

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Laura Singer,
Petitioner

v.

Docket No. CR-22-0044

Massachusetts Teachers' Retirement System,
Respondent

Appearance for Petitioner:

Laura Singer, *pro se*

Appearance for Respondent:

Ashley Freeman, Esq.
Massachusetts Teachers' Retirement System

Administrative Magistrate:

Melinda E. Troy, Esq.

SUMMARY OF DECISION

The MTRS's decision to pro-rate Petitioner's part-time service from September 1, 2003 to June 30, 2010 is affirmed. The MTRS properly applied its regulation, 807 CMR 3.04, in calculating her creditable service. A 2003 MTRS policy permits full-time creditable service to be awarded to otherwise-qualifying kindergarten teachers. However, during the relevant time, the Petitioner voluntarily worked part-time as a Reading Specialist, not a kindergarten teacher. The Petitioner is not entitled to full-time creditable service.

DECISION

This appeal concerns the determination by the Massachusetts Teachers' Retirement System ("MTRS") that the Petitioner's service as a part-time Reading Specialist between September 1, 2003 and June 30, 2010 should be pro-rated pursuant to 807 CMR 3.04. The Petitioner does not qualify for full-time creditable service under the 2003 MTRS "Creditable

Service for Kindergarten Teachers Policy” (“2003 MTRS policy”) because Petitioner was not a kindergarten teacher. For the reasons set forth below, I am affirming the MTRS’s decision.

PROCEDURAL BACKGROUND

The Petitioner requested that this case proceed as a Submission Without a Hearing pursuant to 801 CMR 1.01(10)(c) because the facts are not in dispute. The Respondent did not object to this request. The Petitioner submitted her appeal letter as her written submission, which I have marked for identification as Pleading A. The Respondent submitted a pre-hearing memorandum, which I have marked for identification as Pleading B. I admitted into evidence 12 joint exhibits.¹ I have included an exhibit list as an addendum to this decision.

LEGAL FRAMEWORK

Over the years, the manner in which the MTRS has treated part-time membership service for teachers has evolved. In order to properly evaluate the issues in this case, a review of the MTRS’s regulatory and policy decisions is instructive.

Effective November 1990, the MTRS adopted a creditable service regulation, 807 CMR 3.04. The regulation permitted the MTRS to pro-rate part-time membership service. (Before the MTRS adopted the regulation, part-time membership service had been uniformly credited as full-time creditable service.) When it was originally adopted, the regulation read as follows:

¹ When this case was initially reviewed, it appeared that Exhibits 1 to 4 had been offered by the Petitioner because the MTRS’s memorandum described them in that manner. Those exhibits were not in DALA’s file. I asked the Petitioner to provide copies, but none were forthcoming despite multiple requests. Thereafter, the MTRS provided DALA with courtesy copies of Exhibits 1 to 4 from the Petitioner. The record also includes Exhibits 5 to 12, which the MTRS submitted on its own behalf. Neither party objected to the admission of any of these documents into the record.

Retirement Credit for Service Rendered as a Part-Time Member

- (1) Any part-time employee who qualifies for membership shall receive one year of creditable service provided they work the hours required by their position and provided their entire service is in a part-time position.
- (2) Subject to verification as specified by the agency any part-time employee who becomes full-time shall receive credit for their part-time service on a pro-rated basis as it relates to a full-time position.
- (3) Subject to verification as specified by the agency any full-time employee who becomes part-time shall receive credit for their part-time service on a pro-rated basis as it relates to a full-time position.

Under the 1990 regulation, then, subsequent part-time membership service would no longer be uniformly credited as full-time service. Instead, if a part-time teacher became full-time, her part-time service would be pro-rated, and a full-time teacher who became part-time would similarly have her part-time service pro-rated. 807 CMR 3.04. At some point later in the 1990s after 807 CMR 3.04 was originally adopted, the MTRS became aware that some teachers were working in inherently part-time positions (*i.e.*, no other work was available to them) and others worked part-time by choice. (Exhibit 10.)

As a result, effective July 29, 1992, the MTRS adopted a policy entitled “Kindergarten Teachers and Chapter I Tutors.” The policy clarified that kindergarten teachers could receive full-time creditable service if they worked all of the hours available to them. The 1992 policy stated, in pertinent part, “Kindergarten teachers will receive full credit for their service regardless of the number of hours worked so long as they are considered to be working a full session by the school district.” Kindergarten teachers working one session (typically morning or afternoon) of kindergarten when more than one session was available to students would have their creditable service pro-rated. (Exhibit 8.)

