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**COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE: ACCOUNT OF ALEA C. MELACRINOS  
DOCKET NO. 2015-19  
CLAIM OF ALEA C. MELACRINOS

**OPINION AND ORDER OF THE BOARD**

The Board has carefully and independently reviewed the entire record of this proceeding, including the Briefs and the proposed Opinion and Recommendation of the Hearing Examiner. We note that neither party filed Exceptions to the proposed Opinion and Recommendation. The Board finds appropriate the History, Findings of Fact, Conclusions of Law, Discussion, and Recommendation with the following modifications:

1. On page 2, under "History," the date that the Public School Employees' Retirement System ("PSERS") was directed to file its post-hearing brief was December 1, 2016, not December 31, 2016.
2. On page 11, the first sentence in the first full paragraph is amended to read: "Moreover, the Retirement Code requires membership in PSERS for all 'school employees' with a few, narrow exceptions, and similarly requires entities which employ school employees to enroll employees who qualify for PSERS membership."

With the above modifications, we hereby adopt the Hearing Examiner's Opinion and Recommendation as our own and, accordingly:

IT IS HEREBY ORDERED that Claimant Alea C. Melacrinis's request to purchase service credit for the work she performed as a teaching intern through a graduate program at the University of Pittsburgh during the 1995-1996 school year is DENIED

PUBLIC SCHOOL EMPLOYEES'  
RETIREMENT BOARD

Dated: June 16, 2017

By: Melva S. Vogler  
Melva S. Vogler, Chairman

RECEIVED

JAN 23 2017

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM

PSERB  
EXECUTIVE OFFICE

In Re: :  
Account of Alea C. Melacrinos : Docket No. 2015-19  
Claim of Alea C. Melacrinos :

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OPINION AND RECOMMENDATION

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Date of Hearing: September 7, 2016  
Hearing Officer: Marc A. Moyer, Esquire  
Claimant, *Pro Se*: Alea C. Melacrinos  
For PSERS: Kathrin v. Smith, Esquire

## HISTORY

This matter is before the Public School Employees' Retirement Board on an appeal filed by Alea C. Melacrinis ("Claimant") from a September 29, 2015 decision by the Executive Staff Review Committee ("ESRC") of the Public School Employees' Retirement System ("PSERS") to deny Claimant's request to purchase credit for services she rendered while serving as a teaching intern with the Bethel Park School District ("Bethel Park") from September, 1995 through June, 1996, while she was enrolled as a full-time graduate student in the Master of Arts in Teaching ("MAT") Program at the University of Pittsburgh. Claimant participated in the teaching internship at Bethel Park as an educational prerequisite for obtaining her graduate degree through the MAT Program.

Claimant originally submitted a Purchase of Former Part-Time Uncredited Services Form with PSERS on or about June 30, 2014, through which she sought service credit based upon having taught as an intern in a 4<sup>th</sup> grade classroom, and as a substitute teacher with Bethel Park from September, 1995 through June, 1996. Claimant was paid a stipend by the University of Pittsburgh in the aggregate amount of \$3,500.00 while she participated in the MAT Program. PSERS informed Claimant of its denial of her request to purchase service credit by letter dated July 15, 2014, on the ground that she was ineligible to purchase the service credit because the University of Pittsburgh was not a PSERS participant or a state-owned university.

Claimant timely appealed from PSERS' determination. Thereafter, the ESRC upheld PSERS' decision at its September 29, 2015 meeting. PSERS notified Claimant of the ESRC's decision by letter dated October 30, 2015. By way of explanation, PSERS informed Claimant that she had not provided evidence which established that she was an employee of Bethel Park during her participation in the MAT Program. Instead, the information provided by Claimant indicated that the University of Pittsburgh assigned Claimant to Bethel Park as the school at which she was to perform her internship in

order to fulfill an educational requirement of the MAT Program. Accordingly, the ESRC determined that Claimant's service for work performed while she was enrolled in the MAT Program was not eligible for retirement credit because it was not performed in the context of a true employer/employee relationship.

