

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

Middlesex, ss.

Jane Toomey-Rittershaus,
Petitioner,

Docket No.: CR-26-0181

v.

State Board of Retirement,
Respondent.

ORDER OF DISMISSAL

Petitioner, Jane Toomey-Rittershaus, appeals the decision of Respondent, State Board of Retirement (“Board”), denying her request to purchase prior non-membership service between 2/10/1995 and 10/2/2014 when she was employed by the City of Lynn as a substitute teacher. The Board explained that it denied her application because the service was not for at least six consecutive months leading directly into membership service. The Board based its denial on 941 CMR 2.04 which states the following:

Prior Non-Membership Service. A buy-back of prior membership service of less than six consecutive months which was part-time, provisional, temporary, temporary provisional, seasonal or intermittent that occurred after January 28, 1993 and was not immediately followed by membership service, will not be allowed.

Records of the Board indicate that Ms. Toomey-Rittershaus became a member on 8/25/2016. According to records from the City of Lynn, she was employed as a substitute teacher for the following time periods:

2/10/1995-2/16/1995, 6/02/1995-6/08/1995, 1/07/1997-2/20/1997,
5/09/1997-5/15/1997, 9/19/1997-11/27/1997, 4/12/2002-4/18/2002,

1/11/2008-5/08/2008, 10/10/2008-12/28/2008, 1/08/2010-2/18/2010, 4/02/2010-6/17/2010, 12/10/2010-12/16/2010, 3/04/2011-3/10/2011, 5/06/2011-6/30/2011, 9/23/2011-10/06/2011, 01/24/2014-03/13/2014, and 9/26/2014-10/02/2014.

Because the above service was not for at least six consecutive months and was not immediately followed by membership service, the Board declined the application.

On April 29, 2026 I issued an Order to Show Cause for Ms. Toomey-Rittershaus to provide sufficient evidence that she may purchase her prior service pursuant to 941 CMR 2.04. Ms. Toomey-Rittershaus responded that her prior non-membership service, specifically that from 2008, should not be disqualified as “service less than six consecutive months under 941 CMR 2.04.” However, this service, from 1/11/2008-5/08/2008 and 10/10/2008-12/28/2008 does *not* constitute six consecutive months. Furthermore, because Ms. Toomey-Rittershaus did not become a member until 8/25/2016, her 2008 service was not “immediately followed by membership service” as required by 941 CMR 2.04. The other periods of her prior service similarly do not satisfy these two requirements; therefore, her request must be denied. See *Kodzis v. State Board of Retirement*, CR-04-953 (Jul. 27, 2007).

In view of the foregoing, Ms. Toomey-Rittershaus has failed to state a claim upon which relief can be granted. Pursuant to 801 CMR 1.01(7)(g)(3), this appeal is DISMISSED.

Dated: May 29, 2026

/s/ Karen T. Guthrie
Karen T. Guthrie
Administrative Magistrate
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