**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS**

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| In the Matter of: | ) | |
| | ) | |
| H D | ) | OAH No. 12-0873-TRS |
| | ) | Div. R&B No. 2012-012 |

## DECISION ON SUMMARY ADJUDICATION

### I. Introduction

H D submitted an application for a conditional service retirement benefit from the Teachers' Retirement System (TRS) under AS 14.25.125.[1] The administrator denied the application, on the ground that a conditional service retirement benefit is restricted to persons who had membership service prior to July 1, 2006, and that Mr. D did not have membership service prior to that date.[2]

Mr. D filed an appeal, arguing that his employment with the Alaska School District in 2003-2004 qualifies as membership service, and that if it does not the administrator is estopped to deny his application for conditional service retirement benefits. Both parties filed written briefs and the matter was submitted for decision on the record. The administrator's decision is affirmed.

### II. Facts

H D retired from his employment with the State of Alaska in 2000 with over 25 years of credited service in the Public Employees' Retirement System (PERS).[3] Mr. D obtained an Alaska teacher's certificate,[4] and after his retirement he was employed on three occasions by the Alaska School District, for 25 school days in 2003-2004 and again in 2009, and for 180 school days in 2010-2011.[5] Mr. D's 2003-2004 employment contract states that he was assigned as a "replacement teacher" for a specified teacher from November 20, 2003 through January 9, 2004, and his 2009 contract states that he was assigned as a "long-term substitute" for a specified teacher from March 2 through April 10, 2009.[6] The 2010-2011 contract states that he was assigned as a "replacement teacher" for a vacant position beginning August 24, 2010, for 38 days; subsequent addenda extended the period of employment through May 27, 2011, for a total

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1 R. 41-46.
2 R. 13.
3 *See* R. 55-59.
4 *See* Affidavit of H D, ¶3.
5 R. 28, 51. By law, teaching contracts state the length of employment based on a specified number of school days, rather than a specified period of time. *See* 4 AAC 18.010(a)(2).
6 R. 36, 39. Both contracts also state that he is subject to reassignment or transfer.

of 180 days.[7] As required by law, all three contracts required that Mr. D hold a teaching certificate, and authorized deductions for TRS.[8]

Prior to 2003, the district called certificated classroom instructors working 20 or more days "long-term substitutes,"[9] and the Division of Retirement and Benefits, which administers TRS, had "repeatedly informed the Alaska School District that individuals signing contracts as long-term substitutes are not eligible for TRS credit."[10] On March 18, 2003, in response to an inquiry from the district's human resources department regarding this issue, the division wrote to the district, stating:

> If the Alaska School district is giving a long term substitute a "long term substitute" contract. Stating clearly on the contract the employee is a 'substitute''; the employee is not eligible for membership in the TRS.[11]

Based on the information that the division provided to the district, the district and the Alaska Education Association (the local teachers' union), had an understanding, memorialized in a written memorandum, that certificated teachers employed for periods in excess of 20 days would be entitled to TRS membership credit during their employment if the employment contract described them as "replacement teachers" rather than as "substitute teacher."[12] Based on that understanding, the district agreed to use the "replacement teacher" terminology for those teachers and to make TRS contributions for them upon the teachers' authorization.[13] The district agreed to provide TRS credit for those teachers, "provided the Division of Retirement and Benefits does not take exception to the TRS eligibility of these teachers."[14] In that event, the district and union agreed to "meet to consider whether other measures may be taken to resolve this issue."[15]

At the time he was first hired by the district in 2003, Mr. D's understanding was that he was TRS-eligible, based on his communications with the district's human resources department, his employment contract, and the fact that he was provided and completed all of the relevant

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7 R. 30-34.

8 R. 30, 36, 39. *See* 4 AAC 18.021(a); 4 AAC 18.010(a)(6).

9 Alaska School District Policy 3030. The district policy distinguishes between employment for less than 20 days and employment for more than 20 days. By law, however, only persons employed to provide classroom instruction for more than 20 days must be certificated.

10 Opp. Ex. 3 (Memorandum of Resolution).

11 *See* Opp. Ex. 4 (Letter, K. H to P. Z, 3/18/2003).

12 Affidavit of X B, ¶7; Memorandum of Resolution ("`The district understands that this change will enable those teachers to participate in TRS without change to any other term or condition of their employment.").

13 Memorandum of Resolution.

14 Memorandum of Resolution.

15 Memorandum of Resolution.

documents for TRS membership.[16] Absent TRS eligibility, Mr. D "would have considered alternative employment."[17]

With Mr. D's authorization, the district withheld from his pay TRS contributions in the amount of $251.10 during his employment in 2003-2004.[18] The district did not withhold TRS contributions during his employment in 2009.[19] It again withheld TRS contributions during his employment in 2010-2011.[20] Mr. D received regular annual reports from TRS showing the balance in his personal TRS account. The statements noted that "[w]hile every effort has been made to ensure the accuracy of your statement, … it does not have the force and effect of the law, rule, and regulations governing the payment of benefits. All benefits will be paid under the provisions of the applicable Alaska Statutes and Federal law."[21]

On July 7, 2012, Mr. D submitted an application for a conditional service retirement benefit from the Teacher Retirement System, under AS 14.25.125.[22] On July 20, the division notified him that his retirement would be effective August 1, "subject to your eligibility to receive [TRS] benefits in accordance with TRS statutes and verification of your credited service."[23] On September 9, consistent with a prior email from the district to the division,[24] the district submitted a verification of service form to the division, showing it employed Mr. D as a substitute teacher in 2003-204 and 2009, and as a full time teacher (not a substitute) in 2010-2011.[25]

On October 26, the division denied Mr. D's application for a conditional service retirement benefit, on the ground that his employment in 2003-2004 did not qualify as membership service.[26]

## III. Analysis

### A. In 2003-2004, Mr. D Taught On A Temporary Basis

At issue in this case is Mr. D's eligibility for a conditional service retirement benefit under AS 14.25.125. The conditional service retirement benefit applies to TRS members who

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16 Affidavit of H. D, ¶6. *See* R. 61-62.
17 Affidavit of H. D, ¶9.
18 Affidavit of N Y, ¶2.
19 *Id.*
20 *Id.* The record does not show the amount of the contributions in this period.
21 *See* Opp. Ex. 7 (2010 Annual Benefits Statement).
22 R. 41-46.
23 R. 26.
24 R. 48 (email, S. K to S. M, 8/2/2012 @ 3:50 p.m.). The email notes "a possible issue with a sub position in 2003-2004 that may have had TRS deducted incorrectly."
25 R. 28.
26 R. 12-14.

are eligible for a normal retirement benefit under the Public Employees' Retirement System (PERS) or a retired member of PERS. Those TRS members need only two years (if eligible for the normal PERS retirement benefit) or one year (if, like Mr. D, a retired member of PERS) of TRS membership service in order to receive a TRS retirement benefit, as compared with the normal requirement of five years of TRS membership service.

The conditional service retirement benefit, in existence when Mr. D was first employed by the district, has been terminated; it is available only to "members [of TRS] first hired before July 1, 2006."[27] Thus, to be eligible for the benefit, Mr. D must have been a "member" of TRS prior to July 1, 2006.[28]

At the time Mr. D was first employed by the district, in 2003, a "member" was defined in AS 14.125.220(42):

> "teacher" or "member" means a person eligible to participate in the system and who is covered by the system, limited to
> (A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school in the state, the Department of Education and Early Development, or the Department of Labor and Workforce Development; [and]
> (B) [certain employees of the University of Alaska].[29]

This paragraph was amended in 2004 to read as it did at the time Mr. D submitted his application in 2012, and through the present, without substantive change.[30]

A "full-time teacher", under AS 14.25.220(19) as in effect in 2003, 2012 and at present, is:

> [A] teacher occupying a position requiring teaching on a regular basis for the normal work period…at a teaching assignment, excluding teaching…on a substitute, temporary, or per diem basis.[31]

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[27] AS 14.25.009 ("The provisions of AS 14.25.009-14.25.220 apply only to members first hired before July 1, 2006.").

[28] Mr. D has not argued that AS 14.25.009 should be construed to mean that AS 14.25.009-AS 14.25.220 are applicable to a person who was first hired by a school district (in any capacity other than as a member of TRS) prior to July 1, 2006, and who first became a member of TRS after that date. The statute is read to mean that before July 1, 2006, the person must have been both (a) a member and (b) first hired.

[29] AS 14.125.220 (42) (2003).

[30] AS 14.25.220 (44) (2012), (2014). As amended, the first sentence of paragraph (44) begins:
> "teacher" and "member" are used interchangeably under AS 14.25.009-14.25.220 and mean a person eligible to participate in the plan and who is covered by the plan, limited to…[as previously worded]

*See* §§13, 14, Ch. 92 SLA 2004.

[31] AS 14.25.220 (19) (2003), (2012) & (2014).

As may be seen, under both the 2003 and subsequent versions of AS 14.25.220, a "member" is a certificated full-time teacher, and a full-time teacher does not include teaching on a substitute, temporary, or per diem basis. Mr. D's argument is that he became a member when he was first hired in 2003, because he was not employed to teach on a substitute basis within the meaning of AS 14.25.220(19). He contends that a person employed to teach on a substitute basis within the meaning of the statute is limited to a person employed to provide classroom instruction in a position that does not require a teaching certificate, that is, persons employed to provide classroom instruction for no more than 20 days.[32]

Mr. D's argument must be considered in light of a recent decision, In Re M.M.W..[33] In that case M.M.W. was employed to provide classroom instruction for a period in excess of 20 days and was denied TRS membership service credit for that employment, on the ground that she was teaching on a substitute basis.[34] On appeal, she admitted that during that period of employment she was a substitute,[35] but argued that she was nonetheless a "member" of TRS not as part of the first group of persons identified as members in AS 14.25.220(42) (full-time or part-time elementary or secondary teachers), but rather as part of the third group (certificated persons in a position requiring a teaching certificate as a condition of employment).[36] In order to avoid a conflict in the law, the administrative law judge concluded that the latter group does not include persons regularly teaching.[37]

At issue in In Re M.M.W. was the proper interpretation of AS 14.25.220(42) with respect to a person who admitted that her prior employment was as a substitute. The case holds that a person who teaches on a substitute basis within the meaning of AS 14.25.220(19) is not a member of TRS pursuant to the clause in AS 14.25.220(42) that defines membership as including certificated persons who are required to hold a teaching certificate as a condition of employment. To the extent that Mr. D concedes that his prior employment was on a substitute basis, In Re M.M.W. controls this case.[38]

Mr. D, unlike M.M.W., disputes the characterization of his prior employment. Because M.M.W. conceded the point, In Re M.M.W. did not need to consider whether her prior

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32 *See* 4 AAC 18.021(a).
33 In Re M.M.W., OAH No. 11-0197-TRS (Office of Administrative Hearings 2014).
34 *Id.*, at 3, note 22.
35 *Id.*, at 4 ("Ms. W. admits that for the half-year in dispute, she was a substitute teacher.").
36 *Id.*, at 4. *See* AS 14.25.220(44)(A).
37 *Id.*, at 5. *See also*, In Re R.S.T., at 6-7, OAH No. 06-0799-TRS (Office of Administrative Hearings 2008).
38 *See* May v. State, Commercial Fisheries Entry Commission, 168 P.3d 873, 884 (Alaska 2007).

employment was on a substitute basis within the meaning of AS 14.25.220(19), and the case is therefore not controlling on that issue.[39] Mr. D argues that employment on a substitute basis within the meaning of AS 14.25.220(19) is limited to persons employed to provide classroom instruction who are not required to hold a teaching certificate. This is a reasonable reading of AS 14.25.220(19).[40] However, it is not necessary to decide the correct interpretation of AS 14.25.220(19) with respect to teaching on a substitute basis, because regardless of whether Mr. D's employment in 2003-2004 was properly characterized as teaching on a substitute basis, there is an entirely independent reason why his employment in 2003-2004 did not make him a member of TRS.

AS 14.25.220(19) excludes from status as a full-time teacher not only persons teaching on a substitute basis, but also persons teaching on a temporary basis. The evidence in this case precludes characterizing Mr. D's employment in 2003-2004 as anything other than temporary. He was hired for 25 school days to provide classroom instruction in the absence of a specified, regularly assigned teacher in a particular classroom. There is no evidence in the record that Mr. D had any expectation of continued employment to provide classroom instruction in that classroom or in any other classroom after the expiration of those 25 school days. Moreover, even if he had an expectation of continued employment to provide classroom instruction beyond that time, there is no evidence that he had a reasonable expectation of permanent employment as a classroom instructor.[41] Even taking all reasonable inferences in favor of Mr. D, he was quite clearly teaching on a temporary basis in 2003-2004. Regardless of whether he is properly characterized as teaching on a substitute basis, he was not a member of TRS prior to July 1,

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[39] There are two notable factual distinctions between this case and In Re M.M.W.: (1) M.M.W. was employed for an entire semester through the end of the school year; and (2) she was re-employed as a full-time teacher the following fall. These facts may be material with respect to whether she was properly characterized as teaching on a substitute basis or, alternatively, on a temporary basis. Neither of those issues was addressed in the decision, which was premised on M.M.W.'s admitted status as a substitute. *See supra*, note 35.

[40] A person employed as a teacher in the public schools must hold a teaching certificate. AS 14.20.010. A "teacher" within the meaning of AS 14.20.010 is the person with "primary responsibility to plan, instruct, and evaluate learning…in the classroom." AS 14.20.215(7). A person hired to teach on a substitute basis provides classroom instruction in the absence of the person who has primary responsibility in that classroom and is not a "teacher" as defined by AS 14.20.010. Otherwise, it would be illegal to hire uncertificated persons as substitute teachers for any length of time.

[41] *See* Opposition to Summary Adjudication, Ex. 5; Policy 3030 (long-term substitute is "issued a regular teaching contract for a specified period of time"; those who "serve to the end of the school year must be notified of non-retention…if they are not to be employed for the subsequent year", absent any requirement of notice of non-retention for persons whose specified period of employment does not extend to the end of the school year); Negotiated Agreement, July 1, 2003-June 30, 2004 at 32, Article 38 ("Per diem substitute teaches of more than nineteen (19) days duration who do not serve to the end of the school year shall receive all benefits of the contract, except for rehire and tenure rights.").

2006, because during his only period of employment prior to that date he was teaching on a temporary basis.

The division also contends that Mr. D is ineligible because he was paid on a per diem basis. However, taking all reasonable inferences in Mr. D's favor, his payment in 2003-2004 may reasonably be characterized as pro rata annual compensation, rather than as payment on a per diem basis.[42] The division is not entitled to summary adjudication based on the manner of compensation.

B. The Division Is Not Equitably Barred To Deny Eligibility

Mr. D argues that, assuming that his employment in 2003-2004 does not render him eligible for a conditional service retirement benefit, he should be provided a benefit on equitable grounds, "[u]nder an unjust enrichment or detrimental reliance theory."[43]

As an administrative agency, the division is bound to follow the law. To the extent it has administrative discretion under the law, the division may exercise its discretion in a manner that comports with fundamental fairness. But while the doctrine of equitable estoppel has been applied in the TRS context,[44] Mr. D has offered no precedent for the application of the common law remedies of unjust enrichment or detrimental reliance in this case, nor has he shown that, if applicable, there is a factual basis for either.[45]

To the extent that Mr. D claims the division is equitably estopped to deny the conditional service retirement benefit, his claim fails. Assuming the doctrine of equitable estoppel applies in the context of this case,[46] to establish equitable estoppel Mr. D must show that: (1) the division

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[42] *See*, Ex. 8 (based on a 7.5 hour work day, pay for a substitute with an Alaska Teaching Certificate is $14.00 per hour [$105 per day] for first ten days, $16.67 per hour [$125.025 per day] after ten days); Ex. 1 (calling for "annual salary in the amount of $5403.00" payable in one lump sum [$216.12 per day]); Policy 3030 (long-term substitutes "paid according to his/her placement on the certificated salary schedule").

[43] Opposition to Summary Adjudication at 3. Mr. D also references conversion as a remedy. Opposition to Cross Motion at 14. He has not shown, however, that this remedy (if applicable) would entitle him the conditional service retirement benefit, rather than merely monetary damages.

[44] *See* Crum v. Stalnaker, 936 P.2d 1254 (Alaska 1997) (division equitably estopped to deny as untimely a late-filed application for unused sick leave credit); In Re L.R.H., OAH No. 12-0094-TRS (Office of Administrative Hearings 2012); In Re D.E.W., OAH No. 07-0142-TRS (Office of Administrative Hearings 2008).

[45] *See generally*, George v. Custer, 862 P.2d 176, 180-181 (Alaska 1997) (unjust enrichment); Reeves v. Alyeska Pipeline Service Company, 926 P.2d 1130, 1142 (Alaska 1996) (detrimental reliance in context of promissory estoppel).

[46] In Crum v. Stalnaker, the Alaska Supreme Court applied the doctrine of equitable estoppel to bar use of an application deadline to deny an untimely claim for unused sick leave credit. The court has not addressed the applicability of equitable estoppel to provide a benefit that by law is not available to an applicant even if timely applied for. For present purposes, it is assumed that equitable estoppel may be applied in the context of this case. *See* In Re G.J.T., at 9, n. 61, OAH No. 10-0415-PER (Office of Administrative Hearings 2011).

asserted a position; (2) he acted in reasonable reliance on the assertion; (3) he suffered prejudice as a result; and (4) estoppel serves the interest of justice so as to limit public injury.[47]

(1) Assertion

Mr. D points out that his contract with the district authorized the withdrawal of TRS contributions and the district had him fill out a TRS beneficiary designation, and that pursuant to his contract the district withheld, and the division accepted, TRS contributions during his employment in 2003-2004.[48] He adds that the division sent him annual statements indicating that he was a member in the system.[49] With respect to the division's role in these representations, Mr. D points to a letter from a division employee to the district addressing the TRS membership status of long-term substitutes.[50]

The division argues the statements made by the school district in its contract with Mr. D are not attributable to the division, because district and the division are not in privity.[51] The division further notes that this office has previously ruled that the first element of estoppel is absent where a retirement benefits statement provided by the division reflects erroneous information provided by the employer.[52]

To the extent that the employment contract and the information provided by the district to the division were the product of the district's independent understanding of applicable law, this office's prior decisions would insulate the division from a claim of estoppel.[53] But Mr. D has provided evidence from which it is reasonable to infer that in crafting the contract, withholding contributions, and otherwise leading Mr. D to believe that his employment in 2003 was TRS-

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47 *See* In Re L.R.H., at 6.

48 D 1/9/2013 Supplemental Argument; Affidavit of H. D, ¶6.

49 Opposition at 2; *see* Ex. 7.

50 Exhibit 4.

51 Opposition and Cross Motion at 11-12, *citing* Holmberg v. State, Division of Risk Management, 796 P.2d 823, 827-29 (Alaska 1990); Lopez v. Administrator, Public Employees' Retirement System, 20 P.3d 568, 574 (Alaska 2001). Holmberg and Lopez did not involve equitable estoppel. Holmberg and Lopez raised the privity issue in the context of sequential disability proceedings before the Workers' Compensation Board and the Public Employees' Retirement Board. In Holmberg, the court ruled that the Public Employees Retirement System is not collaterally estopped to relitigate factual issues that have been decided before the Workers' Compensation Board. In Lopez, the court ruled that an admission before the Workers' Compensation Board is not binding in proceedings before the Public Employees' Retirement Board. Neither case is controlling with respect to estoppel in the context of this case.

52 *See* Opposition and Cross Motion at 12-13, *citing* In Re B.C., at 4, OAH No. 08-0010-PER (Office of Administrative Hearings 2008); In Re C.B., at 7-8, OAH No. 05-0633-PER (Office of Administrative Hearings 2008); In Re K.H., at 14, OAH No. 07-0306-PER (Office of Administrative Hearings 2009).

53 *See generally*, In Re R.T.L., at 4, note 20, OAH No. 08-0623-PER (Office of Administrative Hearings 2009).

eligible, the district relied in part on information provided by the division.[54] To the extent information provided by the division to the district contributed to the district's misunderstanding of applicable law, the district's assertions to Mr. D may be attributable to the division for purposes of the first element of equitable estoppel. For this reason, taking all reasonable inferences in Mr. D's favor, the division is not entitled to summary adjudication on this factor.[55]

(2) Reasonable Reliance

To show that he acted in reasonable reliance on the assertion Mr. D must show that but for the assertion, he would not have accepted employment with the district in 2003, and, moreover, that it was reasonable for him to rely on the assertion.

As to the first point, Mr. D has averred that if it were not for the availability of the conditional service retirement benefit, he would have "considered alternative employment."[56] This is not the same as saying that but for the assertion, he would not have accepted employment with the district, but for purposes of summary adjudication, taking all inferences in his favor, it is sufficient to withstand an adverse judgment. As to whether it was reasonable for Mr. D to rely on the assertions made to him, for purposes of summary adjudication, taking all reasonable inferences in his favor, the division has not conclusively shown that his reliance was unreasonable, any more than it was unreasonable for the district to rely on the information provided to it by the division.[57]

(3) Prejudice

The only specific prejudice Mr. D has identified is that contributions to TRS were withheld from his pay. However, the amount withheld in 2003-2004 was only $251.10, and he has not identified any specific prejudice resulting from the loss of those funds and the loss is fully compensable. With respect to alternative employment, Mr. D has not identified any specific employment opportunity foregone during the 25 days he was employed in 2003-2004t, much less that he took the district job in lieu of higher paying alternative work. Taking all

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54 Exhibit 4.

55 That the division played a role in the district's understanding of applicable law is not the only basis upon which the first element of an estoppel claim may be found to exist. *See, e.g.*, In Re L.R.H., OAH No. 12-0094-TRS (Office of Administrative Hearings 2012) (assertion by retirement counselor in pre-retirement meeting); In Re D.E.W., at 17-18, OAH No. 07-0142-TRS (Office of Administrative Hearings 2008) (division failed to contact retiree regarding "obvious discrepancy" in retirement application).

56 H. D Affidavit, ¶9.

57 The division's letter to the district regarding the TRS membership status of long-term substitutes lacks coherence and clarity. *See supra*, note 11. Arguably, the division's failure to provide clear and accurate information in response to a direct inquiry from an employer (on behalf of an employee) is a factor that may be consider in the context of a claim of estoppel. *See generally*, In Re L.R.H., at 10, note 63 (Office of Administrative Hearings 2012).

reasonable inferences in his favor, Mr. D has not shown prejudice to his legal rights (since by law he was not eligible for TRS) or to his economic interest (since the withheld contributions must be returned, with interest).

(4) Public Interest

In determining whether the public interest supports equitable estoppel in the retirement context, Crum states:

> "courts should be encouraged to weigh in every case the gravity of the injustice to the citizen if the doctrine [of estoppel] is not applied against the injury to the commonwealth if the doctrine is applied."[58]

In this case, to deny an estoppel would not be a grave injustice to Mr. D. Mr. D is not eligible for the conditional service retirement benefit, he incurred only a minor financial loss that may be fully remedied by refunding his contributions with interest, and he has not identified any specific non-monetary loss incurred as a result of his misunderstanding that he was eligible. At the same time, however, it does not appear that to allow an estoppel would injure TRS or the public at large. There are, it appears, one or two hundred persons certified teachers who are employed on occasion as temporary replacement teachers.[59] How many of them were first employed in that capacity prior to 2006 is unknown. In any event, given the total membership of the TRS system, it appears that only a relatively small number of teachers are similarly situated to Mr. D. Moreover, any benefits paid would reflect contributions made. Finally, the division has in at least one case compromised a similar claim.[60] Given these facts, and taking all reasonable inferences in Mr. D's favor, the division has not shown that to grant an estoppel would cause any significant public injury.

Taking all reasonable inferences in Mr. D's favor, the circumstances do not show that the gravity of any injustice to Mr. D outweighs the severity of any harm to TRS. Accordingly, the division is entitled to summary adjudication on this factor.

## IV. Conclusion

Under the law, Mr. D is not entitled to a conditional service retirement benefit, because prior to July 1, 2006, he was employed on a temporary basis. Applying the doctrine of equitable estoppel, the division has conclusively established, on the evidence presented, that he incurred no legal or economic prejudice, and that the balance of the equities does not weigh significantly in

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58 Crum, 936 P.2d at 1258 [citation omitted].
59 Affidavit of X B, ¶4.
60 Affidavit of X B, ¶5.

his favor. Accordingly, the administrator's decision to deny the conditional service benefit is sustained.[61]

DATED June 11, 2014.

*Signed*
Andrew M. Hemenway
Administrative Law Judge

## Adoption

This Decision on Summary Adjudication is issued under the authority of AS 39.35.006. The undersigned, in accordance with AS 44.64.060, adopts this Decision on Summary Adjudication as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days of the date this decision is mailed or otherwise distributed to the appellant.

DATED July 9, 2014.

*Signed*
Andrew M. Hemenway
Administrative Law Judge

[61] Mr. D's argument that the administrator's decision violates his constitutional rights is without merit.