

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Annette T. Ziegler,**  
Petitioner

Docket No. CR-24-0377

June 27, 2025

v.

**Massachusetts Teachers' Retirement System,**  
Respondent

**Appearances:**

For Petitioner: Annette T. Ziegler, *pro se*

For Respondent: Lori Curtis Krusell, Esq., Charlestown

**Administrative Magistrate:**

Mark L. Silverstein

**SUMMARY OF DECISION**

**Public Employee Retirement - Computation of retirement allowance - "Regular Compensation," M.G.L. c. 32, § 1 - Public school social worker - Stipends paid for work during last three years of employment as "ASAP Inclusion Coordinator" - Position and stipends not listed in collective bargaining agreement - Exclusion from "regular compensation" in determining retirement benefit.**

During each of the last three school years of her employment (2021-22, 2022-23 and 2023-24) the petitioner, a public school social worker, was paid stipends for her work as Inclusion Coordinator in a public school system's After School Activities (ASAP) Program. The applicable collective bargaining agreement did not list this position as one that was eligible for additional service compensation or specify the stipends to be paid for additional work in positions the agreement did not list. The CBA was never amended to add such specification after it was signed by the school committee and the education association representing school employees. The payments were therefore properly excluded from the petitioner's regular compensation in computing her retirement benefit.

## **DECISION**

Petitioner Annette T. Ziegler is a former social worker and adjustment counselor employed by the Natick, Massachusetts Public Schools from late August 2001 until she retired for superannuation at the end of June 2024. She appeals, pursuant to M.G.L. c. 32, § 16(4), from the June 17, 2024 decision of the Massachusetts Teachers' Retirement System (MTRS) excluding, from the calculation of her regular compensation for retirement purposes, stipends she was paid for her additional work as "After School Activities Program ("ASAP") Inclusion Coordinator" during the 2021-22, 2022-23 and 2023-24 school years. MTRS did so because the applicable collective bargaining agreement (CBA) did not list the ASAP Inclusion Coordinator position as one that was eligible for additional service compensation by stipend payment. (*See* Exh. 1.) Ms. Ziegler claims on appeal that she was told before she filed her retirement application that her ASAP Inclusion Coordinator stipends would be included in computing her pension, a representation she believed to be credible because the Natick Public Schools had withheld a percentage of her stipend payments for retirement purposes. (*See* Exh. 2 at 2.)

The parties agreed to have the appeal decided without a hearing upon their written submissions. *See* 801 C.M.R. § 1.01(10)(c). On July 3, 2024, DALA issued a scheduling order identifying the issue to be decided as whether the stipend payments Ms. Ziegler received as ASAP Inclusion Coordinator were "regular compensation" for the purpose of computing her retirement benefit. The scheduling order also established deadlines by which each party was to file a memorandum regarding the identified issue, and any proposed exhibits.

Ms. Ziegler filed her memorandum on July 15, 2024. She included, within the memorandum's text, a photograph of the salary verification form that the Natick Public Schools

completed as part of her superannuation retirement application, and various emails regarding the computation of her regular compensation for retirement purposes. Ms. Ziegler did not mark or offer these materials as exhibits; however, MTRS included them among the seven exhibits it proposed (Exhs. 1-3, 3a and 4-6) when it filed its memorandum on October 15, 2024.<sup>1</sup> The submissions upon which I decide this appeal are, therefore, the parties' respective memoranda, and the seven exhibits that MTRS filed.

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<sup>1</sup>/ These exhibits are:

Exh. 1: Massachusetts Teachers' Retirement System (MTRS) decision to exclude stipend payments received by Annette T. Ziegler as Natick Public Schools ASAP Inclusion Coordinator during the 2021-22, 2022-23 and 2023-24 school years from her "regular compensation" in calculating her retirement benefit (dated June 17, 2024).

Exh. 2: Appeal filed by Ms. Ziegler from MTRS decision (dated June 27, 2024).

Exh. 3: Ms. Ziegler's Superannuation Retirement Application: Part 2, completed by the, Natick Public Schools, including service and salary information (dated Jan. 16, 2024).

Exh. 3a: Copy of Salary Verification page of Part 2 of Ms. Ziegler's superannuation retirement application (undated, but a part of Exh. 3 dated Jan. 16, 2024).

