

MINUTES
OF THE MEETING OF
THE EXECUTIVE COMMITTEE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

August 18, 2022

A meeting of the Executive Committee of the State Employees' Retirement System of Illinois was held on Thursday, August 18, 2022, at 8:45 a.m. in the System's Springfield office at 2101 S. Veterans Parkway and by videoconference as allowed under Section 7(e) of the Open Meetings Act (5 ILCS 120/7(e)).

Committee Members Present:

Marvin Becker, Chairperson
David Morris, Vice-Chairperson
Timothy Blair, Executive Secretary

Others Present:

Jeff Houch, Assistant to the Executive Secretary
Eric Glaub, Manager, Claims Division
Cory Mitchelle, Supervisor, Pension and Death Section
Aaron Evans, Attorney, Sorling Northrup
Jessica Blood, Recording Secretary
Laura Bautista, Assistant Attorney General
Jennifer Crow, Stenographer
Stephen Yokich, Attorney, AFSCME 31 and Illinois Federation of Teachers
Sue Taylor, President, Illinois Federation of State Office Educators
Ed Graham, Attorney, Illinois State Board of Education
Paula Williams, SERS Member
Mark Wancket, Claimant
Deborah Bault, Claimant
Elizabeth Minder, Claimant
Kimberly Beachy, Claimant
Sally Cray, Claimant
Carl Holman, Claimant
Lori Holman, Member of the Public
Abigail Robinson, Claimant
Richard Falen, Claimant's Associate

Routine Claims Report

The Routine Claims Report for July 2022 was presented. Following a brief discussion, the Routine Claims Report for July 2022 as prepared by staff, was received by the Committee.

Minutes of the Previous Meeting

The minutes of the Executive Committee's meeting on July 14, 2022, were presented by Chairperson Becker for approval. Copies of the minutes were previously e-mailed to Committee members for review. Chairperson Becker moved to approve the minutes as submitted. The motion was seconded by Vice-Chairperson Morris, and by unanimous vote, the minutes were approved by the Committee members present.

Old Business

Deborah Bault – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Deborah Bault began receiving retirement benefits effective January 1, 2022. From January 1, 2020, through December 31, 2021, her employer, the Illinois State Board of Education (ISBE), issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$3,078.14 for unused vacation days, for an aggregate total of \$73,875.36. Because Section 14-103.10(b)(l) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, her final average compensation (FAC) calculation did not include the \$73,875.36 in payments she received for unused vacation days from January 1, 2020, through December 31, 2021.

Her current monthly gross pension payment totals \$7,301.71. Ms. Bault is appealing to the Executive Committee to have her pension re-calculated so that it reflects the \$73,875.36 in payments she received for unused vacation days under the Vacation Liquidation Program. If such appeal is granted, her monthly pension would increase to \$8,389.78.

Ms. Bault includes several points of contention in support of her appeal. She contends that the policy of SERS to enforce the statute in this manner is not supported by an administrative rule and its enforcement of such policy without an administrative rule is invalid under the Illinois Administrative Procedures Act (5 ILCS 100/5-10).

Furthermore, she contends that payments under the program are not "lump sum payments" given the nature of the payment schedule, how such payments are treated in the payroll reporting and accounting systems, and how such payments are treated and characterized in the collective bargaining agreement. Additionally, she contends that SERS has changed its position on such program as she believes SERS has been aware of such program since January 9, 2003. Finally, she contends that since SERS recently changed its policy on the treatment of payments under this program, then it should have notified those employees that were close to retiring, and its failure to notify such employees has created a hardship for those employees who made retirement decisions with incomplete information.

After hearing Ms. Bault present her case at their May 2022 meeting, the Committee decided to refer the case for a recommendation.

Attorney Evans presented Recommendation No. 2022-9, to deny Ms. Bault's appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-9. The motion was seconded by Chairperson Becker and passed by unanimous vote.

Kimberly Beachy – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Kimberly Beachy began receiving retirement benefits effective January 1, 2022. From January 1, 2019, through December 31, 2021, her employer, the Illinois State Board of Education (ISBE), issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$832.94 for unused vacation days, for an aggregate total of \$29,985.84. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, her final average compensation (FAC) calculation did not include the \$29,985.84 in payments she received for unused vacation days from January 1, 2019, through December 31, 2021.

