

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Kristine Scheufele,
Petitioner,

Docket No.: CR-25-0418

v.

Waltham Retirement Board,
Respondent.

Date:

Appearances:

For Petitioner: Patrick Bryant, Esq.

For Respondent: Michael Sacco, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The petitioner worked in a permanent, part-time position as a principal office assistant with a regular schedule of 19 hours per work week. She also staffed bi-weekly meetings, being paid an additional stipend for each meeting she attended. On the weeks in which she staffed the meetings, she worked more than 20 hours; but on the weeks she did not staff the meetings, she only worked 19 hours. Accordingly, while employed as the office assistant, she worked on average for more than 20 hours a week. Because the Board's regulation establishing membership requires someone to work 20 hours or more every week, and not merely on average, the petitioner's membership did not begin when she worked in this position.

INTRODUCTION

The Petitioner, Kristine Scheufele, timely appealed a decision by the Waltham Retirement Board (WRB or Board) denying her request to move back her retirement enrollment eligibility date to include her time working for the City of Waltham Conservation Committee (Committee). I held an in-person hearing on June 15, 2026. The WRB presented two witnesses:

Andrew Malis, Executive Director of the WRB, and Paul Centofanti, Waltham's City Auditor and an *ex officio* WRB board member. The Petitioner testified on her own behalf. I admitted into evidence exhibits 1-11. The parties submitted closing briefs on August 3, 2026, at which point I closed the administrative record.

FINDINGS OF FACT

1. Ms. Scheufele has been a secretary in the guidance department at Waltham high school since December 3, 2012, when she became permanently employed as a Title I Clerk for the Waltham public schools. Throughout this period, she has been a member of the Waltham retirement system. (Scheufele; ex. 2.)
2. Previously, from March 23, 2011, to December 5, 2012, Ms. Scheufele worked as a principal office assistant for the Committee, which oversees land preservation and wetland management in Waltham. (Scheufele; ex. 1.)
3. Ms. Scheufele was hired to work for the Committee as a 19-hour-per-week, part-time employee with an hourly salary and no benefits included. (Scheufele; ex. 10.)
4. Ms. Scheufele typically worked Tuesday through Thursday with hours varying to accommodate her 19-hour work week. (Scheufele.)
5. In addition to her regular duties as the office assistant, Ms. Scheufele was required to attend Committee meetings held in Waltham's government center building. (Scheufele; exs. 9–10.)
6. Instead of her hourly rate, Ms. Scheufele received a \$125.00 stipend per meeting, regardless of how long the meeting ran. (Centofanti; ex. 11.)

7. At the meetings, Ms. Scheufele recorded the minutes, prepared and distributed documents for committee members, and built a payroll so committee members could be paid. (Scheufele; exs. 1, 9-10.)
8. These meetings were held once every two weeks, apart from the summer months, when they were only held once a month. Consequently, in a calendar year, Ms. Scheufele worked more than 19 hours a week less than half the weeks in the year—the weeks during which she attended the meetings. For the rest of her work weeks, when the Committee did not meet, she worked only 19 hours a week. (Scheufele.)
9. The meetings were two and a half hours long on average, not including any related work Ms. Scheufele may have performed before or afterwards. The parties agree that, including meeting times, Ms. Scheufele averaged more than 20 hours of work per week during her time in this position. (Scheufele; Malis; ex. 1.)¹
10. As noted, Ms. Scheufele received a stipend for her work at the meetings. The WRB presently has limited information regarding stipend pay from back then. A stipend payment being coded differently from payroll may indicate a separate set of duties beyond normal duties for the position. Otherwise, employers generally provide no descriptive information on stipend payments to the WRB. (Malis.)