Exh. 4: Copies of emails between Kaileigh Hintlian, MTRS Senior Retirement Specialist, and Marie Vasselin, Natick Public Schools Budget Financial Analyst (dated June 13 and 14, 2024.) re Ms. Ziegler's superannuation retirement application.

Exh. 5: Collective Bargaining Agreement (CBA) between Natick, Massachusetts School Committee and Education Association of Natick, Units A & B, in effect from Aug. 1, 2022 through June 30, 2025.

Exh. 6: Emails exchanged by Ms. Ziegler and MTRS Senior Retirement Specialist Kaileigh Hintlian between June 4 and 17, 2024 regarding Ms. Ziegler's ASAP Program Inclusion Coordinator position and stipends; and copy of undated handout describing the Natick ASAP and Early Risers programs.

*Findings of Fact*

Based upon the parties' submissions, and the reasonable inferences drawn from them, I find the following facts:

1. Petitioner Annette T. Ziegler was employed by the Natick, Massachusetts Public Schools as a school social worker and adjustment counselor from August 27, 2001 until she retired for superannuation on June 30, 2024. (Exh. 3: Ziegler superannuation retirement application, Part 2.)

2. During that time, Ms. Ziegler was a member in service of the Massachusetts Teachers Retirement System (MTRS), and was also a member of a union, the Education Association of Natick. (Undisputed; *see also* Exh. 3, Part 2.)

3. During the latter part of the 2021-22 school year, and during the 2022-23 and 2023-24 school years, Ms. Ziegler worked pursuant to a collective bargaining agreement (CBA) between the Natick School Committee and the Education Association of Natick, Units A and B (the union), that was in effect through June 30, 2025. (Exh. 5.) The CBA governed the wages, hours and other terms and conditions of employment, including compensation, of “[a]ll classroom educators . . . counselors, curriculum specialists . . . and board certified behavior analysts” for whom the union was the exclusive collective bargaining representative. (CBA Art. 1 at 5).

4. The CBA included the following provisions that are pertinent here:

(a) Art. XXXII provided that the CBA “constituted the entire Agreement between the parties” (meaning the School Committee and the Education Association) “and shall not be altered, amended or changed except in writing,” and that any changes to the

Agreement had to be signed by the both parties or their designees, and appended to and made a part of the Agreement. (Exh. 5 at 68.)

(b) Art. IX specified the salaries to be paid during the school year for work performed during regular school hours to all classroom educators, including teachers, counselors, curriculum specialists and board certified behavior analysts based upon their respective levels of education and salary step level attained. (*Id.* at 10-17.)

(c) CBA Art. IX, § 5 addressed compensation “by “Additional (Stipendiary Assignments” to be paid to persons in specified positions, appointed by the public school Superintendent or others in the school administration, who performed additional work in “leadership positions.” (*Id.* at 10-17.) Section 5 specified the positions that were eligible for additional compensation by stipend during the school year (*id.* at 18-19) and the stipend amounts to be paid to the persons who performed work in each of those positions. (*Id.* at 19-21.)

(d) The CBA did not include a provision specifying the stipend or other additional compensation to be paid to employees who performed work in positions not specified as eligible for “Additional (Stipendiary) Compensation” at CBA Art. IX, § 5.

5. During the 2021-22, 2022-23 and 2023-24 school years, the Natick Public Schools operated an “After School Activities Program” (“ASAP”) at its elementary and middle schools.

(a) ASAP operated on school days from the time of school dismissal until 5:60-6:00 p.m. ASAP after-school activities included arts and crafts, science, cooking, drama, music and dance, cooperative games, literacy and indoor and outdoor free play.

(b) A parent enrolling a child in ASAP paid a monthly fee based upon the number of days the child attended this Program, which was typically 2, 4 or 5 days each week.

(c) Each ASAP “site” (meaning a public school where ASAP operated) was staffed by a site supervisor with a bachelor’s or master’s degree in education or a related field and/or more than ten years of experience in “out of school time/recreation.” The site supervisor oversaw an assistant supervisor, coordinator, various instructors, and (if in a high school) tutors or mentors.

(Exh. 6: copy of undated handout entitled describing the Natick Public Schools preschool and ASAP programs).

6. During those years, the Natick Public Schools employed a Director, appointed by the School Superintendent, who supervised ASAP and its various site supervisors. It also employed an “ASAP Inclusion Coordinator” who worked under the ASAP Director’s supervision. (Exh. 6: email, Annette Ziegler to MTRS Senior Retirement Specialist Kaileigh Hintlian, dated June 4, 2024, regarding Ms. Ziegler’s ASAP Program Inclusion Coordinator position and the stipends paid to her; and undated job position description).<sup>2</sup>

7. Neither position was specified at CBA Art. IX , § 5, or elsewhere in the CBA, as eligible for “Additional (Stipendiary) Compensation.” (Exh. 5: CBA Art. IX, § 5 and *passim*).<sup>3</sup>

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<sup>2</sup>/ The official job description for this position is not in the record. Ms. Ziegler explained in her appeal that she did not have it but recalled that it dated from 2021. Apparently, she recreated the job description as best she could from whatever materials she had available. Because MTRS does not contest it, I accept Ms. Ziegler’s description of her job duties as ASAP Inclusion Coordinator as reliable.

<sup>3</sup>/ The CBA listed, as eligible for “additional (stipendiary) assignments” and compensation, “Professional Learning Communities (PLC)” positions, among them PLC “Assistants to the Principals, Team Leaders, Curriculum PLC,” PLC “Leaders,” and “Student

The CBA also did not specify the stipend to be paid to be paid to the person who held either position. (*Id.*)<sup>4</sup>

8. According to the only job description in the record:

(a) The ASAP Director's primary job objective was to "help bridge the gap between the school days and ASAP and increase [ASAP's] capacity to support children with special needs." (*Id.*)

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Services Instructional Leaders and Elementary Building-Based PLC Leaders" appointed by the Superintendent of the Natick Public Schools on an annual basis. *See* Exh. 5: CBA Art. IX, § 5 at 17.) CBA Art. IX did not define any of these positions as including the "ASAP Inclusion Coordinator" position; and that position was mentioned nowhere else in the CBA.

The CBA described "Personal Learning Communities" and their respective staff members as in-school "members of a collaborative team." (*Id.*, CBA Art. XII, § 12 at 43-45.) This description suggests that serving on a Natick Public School PLC community and/or collaborative team might satisfy one or more of the qualifications for the ASAP Inclusion Coordinator position. (*See* Finding 6(c) above.) However, this does not make the ASAP Inclusion Coordinator position synonymous with the position of "PLC Leader" or with any of the other positions that CBA Art. IX lists as eligible for additional work compensation by stipend. CBA Art. XII, § 12(m) stated (at 45), "*See* Article IX Section 5 for Titles of PLC Leaders." That section included no language suggesting that the ASAP Inclusion Coordinator position was, or was the equivalent of, a PLC leader or any other position the CBA specified as eligible for additional work compensation by stipend payment.

<sup>4/</sup> It may be that the Director who supervised ASAP programs at various schools was among the persons not represented by the Natick Education Association as exclusive collective bargaining representative. The CBA specified these persons as "the Superintendent of Schools, the Assistant Superintendent, Director of Finance, Director of Human Resources, Vice-Principals, *Directors* and Department Heads, and substitute educators and . . . all other employees of the School Committee." (Exh. 5: CBA Art. I, second para., at 5)(emphasis added). If so, that would explain why the CBA did not specify the ASAP Director position as eligible for "Additional (Stipendiary) Compensation." In contrast, Ms. Ziegler was among the "classroom educators" specified at CBA Art. I for whom the Natick Education Association served as exclusive collective bargaining representative and whose regular and additional work was governed by the CBA. The omission of the ASAP Inclusion Coordinator position as among those specified by the CBA as eligible for additional compensation by stipend is therefore legally significant (and determinative) here.

(b) The ASAP Inclusion Coordinator was expected to help the Director achieve this objective by visiting ASAP sites “to observe and provide staff feedback, meet with teams, orient and check in with ASAP paraprofessionals, and help all site staff build skills in addressing challenging behavior, de-escalation, etc.” (*Id.*)

(c) Minimum qualifications for the ASAP Inclusion Coordinator included being “a member of the [Natick Public Schools] Student Services team with a minimum of two years of experience in that position in the district,” a Massachusetts Department of Education Special Education license and/or experience supporting and training educators, and “a working knowledge” of pupil IEPs (Individual Education Plans) and “504 Plans” (providing accommodations allowing a student with a diagnosed disability to have the same level of access to instruction, school activities, and school facilities as students without disabilities); a “strong understanding of support strategies for students with autism, developmental delay, specific learning disabilities; and behavior disorders,” and demonstrated strong skills in partnering with and training educators. (*Id.*)

(d) The ASAP Inclusion Coordinator received an “Annual Stipend of \$1,710 for 38 hours per year per site assignment.” As a result, an annual stipend would be higher if an ASAP Inclusion Coordinator was assigned to perform additional work after regular school hours at more than one elementary or intermediate school. (*Id.*)

(Exh. 6: Undated job description for the ASAP Director and Inclusion Coordinator positions.)

9. Ms. Ziegler was employed by the Natick Public Schools as ASAP Inclusion Coordinator during the 2021-22, 2022-23 and 2023-24 school years, and was paid a total of \$17,058.63 in stipends for this work, as follows:



- (a) \$6,050.82 during the 2021-22 school year,
- (b) \$6,840.08 during the 2022-23 school year, and
- (c) \$5,067.73 during the 2023-24 school year.

(Exh. 1: MTRS Decision dated Jun. 17, 2024.)

10      These stipend amounts were included in the salary paychecks Ms. Ziegler received during the 2021-22, 2022-23 and 2023-24 school years. Retirement contributions were deducted from her regular pay during that time, including the stipends she was paid for additional work as ASAP Inclusion Coordinator that the CBA did not specify as stipend eligible. (Undisputed; *see also* Exh. 3: Ms. Ziegler's superannuation retirement application, at section 4, entitled "current deductions, last check date and salary status.")

11.      Ms. Ziegler filed an application with MTRS to retire for superannuation in February 2024. Part 2 of this application, completed by the Natick Public Schools on January 16, 2024 (before Ms. Ziegler filed the retirement application), requested Ms. Ziegler's Natick Public Schools service and salary data, including her salary history under the current collective bargaining agreement. This data included:

- (a) The full-time equivalent salary Ms. Ziegler earned during the four school years, when they were the highest (the 2020-21, 2021-22, 2022-23 and 2023-24 school years),
- (b) "Additional eligible earnings for coaching, extracurricular activities or longevity,"
- (c) "Ineligible" earnings such as those paid for unused sick leave and unused vacation pay, retirement incentives, bonuses, severance payments, and fringe benefits),

and

(d) Ms. Ziegler's "total eligible earnings."

(Exh. 3: Ms. Ziegler's Superannuation Retirement Application, Part 2, Section 5.)

12. The Natick Public Schools listed, at Part 2, several stipends Ms. Ziegler was paid during the 2020-21, 2021-22, 2022-23 and 2023-24 school years other than as ASAP Inclusion Coordinator, and included these in her "total eligible earnings" for those school years (meaning eligible for inclusion in Ms. Ziegler's regular compensation for retirement benefit computation purposes). These eligible stipends were:

(a) \$1,583.40 paid to Ms. Ziegler during each of the 2020-21 and 2021-22 school years for work she performed as "Student Services Instructional Leader,"

(b) A \$1,561.04 "Team Leader 6+" stipend paid to Ms. Ziegler during the 2022-23 school year, and

(c) A \$1,583.40 "PLC District Leader" stipend paid to Ms. Ziegler during the 2023-24 school year.

(Exh. 3, Part 2, Section 5: Salary Verification continuation page.)<sup>5</sup>

13. The Natick Public Schools did not list initially, at Part 2, § 5 of Ms. Ziegler's retirement application, any stipends she was paid for additional work as ASAP Inclusion Coordinator and did not include them as eligible components of Ms. Ziegler's regular compensation during the school years in question. (Undisputed.)

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<sup>5</sup>/ The Collective Bargaining Agreement listed "Student Services Instructional Leaders," "Team Leaders" and "PLC Leaders" as eligible for "Additional (Stipendiary) Assignment." (See Exh. 5: CBA Art. IX, § 5 at 17). The CBA also specified the stipends payable to PLC Leaders appointed for a school district. *Id.*; Art. IX, § 6 at 21.)

14. While it was reviewing Ms. Ziegler's retirement application, MTRS learned that she had been paid stipends for her work as ASAP Inclusion Coordinator during the 2021-22, 2022-23 and 2023-24 school years. (See MTRS Memorandum, Oct. 15, 2024, at 2-3.) Adding the Inclusion Coordinator stipends as "additional eligible earnings" would increase Ms. Ziegler's "total eligible earnings" for each of the three school years in question by \$6,050.82 for the 2021-22 school year; \$6,840.08 for the 2022-23 school year; and \$5,067.73 for the 2023-24 school year. (Undisputed.)

15. MTRS sought additional information From the Natick Public Schools and Ms. Ziegler about the ASAP Inclusion Coordinator position and the related stipends Ms. Ziegler was paid for her additional work in this position. Both responded to this request.

(a) At some point prior to June 13, 2024, the Natick Public Schools forwarded to MTRS an undated revision of Part 2, section 5 Ms. Ziegler's retirement application. The revision showed Ms. Ziegler's "total eligible earnings" for the 2020-21, 2021-22, 2022-23 and 2023-24 school years that included her ASAP Inclusion Coordinator stipends and, as a result, higher "total eligible earnings" during those years for retirement benefit computation purposes. (Exh. 3a: undated revised Superannuation Retirement Application Part 2, section 5 salary verification sheet prepared by the Natick Public Schools; *see also* MTRS Memorandum, Oct. 15, 2024, at 2.)

(b) On June 4, 2024, Ms. Ziegler sent an email to MTRS Senior Retirement Specialist Kaileigh Hintlian inquiring about the status of her retirement application. (Exh. 6: ) She included in this email a copy of an undated Natick Public Schools description of its Early Risers and ASAP programs (*see* Finding 5), and an unofficial description of the

ASAP Inclusion Coordinator position (*see* Finding 8).

16. By email dated June 13, 2024, MTRS Senior Retirement Specialist Hintlian advised Natick Public Schools' Budget Financial Analyst Vasselin that Ms. Ziegler's Inclusion Coordinator stipends appeared to be ineligible for inclusion as regular compensation for retirement benefit computation purposes because the position was not listed in the applicable CBA. Ms. Hintlian also asked, in her email, "[w]ould the [school] district be willing to amend the current contract to include the Inclusion Coordinator position?" (Exh. 4: emails dated June 13-14, 2024 between Kaileigh Hintlian, MTRS Senior Retirement Coordinator, and Natick Public Schools' Budget Financial Analyst Marie Vasselin re Annette Ziegler retirement.)

17. On June 14, 2024, Ms. Vasselin replied to Ms. Hintlian that "[w]e will leave it [the Collective Bargaining Agreement] as is. This is an ASAP position, not on (sic) our contract." (*Id.*)

18. On June 17, 2024, Ms. Hintlian notified Ms. Ziegler by email that MTRS had (a) finalized her retirement and mailed to her a notice of her estimated retirement benefit; (b) determined that the stipends paid to her as ASAP Inclusion Coordinator were ineligible for inclusion as regular compensation because they were not listed as an amount to be paid under the applicable CBA; and (c) the stipend amounts were "not factored into the calculation" of Ms. Ziegler's three-year salary average in computing her retirement benefit. (Exh. 6: Email, Kaileigh Hintlian to Annette Ziegler dated Jun. 17, 2024.)

19. Also on June 17, 2024, MTRS mailed to Ms. Ziegler its decision denying the inclusion of her ASAP Inclusion Coordinator stipends as regular compensation in her three-year salary average for retirement benefit computation purposes. The explanation MTRS gave in its

decision was, in substance, what Ms. Hintlian had stated in her email to Ms. Ziegler on the same day—the CBA did not list ASAP Inclusion Coordinator as a position eligible for additional work payment by stipend, and therefore the stipends Ms. Ziegler was paid for work in this position were not “regular compensation” as defined by M.G.L. c. 32, § 1. (Exh. 1.)

20. The MTRS decision stated that Ms. Ziegler was entitled to a refund of any retirement contributions that might have been withheld from the ASAP Inclusion Coordinator stipends paid to her that were ineligible for inclusion as regular compensation for retirement purposes. It also stated that on May 14, 2024, the Natick Public Schools had issued to Ms. Ziegler a refund of the retirement deductions taken on the ineligible ASAP Inclusion Coordinator earnings in the amount of \$1,975.45. (Exh. 1.)

21. MTRS’s decision included a statement of Ms. Ziegler’s right to appeal it to the Contributory Retirement Appeal Board within 15 days. (*Id.*) Ms. Ziegler timely appealed MTRS’s denial on June 27, 2024. (Exh. 2.)

### *Discussion*

#### *1. “Regular Compensation,” Stipends for “Additional Services,” and the CBA*

M.G.L. c. 32, § 1 defines “regular compensation” during any period subsequent to June 20, 2009 as “compensation received exclusively as wages by an employee for services performed in the course of employment for his employer.” For retirement purposes, a public school employee’s “wages” includes both her base salary under the applicable annual agreement and “salary payable under the terms of an annual contract for additional services.” *Id.* The “annual contract” to which M.G.L. c. 32, § 1 refers is the collective bargaining agreement between a

school system or district and the union representing public school employees. *See Heiberger v. Massachusetts Teachers' Retirement System*, Docket No. CR-24-0561, Decision at 2 (Mass. Div. of Admin. Law App., Apr. 25, 2025), *citing* 807 C.M.R. § 6.01. “Additional services” performed before or after regular school hours for which an employee working under a CBA may earn additional compensation might include advising an extracurricular club, or coordinating a before-school or after-school program.

Whatever the additional service may be, typically the stipend paid for performing it may be included in the school employee’s regular compensation for retirement purposes only if the annual contract specifies the position and, most important, the stipend for which the position is eligible. The collective bargaining agreement may do this by naming the extracurricular clubs or activities for which an employee will receive a stipend for performing this additional service; or it may specify the stipends that will be paid for advising or leading “any extracurricular club, or any extracurricular club not otherwise specified.” *Heiberger*, Decision at 3, *quoting Florio v. Massachusetts Teachers' Retirement System*, No. CR-18-509, Decision at \*2 (Mass. Contributory Retirement App. Bd., Mar. 26, 2025). However it does so, “[s]tanding on its own two feet, the collective bargaining agreement must inform its readers that the employer and the union agreed to remunerate the pertinent services in the amount the teacher received.” *Heiberger*, *citing Kozloski v. Contributory Retirement App. Bd.*, 61 Mass. App. Ct. 783, 787, 814 N.E.2d 730, 733-34 (2004). This requirement serves important public purposes, among them “provid[ing] clear records” of approved stipends” for additional service arrangements and relieving public employee retirement boards of having to “sift through a multiplicity of alleged oral or side agreements about which memories may be hazy.” *See Kozloski*, 61 Mass. App. Ct. at

787, 814 N.E.2d at 733-34 (2004).

“[R]egardless of the circumstances” related to the additional services performed, “stipends not specifically contained within the written collective bargaining agreement could not be credited toward a teacher’s retirement allowance.” *Duplessis v. Contributory Retirement App. Bd.*, 63 Mass. App. Ct. 1122, 1122, 829 N.E.2d 1185 (Table)(Mass. App. Ct. Rule 1:28), *citing Kozloski*, 61 Mass. App. Ct. at 787-89, 814 N.E.2d at 733-35. It is not enough for one or both parties to a CBA to agree, later, that an employee’s regular compensation for retirement benefit computation purposes would include stipends not specified in the CBA for work performed in a position the CBA did not list. Thus, for example, a memorandum of understanding providing that a school employee’s stipend for additional work was part of her regular compensation for retirement purposes would be “just the sort of ‘side agreement’” not reflected by the CBA itself against which [the Appeals Court] cautioned in *Kozloski*.” *Duplessis*, 63 Mass. App. Ct. at 1122. The caution is especially apt when, as here, the CBA stated that it comprised the parties’ full agreement, did not specify the position and stipend in question, included no provision specifying the stipend to be paid for additional service in an unspecified position, and was not formally amended to do so.

*2. Were the Stipends in Question Payable under the CBA?*

It is undisputed that Ms. Ziegler’s monthly superannuation retirement benefit was based upon a percentage of the average of her three highest consecutive years of regular compensation, which were the last three school years she worked as a Natick Public Schools employee. It is also undisputed that Ms. Ziegler’s work as ASAP Inclusion Coordinator during the 2021-22, 2022-23 and 2023-24 school years was “additional service,” and that the stipend payments she received

for performing it were included in her paychecks. What is disputed is whether the stipends Ms. Ziegler was paid for performing this additional service were “payable under the terms of an annual contract,” as M.G.L. c. 32, § 1 required for these stipends to count as regular compensation in computing her retirement benefit.

The CBA specified sufficiently Ms. Ziegler’s stipends for the other types of additional work listed in Part 2 of her retirement application (*see* Finding 16). As a result, those stipends were properly included in the regular compensation on which her retirement benefit was based. In contrast, the CBA did not specify ASAP Inclusion Coordinator as a position eligible for compensation by stipend at Art. IX, § 5 (the CBA section that specified other “Additional (Stipendiary) Assignments” that were eligible for such compensation) or the stipend to be paid to an employee who performed this additional work. (*See* Finding 7.) The CBA also did not identify the ASAP Inclusion Coordinator position elsewhere. (*Id.*) Finally, the CBA did not include a provision specifying the stipend to be paid to an employee who performed additional work in a position the CBA did not specify as eligible for compensation by stipend. (*Id.*)

### *3. Did Circumstances Offset CBA Non-Specification of the Stipends in Question?*

Ms. Ziegler asserted circumstances that, in her view, should offset the omission from the CBA of the ASAP Inclusion Coordinator as a position or additional service compensable by a specified stipend. Those circumstances include her understanding that the ASAP Inclusion Coordinator stipends would be included as part of her regular compensation in computing her retirement benefit, and her reliance upon this understanding in deciding to retire in 2024. Another circumstance Ms. Ziegler asserted was that during the school years in question, retirement-related deductions were taken from her paychecks, which included both her regular



pay and stipends she received for additional work, including her work as ASAP Inclusion Coordinator.

These circumstances do not negate, in any way, the legal significance of what the CBA did not specify. Again, “regardless of the circumstances,” stipends that are “not specifically contained within” the applicable CBA cannot not be credited toward the employee’s retirement allowance. *Duplessis*, 63 Mass. App. Ct. 1122, *citing Kozloski*, 61 Mass. App. Ct. at 787-89, 814 N.E.2d at 733-35. That is the case here. The CBA under which Ms. Ziegler worked during her last three years of Natick Public Schools employment did not specify this additional service and the stipend paid for performing it and included no stipend to be paid for performing additional work the agreement did not specify.

In addition to being “the sort of side agreement against which [the Appeals Court] warned in *Kozloski*,” *see Duplessis*, 63 Mass. App. Ct. 1122, an agreement by the Natick School Department to include, as part of Ms. Ziegler’s regular compensation, the stipends paid to her for additional work as ASAP Inclusion Coordinator would not have effectively amended the CBA to specify this position and the related stipend. CBA Art. XXXII, § 1 stated that it was the full agreement of the school committee and the education association and could be amended only if both parties agreed to do so and attached the amendment to the CBA. (*See Finding 4(a).*) That said, it is beyond dispute that the School Department chose not to make any such side agreement (*see Findings 16 and 17*), and that the CBA was not amended, as Art. XXXII required, to specify the ASAP Inclusion Coordinator position or the stipend to be paid for this additional work.

In sum, the prerequisites for including in Ms. Ziegler’s regular compensation the stipends for her work as ASAP Inclusion Coordinator she was paid during the 2021-22, 2022-23 and

2023-24 school years were not satisfied here.

*Disposition*

For the reasons stated above, the Massachusetts Teachers' Retirement System's June 17, 2024 decision excluding, from Ms. Ziegler's regular compensation during the 2021-22, 2022-23 and 2023-24 school years and, therefore, from the computation of her superannuation retirement benefits, the total amount of stipends paid to her by the Natick Public Schools during those years for her additional work as Natick's "After School Activities Program" ("ASAP") Inclusion Coordinator, is affirmed.<sup>6</sup>

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Mark L. Silverstein*

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Mark L. Silverstein  
Administrative Magistrate

Dated: June 27, 2025

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<sup>6/</sup> As MTRS noted in its decision, Ms. Ziegler was entitled to a refund of any retirement contributions that might have been withheld from the Inclusion Coordinator stipends paid to her that were ineligible for inclusion as regular compensation for retirement purposes; and the Natick Public Schools refunded \$1,975.45 to her on May 14, 2024. (*See Finding 20.*)

Ms. Ziegler does not dispute the refund or its amount. As a result, there is no need to direct the refund to Ms. Ziegler of retirement contributions withheld from stipend payments that were not part of her regular compensation.