On September 26, 2003, to be consistent with regulations promulgated by the Department of Elementary and Secondary Education², the MTRS amended its 1992 creditable service policy for kindergarten teachers. Under the amended policy, MTRS credits kindergarten teachers who teach a half-day session with full creditable service if the half-day session was the only option for children in that district, even if the teacher switched to teaching full-day kindergarten later. (Exhibit 9.) At the time, many school districts were transitioning from half-day to full-day kindergarten programs. Under the MTRS's original 1990 regulation, kindergarten teachers who had taught in a half-day kindergarten but then were required to teach in a full-day program otherwise would have had their part-time creditable service pro-rated. These programmatic changes (half-day to full-day programs) were taking place at many school districts and the resulting change in teachers' working hours was a function of the way kindergartens generally were being run, not because of a personal choice of an individual teacher to switch from part-time to full-time work or vice versa. Under those circumstances, the MTRS did not want to penalize affected kindergarten teachers by pro-rating their creditable service. To address the problem, the MTRS's governing board enacted the 2003 MTRS policy. (Exhibit 9.)

In effect, under the policy, eligible kindergarten teachers were not considered to have undergone a "status change" as described in the 1990 regulation if their kindergarten program changed from a half-day to full-day program. As a result, despite the change in their hours,

² At the time, the agency was known as the Department of Education, or "DOE". DOE regulations required less structured learning time for kindergarten students – 425 hours of structured learning time for kindergarten, as compared to 900 hours for elementary and secondary school. 603 CMR 27.03 and 27.04. In light of the reduced instructional time required for kindergarten, the MTRS decided to grant full-time creditable service to those teachers whose only option was to teach in a half-day kindergarten program. Using full-time creditable service and actual earnings to calculate a retirement allowance for this group ensured that the teachers received the retirement allowance to which they were entitled by law. (Exhibit 9.)

eligible kindergarten teachers were deemed to not have triggered the requirement to pro-rate their part-time creditable service under 807 CMR 3.04. Therefore, they were entitled to full-time creditable service for their work as a kindergarten teacher. This policy was also later extended to preschool teachers. (Exhibits 9 and 10.)

In 2010, the MTRS amended its part-time creditable service regulation, 807 CMR 3.04, to provide that all part time service from that point forward would be pro-rated, regardless of whether the member had also worked full-time for any period. For otherwise qualifying members, the MTRS still applies its 2003 kindergarten policy to creditable service accrued prior to July 1, 2010. (Exhibit 10.)

The current version of 807 CMR 3.04(1)(a) states, “Retirement Credit for Service Rendered as a Part-Time Member in Service: (1)(a) Except as set forth below, for all purposes in G.L. c. 32, creditable service for any member in service employed on a part-time basis shall be calculated on a pro-rated basis as it relates to a full-time position.” Applying this legal framework, the MTRS determined that it would pro-rate the Petitioner’s part-time creditable service from 2003 to 2010. The Petitioner appealed the MTRS’s decision.

FINDINGS OF FACT

Based on the evidence presented by the parties and the uncontradicted statements of fact contained in the parties’ written submissions, along with reasonable inferences drawn therefrom, I make the following findings of fact:

1. Laura Singer (“the Petitioner” or “Ms. Singer”) is a retired member of the MTRS. She established membership in the MTRS in 1990. (Exhibit 11.)
2. Ms. Singer began teaching in the Medfield Public Schools (“MPS”) in 1990. During the 1990-1991 school year she worked full-time as a reading teacher. She worked part-time

as a reading teacher (80% FTE) during the 1991-1992 school year, and then again full-time in that same capacity during the 1992-1993 and 1993-1994 school years. During this time, she worked in Grades 1 to 3. (Exhibit 11.)

3. Following a break in service, Ms. Singer worked part-time in Grade 1 as a tutor (50% FTE) during the 1996-1997 school year. (Exhibit 11.)
4. From September 1, 1997 to June 30, 2001, Ms. Singer worked as a part-time reading teacher at the K-1 level (50% FTE). She then had another break in service. *Id.*
5. On or around May 5, 2003, Ms. Singer spoke with the principal of the school at which she had previously worked and accepted a part-time position as a Reading Specialist for the following school year. (Exhibit 5.)
6. By letter dated June 5, 2003, the then-Superintendent of the MPS wrote to Ms. Singer about her employment during the upcoming 2003-2004 school year. The letter reads, in pertinent part,

I am in receipt of your letter to [the school principal]. This letter is to confirm that you have accepted the half-time reading specialist position and declined the available full time reading specialist position. Therefore, your assignment for the 2003-2004 school year is a half-time reading specialist at Memorial School.
(Exhibit 7.)

7. Ms. Singer worked part-time as a Reading Specialist at the kindergarten level from September 1, 2003 to June 30, 2010 (50% FTE), which is the period of time at issue in this appeal. (Exhibit 11.)
8. An employment evaluation from the 2003-2004 school year lists her “Present Teaching Assignment” as “Reading Specialist”. The grade level is stated as “K”. Ms. Singer’s self-evaluation during that time states, in relevant part, “I have found my first year as a part-time Reading Specialist an exciting as well as a challenging one.” (Exhibit 11;

Exhibit 3.)

9. Ms. Singer's role as a Reading Specialist was to develop an instructional program for students and teachers focused on language and literacy in order to improve the instruction of reading and language arts. She did this "through the use and sharing of new methods, materials and strategies" at meetings and in classrooms. She worked with students and also planned and conducted workshops for teachers. (Exhibit 3.)
10. From September 1, 2010 to June 30, 2011, Ms. Singer worked part-time as a Reading Specialist at the kindergarten level (50% FTE). She was awarded part-time creditable service for the 2010-2011 school year. That service is not at issue in this appeal.³ (Exhibit 11.)
11. Following another break in service, Ms. Singer worked part-time as a Reading Specialist at the K-1 level (60% FTE) from September 1, 2012 to June 30, 2014. *Id.*
12. From September 1, 2014 (the beginning of the 2014-2015 school year) until the effective date of her retirement, she worked full-time as a Reading Specialist at the K-1 level. *Id.*
13. By correspondence dated January 10, 2022, the MTRS provided Ms. Singer with an estimated total amount of her creditable service. The estimate listed Ms. Singer's accrued creditable service from September 1, 2003 to June 30, 2010 as 3.5 years. In other words, she was granted 50% creditable service during that time. (Exhibit 2.)
14. By letter dated January 28, 2022, the MTRS informed Ms. Singer that her creditable service from September 1, 2003 to June 30, 2010 would be pro-rated because,

[a]lthough there were periods of employment which dealt exclusively with Pre-K and Kindergarten students, you were not a Pre-K or Kindergarten **teacher**, rather

³ Ms. Singer was granted part-time service (50%) during this time, which she does not challenge, presumably because of the 2010 regulatory amendment pro-rating all creditable service from and after July 1, 2010.

you were a Reading Specialist... the Board's policy on granting full-time equivalent service credit deals specifically with those members who rendered service as a Pre-K or Kindergarten **teacher**." (Emphases in original.) (Exhibit 1.)

15. By letter dated February 2, 2022, Ms. Singer filed a timely appeal of the MTRS's decision, and the matter was referred to DALA for a hearing. (Exhibit 12.)
16. By letter dated February 11, 2022, Ms. Singer requested that this matter proceed as a Submission Without a Hearing pursuant to 801 CMR 1.01(10)(c).
17. By application dated February 19, 2022, Ms. Singer applied to retire effective June 30, 2022. (Exhibit 11.)

DISCUSSION

The MTRS's decision is affirmed. The calculation of a member's superannuation retirement allowance is based, in part, on the member's years of creditable service. G. L. c. 32, § 5(2)(a). Creditable service is defined as, "all membership service, prior service and other service for which credit is allowable to any member under the provisions of sections one to twenty-eight inclusive." G. L. c. 32, § 1. In the case of part-time employment, local retirement boards have the authority to "fix and determine how much service in any calendar year is equivalent to a year of [creditable] service." G. L. c. 32, § 4(2)(b). In this instance, the MTRS has enacted 807 CMR 3.04(1)(a), which requires that all part-time creditable service "shall be calculated on a pro-rated basis as it relates to a full-time position." 807 CMR 3.04(1)(a). For the reasons discussed below, the MTRS properly pro-rated Ms. Singer's creditable service from September 1, 2003 to June 30, 2010.

Under the applicable MTRS regulations, the general rule is that a member's part-time membership service must be pro-rated. The 2003 MTRS policy awarding full-time creditable

service under certain circumstances is a limited exception to that rule. The exception was carved out for kindergarten teachers whose change in status from part-time to full-time service was required because of the programmatic changes to the way kindergartens generally were run in Massachusetts, not because a teacher voluntarily decided to work full or part-time. Ms. Singer does not qualify for the limited exception available under the 2003 MTRS Policy for two reasons: (i) during the relevant time, she was a Reading Specialist, not a preschool or kindergarten teacher and (ii) the purpose of the exception was to assist teachers who would have worked full-time *but for* the shortened school days provided to preschool and kindergarten students at that time and she voluntarily worked part-time.