Her current monthly gross pension payment totals \$4,211.48. Ms. Beachy is appealing to the Executive Committee to have her pension re-calculated so that it reflects the \$29,985.84 in payments she received for unused vacation days under the Vacation Liquidation Program. If such appeal is granted, her monthly pension would increase to \$4,554.02.

Ms. Beachy includes several points of contention in support of her appeal. She contends that the payments under the Vacation Liquidation Program are not lump sums and should be included in the FAC calculation. She points out that if SERS intended to interpret "lump-sum payments" in this manner, it should be codified in the administrative code. She also contends that SERS has been aware of this program since 2002 and raised no issue until approximately 20 years after the program was created. Finally, she contends that the System has changed its interpretation regarding the program and has created a hardship for those retirees who based their retirement decision on the belief that such program was valid and will be left with little to no option to replace the loss of retirement income if this policy remains in place. After hearing Ms. Beachy present her appeal at their May 2022 meeting, the Committee decided to refer her case for a recommendation.

Attorney Evans presented Recommendation No. 2022-10, to deny Ms. Beachy's appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-10. The motion was seconded by Chairperson Becker and passed by unanimous vote.

Mark Wancket – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Mark Wancket began receiving retirement benefits effective January 1, 2012. As it relates to his retirement benefit calculation, from January 1, 2009, through December

1, 2011, ISBE issued payments to him for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$1,249.42 for unused vacation days, for an aggregate total of \$44,979.12. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$44,979.12 in payments he received for unused vacation days from January 1, 2009, through December 1, 2011, were mistakenly added to his PAC calculation as well as his pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$79,871.28 of pension benefits from January 1, 2012, through January 31, 2022. Furthermore, his current monthly gross pension payment has been changed from \$6,208.03, to \$5,509.62, a reduction of \$698.41. Because the calculation mistake occurred more than 3 years ago, 40 ILCS 5/14-148 only permits the current benefit payment amount to be corrected.

Mr. Wancket is appealing to the committee that this reduction be waived because he contends that such payments were issued in accordance with ISBE's "accelerated compensation" program, and such payments are not subject to the statutory lump-sum exclusion provision because they were paid out in equal amounts over a three-year period.

Attorney Evans presented Recommendation No. 2022-11, to deny Mr. Wancket's appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-11. The motion was seconded by Chairperson Becker and passed by unanimous vote.

Dennis Williams – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Dennis Williams began receiving retirement benefits effective April 1, 2016. As it relates to his retirement benefit calculation, from June 1, 2012, through May 31, 2015, ISBE issued payments to him for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$949.92 for unused vacation days, for an aggregate total of \$34,197.12. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$34,197.12 in payments he received for unused vacation days from January 1, 2019, through December 31, 2020, were mistakenly added to his FAC calculation as well as his pension calculation.

SERS determined that the inclusion of these Jump sum payments for unused vacation days created an overpayment of \$21,312.12 of pension benefits from April 1, 2016, through January 31, 2022. Furthermore, his current monthly gross pension payment has been changed from \$3,889.91, to \$3,555.45, a reduction of \$334.46. Because calculation mistake occurred more than 3 years ago, 40 ILCS 5/14-148 only permits the current benefit payment amount to be corrected.

Mr. Williams is appealing to the committee that this reduction be waived because he contends that such payments were issued in accordance with ISBE's "accelerated compensation" program, and such payments are not subject to the statutory lump-sum exclusion provision because they were paid out in equal amounts over a three-year period.

Attorney Evans presented Recommendation No. 2022-12, to deny Mr. Williams' appeal. Executive Secretary Blair moved to adopt Recommendation No. 2022-12. The motion was seconded by Chairperson Becker and passed by unanimous vote.

Martha Darling – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Martha Darling began receiving retirement benefits effective July 1, 2011. As it relates to her retirement benefit calculation, from July 1, 2008, through June 30, 2011, ISBE issued payments to her for unused vacation days in addition to earnings for those applicable pay period. Each of these months included payments of \$685.60 for unused vacation days, for an aggregate total of \$24,681.60. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$24,681.60 in payments she received for unused vacation days from July 1, 2008, and June 30, 2011, were mistakenly added to her FAC calculation as well as her pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$34,048.32 of pension benefits from July 1, 2011, through January 31, 2022. Furthermore, her current monthly gross pension payment has been changed from \$4,815.75 to \$4,348.58, a reduction of \$467.17. Because the calculation mistake occurred more than three years ago, 40 ILCS 5/14-148 only permits the current benefit payment amount to be corrected.

