

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Susan Lee,
Petitioner,

Docket No.: CR-25-0483

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Susan Lee applied to purchase creditable service for the time she spent working as a clinician and clinical coordinator at the Manville School from September 25, 2000, to August 2, 2018. Respondent Massachusetts Teachers' Retirement System (MTRS) denied the application after applying G.L. c. 32, § 4(1)(p), which allows a purchase of creditable service by a teacher "who was previously engaged in teaching pupils in any non-public school in the commonwealth, if the tuition of all such pupils taught was financed in part or in full by the commonwealth."

MTRS denied her request for two reasons. First, MTRS stated that the relevant law requires a person to have been "engaged in [a] teaching position" in their previous employment to be eligible to purchase creditable service. G.L. c. 32, § 4(1)(p). MTRS concluded that Ms. Lee was not engaged in teaching pupils when she worked at the Manville School and therefore denied her application. Second, MTRS stated that during her employment, Ms. Lee was vested in a 403(b)-retirement plan and was entitled to receive employer contributions. MTRS viewed this as a retirement benefit and therefore concluded that she was not eligible to purchase creditable service. G.L. c. 32, § 4(1)(p) ("[N]o credit shall be allowed and no payment shall be accepted for

any service for which the member shall be entitled to receive a retirement allowance, annuity or pension from any other source.”).

Ms. Lee appealed MTRS’s decision to the Division of Administrative Law Appeals (DALA). I thereafter issued an Order to Show Cause to Ms. Lee to explain in writing why her appeal should not be dismissed for failure to state a claim on which relief may be granted. Ms. Lee submitted a timely response that was virtually identical to her appeal.

A. Applicable legal standard.

An appeal is properly dismissed if it fails to state a claim upon which relief can be granted. 801 CMR 1.01(7)(g)(3). For purposes of this analysis, I have taken all of Ms. Lee’s statements as true. *See White v. Somerville Ret. Bd.*, CR-17-0863 (Div. Admin. Law App. 2018).

B. Teaching pupils.

To be eligible to purchase creditable service, Ms. Lee must show that her job involved “teaching pupils.” G.L. c. 32, § 4(1)(p). Recent decisions from the Contributory Retirement Appeal Board and the Division of Administrative Law Appeals have clarified that “teaching pupils” includes:

[I]nstruction in the academic and vocational subjects that are typically taught for credit in the public schools, generally in the classroom, but not the myriad of other special education services that are provided in alternative day and residential schools, including instruction in life, coping, social, and emotional skills.

Lukasik v. Massachusetts Teachers’ Ret. Sys., CR-15-0668 (Contributory Ret. App. Bd. Feb. 21, 2020); *see also Verbits v. Massachusetts Teachers’ Ret. Sys.*, CR-17-1032 (Div. Admin. Law App. May 2021) (school psychologist who taught social and emotional skills to students not eligible). *Burke v. Massachusetts Teachers’ Ret. Sys.*, CR-16-0259 (Div. Admin. Law App. July 24, 2020) (teacher who taught “functional academics” and life skills not eligible); *Dibella v. Massachusetts*

Teachers' Ret. Sys., CR-10-0181 (Div. Admin. Law App. Mar. 4, 2016) ("A therapist, even one who provides services in a classroom to students, is not teaching students academics."). Thus, a clinician who provides instruction in life, coping, social, and emotional skills but who is not teaching academic or vocational subjects that public schools typically teach for credit is ineligible to purchase creditable service under G.L. c. 32, § 4(1)(p).

Taking the statements in Ms. Lee's response as true, the students with whom Ms. Lee worked at Manville had individual education plans (IEPs), which included social-emotional goals. Ms. Lee interacted with students individually and in small groups. She assisted students who struggled with managing their emotions, using healthy coping skills when stressed, and engaging in appropriate social interactions. She used cognitive behavioral therapy and techniques known as Social Thinking and Zones of Regulations to teach skills and strategies.

Ms. Lee provided valuable services to these students. However, Section 4(1)(p) limits credit for service to members who taught academic or vocational subjects in a school setting. Accordingly, Ms. Lee has failed to state a claim upon which relief can be granted.

Based on the above analysis, I do not need to reach the issue of whether Section 4(1)(p) ("no credit shall be allowed . . . for any service for which the member shall be entitled to receive a retirement allowance, annuity or pension from any other source") precludes Ms. Lee's purchase of creditable service for part of the time she worked at Manville.

For these reasons, Ms. Lee's appeal is **dismissed** for failure to state a claim.

Dated: November 21, 2025

/s/ Judi Goldberg

Judi Goldberg

Administrative Magistrate

DIVISION OF ADMINISTRATIVE LAW APPEALS

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