

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Dennis Soares,
Petitioner

v.

Docket No.: CR-25-0365
Date Issued: Apr. 24, 2026

**Massachusetts Teachers'
Retirement System,**
Respondent

Appearance for Petitioner:

Dennis Soares, pro se

Appearance for Respondent:

Salvatore Coco, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF DECISION

A teacher is not entitled to purchase Rhode Island teaching service credit for a period during which he participated in a retirement program that included mandatory, non-waivable employer contributions, and in which he had vested. G.L. c. 32, § 3(4). Such participation means that he is entitled to a "retirement allowance," defined as participation in a defined benefit plan that was based at least in part on employer contributions, which is excluded from purchase. *See id.*; 807 CMR 19.04. He is also not entitled to purchase service credit for an additional year during which he taught less than half time. G.L. c. 32, § 1.

DECISION

Petitioner Dennis Soares timely appeals, under G.L. c. 32, § 16(4), Respondent Massachusetts Teachers' Retirement System's (MTRS) decision that he was not entitled

to purchase creditable service for some of his out-of-state teaching service in Rhode Island. On June 18, 2025, the Division of Administrative Law Appeals ordered the parties to submit documents and written argument on the record. See 801 CMR 1.01(10)(c). Neither party objected. On August 11, 2025, MTRS submitted its memorandum, with 5 proposed exhibits. On September 11, 2025, Mr. Soares submitted his argument with 4 proposed exhibits. I hereby enter the 9 proposed exhibits into evidence. (Exs. 1-9.)

FINDINGS OF FACT

Based on the documents in evidence, I make the following findings of fact:

1. Dennis Soares is presently employed with the Fall River Public School District. He is a member of MTRS. (Ex. 2.)
2. By application received by MTRS on October 21, 2024, Mr. Soares applied to purchase out-of-state public school teaching service under G.L. c. 32, § 3(4). He listed September 2005 through June 2022 as the dates that he worked. (Ex. 2.)
3. The application was based on Mr. Soares's teaching in Rhode Island. From September 2005 through June 2022, Mr. Soares worked full-time in two public school districts: Tiverton and Middletown. He held various positions: teacher, department chair/teacher, Dean of Students, and Assistant Principal. (Ex. 2.)
4. Mr. Soares also worked in Tiverton during the 2004-2005 school year. He was assigned a 2/5 of full-time teaching position at Tiverton High School. (Ex. 4.)
5. Even though, in the purchase application, Mr. Soares did not list himself as working as a teacher in the 2004-2005 school year, Tiverton nonetheless provided

data for that year. Under “employment status as a % of full-time,” Tiverton wrote “2/5.” It listed the annual salary rate as \$33,447. It listed “actual gross amount paid” as \$13,378.80, which is exactly 2/5 of \$33,447. (Ex. 4.)

6. Until June 30, 2012, Mr. Soares participated in the Employees’ Retirement System of Rhode Island. (Exs. 1, 3, 4.)

7. Effective July 1, 2012, the Rhode Island Retirement Security Act of 2011, 2011 R.I. Pub. Laws, Chapters 408, 409, added a compulsory defined contribution component to the Employees’ Retirement System of Rhode Island. The defined contribution piece, administered by TIAA, provides that the employer makes a mandatory and non-waivable contribution, along with the member’s contribution, to the member’s defined contribution account. Covered employees vest in the employer contribution portion of the defined contribution plan after three years. Mr. Soares is vested. (Exs. 4, 5.)

8. On May 22, 2025, MTRS determined that Mr. Soares could purchase his September 1, 2005, through June 30, 2012, service, totaling 6.6 years, and sent him an invoice to complete the purchase. (Ex. 2.) MTRS also informed him that he would have to withdraw all of his funds from the Employees’ Retirement System of Rhode Island, close that account, and provide to MTRS documentation that he had accomplished these tasks and that he was no longer eligible to receive the retirement benefit provided under that system. (Ex. 3.) Mr. Soares provided MTRS with the required documentation. (Ex. 6.)

9. MTRS determined that Mr. Soares could *not* purchase any of his post-June 30, 2012, service because he participated in a retirement plan that was based, in part, on employer contributions and the benefits of that plan were non-waivable once the member vested, which he had. *See* G.L. c. 32, § 3(4); 807 CMR 19.04(2). Mr. Soares timely appealed the denial. (Ex. 1.)

