retirement are not in dispute. The board's decision is therefore REVERSED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals

⁵ To be fair, the board sees Castiglione's departures from the usual procedures as evidence that he did not envision himself in real time as an officer performing official duties; but as discussed earlier, the injured employee's subjective state of mind is not determinative.