Ms. Darling is appealing to waive the reduction to her pension because she contends that such payments were issued in accordance with ISBE's "accelerated compensation" program and such payment are not subject to the statutory lump-sum exclusion provision because they were paid out in equal amounts over a three-year period. Furthermore, she contends that due to the payout structure, no "lump sum" payments occurred because it was not a single payment.

Executive Secretary Blair moved to deny Ms. Darling's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Carl Holman – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Carl Holman began receiving retirement benefits effective November 1, 2021. As it relates to his retirement benefit calculation, from January I, 2019, through October 31, 2021, ISBE issued payments to him for unused vacation days in addition to earnings

for those applicable pay periods. Each of these months included payments of \$701.92 for unused vacation days, for an aggregate total of \$23,865.50. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$23,865.50 in payments he received for unused vacation days from January 1, 2019, through October 31, 2021, were mistakenly added to his FAC calculation, which inflated his pension calculation.

Mr. Holman's current monthly gross pension payment is \$3,964.51. If the total amount he received in payments for liquidated vacation days are included in his FAC, his monthly gross pension payment would increase by \$257.40 to \$4,221.91. There is no overpayment to recoup because this mistake was caught before the first payment was issued.

Mr. Holman is appealing to waive the reduction to his pension because he contends that he relied on the validity of such program when he decided to retire and other legitimate sources such as SSA earnings records and SERS earnings records and estimated benefit calculation strengthened his reliance. He also estimates that dozens of retired employees of ISBE have benefited since this program's creation and because not all of those individuals experienced a reduction to their benefit, the System should hold harmless all current benefit payments from such reductions. Furthermore, he contends that payments under the program are not "lump sum payments" given the nature of the payment schedule, how such payments are treated in the payroll reporting and accounting systems, and how such payments are treated and characterized in the collective bargaining agreement.

Executive Secretary Blair moved to deny Mr. Holman's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Teralandur Venkatesh – Appeal Reduction to Pension – ISBE Accelerated Compensation Program – Recommendation

Teralandur Venkatesh began receiving retirement benefits effective January 1, 2010. As it relates to his retirement benefit calculation, from January 1, 2008, through December 31, 2009, ISBE issued payments to him for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$1,303.54 for unused vacation days, for an aggregate total of \$31,284.96. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$31,284.96 in payments he received for unused vacation days from January 1, 2008, through December 31, 2009, were mistakenly added to his FAC calculation as well as his pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$46,673.05 of pension benefits from January 1, 2010, through January 31, 2022. Furthermore, his current monthly gross pension payment has been changed from \$4,616.54, to \$4,229.05, a reduction of \$387.49. Because the

calculation mistake occurred more than three years ago, 40 ILCS 5/14-148 only permits the current benefit payment amount to be corrected.

Mr. Venkatesh is appealing to waive the reduction to his pension because he relied on the validity of such program when he decided to retire and that payments under the program are not "lump sum payments" given the nature of the payment schedule, how such payments are treated in the payroll reporting and accounting systems.

Executive Secretary Blair moved to deny Mr. Venkatesh's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Sally Cray – Appeal Reduction to Pension and Overpayment of Benefits Associated with ISBE Accelerated Compensation Program – Recommendation

Sally Cray began receiving retirement benefits effective January 1, 2021. As it relates to her retirement benefit calculation, from January 1, 2019, through December 31, 2020, ISBE issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$1,059.90 for unused vacation days, for an aggregate total of \$25,269.12. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$25,269.12 in payments she received for unused vacation days from January 1, 2019, through December 31, 2020, were mistakenly added to her FAC calculation as well as her pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$3,637.07 of pension benefits from January 1, 2021, through January 31, 2022. Furthermore, her current monthly gross pension payment has been changed from \$4,387.65, to \$4,100.14, a reduction of \$287.51. 40 ILCS 5/14-148 requires not only the reduction to her current payment, but for the overpaid amount to be repaid since the mistake was discovered by the System within three years after it was made.

