

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Cynthia Thomas,
Petitioner

v.

Docket No. CR-25-0527

State Board of Retirement,
Respondent

ORDER OF DISMISSAL

On September 9, 2025, Ms. Thomas appealed a decision of the State Board of Retirement that was issued on August 29, 2025. The decision declined to prorate her group classification because, although she was an active member of a public retirement system both before and after April 2, 2012, she was not an active member precisely *on* April 2, 2012. See G.L. c. 32, § 5(2)(a) (“Any active member as of April 2, 2012” may prorate group classification).

A DALA magistrate issued a decision in an appeal with the same salient facts, *Garcia v. State Board of Retirement*, CR-21-0085 (Div. Admin. L. App. July 14, 2023). There, based on the plain language of the statute, the magistrate determined that Ms. Garcia was not entitled to prorate her group classification because she was not an active member on April 2, 2012, even though she was active from 1989 to 2004 and 2009 to 2010 and then again from 2014 to the date of the decision. Ms. Garcia appealed the decision to the Contributory Retirement Appeal Board (CRAB). I stayed the instant

appeal pending CRAB's decision in *Garcia*. CRAB recently affirmed the DALA decision. *Garcia v. State Bd. of Ret.*, CR-21-0085 (Contributory Ret. App. Bd. June 15, 2026).

The facts in the instant appeal are parallel to those in *Garcia*. Ms. Thomas was an active member of the State Employees' Retirement System from 1987 to 2001. See G.L. c. 32, § 3(1)(a)(i). When she left service, she became an inactive member. See G.L. c. 32, § 3(1)(a)(ii) ("member inactive" includes "any member in service whose employment has been terminated and who may be entitled to any present or potential retirement allowance"). Ms. Thomas entered state service again on February 3, 2014, and thus became an active member again. Of course, this means that she was *not* an active member on April 2, 2012. In August 2025, Ms. Thomas requested that the Board prorate her group classification based on her Group 4 position at the Bristol County District Attorney's Office from 1987 to 2001. See G.L. c. 32, § 3(2)(g). On the same day, Ms. Thomas filed a superannuation retirement application with an effective retirement date of October 6, 2025.

As CRAB's decisions are binding on DALA, the only way for her to prove her entitlement to prorate was to submit evidence that she was an active member on April 2, 2012. Accordingly, on June 16, 2026, I ordered Ms. Thomas to submit any evidence that she was an active member on April 2, 2012, otherwise the appeal would be dismissed for failure to state a claim upon which relief can be granted.

On July 10, 2026, Ms. Thomas timely responded with a legal memorandum and her own affidavit. Rather than present any evidence that she was an active member as of April 2, 2012, she admitted that she was not. Instead, she argues that CRAB

incorrectly decided *Garcia*.

The outcome of this appeal is controlled by prior CRAB precedent. Ms. Thomas urges DALA to depart from this settled precedent on the grounds that CRAB's interpretation of G.L. c. 32, § 5(2)(a) in *Garcia* "frames the issue too narrowly," and she advances several legal arguments in support of that conclusion. See Petitioner's Br. at 1. However, DALA has no power to overturn conclusive CRAB decisions. *Fahey v. Boston Ret. Bd.*, CR-15-630 (Div. Admin. L. App. Nov. 2, 2016) ("DALA is bound by CRAB precedent until it is reversed by CRAB itself or the Court."). I must therefore apply the law as it currently stands, interpreted by CRAB.

Ms. Thomas concedes that she was not an active member on April 2, 2012. Therefore, under CRAB's ruling in *Garcia*, she is not entitled to prorate her creditable service and instead her group classification will be based on the job she held when she retired.

Accordingly, this matter is hereby DISMISSED for failure to state a claim upon which relief can be granted.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Dated: July 24, 2026

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Sent to: Cynthia V. Thomas, Esq.
Alison K. Eggers, Esq.