

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Milagros Gonzalez-Flores,
Petitioner,

Docket No.: CR-25-0187

Dated: April 3, 2026

v.

Boston Retirement System,
Respondent.

Appearances:

For Petitioner: Milagros Gonzalez-Flores (pro se)

For Respondent: Timothy Smyth, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

In the course of processing the petitioner's retirement application, the respondent retirement system identified a mistake in the benefits estimate that it had provided to the petitioner at an earlier date. The system was required to correct its mistake and to adjust the petitioner's benefits.

DECISION

Petitioner Milagros Gonzalez-Flores appeals from the calculation of her retirement benefits performed by respondent the Boston Retirement System (system). The appeal was submitted on the papers without objection. I admit into evidence exhibits marked A-E.

Findings of Fact

The following facts are not in dispute.

1. The petitioner was a public employee and a member of the respondent system.

In anticipation of retirement, the petitioner visited the system's offices on more than one occasion to learn about the retirement benefits that she should expect to receive.

(Exhibits A, B.)

2. At the system's offices, the petitioner received a document identified as a "counter estimate" of her retirement benefits. According to that document, the petitioner had accumulated 35 years and 3 months of creditable service, with a resulting entitlement to a retirement allowance equaling 80% of the petitioner's regular compensation during certain years. The counter estimate warned the petitioner: "This is only an estimate . . . and is subject to verification." (Exhibits A, B.)

3. During 1995, the petitioner had been granted a five-month-long leave of absence without pay. As it turns out, that leave of absence was overlooked by the employee who prepared the petitioner's counter estimate. The mistake was caught by the system when it processed the petitioner's retirement application in approximately January 2025. The corrected data reduced the petitioner's tally of service credit to 34 years and 10 months, and her "benefit percentage" to 79.22%. (Exhibits C, D.)

4. The system notified the petitioner by letter of her updated benefits calculation. She timely appealed. (Exhibit D; administrative record.)

Analysis

The retirement benefits of a Massachusetts public employee depend in part on the employee's tally of creditable service. *See* G.L. c. 32, § 5(2)(a). The petitioner does not dispute that the legally accurate calculations of her credit and benefits are those appearing in the system's decision. *See id.* § 4(1)(c).

The petitioner's argument is the following: "As I relied on the information that was provided by the retirement board to make the decision to retire . . . I believe that I am entitled to the 80% calculation." That theory may have intuitive force, but the controlling law takes a

different approach. Erroneous statements from a retirement system do not have the power to alter a member's entitlements, which are defined by rigid statutes. *Clothier v. Teachers' Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010); *Moynihan v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 1108, slip op. at 7-8 (2024) (unpublished memorandum opinion). Concomitantly, when a retirement system discovers an error in its records, disbursed benefits, or collected contributions, a "practicable" correction of the error is nonoptional, even if the result may be viewed as unfair to the member. See G.L. c. 32, § 20(5)(c)(2); *Hunter v. Contributory Ret. Appeal Bd.*, 80 Mass. App. Ct. 257, 263 (2011); *Bristol County Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 451-52 (2006); *Bergquist v. Massachusetts Teachers' Ret. Syst.*, No. CR-18-456, 2021 WL 12297900, at *4 (Contributory Ret. App. Bd. Dec. 16, 2021).

Conclusion and Order

AFFIRMED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals