

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals  
14 Summer Street, 4th Floor  
Malden, MA 02148  
[www.mass.gov/dala](http://www.mass.gov/dala)**

**Priscilla Pano,**  
Petitioner

v.

Docket No. CR-21-0022

**Massachusetts Teachers' Retirement System,**  
Respondent

**Appearance for Petitioner:**

Priscilla Pano  
32 Lovell Road  
Watertown, MA 02472

**Appearance for Respondent:**

Ashley Freeman, Esq.  
Senior Legal Counsel  
Massachusetts Teachers' Retirement System  
500 Rutherford Avenue, Suite 210  
Charlestown, MA 02129-1628

**Administrative Magistrate:**

Kenneth Bresler

**SUMMARY OF DECISION**

Petitioner is not entitled to buy service under G.L. c. 32, § 4(1)(p) because she had not been engaged in teaching pupils; she did not prove that she taught only pupils whose education was financed partly or fully by the Commonwealth; and necessary documents to complete her application were not locatable.

**DECISION**

The petitioner, Priscilla Pano, appeals the denial by the Massachusetts Teachers' Retirement System (MTRS) of her application to buy service under G.L. c. 32, § 4(1)(p).

I held a hearing on July 25, 2023 by Webex, which I recorded. Ms. Pano represented herself, testified, and called no other witness. I admitted 18 exhibits.

Ms. Pano argued orally at the end of the hearing in lieu of a post-hearing brief. MTRS submitted a post-hearing brief on October 24, 2023.

### **Findings of Fact**

1. From October 14, 1986 through June 30, 1993; and December 1, 1998 through October 17, 2003, Ms. Pano was a reading clinician at the Franciscan Children’s Hospital/Kennedy Memorial. (Ex. 2)

2. Ms. Pano spent about a quarter of her time tutoring pupils one-on-one in her office. (Testimony)

3. Ms. Pano did not have her own classroom. When she started at the Franciscan Children’s Hospital, she spent one or two hours per week in the classroom of a classroom teacher. (Testimony)

4. On or about February 3, 2013, Ms. Pano applied to buy service for October 14, 1986 through June 30, 1993; and December 1, 1998 through October 17, 2003. (Ex. 2) At the hearing, she dropped her last year of work at Franciscan Children’s Hospital from her application. (Testimony)

5. On December 1, 2020, MTRS denied Ms. Pano’s application. (As far as I know, the interval between Ms. Pano’s application and its denial, seven years and nine months, went unexplained.) One reason for the denial was that Franciscan Children’s Hospital had not provided MTRS “enough information”; and that the locatable information did not demonstrate that Ms. Pano was engaged in teaching pupils, as G.L. c. 32, § 4(1)(p) requires. (Ex. 12)

6. On December 12, 2020, Ms. Pano timely appealed. (Ex. 13)

## Discussion

To buy service under G.L. c. 32, § 4(1)(p), an MTRS member must, among other things, have been engaged in teaching pupils in any non-public school in Massachusetts; and have taught only pupils whose education was financed partly or fully by the Commonwealth. G.L. c. 32, § 4(1)(p).

Ms. Pano stated conclusorily on her application (Ex. 2) and during her testimony that all pupils whom she tutored were partly or fully funded by the Commonwealth. She offered no documentary support. She did not testify about the basis of her knowledge. She did not prove by a preponderance of the evidence that her conclusory statements were true.

Ms. Pano was not a teacher for purposes of G.L. c. 32, § 4(1)(p). Her evaluations that refer to “teaching” do not prove otherwise. (Ex. 8) Her argument that tutoring is teaching is unavailing in this context. Tutoring may be teaching in everyday language, but not for purposes of G.L. c. 32, § 4(1)(p). “Tutoring...one or two pupils at a time in academic subjects...does not constitute teaching academics to pupils,” as the statute requires. *Susan Happ v. Massachusetts Teachers’ Retirement System*, CR-16-130, (DALA 2017). “Infrequent and episodic teaching,” such as one or two hours a week, “does not satisfy the statute.” *Id.* “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.*

Nor did Ms. Pano provide MTRS, before or during the hearing, the documents, such as payroll records, that it would need to approve her application.

Ms. Pano conceded at the hearing that her case was not “very strong” and that she was not organized.

**Conclusion and Order**

MTRS's denial of Ms. Pano's application to buy service under G.L. c. 32, § 4(1)(p) is affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

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Kenneth Bresler  
Administrative Magistrate

Dated: April 5, 2024