

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 EDC 20059

CATHERINE HELGESEN,
Petitioner,

v.

NC DEPARTMENT OF PUBLIC
INSTRUCTION LICENSURE
SECTION,
Respondent.

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FINAL DECISION

The contested case of Catherine Helgesen, Petitioner herein, was heard before Senior Administrative Law Judge Fred G. Morrison Jr. on April 14, 2014, in Surf City, North Carolina.

APPEARANCES

PETITIONER: Catherine Helgesen, *pro se*
6400 Purple Martin Court
Wilmington, NC 28411

RESPONDENT: Tiffany Y. Lucas
Assistant Attorney General
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699

ISSUE

Whether the Respondent wrongfully denied Petitioner's request for salary credit for "non-teaching" work experience based upon her prior experience as a principal/financial & tax advisor at Fisher & Company and as a human resources/accounting manager at Wilmington Orthopaedic Group.

APPLICABLE STATUTES AND POLICIES

N.C.G.S. § 115C-296(a)
NC State Board of Education Policy TCP-A-006

WITNESSES

For Petitioner: Stephen L. DeBiasi
Catherine Helgesen
Allyson Redd

For Respondent: Arasi Adkins
Jennifer Curtis
Christy Layne
Susan Ruiz
Carol Vandenberg

EXHIBITS ADMITTED INTO EVIDENCE

For Petitioner: Exhibits 1 through 18

For Respondent: Exhibits 1, 2, 5 through 10

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the Undersigned makes the following Findings of Fact and Conclusions of Law. In making the Findings of Fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know, or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case.

BASED UPON the foregoing and upon the preponderance or greater weight of the evidence in the whole record, the Undersigned makes the following:

FINDINGS OF FACT

1. N.C. General Statute § 115C-296(a) provides, in pertinent part, as follows:

The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

N.C. Gen. Stat. § 115C-296(a)

2. Pursuant to its authority to “determine and fix the salary for each grade and type of license which it authorizes,” the State Board of Education has adopted policy TCP-A-006, entitled “Policies Related to Experience/Degree Credit for Salary Purposes.”

3. The policy recognizes that educators employed by the North Carolina public schools may be awarded salary credit for past non-teaching work experience.

4. In order to be eligible to receive salary credit for past non-teaching work experience, the past work experience must be relevant.

5. Specifically, TCP-A-006 provides, in pertinent part, as follows:

‘Relevant non-teaching work experience’ shall be defined as professional work experience in public or private sectors that is directly related to an individual’s area of licensure and work assignment.

One year of experience credit can be awarded for every year of full-time relevant non-teaching work experience completed after the individual earned a bachelor’s degree.

N.C. State Board of Education Policy TCP-A-006, section 6.20

6. Petitioner is employed by the New Hanover County Schools as a sixth-grade mathematics teacher. She holds a bachelor’s degree in commerce and a master’s degree in Middle Grades Mathematics Education. Petitioner is licensed to teach sixth- through ninth-grade mathematics.

7. In August 2013, Petitioner – through her employing school system – requested salary credit from the North Carolina Department of Public Instruction Licensure Section (hereinafter DPI) for 13 years of past non-teaching work experience: 7 years of work experience at Fisher & Company and 6 years of work experience at Wilmington Orthopaedic Group. At the time, Petitioner was licensed in middle grades mathematics. Petitioner’s teaching assignment at the time of her request was sixth-grade mathematics. DPI denied Petitioner’s request for salary credit for 13 years of non-teaching work experience.

8. Two DPI employees testified at the hearing. Susan Ruiz, Director of Licensure, and Christy Lane, a licensure specialist, testified that licensure specialists are trained under the direction of supervisors for approximately six to nine months on how to review and evaluate an applicant’s request for a license, including requests for a license with credit for past non-teaching work experience. They further testified that licensure specialists consult with other specialists, supervisors within the Licensure Section, and/or DPI curriculum consultants when they have questions about the degree of relatedness, if any, between a particular work experience and a licensure subject area.

9. Ms. Layne testified regarding the analysis that she and other licensure specialists undertake when determining whether to grant or deny an applicant’s request for non-teaching work experience credit. Ms. Layne testified that the licensure specialists determine the degree of relatedness between the work experience set forth in the job description provided by the applicant and the applicant’s area of licensure and teaching assignment. She further testified that

DPI adheres to the State Board of Education's policy, which states that the work experience and the area of licensure and teaching assignment must be directly related.

