

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Maura Welch,
Petitioner

v.

Docket No. CR-23-0082

Date: Mar. 21, 2025

**Massachusetts Teachers’
Retirement System,**
Respondent

Appearance for Petitioner:

Quesiyah S. Ali, Esq.

Appearance for Respondent:

James O’Leary, Esq.

Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF DECISION

MTRS properly calculated the creditable service of a speech language pathologist who worked exclusively with preschool aged children. Because she was “employed on a part-time basis,” 807 CMR 3.04(1)(a) requires that her creditable service “be calculated on a pro-rated basis.” *Id.* Petitioner cannot rely on MTRS’s Kindergarten exception because: (i) she was neither a preschool nor a Kindergarten teacher and (ii) the purpose of the exception was to help preschool and Kindergarten teachers who would have worked full-time but for their districts’ shortened school days. Petitioner concedes, and a witness supports, that she worked part-time for personal reasons—not because the school district’s schedule required it.

DECISION

Petitioner Maura Welch timely appealed, under G.L. c. 32, § 16(4), the January 27, 2023 decision of Respondent Massachusetts Teachers’ Retirement System (MTRS) to pro-rate her part-time service between September 1, 2005 through June 30, 2011. On

November 2, 2023, DALA ordered the parties to file a joint pre-hearing memorandum. The parties filed their Joint Pre-Hearing Memorandum on February 2, 2024 along with 19 proposed exhibits. On July 15, 2024, the parties submitted an Amended Joint Pre-Hearing Memorandum, which corrected typographical errors and updated Ms. Welch's witness list. That filing was accepted and replaced the parties' original submission.

On January 28, 2025, I conducted a hearing by Webex video conference. It was recorded digitally. Ms. Welch testified on her own behalf and called Cheryl Carlson as a witness. Ms. Carlson was her supervisor and evaluator during the time relevant to this appeal and now serves as Interim Principal at the Auburn Public Schools. (Ex. 3A.) MTRS called no witnesses. After the hearing, on February 4, 2025, MTRS produced complete copies of exhibits 9, 13, and 19. I replaced the originally submitted exhibits 9, 13, and 19 with the complete copies MTRS submitted after the hearing, and I admitted these exhibits—together with the remaining proposed exhibits—into evidence as Exhibits 1–19. (Exs. 1-19.) The parties filed their post-hearing briefs on March 14, 2025.

FINDINGS OF FACT

Based on the evidence in the administrative record, I make the following findings of fact:

1. Maura Welch is a member of MTRS. (Ex. 4.)
2. Ms. Welch holds a bachelor's degree in psychology and a master's degree in speech language pathology. (Ex. 2(b); Welch testimony.)
3. Ms. Welch holds the following license from the Department of Elementary and Secondary Education: "Academic: Specialist Teacher; Field: Speech/Language/Hearing Disorder." (Stipulations; Ex. 2.)

4. Since September 1, 2001, Ms. Welch has worked as a speech language pathologist for the Westborough School District. (Exs. 1, 4.)

5. Ms. Welch has mostly worked full-time, except from September 1, 2005 through March 18, 2011, when she worked part-time at an 80% full-time equivalent (FTE) rate, and from March 18, 2011 through June 30, 2011, when she worked part-time at a 90% FTE rate. This appeal is about how to credit her part-time work. (Exs. 4, 5.)

6. Ms. Welch worked with preschool students ages 3-5, most of whom needed special educational instruction in her domain of expertise: speech language development. Ms. Welch sometimes provided her services in the classroom, and sometimes in “breakout” sessions in different locations as they were available. (Testimony Welch; *see* Exs. 3A, 3B.)

7. Ms. Welch’s responsibilities outside the classroom included: participation in special education meetings, consulting with parents and teachers on student progress, and conducting various preschool screenings, along with other educational testing. She also observed, evaluated, and coordinated with the other teachers and co-wrote goals with the teachers and the other providers. All staff did professional development together. (Testimony Welch, Carlson; Exs. 3A, 3B.)

8. Beginning in 2005, Ms. Welch asked her supervisors to allow her to work part-time for personal reasons. When her school district appropriated funding for an additional speech language pathologist at 0.8 FTE, Ms. Welch asked that she herself be given the 0.8 FTE role and that the new employee fill her old 1.0 FTE position. Ms. Welch asked for this because she wanted to have more time to dedicate to her own children and hoped to have Fridays free. The school district granted Ms. Welch’s request

and moved her from her full-time position to the 0.8 FTE part-time role. Later, the district granted her request to increase her hours to 0.9 FTE. (Testimony Welch, Carlson.)

9. Recognizing changes in Kindergarten schedules in various towns, effective November 1990 MTRS adopted a creditable service regulation. 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. *See* 807 CMR 3.04; *accord Richard-Harrington v. MTRS*, CR-17-017 (DALA Aug. 19, 2022).

10. On September 26, 2003, MTRS adopted a written creditable service policy that applied only to Kindergarten teachers. Under the policy, MTRS credits Kindergarten teachers who teach a half-day session with full credit if the half-day session was the only option for children in that district, even if the teacher switches to full-day Kindergarten later. This policy was also later extended to preschool teachers. (Exs. 9, 19.)

11. In 2010, the Board amended its general part-time service regulation to provide that all part-time service thenceforth would be pro-rated, regardless of whether the member had also worked full-time for any period. MTRS still applies its Kindergarten policy, however. (*See* Ex. 12.)

12. On January 4, 2023, MTRS provided Ms. Welch with a creditable service estimate that pro-rated her part-time (80% and 90%) service that she worked from September 1, 2005 through June 30, 2011. (Ex. 4; *see also supra* ¶ 3.)

13. On January 13, 2023, Ms. Welch requested that MTRS adjust her creditable service estimate “to reflect . . . full time credit” for the years she worked part-time. (Ex. 5.)

14. On January 27, 2023, MTRS denied Ms. Welch’s request by re-affirming its earlier position that her part-time service “is not eligible to receive full-time equivalent service credit,” and informed her of her ability to appeal the decision. (Ex. 6.)

15. On January 31, 2023, Ms. Welch timely appealed the decision. (Ex. 7.)

CONCLUSION AND ORDER

MTRS’s calculation of Ms. Welch’s creditable service is affirmed. Because she was “employed on a part-time basis,” from September 1, 2005 through June 30, 2011, Ms. Welch’s creditable service must “be calculated on a pro-rated basis.” 807 CMR 3.04(1)(a). Ms. Welch does not qualify for MTRS’s Kindergarten exception because: (i) she was neither a preschool nor a Kindergarten teacher as specifically defined in that policy and (ii) the purpose of the exception was to help preschool and Kindergarten teachers who would have worked full-time *but for* their districts’ shortened school days. Ms. Welch concedes, and Ms. Carlson corroborated, that she worked part-time for personal reasons—not because the school district’s schedule required it.

The analysis here is straightforward. A member’s superannuation retirement allowance is partly determined by her years of creditable service. *See* G.L. c. 32, § 5(2)(a). G.L. c. 32, § 4(2)(b) delegates to the retirement boards the authority to determine how much creditable service ought to be awarded for part-time work. MTRS regulations in effect during the relevant period provide that members who worked part-time would receive “pro-rated” credit for their part-time service. 807 CMR 3.04(1)(a). Ms. Welch

variously worked full- and part-time. Under that regulation, therefore, Ms. Welch properly received pro-rated credit for her part-time service.

Petitioner points out correctly that MTRS has adopted a written policy that is an exception to the pro-rating regulation, but that policy applies only to Kindergarten and preschool teachers. *Richard-Harrington*, supra, at *8. See *Richard-Harrington v. MTRS*, CR-17-017 (DALA Aug. 19, 2022) (MTRS properly calculated Petitioner’s creditable service under 807 CMR 3.04 to pro-rate her part-time service because her service did not fall under MTRS’s Kindergarten exception because she has not a Kindergarten teacher); *Quinn v. MTRS*, CR-21-0098 (DALA Dec. 15, 2023) (speech language pathologist who taught at several schools, including Kindergarten classes, not a Kindergarten teacher); *Gareffi v. MTRS*, CR-18-0257 (DALA Apr. 5, 2019) (speech language pathologist not entitled to the benefit of the Kindergarten policy because she was not a “Kindergarten teacher”); *Casinelli v. MTRS*, CR-18-0040 (DALA Dec. 16, 2022) (special education teacher not entitled to the Kindergarten teacher policy because she was not a Kindergarten teacher.) Ms. Welch is by her own admission a speech language pathologist, not a preschool or Kindergarten teacher, as defined by MTRS’s policy. She has a “Specialist Teacher” license, but the fact that she works with exclusively preschool students does not convert her from a speech language pathologist to a preschool teacher.

Moreover, as I have previously held, MTRS’s “‘Kindergarten Policy’ protected the group of Kindergarten teachers whose half-day programs switched to full-day Under the policy, Kindergarten teachers received full credit for half-day teaching if the half-day session was *the only option* available in that district.” *Richard-Harrington*, supra, at *8 (emphasis added). The central purpose of the policy is to prevent those

teachers from being unnecessarily penalized “for what used to be the part-time nature of their jobs in districts where only part-time Kindergarten” and preschool were offered. *Id.* at *9. “Other part-time school employees”—like Ms. Welch did here—“can choose whether to go full-time” or remain in a more flexible part-time schedule. *Id.* By contrast, “Kindergarten teachers were by and large forced into” part-time or full-time schedules according to the changing schedules of their particular districts. *Id.* That was not the case with Ms. Welch. Both Ms. Welch and Ms. Carlson confirmed that she changed from full-time to part-time for personal reasons. When her school was able to add an additional 0.8 FTE speech language pathologist, Ms. Welch asked to be given the 0.8 FTE position. Then, as she had more time to devote to work at the school, she increased her work hours to 0.9 FTE and eventually back to full-time. Ms. Welch certainly was not forced into either her part-time or full-time schedules.

For the above-stated reasons, Ms. Welch is not entitled to full-time service credit for her part-time service, and consequently MTRS’s calculation of her creditable service is **AFFIRMED**.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ *Kenneth J. Forton*

Kenneth J. Forton
Administrative Magistrate

DATED: Mar. 21, 2025