Claimant appealed from the ESRC's determination on or about November 30, 2015, through which she requested an administrative hearing. In support of her appeal, Claimant once again cited to having taught as an intern in a 4<sup>th</sup> grade classroom, and as a substitute teacher for Bethel Park from September, 1995 through June, 1996. Claimant additionally asserted that the University of Pittsburgh was merely a "disbursement mechanism" for the stipend she received, and that the stipend was, in fact, paid to her by Bethel Park, a PSERS participant at the time of her internship. PSERS filed an Answer on December 17, 2015. The hearing occurred, as scheduled, on September 7, 2016 before Hearing Officer Marc A. Moyer, Esquire.

Claimant appeared for the hearing, *pro se*, and testified on her own behalf. Claimant offered three exhibits into evidence which consisted of her Pennsylvania teaching certificate (Exhibit C-1), an April 16, 1996 letter of recommendation (Exhibit C-2) and an April 26, 1996 letter of recommendation (Exhibit C-3). Kathrin V. Smith, Esquire represented PSERS at the hearing. PSERS presented its case through the testimony of PSERS Retirement Technician, Mark Kramer. PSERS also offered six (6) exhibits into evidence which comprised of Claimant's submissions to PSERS, correspondence from PSERS to Claimant and Claimant's University of Pittsburgh transcripts. (PSERS 1-6).

By Order dated September 28, 2016, Claimant was directed to file her post-hearing brief by October 31, 2016. PSERS was directed to file its post-hearing brief no later than December 31, 2016. Claimant filed her Post-Hearing Brief on or about October 27, 2016. PSERS filed its Post-Hearing Brief

on or about November 18, 2016.<sup>1</sup> The record in this matter closed with the filing of Notes of Testimony (“N.T.”) on September 27, 2016, and the filing of the parties’ Post-Hearing Briefs. This matter is now before the Board for final disposition.

### **FINDINGS OF FACT**

1. Claimant obtained an undergraduate degree in Biology from the University of Pittsburgh in 1990. (N.T. 20-21).
2. Claimant was employed as a medical researcher at the University of Pittsburgh for approximately 3 ½ years, from February, 1992 through 1995. (N.T. 20-21, 52).
3. Claimant enrolled as a full-time graduate student in the University of Pittsburgh’s Master of Arts in Teaching Program in approximately May, 1995 for the purpose of obtaining a teaching degree. (N.T. 22, 24, 52).
4. Claimant had no teaching experience and did not have a Pennsylvania teaching certificate prior to starting the MAT Program. (PSERS 3; N.T. 22-23, 36).
5. Claimant was required to complete a teaching internship as a condition for successfully completing the MAT Program. (N.T. 24-25, 39).
6. The purpose for Claimant completing an internship as part of the MAT Program was to gain teaching experience and training. (N.T. 34).
7. Claimant was assigned to Bethel Park for the purpose of completing her MAT Program teaching internship through the University of Pittsburgh. (PSERS 3; N.T. 25).
8. Claimant served as a teaching intern at Bethel Park from approximately September, 1995 through June, 1996. (PSERS 6; N.T. 25, 40).

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<sup>1</sup> The Hearing Officer received PSERS’ Brief on November 21, 2016.

9. Claimant was primarily assigned to the fourth grade classroom at Bethel Park as part of her teaching internship, but she also taught in other classrooms within her assigned school when she was asked to serve as a substitute teacher. (N.T. 25).
10. Claimant served as a teaching intern at Bethel Park Monday through Friday throughout the 1995-1996 school year. (N.T. 26).
11. Claimant received a stipend of approximately \$1,750.00 per semester, or approximately \$3,500.00 during the 1995-1996 school year. (N.T. 26).
12. Claimant received her first stipend payment on or about November 30, 1995. (PSERS 3; N.T. 27).
13. Claimant received her second stipend payment on or about February 29, 1996. (PSERS 3; N.T. 27).
14. Claimant received the stipend payments pursuant to her enrollment in the MAT Program. (PSERS 3; N.T. 28).
15. Claimant's stipend payments encompassed her work as a substitute teacher at Bethel Park. (N.T. 28).
16. Claimant's stipend checks were issued by the University of Pittsburgh. (PSERS 3; N.T. 29).
17. Claimant obtained information pertaining to her stipend payments from the University of Pittsburgh's Financial Payroll Department. (N.T. 42).
18. The record fails to contain any credible evidence that Claimant's stipend payments originated from Bethel Park. (N.T. 53-54).
19. The University of Pittsburgh assigned Claimant a Supervisor, JoAnn Dugan, Ph.D. to monitor her performance as a teaching intern at Bethel Park. (PSERS 3; N.T. 30-31).

20. Ms. Dugan was a professor at the University of Pittsburgh at the time she supervised Claimant. (N.T. 31).
21. Ms. Dugan provided feedback to Claimant regarding her teaching performance as a teaching intern. (N.T. 31-32).
22. Claimant received course credits towards her graduate degree by completing the teaching internship. (PSERS 6; N.T. 40)
23. Claimant was first issued an intern teaching certificate on July, 1995. (PSERS 3; N.T. 36).
24. Claimant was first issued an Instruction 1 teaching certificate in June, 1996, following her completion of the MAT Program. (PSERS 3; N.T. 37).
25. Claimant's teaching internship ended upon her completion of the MAT Program. She was not fired or laid-off by Bethel Park. (N.T. 38-39).
26. Claimant applied for a teaching position at Bethel Park following her graduation from the MAT Program. However, she was not offered a position. (N.T. 44).
27. Claimant did not receive any health, vision or dental insurance as part of her teaching internship at Bethel Park. (N.T. 42-43).
28. Claimant was not a member of the teachers' union during her tenure as a teaching intern at Bethel Park. (N.T. 43).
29. Claimant was not a party to an employment contract with Bethel Park during the period of her teaching internship. (N.T. 43).
30. Claimant's agreement to serve as a teaching intern at Bethel Park was through the University of Pittsburgh. (N.T. 43).
31. The University of Pittsburgh is not a reporting unit of PSERS. (PSERS 4; N.T. 63).



32. In October, 1996, Claimant obtained a position as a teacher's aide at Beachwood Elementary School which is part of the Pittsburgh School District. (N.T. 44).
33. Claimant subsequently obtained a position as a full-time elementary school teacher with the Pittsburgh School District, and has since become tenured. (N.T. 46).
34. Claimant first enrolled with PSERS on October 28, 1996 as an employee of the Pittsburgh School District. (PSERS 1; N.T. 59).
35. The Pittsburgh School District is a reporting unit of PSERS. (N.T. 59).
36. Claimant submitted Purchase of Former Part-Time Uncredited Service forms to PSERS on or about June 30, 2014, through which she is seeking service credit with PSERS for her work as a teaching intern at Bethel Park for the September, 1995 through June, 1996 school year (the "Application"). (PSERS 2; PSERS 3).
37. The University of Pittsburgh is identified as Claimant's employer on the Employment Information portion of the Application which required "[t]he employer where the part-time uncredited service was rendered..." to complete the Application. (PSERS 2; N.T. 41)
38. PSERS informed Claimant that it had denied her request to purchase service credit by letter dated July 15, 2014, on the ground that she was ineligible to purchase the service credit because the University of Pittsburgh was not a PSERS participant or a state-owned university. (PSERS 4; N.T. 47, 63, 65-66).
39. Claimant appealed from PSERS' determination. (N.T. 48).
40. The ESRC upheld PSERS' determination at its September 29, 2015 meeting. PSERS notified Claimant of the ESRC's decision by letter dated October 30, 2015. (PSERS 5; N.T. 48-49).
41. The ESRC based its denial of Claimant's Application on the following grounds:

You have not provided evidence establishing that you were an employee of the Bethel Park School District. You were assigned to an internship in

the Bethel Park SD during the 1995-1996 school year by the University of Pittsburgh to fulfill an educational requirement to receive your master's degree. Service for work performed as a student is not eligible for retirement credit because it is not performed in the context of a true employer/employee relationship.

