

840 CMR: PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

840 CMR 12.00: SERVICE BETWEEN AGE 65 AND 70

Section

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840 CMR 12.00 is the standard rule for service between age 65 and 70 promulgated by the Public Employee Retirement Administration Commission pursuant to M.G.L. c. 7, § 50 and St. 1987, c. 415.

Except as otherwise provided by the Commission, by supplementary rules of a particular retirement board approved by the Commission pursuant to 840 CMR 14.02, or by statute, 840 CMR 12.00 shall govern the procedures of all retirement boards relating to service between age 65 and 70.

12.01: Notice to Members

(1) The retirement board shall, not less than 180 days prior to the month during which a member of the system classified in Group 2 or Group 4 and as provided in St. 1987, c. 415 reaches age 65, obtain from the department head of the department in which the member is employed a statement that includes a description of the member's duties and the title of the office or position held by the member.

(2) Not more than 180 nor less than 120 days before the last day of the month in which a member in service in Group 2 or Group 4 and as provided in St. 1987, c. 415 attains age 65, the retirement board shall determine whether the member is employed in an occupation or position for which age is not a *bona fide* occupational qualification as provided by St. 1987, c. 415 or regulations of the personnel administrator issued pursuant thereto.

(3) Except as provided in 840 CMR 12.01(4), a member classified in Group 2 or Group 4 may elect to remain in service after age 65 if the member is mentally and physically capable of performing the duties of the member's office or position.

(4) No such member may continue in service after age 65 if the member is in an occupation or position classification for which the personnel administrator determines by regulation that age is a *bona fide* occupational qualification or is in one of the following occupations or position classifications unless the personnel administrator determines by regulation that age is not a reasonably necessary *bona fide* occupational qualification:

- (a) uniformed member of a paid fire department;
- (b) uniformed member of a police department;
- (c) member of the department of fisheries and wildlife, as determined by the personnel administrator;
- (d) correctional officer;
- (e) permanent crash crewman, crash boatman, fire controlman, or assistant fire controlman employed at the General Edward Lawrence Logan International Airport.

(5) If the board determines that a member is in an occupation or position classification that permits the member to continue in service after age 65, the board shall notify the member and shall provide an estimate of benefits as of age 65 to which the member would be entitled if the member were to retire at age 65.

(6) If the board determines that the member is in an occupation or position classification which requires that the member retire at age 65, the board shall notify the member of the date the member is required to retire.

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12.02: Continuing Contributions

Deductions shall be made from the regular compensation received by any member continuing in service between age 65 and 70.

12.03: Effect on Retirement Benefits

The retirement allowance of a member continuing in service between age 65 and 70 shall be based upon the average annual rate of regular compensation, which may include regular compensation received between age 65 and 70, the age of the member at retirement and the amount of creditable service earned to the date of retirement.

12.04: Continuation of Service After Age 70

Members who have continued in service between age 65 and 70 and who elect to continue in service after age 70 are subject to the provisions of 840 CMR 11.00.

REGULATORY AUTHORITY 840 CMR 12.00: M.G.L. c. 7, § 50; c. 32, § 21.

(PAGES 57 THROUGH 60 ARE RESERVED FOR FUTURE USE.)