



Town of Trumbull Pension Eligibility Review

TOWN OF TRUMBULL, CT

January 9, 2019
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Mrs. Elaine Hammers, Chairperson
Town of Trumbull Board of Finance
5866 Main Street
Trumbull, CT. 06611

Dear Mrs. Hammers,

I respectfully submit the enclosed report entitled Town of Trumbull Pension Eligibility Review.

The objectives of this audit were to ensure:

- those receiving pension benefits should be receiving pension benefits, and those benefits are in an appropriate amount,
- employees to receive pension benefits in the future will receive benefits from the appropriate plan, at the appropriate time and in the appropriate amount,
- the Town's Pension processes are documented and accurately and efficiently administered,
- appropriate internal controls exist and are monitored.

I would like to thank Maria Pires, Director of Finance, for her assistance in the completion of this report, as well as the assistance of her staff. Additional thanks to James Haselkamp, Director of Labor Relations and his staff, and also Sean O'Keefe, Trumbull Board of Education Business Administrator, for his assistance, and that of his staff.

Respectfully submitted,

Therese Keegan
Financial/Accounting Controls Analyst

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Background

The Town of Trumbull currently manages two basic types of retirement vehicles:

1. A defined benefit plan is a type of pension plan in which an employer promises a specified payment on retirement. A defined benefit plan is 'defined' in the sense that the benefit formula is known in advance, predetermined by a formula based on the employee's earnings history, tenure of service and age, rather than depending directly on individual investment returns.

The Town manages two defined benefit plans, one for the Police Department and the second for Town and BOE employees. The liability of the pension lies with the employer who is responsible for making asset investment decisions. Employer contributions are based on a formula that calculates the contributions needed to meet the defined benefit. These contributions are actuarially determined taking into consideration the employee's life expectancy and normal retirement age, possible changes to interest rates, annual retirement benefit amount. Because these defined benefit plans obligate the Town for future payments, both the Town and the Police Department's Defined Benefit Plans were closed to new employees in 2011.

2. The second type of plan is a defined contribution plan requires an employee to contribute portions of their paycheck to an individual account and the Town matches the employee's contributions. The account can appreciate or depreciate based on the investment gains or losses. Most funds have associated investment fees. A retiree later receives distributions from the plan. There is no long-term liability to the Town.

The Town maintains two defined contribution plans, one for Town employees and the Police Department and the second for BOE employees.

A schedule of highlights of each of these four plans is included in the Appendix pages 15 - 16. Each of these four plans may have different:

- implementation and eligibility dates
- waiting requirements
- contribution rates
- contribution calculations
- vesting schedules
- payout options
- treatment of untimely death or disability
- other considerations

Administration of these plans is further complicated by missing and incorrect data in the Wells Fargo Commercial Electronic Office database, by conflicting contracts and amendments and dates, differing Town vs BOE nomenclature for entering and storing dates in MUNIS, 6 separate Town union contracts, 5 BOE union contracts, non-union, appointed, elected employee agreements, separate, non-union agreements for nurses, decentralized ownership by HR, Payroll and Administrative employees, and a history of plan overrides. See appendix page 17.

Prior audits

The "Town of Trumbull Retirement Plan", the Town's original defined benefit plan, became effective July 1, 1973. The Plan covered Town and BOE employees. Participation was mandated on July 1, 1989. The Plan

was administered by Citytrust, Paine Webber, then Wilmington and now Wells Fargo. In 2009 the Town engaged RSM McGladrey was engaged to review the completeness and accuracy of Town records and completeness and accuracy of data converted. The RSM McGladrey audit utilized the September 2009 check register to review and substantiate payments for 307 payees. The audit, dated January 27, 2010 included the following findings:

- a. **Missing files:** unable to locate files for 3 individuals listed as receiving benefits on the Wachovia report. The Town was notified and will attempt to reconstruct information from third parties.
- b. **Missing benefit calculation:** unable to locate any benefit calculation supporting payment to 1 individual. Town to request information from actuary.
- c. **Underpayments:** identified 2 individuals receiving monthly payment less than amounts indicated in the pension files. Estimated total underpayments were \$131.00.
- d. **Overpayments – paid incorrect amounts:** identified 9 individuals that received payments in excess of the amounts supported by documentation. The total potential overpayments for these cases was \$53,774.39. Town to immediately notify these individuals in writing.
- e. **Overpayments – paid after last payment date:** identified 4 individuals that received payments beyond the period allowed by the benefit option selected. The total potential overpayments for these cases were \$194,261.35. Found evidence in the files of 2 of these individuals (\$100,628.70) indicating that the trustee was notified of the last payment date. Each of these individuals to be immediately notified in writing.
- f. **Recently deceased:** Wachovia conducted a death audit in December 2009. 3 individuals were identified as recently deceased. Total potential overpayments for these individuals was \$509.25. Town to follow up on results of the death audit to determine whether any unnecessary payments have been made.
- g. **Notification of last payment dates:** identified 12 cases where the last payment date is known. Town to ensure Trustee is properly notifies for each of these cases.
- h. **Other results of Wachovia death audit:** 1 recipient possibly deceased; 2 others may have invalid Social Security numbers. Town to follow up to determine whether unnecessary or erroneous payments have been made and whether any erroneous information is being maintained.
- i. **No evidence of death:** identified 1 individual receiving payments as beneficiary; however there is no documentation in file indicating the retiree is deceased. Town to determine if payments are being made properly.