Ms. Cray is appealing that this reduction and the overpayment be waived because she contends that such payments were issued in accordance with ISBE's "accelerated vacation liquidation" program, and she understood and relied on the validity of this program when she made her retirement decisions. She also contends that payments under the program are not "lump sum payments" given the nature of the payment schedule, and how such payments are treated in the payroll reporting and accounting systems.

Executive Secretary Blair moved to deny Ms. Cray's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Elizabeth Minder – Appeal Reduction to Pension and Overpayment of Benefits Associated with ISBE Accelerated Compensation Program – Recommendation

Elizabeth Minder began receiving retirement benefits effective November 1, 2020. As it relates to her retirement benefit calculation, for the months of November 1, 2018, through October 31, 2020, ISBE issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$1,059.90 for unused vacation days, for an aggregate total of \$25,437.60. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$25,437.60 in payments she received for unused vacation days from November 1, 2018, through October 31, 2020, were mistakenly added to her FAC calculation as well as her pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$4,190.06 of pension benefits from November 1, 2020, through January 31, 2022. Furthermore, her current monthly gross pension payment has been changed from \$4,363.11, to \$4,075.97, a reduction of \$287.14. 40 ILCS 5/14-148 requires not only the reduction to her current payment, but for the overpaid amount to be repaid since the mistake was discovered by the System within three years after it was made.

Ms. Minder is appealing that this reduction and the overpayment be waived because she contends that such payments were issued in accordance with ISBE's "accelerated compensation" program, and that these payments were spread out in 48 equal payments over a two-year period, and thus are not lump sum payments.

Executive Secretary Blair moved to deny Ms. Minder's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

Judith Schafer – Appeal Reduction to Pension and Overpayment of Benefits Associated with ISBE Accelerated Compensation Program – Recommendation

Judith Shafer began receiving retirement benefits effective December 1, 2019. As it relates to her retirement benefit calculation, for the months of April 2019 through November 2019, ISBE issued payments to her for unused vacation days in addition to earnings for those applicable pay periods. Each of these months included payments of \$999.38 for unused vacation days, for an aggregate total of \$7,995.04. Because Section 14-103.10(b)(1) provides that lump sum payments for unused vacation days shall not be recognized as "compensation" for all purposes under the SERS article of the Illinois Pension Code, the aggregate total of \$7,995.04 payments she received for unused vacation days from April 2019 through November 2019 were mistakenly added to her FAC calculation as well as her pension calculation.

SERS determined that the inclusion of these lump sum payments for unused vacation days created an overpayment of \$3,264.87 of pension benefits from December 1, 2019, through January 31, 2022. Furthermore, her current monthly gross pension payment has been changed from \$3,407.97 to \$3,276.87, a reduction of \$131.10. 40 ILCS 5/14-148 requires not only the reduction to her current payment, but for the overpaid amount to be repaid since the mistake was discovered by the System within three years after it

was made.

Ms. Schafer is appealing to waive this reduction and the overpayment, as it creates financial hardship. Additionally, she contends that she was reassured by the ISBE HR department that such practice was permitted and that SERS took no issue at the time her benefit payments began.

Ms. Schafer became a member of SERS on June 1, 1969, well before Public Act 80-841 was enacted.

Executive Secretary Blair moved to deny Ms. Schafer's appeal. The motion was seconded by Vice-Chairperson Morris and passed by unanimous vote.

New Business

Abigail Robinson – Request to Change Tier Status

Abigail Robinson is a Tier 2 member employed by the Department of Transportation (IDOT) who first became a contributing member of SERS on September 1, 2011. Before she became a contributing member, Ms. Robinson was employed by the Illinois Tollway Authority for two separate periods. The first period began June 1, 2008, and ended August 31, 2008, and the second period began May 16, 2010, and ended August 15, 2010. During these periods, she made no contributions to SERS as a former statute that required employees to complete a 6-month qualifying period before qualifying for eligibility to participate in SERS was still in effect. Public Act 96-1490 provided that for those individuals who first enrolled in SERS on or after January 1, 2011, would not need to serve six consecutive months for a SERS-covered employer before he or she could begin contributing to SERS and attain membership status.