10. Ms. Ruiz testified that DPI's goal is to apply the policy regarding credit for past non-teaching work experience consistently and to grant credit for past non-teaching work experience whenever possible within the confines of the law and the policy promulgated by the State Board of Education.

11. Licensure staff who reviewed Petitioner's request in this case determined that Petitioner's non-teaching work experience as a principal/financial & tax advisor at an accounting firm and as an HR/accounting manager for an orthopedic group was not "directly related" to her area of licensure and her teaching assignment. Therefore, request for past non-teaching work experience credit was denied.

12. Following this initial denial, Petitioner, through her employer, New Hanover County Schools, and pursuant to the State Board of Education policy TCP-A-006, requested a review of Respondent's Licensure Section staff's decision by the Appeals Panel for Non-Teaching Work Experience Credit.

13. The Appeals Panel consists of independent professional educators, none of whom is employed by the State Board of Education or DPI. The Appeals Panel considers appeals of requests for past non-teaching work experience and graduate salary credit. Members include local school system personnel administrators, faculty from institutions of higher education, and representatives from professional teacher organizations. The Appeals Panel was created to give another level of review in the process and to permit teachers another opportunity to submit information in an objective forum.

14. The Appeals Panel unanimously voted to deny Petitioner's appeal, stating Petitioner's non-teaching work experience was not "directly related" to her area of licensure and teaching assignment.

15. The Panel's conclusion that Petitioner's past work experience as an accountant (CPA) is not directly related to her licensure area and work assignment is consistent with analogous cases considered by the Panel in the past in which middle grades math teachers requested credit for past work experience in the area of accounting. In those prior instances, the Panel denied the request, but full details of those cases were not presented at this hearing.

16. Petitioner disagrees with DPI's determination that her past non-teaching work experience is not "directly related" to her area of licensure and teaching assignment.

17. Two members of the Appeals Panel testified at the hearing of this matter: Carol Vandenberg and Arasi Adkins. Both Ms. Vandenberg and Ms. Adkins served on the Panel that considered Petitioner's request for credit for her past non-teaching work experience. They testified that they carefully reviewed all of the materials submitted by Petitioner in support of her request for credit for her past non-teaching work experience but that they ultimately concluded there was not a direct relationship between Petitioner's past work experience as an accountant

(CPA) and her current position as a middle grades mathematics teacher teaching sixth- and seventh-grade math classes.

18. Ms. Vandenberg, Executive Director at Professional Educators of North Carolina and a former high school math teacher, testified that, in her estimation, Petitioner failed to demonstrate a “substantial connection” between her past jobs as an accountant and the standard course of study for middle school mathematics. “Substantial” is not mentioned as a requirement in State Board of Education Policy TCP-A-006.

19. Likewise, Ms. Adkins, Executive Director of Human Resources at the Chapel Hill-Carrboro City Schools System and former Director of Staffing and Licensure in the Alamance-Burlington Schools System, testified that, in her opinion, although there were certainly aspects of Petitioner’s past work experience that were math-related, based on the descriptions of past experience submitted by Petitioner, “there was not enough of a correlation that it was *directly* related.” Ms. Adkins testified that following review of the documentation submitted by Petitioner, the Panel discussed how the majority of Petitioner’s past work experience was more closely correlated to business and managerial functions as opposed to the mathematical skills taught in middle school mathematics. The Panel concluded that the past work experience was not “directly related” to Petitioner’s area of licensure and current teaching assignment.

20. Ms. Layne, the licensure specialist, and Ms. Ruiz, her supervisor, both testified that there is no written criteria or procedure for determining if non-teaching work experience is “directly related” to a teaching assignment. The policy is subjectively applied on a case-by-case basis. The applicant’s job description is used to determine significant connections in conjunction with consultation with other staff, historical documents, curriculum specialists, and supervisors.

