

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Cesarina Olivero-Oviedo,
Petitioner,

Docket No.: CR-24-0066

v.

Date: September 4, 2026

Lawrence Retirement Board,
Respondent.

Appearances:

For Petitioner: Adam Halpin, Esq. and Richard Fitzpatrick, Esq.
For Respondent: Michael Sacco, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner was a school culture coordinator in charge of student discipline. The job had minimal physical components, such as climbing stairs, walking around the school, and sitting for long stretches; it also had more rigorous physical parts, such as running, breaking up fights, and restraining students. Despite a history of prior knee injuries, the Petitioner was perfectly capable of performing all these duties. However, after a workplace accident in which she fell on a slippery floor, that was no longer possible. She is presently unable to perform any physical aspect of her job on account of this workplace accident.

INTRODUCTION

Pursuant to G.L. c. 32, § 16(4), the Petitioner timely appeals the Lawrence Retirement Board's ("Board") decision denying her application for accidental disability retirement. I held an in-person hearing on February 26, 2026. The Petitioner was the only witness. I entered exhibits 1-16 into evidence. Both parties submitted post-hearing briefs on August 18, 2026.

FINDINGS OF FACT

1. The Petitioner is a long-time educator. Most recently, she was a school culture coordinator (Coordinator) at a charter school in Lawrence called Up Academy. She started in that position in 2015. (Testimony.)
2. Up Academy was a middle school with students in sixth through eighth grade. (Testimony.)
3. It is undisputed that she was injured in a workplace accident on May 3, 2017. On that day, some students flooded a bathroom by clogging the drains with paper towels. The water spilled over into the hallway. As the Petitioner ran to confront the problem, she slipped on the wet floor. Her body twisted and turned. Her knee “popped out of place.” She fell after taking about two steps and could not move. (Testimony; ex. 7.)

Prior injuries, treatments and surgeries

4. The Petitioner has a history of knee problems. (Testimony.)
5. She first hurt her knee in 1996, playing volleyball in high school; the injury required surgery. It was a major surgery that required her to remain inactive, and then participate in physical therapy, for a few months. (Testimony.)
6. However, the surgery was successful enough that between her recovery and 2004, she led a very active lifestyle. For example, she continued playing volleyball in high school and for one year at the collegiate level; she even hiked the Appalachian Trail one summer. (Testimony.)
7. She remained active despite having multiple procedures on her knee during that time. The procedures ranged from realigning tendons, removing scar tissue, and cleaning out

debris. (Testimony.)

8. In 2004, she again needed surgery. She had ruptured her patella tendons and needed to have screws installed to hold them in place. This also involved a bone graft. (Testimony; ex. 16, pgs. 1-4.)
9. This surgery was serious and, like in 1996, required her to remain inactive and then participate in physical therapy for a few months. (Testimony.)
10. But also like in 1996, after her recovery, she returned to her active lifestyle. For example, she was interested in joining the FBI and she kept herself in good shape to meet the physical demands of that potential job. (Testimony.)
11. However, her dream of being an FBI agent did not work out and, in 2007, she began her career as an educator. (Testimony; ex. 3.)
12. In 2010 she had another procedure. The screws that had been placed in 2004 had moved and were preventing her from having full mobility. She continued to be active and was not having any issues with her knee, other than her limited mobility. The surgery was successful and did not require any extended period of inactivity or physical therapy. (Testimony; ex. 16, pgs. 5-10.)
13. She had no further injuries or procedures on her knee until the workplace accident in 2017. (Testimony.)

Job duties

14. In 2015 she became the school's culture coordinator. The name is a little misleading as her job required her primarily to deal with student discipline. (Testimony.)
15. Independent of her interactions with students, the job required her to be all over the

school. That, in turn, required a lot of walking and going up and down stairs.

(Testimony.)

16. When she interacted with students, her job had many physical components. She often had to run, separate fighting students, accompany students to other parts of the school, and restrain students. Restraining students could take many forms including separating two people or holding someone on the floor or in a chair until the situation requiring the restraint subsided. (Testimony.)
17. Her job had an administrative component too which would require her to sit for long periods of time doing paperwork or other tasks. For example, some students who were disciplined had to go to a disciplinary room where the Petitioner monitored them.
(Testimony.)¹

Injuries and treatment as a result of the May 3, 2017 incident

18. When she hurt her knee in school on May 3, 2017, the Petitioner needed her mother to come pick her up and take her to the hospital. (Testimony.)
19. She was given a knee immobilizer and some crutches. The hospital took x-rays and recommended she see an orthopedist. (Testimony.)
20. She was eventually able to return to work to finish off the school year. But she was

