

Massachusetts Retirement Plans for Higher Education Faculty and Professional Staff: Federal and State Requirements

FREQUENTLY ASKED QUESTIONS (FAQ)

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1. What Massachusetts retirement plans are currently offered to MCCC employees?

Three retirement plans are offered through the Commonwealth of Massachusetts to MCCC educators working in the 15 community colleges. Federal law requires that state employees, full or part-time, contribute to and be covered by one of these plans:

- Massachusetts State Employers' Retirement System (MSERS),
- Optional Retirement Program (ORP); or
- Massachusetts Deferred Compensation SMART Plan – Mandatory OBRA, hereinafter referred to as the OBRA SMART Plan.

2. How do these three retirement plans differ?

- MSERS is a defined benefit (DB) plan which requires that employees contribute a certain percentage of their pay on a biweekly basis to their individual retirement accounts, while the employer (the state) contributes a percentage to the state pension fund. Upon retirement, an MSERS employee would be eligible for a guaranteed income (a defined benefit) for the remainder of his/her life. The state pension system is managed by expert financial consultants who are responsible for the long-term stability of the fund - to ensure that members upon their retirement receive their promised benefit. The plan is administered by the State Retirement Board (SRB) through the Office of the State Treasurer.
- The ORP is a defined contribution (DC) plan which, like the MSERS, requires a specific contribution from both the employer and the employee. The key plan difference is that the ORP retirement benefit is not predictable (or defined) and depends on the amount of retirement income existing in the ORP account at the time of retirement. The risk for the security of an individual account is borne by the employee, with no oversight by the state. The employee selects the provider who will administer the account, then chooses the investment funds where any contributions will be allocated. The Department of Higher Education (DHE) administers this plan.
- The OBRA SMART Plan is a retirement plan administered by the state of Massachusetts to cover all temporary, seasonal, or part-time employees whose employment is not covered either by Social Security or by another employer-administered retirement plan such as the ORP or the MSERS. The state is required to provide the OBRA SMART Plan as per a provision of the Omnibus Budget Reconciliation Act (OBRA) of 1990, the intent of which was to ensure that all public employees have a retirement safety net managed by their state or municipal employer. This plan, too, is administered by the Department of Higher Education (DHE).

3. How do employee and employer contributions differ among these plans?

- Employee contributions:
 - i. Mandatory employee contributions to either the MSERS or the ORP are the same. They are based on state law which takes into account the employee's year of entry into the plan and the amount the employee earns per year.
 - The current employee contribution rate is 9% on the first \$30,000 of an employee's salary, and an additional 2% on any portion of that salary over \$30,000.
 - ii. Mandatory contribution rate to the OBRA SMART Plan is 7.5% of an employee's state salary.
- Employer contributions:
 - i. MSERS: The employer (the state) contributions to the state employees' pension fund vary from year to year, but typically range between 3 to 4 percent of a state employee's salary per annum.
 - ii. ORP: The employer (the state) provides a contribution equal to 5% of an employee's salary per pay period, a small portion of which is used to provide a long-term disability insurance benefit.

4. Which MCCC educators are eligible for these state retirement plans, and what are the requirements for each?

- **MSERS eligibility and requirements:**
 - i. All full-time MCCC faculty and Professional Staff employees must participate in either the state's defined benefit (MSERS) or defined contribution (ORP) plan. Full-time employees are automatically enrolled in the MSERS upon hire but may switch coverage to the ORP, if they do so within 180 days.
 - ii. Professional Staff who work half-time or greater are also eligible for enrollment in the MSERS. Benefits accrue in proportion to years of service.
 - iii. Certain faculty at the state's 4 year universities and UMass (typically those working half-time or greater) are also eligible for MSERS as per their collective bargaining agreements.
 - iv. For more information, see the *Benefit Guide for the Massachusetts State Employees' Retirement System* on the MA State Treasurer's website.
- **ORP – an option for higher education employees:**
 - i. All full-time employees and certain half-time employees employed at one of the state's colleges or universities, though enrolled upon hire in the MSERS, may choose to switch to the defined contribution plan (ORP) if they do so in 180 days. This choice to switch retirement coverage is irrevocable.
 - ii. For more information on this plan, go to this MA Department of Higher Education website: <http://www.mass.edu/forfacstaff/orp/about.asp>

- **OBRA SMART Plan requirements:**

- i. Any MCCC educator who is not contributing to or receiving retirement income from one of the above plans (MSERS or ORP) or the MA Teachers Retirement System (MTRS) or another state pension plan must contribute 7.5 percent of their wages per pay period to this plan. OBRA contributors are typically temporary, seasonal, or part-time employees. Many of them are part-time faculty or Professional Staff from public higher education institutions.
- ii. For more information, go to this MA Department of Higher Education website: https://fascore.com/PDF/mass/MASS_OBRA_Plan_Highlights.pdf

5. As a part-time faculty or part-time Professional Staff member, why can't I contribute to Social Security instead of this OBRA SMART Plan?

- Massachusetts is one of 15 non-social security states in the nation. In the 1960's, MA chose not to participate in Social Security, electing instead to continue and expand its existing pension system (MSERS).
- No mechanism allows for public employees in this state to participate in Social Security for their state or municipal employment. As a result, many public employees not enrolled in the MSERS, ORP or another state retirement plan would not have a retirement safety net as required by federal law. To address this concern, federal legislation (OBRA, 1990) includes a provision that requires employee participation.

6. Why is the OBRA SMART plan considered a state retirement plan when the state does not contribute any employer contribution?

- Nothing in the OBRA 1990 statute requires that the state [or municipality] contribute to an OBRA account or a retirement plan on the part of a non-Social Security covered state employee.
- This federal legislation mandates that employees without any retirement coverage contribute to OBRA and that the state administer such a program. Massachusetts is in compliance with federal law by administering the OBRA SMART Plan.

Note #1: MA is the only non-Social Security state besides Nevada that does not provide some employer contribution to a retirement plan for its part-time employees.

- Two states contribute a small amount to OBRA accounts; other states enroll their part-time faculty in a defined benefit or defined contribution plan to which these states contribute.
- Source: Ed Hurley, *Retirement Plans for Public Higher Education Employees: A Survey of Contingent Faculty Options in Non-Social Security States (NEA, February 2016)*

Note #2: Recommendations for future legislation for contingent faculty and part-time Professional Staff:

- Half-time employees have the option of participating in an ORP plan as well as an MSERS plan.
- All part-time faculty and Professional Staff pay no more than 6.2% of the required OBRA contribution and the State contribute at least 1.3% or greater to every OBRA participants' account.

7. What are the Government Pension Offsets (GPO) and Windfall Elimination Provisions (WEP), and how might they affect the retirement of a MA state employee?

- The GPO and WEP are two provisions of Social Security law that may reduce Social Security benefits for employees who work(ed) for a state or local government in non-SS-covered employment.
- These statutes apply to employees in 15 states and/or municipalities nationwide. Massachusetts is a non-Social Security state, so these offsets *may* affect any MCCC educators or other state employees regardless of the retirement plan to which they contribute (MSERS, ORP or OBRA).
- The GPO will reduce the employee's spousal or survivor benefit by 2/3 of the person's state retirement plan income, once the person retires and begins to receive distributions from that plan.
 - i. For more information about GPO and its effect on Social Security income, visit this SS website: <https://socialsecurity.gov/planners/retire/gpo.html>
- The WEP will reduce a MA state employee's SS income by a multiplication factor based on many variables, including when a person retires and how many years of SS earnings have been accumulated.
 - i. The reduction in SS income cannot exceed more than half the government pension (OBRA or ORP withdrawals annuitized or the retirement pay from MSERS) to which the retired employee is entitled in his/her first week of retirement eligibility.
 - ii. For a part-time MCCC employee, this reduction in SS income could have a minimal effect, especially for someone with an OBRA account because the account itself has not had the benefit of an employER contribution and the OBRA monthly payment upon retirement may be very small when annuitized.
 - iii. The impact of the WEP statute varies tremendously among state employees and depends on multiple factors: years spent contributing to Social Security, if any; what one's SS earnings are at state retirement, and whether or not an employee meets certain criteria for exceptions:
 - Exceptions to WEP offsets exist most notably for those with 30 years of substantial SS earnings;
 - Those with 21 to 29 years of SS earnings are entitled to a partial exemption.
 - iv. For more information on WEP offsets and their effects Social Security income, go to this website: <https://www.ssa.gov/planners/retire/wep.html>
 - v. If you have additional questions about your Social Security earnings and how OBRA might affect that income, visit the SS website: <https://www.socialsecurity.gov/>

8. What is being done to repeal these Social Security offsets and diminish the effect on employees whose retirement income and survivor/spousal benefits are being reduced?

- Current federal legislation supports the full repeal of both the GPO and WEP statutes:
 - i. House 973/Senate 1651 – The Social Security Fairness Act of 2015:**

This bipartisan legislative proposal would eliminate the Windfall Elimination Provision (WEP) which *may* greatly diminish Social Security benefits for those with public pensions from one of 15 states, including Massachusetts, Maine, and Rhode Island. This Act would also repeal the Government Pension Offset (GPO) which reduces public employees' Social Security spousal or survivor benefits by 2/3 of their public pension.
 - ii.** For more information on these offsets, go to:
<https://www.ssa.gov/planners/retire/gpo-wep.html>
 - iii.** For information on H 973, go to:
<https://www.congress.gov/bill/114th-congress/house-bill/973>
 - iv.** For information on S 1651, go to:
<https://www.govtrack.us/congress/bills/114/s1651>
 - v.** To advocate in support of this legislation, see NEA's advocacy tool kit on this site: <http://www.nea.org/home/16491.htm>
- For the past 12 plus years labor unions like the MCCC, MTA, SEIU and AFSMCE have supported legislation to repeal these offsets.
- The *Social Security Fairness Act of 2015* has been a legislative priority for the past 10 years. In 2006, MCCC Vice President Donnie McGee joined three other MTA members to lobby Congress on these bills and presented written testimony (and MCCC member stories) on behalf of the MCCC to the relevant House and Senate Sub-Committees. This legislation is identified as an MCCC priority on MCCC's webpage: <http://mccc-union.org/legislative.html>

9. Is it legitimate to withdraw or move money from an OBRA account?

- Generally, OBRA *mandatory* employees must not be currently contributing to OBRA and must be "separated from service" in order to withdraw funds, either voluntarily or otherwise. A leave of absence does not qualify as a reason for mandatory OBRA participants to withdraw or transfer these funds from their OBRA account.
- Mandatory OBRA employees who have been given "no reasonable assurance" at the end of the semester or have been laid off, however, are allowed to receive OBRA distributions or to transfer these funds to another retirement account.
- OBRA *voluntary* employees do not need to be laid off or given reasonable assurance from their employer in order to withdraw funds if these factors apply: they are transferring to another position, have an unforeseeable emergency, or have extremely low contributions.
- For more information, go to this MA Department of Higher Education (DHE) website: https://fascore.com/PDF/mass/MASS_OBRA_Plan_Highlights.pdf

SOURCES:

Congress.gov (website, 4/21/16)

Ed Hurley, *Retirement Plans for Public Higher Education Employees: A Survey of Contingent Faculty options in Non-Social Security States (NEA, February 2016)*

GovTrack.us (website, 4/21/16)

Massachusetts Department of Higher Education, OBRA Information Guide to Massachusetts Deferred Compensation SMART Plan – Mandatory OBRA (website, 4/21/16)

Massachusetts State Retirement Board, Office of the State Treasurer and Receiver General (Mass.gov website, 4/21/16)

National Education Association (website, 4/21/16)

Social Security Administration (website, 4/21/16)

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