

## 807 CMR: TEACHERS' RETIREMENT BOARD

### 807 CMR 3.00: RETIREMENT AND CREDIT FOR SERVICE

#### Section

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#### 3.01: Retirement Date

If a member is in service until the school in which he or she is employed closes for the school year, his or her retirement shall not take effect earlier than 12:00 A.M. on June 30<sup>th</sup>, irrespective of any earlier date which may be designated on his or her application.

#### 3.02: The Amount of Service in any Calendar Year That Shall Be the Equivalent to One Year of Creditable Service

Members of the Teacher's Retirement System, who earn their salary on a 12-months basis, such as superintendents and any other persons who must serve for 11 months with one month vacation to receive salary for a full year, shall, for the periods they were employed on a 12-months basis, be allowed credit for the years and full calendar months of service, with the month of vacation counted as a month of service. All persons defined as teachers who earn their salary during the school year from September to June, shall, irrespective of the manner in which their salary is paid, be allowed a year's credit for each full school year of service and one-tenth of a year for each full month of service rendered during a school year. All such service may be pro-rated in accordance with 807 CMR 3.04.

#### 3.03: Credit for Massachusetts Non-membership Public Service

(1) Except as provided in 807 CMR 10.00: *Maternity Service Purchases*, the Board will allow proportional credit for any period of non-membership service rendered in a Massachusetts governmental unit, the purchase of which is authorized under M.G.L. c. 32, § 3(5), 4(1)(o) and 4(2)(c). Any such purchase will be allowed only after submission of documentation satisfactory to the Board. Such non-membership service includes, but is not limited to, service as a teacher on a *per diem* substitute basis or on any other basis that is less than half time.

(2) Proportional Credit means that for any year during which the member was ineligible for membership in a contributory retirement system and service was rendered as an employee on a part time, provisional, temporary, temporary provisional, seasonal or intermittent basis for a Massachusetts governmental unit, after purchase the member will receive as creditable service that percentage of full time credit equal to a fraction, the numerator of which is the number of days or hours actually worked during that year, and the denominator of which is the number of days or hours that would have been worked by a full time employee during that year as determined by the Board.

(3) The member may purchase less than all non-membership service available for purchase; provided, however, that in such event the member must purchase the most recent time first.

(4) (a) The provisions of M.G.L. c. 32, § 4(1)(o) will not apply to service rendered by a salaried employee, hired for a permanent or indefinite term, whose annual rate of pay would exceed \$5,000 if that employee retained his or her position for a full year.

(b) For purposes of applying the limitations of M.G.L. c. 32, § 4(1)(o) to all other employees, the Board will interpret the statutory language as follows:

1. With respect to service rendered in a public school or in higher education, the term "annually" shall refer to the relevant academic year or the relevant calendar year, whichever yields the greater service that the member can purchase; however, the same service cannot be used more than once for this purpose;
2. With respect to all other service, the term "annually" shall refer to the relevant calendar year;

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### 3.03: continued

3. All employment within the same school department shall be presumed to be employment in the same “position”. No such presumption will apply to other employment, where distinctions between “positions” will be determined by individual facts and circumstances.

### 3.04: Retirement Credit for Service Rendered as a Part-time Member

- (1) (a) Except as set forth in 807 CMR 3.04(1)(b), for all purposes in M.G.L. c. 32, creditable service for any member in service employed on a part-time basis shall be calculated on a pro-rated basis as it relates to a full-time position.  
(b) When such a member renders part-time membership service, the average annual rate of regular compensation received used to calculate the member's retirement allowance under M.G.L. c. 32, § 5(2)(a) shall be based on the full-time equivalent rate of regular compensation received for any period of part-time service.  
(c) For purposes of determining whether a member has completed the ten or more years of creditable service required under M.G.L. c. 32, § 6 for an ordinary disability retirement only, membership service shall be credited on a full-time basis regardless of whether the member's service was rendered on a part-time or full-time basis. The calculation of the retirement allowance, however, shall be calculated according to 807 CMR 3.04(1)(a).
- (2) (a) For any teacher who elected to participate in the alternative superannuation retirement benefit program pursuant to M.G.L. c. 32, § 5(4)(i) and who retires with an effective date on or before July 1, 2012, the determination of creditable service for purposes of determining eligibility for the enhancement under M.G.L. c. 32, § 5(4)(ii), and calculating the amount of such enhancement and retirement allowance shall be based on either:
  1. the creditable service regulations in effect prior to January 8, 2010; or
  2. on 807 CMR 3.00, whichever yields the higher benefit.  
(b) For retirements occurring after July 1, 2012, creditable service for all purposes (except as noted in 807 CMR 3.04(1)(c)) shall be based solely on 807 CMR 3.00.
- (3) Nothing in 807 CMR 3.04(3) shall affect the accrual of creditable service for non-membership service, which is governed by 807 CMR 3.03.

### REGULATORY AUTHORITY

807 CMR 3.00: M.G.L. c. 15, § 16; c. 32, § 20(5)(b).