¹ The parties each submitted charts detailing Ms. Scheufele’s meeting hours. (Exs. 8 & 11.) The parties do not dispute the meeting hours themselves, only the inclusion of additional “Meeting Prep and Wrap Time,” an estimate made by Ms. Scheufele of the time spent preparing for each meeting. The parties stipulated that even without this time, Ms. Scheufele worked on average more than 20 hours per week during her employment. Similarly, even with the prep time included, Ms. Scheufele still did not work more than 20 hours every single week, as the meetings occurred bi-weekly. Therefore, how much time Ms. Scheufele spent preparing for, and wrapping up, the meetings is irrelevant to the disputed issue in this case.

11. A WRB supplemental regulation effective since August 22, 2003 (the Membership Regulation), requires that employees be “permanently employed twenty (20) hours or more” for the City of Waltham, the Waltham school department, or the Waltham housing authority to be eligible for membership in the retirement system. (Ex. 6).
12. The Membership Regulation does not define “permanently employed twenty (20) hours or more” and no formal written interpretation exists in the record. However, WRB officials have understood it in practice to mean regular employment of 20 hours or more each week, and not an average of 20 or more hours per week throughout the year. (Malis; Centofanti.)
13. That is why, when the city did not intend to hire someone who would be eligible for membership, it would intentionally hire part-time employees to work 19 hours (or less) a week. (Centofanti.)
14. At some point after Ms. Scheufele left, the Committee changed the work requirement for the office assistant role to include the bi-weekly Committee meetings within the 19-hour work week, rather than in addition to it. (Ex. 7.)
15. On May 30, 2020, Ms. Scheufele began a payroll installment plan to purchase the eleven months she worked for the Committee. The calculation of this service purchase did not include the stipend amounts. (Malis; ex. 3.)
16. On April 17, 2025, Ms. Scheufele requested that the WRB reconsider her retirement enrollment eligibility date as March 23, 2011, arguing that with her additional hours from the Committee meetings, she was permanently employed for 20 or more hours per week *on average* during her time at the Committee. (Ex. 4.)

17. On June 17, 2025, the WRB denied Ms. Scheufele's request. It explained that since her job required her to only work 19 hours a week, she did not meet the regulation's requirement of working 20 or more hours per week to be eligible for membership. (Ex. 5.)

DISCUSSION

Retirement boards possess "full jurisdiction to determine when non-full-time employees become eligible for membership[.]" *Retirement Bd. of Stoneham v. Contributory Ret. App. Bd.*, 476 Mass. 130, 137 (2016), *citing* G.L. c. 32, § 3(2). Here, the WRB exercised its jurisdiction by enacting the Membership Regulation which, as already noted, limits membership to employees "permanently employed twenty (20) hours or more."

The material facts are not in dispute. Ms. Scheufele worked a permanent, part-time job as an office assistant for 19 hours per week. On the weeks she staffed the meetings, Ms. Scheufele worked more than 20 hours, but on the weeks she did not, she only worked 19 hours. Accordingly, while working as the office assistant, Ms. Scheufele worked, on average, more than 20 hours a week but did not work at least 20 hours each week.

As an initial matter, the regulation explicitly fails to say whether it refers to 20 hours or more *per week*, or something else. That said, the only logical interpretation is that it does indeed refer to weekly hours. Nobody works 20 hours a day, and I cannot think of any context (or any other rule or regulation) that extends membership to someone who only works 20 hours a month or year. The parties agree on this. However, that does not answer the question at the heart of this appeal: does the regulation refer to working 20 hours or more *each week* or *on average* over the course of the person's employment?

“A properly promulgated regulation is to be construed in the same manner as a statute.”

Harvard Crimson, Inc. v. President & Fellows of Harvard College, 445 Mass. 745, 749 (2006).

Thus, like a statute, a regulation must be “considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated.’ . . . Courts must ascertain the intent of a [regulation] from all its parts and from the subject matter to which it relates, and must interpret the [regulation] so as to render the [regulation] effective, consonant with sound reason and common sense.” *Id.*, quoting *Hanlon v. Rollins*, 286 Mass. 444, 447 (1934). “The construction of a [regulation] which leads to a determination that a [regulation] is ineffective will not be adopted if the [regulatory] language ‘is fairly susceptible to a construction that would lead to a logical and sensible result.’” *Adamowicz v. Ipswich*, 395 Mass. 757, 760 (1985), quoting *Lexington v. Bedford*, 378 Mass. 562, 570 (1979), in turn quoting *Bell v. Treasurer of Cambridge*, 310 Mass. 484, 489 (1941).

