

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Beth Ann McGlory
Petitioner,

Docket Nos.: CR-24-0252, CR-24-0368

v.

State Board of Retirement,
Respondent.

Appearances:

For Petitioner: Beth Ann McGlory (pro se)

For Respondent: Matthew Szafranski, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

A high-ranking officer of detention programs for juvenile delinquents had “custody” of the juveniles within the meaning of G.L. c. 32, § 3(2)(g). She is therefore entitled to be classified in group 2 for retirement purposes.

DECISION

These are consolidated appeals from two decisions of respondent the State Board of Retirement (board) declining to classify portions of petitioner Beth Ann McGlory’s work history in group 2 under G.L. c. 32, § 3(2)(g). I held a hearing on August 28, 2025, at which Ms. McGlory was the only witness. I admitted into evidence exhibits marked 1-3 and 7-18.

Findings of Fact

I find the following facts.

1. For a total of 34 years, Ms. McGlory worked with juveniles committed to the custody of the Department of Youth Services (DYS). Throughout, she was assigned to prison-like facilities secured by fences, elaborate entry protocols, locked units, and locked rooms. The

residents of the facilities were juveniles who had been charged with serious offenses, including murder. Gang violence was a consistent danger. (Testimony; exhibit 3.)

2. Ms. McGlory began her DYS career in 1990. For the next six years, she served as a caseworker, mostly meeting with individual juveniles to assess and support their development. (Testimony; exhibits 7, 8.)

3. From 1996 to 2012, Ms. McGlory served as the assistant program director (assistant) of DYS programs in Waltham and Westborough. From 2012 to 2024, she served as the program director (director) of similar programs. An adjustment of her formal job classification in 2015 was not accompanied by changes to her duties. (Testimony; exhibits 9-13.)

4. The director outranked the assistant in the chain of command, holding the last word on any dilemmas. The direct supervisees of the two positions also differed: the director supervised the assistant and the clinical director, whereas the assistant supervised six to eight shift leaders. But in all other ways, Ms. McGlory performed the same essential tasks and responsibilities as assistant and as director. (Testimony; exhibits 1, 2.)

5. In both roles, some of Ms. McGlory's duties were managerial or clerical in nature. She was required to hold monthly formal meetings with her supervisees. She prepared written performance reviews for them. She worked on her facilities' licensing paperwork and readiness for inspections. She constructed and updated staff schedules. On average, these tasks combined occupied Ms. McGlory for approximately two hours per day. (Testimony; exhibits 1-2.)

6. The remainder of Ms. McGlory's duties involved direct control over and simultaneous supervision of her programs' juveniles. Above all, Ms. McGlory was responsible for preventing the juveniles from escaping. She locked and unlocked secured areas. She regularly handcuffed juveniles and restrained them physically in other ways. She also attended the juveniles' classes, basketball games, and group therapy sessions; met with individual juveniles in crisis; and traveled with them to medical appointments and court dates. She exercised continual responsibility for the juveniles' continued confinement, safety, and general wellbeing. (Testimony; exhibits 1-2.)

7. Ms. McGlory's final form 30 job description states at the outset that the director is the "primary custodian of a [DYS] locked . . . juvenile corrections unit." The form adds: "Incumbents of this position provide direct care, custody, instruction, and supervision of criminally, emotionally, and mentally challenged youth." (Exhibit 1.)

8. The form 30 unpacks some elements of the director's anticipated daily routine, stating that: "At a daily minimum, [the director will] provide the following through direct care and custody: 1.5 hours of supervision and interaction during school, educational activities, and individualized learning; .5 hours of supervision and interaction in group therapy, skill building and/or behavior modification sessions; .5 hours of supervision and interaction during meal periods; 1.0 hour of supervision and interaction during recreation and leisure time activities; 1.0 hour of supervision and interaction during individual hygiene, housekeeping, dormitory activities, and transitioning youth individually and as a group from one location to another; 1.0 hour of supervision and interaction by mentoring and counseling youth regarding individual,

behavioral, personal, family, and/or treatment and aftercare issues.” These stated obligations were consistent with Ms. McGlory’s daily experiences in practice. (Exhibit 1.)¹

9. In anticipation of retirement, Ms. McGlory asked the board to classify her series of DYS positions in group 2 under G.L. c. 32, § 3(2)(g). The board agreed with respect to her caseworker position in 1990-1996. It denied the remainder of Ms. McGlory’s application in two decisions, which she timely appealed. (Exhibits 7-13.)²

Analysis

A public employee’s retirement benefits are determined in part by his or her classification in one of four groups. G.L. c. 32, § 3(2)(g). Today, most employees may receive prorated benefits derived from the “total years of service . . . rendered in each group.”

§ 5(2)(a). *See Coe v. State Bd. of Ret.*, No. CR-20-0007, 2024 WL 215932 (Div. Admin. Law App. Jan. 12, 2024).

