

**COMMONWEALTH OF MASSACHUSETTS  
CONTRIBUTORY RETIREMENT APPEAL BOARD**

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**DIANE KIDD,**

**Petitioner-Appellant**

**v.**

**STATE BOARD OF RETIREMENT,**

**Respondent-Appellee.**

**CR-21-0313**

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**DECISION**

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Petitioner Diane Kidd appeals from a decision of an Administrative Magistrate of the Division of Administrative Law Appeals affirming the decision of the respondent State Board of Retirement (SBR) to apply the anti-spiking provision in the calculation of her retirement allowance. The magistrate determined that this appeal could properly be decided on the papers pursuant to 801 CMR 1.01(10)(c). The magistrate admitted ten exhibits into evidence. The DALA decision is dated May 12, 2023. Ms. Kidd filed a timely appeal to us.

On April 1, 2024, both Ms. Kidd and the SBR filed a Joint Motion to Expedite CRAB Decision. In the motion, the parties requested that Ms. Kidd's Notice of Objection to the DALA decision of May 12, 2023 be dismissed. By this request, Ms. Kidd expressed that she was withdrawing her statutory objection pursuant to G.L. c. 32, § 16(4) to the DALA decision. She further explained that she is now solely objecting to the DALA decision based on her argument that the application of the antispiking provision pursuant to G.L. c. 32, § 5(2)(f) due to pay raises she received in accordance with the Massachusetts Pay Equity Act (MEPA), G.L. c. 149, § 105A, was in violation of the equal rights provision set forth in Article I of the Declaration of Rights of the Massachusetts Constitution and the Equal Protection Clause of the U.S. Constitution.

Ms. Kidd's request to withdraw her objection with respect to the DALA decision of May 12, 2023 is hereby accepted. To the extent that the due process and equal protection clauses of the federal Constitution and the Massachusetts Declaration of Rights have been implicated, we conclude that CRAB does not have jurisdiction to decide constitutional questions. *Maier v. Justices of the Quincy Div. of the Dist. Ct. Dept.*, 67 Mass. App. Ct. 612, 619 (2006); *LeClerc v. Teachers' Retirement System*, CR-14-436 (CRAB Dec. 2, 2015). Ms. Kidd's appeal of the DALA decision of May 12, 2023 is dismissed. ***Dismiss.***

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

*Uyen M. Tran*

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Date: June 3, 2024