

**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Alec Ciminello,  
Petitioner,

Docket No.: CR-25-0437

v.

Massachusetts Teachers'  
Retirement System,  
Respondent.

**ORDER OF DISMISSAL**

Petitioner, Alec Ciminello, appeals from the denial of Respondent, Massachusetts Teachers' Retirement System (MTRS), of his request to purchase creditable service for out-of-state public school service rendered in Rhode Island pursuant to M.G.L. c. 32, § 3(4).

Accordingly, on October 17, 2025 I ordered Petitioner to provide sufficient evidence that the service he sought to purchase is eligible to be purchased under § 3(4).

Petitioner furnished a response to that order, which included seven exhibits.

**DISCUSSION**

A. Applicable Legal Standard

An appeal is properly dismissed if it "fail[s]. . . to state a claim upon which relief can be granted." 801 C.M.R. 1.01 (7)(g)(3). This principle is borrowed from the judicial courts, which have clarified that they "look beyond the conclusory allegations in the complaint and focus on whether the factual allegations plausibly suggest an entitlement to relief." *Curtis v. Herb*

*Chambers I-95, Inc.*, 458 Mass. 674, 676 (2011). *See Gill v. Armstrong*, 102 Mass. App. Ct. 733,

735 (2023). For the reasons discussed below, I conclude that Petitioner does not state a claim upon which relief can be granted, and his appeal is therefore dismissed.

B. Petitioner Is Ineligible To Purchase Retirement Credit For Out-of-State School Service Because The Service Entitled Petitioner To An Employer-Funded Retirement Benefit

M.G.L. c. 32, § 3(4) allows teachers to purchase creditable service for certain out-of-state teaching experience at public schools. However, it provides in pertinent part the following:

no credit shall be allowed and no payment shall be accepted for any service for which the member shall be entitled to receive a retirement allowance from any other state.

The purpose of § 3(4) is to prevent “members from receiving double retirement benefits for the same work.” *Gregoire v. Massachusetts Teachers’ Ret. Sys.*, No. CR-16-449, at \*2 (Contributory Ret. App. Bd. Mar. 22, 2021).

In the context of § 3(4), “retirement allowance” includes “any defined contribution plan . . . in which a member is eligible to receive, or has received, a benefit based in whole or in part upon employer contributions.” 807 C.M.R. § 19.04(2).

Here, Petitioner seeks to purchase service via a rollover of his Rhode Island TIAA account, a defined contribution plan, which he admits consisted of employer and employee contributions. However, he cannot, as this account constitutes a retirement “benefit.” *Sullivan v. Massachusetts Teachers’ Ret. Sys.*, No. CR-07-639, at \*2 (Contributory Ret. App. Bd. Nov. 16, 2012). Petitioner “has received a benefit based . . . in part upon employer contributions” which disqualifies the out-of-state service from ability to purchase. 807 C.M.R. § 19.04(2).

Petitioner attempts to argue, based on several footnotes in *Sullivan*, that since no funds remain in the Rhode Island account following the rollover, he can purchase the

service, as he has not received, and is not entitled to receive, a retirement allowance from Rhode Island for this service. *See Sullivan*, at \*7-8, nn.19-20. This argument is unavailing given subsequent CRAB decisions. *See Costa v. Massachusetts Teachers' Ret. Sys.*, CR-12-655 (Contributory Ret. App. Bd. Sep. 30, 2016)(A MTRS member who withdrew all funds from an out-of-state retirement account containing employer and employee contributions and rolled over the funds into a qualified investment account was disqualified from purchasing this service); *Rusch v. MTRS*, CR-14-174 (Contributory Ret. App. Bd. Apr. 28, 2021) (If an MTRS member has cashed out of an out-of-state retirement account containing employer contributions and is no longer eligible to receive retirement benefits from that state, that contribution is not an exception to 807 CMR 19.04(2), and constitutes a "retirement allowance").

Here, Petitioner's Rhode Island retirement fund account similarly was comprised in part of employer contributions. His attempted rollover of these funds into the MTRS account would constitute double benefits, which is prohibited.

C. Petitioner's Equitable Arguments Are Without Merit

Petitioner argues that MTRS should be estopped from denying his request to purchase creditable service because he relied upon communications from MTRS that the purchase was permitted. He references an MTRS Creditable Service Estimate dated April 26, 2024 and an MTRS Invoice dated June 1, 2024 he received indicating 6.0582 years of service for purchase. He argues that as a result, in January 2025 he submitted a notice of intent to retire to his employer, and "retirement paperwork" to MTRS in March 2025. Then in July 2025 he received a letter from MTRS that the out-of-state service was ineligible for purchase.

Petitioner argues that based upon his reliance on communications with MTRS, his request to purchase out-of-state service should be permitted. However, Petitioner can “neither claim entitlement to, or reasonably rely upon, a retirement benefit when the statutory language does not provide for it.” *Clothier v. Teachers’ Ret. Bd.*, 78 Mass App. Ct. 143, 146 (2010). The fact that MTRS erred in qualifying the service is not a basis in equity for Petitioner to purchase the service when it is prohibited by law. *See Costa; Moynihan v. Massachusetts Teachers’ Ret. Syst.*, CR-16-567, at \*6 (Contributory Ret. App. Bd. Apr. 28, 2021).

For the reasons stated above, Petitioner is ineligible to purchase creditable service for out-of-state public school service rendered in Rhode Island. This appeal is dismissed for failure to state a claim on which relief may be granted.

Dated: January 9, 2026

/s/ Karen T. Guthrie  
Karen T. Guthrie  
Administrative Magistrate  
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