

# Hampshire County Retirement System

## Supplemental Rules – June 14, 2012

*The following supplemental rules have incorporated and updated all prior supplemental rules and practices of the Hampshire County Retirement System to be in compliance with legislative changes to MGL Chapter 32 and with established case law and as such replace any and all previously adopted supplemental rules.*

*These rules, regulations, or practices were approved by the Hampshire County Retirement Board on March 8, 2012 and have been adopted following review by the Hampshire County Retirement Advisory Council and a public hearing held on June 14, 2012.*

### **MEMBERSHIP ELIGIBILITY**

- Any employee, elected, appointed or classified otherwise, whose annual salary for the position is less than \$5,000 shall not be eligible for membership in the Hampshire County Retirement System.
  - Exception: employees holding multiple positions with the same employer and who otherwise qualify as members of the Hampshire County Retirement System may be eligible for membership for non-qualifying position when combined salary from multiple positions exceed \$5,000.
- Regular Permanent Employees, who are employed on a regular schedule without restriction as to the duration of employment in a position that is expected to last or remain without essential change and who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per annum are required to become members of the Hampshire County Retirement System.
- Regular Temporary or Seasonal Employees, who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per annum, but whose appointment is for less than 6 consecutive calendar months are not eligible to become members unless reappointed such that total service exceeds 6 consecutive calendar months. Temporary employees who subsequently become eligible for membership with a HCRS employer may be eligible to purchase prior non-membership service rendered to a HCRS employer.
- Non-Regular, Intermittent, Per Diem, Substitute Employees, who are employed on a per diem, fee-based and/or as needed basis and do not have regular work schedules consisting of at least 20 hours per week are not eligible for membership regardless of amount of compensation or salary.
- Per diem, hourly, or “non-benefited” employment does not bar an individual from membership provided employment is in the regular course of business for which the individual works a regular schedule of at least 20 hours per week for a period expected to exceed 6 consecutive months, and for which the individual receives regular compensation based on hours worked and is at least \$5,000 annually.
- Consultants, Independent Contractors, Professional Service Providers or similar types of contract employment are not eligible for membership. For the purposes of membership eligibility, the Board retains full jurisdiction in determining whether service is rendered as an regular employee eligible for membership or as a contract employee ineligible for membership.

- Student Employees, who are not employed on a regular schedule consisting of at least 20 hours per week for a period exceeding 6 consecutive calendar months and who do not receive regular compensation of at least \$5,000 are not eligible for membership.
- School Teaching Staff who are employed in a teaching positions are not eligible for membership regardless of their eligibility for Massachusetts Teachers Retirement System. Service as a Part-Time Teacher, Substitute Teacher, Tutor, Coach, or After-School Programs or other teaching positions are not eligible for membership and creditable service in the Hampshire County Retirement System.
- Appointed Officials compensated by stipend greater than \$5,000 per annum which is not quantified by hours worked or amount of work performed will be presumed to work hours/wk based on Annual salary/minimum wage.
- Elected Officials whose salary is at least \$5,000 per annum have the option to become members of the system provided application for membership is made within 90 days of assuming elected office. Elected Officials who do not apply for membership within 90 days, will not subsequently be eligible for membership until re-elected or otherwise qualifying for membership based on other criteria or qualifying position.
- The Board shall retain full jurisdiction to determine the eligibility of employees for membership.

### ***CREDITABLE SERVICE***

- Pursuant to C. 21 § 26 of the Acts of 2009, creditable service will not be granted for any service occurring on or after July 1, 2009, for which annual compensation is less than \$5,000 per year regardless of whether position is elected, appointed or classified otherwise.
- Creditable Service is granted in full months only. A month of creditable service is calculated from the day of month service began to same day of next and succeeding months. Creditable Service is not granted for partial months.
- At no time shall creditable service be granted that exceeds the actual calendar months of service. Creditable service shall not be granted for any period after date of retirement or termination of service.
- Creditable service shall not be granted for any period in which services were not performed and regular compensation was not paid except as otherwise authorized by statute (workers' compensation, military service leave, etc.)
- School employees who work on a full 10 month school year contract will be granted creditable service of 12 months up to but not to exceed total calendar months from date of appointment to date of termination or date of retirement. School employees who have worked less than a full school year shall be prorated based on the calendar months worked.
- School employees who are granted creditable service based on 10 month school year equivalent to 12 calendar months shall also have their average high 3 year salary calculated on same basis (i.e. school year vs. calendar year).
- Full- time equivalency is defined as a minimum of 35 hours/week for all positions.
- All service that is less than 35 hours/week will be prorated against the full-time equivalency of 35 hours/week. At retirement and only at retirement, if the highest average 3 year salary represents less than a 35 hours/week position, an adjustment will be made to creditable service based on the equivalency of the highest average 3 year salary used in the retirement calculation.

## ***SERVICE PURCHASES***

### **General Rules**

- Although creditable service may be purchased for prior membership or qualifying non-membership service, membership rights applicable to prior periods cannot be purchased.
- All requests for service purchase must be approved by the Hampshire County Retirement Board.
- All service purchases must be completed prior to any effective retirement date.
- No service purchase will be approved without adequate and acceptable documentation verifying prior service. The Hampshire County Retirement Board retains full jurisdiction in determining acceptable documentation. (Personal affidavits based on the memory of individuals is not adequate or acceptable documentation)
- Creditable Service shall be calculated and granted based on regulations and rules applicable at time of purchase, not at time of service. Although creditable service may be purchased, membership rights applicable to prior periods cannot be purchased.
- Creditable Service shall not be granted unless and until make-up payments are received in full.
- Purchases not completed within 1 year of approval must be resubmitted and are subject to recalculation of creditable service based on HCRS rules applicable at time of purchase.
- All service purchases must be approved and paid as lump sum payment prior to any retirement date.

### **Purchase of Prior Membership Service (Re-deposit of withdrawal of member contributions)**

- Members who had prior membership service with HCRS or with another retirement system covered by MGL c.32, for which the member terminated membership by taking a refund of contributions, may purchase prior membership service by making application to the Retirement Board.
- Members whose prior service was with HCRS will be granted creditable service based on rules and regulations applicable at the time of re-purchase.
- Members whose prior service was in another retirement system will be granted creditable service based upon approval and liability acceptance of former retirement system for whom service was provided.
- Former Members who terminated membership by taking a refund of contributions and who are now members of another retirement system covered by MGL c.32, will be allowed to re-purchase prior membership service through their current retirement system. Creditable service will be granted based on HCRS rules applicable at time of re-purchase.
- The Hampshire County Retirement Board retains full jurisdiction for determining the eligibility and amount of creditable service to be granted for all service purchases.

### **Purchase of Non-Membership Service (Make-up of prior service as non-member)**

- Purchase of non-membership service is limited to current members and former members of HCRS. Members of other retirement systems covered by MGL c. 32, who never became members of HCRS, will not be allowed to purchase non-membership service.
- Purchase of non-membership service for which service was rendered to employer not covered by HCRS will only be eligible for purchase based upon the approval and acceptance of retirement board of employer

under which service was rendered. HCRS will not accept liability for service rendered to non-HCRS employers.

- Purchase of non-membership service will not be allowed without acceptable documentation of service and compensation paid. It shall be the sole responsibility of the member to obtain, and provide to the Board, verification of this past service rendered, including but not limited to payroll records indicating the amount of compensation received and amount of hours worked. In the event that any or all of such original documentation is unavailable, the Board may exercise its discretion pursuant to M.G.L. c. 32, § 20(5)(c)(1), on a case by case basis, to accept alternative documentation to verify said service and compensation. The Board shall retain full jurisdiction relative to what constitutes acceptable documentation.
- Creditable service shall be granted based on rules applicable at the time of purchase and veracity of documentation provided. The Board shall retain full jurisdiction relative to the amount of creditable service to be granted for non-membership service.
- Non-membership service for which the employer paid contributions to Social Security or made contributions to another qualified retirement plan is not eligible for purchase. Allowing such purchase would require the employer to fund two retirements for the same period of employment. If, however, the employee had contributed to an OBRA plan and the employer did not make any contributions to it or another retirement plan, purchase of such non-membership service may be allowed subject to other rules relative to purchase of such service.
- Seasonal, Intermittent, Per Diem, Substitute, Fee-based, and services performed as a student are not eligible for purchase. Service performed as an independent contractor or as an employee of another organization or business are not eligible for purchase.
- Service provided as Contract Employee, Independent Contractor and other Professional Service Provider is not eligible for purchase.
- Service for which an employee was compensated less than \$5,000 is not eligible for purchase.

### **Purchase of Military Service**

- In accordance with C.32 § 4(h)(4) Application for Purchase of Military Service must be made within 180 days of receipt of Notification of Eligibility. Failure to make application within 180 days of notification of eligibility or failure to provide documentation of Military Service may result in loss of benefit.
- Military Service for the same period of time during which credit has already been granted under c. 32 § 4(h)(1) cannot be purchased.
- Creditable service shall not granted for more than four years of Military Service
- Purchase of Military Service must be made as a lump-sum payment. Creditable Service shall not be granted unless and until makeup payments have been made for each year of creditable service sought in the amount equal to the ten percent of the regular annual compensation of the member when said member entered or re-entered the retirement system.