

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals
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Michael Saporito,
Petitioner

Docket No: CR-24-0039

v.

Date: August 8, 2025

Massachusetts Teachers' Retirement System,
Respondent

FINAL DECISION - DISMISSAL

Michael Saporito was employed for 14 years at the Kolburne School, a private residential program for students with special needs. For nine years, he served as a childcare worker, team supervisor, and residential director. During those years he was paid from a payroll account funded by tuition payments. For five years, he was a Behavioral Consultant teaching students "social skills in individual and small group formats and assisted them with behavior management so they could access school curriculum and meet specific IEP [individual education plan] goals so that they could learn side by side with their peers." (Saporito response to order to show cause.) During that period, Mr. Saporito's position was funded out of a Massachusetts-funded grant that was "geared for Massachusetts only students and the position was to provide behavioral teaching to Massachusetts only students." *Id.*

Mr. Saporito applied to the Massachusetts Teachers' Retirement System ("MTRS") to purchase creditable service for his years of service teaching at the Kolburne School.

Whether he is eligible to make this purchase depends on whether his circumstances

meet the requirements set forth in the following provision of the public employee retirement statute:

Any member of a contributory retirement system who is engaged in a teaching position and holds a certificate issued by the department of education or is exempted from the requirement of certification and 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.

M.G.L. c. 32, § 4(1)(p).

The MTRS denied his application because (1) the Kolburne School told the MTRS that “40% of the students came from other states” and hence “Massachusetts would not be responsible for financing those student tuition costs and (2) Mr. Saporito’s position as a “Behavior Consultant was not a position where [Mr. Saporito] was ‘engaged in teaching pupils’ as that term has been interpreted by the Contributory Retirement Appeal Board.”

Thereafter, I issued an order to show cause to Mr. Saporito asking him to present evidence to demonstrate his eligibility to make the purchase he sought, namely evidence that he was teaching pupils at the Kolburne School and evidence that the pupils he taught had their tuition financed in whole or in part by the Commonwealth.

Mr. Saporito responded by making a distinction between the times the source of his pay was tuition money and the times he was paid from grant funds. Because some of the tuition paid to the Kolburne School came from out-of-state sources, he was acknowledged that he was not eligible to purchase the nine years during which he was paid out of tuition funds. He sought then just to purchase the five years he was paid out of grant money.

During the five years Mr. Saporito was paid from Massachusetts grant money to instruct Massachusetts pupils only, he made a good argument that the financing of his position met the terms of Section 4(1)(p).

However, he does not fare so well on the question of whether he was teaching pupils. He relies on a 2019 decision from the Division of Administrative Law Appeals (DALA) interpreting a prior decision by the Contributory Retirement Appeal Board (CRAB) as considering “teaching communication and behavioral skills to special needs children” as constituting teaching pupils. *Fitzgerald v. Massachusetts Teachers’ Retirement System*, CR-15-607, at *12 (Div. of Admin. Law App., Sept. 20, 2019) (discussing *Bellevue v. Massachusetts Teachers’ Retirement System*, CR-11-467, at *7-8 (Cont. Ret. App. Bd., June 26, 2006).)

CRAB, however, issued a decision a few months later in which it concluded that “the Legislature intended to limit this exception [for teaching pupils] to the teaching of academic or vocational subjects in a school setting and did not intend to include the wide array of other services that are provided to children with special needs.” *Lukasik v. Massachusetts Teachers’ Retirement System*, CR-15-668, at *3 (Cont. Ret. App. Bd., Feb. 21, 2020). Consequently, when considering an appeal of *Fitzgerald*, CRAB reversed the portion of DALA’s decision that would have allowed Mr. Fitzgerald to purchase creditable service when he acted as a childcare worker. *Fitzgerald*, * 2 and 7 (Cont. Ret. App. Bd., Feb. 21, 2020).

DALA is bound to follow the authoritative decisions of CRAB. Consequently, I must conclude that Mr. Saporito has not shown that he is eligible to purchase five years of his service at the Kolburne School because the social skills he taught there in behavior management sessions were neither traditional academic nor vocational subjects. I therefore dismiss his appeal for failure to state a claim on which relief can be granted. 801 CMR 1.01(7)(g)3.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Melinda Troy

Melinda Troy
Administrative Magistrate

Notice sent to: Michael Saporito
James O'Leary, Esq., for Massachusetts Teachers' Retirement System