

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Angelique Garofalo,**  
Petitioner,

No. CR-24-0257

Dated: January 10, 2025

v.

**Massachusetts Teachers' Retirement  
System,**  
Respondent.

**Appearances:**

For Petitioner: Angelique Garofalo (pro se)

For Respondent: Ashley Freeman, Esq.

**Administrative Magistrate:**  
Yakov Malkiel

**SUMMARY OF DECISION**

The petitioner applied to purchase retirement credit for pre-membership service in a non-public school. For approximately twelve years, the application sat unprocessed with the respondent board. Under G.L. c. 32, § 4(1)(p), the petitioner's purchase price continued to accrue "buyback" interest during that period.

**DECISION**

Respondent the Massachusetts Teachers' Retirement System (board) allowed petitioner Angelique Garofalo's application to purchase retirement credit for a period of pre-membership work. Ms. Garofalo appeals from the board's computation of the interest owing from her in connection with that purchase. The appeal was submitted on the papers without objection. I admit into evidence exhibits marked 1-7.

**Findings of Fact**

The following facts are not in dispute.

1. Ms. Garofalo is a teacher. In April 2012, she presented the board with an application to purchase retirement credit for approximately three years of pre-membership work

in a non-public school. Ms. Garofalo supplemented her application two weeks later. The application proceeded to sit with the board unprocessed for approximately twelve years.

(Exhibits 1-3, 6.)

2. In April 2024, the board located and allowed Ms. Garofalo's application. The board issued an invoice to Ms. Garofalo in the amount of approximately \$8,300.<sup>1</sup> (Exhibits 2-3.)

3. The invoice subjected Ms. Garofalo's purchase to a "buyback" interest rate of 3.5%. The board's calculations applied that rate to the full period running through Ms. Garofalo's anticipated date of payment. Ms. Garofalo timely appealed, maintaining that the "interest should only reflect the years up to [the] application date." (Exhibits 2-5.)

### **Analysis**

Creditable service is among the variables that together determine the retirement benefits of a Massachusetts public employee. Ordinarily, an individual is credited with the service that he or she performed as an employee of a governmental unit while maintaining membership in a public retirement system. *See* G.L. c. 32, § 4(1)(a).

Specific provisions allow some employees to "purchase" credit for periods of work that otherwise would not qualify. The provision applicable to work in non-public schools is G.L. c. 32, § 4(1)(p). An employee making a purchase under that section must "deposit[] [with the board] . . . an amount equal to five per cent of the compensation received by [the employee] during [the pertinent] period of service." *Id.* On top of that principal, the employee must pay "buyback interest to the date of [the] deposit." *Id.*

The statutory language makes clear that interest under § 4(1)(p) continues to accrue until the "deposit" of the purchase price. *Id. See Feldman v. Massachusetts Teachers' Ret. Syst.*, No.

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<sup>1</sup> It appears that the price consisted of a \$3,000 principal plus interest. (Exhibit 1.)

CR-08-101, at \*4-5 (Div. Admin. Law App. Sept. 28, 2012). These clear and workable statutory terms are conclusive. *See Harmon v. Commissioner of Correction*, 487 Mass. 470, 479 (2021).

The statutory rule also produces a fair result. During the twelve years of the board's inaction, Ms. Garofalo retained the entire amount of her purchase price. She gained the opportunity to earn investment income on that money. *See Feldman, supra*. The "buyback" interest rate is designed to reflect *half* of a standard "rate of return on investments." G.L. c. 32, § 1. As a result, any period by which a purchase is delayed in exchange for only "buyback" interest is already advantageous to the employee. *See Spinelli v. Massachusetts Teachers' Ret. Syst.*, No. CR-17-188, at \*12-13 (Div. Admin. Law App. Aug. 14, 2020). A rule suspending the accrual of interest altogether as soon as the employee files a purchase application would produce an even more lopsided windfall to the member at the expense of the system's sound finances.

### **Conclusion and Order**

In view of the foregoing, the board's decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate