

807 CMR: TEACHERS' RETIREMENT BOARD

807 CMR 4.00: ELIGIBILITY AND CONTINUED MEMBERSHIP

Section

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4.01: Purpose of Standard Rules; Retirement Board Policy

The purpose of 807 CMR 4.00 is to establish uniform criteria and procedures to be applied by the Retirement Board in determining an individual's initial eligibility for membership within the Massachusetts Teachers' Retirement System ("MTRS"); under what circumstances a separation from service occurs; and continued membership for those who, though still members in service, no longer meet the statutory definition of "Teacher". The retirement board shall assist all public school teachers and administrators in obtaining all rights and benefits authorized by M.G.L. c. 32 while protecting the retirement system from liability not authorized by law.

4.01.1: Definitions

Teacher Position. A "teacher position" means regular employment, on at least a half-time basis, in a position that satisfies the MTRS' eligibility criteria at 807 CMR 4.02. A "teacher position" shall not include day-to-day or short-term employment.

Day-to-day Employment: Employment on a day-to-day basis means any employment on an intermittent basis. Day-to-day employment is not regular employment.

Short-term Employment. Short-term employment is substitute, part-time, temporary or seasonal employment of less than six calendar months' duration.

Separation from Service: "Separation from service" for a teacher occurs at the moment they cease to be regularly employed in a teacher position with their employer. This occurs upon:

- (a) Their resignation from that employer;
- (b) Their failure to be re-elected or re-appointed in a teacher position by that employer;
- (c) Their removal or discharge from their position;
- (d) Their commencement of service in a position other than a teacher position;
- (e) Their commencement of day-to-day or short-term employment;
- (f) The beginning of any period of an authorized unpaid leave of absence beyond one year, which is not:
 - 1. Leave that is due to mental or physical incapacity for duty or to permit such member to perform their duties as a member of a retirement board, as provided for in M.G.L. c. 32, § 3, or
 - 2. Leave to serve as a representative of an employee organization, as provided for in M.G.L. c. 32, § 28K;
- (g) Their retirement.

For purposes of determining whether there has been a separation from service, an existing member of the MTRS, employed under a ten-month, or school year contract, will not be considered separated from service during the summer months between school years so long as they return to regular employment in a teacher position with their same employer, beginning with the start of the next school year.

4.02: Eligibility Criteria

(1) No individual shall be eligible for membership within the retirement system, unless the retirement board finds:

- (a) The individual holds a license granted by the Department of Elementary and Secondary Education ("DESE"), or has been granted a waiver pending licensure by the DESE;

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- (b) The individual is covered by a contractual agreement for employment with one or more school committees or boards of trustees or by any combination of such committees and boards;
 - (c) The contractual agreement requires not less than half-time service as a teacher, as defined in M.G.L. c. 32 and clarified herein; and
 - (d) The contractual agreement requires that the individual be licensed by the DESE as a condition of employment.
- (2) In addition to those individuals determined to be eligible pursuant to 807 CMR 4.02(1), the following individuals shall be deemed eligible for membership:
- (a) Individuals who hold a license granted by the DESE and are employed on the basis of not less than half-time as the director of an educational collaborative as organized and approved under the provisions of M.G.L. c. 40, § 4E;
 - (b) Individuals employed, pursuant to a contractual agreement, on at least a half-time basis as a teacher by a Massachusetts public charter school, an innovation school, or Quincy College. Because "teachers" in these entities are members of the MTRS irrespective of any provision of M.G.L. c. 32, a "teacher" in these entities is hereby defined as one who either holds the title of teacher, meets all four of the eligibility criteria set forth in 807 CMR 4.02(1) above, or works in a position that would be eligible for MTRS membership if it were performed in a Massachusetts public school; and
 - (c) Any member in service of the MTRS whose employment status becomes less than half-time without an intervening separation from service as defined in 807 CMR 4.01(1) above. For example, a full-time teacher whose position in the same district is reduced to 40%.

4.03: Enrollment

- (1) Enrollment. Any individual satisfying the eligibility criteria in 807 CMR 4.02, who enters into a contractual agreement for employment with a school committee or board of trustees shall file for enrollment, in the form prescribed by the MTRS, within 30 days of becoming eligible for membership.

REGULATORY AUTHORITY

807 CMR 4.00: M.G.L. c. 15, § 16; M.G.L. c. 32, §§ 1, 3(1)(a)(I) and 3(2)(a, d).