The qualifying period that was ended by Public Act 96-1490 is contained in Section 14-103.05(a), and provided that between January 1, 1984, and December 1, 2010, an employee needed to accrue six continuous months of service before he or she was eligible to be a member in SERS. Once the employee became eligible for membership in SERS, he or she would be eligible to purchase the "qualifying period" or "short periods". Short periods include periods of state employment prior to becoming a contributing member in which the employee didn't complete his or her qualifying period.

Ms. Robinson purchased her "short periods" and contends that such periods qualify her to be grandfathered into the Tier 1 plan. Additionally, she points to her member services account screen that identifies her membership date as June 1, 2008. Furthermore, a membership record document provided by SERS to Ms. Robinson indicated that she was a Tier 1 member. The System assumes that the petitioner will argue that she was provided multiple forms of information from the System which indicated she was a Tier 1 member and that she relied on that information for purposes of financial planning. It should be mentioned that the courts have determined that the Illinois public retirement systems are not authorized to provide equitable relief to members who rely upon incorrect information, see *Desai v. State University Retirement*

System of Illinois, 2017 IL App (4th) 130825-U.

Ms. Robinson did not begin making contributions to SERS until September 1, 2011, nine months after the Tier 2 plan took effect. Section 1-160(a) of the Pension Code provides that the Tier 2 plan applies to a person who, on or after January 1, 2011, first becomes a "member or a participant under any reciprocal retirement system or pension fund established under this Code."

A "member" is defined as "any employee included in the membership of the system." 40 ILCS 5/14-103.06. Although Ms. Robinson was an "employee" when she received a salary (see 14-103.05(a)), she did not become a member until she first made a contribution to SERS on September 1, 2011.

SERS contends that the governing statutes and administrative rules are clear, an employee becomes a member on the date he or she meets the eligibility conditions for membership as provided in Section 14-103.05 of the Code, and the earliest date of a service performed during a qualifying period, if applicable, has no bearing on his or her membership date.

Sections 14-103.13 and 14-104(a) of the Pension Code clearly demonstrate that the legislature differentiates service performed during a qualifying period from service performed after the member qualified for membership in the System. When it enacted the provisions of Section 14-104.5 of the Pension Code, the legislature made clear that a member's membership date is fixed to the date in which the member first met the statutory qualifications of a member. This Section governs the process for establishing service credit for service performed during a qualifying period. A provision of that section provides that the interest that is otherwise required for service credit purchases will be waived if the member completes the purchase in full within six months of his or her membership date. This provision is important because it demonstrates that the legislature believes that a member's membership date is permanently fixed to the date in which the member first attained membership status with SERS. If the legislature intended for the plan design to permit the membership date of a member to change to the date he or she first began service under a qualifying period, then this interest-free payment provision would have been technically inoperable because the plain language would prevent members for which that provision was created from benefitting from such payment option.

If the legislature intended for a member's membership date to change to reflect the dates of a qualifying period or short period that he or she purchased, then it would have included provisions like those provisions contained in Section 16-129.1 of the Pension Code.

"For purposes of this Section and subdivision (a)(B)(i) of Section 16-133, optional creditable service established by a member shall be deemed to have been earned at the time of the employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System."

If there remains any doubt on the legislative intent and the plain language of the relevant statutory provisions regarding the date an employee becomes a member, the rule provision contained in Title 80, Section 1540.210 of the Illinois Administrative Code eliminates any doubt. When JCAR approved this rule provision, it confirmed on behalf of the General Assembly that the membership date does not change if the member purchases service for short periods or qualifying periods.

"The term date he last became a member of the System as it pertains to the purchase of service credits is the first day of the latest or current period of membership and is not affected by the payment of contributions for any periods of service prior to or following this first day."

Ms. Robinson is appealing to the Executive Committee to grant her Tier 1 status due to her short periods that occurred before January 1, 2011 that she has purchased.

After hearing Ms. Robinson and her associate Mr. Richard Falen present her appeal, Laura Bautista presented the response on behalf of SERS.

These oral proceedings were recorded by a stenographer, Jennifer Crow, and the transcriptions shall be provided to Ms. Robinson and the Executive Committee.

Amanda Johnson – Appeal of Nonoccupational Disability Benefit Claim Denial

Amanda Johnson worked for the Illinois Department of Juvenile Justice as a Corrections Food Service Supervisor II. SERS received a completed nonoccupational disability application on February 23, 2022, citing an onset date of January 2, 2022.