(PSERS 5; N.T. 48-49).

42. Claimant filed an appeal from the ESRC's determination on or about November 30, 2015, through which she requested an administrative hearing. (Official Notice-agency records).<sup>2</sup>

43. PSERS filed its Answer to Claimant's Appeal on December 17, 2015. (Official Notice-agency records).

44. Claimant was served with all pleadings, orders and notices filed of record in this matter, and she participated in the September 7, 2016 hearing, *pro se*, through which she was provided the opportunity to testify, examine witnesses, and offer evidence. (N.T. 3-74).

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<sup>2</sup> Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa.Code §31.1 *et. seq.*, at §35.173, which provides, in pertinent part, as follows:

§35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

1 Pa.Code §35.173.

Official notice is also permitted under case law. *See, Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A.2d 991 (Pa. Cmwlth. 1987), in which the Commonwealth Court explained:

"Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work.

521 A.2d at 994 n. 6.

## CONCLUSIONS OF LAW

1. PSERS is a creature of statute and the rights of its members are derived solely from the provisions of the Public School Employees' Retirement Code ("Retirement Code"). 24 Pa.C.S.A. §8101 *et. seq.*; *Forman v. Public School Employees' Retirement Board*, 778 A.2d 778, 780 (Pa. Cmwlth. 2001).
2. The authority of the Board to grant or deny Claimant's request is limited to the provisions of the Retirement Code, and the Board has no authority to grant Claimant rights beyond those specifically set forth in the Retirement Code. *Forman, supra*; *Burriss v. State Employees' Retirement Board*, 745 A.2d 704, 706 (Pa. Cmwlth. 2000); *Bittenbender v. State Employees' Retirement Board*, 622 A.2d 403, 405 (Pa. Cmwlth. 1992).
3. Claimant has failed in her burden of showing that she was a "school employee" of Bethel Park or that she provided "school service" to Bethel Park during the 1995-1996 school year while she served as a teaching intern as part of the University of Pittsburgh's MAT Program. 24 Pa.C.S.A. §8102. See also, *Schneider v. Public School Employees' Retirement Board*, 146 A.3d 802, 811 (Pa. Cmwlth. 2016); *Simmonds v. State Employees' Retirement System*, 696 A.2d 801, 803 (Pa. 1997); *Donovan v. State Employees Retirement System*, 701 A.2d 310, 313 (Pa. Cmwlth. 1997); *Golebieski v. Public School Employees Retirement Board*, 636 A.2d 268 (Pa. Cmwlth. 1993).
4. The University of Pittsburgh is not a reporting unit of PSERS. (Finding of Fact, No. 31); 24 Pa.C.S.A. §§8102, 8301.
5. Claimant has failed in her burden of showing that she is entitled to purchase service credit with PSERS for work she performed while she served as a teaching intern as part of the University of Pittsburgh's MAT Program. (Findings of Fact, Nos. 2-33; 24 Pa.C.S.A. §§8102 and 8303(c)); *Schneider v. Public School Employees' Retirement Board*, 146 A.3d 802, 811 (Pa. Cmwlth. 2016); *Donovan v. State Employees Retirement System*, 701 A.2d 310 (Pa. Cmwlth. 1997).

6. Claimant has been afforded reasonable notice of the grounds upon which PSERS denied her claim, and she has been provided an adequate opportunity to be heard in this proceeding. (Finding of Fact, Nos. 36-44).

### DISCUSSION

This matter involves an appeal from a September 29, 2015 decision by the PSERS' Executive Staff Review Committee to deny Claimant's request to purchase service credit for the one-year period she served as a teaching intern with Bethel Park from September, 1995 through June, 1996, while she was enrolled as a full-time graduate student in the Master of Arts in Teaching Program at the University of Pittsburgh. By letter dated October 30, 2015, PSERS informed Claimant that it had denied her request on the following grounds:

You have not provided evidence establishing that you were an employee of the Bethel Park School District. You were assigned to an internship in the Bethel Park SD during the 1995-1996 school year by the University of Pittsburgh to fulfill an educational requirement to receive your master's degree. Service for work performed as a student is not eligible for retirement credit because it is not performed in the context of a true employer/employee relationship.

Claimant does not dispute that she participated in a teaching internship at Bethel Park as part of the MAT Program through the University of Pittsburgh, or that she was required to complete the teaching internship as an educational prerequisite for obtaining her graduate degree through the Program. Instead, Claimant asserts that she is entitled to purchase the service credit because she provided teaching services to Bethel Park which was a PSERS participant or, alternatively, because the stipend she received as part of the Program was actually paid by Bethel Park which, in turn, purportedly used the University of Pittsburgh as a pass-through entity.

As the party appealing from the determination of the PSERS' Executive Review Committee, Claimant bears the burden of establishing that she is entitled to the service credit she seeks under Pennsylvania's Public School Employees' Retirement Code, 24 Pa.C.S.A. § 8101 *et. seq. Gierschick v.*

*State Employees' Retirement Board*, 733 A.2d 29, 32 (Pa. Cmwlth. 1999); *Wingert v. State Employees' Retirement Board*, 589 A.2d 269, 271 (Pa. Cmwlth. 1991). The degree of proof required by Claimant to establish her case is a preponderance of the evidence. *Suber v. Pennsylvania Commission on Crime and Delinquency, Deputy Sheriff's Education and Training Board*, 885 A.2d 678, 681-83 (Pa. Cmwlth. 2005); *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990), *app. den.*, 602 A.2d 863 (Pa. 1992). A preponderance of the evidence is "such proof as leads the factfinder. . . to find that the existence of a contested fact is more probable than its nonexistence" through evidence which is substantial and legally credible. *A.B. v. Slippery Rock Area School District*, 906 A.2d 674 (Pa. Cmwlth. 2006); *Lansberry*, 578 A.2d at 601-602; *Sigafos v. Pennsylvania Board of Probation and Parole*, 503 A. 2d 1076, 1079 (Pa. Cmwlth. 1986).

#### **Statutory/Regulatory Framework**

It is well established that a retiree's right to benefits under the Retirement Code is strictly limited to those specifically set forth by the Code. See, *Forman v. Public School Employees' Retirement Board*, 778 A.2d 778, 780 (Pa. Cmwlth. 2001); *Burriss v. State Employees' Retirement Board*, 745 A.2d 704, 706 (Pa. Cmwlth. 2000); *Bittenbender v. State Employees' Retirement Board*, 622 A.2d 403, 405 (Pa. Cmwlth. 1992). Moreover, PSERS is required to construe its enabling statute according to its plain meaning and in such a manner as to give effect to all of its provisions. 1 Pa.C.S.A. §1921(a),(b). An active member of PSERS may purchase service credit towards retirement for previous creditable or noncreditable "school service". 24 Pa.C.S.A. §8303(c), (d). In turn, the Retirement Code defines "school service" as service rendered as a "school employee". 24 Pa.C.S.A. §8102.

The Public School Employees' Retirement Board is the entity which determines who is a "school employee" within the meaning of the Retirement Code. 22 Pa.Code §215.5(d)(3). See also, *Perry v. State Employees' Retirement System*, 872 A.2d 273, 278 (Pa. Cmwlth. 2005). The Retirement Code

defines a school employee as “Any person engaged in work relating to a public school for any governmental entity and for which work he is receiving regular remuneration as an officer, administrator or employee excluding, however, any independent contractor of a person compensated on a fee basis.” 24 Pa.C.S.A. §8102. “Public school” is defined as “[a]ny or all classes or schools within this Commonwealth conducted under the order and superintendence of the Department of Education including, but not limited to: all educational classes of any employer...”. *Id.* “Governmental entity” is defined under the Code as “Board of school directors, board of public education, intermediate unit board of directors, area vocational-technical board, any governing board of any agency or authority created by them, and the Commonwealth.” 24 Pa.C.S.A. §8102. “Employer” is defined under the Retirement Code as “[a]ny governmental entity directly responsible for the employment and payment of the school employee and charged with the responsibility of providing public education within this Commonwealth...”. *Id.*

Moreover, the Retirement Code requires all “school employees” to enroll in PSERS and similarly requires entities which employ school employees to enroll its employees who qualify for membership with PSERS. 24 Pa.C.S.A. §§8301, 8327. Employers are further required to report the employees’ salaries and service to PSERS and make the required employer contributions to PSERS. 24 Pa.C.S.A. §§8327, 8506. School employees are similarly required to contribute to PSERS through their school employer. 24 Pa.C.S.A. §§8102, 8321, 8322.1. Conversely, employees of private businesses are not entitled to PSERS membership or benefits. *See, e.g.,* 24 Pa.C.S.A. §§8102, 8301(a). To fall within the definition of a “school employee” for the purpose of obtaining retirement credit under the Code, a PSERS member must show that she was engaged in work relating to a “public school” for a “governmental entity” and was receiving remuneration as an employee. *Golebieski v. Public School Employees Retirement Board*, 636 A.2d 268, 270 (Pa.Cmwlth. 1993).

## Analysis

In this case, Claimant essentially asserts that she was a *de facto* school employee of Bethel Park when she worked as a teaching intern during the 1995-1996 school year by virtue of having provided teaching services to the school district, and her contention that the stipend she received was actually paid to her by Bethel Park. As an initial matter, Claimant has not offered any credible evidence that the stipend she received was paid by Bethel Park rather than by the University of Pittsburgh. On the contrary, the evidence of record supports the opposite conclusion in the form of a Statement of Earnings from the University of Pittsburgh and Claimant's Purchase of Former Part-Time Uncredited Service application which identified the University of Pittsburgh as Claimant's employer at the time she served as a teaching intern. Similarly, the October 12, 1995 correspondence from the University of Pittsburgh to Claimant expressly disclosed that Claimant's stipend was to be provided pursuant to Claimant's enrollment in the University's MAT Program for which the internship was a part. Having failed to offer any credible evidence sufficient to overcome the evidence of record which demonstrates that the University of Pittsburgh paid her intern stipend, Claimant has failed to sustain her burden of proof that she was an employee of Bethel Park by virtue of Bethel Park having paid the stipend. Accordingly, the record fails to establish the Claimant is entitled to the service credit she seeks on that ground.

Claimant's assertion that she is entitled to purchase service credit for the "school service" she provided as a teaching intern at Bethel Park, as a PSERS participant, is equally without merit. In *Simmonds v. State Employees' Retirement System*, 696 A.2d 801 (Pa. 1997)<sup>3</sup>, the Pennsylvania Supreme Court denied a claim for PSERS service credit by a medical resident at the Milton S. Hershey Medical Center of the Pennsylvania State University based upon its determination that the claimant had primarily entered into the residency program for educational and certification purposes, rather than for the purpose

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<sup>3</sup> Cases interpreting provisions of the State Employees' Retirement Code "are equally applicable in deciding issues arising under similar or identical provisions" of the Retirement Code. *Krill v. Public School Employees' Retirement Board*, 713 A.2d 132, 143 n. 3 (Pa. Cmwlth. 1998).