Prior DALA decisions have made it clear that the 2003 MTRS Policy is to be applied narrowly to kindergarten teachers, not all those who provide services to kindergarten students. *Casinelli v. Massachusetts Teachers' Retirement System*, CR-18-0040, slip op. at 8 (Div. Admin. Law App. Dec. 16, 2022) (rejecting the idea that the 2003 MTRS policy should be more broadly applied to kindergarten “service” and noting that the policy, “clearly applies only to the service credit of kindergarten and pre-kindergarten teachers”). The policy does not apply to other teachers. *Id.*

Prior DALA cases also make clear that the policy also does not apply to specialists who work with preschool and kindergarten students intermittently or for other purposes such as providing additional required academic or therapeutic support – even when the teachers or specialists work exclusively with preschool and kindergarten students. *Richard-Harrington v. Massachusetts Teachers' Retirement System*, CR-17-017 (Div. Admin. Law App. Aug. 19, 2022) (substitute teacher, technology trainer, and consultant who taught some kindergarten students not entitled to full-time creditable service under the policy because she was not a kindergarten

teacher); *Quinn v. Massachusetts Teachers' Retirement System*, CR-21-0098 (Div. Admin. Law App. Dec. 23, 2023) (speech and language pathologist who worked with kindergarteners at several schools was not entitled to full-time creditable service under the policy because she was not a kindergarten teacher); *Gareffi v. Massachusetts Teachers' Retirement System*, CR-18-0257 (Div. Admin. Law App. Apr. 5, 2019) (speech and language pathologist was not entitled to full-time creditable service under the policy because she was not a kindergarten teacher); *Welch v. Massachusetts Teachers' Retirement System*, CR-23-0082 (Div. Admin. Law App. Mar. 21, 2025) (speech and language pathologist who worked exclusively with preschool students was not entitled to full-time creditable service under the policy because she was not a preschool teacher). *Casinelli, supra.* at *9 (special education teacher not entitled to full-time service under the policy because she was not a kindergarten teacher).

Similarly, here, there is no dispute that Ms. Singer was a Reading Specialist at the MPS during the relevant time period. Her role was to develop an instructional program for students and teachers focused on language and literacy in order to improve the instruction of reading and language arts. She did this “through the use and sharing of new methods, materials and strategies” at meetings and in classrooms. To accomplish these goals, she provided professional development workshops to teachers and worked with students. The evaluations in the record make clear that Ms. Singer’s contributions as a Reading Specialist were important and valued. However, her role was not that of a preschool or kindergarten teacher. She is not entitled to full-time creditable service under the 2003 MTRS policy. The MTRS properly pro-rated her creditable service from September 1, 2003 to June 30, 2010.

Additionally, the purpose of the exception within the 2003 MTRS policy was to assist teachers who would have worked full-time *but for* the shortened school days provided to

preschool and kindergarten students at that time. *Welch, supra* at *5. Even if she could show that she qualified as a kindergarten or preschool teacher under the 2003 MTRS policy, Ms. Singer cannot show that she was required to work part-time from 2003 to 2010 because of the programmatic needs of the MPS. Ms. Singer elected to work part-time during the school years from 2003 to 2010, and the record is clear that she declined a full-time position as a Reading Specialist that was also available at the time. Her situation, therefore, is vastly different from that of the preschool and kindergarten teachers who necessarily worked part-time because there was no full-time preschool or kindergarten programming offered in their school districts. Ms. Singer is not one of the teachers that the MTRS intended to benefit from its policy to award full-time creditable service for their part-time work as preschool or kindergarten teachers. The MTRS properly pro-rated her creditable service from September 1, 2003 to June 30, 2010.

For all of the foregoing reasons, the MTRS's decision to pro-rate Ms. Singer's creditable service from September 1, 2003 to June 30, 2010 is affirmed.

SO ORDERED,

DIVISION OF ADMINISTRATIVE LAW APPEALS

Melinda E. Troy

Melinda E. Troy
Administrative Magistrate

Dated: August 8, 2025

Exhibit List

1. MTRS letter to the Petitioner dated January 22, 2022 informing her that her creditable service would be pro-rated.
2. Creditable Service estimate for the Petitioner from the MTRS dated January 10, 2022.

3. Employment evaluation for the Petitioner dated February 23, 2004.
4. Employment evaluation for the Petitioner dated May 10, 2006.
5. Letter from the Petitioner to the principal of the school at which she worked dated May 29, 2003, accepting the position of part-time Reading Specialist.
6. Letter to the then-superintendent of the MPS in support of the Petitioner's employment.
7. Letter to the Petitioner from the then-Superintendent of the MPS confirming her acceptance of a part-time position during the 2003-2004 school year.
8. MTRS "Kindergarten Teachers and Chapter I Tutors" Policy dated July 29, 1992.
9. "MTRB Policy Statement Creditable Service for Kindergarten Teachers" dated September 26, 2003, and associated documents.
10. Memorandum to the MTRS Board dated January 25, 2013, entitled "Creditable Service for Pre-Kindergarten Teachers" and associated documents.
11. Petitioner's Retirement Application, dated February 19, 2022 but received at the MTRS on March 31, 2022.
12. Petitioner's letter of appeal, dated February 2, 2022.