COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Melissa Menard,
Petitioner,
v.

Massachusetts Teachers' Retirement System,
Respondent.

Docket No. CR-25-0499

Date: July 24, 2026

Appearances:

For Petitioner: Melissa Menard, *pro se*
For Respondent: Ashley Freeman, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner is not entitled to purchase her seven and a half years of service in a Rhode Island public school under G.L. c. 32, § 3(4) because she is entitled to receive a retirement allowance from Rhode Island's defined contribution plan.

INTRODUCTION

The Petitioner, Melissa Menard, timely appeals a decision by the Massachusetts Teachers' Retirement System (MTRS) that she is ineligible to purchase her seven and a half years of out-of-state public school service in Rhode Island under G.L. c. 32, § 3(4). The Division of Administrative Law Appeals (DALA) suggested that the matter could be decided on written submissions under 801 Code of Mass. Regs. § 1.01(10)(c) and instructed the parties to file memoranda and proposed exhibits. On April 1, 2026, MTRS submitted its memorandum, with four proposed exhibits. On May 29, 2026, the Petitioner submitted her memorandum, with eight proposed exhibits. I then held a status conference where neither side objected to any proposed exhibits and both agreed there were no material facts in dispute. I now enter exhibits P1-P8 and R1-R4 into evidence.

FINDINGS OF FACT

1. The Petitioner, Melissa Menard, is currently an active member of the MTRS. (Ex. R1.)

2. Ms. Menard worked as a social worker in the Woonsocket public schools in Rhode Island, from January 4, 2016, through October 17, 2023. Ms. Menard spent seven years and seven months in this service. (Ex. R1.)

3. Beginning in 2012, Rhode Island implemented a system with two joint, mandatory public retirement plans. The first is a defined benefit plan (pension). The second is a defined contribution plan (managed by TIAA), to which both employers and employees must contribute. The employee vests in the employer contribution portion of the TIAA plan after 3 years. (Ex. R4.)

4. During her time in Rhode Island, both Ms. Menard and her employer contributed to her TIAA plan. In 2019, the Petitioner vested in the employer's TIAA contribution after satisfying the required three-year vesting period. This means she currently has access to her funds. (Ex. R2.)

5. In 2023, the Petitioner stopped working in Rhode Island and started working in Massachusetts. (Ex. R3.)

6. On May 6, 2024, the Petitioner submitted an application to purchase her out-of-state service in Rhode Island. (Ex. R1.)

7. On April 29, 2025, the Petitioner received a service purchase invoice for the Rhode Island service from MTRS. (Ex. P1.)

8. MTRS then requested the Rhode Island retirement system to roll over the Petitioner's funds to pay the service purchase. (Ex. P2.)

9. On July 11, 2025, the Petitioner emailed the MTRS and confirmed that she had a vested TIAA account with employee and employer contributions. (Ex. R2.)

10. A few days later, MTRS reversed its decision that the Petitioner could purchase this service. In a letter dated July 14, 2025, MTRS denied her out-of-state service purchase because "according to documentation received, [Ms. Menard is] currently eligible for or collecting a retirement benefit from the other state based on the above service." (Ex. P3.)

DISCUSSION

The superannuation retirement benefits of a Massachusetts public employee depends in part on the employee's "creditable service." G.L. c. 32, § 5(2). An employee is credited with the periods during which he or she worked for Massachusetts governmental units while belonging to Massachusetts retirement systems. G.L. c. 32, § 4(1)(a). Certain provisions of retirement law permit employees to purchase credit for periods of pre-membership employment. Specifically, under G.L. c. 32, § 3(4), members in service who are teachers may purchase out-of-state service under certain circumstances. Among other things, they may only do so if that service did not earn the employee an out-of-state "retirement allowance." *Id*.

807 Code of Mass. Regs. § 19.04(2) defines the term "retirement allowance" as follows:

> Any out-of-state governmental defined benefit plan, or defined contribution plan offered in lieu of a defined plan or as the sole retirement plan but not as a

supplemental plan, in which a member is eligible to receive, or has received, a benefit based in whole or in part upon employer contributions.

The intent of § 3(4) was to prevent "double dipping," that is, to prevent a retiree from receiving benefits from two different states for the same service. *See Sullivan v. MTRS*, CR-07-639, 2012 WL 13406337, at *3 (Contributory Ret. App. Bd. Nov. 16, 2012). That result would tend to enrich the retiree and to diminish the state retirement funds, especially if multiplied by dozens or hundreds of employees over periods of years. *Id*.

