

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Julie Trask,

Petitioner,

Docket No.: CR-21-0256

v.

Date: June 30, 2023

Massachusetts Teachers' Retirement System,

Respondent.

Appearance for Petitioner:

Julie Trask, *pro se*
Natick, MA 01760

Appearance for Respondent:

Lori Curtis Krusell, Esq.
Associate General Counsel
Massachusetts Teachers' Retirement System
500 Rutherford Avenue, Suite 210
Charlestown, MA 02129

Administrative Magistrate:

John G. Wheatley

SUMMARY OF DECISION

The petitioner is not entitled to purchase creditable service for her prior employment at Charles River Health Management / "The Light House School" because she did not prove that she worked at a "non-public school in the commonwealth," pursuant to G. L. c. 32, § 4(1)(p).

DECISION

The petitioner, Julie Trask, appeals the decision of the Massachusetts Teachers' Retirement System (MTRS) to deny her request to purchase creditable service pursuant to G. L.

c. 32, § 4(1)(p). On February 24, 2022, a DALA magistrate advised the parties that the case could be resolved on written submissions under the provisions of 801 Code Mass. Regs. § 1.01(10)(b) and ordered the parties to file a memorandum and any exhibits they want considered in evidence. Ms. Trask and MTRS each filed a written memorandum in accordance with this order, which I have marked as briefs “A” and “B,” respectively. MTRS also submitted four exhibits, pre-marked as Exhibits 1-4, which I have admitted into evidence.

FINDINGS OF FACT

Based on the evidence presented by the parties, I make the following findings of fact:

1. The petitioner, Julie Trask, was employed by Charles River Health Management as a “School Counselor” from January 2, 1993, to January 20, 1995. The petitioner described her duties as providing “academic, social/emotional, vocational, and crisis counseling to the students in the Light House School.” (Exhibit 2.)

2. On August 27, 2018, Ms. Trask applied to purchase service credit for “[n]onpublic school teaching service in a Massachusetts publicly-funded school” during the period of January 2, 1993, through January 20, 1995. (Exhibit 2.)

3. Maria Brucculeri Ed.D., identified as a former Program Manager at the “Light House School / Children’s Community Collaborative,” completed the employer’s section of the petitioner’s service purchase application. Ms. Brucculeri indicated that Ms. Trask’s employer was a Chapter 766 approved special education school, but she did not attach a supporting Department of Elementary and Secondary Education Program Approval and Face Sheet as required by the application. (Exhibit 2.)

4. Charles River Health Management is not affiliated with Lighthouse School, Inc., and Ms. Trask was not employed by that school. (Exhibit 3.)

5. The Home for Little Wanderers (“The Home”) acquired Charles River Health Management on May 1, 1998. Thomas L. Durling, the Chief Financial Officer for The Home, recalled the program provided by Charles River Health Management, but not as a school or a Chapter 766 special education program. (Exhibit 4.)

6. MTRS denied the petitioner’s application on June 7, 2021, concluding that she failed to establish that she was “engaged in teaching pupils” and that Charles River Health Management was a service provider and not a “non-public school” as required by G. L. c. 32, § 4(1)(p). The petitioner filed a timely appeal. (Exhibit 1.)

ANALYSIS

Under limited circumstances, members of the Massachusetts public retirement system may purchase creditable service for time previously spent teaching in a non-public school in Massachusetts. G. L. c. 32, § 4(1)(p). To be eligible to purchase such creditable service, a member must show that they were “engaged in teaching pupils” at a “non-public school in the commonwealth,” if “the tuition of all such pupils taught was financed in part or in full by the commonwealth.” G. L. c. 32, § 4(1)(p); *Stebbins v. Massachusetts Teachers’ Retirement Sys.*, CR-13-234 (DALA Feb. 9, 2018).

The phrase “non-public school” is not defined by statute or under the Department of Elementary and Secondary Education’s regulations. *Del Rosso v. Massachusetts Teachers’ Retirement Sys.*, CR-09-1100 (DALA Jun. 12, 2015); *Boornazian-MacDonald v. Massachusetts Teachers’ Retirement Sys.*, CR-07-240 (DALA Nov. 18, 2011). However, an “obvious criterion of being a non-public school is that it be a school.” *Chiocca v. Massachusetts Teachers’ Retirement Sys.*, CR-13-606 (May 26, 2017).

Based on the evidence presented, the petitioner failed to meet her burden of proving that she worked at a non-public school. Aside from the petitioner’s application, there is no

supporting evidence that Charles River Health Management (or “Light House School / Children’s Community Collaborative”) was a non-public school. Although Ms. Brucculeri indicated, by checkmark, on the petitioner’s application that she had worked for a Chapter 766 approved special education school, she did not attach the necessary documentation to support that status, as requested on the face of the application. The petitioner’s submission did not include any evidence that would support her claim that she worked at a “non-public school,” and she is therefore ineligible to purchase creditable service for her prior employment at Charles River Health Management.

Even had she shown that she was employed at a non-public school, her work as a school counselor was not work “teaching pupils,” a phrase that has been interpreted to mean teaching academic subjects. *Lukasik v. Massachusetts Teachers' Retirement Sys.*, CR-15-668 (CRAB Feb. 21, 2020) (The term “engaged in teaching pupils . . . include[s] instruction in the academic and vocational subjects that are typically taught for credit in the public schools, generally in the classroom, but not the myriad of other special education services that are provided in alternative day and residential schools, including instruction in life, coping, social, and emotional skills.”). See, e.g., *Verbits v. Massachusetts Teachers' Retirement Sys.*, CR-17-1032 (DALA May 27, 2021) (school psychologist who taught social and emotional skills to students was ineligible to purchase service credit for that work); *Burke v. Massachusetts Teachers' Retirement Sys.*, CR-16-259 (DALA Jul. 24, 2020) (holding that teacher who taught “functional academics” and life skills was ineligible); *Dibella v. Massachusetts Teachers' Retirement Sys.*, CR-10-0181 (DALA Mar. 4, 2016) (“A therapist, even one who provides services in a classroom to students, is not teaching students academics.”).

CONCLUSION AND ORDER

The petitioner failed to meet her burden of proving that she worked at a “non-public school in the commonwealth,” as required by G. L. c. 32, § 4(1)(p) to be eligible to purchase creditable service for her prior employment with Charles River Heath Management. MTRS’s decision to deny her application to purchase creditable service is therefore affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS



John G. Wheatley
Administrative Magistrate