The RSM McGladrey audit included a summary of Over/Under Payments by Year and Type which is included in the Appendix, page 18.

Scope & Methodology

1. On October 31, 2017 a file of 261 Town (excl BOE) current employees was received from Town's Human Resources Department. The file was generated from MUNIS and it included headings related to each employee's initial hire, movements to/from seasonal, temporary, part-time, full-time employment and current position. Unfortunately, given the possible variety of employee circumstances, the dates were not used with 100% consistency. The file indicated:
 - 122 Town employees participate in the Town's defined benefit plan,
 - 67 PD employees participate in the PD defined benefit program,
 - 64 Town employees and 8 PD employees participate in the Town's defined contribution plan.

On November 30, 2017 a file of 323 BOE employees was received from the BOE Payroll & Insurance Manager. As with the Town’s file, the list was generated from MUNIS and included date headings, again not used with consistent meanings and which are not consistent with the Town’s use of the headings. The Board of Education employee file indicated:

- 267 of these employees participate in the Town defined benefit plan,
- 56 participate in the BOE defined contribution plan.

Current participation by plan is summarized as follows:

Distribution of current employees:

	Total	PD Defined Benefit	Town Defined Benefit	Town Defined Contribution	BOE Defined Contribution
BOE employees	323		267		56
PD employees	75	67		8	
Other Town employees	186		122	64	
	<u>584</u>	<u>67</u>	<u>389</u>	<u>72</u>	<u>56</u>

Dates from plan documents and union contracts were manually added to these employee files and all employees were reviewed for appropriate plan participation.

During the initial review comparing the MUNIS dates to plan documents and union contracts, a list of questions was compiled. Because the dates held in MUNIS are not standardized, employee files had to be reviewed to ensure participation in the appropriate plan. The need to review individual files included:

- Police Department: 0/75
- Town employees: 92/186
- BOE employees: 17/323

2. Lastly, similar to the work performed by the McGladrey audit, a sample of payments to retirees/beneficiaries were reviewed to ensure documentation was complete and payments were made per election.

A file of September 30, 2017 defined benefit pension recipients indicated 364 payments were disbursed for the month. Amounts were paid to Town or BOE retirees or beneficiaries. The gross amount of the disbursements was \$425,079 and \$379,354 net of withholdings. From these payees, a sample of files were selected for review to determine:

- Accuracy of database information
- Completeness of documentation in file
- Accuracy of disbursed amount

Findings & Recommendations

Finding #1: From data received for review it was determined that 3 BOE employees are incorrectly participating in the Town’s Defined Benefit Retirement Plan. None of these employees are covered under a union contract and therefore eligibility is determined by Town Council Resolution TC23-178 which stated ... “That employees not covered under the provisions of collective bargaining agreements who have not contributed to the Town of Trumbull Retirement Plan as of the effective date of Resolution TC23-178 are

hereby prohibited from participating in the Plan and are hereby eligible to contribute towards a defined contribution plan and the Pension Plan will be amended accordingly.”

A copy of TC23-178 is available for review in the Appendix, page 19. The Resolution was approved by the First Selectman on 8/5/11 with an effective date of 8/24/11. The Town Council’s resolution was presented to BOE at the 8/16/11 Regular Meeting.

Hire Date	Service Date	Permanent Date	Original Hire Date	Ret/Pension Date	BOE comments
08/31/2006			08/31/2006	08/25/2011	Hired 8/31/06 FT, August 2008 PT, August 2011 FT. (TBOE 401A plan accepted 1st group of employees 7/1/14 employees hired after 7/1/13 would enter into the TBOE 401A Plan unless other stipulations were in Union Contract).
08/30/2011	08/30/2011	08/30/2011	08/30/2011	08/30/2011	Hired 8/30/11 (TBOE 401A plan accepted 1st group of employees 7/1/14 employees hired after 7/1/13 would enter into the TBOE 401A Plan unless other stipulations were in Union Contract).
08/10/2012	09/04/2012			09/04/2012	Hired 9/4/12 (TBOE 401A plan accepted 1st group of employees 7/1/14 employees hired after 7/1/13 would enter into the TBOE 401A Plan unless other stipulations were in Union Contract).

Recommendation: The Town engaged a pension attorney to address, and the matter will be reviewed with the Pension Board. Recommendation is to follow advice of attorney and Pension Board.

Response from Reid and Riege, P.C., dated July 19, 2018, attached in full in the Appendix, states the following:

- No non-union employee hired on or after August 24, 2011 is eligible to become a participant in the Retirement Plan.
- When a plan in operation does not follow the written terms of the plan document, an operational failure occurs that must be corrected in order to maintain the qualified status of the plan.
- The letter describes two applicable correction methods; either method should be approved by the IRS through the filing of a Voluntary Correction Program (VCP) submission.
 - The end result of the options is similar in that the same amount is returned as taxable wages to the employee, either by the employer or by the Retirement Plan.
- Contributions to the plan should cease as soon as possible.

BOE Management Response: With regard to the request for withholding amounts since June 30, 2018 for the three employees that have been identified for expulsion from the Town Defined Benefit Plan, we respectfully request a delay in the return of funds until at least January 2019 so that we may continue to pursue an alternative solution.

