COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. Division of Administrative Law Appeals

Lynn Leschke,
Petitioner

v. Docket No.: CR-25-0448
Date: June 12, 2026

Massachusetts Teachers' Retirement System,
Respondent

Appearance for Petitioner:

Casey E. Berkowitz, Esq.

Appearance for Respondent:

Ashley Freeman, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY

Petitioner, a teacher, served as English department head from 2019 to 2025 in a public school. Respondent MTRS excluded the stipend that she was paid for serving as department head for the 2022-2023 school year because it was not listed in her collective bargaining agreement. *See* 807 CMR 6.02. Because the stipend was not listed in the CBA, MTRS correctly denied Petitioner's application.

DECISION

Petitioner Lynn Leschke timely appeals under G.L. c. 32, § 16(4) the decision of Respondent Massachusetts Teachers' Retirement System (MTRS) that the stipend she received for serving as English department head during the 2022-2023 school year was not "regular compensation" under G.L. c. 32, § 1. The Division of Administrative Law Appeals (DALA) suggested that the matter could be decided on written submissions under 801 CMR 1.01(10)(c) and instructed the parties to file memoranda and proposed exhibits. Neither party objected. On October 3, 2025, Ms. Leschke submitted her memorandum and 14 proposed exhibits. On November 14, 2025, MTRS submitted its memorandum and 4 additional proposed exhibits. I hereby admit the parties' 18 proposed exhibits into evidence as marked. (Exs. 1-18.)

FINDINGS OF FACT

Based on the exhibits, I make the following findings of fact:

1. Petitioner Lynn Leschke was employed as a teacher at Wachusett Regional High School from 1989 until 2025. During this period, she was a member of the Wachusett Regional Education Association (WREA), a teachers' union. (Ex. 15.)

2. From school years 2019 through 2025, Ms. Leschke served as English department head. She was appointed to this position each year by the Superintendent. The appointment letter for the disputed school year, 2022-2023, stated that she would receive a stipend of $14,171.25 for serving in the position. She was accordingly paid this stipend. (Exs. 2, 3, 8-13.)

3. In the CBA negotiated between WREA and the school district for 2018-2021, a stipend for the English department head position was not listed. Appendix II of the CBA, however, lists stipends for several other academic departments, including math, science, social studies, foreign language, art, music, and physical education. Different stipends were listed for each position. (Ex. 5.)

4. Appendix II also contains some more general statements regarding stipends, including:

> 1) When bargaining unit members assume coaching and athletic positions, leadership, and academic stipend positions and student and activity (club) positions attached to this agreement they shall be compensated in accordance with the agreed percentage of Master's/Step 1 of the collective bargaining agreement.
>
> . . .
>
> 4) Upon request, the District shall furnish the Association President with a list of all positions subject to this agreement and such positions shall become a part of the collective bargaining agreement for that year.

5. A one-year extension to the 2018-2021 CBA that covered 2021-2022 also did not list a stipend for English department head. It made no changes to the other department head stipends. (Ex. 6.)

6. The CBA was extended again for another school year: 2022-2023. This extension likewise did not list a stipend for English department head, but it did make some changes to the stipend amounts for the art, music, and physical education department head positions. (Ex. 7.)

7. Eventually, WREA and the school district negotiated another three-year CBA that covered school years 2023-2026. This CBA also did not list a stipend for English department head. It did, however, continue to list stipends for the math, science, social studies, foreign language, art, music, and physical education department head positions. (Ex. 17.)

8. On June 14, 2024, before the 2023-2026 CBA expired, WREA and the school district amended the 2023-2026 CBA to include a stipend for English department head in all three years covered by that CBA. (Ex. 18.)

9. Ms. Leschke retired effective June 30, 2025. (Ex. 15.)

10. On July 17, 2025, MTRS notified Ms. Leschke that it would not be including her English department head stipend for the 2022-2023 school year in her regular compensation, as all such "additional compensation" must be listed in the collective bargaining agreement and that year's CBA did not list a stipend for that position. (Ex. 1.)