Group 2 covers employees “whose regular and major duties require them to have the care, custody, instruction or other supervision of . . . wayward children.” § 3(2)(g). It is settled that juveniles committed to DYS custody are “wayward children” within the meaning of § 3(2)(g). *See Forbes v. State Bd. of Ret.*, No. CR-13-146, at *5-6 (Contributory Ret. App. Bd. Jan.

¹ As discussed below, the expectations outlined in an employee’s form 30s are important but not necessarily decisive.

² Ms. McGlory’s work as assistant and the first three years of her work as director were covered by a board decision dated in June 2024, which Ms. McGlory appealed in docket no. CR-24-0368. The remainder of Ms. McGlory’s work as director, starting with the non-substantive adjustment to her job classification, was covered by a board decision dated in March 2024, which Ms. McGlory appealed in docket no. CR-24-0252.

8, 2020). The dispute centers on whether “care, custody, instruction or other supervision” were among Ms. McGlory’s “regular and major” duties within the meaning of § 3(2)(g).

An employee’s “regular and major duties” are those that occupy “more than half” of the employee’s working hours. *See Desautel v. State Bd. of Ret.*, No. CR-18-80, 2023 WL 11806157, at *2-3 (Contributory Ret. App. Bd. Aug. 2, 2023). For present purposes, it is sufficient to focus on whether Ms. McGlory spent more than half of her time exercising “custody” over her juveniles. That question must be assessed based on Ms. McGlory’s “actual job responsibilities in addition to [her] official job descriptions.” *Id.* at *2.

The term “custody” tends to denote “care,” “control,” and “detention . . . by . . . lawful . . . authority.” *Black’s Law Dictionary* (12th ed. 2024). In correctional settings, “custody” generally refers to confinement or other serious restraints on liberty. *See Commonwealth v. Morasse*, 446 Mass. 113, 116 (2006); *Commonwealth v. Hughes*, 364 Mass. 426, 429 (1973). In the more specific context of group 2, “custody” typically involves physical control over detained people’s freedom of movement or on-the-ground authority over that freedom. *See Long v. State Bd. of Ret.*, No. CR-21-616, 2024 WL 1486094, at *4-5 (Div. Admin. Law App. Mar. 29, 2024); *Howard v. State Bd. of Ret.*, No. CR-23-151, 2025 WL 1284148, at *2 (Div. Admin. Law App. Apr. 25, 2025). An instructive decision examined whether a correctional employee seeking group 2 classification “controlled” inmates during encounters inside the prison, independently “accompanied . . . inmate[s] outside the secured areas,” “control[led] doors or gates,” “was . . . trained in exercising physical control of inmates,” actually “exercised physical control of them,” “had to tell a corrections officer where he and [any] inmate were going,” was in charge of “handl[ing]” any “security problems,” and was responsible for

“escort[ing]” any “[p]roblematic inmates.” *Kalinowski v. State Bd. of Ret.*, CR-12-506, at *6-7 (Div. Admin. Law App. Apr. 7, 2017).

Ms. McGlory’s position revolved around all of the foregoing aspects or indicia of custody. Both on her own and with the assistance of nearby employees, Ms. McGlory’s primary responsibility was to control her charges’ freedom of movement by keeping them locked up. She discharged that responsibility not from a remote office but while remaining present at and involved in the juveniles’ day-to-day routines. She maintained authority over the juveniles’ behavior in their locked areas, accompanied them to appointments outside the facility, locked and unlocked entryways, handcuffed juveniles, restrained them physically, and personally dealt with security issues and violent incidents. Her administrative responsibilities consumed substantially less than half of her working hours.

Ms. McGlory was high up in her facilities’ chains of command. *Cf. Curtin v. State Bd. of Ret.*, No. CR-13-317, 2020 WL 14009546, at *6 (Contributory Ret. App. Bd. Jan. 8, 2020). But the board identifies no aspects of the “custody” ordinarily exercised by line-level guards that Ms. McGlory’s regular and major duties did not share. Both Ms. McGlory and her colleagues resorted to handcuffing and physical force principally when things were going wrong. More routinely, they maintained custody of their detainees through their presence, authority, and guidance. It does not appear that they differed in these respects from correctional staff in other settings. *Cf. Long*, 2024 WL 1486094, at *4-5. Nor would it be plausible to suggest that an employee stops having custody over a qualifying group of detainees when she simultaneously devotes attention to their growth and well-being.

Conclusion and Order

Ms. McGlory is entitled to be classified in group 2 under G.L. c. 32, § 3(2)(g). The board's contrary decisions are REVERSED.³

Dated: October 31, 2025

/s/ Yakov Malkiel
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³ Because Ms. McGlory became a member before April 2012, she is entitled to opt for a single, career-spanning group classification derived from her last year of service. See G.L. c. 32, § 5(2)(a); *Coe, supra*. The result of this decision would therefore remain unchanged even if the only board decision being reversed were the one dated in March 2024 (the subject of docket no. CR-24-0252), concerning Ms. McGlory's last nine years of work.