With regard to a management response to Finding #1, we feel that the opinion provided by Attorney Underberger seems reasonable for the narrow scope of the issue that she was apparently presented with. However, we believe there are significant extenuating circumstances surrounding all three cases that have not been considered. As a result, we do not concur with the conclusion reached and respectfully request that additional time be given to allow for the employees to continue to pursue an alternative solution before permanently terminating a material benefit that has been contractually promised to them.

The Board of Education unanimously agreed to send a request to Town Council Chairman Thornton formally requesting that the Town Council reinstate the three employees. Accordingly, an email was sent by Dr. Cialfi, Superintendent on behalf of the BOE on November 21, 2018. Chairman Thornton responded to Dr. Cialfi on December 3, 2018 explaining that the Town Council cannot take any action without a recommendation from the Pension Board and that the request should be directed to the Pension Board. At the December 11, 2018 BOE meeting, the Board unanimously voted to authorize Chairman Chory send a

letter to the Pension Board. On December 17, 2018, Chairman Chory sent a letter to Chairman Lavin of the Pension Board requesting to add back the three employees to the Town Pension Plan and to delay any employee refunds until after the matter is resolved. Attached to the letter were all previous correspondence to and from the BOE as well as statements from the three employees impacted.

Last week the BOE forwarded a letter dated 1/2/19 from their attorney, Berchem Moses, which is included on the last page of the Appendix. The attorney’s letter requests that pension contributions not be returned to the three individuals noted in your email until the pending request, first filed with the Town Council, and now the Pension Board, to amend the pension plan to permit the three individuals in dispute to participate in the plan, has been resolved, or at least acted upon by the Council and/or the Pension Board.

The next meeting of the Pension Board is scheduled for 1/22.

Finding #2: The BOE file of employees included in the Town’s defined benefit plan indicated the dates listed for 7 employees required review. The list of 7 employees was presented to the Town Finance Department for research. Town personnel had already completed research for these BOE employees and had provided the corrected dates to BOE personnel in October 2017. Until January, the BOE records had not been updated. On 1/4/19 auditor received confirmation that service dates had been reviewed and updated for 5 of the 7 employees. The dates of the remaining 2 employees were insignificant as far as potential impact and Town is willing to accept BOE dates.

Credited Service Dates	
Per BOE	Per Town
9/5/1984	7/1/1993
1/5/1987	7/1/1990
8/26/1997	9/1/1997
7/2/1984	7/1/1989
8/29/1994	8/26/1994
9/27/1991	7/1/1993
8/22/1984	7/1/1989

Recommendation: Biennial actuarial reports need to be checked for accuracy and affected employees should be notified of changes.

BOE Management Response: The first, second, fourth, sixth and seventh lines have now been updated In MUNIS to reflect the “Per Town” service dates. The third and fifth service dates continue to reflect the “Per BOE” service dates in MUNIS and the supporting documentation has been provided to auditor.

Finding #3: 7 Town employees were hired prior to the 8/24/11 effective date of TC23-178; however four (green) would not yet have begun contribution to the Town’s defined benefit plan given the one-year wait requirement, and therefore, were not promised or entered into the Town’s defined benefit plan. The remaining three non-union Town employees (pink) would have been added to the Town’s defined benefit plan, except that, from conversation, it is understood that at that time it was requested of these non-union employees that they would participate in the forthcoming 401A plan (note that one of these employees was the First Selectman himself).

Group/BU Desc	Hire Date (current position)	Service Date (for benefit)	Permanent Date (from/to FT/P)	Original Hire Date	Comments
ELECTED OFFICIALS	12/07/2009	12/01/2003	12/01/2003	12/01/2003	Non-union override
ELECTED OFFICIALS	12/08/2009	12/08/2009	12/08/2009	12/08/2009	Non-union override
APPOINTED PERSONNEL	02/22/2010	02/22/2010	02/22/2010	02/22/2010	Non-union override
CIVIL SERVICE NON UNION	07/06/2010	07/06/2010	07/06/2010	07/06/2010	Non-union override
NURSES	06/26/2017	08/30/2010	08/30/2010	09/14/2007	Non-union override
APPOINTED PERSONNEL	08/09/2011	08/09/2011	08/09/2011	08/09/2011	Non-union override
NURSES	06/26/2017	08/16/2011	09/22/2008	09/22/2008	Non-union override

Recommendation: Consult with Pension Attorney and discuss with Pension Board.

Town Management Response: The resolution that was adopted stated that any elected, appointed and service employee that was hired prior to 8/24/11 and had not yet contributed to the Defined Benefit Plan would be eligible for the Defined Contribution Plan. Attorney Underberger has concurred that these employee were properly enrolled in the DC as per the resolution.

Finding #4: Significant eligibility differences exist among the various retirement plans.

- a. The original BOE 401a document followed the Town’s 401a document in mandating a 6-month waiting period for admission to the Plan. However, a BOE amendment states the following:

“This Plan was originally effective on July 1, 2013. The amended and restated provisions of the Plan become effective on July 1, 2015; the effective date for the change in Eligibility is July 1, 2014 and the elimination for the 6 month waiting period is June 24, 2014.”

Per information received for 10 BOE employees it appeared they entered the 401A plan prior to completing the mandatory 6 month waiting period. However, once the amended plan was received and reviewed, it was noted that effective 7/1/15 the waiting period was eliminated effective 7/1/14 and these employees were no longer of issue.

