

941 CMR 2.00: ADMINISTRATIVE REGULATIONS

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2.01: Date of Board Meeting

Unless otherwise approved by the Board, the State Board of Retirement shall meet on the last Thursday of each month.

The November meeting may be held on Wednesday, the day before Thanksgiving, or on such other date as approved by the Board. If Christmas or Christmas eve falls on the last Thursday of December, the December meeting may be held on the preceding Tuesday, or on such other date as approved by the Board.

2.02: Administration

- (1) The chief administrative officer of the Retirement Board and department shall hold the title of Executive Director of the Department and Secretary to the Retirement Board.
- (2) There shall be a position of Deputy Director who shall assist the Director in his duties. The Deputy Director, in the absence of the Director, shall perform the Director's duties.

2.03: Membership and Creditable Service

- (1) Membership.
 - (a) An employee who is permanently employed, and works at least on a half-time basis or more in a regular workweek shall become a member of the retirement system.
 - (b) All eligible employees shall be enrolled in the system at the inception of their employment.
 - (c) Employees who are employed in a temporary, seasonal, provisional or intermittent capacity and work full-time on a weekly basis for six consecutive months shall be eligible for membership in the retirement system.
- (2) Creditable Service.
 - (a) Part-time employees eligible for membership in the State Retirement System shall receive credit for service based on the number of hours worked in proportion to the regular hours of work of full-time employees (*i.e.* not less than 37.5 hours per workweek).
 - (b) Any part-time employees eligible for membership in the State Retirement System who become full-time shall receive credit for their part-time service based on the number of hours worked in proportion to the regular hours of work of full-time employees (*i.e.* not less than 37.5 hours per workweek).
 - (c) Any full-time employee eligible for membership in the State Retirement System who becomes part-time shall receive credit for their part-time service based on the number of hours worked in proportion to the regular hours of work of full-time employees (*i.e.* not less than 37.5 hours per workweek).
 - (d) Educational Collaboratives/Regional Vocational and Technical High Schools.
 1. A full-time employee of a Massachusetts educational collaborative or of a regional vocational or regional vocational technical school who is a member of the State Employees' Retirement System may be credited with 12 months of creditable services for purposes of M.G.L. c. 32, if said employee is required to work and does work a full school year of ten months in accordance with the collaborative's or school's schedule, otherwise September to June, for service rendered on or after January 1, 1985.

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2.03: continued

2. An employee of an educational collaborative or of a regional vocational or regional vocational technical school, who is a member of the State Employees' Retirement System, and who earns a salary on a 12 month basis, such as a director, program manager, may be credited with 12 months of creditable services for purposes of M.G.L. c. 32 for service rendered on or after January 1, 1985, if said employee is required to work 11 months during a 12 month period.

3. If an eligible collaborative employee's retirement becomes effective at the end of such a ten or 11 month period or prior to the start of the subsequent school year, the employee's creditable service for the final school year shall be based in proportion to the amount of employment provided up to such effective date of retirement.

4. The State Retirement Board shall assess educational collaboratives an administrative charge for the employer normal costs related to collaborative employees who are members of the State Employees' Retirement System.

(e) Sabbaticals.

1. Persons who completed a full school year sabbatical leave prior to July 29, 1991, and received 50% of their regular compensation during said sabbatical, will receive one full year of creditable service for retirement purposes.

2. Persons who received approval for a sabbatical leave prior to July 29, 1991 and received 50% of their regular compensation during said sabbatical, regardless of whether the sabbatical leave was completed prior to July 29, 1991, will receive one full year of creditable service for retirement purposes.

3. Persons who applied for, and began a sabbatical leave on or after July 29, 1991 will receive creditable service for retirement purposes at a rate equal to the *pro rata* percentage of regular compensation received during the sabbatical period.

(f) M.G.L. c. 32, § 26(3)(a).

1. Unless otherwise determined by the Board, for purposes of eligibility under M.G.L. c. 32, § 26(3)(a) the 20 years of creditable service described therein shall consist exclusively of said service performed in the department of state police.

2. For purposes of computing benefits within M.G.L. c. 32, § 26(3), creditable service over 20 years may include other creditable service allowed under the provisions of M.G.L. c. 32.

2.04: Service Purchases

Prior Non-membership Service. A buy-back of prior non-membership service of less than six consecutive months which was part-time, provisional, temporary, temporary provisional, seasonal or intermittent that occurred after January 28, 1993 and was not immediately followed by membership service, will not be allowed.

2.05: Proof of Age in Lieu of a Birth Certificate

(1) The following documents are examples of those that may be valid for proof of age.

- (a) Naturalization papers
- (b) Passport
- (c) Certified religious records
- (d) Certified education records

(2) If none of 941 CMR 2.05(1)(a) through (d) are available, affidavits from three relatives or friends attesting to the age of the member will be valid proof of age.

(3) The state Retirement Board in conjunction with its staff shall make any final determination establishing birth dates or proof of age for purposes of administering retirement benefits under M.G.L. c. 32.

2.06: Proceedings Conducted in Accordance with 801 CMR 1.01

Proceedings before the State Board of Retirement including those arising under M.G.L. c. 32, §§ 16(1) and proceedings arising under M.G.L. c. 32, § 15 shall be conducted in accordance with the formal administrative rules of adjudicatory procedure set forth in 801 CMR 1.01.

2.07: Proceedings for Massachusetts Public Safety Employees Line of Duty Death

Benefits Pursuant to M.G.L. c. 32, § 100A. Proceedings for Massachusetts Public Safety Employees Line of Duty Death Benefits may be initiated by filing an application with the Retirement Board. The application shall consist of forms prescribed by the Board, and shall be considered filed as of the date upon which the applicant completes and submits all the required forms to the Board.

(1) Required Forms. The eligible survivor(s) in the family of a firefighter, police officer or corrections officer who is killed or sustains injuries in the line of duty which are the direct and proximate cause of his death under circumstances described in M.G.L. c. 32, § 100A may file an application for a one-time award in the amount of \$100,000 by completing and filing with the Board a form entitled Line of Duty Death Benefit Chapter 32 §100A Beneficiary Claim Statement.

(2) Other Required Documentation. Each such applicant must also file the following documentation with the Board:

- (a) Copies of any official reports and records describing circumstances and cause of death.
- (b) Copy of the Death Certificate.
- (c) Copies of a medical records relating to the injury and death.
- (d) Copy of the decedent's autopsy report, if an autopsy was performed.
- (e) If the deceased was previously retired for under the provisions of M.G.L. c. 32, or if any survivor has received or applied for death benefits under said chapter, the applicant must provide the complete records of the applicable proceedings before the retirement board of the retirement system in which the deceased was a member.
- (f) If the applicant is the spouse of the decedent, a copy of the applicant's birth certificate and a copy of the applicant's marriage certificate.
- (g) If the applicant(s) are the child(ren) of the decedent, copies of the birth certificates, and guardianship papers for minor children.
- (h) If the applicant(s) is/are the parent(s) of the deceased, a copy of the decedent's birth certificate; copies of the parents' birth certificates; and such documentation as the Board may require as proof to show that said parent(s) was/were at least 50% financially dependent upon the deceased in the year prior to the death.

(3) Investigation, Hearing and Notice.

- (a) Investigation. In order to reach a decision, the Board may conduct such investigation and require such other documentation as may be necessary to determine the facts. The Board may engage a medical expert of its choice to render an opinion to the Board as to medical aspects of any application, and shall provide a copy of such opinion to the applicant.
- (b) Hearing. The Retirement Board may hold a hearing on the application. If a hearing is held, the Board shall give all parties 30 days notice of the time and place for the hearing.

(4) Decision. The decision of the Retirement Board shall be based on the record of the hearing or, if there is no hearing, on the record of the proceedings. A written decision shall be made and copies of the decision shall be sent to all parties.

(5) Payment of Award: Payments Subject to Appropriation by Legislature. The award of the death benefit shall be in the form of a lump sum payment of \$100,000 payable to the prevailing applicant. Such payment of award is subject, however, to appropriation by the Legislature.

2.08: Withdrawal of Superannuation Retirement Application

A member who has filed a voluntary application for superannuation retirement with the Board may withdraw the application without prejudice by submitting a written request specifying such withdrawal that must be received by the Board prior to the date on which such retirement is scheduled to become effective.

REGULATORY AUTHORITY

941 CMR 2.00: M.G.L. c. 32, §§ 3, 4, 5, 12 and 20.

NON-TEXT PAGE

941 CMR 3.00: ROLLOVER DISTRIBUTIONS AND PAYMENT FOR PURCHASE OF CREDITABLE SERVICE

Section

- 3.01: Purpose
- 3.02: Definitions
- 3.03: Rollovers from the Plan
- 3.04: Payment for Purchase of Creditable Service

3.01: Purpose

The purpose of 941 CMR 3.00 is to enable the State Retirement System and its members to comply with and take advantage of certain changes in the federal Internal Revenue Code of 1986, as amended, as set forth in the Economic Growth and Tax Relief Reconciliation Act of 2001.

3.02: Definitions

The following definitions apply to 941 CMR 3.00:

The Board: the State Board of Retirement.

The Code: the federal Internal Revenue Code of 1986, as amended.

3.03: Rollovers from the Plan

The following definitions apply to 941 CMR 3.03:

Direct Rollover: a payment by the Board to the Eligible Retirement Plan specified by the Distributee in a manner satisfying Code Section 401(a)(31).

Distributee: any employee or former employee, as well as the employee's or former employee's surviving spouse (as defined by federal law), or to a spouse or former spouse who is an alternate payee (as defined by Code Section 414(p)), who is entitled to an Eligible Rollover Distribution from the Board. Effective January 1, 2007, a Distributee also includes a non-spousal beneficiary who is a designated beneficiary under Code Section 401(a)(9)(E) and is entitled to an Eligible Rollover Distribution from the Board, but only with respect to an Eligible Retirement Plan that is an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b) (other than an endowment contract), or a Roth IRA, established for the purpose of receiving the distribution and the account or annuity will be treated as an inherited account or annuity.

Eligible Retirement Plan: any of the following programs that accepts the Distributee's Eligible Rollover Distribution:

- (a) an individual retirement account under Code Section 408(a);
- (b) an individual retirement annuity under Code Section 408(b), other than an endowment contract;
- (c) a qualified plan under Code Sections 401(a) or 403(a);
- (d) an eligible deferred compensation plan under Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state, so long as the plan agrees to separately account for amounts rolled into the plan;
- (e) an annuity contract under Code Section 403(b); and
- (f) for distributions on or after January 1, 2008, a Roth IRA.

Eligible Rollover Distribution: Any distribution under M.G.L. c. 32 of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

3.03: continued

(a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;

(b) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; or

(c) the portion of any distribution that is not includible in gross income. However, effective for distributions on or after January 1, 2002, a portion of a distribution will not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only

1. to a traditional individual retirement account or individual retirement annuity, or to a qualified trust which is a defined contribution plan that will separately account for the taxable and non-taxable portions of the distribution; or

2. effective on or after January 1, 2007, to a qualified trust which is a defined benefit plan or a 403(b) tax-sheltered annuity that will separately account for the taxable and non-taxable portions of the distribution; or

3. effective on or after January 1, 2008, to a Roth IRA.

(2) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

3.04: Payment for Purchase of Creditable Service

On and after January 1, 2002, a member authorized by law to purchase creditable service may make payment for the purchase of such service to the Board in or in a combination of:

(a) a lump sum purchase including an eligible rollover distribution as defined by Code Section 402(c)(4), other than the portion of such distribution that is not included in gross income;

(b) installment payments over a period not exceeding five years; and

(c) a trustee-to-trustee transfer of assets from a Code Section 403(b) annuity or a Code Section 457 plan. Any combination of forms of payment or trustee-to-trustee transfer of assets shall be subject to the limitations of applicable law, and such conditions, proofs, or acceptances as the Board or its designee may from time to time deem appropriate.

REGULATORY AUTHORITY

941 CMR 3.00: M.G.L. c. 32, § 20(5)(b) and c. 30A, § 3.

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941 CMR 4.00: QUALIFIED EXCESS BENEFIT ARRANGEMENT

Section

4.01: Establishment of Section 415 Excess Benefit Plan and Trust Fund

4.02: Grantor Trust

4.01: Establishment of Section 415 Excess Benefit Plan and Trust Fund

(1) M.G.L. c. 32, § 104(b) requires the establishment of a qualified governmental plan excess benefit arrangement, as set forth in 26 U.S.C. § 415(m), for the payment of benefits in excess of the limits of § 415(b) of the Internal Revenue Code. The Massachusetts State Board of Retirement ("Board") establishes such an arrangement in the form set forth in a document entitled, *The Massachusetts State Employees' Retirement System Section 415 Excess Benefit Plan and Trust Fund* dated January 1, 2007 ("the Excess Benefit Plan").

(2) The purpose of the Excess Benefit Plan is solely to provide the part of a member's retirement allowance that would otherwise have been payable by the Massachusetts State Employees' Retirement System ("SERS") except for the limitations of Internal Revenue Code § 415(b). It is intended to be a "qualified governmental excess benefit arrangement" within the meaning of Internal Revenue Code Section 415(m)(3).

(3) Pursuant to M.G.L. c. 32, § 104(b), which provides that a qualified governmental plan excess benefit arrangement must be established according to the requirements of 26 U.S.C. § 415(m), the Board will not provide for the transfer of any funds to pay the excess benefits under the Excess Benefit Plan but, rather, the excess benefits will be funded by appropriations in such amount as determined by the Board to be necessary to fund the excess benefits, to be withheld before such appropriations are credited to the SERS.

4.02: Grantor Trust

To implement the terms of § 104(b) and the Excess Benefit Plan, the Board is authorized to create a grantor trust, with themselves as trustees, to receive and hold contributions from employers and to pay benefits in accordance with the Excess Benefit Plan. The grantor trust shall be established pursuant to the terms of Article VI of the Excess Benefit Plan.

REGULATORY AUTHORITY

941 CMR 4.00: M.G.L. c. 10, § 18 and c. 32, §§ 20(5)(b) and 104(b).

NON-TEXT PAGE