

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

GLOUCESTER RETIREMENT BOARD,

Petitioner-Appellant

v.

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION,

Respondent-Appellee.

CR-21-217

ORDER ON MOTION FOR RECONSIDERATION

Petitioner Gloucester Retirement Board has moved pursuant to 801 C.M.R. 1.01(7)(!) for reconsideration of our decision dated May 28, 2025. That section provides:

Motion for Reconsideration. After a decision has been rendered and before the expiration of the time for filing a request for review or appeal, a Party may move for reconsideration. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A, § 14(1) for the purposes of tolling the time for appeal.

At the heart of this appeal is an Opinion Letter issued by PERAC to GRB, expressing that police officers' compensatory leave should be considered regular compensation—a position it affirmed in the context of the compensatory leave provided in the Gloucester Superior Officers' Collective Bargaining Agreements in 2014, 2020, and 2021 Opinion Letters.¹ GRB disagreed with this position and appealed PERAC's advisory determination to DALA. The magistrate

¹ Exhibits 2, 5, 8, 10. In a 2014 letter, PERAC incorrectly stated that it believed that the Superior Officers' compensatory leave was not regular compensation, but, after a follow-up letter from GRB asking it to confirm this, noted that this statement was erroneous and reiterated its 2006 position that compensatory leave was regular compensation.

concluded that Court cases and CRAB/DALA decisions support the determination that PERAC Opinion Letters were not appealable. *Marlborough Ret. Bd. v. PERAC*, CR-19-14 (DALA Apr. 9, 2021); *Bretschneider v. PERAC*, CR-09-701 (DALA Nov. 13, 2009). See also *Haverhill Ret. Syst. v. CRAB*, 82 Mass. App. Ct. 129 (2012); *Stoneham Ret. Bd. v. PERAC*, CR-12-548 (CRAB, Ma 20, 2019); *Winchester Ret. Bd. v. PERAC*, CR-19-267 (DALA Dec. 11, 2020). Accordingly, the magistrate dismissed the appeal for lack of jurisdiction given that none of the officers in question had yet retired and therefore, were not impacted by GRB's position. CRAB agreed and incorporated the reasoning discussed in the DALA decision.

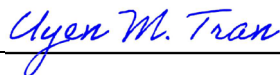
Thereafter, GRB informed CRAB in its Assented-To Motion For Reconsideration that there are now three Superior Officers who are now affected by GRB's position and who have retired since GRB first sought an opinion from PERAC and objected to that opinion. GRB asserts that a remand of this matter to DALA is appropriate, where the affected Police Officers can be made parties to the matter and DALA can address the merits of this case in light of the actual aggrieved parties.

After considering the arguments presented by GRB in its Assented-To Motion For Reconsideration, we agree that this matter should be remanded to DALA for a review of the legal issues in accordance with the magistrate's discretion.

The Petitioner-Appellant GRB's Assented-To Motion For Reconsideration is allowed. This matter is remanded to DALA in light of the new development and to consider the legal issues presented. ***Remand.***

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD



UyenM. Tran
Assistant Attorney General
Chair
Attorney General's Appointee



Nicolle M. Allen, Esq.
Governor's Appointee

Did not participate

Patrick M. Charles, Esq.
Public Employee Retirement Administration Commission
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Date: June 23, 2025