of seeking employment. *Id.* In *Simmonds*, the claimant was enrolled in the University's residency program for the particular purpose of obtaining a certification in oncology. Like the Claimant in this case, the resident/claimant in *Simmonds* received a small stipend to cover her expenses in addition to having received limited employee benefits. *Simmonds*, 696 A.2d at 802. The resident, thereafter, became an assistant professor at the Medical Center, enrolled in the SERS and sought to purchase state credit for the one year of service she performed during her residency. *Id.*

The State Employees' Retirement Board ("SERB") denied the claimant's request to purchase service credit. *Simmonds*, 696 A.2d at 802. The Commonwealth Court reversed the SERB's decision after holding that medical residents were state employees. On appeal, the Pennsylvania Supreme Court reversed the decision of the Commonwealth Court and reinstated the SERB's decision based, in principal part, upon finding that the claimant had enrolled in an accredited educational program to ensure that she obtained the education and training required by the accrediting organization as a prerequisite to her certification. *Simmonds*, 696 A.2d at 803-804. Because the claimant was enrolled in the Medical Center's residency program for educational purposes, the Supreme Court concluded that the stipend the claimant received in exchange for the medical services she provided was not the type of bargained-for exchange that existed in a typical employment relationship. *Id.*

In the more recent case of *Donovan v. State Employees' Retirement System*, 701 A.2d 310 (Pa. Cmwlth. 1997), the Pennsylvania Commonwealth Court addressed an appeal from a SERB decision which denied a member's request to purchase credit for the time he attending the United States Military Academy as a cadet. In that case, the court applied the reasoning set forth in *Simmonds* by evaluating the claimant's request in terms of the purpose of the claimant's enrollment in the Academy. *Id.* at 311. In so doing, the court held that the claimant's time was not purchasable because it "served an educational purpose so that he could take his place as a member of the active military service in a



position as a commissioned officer. Without his bachelor's degree from the Academy, the claimant's commissioned officer status upon entry into active military service would not have been assured."

*Donovan*, 701 A.2d 311.

In a case nearly factually identical to the present matter, the Pennsylvania Commonwealth Court in *Schneider v. Public School Employees' Retirement Board*, 146 A.3d 802 (Pa. Cmwlth. 2016), recently found that the required "school service" under the Retirement Code specifically excludes service performed by a graduate student as a teacher intern where the purpose of the claimant's work was primarily educational in nature. *Schneider*, 146 A.2d at 813. In *Schneider*, the claimant sought to purchase out-of-state service related to the time she taught as a teacher intern at a public school district through the Federal Teacher Corps program. *Id.* at 803-804. PSERS denied the claimant's request on the ground that the claimant was a graduate student taking part in a program directly tied to her studies and, therefore, was not an employee of the school at which she taught.

Like the MAT Program in this case, the Teacher Corps program in *Schneider* required that claimant take a course through a university and that she teach in the classroom in order to participate in the program. *Schneider*, 146 A.2d at 809. The *Schneider* claimant already had a basic certification to teach, and had enrolled in the Teacher Corp program in order to obtain specialized training in the form of a reading specialty through a university. Moreover, claimant did not have a contract with the school district, was not paid a stipend by the school district and she did not receive employment benefits from the school district other than having been provided sick and vacation days. *Schneider*, 146 A.2d at 809, 813.

When conducting its analysis of PSERS' interpretation of the Retirement Code, the Commonwealth Court applied the same reasoning as that applied in *Simmonds* and *Donovan* in finding that a determination of whether a PSERS member is eligible to purchase service rendered while enrolled

as a university student turns upon the purpose of the program in which the service was rendered, and whether there existed a bargained-for exchange between the school district, as the purported employer, and the claimant. *Schneider*, 146 A.2d at 811-12 (citing *Simmonds v. State Employees' Retirement System*, 696 A.2d 801, 802 (Pa. 1997)). To that end, the Commonwealth Court analyzed several criteria to be considered when rendering such a determination.

