

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Melissa Downey,
Petitioner

v.

Docket No. CR-25-0531

Massachusetts Teachers'
Retirement System,
Respondent

Appearances:

For Petitioner: Melissa Downey, *pro se*

For Respondent: Salvatore Coco, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner is not entitled to purchase four years of service in Riverside School under G.L. c. 32, §4(1)(p) because she is unable to provide any details about her salary while working there. The Massachusetts Teachers' Retirement System is therefore unable to calculate how much credit she may be entitled to and what it would cost to purchase it.

INTRODUCTION

The Petitioner, Melissa Downey, timely appeals a decision by the Massachusetts Teachers' Retirement System (MTRS) that she is ineligible to purchase creditable service for the period of December 1999 through June 2003 pursuant to G.L. c. 32, § 4(1)(p). I held a virtual hearing via WebEx on July 15, 2026, with the consent of both parties. I entered exhibits 1-6 into evidence. Ms. Downey was the only witness. MTRS presented its closing statement at the conclusion of the hearing, and the petitioner filed a post hearing brief on July 24, 2026.

FINDINGS OF FACT

1. The Petitioner, Melissa Downey, works as a teacher in the North Andover public school district and is currently active member of the MTRS. (Ex. 4.)

2. On August 28, 2024, the Petitioner sought to purchase service credit for her time teaching at Riverside School (Riverside), a nonpublic school, from December 2000 through June 11, 2003. A background document about Riverside explains it was a not-for-profit organization for the purpose of operating a school for emotionally disturbed children. It further adds that "Riverside receives revenue from the Massachusetts Department of Education (DOE) and Department of Social Service (DSS), the state of New Hampshire, and other funding sources." (Ex. 4.)

3. The school is no longer in operation; it shut down due to its misuse of funds. Since Riverside closed, there is no custodian of records, and the Petitioner was unable to obtain any institutional documents about her employment. (Testimony; ex. 1.)

4. On her application to purchase her time at Riverside, the Petitioner wrote that the students came from "all of New England and part of New Hampshire." (Ex. 4.)

5. On August 29, 2024, MTRS denied the Petitioner's application because she "was engaged in teaching students from New Hampshire during [her] employment years with the Riverside." (Ex. 2.)

6. The next day, the Petitioner submitted an amended application,¹ seeking to purchase service for the period December 1999 through June 11, 2003.² On the revised application, the Petitioner stated the students were from “New England → all over and court ordered.” (Ex. 5.)

7. At the hearing, the Petitioner explained that every student assigned to her was a Massachusetts resident placed at Riverside by their Massachusetts public school district. She knew this because all of her students had individualized educational plans (“IEP”). She would sit in on their IEP meetings during the year, which always included that student’s district. The districts represented in these IEP meetings were all from Massachusetts. (Testimony.)

8. In her application, she wrote that the school had students from outside of Massachusetts because that is what she read in a document about the school (which she found and included in her application). But she did not mean to say that her own classrooms, specifically, included out-of-state students. (Testimony; ex. 4.)

9. It is possible the school did have some out-of-state students. But I find the Petitioner only ever taught students from Massachusetts, meaning, all of *her* students’ tuition was funded in part or in whole by the Commonwealth.

10. The Petitioner held a few positions at Riverside: she was a substitute teacher for about a month when she started, a special education teacher starting in January 2000, and a dormitory

¹ MTRS did not issue a second appeal letter denying the Petitioner’s amended application. It did not need to as this was not so much a new application as it was just a supplement to her original application that provided additional evidentiary information. I admitted this document into evidence and consider it within my decision.

² The Petitioner appeared to make a mistake in her original application and wrote “December 2000” instead of “December 1999,” which is the date she began at Riverside. This was one correction she sought to make that does not appear to be in dispute.

counselor for some amount of time. As a teacher, she provided academic instruction and specialized services to students with significant emotional and behavioral disabilities. During her first year, she taught English, mathematics, science, and other subjects to sixth-grade students. During her second and third year, she taught four different classes of English and the theater program. (Testimony; ex. 4.)

11. As a counselor, she worked in the dorms after school hours supervising students' outdoor activities, assisting with meals and chores, and providing additional student activities. (Testimony.)

12. The Petitioner was not entitled to any retirement benefits at Riverside. (Testimony; ex. 4 & 5.)

13. Because there are no records available from the school, there are no documents that show the Petitioner's start and end dates or pay. The Petitioner explained the pains she went through trying to find any information from this time about these details. She even found an old teacher's journal which did include some other documents that were of evidentiary value—such as letters and evaluations that helped pinpoint when she worked at Riverside. (Testimony.)