11. On July 29, 2025, Ms. Leschke timely appealed MTRS's decision. (Ex. 16.)

12. Two months later, on September 25, 2025, WREA and the school district entered into a memorandum of agreement seeking to amend the 2018-2021 CBA and the 2021-2022 and 2022-2023 extensions to include a stipend for English department head. The parties to those agreements agreed that the stipend was "inadvertently omitted." (Ex. 14.)

13. An undated and unsworn letter signed by the Wachusett Regional School District Director of Human Resources explains:

> The absence of the English Department Head position from the bargaining agreement was an oversight. The bargaining team had assumed that all department head positions were included, and as a result, Lynn's role was treated as though it was formally listed in the contract, which everyone believed it to be.

It is unclear on what facts the author based his conclusions. (Ex. 3.)

CONCLUSION AND ORDER

When members of contributory retirement systems who became members before 2012 retire, they may be entitled to a superannuation retirement allowance based in part on the "average annual rate of regular compensation received by such member during any period of three consecutive years of creditable service for which such rate of compensation was the highest." G.L. c. 32, § 5(2)(a). G.L. c. 32, § 1 defines regular compensation during the relevant period as "compensation received exclusively as wages by an employee for services performed in the course of employment for [her] employer." "Wages" are the employee's "base salary or other base compensation." Wages do not include bonuses, overtime, and other additional forms of payment. For most teachers, however, wages include "salary payable under the terms of an annual contract for additional services" they perform at their schools. *Id.*; *see also* 807 CMR 6.02(1). An MTRS regulation, 807 CMR 6.01, defines "annual contract" as "the collective bargaining agreement for the unit which governs the rights of that member whether it is a one year or multi-year agreement."

There is no question that Ms. Leschke received a stipend for serving as English department head during all three of her last years working at Wachusett Regional High School: 2022-2023, 2023-2024, and 2024-2025. Neither the CBA nor the one-year extensions in evidence originally listed the stipends for English department head. However, in June 2024, WREA and the school district amended the 2023-2026 CBA to include an English department head stipend. Because the amendment to the 2023-2026 CBA was made before the expiration of the original agreement, MTRS conceded that the amended CBA for 2023-2024 and 2024-2025 now lists the English department head stipend, and it thus treated those two stipends as regular compensation.

The only remaining issue is whether the stipend Ms. Leschke received in the 2022-2023 school year is regular compensation. The CBA that covers that year is the second of two one-year extensions of the 2018-2021 CBA. The CBA lists a number of other department heads, but not the English department's. If that were all of the evidence, the decision would be easy. Because the stipend is not listed in the CBA for 2022-2023, it could not be regular compensation.

However, two months after MTRS issued its decision, the union and the school district attempted to retroactively amend the then-expired 2022-2023 CBA. The parties to the Memorandum of Agreement, signed September 25, 2025, explained that they had inadvertently omitted the English department head stipend from the list of other department head stipends and they then listed a stipend for the position.

The Appeals Court has explained that the "obvious purpose" of requiring additional services to be set forth in a collective bargaining agreement is to "provide clear records of approved stipends so as to avoid confusion and uncertainty at some later time when retirement boards are called upon to calculate pension benefits and would be in an untenable position if they had to sift through a multiplicity of alleged oral or side agreements about which memories might well be hazy." *Kozloski v. Contributory Ret. App. Bd.*, 61 Mass. App. Ct. 783, 787 (2004). The Court concluded that side agreements outside of the collective bargaining agreement, even those approved by the union and the local school system, may not be considered when deciding whether compensation for additional duties is regular compensation. *Id.*

In a more recent decision, *Lutz v. Massachusetts Teachers' Ret. Sys.*, a DALA magistrate concluded that an amendment to a CBA executed after MTRS makes its decision, and after the member performed her additional services and that CBA has expired, is an impermissible side agreement that does not meet the requirement that the additional service and the pay for it be listed in the CBA. CR-21-0075, at *9-10 (Div. Admin. L. App. Nov. 17, 2023). The magistrate explained:

> Kozloski provides, "as a purely technical matter," that if an amendment to a collective bargaining agreement post-dates a retirement board's decision, a tribunal charged with reviewing the correctness of the board's decision may understandably conclude that the decision of the board was correct when it was made. Although the Court described this consideration as a "purely technical" matter, I do not understand the Court to be suggesting it is "merely" technical. It isn't.
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> First, the efficient administration of the public retirement system would be ill-served by requiring retirement boards to consider post-decision revisions to the applicable collective bargaining agreement. After all, if requiring retirement boards to "sift through" multiple agreements would place them in an "untenable position," so, too, would requiring them to re-do their decisions in the wake of after-the-fact amendments.
>
> Second, the actuarial and administrative predictability of the system might well be undermined by after-the-fact adjustments. Just as retirement boards "need to know with reasonable certainty which cases are still subject to appeal in order to anticipate their potential liability for benefits," they also need to be able to reliably identify the controlling agreements that will give rise to their future liability.

