

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals
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Mary Ellen Wolfe
Petitioner,

v.

Docket No: CR-22-0026

Massachusetts Teachers' Retirement System, Date: March 14, 2025
Respondent.

FINAL ORDER – DISMISSAL

The Respondent, the Teachers Retirement System (“MTRS”), denied the request by the Petitioner, Mary Ellen Wolfe, to purchase creditable service for her employment at Quinsigamond Community College (QCC). The MTRS denied the request because her service was not performed as an “employee,” as that term is defined by M.G.L. c. 32, § 1, noting that she was paid from an “03” subsidiary account.

In response to an order to show cause, Ms. Wolfe furnished evidence that she was not paid from an “03” subsidiary account. This evidence was forwarded to MTRS to determine whether this information changed its position. In response, the MTRS submitted a status report, stating that it could not change its position because Ms. Wolfe’s service at QCC was not performed as an “employee” within the meaning of the statute.

G.L. c. 32, § 3(5) allows any member of any system who rendered service in a temporary, provisional or substitute position in any governmental unit other than that by which she is currently employed, who was excluded from membership in the retirement system, to purchase credit for that service from her current retirement system. G.L. c. 32,

§ 1 defines “service” as "service as an employee in any governmental unit for which regular compensation is paid." The same section defines “regular compensation” for the relevant period as "salary, wages or other compensation in whatever form, lawfully determined for the individual service of the employee by the employing unit." An employee is defined as one “who is regularly and permanently employed in such service.”

Prior decisions from this Division have held that individuals hired to teach classes on a semester-by-semester basis (receiving letters of appointment and signing contracts for each semester), without a guarantee of work in any semester, and receiving a stipend based on number of classes taught are not “regularly and permanently employed.” *Walsh v. Mass. Teachers’ Ret. Sys.*, CR-15-478 (Div. Admin Law App. April 19, 2019); *Dobbyn v. Mass. Teachers’ Ret. Sys.*, CR-10-250 (Div. Admin. Law App. Feb. 10, 2012).

As MTRS observes in its status report, it appears from Ms. Wolfe’s supporting documentation that she was not “regularly and permanently employed” by QCC. If she was not “regularly and permanently employed,” the service is not eligible for purchase. Therefore, I ordered Ms. Wolfe to provide sufficient evidence in writing by January 24, 2025 that she was regularly and permanently employed by QCC.

As of the date of this order, this Division’s files contain no record that a response to the order has been filed. As there is no evidence in the record Ms. Wolfe was regularly and permanently employed by QCC, this appeal is dismissed for failure to state a claim upon which relief may be granted.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole
Timothy M. Pomarole
Administrative Magistrate