

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

LeeAnne Toner,
Petitioner,

Docket No.: CR-25-0008

v.

Massachusetts Teachers'
Retirement System,
Respondent.

Appearances:

For Petitioner: LeeAnne Toner (pro se)

For Respondent: Lori Curtis Krusell, Esq.

Administrative Magistrate:

Karen T. Guthrie

SUMMARY OF DECISION

Petitioner is not entitled to purchase creditable service pursuant to G.L. c. 32, § 3(5) for work she performed as Head of Circulation at Nevins Memorial Library. During the relevant period, Petitioner was an employee of a private, non-profit corporation and not a governmental unit.

DECISION

Petitioner, LeeAnne Toner, timely appealed the decision of Respondent, Massachusetts Teachers' Retirement System ("MTRS"), dated December 17, 2024 that determined she was not eligible to purchase creditable service for her work as Head of Circulation at the Nevins Memorial Library from November 11, 1994 to December 10, 1996. The parties submitted prehearing memoranda.

I held a hearing via Webex on February 3, 2026 which was recorded. Petitioner was the only testifying witness. I admitted Petitioner's Exhibits 1-2 and Respondent's Exhibits 1-9 into evidence at the hearing. The parties submitted closing memoranda on March 3, 2026 at which time the record closed.

Findings of Fact

Based on the evidence presented by the parties, I make the following findings of fact:

1. Petitioner, LeeAnne Toner, is an active member of MTRS and currently works in the Winchester public schools. (Respondent's Ex. 3).
2. From November 1, 1994 to December 10, 1996, Ms. Toner worked as Head of Circulation (Circulation Department Head) at Nevins Memorial Library ("Nevins") in Methuen, MA. (Respondent's Ex. 3; testimony).
3. Nevins is registered as a "Nonprofit Corporation" with the Massachusetts Secretary of the Commonwealth's Corporations Division. (Respondent's Ex. 8).
4. The current website for Nevins states that it "is a private, non-profit organization that partners with the City of Methuen to maintain a modern, full-service library for residents and visitors." (Respondent's Ex. 5).
5. This representation accurately reflects the status and operation of Nevins during Ms. Toner's employment in 1994-1996. (Respondent's Ex. 4).
6. The website indicates that the library staff "is overseen by a seven-member Board of Trustees." (Respondent's Ex. 5).
7. The Board of Trustees is comprised of five members with lifetime or unlimited appointments, with two members elected by city voters. (Respondent's Ex. 8).
8. The Board of Trustees has been the employer of Nevins during the relevant time to the present. (Respondent's Ex. 4).
9. Nevins has been funded by tax dollars, private funding, and donations during the relevant time to the present. (Respondent's Exs. 4, 5).

10. Nevins was a member of the Merrimack Valley Consortium, a regional group of Massachusetts' libraries, during the relevant time. (Petitioner's Ex. 2).
11. The Library Director at Nevins, Krista McLeod, provided the information in the employer section of Ms. Toner's service purchase application. (Respondent's Ex. 3).
12. Ms. McLeod hired Ms. Toner and was her direct supervisor. Ms. McLeod oversaw and managed her work and time off, and evaluated her performance. (Respondent's Ex. 4).
13. Ms. McLeod established Ms. Toner's pay rate according to Nevins' pay schedules. (Respondent's Ex. 4).
14. Nevins administered Ms. Toner's payroll and issued her paychecks. (Testimony).
15. No one from the City of Methuen managed or supervised Ms. Toner. (Testimony).
16. The City of Methuen has not maintained any personnel or payroll records of Nevins. (Respondent's Ex. 4).
17. The State Board has no record of retirement contributions from Ms. Toner. (Respondent's Ex. 9).

Analysis

Pursuant to G.L. c. 32, a retirement system member retiring from public service is entitled to a superannuation retirement allowance that is based on age, years of creditable service, some average of regular compensation, and group classification. G.L. c. 32, § 5(2)(a). Creditable service is "all membership service, prior service and other service for which creditable service is allowable to any member under the provisions of sections one to twenty-eight inclusive." G.L. c. 32, § 1.