Id. at *7-9 (footnotes and citations omitted).

Applying *Kozloski* and *Lutz* to Ms. Leschke's circumstances yields the same results as in those cases. Ms. Leschke's 2022-2023 CBA did not list a stipend for English department head, and the attempted amendment to that year's CBA was a post-decision revision that may not be considered. Therefore, that year's $14,171.25 stipend was not regular compensation.

Ms. Leschke makes two main counterarguments. First, she argues that the 2022 letter appointing her to the department head position for the disputed year effectively amended the CBA and is consequently sufficient to meet the requirements for regular compensation. However, the appointment letter was not signed by the parties to the CBA and therefore, along with the reasons stated above, cannot amend the CBA. *See Gregorchik v. Teachers' Ret. Bd.*, CR-02-1317, at *7 (Div. Admin. L. App. Mar. 16, 2004), *aff'd* (Contributory Ret. App. Bd. Sept. 1, 2004) (individual contracts cannot be used to amend the CBA).

Second, Ms. Leschke relies on some recent decisions that have concluded that CBAs are not required to describe additional services with "exacting specificity." *Marshall v. Massachusetts Teachers' Ret. Sys.*, CR-19-460, at *8 (Div. Admin. L. App. Jan. 27, 2023). A CBA may instead account for additional services "by way of an open-ended category." *Florio v. Massachusetts Teachers' Ret. Sys.*, CR-18-509, at *3 (Div. Admin. L. App. May 7, 2021). *See Fazio v. Contributory Ret. App. Bd.*, No. 17-664-D, at *10 (Suffolk Super. Ct. Jan. 2, 2018). "In essence, the statute and regulations are satisfied if the pages of the CBA—without supplementation—reassure a reasonable reader that the teacher's additional services were compensable under the CBA in the amount that the teacher received." *Hoppensteadt v. Massachusetts Teachers' Ret. Sys.*, CR-22-0582, at *2

(Div. Admin. L. App. Oct. 27, 2023), aff'd (Contributory Ret. App. Bd. Mar. 26, 2025) (citations omitted).

Ms. Leschke maintains that the CBA provision that "leadership [and] academic stipend positions . . . attached to this agreement . . . shall be compensated in accordance with the agreed percentage of Master's/Step 1 of the collective bargaining agreement," combined with the provision that "[u]pon request, the District shall furnish the [union] President with a list of all positions subject to this agreement and such positions shall become a part of the collective bargaining agreement for that year," are enough to describe her department head stipend in her CBA. I cannot agree.

The latest decisions on additional compensation may have expanded "additional services" to include open-ended categories, but the decisions still require that a specific stipend be provided for in the CBA. *See, e.g., Fazio*, supra ("five clubs selected by the principal" at stipend of $825/year); *Florio*, supra (clubs not listed paid stipend of $742/year); *Marshall*, supra ("master teacher" stipend of $5,000/year). Ms. Leschke's CBA does not meet this requirement because it merely states that "positions attached to this agreement" "shall be compensated in accordance with the agreed percentage of Master's/Step 1" of the CBA. Nothing in the CBA states a generally agreed upon percentage for department heads; different department heads were compensated at different percentages of Master's/Step 1. Therefore, there is simply not enough description or data in the CBA to reassure a reasonable reader that Ms. Leschke's additional services were compensable under the CBA in the amount that she received. *See Hoppensteadt*, supra.

For the above-stated reasons, I conclude that the stipend that Ms. Leschke received for serving as the English department head in school year 2022-2023 is not regular compensation. Accordingly, MTRS's decision is affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

Dated: June 12, 2026