CONCLUSION AND ORDER

The superannuation retirement benefits of a Massachusetts public employee depend in part on the length of the employee’s “creditable service.” G.L. c. 32, § 5(2). An employee is ordinarily credited with the periods during which he worked for Massachusetts governmental units while belonging to Massachusetts retirement systems. *See id.* § 4(1)(a). Assorted provisions of the retirement law allow employees to “purchase” credit for additional periods of work.

G.L. c. 32, § 3(4) allows members in service who are teachers to purchase out-of-state teaching service under certain circumstances; however, “no payment shall be accepted for any service for which the member shall be entitled to receive a *retirement allowance* from any other state.” (Emphasis added.) MTRS regulation 807 CMR 19.04(2) defines “retirement allowance” as

any out-of-state governmental defined benefit plan, or defined contribution plan offered in lieu of a defined benefit 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*.

(Emphasis added.)

Mr. Soares does not dispute that he participated in the retirement plans described above. Nor does he question the calculation of the 6.6 years of service that MTRS determined he *could* purchase. During those pre-July 1, 2012, school years, Mr. Soares participated in a defined benefit plan that ordinarily would have disqualified him from purchasing those years. What made him eligible, however, is that he could and did withdraw all of his funds from that retirement plan and close his account, thereby making himself *ineligible* for a retirement allowance based on his work during those years. Thus, he was entitled to purchase those 6.6 years only because he was no longer eligible for a Rhode Island retirement benefit after he closed that account.

Now, Mr. Soares seeks to purchase 3.4 additional years of Rhode Island teaching service, as the maximum out-of-state teaching service he can purchase is 10 years. G.L. c. 32, § 3(4). From July 1, 2012, until he stopped teaching in Rhode Island in 2022, Mr. Soares was required to participate in the TIAA-administered Rhode Island defined contribution plan, which included compulsory and *non-waivable* employer contributions in which Mr. Soares has now vested. Without the ability to waive the TIAA retirement benefits, this means that the future distributions that he will receive from his Rhode Island TIAA account constitute a “retirement allowance” based on the same service years that he is seeking to purchase in Massachusetts. He is not entitled to “such a double retirement benefit” from the two retirement systems. *Sullivan v. Massachusetts Tchrs’ Ret. Sys.*, CR-07-639, at *3 (Contributory Ret. App. Bd. Nov. 16, 2012). Thus, he may not purchase any of his Rhode Island service after June 30, 2012.

Mr. Soares raises one additional issue. He contends that he is entitled to purchase his 2/5 of full-time teacher service in the 2004-2005 school year. MTRS did not explicitly approve or disapprove this service, likely because Mr. Soares initially listed September 2005 as the beginning of his service. However, his employer provided data for the 2004-2005 school year in the employer section of the application. I conclude therefore that his application covered the 2004-2005 school year.

I infer that MTRS did not approve this year because it failed to include it in the invoice for the approved years. MTRS likely did not approve it because, to be eligible for purchase, the service must have been as a “teacher.” 807 CMR 19.01. To be considered a teacher, Mr. Soares must have worked for “not less than half time.” G.L. c. 32, § 1. Because he worked less than half time during the 2004-2005 school year, he is not entitled to purchase service credit based upon that year.

Mr. Soares claims that he actually worked more than the 2/5 time listed in his application by filling in as a long-term substitute at the same school that same year. He submitted a September 8, 2025, letter from a Tiverton administrative assistant, which states that he served as a per diem substitute that year and that those duties combined with his 2/5 of full-time duties “effectively made his role a full-time position.” (Ex. 7.) The letter also indicates that he was rehired for the 2005-2006 school year at Step 2 on the salary scale, which Mr. Soares claims must mean that he worked full-time during 2004-2005.

Mr. Soares must prove his entitlement to the additional service by a preponderance of the evidence. *Byrne v. Massachusetts Tchrs’ Ret. Sys.*, CR-15-609 (Div.

Admin. L. App. Jan. 26, 2018). I do not credit the letter from the administrative assistant as reliable, as it is “self-serving and was not signed under oath or under the pains and penalties of perjury.” *Centola v. State Bd. of Ret.*, CR-19-507, at *8 (Contributory Ret. App. Bd. Apr. 15, 2026). More importantly, it is not corroborated by the payroll figures that Tiverton provided, which show that Mr. Soares was paid exactly 2/5 of the full-time teacher’s salary. If he had worked more than the 2/5 position, he undoubtedly would have been paid more than exactly 2/5 of the full-time teacher salary. I therefore conclude that a preponderance of the evidence supports only that he worked 2/5 of full-time in the 2004-2005 school year, and he is consequently not entitled to purchase any service credit for that year.

For the reasons stated above, MTRS’s decision is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: Apr. 24, 2026