

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Middlesex, ss.

Maria Elena-Morey,
Petitioner,

Docket No.: CR-22-0052

v.

Massachusetts Teachers' Retirement System,
Respondent.

Appearances:

For Petitioner: Jesse Gibbings, esq.

For Respondent: Lori Curtis Krusell, esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The Petitioner seeks to purchase credit for her work as a per-diem and long-term substitute teacher in Rhode Island. She is not eligible to purchase this prior service because she did not meet the definition of "teacher" under G.L. c. 32, § 1. For her work as a per-diem substitute, she did not perform the duties of a teacher as required by 807 Code of Mass. Regs. § 19.01. And while she did perform the duties of a teacher as a long-term substitute, she did not work at least half-time in that role.

DECISION

The Petitioner, Maria Elena-Morey, timely appeals a decision by the Massachusetts Teachers' Retirement System ("MTRS") that she is not entitled to two years of creditable service for her time spent teaching in Rhode Island from September 1998 -1990. Magistrate Melinda Troy held a hearing on April 2, 2024; she entered exhibits 1-10 and A-H into evidence. Ms. Elena-Morey was the only witness. Both parties submitted a post-hearing memorandum. After Magistrate Troy

became unavailable to render a decision, the matter was reassigned to me. 801 Code of Mass. Regs. § 1.01(11)(e). The parties agreed a new hearing was not necessary.

FINDINGS OF FACT

1. The Petitioner is an active member of the MTRS. (Testimony; exs. 2 & 3.)
2. Before becoming a member of MTRS, she taught at the Woonsocket School Department (“Woonsocket”) in Rhode Island from 1988 to 1990. (Ex. 1.)
3. The average school year in Rhode Island is 180 days. (Testimony.)
4. At that time, Rhode Island required teachers to have a certificate of qualification issued by the Rhode Island Department of Education (“RIDE”). RIDE issued various certificates including provisional and substitute certificates. Both provisional and substitute certificates required a bachelor’s degree, but provisional certificates had a “recency of study requirement” while substitute certificates did not. Provisional certificates were also valid for three to six years while a substitute certificate was only valid for 75 days in a school year. (Ex. 9.)
5. When Ms. Elena-Morey taught at Woonsocket, RIDE required a substitute teacher to have at least a substitute teacher’s certificate. (Exs. C & H.)
6. However, a substitute certificate was the minimum certification someone needed to work as a substitute teacher; someone could also work as a substitute if they had one of the other RIDE certifications. (Ex. 9.)
7. The Petitioner obtained a provisional certificate from RIDE authorizing her to serve in public schools as a provisional middle/secondary teacher of students with mild/moderate disabilities. It was issued in October 1992 and expired in August 1995. She was also

certified to be a provisional teacher of students with moderate/severe/profound disabilities for pre-kindergarten through 12th grade. That was issued in June 1988 and expired in August 1994. (Ex. 4.)

8. In the 1988-1989 school year, the Petitioner had two positions: 1) from September 1988 to March 1989, she worked as a per-diem substitute teacher and 2) from March 1989 to June 1989 she was a long-term substitute teacher. (Ex. 1.)
9. For that school year, Ms. Elena-Morey worked 111 total school days: 49 as a per-diem substitute and 62 as a long-term substitute. (Ex. 1.)
10. For the 1989-1990 school year, she worked only as a per-diem substitute teacher and for only 46 school days. (Ex. 1.)
11. As a per-diem substitute teacher, she was responsible for teaching lesson plans prepared by others and maintaining classroom behavior. (Testimony.)
12. As a long-term substitute teacher, she had more responsibility: she created lesson plans, monitored classroom behavior, communicated with parents, and completed student assessments. (Testimony.)
13. After finishing her work with Woonsocket, Ms. Elena-Morey obtained a job as a full-time teacher at Saint Mary's Home for Children in Rhode Island relying on her provisional teaching certificates from RIDE (which were valid through 1994-1995). (Testimony.)
14. In 2020, she applied to purchase her service at Woonsocket, which MTRS denied on the basis that her job at Woonsocket required only that Ms. Elena-Morey hold a bachelor's degree but not a teaching certification. (Exs. 1 & 2.)

DISCUSSION

“[I]n all issues determining entitlement ... and absent statutory presumptions, the Petitioner bears the burden of proof.” *Goldstein v. MTRS*, CR-03-176, at *4 (Contributory Ret. App. Bd. Feb. 4, 2005); *Byrne v. MTRS*, CR-15-609, 2018 WL 1473269 (Div. Admin. Law App. Jan. 26, 2018). Whether the Petitioner may purchase this prior service depends on whether she meets the out-of-state teacher requirements found within Massachusetts statutes and MTRS regulations.

A teacher is eligible to purchase prior out-of-state service if they are a current member of MTRS, served as a teacher in a public day school of another state, and that service would have been creditable if it had been rendered in Massachusetts. G.L. c. 32, § 3(4). That requires, among other things, determining if the member was a “teacher” out of state which, under G.L. c. 32, § 1, is defined as “any person who is employed by one or more school committees...on a basis of not less than half-time service as a teacher.” MTRS has also promulgated regulations that cover these purchases. Per the regulations, a teacher may purchase credit for out of state teaching service if, among other things, “during such service, the member was required to have, and had, the qualifications of a teacher in that school in that state, and performed the duties of a teacher.” 807 Mass. Code of Regs. § 19.01.

The first issue involves the Petitioner’s Rhode Island certifications. MTRS argues that, because the Petitioner needed only a substitute certificate to teach at Woonsocket, she did not have “the qualifications of a teacher in that school in that state.” 807 Mass. Code of Regs. § 19.01. Essentially, MTRS argues that a substitute teacher with a substitute certificate was not the same as a teacher with a teaching-level certificate; it contends that only teachers with teaching-level

certificates qualify to purchase prior service under its regulation. But the regulation is not so rigid.

Rather, it means

that a member may not purchase service time for the out of state service if the foreign state required certification and the member did not have the certification, but a member may purchase service credit if she possessed the certification or if she was servicing in a position in which the host state did not require certification.

Frazer v. MTRS, CR-16-315, 2020 WL 13584376 (Div. Admin. Law Apps. Aug. 21, 2020).

If the regulation means the Petitioner needed a teaching-level certificate no matter what she taught, she is covered because she had two provisional certifications.¹ If the regulation means she needed whatever level of certification was required to perform her job, she had that too. Her provisional certificates were sufficient to cover the requirement that a substitute teacher have at least a substitute certification.

The remaining issue is whether the Petitioner met the definition of teacher in her substitute teaching roles. This requires two things: that she performed the duties of a teacher and that she worked “for not less than half time.” G.L. c. 32, § 1.

Titles do not define a role. Out-of-state teachers whose work is equivalent to that of a teacher in Massachusetts are eligible to purchase their out-of-state service. *Metzger v. MTRS*, CR-08-628, 2015 WL 14085592, (Contributory Ret. App. Bd. May 18, 2015). Someone called a “teacher’s aide,” for example, could be considered a teacher if they performed equivalent duties. *Cope, supra*; *Metzger, supra*. CRAB has explained that this requires the member to have “functioned” like a teacher in her role. *Metzger*. Someone functions like a teacher if they, for

1 Indeed, a substitute certificate was valid only for 75 days, but the Petitioner taught as a substitute for more than 75 days. Thus, it is clear her provisional certificates are what allowed her to teach as a substitute teacher.

example, develop their own curriculum and report directly to the principal, *Cope, supra*, or they create lesson plans, instructional materials, and administer long term assessments. *Metzger v. MTRS*, CR-08-628, 2015 WL 14085592, (Contributory Ret. App. Bd. May 18, 2015); *contrast Lachance v. Contributory Ret. App. Bd.*, 62 Mass. App. Ct. 1118 (2005) (although the member had spent time teaching, his job was not the equivalent of a teacher because he served under the supervision of a professor and had assisted him with academic work rather than being independently responsible for teaching students).

The record here is thin as to the Petitioner's duties as a per-diem substitute teacher. She offered few facts to describe her position; what she did offer showed she did not function as a teacher performing equivalent duties: the Petitioner taught lesson plans prepared by others and monitored classroom behavior but did not perform other tasks typically associated with teachers. *Lachance, supra*. She was not the functional equivalent of a teacher but, rather, a day-to-day, short-term fill-in. *See Delorme v. Shrewsbury Ret. Bd. & MTRS*, CR-13-540 (Div. Admin. Law Apps. Feb. 24, 2017), and cases cited (positions that involve "some teaching" do not necessarily meet the definition of "teacher.").

The duties she performed during her time as a long-term substitute teacher present a much more compelling case. During her time as long-term substitute she created lesson plans, monitored classroom behavior, communicated with parents and completed student assessments. Those duties were equivalent to those of a teacher in Massachusetts. *Metzger; Cope*.

That alone does not qualify her to purchase this service. The definition of a teacher also requires someone to perform those duties "not less than half-time." G.L. c. 32, § 1. The Petitioner argues that because she was employed 111 days out of the school year that she satisfies this

requirement. Indeed, if she had spent her entire 111 days as a long-term substitute, she might prevail because MTRS considers teaching 90 days a year to be half-time (based on an 180-day school year). *See Farricker v MTRS*, CR-16-492 (Div. Admin. Law Apps. Aug. 31, 2018). But the Petitioner was only a long-term substitute between March and June of 1989 for a total of 62 days. That is far short of the 90 days needed to meet the half-time requirement.

CONCLUSION AND ORDER

MTRS's denial of the Petitioner's application to purchase out-of-state service is **affirmed**.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Date: October 31, 2025

Eric Tennen

Eric Tennen
Administrative Magistrate