21. Ms. Lucas, Assistant Attorney General, stated in a March 21, 2014, letter to Ms. Helgesen that “the term ‘directly related’ is not defined in State Board Policy TCP-A-006, entitled *Policies Related to Experience/Degree Credit for Salary Purposes*; however, it is understood by DPI licensure staff and by members of the Experience Credit Appeals Panel based on training and years of experience in applying the Policy. Simply stated, there is no precise formula for determining whether one’s past non-teaching work experience is ‘directly related’ to a teacher’s area of licensure and teaching assignment.” Whether an applicant’s past non-teaching work experience is “directly related” has to be determined on a case-by-case basis by reviewing concomitantly the applicant’s job descriptions and the course standards. Panel members must look beyond job titles and in depth at the job descriptions alongside the teacher’s area of licensure and teaching assignment to determine whether a direct relationship exists.

22. Ms. Layne testified that she facilitated the Appeals Panel meeting. She provided copies of all documents submitted by the Petitioner. Ms. Layne was present at the meeting when the Petitioner’s appeal was considered, but she did not cast a vote.

23. Ms. Layne testified that there was no agenda and that no minutes were taken at the Appeals Panel meeting, as this is not standard protocol.

24. Petitioner asked for an explanation as to why the Appeals Panel determined that her work experience was not directly related to her teaching assignment. In addition to there being no minutes, Ms. Layne had no recollection of the discussion at the meeting.

25. Ms. Vandenberg, who served as a member of the Appeals Panel for Petitioner's appeal, was present at the meeting but had no recollection of the discussion regarding the case. She could not explain why the Appeals Panel determined that Petitioner's work experience was not directly related to her teaching assignment.

26. Ms. Adkins, who served as a member of the Appeals Panel for Petitioner's appeal, was present at the meeting and had some recollection of the specifics of Petitioner's appeal. Ms. Adkins determined that about one-quarter of the duties of one of Petitioner's job descriptions was directly related to Petitioner's math teaching assignment.

27. Respondent provided a copy of a spreadsheet entitled "Non-Teaching Work Experience Decisions" prepared by one of the Panel members. The decision for Petitioner's appeal stated "denied – job entailed elementary level math." The panel member who prepared this document was not present at the hearing. Ms. Layne and Ms. Vandenberg did not know what the notation meant.

28. At this hearing, Petitioner offered testimony from witnesses and documentation to support her contention that there is a direct relationship between her past non-teaching work experience and her current math teaching assignment. The evidence presented at this hearing was not included in Petitioner's packet that was used by the Appeals Panel to make its decision.

29. Petitioner testified that she did not include in her appeals packet all the documents she had in her possession to support her appeal because there was not much guidance on what the Appeals Panel wanted her to submit for her appeal. She introduced her additional supporting documents and testimony during this hearing.

30. The Standard Course of Study for teaching mathematics in North Carolina follows the Common Core State Standards for Mathematics. These standards provide eight standards for mathematical practice, which direct that students develop skills in the processes and proficiencies for understanding the content of math and not just learning procedures. Teaching mathematics is deeply grounded in understanding the "why" of it all. That is one of the core purposes of the Common Core Math Standards. Teaching students to reason about the "why" of mathematics requires knowledge of the subject beyond the content, as directed by NC Teaching Standard III. Petitioner's work experience has provided solid ground in reasoning practices and the ability to explain and teach in meaningful ways.

31. Petitioner provided evidence in a document from the American Institute of Certified Public Accountants regarding skills and competencies possessed by certified public accountants (CPAs). The document emphasizes that the work of CPAs is deeply grounded not only in the technical skills of adding, subtracting, multiplying, and dividing numbers, but also in making sense of numbers and data, analyzing, and finding patterns and relationships. CPAs must be able to apply concepts in practice and communicate financial information in a meaningful way.

Furthermore, “[r]eliance placed on the expertise of CPAs ... calls for depth of analysis, rigor and understanding not necessarily expected in other professions.”

32. Petitioner requested seven years of salary credit for past non-teaching work experience at Fisher & Company.

33. The Fisher & Company job description includes such tasks as review of general ledger activity, reconciliation and adjustment of records, financial statement preparation, revenue and cost variance analysis, tax preparation of annual income tax returns, and preparation of quarterly and annual payroll tax reporting forms.

34. The Summary of the Fisher & Company job description states, “Business and personal financial consultant for business owners and high net worth individual clients. Responsible for financial and tax management aspects of large client base.”

35. The Sixth-Grade Common Core State Standards for Mathematics, which detail what should be taught to and understood by sixth-grade mathematics students, include writing, interpreting, and using expressions and equations; computing fluently with multi-digit numbers and finding common factors and multiples; developing understanding of statistical thinking; applying and extending previous understandings of arithmetic to algebraic expressions; reasoning about and solving one-variable equations and inequalities; representing and analyzing quantitative relationships between dependent and independent variables; and developing understanding of statistical variability.

36. The Sixth-Grade Common Core State Standards for Mathematics also make numerous references to solving “real-world” problems.

37. Ms. Cindy Alexander, a Licensure Specialist at New Hanover County Schools, stated in an August 29, 2013, letter supporting Petitioner’s appeal for salary credit for past non-teaching work experience that there are three instructional shifts for the Common Core State Standards for Mathematics: Focus, Coherence, and Rigor. She stated that “Rigor has three aspects: conceptual understanding, procedural skill and fluency, and application” and that “Ms. Helgesen’s background as an accountant will be beneficial because she understands authentic mathematical applications. More importantly, she will be able to demonstrate the real life aspects of Rigor. Each Domain has a standard which calls for real life application.”

38. The Seventh-Grade Common Core State Standards for Mathematics, which detail what should be taught to and understood by seventh-grade mathematics students, include developing understanding of operations with rational numbers and working with expressions and linear equations; analyzing proportional relationships and using them to solve real-world and mathematical problems; solving real-life and mathematic problems using numerical and algebraic expressions and equations; and investigating chance processes and developing, using, and evaluating probability models.

39. The Eighth-Grade Common Core State Standards for Mathematics, which detail what should be taught to and understood by eighth-grade mathematics students, include knowing

that there are numbers that are not rational, and approximating them as rational numbers; defining, evaluating, and comparing functions; and using functions to model relationships between quantities.

40. The Sixth-, Seventh-, and Eight-Grade Standards' Mathematical Practices include making sense of problems and persevering in solving them; reasoning abstractly and quantitatively; modeling with mathematics; using appropriate tools strategically; attending to precision; and looking for and expressing regularity in repeated reasoning.

41. The North Carolina Professional Teaching Standards Commission, Standard III, states that "[t]eachers bring a richness and depth of understanding to their classrooms by knowing their subjects beyond the content they are expected to teach." Furthermore, to make instruction relevant, "[t]eachers help their students understand the relationship between the *North Carolina Standard Course of Study* and 21st Century content which includes global awareness; *financial, economic, business and entrepreneurial literacy*; civic literacy; and health awareness" (emphasis added).

42. Petitioner's tasks at Fisher & Company are directly related to Petitioner's area of licensure and teaching assignment.

43. Petitioner requested six years of salary credit for past non-teaching work experience at Wilmington Orthopaedic Group.

44. The Wilmington Orthopaedic Group job description includes such tasks as developing and planning department objectives; performing all general accounting functions; reviewing accounts payable requests including matching invoice to purchase requests and receiving reports and checking for correct account numbers and dollar amounts; researching and resolving invoicing issues with vendors; processing cash disbursements weekly; overseeing cash management functions and directing and monitoring internal financial control programs for appropriate segregation of duties; analyzing expenditures, developing financing strategies and evaluating financial impact of capital/major purchase decisions; administering physician salary plan; working with Administrator to define human resources goals and objectives; developing, implementing, and maintaining human resources policies and objectives; developing, implementing, and maintaining compensation and benefits of the practice; developing, implementing, and maintaining performance management program for all employees; communicating with all employees to define and clarify human resources policies and procedures; preparing and distributing monthly newsletter; obtaining feedback from employees, including conducting exit interviews with employees who resign or retire; working with Administrator to define staffing plans; identifying areas of training and development for managers and staff; maintaining personnel record-keeping; working with managers to guarantee a safe and secure working environment; and participating in professional development activities.

45. The "Specific Skills" listed in the Wilmington Orthopaedic Group job description include strength in analyzing financial data; in-depth knowledge of principles and practices of human resources; and ability to interface and maintain effective relationships with all departments, managers, and employees.

46. The “Department” listed on the Wilmington Orthopaedic Group job description is “Administration,” and the “Education and Other Requirements” states that a Bachelor degree in finance or accounting is required, but a Certified Public Accountant (CPA) designation is only preferred.