¹ Two employees from human resources, who the Petitioner did not know, filled out the employer's statement in support of her application. (Ex. 5.) They said that her job had "no physical requirements." They also said she had resigned at the end of 2016-2017 school year. Neither of those things was true. She did not resign and she testified very credibly about all the physical components of her job. It appears the form was filled out by people who probably just read a job description but knew nothing about the Petitioner or her work. I address below the Board's argument about the Petitioner's job duties. But I give no weight to this exhibit, considering the Petitioner's credible testimony to the contrary.

unable to perform her normal job duties. She was essentially immobile. She was working part time and was given office tasks that did not involve student interactions. (Testimony; ex. 16, pg. 28.)

21. When September came around, she was still unable to resume her duties, and she went out on medical leave. Eventually she was awarded workers compensation, which she is still collecting today. (Testimony.)
22. Her medical records list her problems as “chondromalacia of patella, knee pain, and traumatic rupture of patellar tendon – onset: 5/10/17.” (Ex. 16, pg. 39.)
23. In the meantime, she saw an orthopedist, Dr. John Richmond (who had coincidentally treated her in the past). He prescribed preliminary measures to try and treat her: injections, physical therapy, immobilization, and pain medication. (Testimony; ex. 16, pgs. 39-45.)
24. These interventions did not help. In October 2017, she had surgery. It confirmed a “complex tear of the lateral meniscus and chondral damage to the medial femoral condyle” There was a “complete loss of articular cartilage on patella[.]” “The large flap tear of lateral meniscus was noted and resected.” (Ex. 9, pg. 8 & 16, pg. 68.)
25. The surgery did not alleviate the problem. She continued to experience pain. She had more physical therapy and used crutches and a walker, but nothing helped with her mobility. (Testimony.)
26. She consulted with another orthopedist, Dr. Carl Talmo. Ultimately, after non-surgical treatments failed to alleviate her pain, he recommended a total knee replacement. That was done in January 2020. (Testimony; ex. 16, pgs. 161-163.)

27. That too did not work. By this point, she had exhausted treatments and was just learning to live with her pain and discomfort. Now, the more she walks or strains her muscles, the weaker and more tired they get. They start to “shiver and shake.” Eventually she gets “spasms [that] make [her] immobile.” Also, “the pain, it’s just really difficult. And it takes a very long time to kind of recover from the pain.” (Testimony.)
28. To cope, she takes “whatever medicine [she has]: muscle relaxers, Percocets. They put [her] to sleep long enough for [her] muscles to kind of let go and relax. And then [she] can just function. So it can take anywhere between a day, three days.” (Testimony.)
29. She also has a walker, which is not very practical outside her home, and a cane, which she uses when she is not at home. It supports her but “doesn’t stop [her] from falling.” (Testimony.)
30. She was asked if she has tried to “get any sort of gainful employment[.]” She responded:

A. I can’t. I physically can’t.

Q. Well, even with a sedentary position, if you had a job that allowed you to work at a—let me finish—work at a desk and stand up and move around, you don’t feel like you could do that?

A. My condition is unpredictable. There are days when I wake up with enough strength to get myself to the bathroom on my own, at the basic, with enough pain management that I can get things done. But at any given moment, my knee could buckle, and I could fall and hurt myself. Spasms can hit at any time. So imagine I’m sitting at your law office at a desk . . . I’m sitting at your law office, and I go into a full-blown spasm, and an ambulance has to come and get me. I’m in pain. At home, I have to scream, scream into my pillow so I don’t scare my kids. That’s how bad it gets. . . .

And it’s sudden. So I may be in the process of doing something, and out of nowhere, the pain starts or it’s just a jolting, sharp, stabbing pain. And it’s unprofessional. And I could be meeting with somebody or a parent, and I could be in a pain spasm, and I would have to be carried out

by ambulance[.]

(Testimony.)

31. I witnessed some of her problems at the hearing. At one point we had to take a break because she was experiencing discomfort and needed to take medication. When we resumed, she could not even sit and had to finish her testimony leaning on a chair.

Application of accidental disability retirement

32. In May 2022, the Petitioner applied for accidental disability retirement. (Ex. 3.)
33. Her matter was assigned to a medical panel consisting of three orthopedists: Drs. Eugene Brady, Wojciech Bulczynski, and Louis Bley. (Exs. 9-11.)
34. All three doctors unanimously agreed the Petitioner was permanently incapacitated and it might have been proximately caused by the workplace incident. (Exs. 9-11.)
35. Dr. Brady diagnosed her with “right knee injury due to slip and fall at work[.]” After the fall, records confirmed she had a “recurrent patella dislocation. And while patella instability had been a “chronic problem,” he could find no record “that it was a problem for at least two years before her work injury.” He did note that her right knee replacement was on account of her pre-existing osteoarthritic changes. (Ex. 9.)
36. Dr. Bulczynski diagnosed her with a “lateral meniscus tear sustained as a result of the injury on 5/3/17.” He acknowledged she had “pre-existing significant osteoarthritis of the right knee.” Dr. Bulczynski opined that her “disability is directly related to the injury she sustained on 5.3.17, and again, the above-cited injury aggravated the pre-existing significant right knee condition. In my opinion, the need for total knee surgery was predominantly due to the injury sustained on 5/3/17 causing an aggravation of

underlying arthritic changes which pre-dated her injury.” (Ex. 10.)

37. After the Board asked him some clarifying questions, he elaborated on how he reached his opinion. Specifically, he acknowledged, again, that she had a pre-existing condition. He explained it “more likely than not eventually would have resulted in knee replacement sometime in the future. However, in my opinion, the injury of 5/3/17 accelerated and aggravated this process. This was supported by the fact that she could work full duty before the injury of 5/3/17 and could not do so afterwards.” In the next paragraph of his response, he repeated this sentiment in response to a different question. (Ex. 13.)

38. Dr. Bley’s report similarly diagnosed the Petitioner. He summed up his findings:

[P]rior to her May 3, 2017 injury, she had returned to full activities including athletics and exercise without deficit. Now, she is unable to walk more than 50 yards to 100 yards without having to rest owing to the weakness and discomfort, making the May 3, 2017 injury an acute aggravation, as opposed to a temporary exacerbation, of the pre-existing right knee conditions.

(Ex. 11.)

39. The Board also asked him some clarifying requests. He first noted that the requests “contain multiple incorrect assertions regarding Ms. Olivero-Oviedo’s medical condition.” His response pointed out the mischaracterizations of the Petitioner’s medical condition in reiterating his original opinion. (Ex. 15.)

40. Despite the unanimous panel, the Board denied the Petitioner’s application because it said she was unable to prove causation. (Ex. 1.)

DISCUSSION

The Petitioner has the burden of proving every element of her disability claim. *Lisbon v. Contributory Ret. App. Bd.*, 41 Mass. App. Ct. 246, 255 (1996); *Frakes v. State Bd. of Ret.*, CR-21-0261, 2022 WL 18398908, at *6 (Div. Admin. Law App. Dec. 23, 2022). “Accidental disability requires three elements: 1) that the applicant was ‘mentally or physically incapacitated for further duty,’ 2) that [their] ‘incapacity is likely to be permanent,’ and 3) that [their] disability ‘is such as might be the natural and proximate result of the accident or hazard undergone.’” *Carreiro v. New Bedford Ret. Bd.*, CR-21-0355, 2023 WL 4846320, at *5 (Div. Admin. Law App. Jul. 21, 2023).

A petitioner whose claim rests on a workplace injury must show they sustained their injury from either a specific event or series of events. *Lisbon, supra*, at 255. The work-related injury must be the “natural and proximate cause” of the disability. *Campbell v. Contributory Ret. App. Bd.*, 17 Mass. App. Ct. 1018, 1018-19 (1984). “Aggravation of a pre-existing condition to the point of disability satisfies the natural and proximate requirement.” *Williams v. Pittsfield Ret. Bd.*, CR-15-461, 2023 WL 11806182, at *2 (Contributory Ret. App. Bd. Apr. 21, 2023), *citing Baruffaldi v. Contributory Ret. App. Bd.*, 337 Mass. 495 (1958). “When a ‘[preexisting] condition was manageable and not debilitating before [the accident] and then unmanageable and disabling after,’ this obvious difference is better explained by an aggravation and not by ‘a slow, degenerative worsening’” *Lima v. Fall River Ret. Bd.*, CR-23-0499 (Div. Admin. Law App. Nov. 28, 2025), *quoting Smith v. Essex Reg’l Ret. Sys.*, CR-19-0533 (Div. Admin. Law App. Dec. 16, 2022); *Carreiro v. New Bedford Ret. Bd.*, CR-21-0355, 2023 WL 4846320, at *6 (Div. Admin. Law App. Jul. 21, 2023).