14. I credit her testimony, corroborated by documents, that she was a teacher from January 2000 through June 11, 2003.³ (Testimony; ex. 6.)

³ Her amended application says she was a counselor from December 1999 until April 1, 2000, and a teacher from April 1, 2000 through June 11, 2003. Her testimony was a little clearer and explained that she began as a substitute teacher in December 1999, and then became a regular teacher beginning in January 2000, although she did not say on which exact date in January she began.

15. That said, there are no documents, and the Petitioner could not recall with any specificity, details about her salary, withholdings, or payments generally. For example, she recalled being paid in the low \$20,000.00 range. She also recalled being paid in the same paycheck for both her work as a teacher and as a counselor. But she could not recall her exact salary for either or anything beyond that general description. (Testimony.)

16. In its denial letter, MTRS's only reason for denying the Petitioner's application related to the tuition of her students. At the beginning of the hearing, I explained to the Petitioner that the hearing might include topics she would have to prove and may not have been ready to address. I specifically explained that MTRS was also raising an issue with respect to the lack of documents concerning her pay. I said I would continue the hearing to give her time to respond to these arguments, including looking for more documents. The Petitioner declined my offer. She said, in so many words, that she had exhausted the places she could look for documents, and had found all the documents she could find, so that any additional time would not likely produce any new information. (Testimony.)

DISCUSSION

Chapter 32 provides opportunities for members to purchase creditable service for periods of pre-membership employment. Creditable service for prior non-membership service in a Massachusetts non-public school is available only if certain criteria are met: the member in service was "engaged in teaching pupils," the tuition of all such pupils taught was financed in part or fully by the Commonwealth, the member was not entitled to receive a retirement allowance, and the member must furnish the board with the information it needs to determine the credit to be allowed. G. L. c. 32, § 4(1)(p).

In this appeal, the Petitioner sought to purchase credit for her nonpublic school service at Riverside. MTRS denied her application because it said the tuition of all such students taught was not financed in part or in full by the Commonwealth. I disagree with MTRS on this point. Although her application stated her school accepted students from out of state, even if true, I credit Ms. Downey's testimony that the students she taught were all from Massachusetts. *Fraser v. Mass. Teachers' Ret. Bd.*, CR-04-789, at *2 (Contributory Ret. App. Bd. Mar. 14, 2008). I also credit Ms. Downey's testimony that she did not receive any retirement benefits at Riverside. As for whether she taught pupils, based on the evidence and testimony presented at the hearing, I find she did "teach pupils" as a teacher, but not as a counselor.⁴

However, that still leaves the Petitioner with one more obstacle to overcome which, because of a variety of factors out of her control, she cannot do. The Petitioner has the burden of proving her case by a preponderance of the evidence. *See Lisbon v. Contributory Retirement Appeal Bd.*, 41 Mass. App. Ct. 246 255, (1996). That includes providing evidence of her pay so that MTRS can accurately calculate how much credit she is due and what that will cost to buy. The Petitioner was a reliable witness who explained in great detail how she could recall certain things about her job. I was impressed with how much she was able to recreate, given that the school no longer exists and there are no records of her time there. That is why I credit all her testimony. But that includes crediting her candid testimony that she does not recall much about her salary, nor could she find any documents that speak to this. And even if she knew how much she was paid, she could not recall how much of her salary was for teaching and how

⁴ MTRS conceded this point after the hearing.

much was for her role as a counselor (since she explained she was paid for both together in one paycheck).

There is no dispute that MTRS would be unable to piece together the information it needs from the vague generalities that the Petitioner was able to recall. Providing this information is one requirement of purchasing this service. It would be impossible for MTRS to determine, for example, how much the Petitioner was paid, whether she was employed "full-time" or something else given her other job as a counselor, whether she had time off payroll, what day she began teaching, etc. *Carey v. State Bd. of Ret.*, CR-22-0570, 2024 WL 5055499, at *4-6 (Div. Admin. Law App. Nov. 29, 2024).

In a different case I might remand the matter back to MTRS. Because it denied the Petitioner based on the issue of the source of her students' tuition, it is not clear it considered the issues surrounding her salary. However, a remand here would be futile because the Petitioner does not have any clear information about her salary, and there is nothing more she can do to change that. After searching her records and testifying under oath, she has nothing concrete to offer MTRS on this point even if I were to remand the matter. Therefore, MTRS's argument that there is no documentation or information for it to even consider carries the day.

CONCLUSION AND ORDER

The Petitioner is not entitled to purchase three years of her service at Riverside. MTRS's decision is *affirmed*.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: August 21, 2026

/s/ Eric Tennen

Eric Tennen
Administrative Magistrate