

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Rene Fuertes,
Petitioner,

Docket No.: CR-25-0780

v.

State Board of Retirement,
Respondent.

ORDER OF DISMISSAL

Petitioner, Rene Fuertes, appeals from the denial by Respondent, State Board of Retirement (Board), of his application to purchase prior military service from 03/11/1986 to 03/10/1990, pursuant to G.L. c. 32, § 4(1)(h).

The Board based its denial on the HERO Act (effective 08/08/2024) which states the following:

Notwithstanding any general or special law to the contrary, any member of a retirement system who is a member in service and a veteran who failed to make the purchase authorized in paragraph (h) of subdivision (1) of section 4 of chapter 32 of the General Laws pursuant to chapter 71 of the acts of 1996, as amended, shall be given a 1-time opportunity to apply to the retirement system to make said purchase within 1 year from the effective date of this act. Each retirement system shall provide written notice to all members in service of their potential eligibility for this purchase within 90 days of the effective date of this act.

Acts 2024, c. 178, § 18.

The Board's records indicated that at the time of Mr. Fuertes' request he was vested in the Massachusetts State Employees' Retirement System (MSERS) with approximately 34 years, 10 months of service. Mr. Fuertes was notified in 09/2024 of his potential eligibility for the

purchase of prior military service. The Board received Mr. Fuertes' request on 12/22/25.

Because the Board didn't receive his request by 08/08/2025 as required by law, it declined the application.

In his appeal, Mr. Fuertes presented sympathetic facts regarding medical issues, in support of his request for equitable relief as a basis for overturning the Board's decision. However, this argument is unavailing because in adjudicatory tribunals, "equitable concerns may not trump a statutory rule." *O'Malley v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 778, 782 (2024).

On April 30, 2026 I issued an Order to Show Cause for Mr. Fuertes to provide by May 20, 2026 sufficient evidence in writing of his eligibility to purchase creditable service, and a copy of his service purchase application. He provided no response.

In view of the foregoing, Mr. Fuertes has failed to prosecute his claim and has failed to state a claim upon which relief can be granted. Accordingly, this appeal is hereby **DISMISSED**.¹

Dated: June 5, 2026

/s/ Karen T. Guthrie
Karen T. Guthrie
Administrative Magistrate
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¹ Although the Division of Administrative Law Appeals cannot afford Mr. Fuertes relief, he could ask his state representative to file a private bill on his behalf.