The Disability Specialist found there was insufficient medical evidence to meet the statutory requirements to receive nonoccupational disability benefits. The case file was also reviewed by the Disability Supervisor to confirm. On May 27, 2022, the case file was referred to our medical consultant, MMRO, for review.

A recommendation to disapprove the claim was received from MMRO on June 8, 2022. The report noted 'there is not support that the member is considered mentally incapacitated to perform her duties as a Corrections Food Supervisor II.' Ms. Johnson was sent a letter on June 9, 2022, to inform her the claim was denied.

Ms. Johnson is appealing the denial of her nonoccupational disability claim.

After hearing Ms. Johnson present her appeal, the Committee decided to refer the case to external counsel for a recommendation.

Samuel Hill – Appeal of Disability Benefit Overpayment and Repayment Terms

Samuel Hill worked for the Department of Human Services at Chicago Read Mental Health Center. He was approved for a SERS nonoccupational disability benefit effective February 14, 2020.

Mr. Hill was approved for a retroactive Social Security Administration (SSA) disability benefit that became effective July 1, 2020. The retroactive benefit created an overpayment of SERS disability benefits for the period of July 1, 2020, through May 31, 2022, in the amount of \$39,675.00. The overpayment due is in accordance with Section 14-125 of the Illinois Pension Code.

The overpayment was reduced by \$4,517.25 for attorney fees, and \$35,157.75 remains outstanding. A letter was sent to Mr. Hill on July 6, 2022, to explain the reason for the overpayment and the amount due.

The retroactive disability award was reduced by SSA because Mr. Hill was already receiving reduced retirement benefits, so he only received \$13,551.75 from his award.

Mr. Hill's monthly gross disability benefit is \$596.62. He also receives \$1,680.00 per month from SSA. He has requested a personal hearing via teleconference to appeal his overpayment and the repayment terms.

After hearing Mr. Hill present his appeal and some discussion regarding the facts presented, the Committee decided to defer a decision pending further communication with Mr. Hill.

Joyce Guccione – Appeal of Death Claim Determination and Overpayment – Deceased Mbr: Salvatore Guccione

Salvatore Guccione died September 3, 2015, as an active State employee. He left behind two eligible survivors, a surviving spouse, Joyce Guccione, and a disabled child, Vincent Guccione.

SERS survivor benefits were established for Joyce and Vincent effective October 1, 2015, and in July 2016 and August 2016 respectively, their first payments were made. Vincent received the survivor annuity until his death on June 16, 2019. Upon his passing, and effective July 1, 2019, Vincent's portion of the survivor annuity was merged into Joyce's, who continued to receive the survivor benefit in full.

An Illinois Workers' Compensation Commission (IWCC) settlement contract was executed March 31, 2022, between Mr. Guccione's estate and the State of Illinois. Upon receipt and review of the IWCC settlement contract, SERS made the interpretation to convert the claim from a nonoccupational death to an occupational death. Doing so changes the calculation of the survivor benefits owed, and so the survivor benefits were recalculated using the occupational death calculations.

On June 7, 2022, a Notice of Occupational Death Benefit Approval letter was sent to Ms. Guccione, making her survivor benefit whole from October 1, 2015, through May 31, 2022, using the occupational death calculations.

SERS was later notified by CMS that the settlement contract was not for an

occupational death, rather the settlement was intended only for the work injury, and not the death. On June 29, 2022, correspondence was sent to Ms. Guccione to notify her that the survivor benefit was converted in error because of this. The conversion created an overpayment totaling \$74,482.95 that must be repaid to the System, and her monthly annuity was returned to the previous amount before the conversion.

Ms. Guccione is appealing the death claim determination and corresponding overpayment.

Mr. Glaub informed the Committee that Ms. Guccione had requested to defer her appeal until their September meeting, where she intends to present her case in person.

Mark Phillips – Appeal of Adjustment to Monthly Pension Amount

Mark Phillips retired August 1, 2017. His file was recently reviewed for a back wage adjustment from retirement contributions that posted to his account after he retired. The contributions were the result of payments made for the Quinn era wage freezes.

The review led to Mr. Phillips' FAC being reduced because when the earnings from his back wage payments were spread into the months in which they were earned, many of the earnings used in the initial calculation fell outside his FAC range. Additionally, a lump sum comp time (OST) payment was also discovered and was spread into the appropriate earnings months. Some of these earnings all fell outside the original FAC range.

The reduced FAC led to a reduction in his pension amount. The initial calculation resulted in a monthly annuity amount of \$6,221.74 and the adjustment resulted in a new initial monthly annuity amount of \$6,098.26.

In accordance with Section 14-148.1 of the Illinois Pension Code, Mr. Phillips' gross monthly pension benefit amount has been corrected. He was overpaid \$7,650.36 in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these monies cannot be collected as the error occurred over three years ago.

Mr. Phillips is appealing the reduction to his monthly pension annuity.

After reviewing the documentation provided and a brief discussion, Chairperson Becker moved to deny Mr. Phillips' request. The motion was seconded by Executive Secretary Blair and passed by unanimous vote.

Kimberly Renik – Appeal of Adjustment to Monthly Pension Amount

Kimberly Renik retired August 1, 2017. Her file was recently reviewed for a back wage adjustment from retirement contributions that posted to her account after she retired. The contributions were the result of payments made for the Quinn and Rauner era wage freezes.

The review led to Ms. Renik's FAC being reduced because when the earnings from her back wage payments were spread into the months in which they were earned, many of the earnings used in the initial calculation fell outside her FAC range.

The reduced FAC led to a reduction in her pension amount. The initial calculation resulted in a monthly annuity amount of \$3,160.53 and the adjustment resulted in a new initial monthly annuity amount of \$3,145.36 for her pension benefit.

In accordance with Section 14-148.1 of the Illinois Pension Code, Ms. Renik's gross monthly pension benefit amount has been corrected. She was overpaid \$940.09 in pension benefits because of this error. However, per Section 14-148.1 of the Illinois Pension Code, these monies cannot be collected as the error occurred over three years ago.

Mr. Renik is appealing the reduction to her monthly pension annuity.

After review and some discussion, Executive Secretary Blair moved to deny Ms. Renik's appeal. The motion was seconded by Chairperson Becker and passed unanimously.

Garrick Randolph – Staff Direction on Forfeiture of Retirement Benefits Due to Felony Conviction

Garrick Randolph was employed by the Department of Corrections as a Senior Parole Agent, who separated from service in December of 2019. Mr. Randolph was charged with multiple felony counts that included aggravated battery (720 ILCS 5/12-3.05, custodial sexual misconduct (720 ILCS 5/11-9.2), and official misconduct (720 ILCS 5/33-3). On December 30, 2021, Mr. Randolph was convicted of the aggravated battery charge, and the other two charges were dismissed.

In March of 2022, Mr. Randolph submitted a retirement application to SERS intending to retire effective April 1, 2022. After becoming aware of Mr. Randolph's felony conviction, staff suspended the processing of his retirement claim pending receipt of an opinion from the Office of the Attorney General on whether Mr. Randolph's felony conviction was connected to his position. The System recently received such opinion, which states that the public information associated to his conviction is silent regarding whether his employment with the State was relevant to the felonious act and therefore that office is unable to determine whether Mr. Randolph has been convicted of an offense that requires the forfeiture of his retirement benefits.

Opinions issued from the Office of the Attorney General have historically provided more guidance than the opinion issued on behalf of Mr. Randolph's claim, but there is nothing provided in such opinion that the System disagrees with. The victim impact statement arguably connects Mr. Randolph's felonious act to this position, but that statement does not necessarily reflect the facts and the outcome of the case. It could also be said that the relationship between the act and his job may have been stronger if he was convicted of the other two charges, custodial sexual misconduct, and official

misconduct. The Office of the Attorney General has stated that their work on this request is finished but have suggested the Committee my want to collect more information before making their decision.

After reviewing the facts presented and some discussion, the Committee decided to defer a decision pending further investigation into whether Mr. Randolph's felony conviction was tied to his position as a State of Illinois employee.

There being no further business to be brought before the Committee, the meeting was adjourned at 12:08 p.m.

The next meeting of the Executive Committee is scheduled for September 8, 2022, in the System's Springfield office.

Marvin Becker, Chairperson

David Morris, Vice-Chairperson

Timothy Blair, Executive Secretary