- b. Per Town and Police Department plans part-time, temporary and seasonal employees are not eligible to participate, yet the Board of Education defined contribution plan states the following:

“Excluded Employees are part-time, temporary or seasonal employees. However, if as a part-time, temporary or seasonal employee you complete one year of service in any year of employment, you will no longer be part of this excluded class.”

Recommendation: No comparison information was located in reference to the percentage of employers offering pension benefits to temporary or seasonal employees; however, it is estimated to be a small number. The Town and Board of Education may wish to consider whether offering pension opportunities to temporary and seasonal employees creates hardship to Trumbull’s taxpayers. Town employment should be competitive with other employment options, but not excessive.

Town Management Response: The Town is having the plan reviewed by a pension attorney to make sure there are no conflicts with eligibility and compliance with union contracts or labor laws.

BOE Management Response: All BOE part-time and seasonal employees are automatically EXCLUDED from the BOE 401a plan based off of pay type. For example, if a substitute employee works more than 1000 hours, the pay type that they are paid under will automatically exclude them. The BOE is working with Oldham Resource Group (Plan Administrator) to update or delete the highlighted language.

Finding #5: The Town's Defined Benefit plan offers direction as to what should occur if an employee terminates prior to:

- retirement or
- vesting or
- attaining a certain balance in their account

Once termination occurs, Finance is to receive the PAF (Personal Action Form). The employee pension information should be reviewed within a reasonable amount of time. There is currently no process to **track** these terminations, the number of which is not currently exactly known. If certain parameters are met, the employee's account balance is to be returned to them and their account closed. Per contract, the employee earns 5% until return occurs.

Recommendation: First of all, a process to track terminations and status of work to be performed should be implemented. BOE employees on the list should be verified with BOE. The list should be routinely updated. Returned funds are guaranteed 5% return regardless of actual fund performance. Rather than potentially costing the Town additional funds, contributions should be returned in a timely manner when appropriate, and the pension fund should be cleared of these employees. This will additionally avoid future confusion, duplication of effort, or potential error.

Town Management Response: In 2010 the Finance Department reviewed files going back 4 years and we found that they were either already receiving benefits, were vested but not yet eligible for retirement, contributions were returned and some, if not vested and contributions were not returned were contacted and addressed accordingly. Although the Town doesn't currently have a master database of all employees, once forms are received from personnel they are handled on a timely manner. If there are issues or questions they may take longer to resolve. Our actuaries have just recently completed the actuarial valuation as of 7/2018 and we have asked for a database of all participants. This database will be used to track the status of active and terminations.

Finding #6: The Town uses the Wells Fargo CEO (Commercial Electronic Office) database to maintain defined benefit plan active and inactive participant information such as dates of birth, hire, retirement, death, etc. The database also includes participant disbursement information, updated by Wells Fargo each month.

Payroll provided lists of current employees for the purpose of reviewing plan eligibility and the Wells Fargo software provided check registers for the purpose of reviewing amounts paid to retirees or beneficiaries, but it was not possible to obtain a full picture of who the dollars in the database belonged to; for example, is some of the fund balance held for terminated or deceased employees? Information related to terminations, deaths, payouts, etc. was periodically gathered in Excel, but lists were incomplete and open items were not tracked.

Obviously the database can only provide complete and reliable reports for fields accurately and consistently entered. 32 Town Defined Benefit files examined and compared to the Well Fargo database:

- 24 had incorrect or missing information in the database
- 4 of the selections represented retirees/beneficiaries who had been overpaid. All of these had already been addressed:
 - An overpayment of \$21,291 was repaid in full in 2014
 - An overpayment of \$3,365.28 was settled for \$500 in 2014
 - Since 2013, 75% of \$326 payment continues to be withheld each month in an effort to collect a 10 year certain overpayment in the amount of \$97,363
 - Overpayment of \$7,145 between 7/01 – 12/09 continues to be repaid at \$100 per month
- One file contained a note that documentation of plan choice was missing and payment amount could not be verified
- One file lacked payment calculation

Additionally, rectification of under/over payments reported in the RSM McGladrey audit (appendix) was manual, time consuming and incomplete.

Recommendations: Recommend Finance contact Wells Fargo to gain an understanding of the capabilities of the pension database. The database should be used to its fullest capability. The Town currently relies on potentially incomplete or unreliable database reports supplemented by Excel worksheets. Town/BOE MUNIS data is inconsistent.

Since the plan is closed to new employees, the Town has the static population of those in the defined benefit plan. There is no valid reason why the data for current and future pension recipients should not be accurate, complete, and automated.

A role of the Auditor is to ensure internal controls are appropriate and effective. As currently utilized, the defined benefit database does not ensure appropriate levels of control.

Control is maintained via manual review performed by the Town’s Director of Finance.

Utilizing the database to its fullest capability might allow for information to be gathered and analyzed.

Questions such as the following cannot currently be answered without manual compilation:

- Has each issue from the McGladrey audit been resolved?
- Who in the plan is neither currently employed nor currently receiving benefits?
- Is the plan holding funds of deceased employees?
- Could the plan be disbursing funds to deceased employees?
- Is the plan holding funds for terminated employees whose money should be returned?
- What was the distribution option selected by each retiree currently receiving benefits?
- For current pension recipients who chose 10 year certain distribution option, on what date did distributions begin? If deceased, when does the 10 year certain clause expire?

Town Management Response: The McGladry audit was resolved and addressed at various pension board meetings. Some retirees are still making payments to settle their overpayment. We will create a spreadsheet with all of the details. The only information available in the Well Fargo CEO (Commercial Electronic Office) database is the data of retirees. They do not track active employees. Once an employee is initiated to collect a pension, all of the dates are imputed in the system. If a year certain is elected, the stop date is imputed in the system for the retiree and also for a beneficiary if retiree didn’t exhaust the 10 year. If a retiree dies, we are notified by Wells Fargo when a check has been outstanding or a direct deposit was returned and we will reverse them. They also perform a monthly death audit which is supplied to the town and we address it accordingly. Other times we find them in the obituaries and/or beneficiary or family

member contacts us. There may be some contributions we are holding going back past 2004 but current ones are addressed in a timely manner.

Our actuaries have just recently completed the actuarial valuation as of 7/2018 and we have asked for a database of all participants. This database will be used to track the status of active and terminations.

Finding #7: Defined Contribution Plan (DCP) documents should be cross checked with each other and with union contracts. They may require updating and/or clarification. As an example, the Town Plan states only full-time employees may participate. Full-time employees are defined as those working more 1,000 hours per week. However, the Town limits part-time employees to 19.5 hours per week, which, times 52 equals 1,014.

Recommendations:

- Both the Town and BOE may wish to consider changing the definition of part-time employment to 19 hours per week rather than 19.5 hours per week.
- The DCP documents should be updated and clarified as necessary. The Town should consider engaging a professional to assist with document preparation.
- It was difficult to know if the most recent version of a pension document was being reviewed, or if all the information in the document was valid. The DCP documents should be updated when amendments occur. Outdated versions of pension documents and union contracts should be maintained and stored for informational and compliance purposes.
- DCP documents should include final pages related to union contracts. These pages can then be easily located and updated.

Town Management Response: The Town has retained a pension attorney, who is currently working with James Haselkamp to review the Defined Contribution Plan document for eligibility, full time status, etc. The Defined Benefit Plan was reviewed and amended in 2015.

Finding #8: Standard Operating Procedures (SOP's) are written detail of Roles & Responsibilities; who does what, when, and who might be designated to review or approve routine or non-routine transactions. The more complex the associated policy, and the more people involved in the process, the greater the need for and reliance on SOP's which tend to increase adherence, conformity, and appropriate control.

The Town and the Police Department provided documents describing the flow of forms and data as well as roles and responsibilities. BOE did not provide.

Recommendation: The Board of Education should prepare operating procedures for each plan in which their employees participate. Roles & responsibilities should be clarified. The documents will help ensure operational consistency and can also be used for training purposes.

BOE Management Response: The BOE will review the Town and Police procedures and will develop a comparable document.

Finding #9: The Direct Benefit Plan is closed to new employees; the population of participants is declining. Simplification of administrative processes would:

- reduce duplicated efforts between Town and BOE personnel
- drive improved accuracy and efficiency
- increase clarity for employees

Recommendation: It is recommended that all communication with employees as well as the administration of Trumbull's Defined Benefit Plan be accomplished by Town personnel. Administration would include all Town and BOE employees currently enrolled in the Defined Benefit Plan.

Town Management Response: The Town currently administers the Defined Benefit Plan for all applicable Town and BOE employees, but because we are on different MUNIS systems, the Town relies on BOE to provide information. If BOE provided a monthly check register and an accumulators report in addition to the retirement form and the biannual census report, the Town could accomplish administration, eliminating the need to go back and forth for information and reducing misunderstandings with employees.

BOE Management Response: The BOE currently sends on a weekly basis a "deduction report" by employee directly to Wells Fargo. The report was previously sent to the Town as well but discontinued at the Town's request several years ago. This can be reinstated if requested.

Appendix

Plan highlights	Police Defined Benefit Plan	* Town Defined Benefit Plan	* Town Defined Contribution Plan	BOE Defined Contribution
	PD only	* Includes employees, elected, appointed; INCLUDES BOE	* Includes employees, elected, appointed; EXCLUDES BOE	BOE only
Effective date of plan	10/1/1987	7/1/1973	2/15/2012	7/1/2013
Last plan amendment/restatement		7/1/2015	10/1/2013	7/1/2015
Employee eligibility	Hired prior to 7/1/2014	see schedule	TC23-178: Not contributed to DB plan as of 8/24/11	7/1/2013 restated to 7/1/14
Eligibility requirements	Full time employment	Full time (20 hrs/wk >5 mo/yr), 18 years of age + 1 year of service	21 years of age + at least 1,000 work hours/year	21 + at least 1,000 work hours/yr; after 1 year includes PT, Temp & Seasonal
Employee contributions	6% base + holiday	By union contract	7%	Varies: 5% to 6.5%
Employer contributions	ARC	ARC	7%	5%
Waiting period	None - day 1	1 year of service	6 months from hire	6 months from hire then next 7/1; 6 mo wait eliminated 6/24/14
Full vesting	10 years	10 years	5 years after first contribution date	5 years from first contribution date
Contribution calculation	Highest annual rank and wage rate within 30 days of retirement	Highest 36 consecutive months of base pay; MAX \$170,000/yr	W2 income less overtime	W2 income except as excluded (See Appendix)
Termination prior full vesting		<5 yrs = 0; 5 yrs = 50%; then 10%/year	20%/year after year 1	20%/year after year 1
Termination prior to 10 yrs	Return of contributions + interest at 5 1/2% compounded semiannually	If term prior to 5 yrs, return of contribution with 5% int/year		
Termination > 10 years < 25 years	At 10 yrs: 20% base + holiday pay then 2% per additional yr of employment; max 75%	2% per year for a maximum of 60%		
Early retirement	NA	Age 55 + 10 years service; reduced by .5%/mo for each early mo.	NA - portable	NA - portable
Normal retirement benefit:	7/1/90: 25 yrs service + 49 yo OR 7/1/91: 25 yrs service + 48 yo OR 6/30/92: 25 yrs service + 47 yo	Age 62 + 10 yrs service OR age 60 and age + service = 85	Age 65	Age 62
	50% base + holiday plus 1.25% base + holiday for each 3 mo of service over 25 yrs. Limited to 75% of annual base + holiday pay. Additional 50% same position increase.	Calc = 2% of ave comp X yrs of service but MAX 60% of ave comp MIN \$1,200/yr		
	7/1/90: > 10 < 25 yrs service + 49 yo OR 7/1/91: >10 < 25 yrs service + 48 yo OR 6/30/92: >10 < 25 yrs service + 57 yo			
Escalator	2% annual pay for each year of service; additional 50% of same position increase	N/A	N/A	N/A

