

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**Claudia Bennett,**  
Petitioner

v.

Docket No. CR-23-0185

Date: May 13, 2024

**Massachusetts Teachers'  
Retirement System,**  
Respondent

**Appearance for Petitioner:**

Claudia Bennett, *pro se*

**Appearance for Respondent:**

James O'Leary, Esq.  
MTRS  
500 Rutherford Ave., Suite 210  
Charlestown, MA 02129-1628

**Administrative Magistrate:**

Kenneth J. Forton

**SUMMARY OF DECISION**

MTRS properly applied the “anti-spiking” provision, G.L. c. 32, § 5(2)(f), when it calculated Petitioner’s retirement allowance. Petitioner was entitled to the “bona fide change of position” exception for the 2020-2021 school year, as she was promoted to principal in that school year. Petitioner’s increase in salary during the subsequent 2021-2022 school year, however, did not qualify for an exception because it was a “market adjustment” having nothing to do with the hours that she worked that year, as she claimed.

**DECISION**

Petitioner Claudia Bennett timely appeals under G.L. c. 32, § 16(4). She seeks to overturn the Massachusetts Teachers’ Retirement System’s (MTRS) application of the

anti-spiking law, G.L. c. 32, § 5(2)(f), to the calculation of her retirement allowance.

MTRS concluded that Ms. Bennett’s regular compensation during the 2021-2022 school year must be reduced.

On May 17, 2023, DALA ordered the parties to submit legal memoranda and proposed evidence and suggested that the appeal could be decided on written submissions under 801 CMR 1.01(10)(c). No objections were raised to the order. On August 21, 2023, MTRS submitted a memorandum along with eight proposed exhibits, labeled 1-8. On November 3, 2023, Ms. Bennett filed a response as well as an additional exhibit, which I have labeled Exhibit 9. I have admitted into evidence the proposed exhibits as marked. (Exs. 1-9.)

**FINDINGS OF FACT**

Based on the documents in evidence, I make the following findings of fact:

1. Claudia Bennett is a retired member of MTRS. (Exhibit 8.)
2. Ms. Bennett retired from her position as principal of a school in the Ashland Public School District, effective July 31, 2022. (Exhibits 2, 3.)
3. On July 1, 2020, Ms. Bennett was promoted from the position of assistant principal to principal. The salary for her new position was \$108,000.00. (Exhibits 2, 4.)
4. For the start of the 2021-2022 school year, Ms. Bennett’s salary was initially increased to \$110,700.00. (Exhibit 3.)
5. As of August 11, 2021, however, the school committee made a unilateral “market adjustment” to Ms. Bennett’s salary, a 12.9% increase from \$110,700.00 to \$125,000.00. At the same time, 11 other administrators, principals, and directors

received similar “market adjustments” to their salaries, ranging from 2.9% to 20.5%.  
(Exhibit 3.)

6. The MTRS determined Ms. Bennett’s salary for the five years before retirement were as follows:

- a) Year One: \$123,950.79 (21 - 22)
- b) Year Two: \$108,000.00 (20 - 21)
- c) Year Three: \$97,650.00 (19 - 20)
- d) Year Four: \$93,000.00 (18 - 19)
- e) Year Five: \$87,822.00 (17 - 18)

(Exhibits 3, 7.)

7. On March 8, 2023, MTRS notified Ms. Bennett that it had applied the anti-spiking provision to her retirement calculation by adjusting her 2021-2022 regular compensation downward. This letter included her appeal rights.

8. On March 15, 2023, Ms. Bennett timely appealed MTRS’s decision.

**CONCLUSION AND ORDER**

For members like Ms. Bennett, who were members of a retirement system before April 2, 2012, G.L. c. 32, § 5(2)(a) directs that a member’s yearly retirement allowance be calculated based, in part, on the highest average three-year period of regular compensation. For Ms. Bennett, these were the 2019-2020, 2020-2021, and 2021-2022 school years.

Section 5(2)(f), referred to as the “anti-spiking” statute, provides, in relevant part:

In calculating the average annual rate of regular compensation for purposes of this section, regular compensation in any year shall not include regular compensation that exceeds the average of regular compensation received in the 2 preceding years by more than 10 percent.

This paragraph shall not apply to an increase in the annual rate of compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, [or] from a modification in the salary or a salary schedule negotiated for bargaining unit members under chapter 150E . . . .

Ms. Bennett's salaries in the 2020-2021 and 2021-2022 school years exceeded the respective averages of the prior two years by more than 10 percent. For the 2020-2021 school year, Ms. Bennett qualified for an exception to the anti-spiking provision because her promotion to principal was a "bona fide change in position." *Id.* This exception applies only to the year in which the change in position occurs and does not cover the subsequent 2021-2022 school year, in which she also had excess earnings. *See* PERAC Memorandum #16/2014.

Ms. Bennett argues that, for the 2021-2022 year, she qualifies for the "increase in hours of employment" exception. G.L. c. 32, § 5(2)(f). Because of the COVID pandemic, Ms. Bennett alleges, she was required to work more hours and consequently qualifies for the exception. In order to qualify for the "increase in hours of employment" exception it is not enough to merely work more hours. *Lam v. MTRS*, CR-17-170 (DALA Feb. 26, 2021); *Crofford-Bik v. MTRS*, CR-22-0583 (DALA June 9, 2023). To determine whether there has been an "increase in hours of employment" under the statute, we must consider whether the position is managerial and whether the petitioner would be expected to complete the work required regardless of time (as opposed to having fixed hours). *Lam*, *supra*. Ms. Bennett was a school principal. She was promoted to principal during the pandemic. It was thus understood that she would be required to navigate the changing educational landscape that came with it, beyond any set number of hours. While she may have worked long hours to meet this challenge, as the principal and

primary leader of her school she was expected to do so. Moreover, there is direct evidence that her 2021-2022 salary increase to \$125,000.00 was a market adjustment having nothing to do with the hours she was working.

MTRS correctly applied G.L. c. 32, § 5(2)(f) in its calculation of Ms. Bennett's retirement allowance. The decision of MTRS is therefore affirmed. MTRS is directed to return to Ms. Bennett, with interest, any excess withholdings.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Kenneth J. Forton*

---

Kenneth J. Forton  
Administrative Magistrate

DATED: May 13, 2024