COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Maura Mahoney,
Petitioner,

v.

Massachusetts Teachers' Retirement System,
Respondent.

Docket No.: CR-24-0683

Dated: July 17, 2026

Appearance for Petitioner:

Maura Mahoney, pro se

Appearance for Respondent:

Salvatore Coco, Esq.

Administrative Magistrate:

Thomas E. Bocian

ORDER ON THE MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM'S MOTION FOR RECONSIDERATION

On June 26, 2026, I issued a decision that affirmed the Massachusetts Teachers' Retirement System's (MTRS) conclusion that the petitioner's regular compensation during the second year preceding her retirement needed to be reduced under the "anti-spiking" provision in G.L. c. 32, § 5(2)(f). At the end of the decision, I directed the MTRS "to return to the petitioner, with interest, any excess withholdings." On June 30, 2026, the MTRS moved for reconsideration, insisting that the directive to return any excess withholdings *with interest* is "not supported by Chapter 32, case law, and PERAC's position on this issue."[1] The petitioner has not responded to the MTRS's motion. The MTRS is mistaken, so its motion is denied.

With respect to the MTRS's first argument, Section 5(2)(f) of Chapter 32, which describes how retirement boards are to determine whether a portion of regular compensation is to be excluded because of spiking, provides: "Any withholdings excluded from the calculation of a member's average annual rate of regular compensation under this paragraph, *shall be returned* to the member *with interest* at the assumed actuarial rate." (Emphases added.) The plain language of the Section 5(2)(f) is unambiguous and compulsory—excess withholdings must be returned with interest. *See Garcia v. Exec. Off. of Hous. & Livable Communities*, 495 Mass. 86, 91 (2024) ("the Legislature's use of the word 'shall' reflects the imposition of a nondiscretionary, mandatory obligation"). *See generally Mahan v. Bos. Ret. Bd.*, 490 Mass. 604, 613 (2022) ("Courts must follow the plain language of a statute when it is unambiguous and when its application would not lead to an absurd result, or contravene the Legislature's clear intent." (Quotation omitted.)).

In urging a contrary conclusion, the MTRS relies upon G.L. c. 32, § 20(5)(c)(2). Section 20(5)(c)(2) provides a remedy for errors in contributions and benefit calculations.[2] The MTRS

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[1] PERAC is the Public Employee Retirement Administration Commission.

[2] Section 20(5)(c)(2) provides, "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

claims that the excess withholdings at issue here are tantamount to a contribution error and are therefore governed by Section 20(5)(c)(2). Even if the MTRS's analogy to a contribution error were valid (an issue that I do not decide), its argument overlooks the well-settled cannon of statutory interpretation that an on-point and more specific statute controls over a general one. *See*, *e.g.*, *Frechette v. D'Andrea*, 494 Mass. 167, 175 (2024). Here, Section 5(2)(f) addresses the remedy for excess withholdings in the anti-spiking context in particular, and it is therefore "the more specific" (and controlling) statute in the circumstances presented.

The MTRS's second argument—that the directive to return any excess withholdings with interest is not supported by case law—relies upon decisions that did not involve the interpretation or application of the anti-spiking provision in G.L. c. 32, § 5(2)(f). In *Hollstein v. Contributory Retirement Appeal Board*, ten employees of the Boston School Committee claimed that the Boston Retirement Board erred in "denying them interest payments on pension contributions improperly deducted from their wages." 47 Mass. App. Ct. 109, 110 (1999). *Hollstein* rejected that argument, relying upon its interpretation of G.L. c. 32, § 20(5)(c) to hold that a "requirement to pay interest on excessive pension deductions should not be read into the statute where the Legislature did not provide for it."[3] *Id.* at 111. Here, as noted, the Legislature *did* provide for the payment of interest on excess withholdings in the anti-spiking context. *See* G.L. c. 32, § 5(2)(f). *Herrick v. Essex Regional Retirement Board*, the other case cited by the

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such error or the board shall pay an amount to the member to correct such error, as the case may be."

[3] The version of Section 20(5)(c) that the Appeals Court considered in *Hollstein* was amended in 2000. *See* St. 2000, c. 159, § 91. The current language is reproduced *supra*, n.2.

MTRS, holds that where "a retirement board makes a legal error in denying retirement benefits that is corrected by a court, the plaintiff is entitled to a rate of interest determined by the board's actuary." 465 Mass. 801, 802 (2013) (quotation omitted). Nothing of the sort happened here. *Herrick* does not advance the MTRS's position.[4]

In addition, the MTRS's argument sits uncomfortably next to at least fifteen decisions from the Division of Administrative Law Appeals (DALA) that direct the return of excess withholdings *with interest* in the anti-spiking context.[5] Given the plain language of Section 5(2)(f), as described above, I find these many decisions to be both persuasive and correct.