47. Petitioner’s tasks at Wilmington Orthopaedic Group are not as directly related to Petitioner’s area of licensure and teaching assignment as those at Fisher & Company. They are related more to human resources functions than to middle grades mathematics.

48. Ms. Allyson Redd, who testified as a witness for Petitioner at this hearing, is a Math Instructional Coach and Curriculum Support Specialist at Myrtle Grove Middle School, where Petitioner is employed as a sixth-grade math teacher. She has nine years of experience teaching middle grades math.

49. Petitioner was hired by Myrtle Grove Middle School in August 2013. She was chosen over three other candidates who were experienced math teachers but did not have accounting backgrounds. Ms. Redd testified that Petitioner was viewed as the strongest candidate because of her background as an accountant.

50. Ms. Redd testified that North Carolina follows the Common Core State Standards for Math as its Standard Course of Study in public schools.

51. The accounting model has as its foundation the concept of debits and credits, otherwise referred to as positive and negative numbers. Common Core Standard number 6.NS.5 states:

Understand that positive and negative numbers are used together to describe quantities having opposite directions or values (e.g., temperature above/below zero, elevation above/below sea level, credits/debits, positive/negative electric charge); use positive and negative numbers to represent quantities in real-world contexts, explaining the meaning of 0 in each situation.

52. Ms. Redd testified that positive and negative numbers are first introduced to students in sixth grade and not in elementary math classes.

53. The Common Core Standards bring in “rigor” as an instructional shift not previously present in mathematics teaching standards. This shift is the real world connection to math procedures and concepts. It is also referred to as the “why” of math.

54. Ms. Redd testified that the math skills and knowledge possessed by Petitioner far outweighed her own when she was a first-year math teacher. It took several years for Ms. Redd to learn the math concepts and teach them before she truly understood them. She did not have a math background prior to teaching math. The courses she took in college for her teaching degree were focused on creating lessons around math concepts, not on understanding the math itself.

55. Ms. Redd opined that Petitioner's past non-teaching work experience is directly related to her position as a middle school math teacher.

CONCLUSIONS OF LAW

1. Petitioner bears the burden of proving the claims alleged in the Petition by a preponderance of the evidence. *Peace v. Employment Sec. Comm'n.*, 349 N.C. 315, 507 S.E.2d 272 (1998).

2. The State Board of Education has the constitutional power "to supervise and administer the free public school system and the educational funds provided for its support." N.C. Const. Art. IX § 5. This power includes the power to "regulate the grade [and] salary ... of teachers." *Guthrie v. Taylor*, 279 N.C. 703, 709, 185 S.E.2d 193, 198 (1971), *cert. denied*, 406 U.S. 920, 32 L.Ed.2d 119 (1972). The State Board has the specific duty "to certify and regulate the grade and salary of teachers and other school employees." N.C. Gen. Stat. § 115C-12(9)a; *Guthrie* at 711.

3. Finally, the State Board has the statutory authority to "determine and fix the salary for each grade and type of certificate which it authorizes" G.S. 115C-296(a).

4. The intent of the State Board of Education in adopting TCP-A-006 was to recognize prior non-teaching work experience that directly supported the subject area to which a teacher was assigned and licensed to teach.

5. In this case, Petitioner has met her burden of demonstrating that Respondent deprived her of property or otherwise substantially prejudiced her rights and that Respondent exceeded its authority, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, or failed to act as required by law or rule in denying Petitioner's request for seven years of salary credit for her past non-teaching work experience at Fisher & Company.

6. Petitioner has not met her burden of demonstrating that Respondent deprived her of property or otherwise substantially prejudiced her rights and that Respondent exceeded its authority, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, or failed to act as required by law or rule in denying Petitioner's request for six years of salary credit for her past non-teaching work experience at Wilmington Orthopaedic Group.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned renders the following:

DECISION

Respondent's decision to deny Petitioner's request for approval of 13 years of salary credit for past non-teaching work experience should be reversed and Petitioner should be granted salary credit for 7 years of past non-teaching work experience.

NOTICE

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the ____ day of July, 2014.

Fred G. Morrison Jr.
Senior Administrative Law Judge

A copy of the foregoing was mailed to:

CATHERINE HELGESEN
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PETITIONER

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This the ____ day of July, 2014.

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