I. The Petitioner is unable to perform her job duties.

The parties submitted a joint pre-hearing memorandum. The Board's position in that pleading was that the "Petitioner has established that she is permanently unable to perform the duties of her position[.]" At the hearing, I clarified with the Board that it was only contesting causation. The Board agreed. Nevertheless, in its post-hearing brief, the Board now says it is contesting whether the Petitioner could perform her duties since, it argues, all of her duties were administrative and did not require any physical activity. Given the Board's prior concessions, the argument is likely waived. Nevertheless, I address it because it lacks merit.

The argument ignores two important things. First, to the extent the Board's argument relies upon the Petitioner's job description, a job description does not always capture all of an employee's job duties. *See Daley-Horgan v. State Bd. of Ret.*, CR-22-0227, 2024 WL 5107627, at *6 (Div. Admin. Law App. Dec. 6, 2024). The job description here was very broad and did not detail how the coordinator was supposed to accomplish some of their job goals, but it is clear those goals required some physicality. For example, the coordinator is supposed to "maintain high behavioral expectations" and "serve as a point person for discipline." It is hard to imagine anyone being able to accomplish those broad goals without some physicality—breaking up fights,² responding to an incident quickly (and possibly on a different floor or on the other side of the school), escorting students to different places, etc. The job description does not literally

² The Board makes much of the fact that the Petitioner was not certified to restrain students but nevertheless said she did. But the Petitioner carefully distinguished between not being certified to formerly restrain a student—which I take to mean a regulated process of securing a student in some way, like to a chair with a belt—and having to "restrain" a student by, for example, stepping in and separating students from fighting to try and protect them from getting hurt.

say the coordinator must be able to do these things, but the Petitioner's testimony credibly explained she had to as part of her duties.

Second, even beyond these job duties, the Petitioner is unable to physically function in the way any employee of a school (or most employees in most offices) needs to function. She can barely walk, cannot sit for a long time, and certainly cannot go up and down stairs—she testified she could not even participate in a practice fire drill. When she exerts herself physically, she hurts; the best she can do is take medication, hope it sedates her, and wait long enough for the pain to subside. She cannot even just sit in a classroom all day monitoring students, let alone walk from class to class, floor to floor, or even in and out of school with any regularity. Consider the incident that caused her injury in this case. Students flooded the bathroom and the Petitioner ran to address the problem. If she were working today, and that happened, she would be unable to respond.

In short, the Petitioner cannot perform the coordinator job as required. Nor can she perform the purely administrative coordinator job the Board imagines she had.

II. The 2017 accident aggravated a pre-existing condition.

The Board's argument against causation is just a hyper-specific reading of the medical records that differs from the medical panel's assessment and the reality of the Petitioner's situation. It criticizes the panel's opinions as ignoring or mischaracterizing certain things in the records. But the panelists' reports are based on a logical and reasonable interpretation of the records, backed by their expertise. The panelists were all aware of the Petitioner's injury history. None of them said the 2017 incident caused a new injury; rather, they all explained how it aggravated a pre-existing injury. In so many words, they recognized that the Petitioner's

medical history as of since 2017 may have one day led to some of the consequences she suffered right after the incident. But they explained why her condition before the fall would not have led to these consequences so quickly. That perfectly encapsulates the concept of aggravating a pre-existing condition. I do not need to figure out when, exactly, the Petitioner would have suffered those consequences had she not fallen. I only need to credit the panelists that she suffered those consequences right after she fell *because* of the fall. The exhibits and testimony support this conclusion.

The best evidence is that, despite her long history of prior knee injuries, the Petitioner was fully capable of performing her job, including all the physical components, before she fell. At a minimum, she was able to walk around the school, go up and down stairs, or sit for long periods of time—all things she cannot do now because of her fall. As has become a recent recurring pattern for some retirement boards, the Board here does not acknowledge just how dramatically diminished a petitioner's physical capabilities were after the incident at issue. *Purtell v. Lowell Ret. Bd.*, CR-25-0275 (Div. Admin. Law App. Aug. 28, 2026); *Melia v. Wellesley Ret. Bd.*, CR-24-0702 (Div. Admin. Law App. Jul. 3, 2026); *Lima, supra*; *Carriero, supra*. Had she not fallen, the Petitioner would have been perfectly able to chase a misbehaving student through the school the next day. Instead, she was in the hospital beginning what is now an almost decade-long ordeal that has left her unable to perform the most basic life functions, at least not without constant pain.

CONCLUSION

The Board's decision denying the Petitioner's application for accidental disability retirement is **reversed**.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate