

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Caryn Gardner,
Petitioner

v.

Docket No. CR-26-0382

Massachusetts Teachers'
Retirement System,
Respondent

DISMISSAL

Caryn Gardner is seeking to purchase service credit for her work as a school nurse at Deerfield Academy, a private school in Massachusetts, from August 1, 2002, through July 25, 2021. She applied under G.L. c. 32, § 4(1)(p), which covers purchases of service at “non-public” schools. The Massachusetts Teachers’ Retirement System (MTRS) denied her application on July 16, 2026. Ms. Gardner appealed on August 7, 2026. I issued an order to show cause on August 25, 2026. Ms. Gardner filed responses on September 8, 2026 and September 9, 2026.

Ms. Gardner’s appeal is dismissed because it was untimely. An appeal from a retirement board’s decision must be filed “within fifteen days of notification of such . . . decision.” G.L. c. 32, § 16(4). The statutory deadline is “jurisdictional,” meaning that DALA has no authority to extend it. *Lambert v. Massachusetts Teachers’ Ret. Sys.*, CR-09-74, at *3 (Contributory Ret. App. Bd. Feb. 17, 2012).

A petitioner receives “notification” of a board’s decision as soon as the decision “is delivered to the petitioner’s home or is available to the petitioner.” *Bailey v. State Bd. of Ret.*, CR-07-724, at *5 (Contributory Ret. App. Bd. Nov. 16, 2012). A letter sent to a petitioner by U.S. mail, like the Board’s decision, is presumed to have been delivered three days later. 801 CMR 1.01(4)(c). The Board’s decision letter was sent on July 16, 2026. Three days later was July 19, 2026, which was a Sunday. Because Sunday was not a business day, it is deemed received the next business day, which was Monday, July 20, 2026. 801 CMR 1.01(4)(d). An appeal filed by fax, like Ms. Gardner’s, is deemed filed as of the date of the fax transmission if received before the close of business. 801 CMR 1.01(4)(a). That means Ms. Gardner’s appeal is deemed filed on August 7, 2026.

Taken together, these rules mean that Ms. Gardner filed her appeal 18 days after she received the board’s decision. In her response to the order to show cause, she completely failed to address the issue of untimeliness. Therefore, I must conclude that the appeal was filed untimely and DALA therefore does not have jurisdiction.

Because the appeal was untimely, it is unnecessary for me to address the remaining two substantive issues I ordered Ms. Gardner to address, but I cover them now in the event that my decision on jurisdiction is found to be incorrect.

The first substantive issue is that G.L. c. 32, § 4(1)(p) covers purchases of service credit based on work at non-public schools where the tuition of all students taught by the applicant must have been paid at least in part by the Commonwealth. *Id.* Ms. Gardner has not even made any allegations regarding the source of Deerfield students’ tuition. *See Wollons v. State Bd. of Ret.*, CR-23-0610, at *3 n.8 (Contributory Ret. Appeal

Bd. Sept. 3, 2026) (only allegations necessary to defeat an order to show cause).

Moreover, it is highly unlikely that all of the students at such a prestigious boarding school would have had part of their tuition paid by the Commonwealth. Ms. Gardner's failure to submit any evidence to support this element is fatal to her appeal.

Finally, an applicant must have been "engaged in teaching pupils." *Id.* "[T]he choice of the words 'engaged in teaching pupils' in a non-public 'school' in enacting § 4(1)(p) was intended by the Legislature to include instruction in the academic and vocational subjects that are typically taught for credit in public schools, generally in the classroom, ..." *Siddle v. Massachusetts Teachers' Ret. Sys.*, CR-16-385, at *4 (Contributory Ret. App. Bd. August 2, 2023). "Infrequent and episodic teaching," such as one or two hours a week, "does not satisfy the statute." *Happ v. Massachusetts Teachers' Ret. Sys.*, CR-16-130, at *6 (Div. Admin. L. App. September 29, 2017). "When the Legislature enacted G.L. c. 32, § 4(1)(p), it had in mind classroom teachers of academic subjects, not anyone engaged in an activity that leads to young people learning something." *Id.* at *7. Ms. Gardner was employed as a nurse at Deerfield, not as a teacher. She asserts that her duties were educational, essentially because they occurred in the school context and she cared for students. This is not what "engaged in teaching pupils" means. § 4(1)(p).

The bulk of Ms. Gardner's two responses to the order to show cause suggests that MTRS nonetheless allow her to purchase service credit because equity demands that she be treated the same as a teacher and nurses are "an important part of the educational team." Ms. Gardner also insists that her situation is no different than a

vocational-technical teacher purchasing service under G.L. c. 32, § 4(1)(h-1/2), as those teachers are allowed to purchase service credit based upon private employment in their vocational field. Ms. Gardner’s arguments are not without reason, but “equitable concerns,” i.e., “intuitive senses of fairness, justice, and sympathy,” “may not trump a statutory rule.” *Costa v. Newton Retirement System*, CR-25-0239, at *5 & n.1 (Div. Admin. L. App. May 22, 2026) (citing *O’Malley v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 778, 782 (2024); *Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 446, 450-51 (2006)).

Accordingly, this matter is hereby DISMISSED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Dated: September 11, 2026

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Sent to: Caryn Gardner
James O’Leary, Esq.