A condition favorable to the ability of a member to purchase service credit included circumstances under which the position at issue was open to all qualified persons, rather than being limited to students. Other circumstances favoring the ability of a member to purchase service credit included circumstances where the program was not part of the student's curriculum, and where the student enjoyed an employer-employee relationship with the school district, rather than a teacher-student relationship. *Id.* at 810. Conversely, circumstances undermining the ability of a member to purchase service credit included circumstances where the service was part of the student's curriculum, and the member had received academic credit for the employment. *Id.* Based upon the conditions under which the claimant performed her teaching services in *Schneider*, the Commonwealth Court affirmed PSERS' decision to deny claimant's request for service credit after concluding that the purpose of the Teacher Corps program in that case was primarily educational and, therefore, that claimant's participation in the program did not include a bargained-for exchange typically present in an employer-employee relationship. *Schneider*, 146 A.2d at 813.

Consistent with the legal authority set forth above, the analysis of whether Claimant should be permitted to purchase service credit for the teaching internship she completed at Bethel Park in this case necessarily turns upon the purpose of the internship and, more particularly, whether the internship was primarily educational. Claimant had no teaching experience prior to May, 1995, and she enrolled as a full-time graduate student in the University of Pittsburgh's MAT Program for the purpose of obtaining a

teaching degree. Claimant conceded that the purpose for completing the internship as part of the MAT Program was to gain teaching experience and training. To that end, Claimant was supervised by personnel from the University of Pittsburgh and she received course credits towards her graduate degree by completing the internship. Moreover, the internship was a necessary requirement of the MAT Program's curriculum, and was a prerequisite for Claimant to successfully complete the Program and obtain her graduate degree.

The record also shows that far from having entered into an employer-employee relationship with Bethel Park outside the context of the MAT Program, Claimant's involvement with Bethel Park was limited exclusively to her participation in the MAT Program as demonstrated by the fact that Claimant was not fired or laid-off by Bethel Park after she completed her internship. Instead, her teaching internship ended upon her completion of the MAT Program. Similarly, Claimant was not a party to an employment contract with Bethel Park during the period of her teaching internship. Additionally, Claimant did not receive any health, vision or dental insurance as part of her teaching internship at Bethel Park.

Because the teaching internship was an inextricable part of the MAT Program, the ESRC correctly found that the purpose of the internship was to educate teacher-interns, like Claimant, who already had a bachelor's degree and were pursuing a graduate degree in teaching. That determination, in turn, led the ESRC to properly conclude that the Claimant's involvement with Bethel Park was not in the context of a bargained-for exchange that exists in typical employment relationships for which Claimant could be considered to have provided school service, as a school employee, within the meaning of the Retirement Code. For the foregoing reasons, the following Recommendation shall be issued:

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JAN 23 2017

PSERS  
EXECUTIVE OFFICE

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM

In Re:

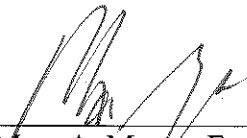
Account of Alea C. Melacrinos  
Claim of Alea C. Melacrinos

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Docket No. 2015-19

RECOMMENDATION

AND NOW, this 20th day of January, 2017, upon consideration of the foregoing Findings of Fact, Conclusions of Law and Discussion, the Hearing Officer for the Public School Employees' Retirement System recommends that Claimant's appeal from the September 29, 2015 decision of the PSERS' Executive Staff Review Committee be **DENIED**.

  
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Marc A. Moyer, Esquire  
Hearing Officer

Claimant:

Alea C. Melacrinos  


For PSERS:

Kathrin V. Smith, Esquire  
Public School Employees' Retirement System  
5 North Fifth Street  
Harrisburg, PA 17101

Docketing Clerk:

Laura Vitale  
PSERS Docketing Clerk  
5 North Fifth Street  
Harrisburg, PA 17101

Date of Mailing:

1/23/17