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[4] *Taliadouros v. Massachusetts Teachers' Retirement System*, a decision of the Contributory Retirement Appeal Board cited in the MTRS's motion for reconsideration, likewise did not involve the anti-spiking provision in Section 5(2)(f). No. CR-11-660 (Contributory Ret. App. Bd. Nov. 28, 2018). Rather, *Taliadouros* involved the question of whether a teacher's stipends for serving in a supplemental role as an "outreach coordinator" counted toward regular compensation for purposes of calculating his retirement allowance. The Contributory Retirement Appeal Board affirmed a magistrate's decision that the stipends were not "includable in regular compensation" and that any retirement contributions collected on the stipends needed to be returned. The Contributory Retirement Appeal Board added that "no interest [wa]s due [on any reimbursements] because there [wa]s no statutory provision permitting it." As noted, here, Section 5(2)(f) unambiguously requires the payment of interest. *Taliadouros* does not apply or discuss Section 5(2)(f).

[5] *See*, *e.g.*, *Camire v. Essex Reg. Ret. Sys.*, No. CR- 25-0569, 2026 WL 1637177, at *4 (Div. Admin. Law App. May 29, 2026); *Dulit v. State Bd. of Ret.*, No. CR- 23-0357, 2024 WL 4582643, at *3 (Div. Admin. Law App. July 19, 2024); *Bennett v. Massachusetts Teachers' Ret. Sys.*, No. CR-23-0185, 2024 WL 2699380, at *3 (Div. Admin. Law App. May 13, 2024); *Giampietro v. State Bd. of Ret.*, No. CR-22-0382, 2024 WL 1960741, at *3 (Div. Admin. Law App. Apr. 26, 2024); *Mcguire v. State Bd. of Ret.*, No. CR-22-0374, 2024 WL 1739375, at *3 (Div. Admin. Law App. Apr. 12, 2024); *Cincotta v. State Bd. of Ret.*, No. CR-22-0208, 2024 WL 894902, at *5 (Div. Admin. Law App. Feb 23, 2024); *Smith v. State Bd. of Ret.*, No. CR-22-0375, 2024 WL 413692, at *3 (Div. Admin. Law App. Jan. 26, 2024); *Dohan v. State Bd. of Ret.*, No. CR-22-0104, 2023 WL 8643786, at *5 (Div. Admin. Law App. Dec. 8, 2023); *Melillo v. Massachusetts Teachers' Ret. Sys.*, No. CR-21-0550, 2023 WL 4264534, at *6 (Div. Admin. Law App. June 23, 2023); *Crofford-Bik v. Massachusetts Teachers' Ret. Sys.*, No. CR-22-0583, 2023 WL 4052399, at *4 (Div. Admin. Law App. June 9, 2023); *Derr v. State Bd. of Ret.*, No. CR-21-0337, 2023 WL 3687344, at *5 (May 19, 2023); *Kidd v. State Bd. of Ret.*, No. CR-21-0313, 2023 WL 3547617, at *4 (Div. Admin. Law App. May 12,

Finally, contrary to the MTRS's third argument, PERAC has issued guidance that expressly calls for excess withholdings to be returned with interest in the anti-spiking context. PERAC Memo # 38 / 2012 states:

> If a member is found to violate the provisions of Section [5(2)(f)], then a retirement board would need to determine the amount of the contributions the member made on regular compensation above and beyond the regular compensation used in determining his or her benefit. These excess contributions would be refunded to the member *along with interest* at the assumed actuarial rate used in a system's most recent actuarial valuation.

So, PERAC's relevant guidance is consistent with the plain language of Section 5(2)(f) and the many DALA decisions listed *supra*, n.5. PERAC Memo # 14 / 2018, the one on which the MTRS relies in its motion for reconsideration, simply reflects the holdings of *Hollstein* and *Herrick*, which for the reasons discussed above, involved scenarios not presented here. Memo # 14 / 2018 does not purport to clarify or supersede Memo # 38 / 2012. In fact, it does not mention the anti-spiking provision in Section 5(2)(f) at all.

Chapter 32, on-point decisions, and PERAC's guidance all indicate that the MTRS must return to the petitioner, with interest, any excess withholdings. The motion for reconsideration is, therefore, denied.

/s/ Thomas E. Bocian
Thomas E. Bocian
Chief Administrative Magistrate
Division of Administrative Law Appeals

2023); *Reilly v. State Bd. of Ret.*, No. CR-21-0103, 2023 WL 3547616, at *3 (Div. Admin. Law App. May 12, 2023) *Shor v. State Bd. of Ret.*, No. CR-21-0331, 2023 WL 3547619, at *3 (Div. Admin. Law App. May 12, 2023); *McHugh v. State Bd. of Ret.*, No. CR-22-0605, 2023 WL 3434947, at *4 (Div. Admin. Law App. May 5, 2023).