

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

Middlesex, ss.

Daniel Hardacre,
Petitioner,

Docket No. CR-25-0539

Dated: August 28, 2026

v.

Methuen Contributory Retirement System
and
City of Methuen,
Respondents.

ORDER VACATING RETIREMENT BOARD DECISION

INTRODUCTION

On August 28, 2025, the Methuen Retirement Board issued to Daniel Hardacre a decision “to terminate [his] retirement allowance effective September 1, 2025.”¹ Mr. Hardacre appealed the Board’s decision to the Division of Administrative Law Appeals (DALA), arguing that the Board lacked authority for its action.²

The Board’s reasons as set out in its decision are two-fold. First, the Board is waiting for a decision from the Contributory Retirement Appeal Board (CRAB) in another case concerning Mr. Hardacre’s pension. Second, as of its August 2025 payment, the Board has paid Mr. Hardacre \$6,614.29 more than the amount in his annuity reserve fund. According to the Board, if CRAB rules against Mr. Hardacre, the Board will need to recover any payments made in excess

¹ Board Decision dated August 28, 2025.

² Appeal filed September 16, 2025.

of his annuity reserve fund. In the Board's view, under these circumstances, "continuing payments would be fiscally irresponsible."

First Administrative Magistrate James P. Rooney denied the Board's Motion to Dismiss for untimeliness on December 12, 2025. He granted the Board's motion to join the City as a party on January 29, 2026. The City adopts the position of the Board in this matter. Magistrate Rooney also determined that this matter could be decided on written submissions under 801 C.M.R. § 1.01(10)(c). The parties filed memoranda in support of their respective positions.³

DISCUSSION

The sole issue to be decided is whether the Board has the authority to stop payment of a retirement benefit under the circumstances presented in this case.⁴ The relevant facts necessary to decide this issue are few and are not in dispute.

I conclude that the Board lacks the authority to suspend or terminate payments of Mr. Hardacre's retirement benefit as of August 28, 2025. The Board concedes that there is no specific provision of M.G.L. c. 32, §§ 1-28 that clearly authorizes the suspension or termination of Mr. Hardacre's retirement benefit. The Board focuses on M.G.L. c. 32, § 20(5)(c)2, which

³ Mr. Hardacre offered one exhibit, which is the decision in *Methuen v. Methuen Ret. Syst. et al*, No. CR-23-0420, (Div. Admin. Law App. Jun. 14, 2024). Neither the Board nor the City offered any exhibits with their memoranda.

⁴ The Board stated without explanation in its Response to DALA's Scheduling Order, that although it used the word "terminate" in its decision, it has actually *suspended* payments to Mr. Hardacre until CRAB issues its decision. See Response n. 2. In reviewing its action, *infra*, I consider the common meaning of both terms.

requires retirement boards to correct errors in their records or in the computation of a benefit.⁵

The Board's reliance on § 20(5)(c)2 at this point, however, is premature and thus unavailing.

The Board maintains that a differently comprised Board, who granted Mr. Hardacre a retirement benefit, erred because he did not qualify for the benefit. The City of Methuen appealed the Board's original decision to grant the benefit to DALA in the matter assigned Docket No. CR-23-0420 (*Hardacre I*). DALA ruled that the City lacked standing to appeal the decision. The City appealed to CRAB, where a decision is pending. DALA did not consider the merits of the Board's decision in *Hardacre I* because it ruled only on the jurisdictional question. It is likely that, if CRAB decides the jurisdictional question in the City's favor, it will remand the matter to DALA for a decision on the merits. Until there is a final adjudication in *Hardacre I*, there is no error for the Board to correct.

If, however, the City has standing to pursue its claims and the Board is joined as a party, it can raise its claims about why the earlier decision was wrong. There would be no reason to resort to a correction of errors under M.G.L. c. 32, § 20(5)(c)2.

⁵ M.G.L. c. 32, § 20(5)(c)2 provides that:

When an error exists in the records maintained by the system or an error is made in computing a benefit and, as a result, a member or beneficiary receives from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct or had the error not been made, the records or error shall be corrected and as far as practicable, and future payments shall be adjusted so that the actuarial equivalent of the pension or benefit to which the member or beneficiary was correctly entitled shall be paid. If it is determined that a member has contributed an incorrect amount to the retirement system, the member shall be required to contribute an amount sufficient to correct such error or the board shall pay an amount to the member to correct such error, as the case may be.

A retirement board has only the authority delegated to it by the Legislature. *Comm’r of Rev. v. Marr Scaffolding Co.*, 414 Mass. 489, 493 (1993) Consequently, any action that an agency takes “not in compliance with the terms and conditions [in the statute] is invalid.” *Leahy v. Inspector of Bldgs.*, 308 Mass. 128, 131 (1941). The Board lacks the authority to suspend or terminate Mr. Hardacre’s retirement benefit under the circumstances presented here.

CONCLUSION

Mr. Hardacre’s appeal is allowed. The Board’s decision is vacated.

The Board shall resume payment of retirement benefits to Mr. Hardacre, including benefits owed since September 1, 2025. The retirement law makes no provision for ordering Mr. Hardacre to execute a promissory note or provide some other form of security to the Board.

SO ORDERED.

Bonney Cashin
Bonney Cashin
Administrative Magistrate
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Dated: August 28, 2026