Plan highlights	Police Defined Benefit Plan	* Town Defined Benefit Plan	* Town Defined Contribution Plan	BOE Defined Contribution
	PD only	* Includes employees, elected, appointed; INCLUDES BOE	* Includes employees, elected, appointed; EXCLUDES BOE	BOE only
Job related death	PBA pays 50% of benefits (entitled to at retirement) until death or spouse's remarriage Town pays 50% of benefits (entitled to at retirement) until death or spouse's remarriage	100% vesting	100% vesting	100% vesting
Non job related death:			Balance	Balance
a. Served > 10 years + not retired	Spouse receives benefits (entitled to at retirement) until death or remarriage including 50% same position increases	Spouse/beneficiary receives 10 year certain or contributions plus interest plus \$25k		
b. Death after retirement	Spouse receives 50% of benefits until death or remarriage including 50% same position increases	Dependent on choice of options		
Job related disability	Greater of 50% base salary + holiday or 2% / year of service, whichever is higher	WC cannot be < 66.66% of working pay; MAX: total of disability + SS disability + WC cannot > 100% of worker's pay	100% vesting	100% vesting
Escalator	50% of same position increase	N/A	N/A	N/A
Non-job related disability	If >10 yrs service: 20% of base salary + 20% holiday pay at time of retirement; 2% per additional yr of employment; no escalator	If service > 10 yrs, vest in full, calc on 36 mo base pay	100% vesting	100% vesting

Town Defined Benefit Plan Eligibility

Per Town of Trumbull Retirement Plan amended & restated, effective 7/1/15

Includes full-time employees of Town and BOE; excludes PD

8/24/11 unless collective bargaining agreements dictate otherwise

Group		Union Contract
Any nonunion employees	✓	8/24/11
Fire Marshall or Public Works Supervisor employees	✓	7/1/12
Town Supervisor employees	✓	2/1/13
BOE Administrative Support employees	✓	7/1/13
Town Staff employees	✓	11/1/13
BOE Supervisor, Support Staff or Paraprofessional		11/20/13
BOE Cafeteria Staff		10/25/14
Highway and Parks Non-Supervisory	✓	1/1/15
BOE Custodian/Maintenance		12/21/15

Town of Trumbull
Pension Board
January 27, 2010

Exhibit 1 – Schedule of Potential Over/Underpayments by Year and Type

Retiree	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Grand Total	
Paid after last payment date																					
Subject A											\$ 3,054.64	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 4,581.96	\$ 39,710.32	
Subject B											6,957.72	6,957.72	6,957.72	6,957.72	6,957.72	6,957.72	6,957.72	2,319.24	2,899.05	53,922.33	
Subject C													7,489.50	14,979.00	14,979.00	14,979.00	14,979.00	14,979.00	14,979.00	97,363.50	
Subject D																			3,265.20	3,265.20	
Incorrect amount paid																					
Subject E	\$ 248.85	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	\$ 331.80	331.80	331.80	331.80	331.80	331.80	331.80	331.80	331.80	331.80	331.80	6,221.25
Subject F				15.70	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	94.20	1,428.70
Subject G					14.20	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	34.08	28.40	34.08	485.64
Subject H					51.87	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	88.92	1,296.75
Subject I					42.00	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	100.80	1,453.20
Subject J										177.12	354.24	354.24	354.24	354.24	354.24	354.24	354.24	354.24	354.24	354.24	3,365.28
Subject K											428.30	840.60	840.60	840.60	840.60	840.60	840.60	840.60	840.60	840.60	7,145.10
Subject L											1,252.44	2,504.88	2,504.88	2,504.88	2,504.88	2,504.88	2,504.88	2,504.88	2,504.88	2,504.88	21,291.48
Subject M																		1,911.55	4,587.72	4,587.72	11,086.99
Recently deceased																					
Subject N																				225.42	225.42
Subject P																				200.00	200.00
Subject Q																				83.83	83.83
Underpaid																					
Subject R				(1.00)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(4.80)	(74.00)
Subject S											(3.50)	(6.00)	(6.00)	(6.00)	(6.00)	(6.00)	(6.00)	(6.00)	(6.00)	(5.50)	(57.00)
Grand Total	\$ 248.85	\$ 331.80	\$ 331.80	\$ 345.50	\$ 529.27	\$ 645.00	\$ 645.00	\$ 645.00	\$ 645.00	\$ 645.00	\$ 818.62	\$12,678.34	\$15,878.40	\$23,367.90	\$30,857.40	\$30,857.40	\$30,857.40	\$32,768.95	\$30,800.96	\$35,161.40	\$248,413.99

Retiree	Sum of Difference
Paid after last payment date	\$194,261.35
Incorrect amount paid	53,774.39
Recently deceased	509.25
Underpaid	(131.00)
Grand Total	248,413.99

Note: Potential over/underpayment totals assume that incorrect payments identified in the September 2009 payment ledger have been disbursed incorrectly since inception.

RESOLUTION TC23-178: BE IT RESOLVED, That a resolution amending the Town of Trumbull Retirement Plan to include Appendix B, Non-Union Employee Hires; BE IT RESOLVED, that the Town Council amends the Town of Trumbull Retirement Plan as follows:

WHEREAS, the Town of Trumbull has a defined benefit plan known as the Town of Trumbull Retirement Plan, herein referred to as the Plan, established on July 1, 1973; and

WHEREAS, the Plan was amended and restated effective as of July 1, 2002; and


WHEREAS, the Town of Trumbull Pension Board, herein referred to as the Board, has made a recommendation to limit access of new employee hires into the Plan in their annual report to the Town Council; and

WHEREAS, the Board has made a recommendation to establish a defined contribution plan for new employees;

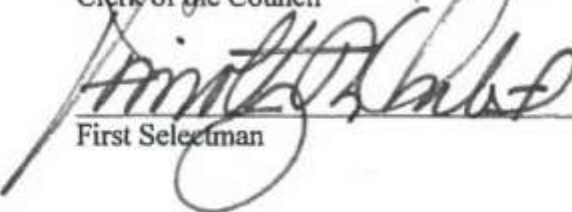
THEREFORE, BE IT RESOLVED, That employees not covered under the provisions of collective bargaining agreements who have not contributed to the Town of Trumbull Retirement Plan as of the effective date of Resolution TC23-178 are hereby prohibited from participating in the Plan and are hereby eligible to contribute towards a defined contribution plan and the Pension Plan will be amended accordingly.

Introduced by	Rappa
Committee Referral	07-25-11
Committee	L&A
Council	08-01-11
Referred to Selectman	08-04-11
Published	08-09-11
Effective	08-24-11

Certified by Clerk


Clerk of the Council

Approved

 8/5/11
First Selectman Date



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July 19, 2018

Via Electronic and US. Mail

Mr. James Haselkamp
Director of Labor Relations
Town of Trumbull
5866 Main Street
Trumbull, CT 06611

Ms. Maria Pires
Director of Finance
Town of Trumbull
5866 Main Street
Trumbull, CT 06611

Re: Town of Trumbull Retirement Plan

Dear Jim and Maria:

This letter responds to your request that we provide an opinion concerning the options to correct contributions made to the Town of Trumbull Retirement Plan (the "Retirement Plan") on behalf of employees who were not eligible to participate in the Retirement Plan.

Background

The Retirement Plan is a governmental defined benefit pension plan that is intended to be qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"). The Retirement Plan received a favorable determination letter from the IRS, dated June 16, 2017. As a governmental pension plan, the Retirement Plan is exempt from many of the requirements of ERISA. The Retirement Plan is frozen as to new participants (i.e., employees hired or rehired after specified dates are not eligible to become participants in the Retirement Plan). No non-union employee hired on or after August 24, 2011 is eligible to become a participant in the Retirement Plan. For union employees, the effective date of the freeze varies depending on the terms of the particular union contract.

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The following provisions set forth the freeze dates applicable to the various categories of Board of Education employees:

Any Board of Education supervisor employee, Board of Education support staff employee or Board of Education paraprofessional employee who is hired on or after July 1, 2013 (or was hired prior to July 1, 2013 but terminates employment and is later rehired on or after July 1, 2013) shall not be eligible to become a participant in the Retirement Plan (or to again become a participant in the Retirement Plan) on or after July 1, 2013.

Any Board of Education administrative support employee who is hired on or after July 1, 2013 (or was hired prior to July 1, 2013 but terminates employment and is later rehired on or after July 1, 2013) shall not be eligible to become a participant in the Retirement Plan (or to again become a participant in the Retirement Plan) on or after July 1, 2013. In addition, any Board of Education administrative support employee who was hired prior to July 1, 2013 but who did not have twelve calendar months of employment by July 1, 2014 shall not be eligible to become a participant in the Retirement Plan.

Any Board of Education cafeteria staff employee who is hired on or after July 1, 2014 (or who was hired prior to July 1, 2014 but terminates employment and is later rehired on or after July 1, 2014) shall not be eligible to become a participant in the Retirement Plan (or to again become a participant in the Retirement Plan) on or after July 1, 2014.

Each participant is required to contribute to the Retirement Plan, by payroll deduction, an amount equal to a specified percentage of compensation. Since July 1, 1984, the employer "picks-up" all contributions required to be made to the Retirement Plan by participants. Such contributions are treated as employer contributions for federal income tax purposes and are not included in the current income of participants.

It is our understanding that the Board of Education has treated, and continues to treat, two Board of Education employees hired after the applicable freeze date as eligible to participate in the Retirement Plan and the Board of Education continues to make contributions, including pick-up contributions, to the Retirement Plan on their behalf. Under the terms of the Retirement Plan, these employees, who were hired on or after the applicable freeze date, are ineligible to participate in the Retirement Plan. When a plan in operation does not follow the written terms of the plan document, an operational failure occurs that must be corrected in order to maintain the qualified status of the plan.

You have asked us to provide an opinion regarding the options to correct the failure to exclude these ineligible employees from participating in the Retirement Plan.

Analysis

An operational failure may be corrected under the IRS Employee Plans Compliance Resolution System ("EPCRS"). Under EPCRS there are three programs available for correcting plan failures (a) the Self-Correction Program ("SCP"); (b) the Voluntary Correction Program ("VCP"); and (c) the Audit Closing Agreement Program ("Audit CAP," not applicable here since the Retirement Plan is not under audit).

Inclusion of an ineligible employee in a defined benefit pension plan is not one of the situations covered in the sample corrections addressed under EPCRS, therefore, any correction method should be approved by the IRS through the filing of a VCP submission.

Pick-up contributions, in our judgment, are analogous to a nondiscretionary employer contribution to a plan, and therefore, in our judgment, an appropriate correction would be to treat the employee as having been improperly included in the Retirement Plan, or as having received contributions in excess of those permitted by the terms of the Retirement Plan. Under either of these approaches, the pick-up contributions to the Retirement Plan would be treated as employer contributions and would be forfeited by the employee. The forfeitures could then be used to reduce future employer contributions to the Retirement Plan (in this case, future Board of Education contributions). The employer should pay back wages to the affected employees to the extent that the employees' wages were erroneously reduced, plus interest on such amount. It is our understanding that for income tax purposes, the IRS would treat this back pay as wages in the year paid.

An alternative correction option would be to treat the pick-up contributions as similar to erroneous 401(k) salary deferral contributions. These employees were not eligible to participate in the Retirement Plan due to the freeze and therefore any contributions made on their behalf were in excess of what was allowed (required) by the Retirement Plan (i.e., the pick-up contributions limit for an ineligible employee is \$0). Under EPCRS, the employee would recognize the amount of income in the year it is distributed. This approach would require the excess contributions (i.e., the pick-up contributions) to be distributed directly to the affected employee, with earnings. The distribution would be reported on a Form 1099-R using Code E- Distributions under Employee Compliance Resolution System. The employee receiving the distribution must be notified that the returned amount is taxable to them and is not eligible for rollover. The ineligible employees, in our judgment, should also be notified that they are not entitled to a benefit under the Retirement Plan.

The end result of the above options is similar in that the same amount is returned to the employee, however, under the first option, the amount returned to the employee is paid by the employer to the employee and under the second option, the amount comes out of the Retirement Plan. The first option, whereby the pick-up contributions on behalf of ineligible employees are

forfeited and the employer pays back wages to the affected employees reflects the fact that the employee contributions were not discretionary. In our judgment, the pick-up contributions erroneously made by the Board of Education to the Retirement Plan for these ineligible employees should have been received by such employees as wages. Therefore, it would appear to be the employer's responsibility to refund such amounts, not the Retirement Plan's. That being said, the IRS may agree that either approach is acceptable since, in the end, under both options, the employee is put back in the position he or she would have been in if the failure had not occurred.

As discussed above, in our judgment, a VCP submission should be prepared to address the correction of the operational failure (inclusion of ineligible employees in the Retirement Plan). The Retirement Plan may defer forfeiting or refunding the improper contributions until IRS approval is received. However, if contributions are still being made on behalf of these improperly included employees, we would strongly recommend that such contributions cease as soon as possible.

Please get in touch with me with any questions or comments you may have.

LLU:kg

Very truly yours,
Lori L. Underberger

BERCHEM MOSES^{Pc}

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- - Also Admitted in CA
- o - Also Admitted in IL
- - Also Admitted in MA
- - Also Admitted in NJ
- - Also Admitted in NY
- ., - Also Admitted in PA

PLEASE REPLY TO
MILFORD OFFICE

January 2, 2019

Maria Pires
Director of Finance
Trumbull Town Hall
5866 Main Street
Trumbull, CT 06611

Dear Maria:

I am writing as Counsel to the Trumbull Board of Education and at the request of Dr. Gary Cialfi, Superintendent.

A copy of your December 27, 2018 email to Brad Fisher, Phyllis Collier and others has been forwarded to me. On behalf of the Board, a request is made that pension contributions not be returned to the three individuals noted in your email until the pending request, first filed with the Town Council, and now the Pension Board, to amend the pension plan to permit the three individuals in dispute to participate in the plan, has been resolved, or at least acted upon by the Council and/or the Pension Board. As you are aware, return of the contributions will trigger tax consequences for one or more of the three individuals involved and will only exacerbate the problem.

Your cooperation is appreciated. Should you or Mr. Schopick wish to discuss this request, please do not hesitate to give me a call.

Sincerely,



Floyd J. Dugas, Esq.

FJD/md

cc: Dr. Gary Cialfi
Loretta Chory
Dan Schopick, Esq.