

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Debra Roberts,**  
Petitioner,

No. CR-23-0289

Dated: February 21, 2025

v.

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

**Appearances:**

For Petitioner: Jesse R. Gibbings, Esq.

For Respondent: Ashley Freeman, Esq.

**Administrative Magistrate:**

Yakov Malkiel

**SUMMARY OF DECISION**

The petitioner worked for a state college before eventually becoming a school psychologist. The evidence does not establish her eligibility to purchase retirement credit for her pre-membership work under any of the potentially pertinent statutes.

**DECISION**

Petitioner Debra Roberts is a graduate of Fitchburg College, now known as Fitchburg State University (university). She appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) denying her application to purchase retirement credit for pre-membership work with the university. I held an evidentiary hearing on January 16, 2025. The witnesses were Ms. Roberts and university employee Ms. Stephanie LeBlanc. I admitted into evidence the petitioner's exhibits 1-5, 7-13 and the respondent's exhibits 1-7.

**Findings of Fact**

I find the following facts.

1. Ms. Roberts studied at the university for a bachelor's degree from 1986 to 1990. She studied there for a master's degree in counseling psychology from 1990 to 1994.

(Tr. 17-18, 22-23; Pet'r Ex. 2; Resp. Ex. 2.)

2. 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 twenty hours per week. Their compensation consisted of money, not tuition waivers. They were issued W-2 tax forms. They also received academic credit for each semester of work. (Tr. 21-28, 36-40, 44-58; Resp. Exs. 5, 6; Pet'r Ex. 6.)

3. Ms. Roberts worked in graduate assistant positions during her first two years as a master's student. In 1990-1991, her specific job title was "coordinator of study skills." In 1991-1992, her title was "coordinator of learning disabilities." (Tr. 20-22; Resp. Exs. 2, 4-7; Pet'r Exs. 7, 8.)

4. In 1993, the university appointed Ms. Roberts to a full-time, permanent position. She established membership in the state retirement system. In 2002, she took a job as a school psychologist and became a member of MTRS. (Tr. 29-32; Pet'r Ex. 10.)

5. In 2023, Ms. Roberts filed an application to purchase retirement credit for her work as a graduate assistant. MTRS denied the application, stating that Ms. Roberts "[did] not meet the definition of 'employee.'" She timely appealed. (Tr. 19-20; Resp. Exs. 1, 3, 4.)

### **Analysis**

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 she 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’s theory is that any students who were employed by their universities cannot be said to have “rendered service.” 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. Syst.*, No. CR-05-298, 2008 WL 7557368 (Div. Admin. Law App. June 27, 2008). Other than that, MTRS points to the definition of “service” in G.L. c. 32, § 1, which indirectly incorporates the concept of being “regularly employed,” which in turn denotes a measure of “permanence.” *See Atherton v. Beverly Ret. Bd.*, No. CR-05-334, at \*3 (Contributory Ret. App. Bd. Aug. 7, 2007). It is not necessary to determine whether a one-year position like Ms. Roberts’s would be considered “regular” in other contexts; for § 3(5)’s specific purposes, “service” explicitly includes “temporary” employment. Section 1’s definitions thus do not apply here, because—in that section’s words—“a different meaning is plainly required by the context.” *See also Weston v. Contributory Ret. Appeal Bd.*, 76 Mass. App. Ct. 475, 478-80 (2010); *Young v. Contributory Ret. Appeal Bd.*, 486 Mass. 1, 6 (2020).

A different problem does defeat Ms. Roberts’s eligibility to make a purchase under § 3(5), which is that the statute “makes no reference to ‘part-time’ service.” *Santos v. Massachusetts Teachers’ Retirement System*, No. 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).<sup>1</sup> Ms. Roberts argues in her post-hearing brief that her twenty-hour workweeks amounted to full-time employment. Neither she nor MTRS has identified a governing definition of the terms “part-time” and “full-time” in this context. Regardless, Ms. Roberts’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 C.M.R. § 3.03(2); *Wilson v. Massachusetts Teachers’ Ret. Syst.*, No. CR-95-965 (Contributory Ret. App. Bd. Apr. 23, 1997); *Mello v. Massachusetts Teachers’ Ret. Syst.*, No. CR-19-3, 2023 WL 4548406, at \*2 (Div. Admin. Law App. July 7, 2023).

Ms. Roberts adds another argument in her post-hearing brief: that, although she did not so realize at the time, she was actually eligible for MTRS membership during her years as a graduate assistant. If true, this premise would potentially entitle Ms. Roberts to purchase credit for the pertinent years under the “late entry” provision of G.L. c. 32, § 3(3). *See Mello*, 2023 WL 4548406, at \*2. But Ms. Roberts has not established that, as a graduate assistant, she complied with the various statutory and regulatory conditions for MTRS membership, such as employment by a school committee and possession of a teaching license. *See* G.L. c. 32, § 1; 807 C.M.R. § 4.02.

### **Conclusion and Order**

In view of the foregoing, MTRS’s decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

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<sup>1</sup> G.L. c. 32, § 4(2)(c), does cover “part-time” service, but Ms. Roberts 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).