A member may purchase credit for service performed as "an employee of any governmental unit other than that by which [she] is presently employed." G.L. c. 32, § 3(5). An

“employee” is defined as a person who was paid “by any political subdivision of the commonwealth.” G.L. c. 32, §1.

Service rendered to a private corporation is ineligible for purchase under § 3(5), because a “private corporation is not a political subdivision of the Commonwealth.” *Bagley v. Massachusetts Teachers’ Ret. Syst.*, No. CR-16-166, at *6 (Div. Admin. Law App. March 8, 2019). A non-profit corporation is not an exception. “Employment with a non-profit organization is not considered employment with a governmental unit.” *Filkins v. State Bd. of Ret.*, No. CR-11-715 (Contrib. Ret. App. Bd. Jan 8, 2020). This is true even if the non-profit organization receives federal, state or local funding. *See McMorrow v. Massachusetts Teachers’ Ret. Syst.*, No. CR 22-0627 (Div. Admin. Law App. Jan. 24, 2025) (non-profit health center receiving state grants not a governmental unit); *Davis v. Teachers’ Ret. Syst.*, No. CR-02-46 (Div. Admin. Law App. May 24, 2002) (alcohol and substance abuse program incorporated as a non-profit corporation receiving funds from a municipality and a state, as well as a federal grant not a governmental unit).

Here, Ms. Toner argues that because Nevins received significant public funding, Nevins is a governmental unit and therefore her prior service is eligible for purchase. But the fact that Nevins was supported in part by tax dollars does not qualify it as a governmental unit.

McMorrow, supra.

She also argues that because Nevins was a member of the Merrimack Valley Consortium and open to the general public, providing the same services as other public libraries, as well as community resources, it qualifies as a governmental unit. However, work that *benefits* a governmental unit is not necessarily work *for* a governmental unit. *See Carter v. Massachusetts Teachers’ Ret. Syst.*, No. CR-07-155 (Div. Admin. Law App. Apr. 27, 2012) (petitioner who worked for private, non-profit organizations that operated independently of the Commonwealth and

municipalities in which they provided services was not working for governmental units); see *Fawcett v. Massachusetts Teachers' Ret. Syst.*, No. CR-07-225 (Div. Admin. Law App. Dec. 10, 2010) (where petitioner was hired and paid by non-profit organization receiving federal funds that maintained independence from the city, petitioner did not work for a governmental unit, and city was simply a beneficiary of the petitioner's work). Ms. Toner's work for Nevins certainly was valuable and provided important benefits to the community, but her employer was not a governmental unit.

Ms. Toner was hired, supervised, evaluated, and paid by Nevins, a non-profit corporation, and not the City of Methuen. "These are well-established signs that the corporation was independent and not a political subdivision of the Commonwealth." *Clough v. Massachusetts Teachers' Ret. Syst.*, No. CR-14-11, at *5-6 (Div. Admin. Law App. Feb. 28, 2018). Further, the Board of Trustees was the employer of Nevins, and the City of Methuen did not maintain any of the personnel or payroll records of Nevins. Additionally, the State Board has no record of retirement contributions from Ms. Toner, and there is no evidence from Ms. Toner of any such contributions.

She also contends that because other employees of Nevins have been allowed to purchase service, she should also be permitted. However, Ms. Toner is limited to what she is entitled to by law. See *Clothier v. Massachusetts Teachers' Ret. Syst.*, 78 Mass. App. Ct. 143, 146 (2010). Further, if "MTRS mistakenly determined that [other employees] were eligible, it cannot be allowed to compound its mistake by thereafter allowing ineligible employees to also purchase their service." *McMorrow, supra*.

Conclusion and Order

For the foregoing reasons, Ms. Toner is not entitled to purchase creditable service pursuant to G.L. c. 32, § 3(5) for work she performed as Head of Circulation at Nevins Memorial Library because she was not an employee of a governmental unit. The decision of MTRS is hereby AFFIRMED.

Dated: April 3, 2026

/s/ Karen T. Guthrie
Karen T. Guthrie
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer St., 4th Floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala