

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

David Schofield,
Petitioner,

Docket No.: CR-25-0496

Dated: August 28, 2026

v.

Essex Regional Retirement System,
Respondent.

Appearances:

For Petitioner: David Schofield (pro se)

For Respondent: Michael Sacco, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

For purposes of calculating the petitioner's retirement allowance, the respondent board treated each of his pertinent "annual rate[s] of regular compensation," G.L. c. 32, § 5(2)(a), as consisting of twenty-six biweekly paychecks. Alternative methods of calculation may have been permissible; but the board's approach was not erroneous.

DECISION

Petitioner David Schofield appeals from the calculation of his retirement allowance performed by the Essex Regional Retirement System (board). The appeal was submitted on the papers under 801 C.M.R. § 1.01(10)(c).¹ I admit into evidence the board's exhibits marked 1-13, plus a spreadsheet attached to Schofield's memorandum, now marked 14 in the case file.

Findings of Fact

The following facts are not in dispute.

¹ The board lodged an equivocal objection to the order submitting the appeal on the papers, stating, in part, that the objection would be moot in the event of an affirmance.

1. Schofield began working for the Georgetown Municipal Light Department in 2013. He worked four-day weeks and received a paycheck once every two weeks. Each paycheck was issued one week after the corresponding two-week pay period. (Exhibits 3, 10-12, 14.)

2. Schofield retired for superannuation effective May 29, 2025, a Thursday. That day was also his last day on the job. It landed halfway through the two-week pay period ending on June 6, 2025. The amount of Schofield's last paycheck, dated June 13, 2025, was therefore half of the usual sum. (Exhibits 4, 5, 10, 14.)

3. The board derived Schofield's retirement allowance from his last three years of pay, which were also his highest. The board's arithmetic effectively analyzed each year of pay as consisting of twenty-six paychecks. To account for Schofield's final, half-sized paycheck, the board treated the following spans as the three relevant years:

- * Last year: Schofield's final (half-sized) check, plus the 25 preceding checks, plus half of the check before that, dated June 14, 2024 (for a total of \$189,780).
- * Next-to-last year: the other half of the check dated June 14, 2024, plus the 25 preceding checks, plus half of the check before that, dated June 16, 2023 (for a total of \$183,770).
- * Third-to-last year: the other half of the check dated June 16, 2023, plus the 25 preceding paychecks, plus half of the check before that, dated June 17, 2022 (for a total of \$177,508).

The board conferred about the case with a representative of the Public Employee Retirement Administration Commission (PERAC), who approved of the board's analysis. (Exhibits 10, 11.)

4. In August 2025, the board memorialized its conclusions in a decision letter. Seeking benefits derived from an alternative calculation method, Schofield timely appealed. (Exhibit 12.)

Analysis

The retirement benefits of a Massachusetts public employee are based on the employee's "average annual rate of regular compensation" during a three-year or five-year span. G.L. c. 32, § 5(2)(a).² The question presented is whether the board erred in its analysis of Schofield's three "annual rate[s]."

In many areas of the retirement law, the governing statutory and regulatory provisions leave the boards no leeway: their disbursements, collections, and calculations are prescribed for them with precision. The calculation of a retiring member's "annual rate[s]" is of a different stripe. The law does not tell the boards whether to build each year's worth of calculated pay around the year's 365 days, 52 weeks, or 12 months; it does not say whether the calculations should focus on pay periods or on actual days worked. *See Navoy v. Massachusetts Water Res. Auth. Emps.' Ret. Bd.*, No. CR-17-108, at *8-9 (Div. Admin. Law App. June 26, 2019); *Zhang v. Middlesex Cty. Ret. Bd.*, No. CR-21-357, 2023 WL 8526443, at *2 (Div. Admin. Law App. Dec. 1, 2023). The boards instead are responsible for choosing the calculation method(s) they view as most appropriate. *See generally Feffer v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-159, 2023 WL 8526445, at *4 (Div. Admin. Law App. Dec. 1, 2023). Flexibility in this context

² The parties agree that Schofield is entitled to a calculation based on a three-year period. Record correspondence between the board and PERAC suggests that this shared view may be rooted in public service performed by Schofield before his stint with Georgetown. (Exhibit 11.)

has its advantages, given “the complex arrangements of retirement date, payment dates, and pay periods that present in the real world,” with their tendency “to render any [annual-rate] calculation an approximation.” *Navoy, supra*, at *8-9.

As discussed earlier, the board’s analysis of Schofield’s third-to-last year of pay reached as far back as half of the paycheck dated June 17, 2022. Schofield’s claim is that the calculations should have included that check in full. He explains that the pay period covered by the June 17, 2022 check began on May 29, 2022—three calendar years before Schofield’s May 29, 2025 retirement date. In his view, any pay for work performed within the member’s last three calendar years on the job should find its way into the § 5(2)(a) calculations.

Although Schofield’s theory is not without intuitive force, it does not entitle him to relief. Perhaps Schofield’s proposed method of calculation would have been a good one. But the question in this context is whether the board’s approach was legally permissible. *See Navoy, supra*, at *8-9; *Zhang*, 2023 WL 8526443, at *2. *See also Reid R. v. Pittsfield Ret. Bd.*, No. CR-21-302, 2023 WL 5170543, at *4 (Div. Admin. Law App. Aug. 4, 2023). The answer is yes. At least in the case of an employee paid once every two weeks, it is reasonable to view the employee’s annual pay as consisting of twenty-six paychecks.

Conclusion and Order

The board’s decision is AFFIRMED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals