

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Thy Oeur,
Petitioner

v.

Docket No.: CR-24-0112
Date Issued: Aug. 8, 2025

**Massachusetts Teachers’
Retirement System,**
Respondent

Appearance for Petitioner:

Maureen Mulryan

Appearance for Respondent:

Salvatore Coco, Esq.

Administrative Magistrate:

Melinda E. Troy

SUMMARY OF DECISION

The petitioner worked for a state college before eventually becoming a teacher in Lowell. The evidence does not establish his eligibility to purchase retirement credit for his part-time work as a student. However, G.L. c. 32, § 3(5), presents no barrier to his purchasing the weeks that he worked full-time.

DECISION

Petitioner Thy Oeur is a graduate of UMASS Amherst. He appeals from a decision of the Massachusetts Teachers’ Retirement System (“MTRS”) denying his application to purchase retirement credit for pre-membership work at the university. I held an evidentiary hearing on February 3, 2025. The witnesses were the Petitioner, as well as Seng Ty and Hi Cheng, his

friends and UMASS Amherst colleagues. I admitted 17 exhibits into evidence. (Exs. P1-P16; R1.) The parties filed closing briefs on March 3, 2025.

FINDINGS OF FACT

Based on the testimony and documents in the record, I find the following facts:

1. Thy Oeur is a member of MTRS. He is presently employed as a mathematics teacher in the Lowell Public Schools. (Ex. P4.)
2. Mr. Oeur studied at the university for a bachelor's degree from 1986 to 1991. He then studied there for a master's degree from 1992 to 1994. (Testimony Oeur.)
3. The university made various one-year-long employment positions available to its graduate students. Students in those positions were known as "graduate assistants." They obtained their positions through an application process. They worked 10-20 hours per week. (Testimony Oeur; Exs. P5, P14.)
4. While he was an undergrad, Mr. Oeur worked in the housing department, as a research assistant, and as a tutor. (Ex. P4; Testimony Oeur.)
5. In graduate school, Mr. Oeur worked for the United Asian Resource Center as an assistant academic counselor 9 hours per week. (Ex. P16; Testimony Oeur.)
6. As an undergrad and graduate student, Mr. Oeur was compensated with money, not tuition waivers. Mr. Oeur was issued W-2 tax forms. Mr. Oeur did not make contributions to any chapter 32 retirement system. (Testimony Oeur; Exs. P5, P14.)
7. Mr. Oeur also worked some summers and winter breaks as an undergraduate and graduate student. Mr. Oeur admits that the majority of the time he worked part-time. However, during several months he worked enough hours to be characterized as full-time: August 1987 (157 hours); July 1990 (151.5 hours); August 1990 (156.5 hours); June 1991 (150 hours); July

1991 (150 hours); July 1993 (168.75 hours); and August 1993 (150 hours). (Ex. P5; Testimony Oeur.)

8. On November 28, 2023, Mr. Oeur applied to purchase service credit for the jobs he had while he was a student at UMASS Amherst from 1986 through 1994. His application stated that he was a lab teaching assistant and a housing assistant. (Ex. P4.)

9. UMASS Amherst completed Part 2 of the application. It attached a table that reported the pay period worked, hourly rate, amount earned, and job title/position Mr. Oeur from October 1986 through September 1993. The table listed job titles of “student employee,” “student summer contract,” and “graduate assistantship.” UMASS Amherst indicated that it did not know if Mr. Oeur received tuition reimbursement credits for the work he performed. (Ex. P4.)

10. On February 12, 2024, a retirement specialist at UMASS Amherst confirmed that the service in question was “student employment” and “was a temporary student position.” It could not be determined whether any of the compensation received was tuition reimbursement, credits for an advanced degree, or part of a financial aid or work study program because those records were not available. There was similarly no record of whether Mr. Oeur was offered employment benefits while he worked there. (Ex. P10.)

11. On February 26, 2024, MTRS denied Mr. Oeur’s application because during the time period at issue, he did not meet the definition of “employee” under G.L. c. 32, § 1. Mr. Oeur timely appealed on March 4, 2023. (Exs. P2, P3.)

CONCLUSION AND ORDER

The retirement benefits of a Massachusetts public employee depend in part on the length of the employee’s “creditable service.” *See* G.L. c. 32, § 5(2). An employee is ordinarily

credited with the periods during which he worked for Massachusetts governmental units while maintaining membership in Massachusetts retirement systems. *See id.* § 4(1)(a).

Assorted provisions of the retirement law allow employees in certain circumstances to “purchase” credit for work that otherwise would not count. Both parties focus their arguments primarily on the same portion of G.L. c. 32, § 3(5), which allows purchases by “any member . . . who rendered service in any governmental unit other than that by which [the member] is presently employed, in a temporary, provisional, or substitute position” MTRS reads that statute as authorizing purchases only in cases of prior service “as an employee.” Drawing on the statutory definitions appearing in G.L. c. 32, § 1, MTRS theorizes that only a “permanent” worker qualifies as an “employee.” *See generally Atherton v. Beverly Ret. Bd.*, No. CR-05-334, at *3 (Contributory Ret. App. Bd. Aug. 7, 2007).

As a DALA magistrate explained in a similar case,

This theory is inaccurate. To start with, the Supreme Judicial Court has rejected the argument that an individual working on one-year-long appointments is not an “employee.” *Young v. Contributory Ret. Appeal Bd.*, 486 Mass. 1, 6 (2020). The Court in *Young* explained that “an employee can be ‘any person whether employed or appointed for a stated term or otherwise.’” *Id.* (quoting G.L. c. 32, § 1).

It is also important to differentiate among § 3(5)’s various clauses. The cases cited by MTRS focus on the clause relating to “any member . . . who rendered service in any governmental unit other than that by which he is presently employed, in a temporary, provisional, or substitute position.” That passage does not use the word “employee.” It also says as clearly as can be that it covers “temporary” work. The usual statutory definitions are inapplicable where “a different meaning is plainly required by the context.” G.L. c. 32, § 1. *See also Weston v. Contributory Ret. Appeal Bd.*, 76 Mass. App. Ct. 475, 478-80 (2010).

Poulin v. Massachusetts Teachers’ Ret. Sys., CR-24-0469, at *3 (Div. Admin. L. App. Mar. 15, 2025). In part, the theory relies on inapt precedents about students at *private* colleges, where the obvious problem is that the employer was not a “governmental unit.” *See, e.g., Ruocco v.*

Massachusetts Teachers' Ret. Sys., CR-05-298, 2008 WL 7557368 (Div. Admin. L. App. June 27, 2008).

A different problem does defeat Mr. Oeur's eligibility to purchase the majority of his service under § 3(5), which is that the statute "makes no reference to 'part-time' service." *Santos v. Massachusetts Teachers' Ret. Sys.*, CR-04-70, at *2 (Contributory Ret. App. Bd. Mar. 6, 2006). See *Tremblay v. Leominster Ret. Bd.*, No. CR-07-685 (Contributory Ret. App. Bd. May 19, 2011).¹ During the school years, Mr. Oeur worked a maximum of 20 hours per week and, more often, around 10 hours per week, which is generally categorized as part-time. Mr. Oeur argues in his post-hearing brief that all of his work during the school years amounted to full-time employment. Neither he nor MTRS has identified a governing definition of the terms "part-time" and "full-time" in this context. Regardless, Mr. Oeur's argument is irreconcilable with *Santos's* treatment of the member there, who also worked a position of twenty hours per week (or more). See also 807 CMR 3.03(2); *Wilson v. Massachusetts Teachers' Ret. Syst.*, CR-95-965 (Contributory Ret. App. Bd. Apr. 23, 1997); *Mello v. Massachusetts Teachers' Ret. Sys.*, CR-19-3, 2023 WL 4548406, at *2 (Div. Admin. L. App. July 7, 2023).

During several summer months, however, Mr. Oeur worked can only be characterized as full-time hours. There is no barrier to Mr. Oeur's purchasing this full-time temporary service. Specifically, Mr. Oeur worked full-time during the following months: August 1987 (157 hours); July 1990 (151.5 hours); August 1990 (156.5 hours); June 1991 (150 hours); July 1991 (150 hours); July 1993 (168.75 hours); and August 1993 (150 hours).

¹ G.L. c. 32, § 4(2)(c), does cover "part-time" service, but the Petitioner does not claim to be entitled to a purchase under that section. See *Santos, supra*; *Jette v. Norfolk Cty. Ret. Bd.*, CR-14-720, 2017 WL 11905817, at *3 n.30 (Contributory Ret. App. Bd. Oct. 23, 2017).

Finally, I add a clarifying note. Mr. Oeur has argued at length that he should be allowed to purchase the service in question because two of his friends who worked in similar jobs were allowed by MTRS to purchase their service. Even if this true, then that fact has no bearing on whether Mr. Oeur is entitled to purchase his service, and I have not considered the outcomes of his friends' applications in this decision.

In view of the foregoing, MTRS's decision is affirmed in part and reversed in part. Mr. Oeur is entitled to purchase the weeks that he worked full-time at UMASS Amherst.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Melinda E. Troy
Administrative Magistrate

Dated: Aug. 8, 2025