

## 807 CMR: TEACHERS' RETIREMENT BOARD

### 807 CMR 24.00: SHARED EMPLOYEES

#### Section

24.01: Scope and Definitions

24.02: Public Employment

24.03: Shared Employment

#### 24.01: Scope and Definitions

807 CMR 24.00 affects members employed by MTRS participating employers who also work for private entities, including non-profit corporations, affiliated with their public employer. It does not apply to post-retirement employment.

For purposes of 807 CMR 24.00, an "MTRS participating employer" is any public entity, employees of which are enrolled in the MTRS, including but not limited to public school districts, regional school districts, educational collaboratives, charter schools (with regard to the employment of teachers), and virtual schools established pursuant to M.G.L. c. 71, § 94.

For purposes of 807 CMR 24.00, a "Related For-profit or Non-profit Organization" is a for-profit or non-profit organization, including a corporation, trust or partnership, that shares officers, directors, employees, trustees, or partners with an MTRS participating employer.

#### 24.02: Public Employment

(1) Any MTRS participating employer, as defined above, is a public employer for purposes of M.G.L. c. 32 and 807 CMR 20.00: *Employer in Qualified Governmental Plan*.

(2) Related For-profit or Non-profit Organizations are not public employers for purposes of M.G.L. c. 32 and 807 CMR 20.00: *Employer in Qualified Governmental Plan*.

(3) Because the MTRS is a governmental plan under the Internal Revenue Code and M.G.L. c. 32, only service as an employee of a public employer can be membership service, or be purchased under those applicable statutory provisions allowing the purchase of public employment, and only compensation paid by a public employer for service to that public employer can be regular compensation.

#### 24.03: Shared Employment

(1) For members in service who also perform service for a Related For-profit or Non-profit Organization, regardless of whether the member in service is paid for service to the Related For-profit or Non-profit Organization, the MTRS will determine the pro-rated portion of service and compensation that represents membership service and regular compensation for purposes of M.G.L. c. 32. The fact that an MTRS Participating Employer may delegate its management functions to a for-profit or non-profit corporation, for example in a "turnaround situation," does not alone mean that the member in service is performing service for that corporation and not the MTRS Participating Employer.

(2) In doing so, the MTRS shall require verification of time allocation through whatever mechanism or documentation it determines is appropriate including, but not limited to, verified time sheets. In the absence of such verification, the MTRS may, in appropriate circumstances, presume an allocation of time and/or compensation that is pro-rated based on the total number of entities, determine that a de minimis number of hours was allocated to non-public employers and therefore no allocation is necessary, or use such other allocation as it determines is reasonable.

#### REGULATORY AUTHORITY

807 CMR 24.00: M.G.L. c. 15, § 16; c. 32, §§ 1, 3, and 20(5)(b).