Ms. Menard seeks to purchase seven and a half years of service in Rhode Island. During these years, Ms. Menard was required to participate in the hybrid benefit plan made up of a defined benefit plan and a defined contribution plan, the TIAA plan. There is no dispute that the TIAA plan is funded by both employee and employer contributions and that the employee vests immediately after 3 years, which Ms. Menard did here. She currently has full access to all the funds to roll over or cash out. In fact, Ms. Menard does not dispute that both her defined benefit plan and defined contribution plan are employer funded.

This exact retirement scheme out of Rhode Island has been the subject of several appeals before DALA, including one case appealed to the Contributory Retirement Appeal Board. *Sullivan*, *supra*; *Soares v. MTRS*, CR-25-0365, 2026 WL 1198176 (Div. Admin. Law App. Apr. 24, 2026); *Ciminello v. MTRS*, CR-25-0437 (Div. Admin. Law App. Jan. 9, 2026). These cases all held that the member was ineligible to purchase their prior service because the Rhode Island defined contribution plans were all "retirement allowances" since they contained employer contributions. *Id.*; *see also Siegal v. MTRS*, CR-24-0077, 2024 WL 5186708, at *4 (Div. Admin. Law App. Dec. 13, 2024) (finding a similar plan out of Oregon precluded purchase of prior service under G.L. c. 32, § 3(4)). Not only am I bound by CRAB precedent, *Fahey v. Boston Ret. Bd.*, CR-15-630, (Div. Admin. Law App., Nov. 2, 2016), but I see no reason to depart from the thoughtful reasoning of those cases.

The Petitioner argues that she has not yet withdrawn funds from her account, which makes this case different from the other cases where petitioners withdrew, cashed out, or closed their out-of-state accounts. This argument is unpersuasive because, pursuant to § 19.04(2), a retirement allowance is one where "a member is eligible to receive, or has received, a benefit based in whole or in part upon employer contributions." Although Ms. Menard has not yet withdrawn or otherwise received funds from her TIAA account, she is still eligible to receive those funds. Indeed, she proposed to pay for her prior service by rolling over the funds in her TIAA plan which contains employer contributions. *Ciminello*, *supra*.

Ms. Menard, acknowledging these cases, makes one final argument. She argues her TIAA plan is a "supplemental plan," which is excluded from the definition of "retirement allowance." 807 Code of Mass. Regs. § 19.04(2).[1]

The term "supplemental plan" is not defined in the regulation. MTRS argues that the term supplemental plan "refers to optional and additional retirement plans available to workers, funded entirely by employees." *Siegal*, *supra* (adopting MTRS's interpretation of its

[1] At the status conference, MTRS explained that it believed the defined benefit plan was also disqualifying. However, because Ms. Menard had not yet vested in that plan, and theoretically could divest herself of its benefits, it was more prudent to focus on why the TIAA plan was disqualifying since it was too late for Ms. Menard to divest from it. *Soares*, *supra* (explaining the member was ineligible to waive TIAA retirement benefits, at least not after they vested).

own regulation.) Because the TIAA plan was not optional, it cannot be considered a supplemental plan since participation in the plan is required. *Id*.

Ms. Menard disputes this conclusion, relying on *Monroe v. State Bd. of Ret.*, CR-24-0627, 2025 WL 2634177 (Div. Admin. Law App., Sept. 5, 2025). That case involved a retirement plan from California. The magistrate noted the term “supplemental plan” might be capable of two interpretations, one of which simply means “something additional,” which the TIAA plan clearly is. *Id*. at *5. But the magistrate in *Monroe* did not hold that was the proper interpretation of the phrase; rather, he assumed that was the definition to give the Petitioner the benefit of the doubt only. *Id.* The magistrate ultimately held the Petitioner was ineligible to purchase his prior service on other grounds. *Id*. at *6. Given that *Monroe* was about the retirement benefits from a different state, and the hypothetical interpretation of the regulation was irrelevant to the case’s resolution, it does not provide a basis to ignore the outcomes of *Sullivan* and its progeny. Again, all those cases dealt with the same Rhode Island retirement plan at issue here, including a CRAB precedent (*Sullivan*) directly on point.

Finally, Ms. Menard argues that she received an invoice from MTRS indicating that her request to purchase this service would be permitted. She says MTRS should have to stand by this initial assessment. However, MTRS’s error in approving the Petitioner’s out-of-state purchase is correctable under G.L. c. 32, § 20(5)(c)(2). Respondent’s invoice of the out-of-state service purchase does not create a “reasonable expectation” under G.L. c. 32, § 25(5), as such expectations may only be based on correct interpretations of the law.

CONCLUSION AND ORDER

The Petitioner is not entitled to purchase her out-of-state service because she is entitled to receive a retirement allowance from the State of Rhode Island. The decision of the MTRS denying the Petitioner's application is therefore *affirmed*.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Eric Tennen

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Eric Tennen
Administrative Magistrate