

Section 60: Report to HELC
February 9, 2018

Background: Section 60 refers to the law passed in 2011 that allowed higher ed employees in the Optional Retirement Program (ORP) to transfer to the Massachusetts State Employees' Retirement System (MSERS). Implementation of the law began in October, 2013, after the IRS issued a letter that had the effect of an OK for Section 60 to go forward. Two state agencies have been responsible for implementing Section 60: the State Retirement Board (SRB) and the Department of Higher Education (DHE), staff to the Board of Higher Education. Implementation has not gone smoothly, partly because the SRB and the DHE had to invent procedures where none existed, and partly because the SRB and the DHE did not have adequate resources for handling the increased workload.

Currently: the most problematic aspect of implementation continues to be the transfer of ORP assets to the MSERS.

MTA has been in constant communication with the SRB and the DHE about correcting errors, reminding staff about delays, insisting on equal enforcement of Section 60, calling attention to complications and offering recommendations for addressing them.¹ MTA's role has saved members more than \$100,000 in overcharges by the SRB.

At this stage, of the 1,700 ORP participants who chose to enroll in the MSRS, about 850² are at a standstill in the transfer process. Of those, most are stuck because some or all of their ORP assets are inaccessible, as they are in TIAA Traditional accounts, which are a non-liquid investment.

Some of the 850 people (about 600 MTA members) in transition have been waiting to hear from the SRB for two years or more since their liquid ORP assets were transferred to the MSERS. MTA has been very critical of the quality and frequency of communications with affected employees. The SRB has not sent many of them information about the status of their transfer or how much they still owe in order to complete Section 60. In some cases, the SRB has given out erroneous information.

Current action: The SRB and the DHE are drafting procedures to clarify the steps needed to complete the Section 60 process. At this time, it appears that the only way to pay off all Section 60 obligations is to request a transfer of ORP assets to the MSERS within 120 days after leaving *one's* state employment. MTA is advocating more frequent, accurate communication with workers, especially those terminating state employment. MTA has proposed a way to allow earlier completion of Section 60, which is under consideration by the SRB and the DHE. MTA Legal is involved and monitoring the situation to protect the rights of our members.

MTA members can get assistance in analyzing their ORP assets and the effects of Section 60 in their case by contacting ORP@massteacher.org.

For more information about state retirement please visit: BHE: <http://www.mass.edu/forfacstaff/orp/section60.asp> and MSRB <https://www.mass.gov/orgs/massachusetts-state-retirement-board-msrb> (includes a downloadable Guide to Retirement Benefits)

¹One such complication is the allocation of future earnings on the amount in a Traditional account equivalent to the amount the individual may have paid toward the S-60 service cost from non-ORP sources. As of this date, the SRB and the DHE agree that these future earnings belong to the individual, not the MSERS, but have not worked out how to track these earnings.

² Of the 850, about 600 are MTA members.