The Board argues that the regulation is clear and unambiguous: it means per week, full stop. There is force to this argument. The Board points to the word “permanently” which modifies the word “employed.” That means it was only intended to apply to positions that are permanent. The Board argues that Ms. Scheufele’s only permanent employment was as a 19-hour-per-week office assistant. That said, because her work for the Committee was consistent and expected, that duty might also be considered “permanent employment” or a permanent duty of her office assistant job.

However, there is more to the regulation: the phrase “or more” which modifies the number of hours (20). If the regulation referred to average weekly hours worked, different

words would be necessary, e.g., 20 hours “on average”; 20 hours “or so”; “about” 20 hours; “around” 20 hours; etc. Otherwise, most people would not understand that phrase to mean what the Petitioner argues it means. If I said I go to the gym “3 days or more” a week, that conveys something different than if I said I go to the gym “on average 3 days a week.” If a game of Go Fish requires “2 or more” players, no one would understand that to mean it could be played with an average of 2 players per game. The phrase “or more” means that the amount it modifies—20 hours—is the minimum amount necessary; and if the regulation speaks about weekly hours, then read together, the clauses mean an employee must work a minimum of 20 hours a week to be a member.

This interpretation produces a logical and sensible result, in contrast to the Petitioner’s contrary argument. If the regulation referred to average hours a week, how would it be implemented? Say someone works 19 hours a week for 20 weeks. On the 21st week they have a big project and work 40 hours. They have now worked, on average, 20 hours a week.² Then, on the 22nd week, they worked only 19 hours again. Now they have worked, on average, less than 20 hours a week. Under the Petitioner’s theory, before week 21, they did not qualify for membership; after week 21 they did; then after week 22 they again did not. Someone whose work weeks fluctuate more than that might continually qualify and not qualify for membership as the number of hours they work a week changes.

Because of this fluctuation, a board would not know if someone was eligible for membership until after they stopped working—since averages can change over time. But the

² 19 hours x 20 weeks = 380 hours; 380 hours + 40 hours = 420 hours; 420 hours ÷ 21 weeks = 20 hours.

regulation is intended to determine who is a member at the beginning of their employment, not at the end. Doing so at the end would be unworkable. For example, how could a board take “regular deductions” from a member’s regular compensation after the fact? How could a board plan its fiscal management strategy with an uncertain and fluctuating number of members? Or in the above hypothetical, suppose someone is injured while performing a job duty in week 21. Are they entitled to accidental disability retirement? What if instead they injured themselves on week 19 or 22? It seems unlikely a system would enact a regulation that was this difficult and arbitrary to follow.

The Petitioner relies on two cases in arguing that regulations like this typically refer to average hours worked. First, she points to *Mello v. Mass. Teachers’ Ret. Sys.*, CR-19-0003, 2023 WL 4548406 (Div. Admin. Law App. July 7, 2023). But *Mello* was not about the same issue. *Mello* was about whether the Petitioner was required to work no less than “half-time” when his contract only required him to work a maximum of 24 hours a week. MTRS argued that this contractual language was not enough to comply with its regulation requiring members to have a “contractual agreement [that] requires not less than half-time service.” *Id.* at *2-3. DALA held that other language in the contract assured he would work the minimum required amount. *Id.* at *3. And he did; under any calculation, the member worked more than enough hours per week over the minimum necessary for “half-time.” To be sure, there was some discussion of average hours worked, but there was no indication that the member worked less than the minimum needed to qualify as “half-time” in any given week. *Mello* thus does not address the regulation in this case and is not an apt precedent.

The Petitioner also points to *Squeglia v. Contributory Ret. Appeal Bd.*, 13 Mass. L. Rptr. 106, 2001 WL 499376 (Mass. Super. Ct. May 4, 2001). *Squeglia* is imperfect, at best, as an applicable precedent. This case was about whether a teacher who taught part-time out of state was eligible to purchase this prior service. The court noted that during the three years for which the Petitioner sought to purchase creditable service, she worked 73%, 68%, and 61% of a full-time teaching schedule. Thus, each year she worked at least half-time, and never worked less than half-time. To be sure, the Court concluded that “[t]here is no basis in the statute for excluding from the definition of ‘teacher’ an individual who may not have worked half-time every week, but whose work overall exceeds half-time employment.” *Id.* at *4. Given that she never worked less than half-time, this could be considered *dicta*. Moreover, the case was interpreting a different statute and regulation which referred to the different, arguably more ambiguous terms, of “full-time” and “half-time,” both of which are calculated on a yearly basis. Finally, it involved the purchase of prior service, not a request to move back retirement enrollment eligibility, each of which creates different challenges for retirement boards. In any event, Superior Court cases are not precedential, *Bellevue v. Massachusetts Teachers’ Ret. Sys.*, CR-11-467, 2014 WL 13121820, *2 n.13 (Contributory Ret. App. Bd. June 26, 2014), and to the extent *Squeglia* speaks to the issues in this case, I decline to follow it.

The discussion up until now applies if I find the regulation is unambiguous, which for the reasons stated above, I do. The Petitioner urges that the regulation is ambiguous, which would then require a different interpretative path. If a regulation is ambiguous, agencies are entitled to deference in interpreting its meaning. However, no deference is owed if the interpretation is arbitrary or unreasonable. *DeCosmo v. Blue Tarp Redevelopment, LLC*, 487 Mass. 690, 704

(2021). Moreover, “the degree of deference owed a local or municipal board’s interpretation of its own rules is not clear.” *Jette v. Norfolk Cnty. Ret. Bd.*, CR-14-720, 2017 WL 11905817, at *3 (Contributory Ret. App. Bd. Oct. 23, 2017). That said, resolution of these parameters is unnecessary. Regardless of the degree of deference owed to the Board’s interpretation, I would land in the same place—that the regulation was about total hours per week, not on average. I do not find that interpretation arbitrary or unreasonable.³

And if I was not bound by the Board’s position as to the interpretation of this “ambiguous” regulation, I must still fall back on general principles of statutory (or regulatory) interpretation. For example, I would rely on “extrinsic sources, including the [regulatory] history and other [regulations], for assistance in [my] interpretation.” *Chandler v. County Comm’rs of Nantucket County*, 437 Mass. 430, 435 (2002). There are few things that can be considered regulatory history here. I do have the testimony of Mr. Centofanti and Mr. Malis, which I credit, that the regulation was intended to draw a clear line between who qualifies for membership and who does not, and positions like these are evaluated based on the hours worked per week, not on average.⁴

³ There is some question about whether the testimony in this case is an “authoritative, official position” or if something more is required, such as an opinion letter. *See generally DeCosmo, supra* at 701. I raised the question at the hearing and asked the parties to address it. But given that I independently agree the Board’s interpretation is right, I need not resolve this issue.

⁴ It does not appear that either Mr. Centofanti nor Mr. Malis were members of the Board when it enacted this regulation. Their testimony was an explanation of their understanding of the purpose of the regulation and how it has been enforced in practice. That said, Ms. Scheufele has not offered any evidence to counter this understanding.

And I still must interpret the regulation to create a sensible and logical result. This is not a choice between two sensible interpretations. The Board's argument is sensible, but the Petitioner's interpretation is unworkable. Thus, even interpreting an ambiguous regulation without deferring to the Board's position leads to the same result.

CONCLUSION AND ORDER

For the reasons stated above, the WRB's decision is *affirmed*.

/s/ Eric Tennen

Eric Tennen, Magistrate
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