

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
14 EDC 10060

<p>SHERRY-LYNN AMARAL, Petitioner,</p> <p>v.</p> <p>DPI NC FINANCIAL LICENSURE &amp; BUSINESS SERVICES LICENSURE SECTION, Respondent.</p>	<p><b><u>Final Decision</u></b></p>
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This matter came before Senior Administrative Law Judge Fred Gilbert Morrison Jr on July 16, 2015, in Raleigh, North Carolina. Having heard and considered testimony and other evidence presented, the following final decision is rendered.

**APPEARANCES**

For Petitioner:       Amy Folk  
                              Attorney for Petitioner  
                              Womble, Carlyle, Sandridge, and Rice, LLP  
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                              Durham, NC 27713

For Respondent:     Tiffany Y. Lucas  
                              Assistant Attorney General  
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**ISSUE**

Whether Petitioner demonstrated by a preponderance of the evidence that Respondent's findings, inferences, or decision were arbitrary, capricious, or unsupported by substantial evidence when determining Petitioner's Master's degree was not in an education or subject area directly related to her area of licensure and current teaching assignment thus denying her a salary on the master's level salary schedule.

**STATUTE TO BE CONSIDERED**

N.C. Gen. Statute §150BC-296(a); 115C-296; and State Board of Education Policy QP-A-006.

## WITNESSES

For Petitioner: Sherry-Lynn Amaral

For Respondent: Toya Kimbrough  
David Fairall

## EXHIBITS ADMITTED INTO EVIDENCE

For Petitioner: Exhibits 1 through 3

For Respondent: Exhibits 1 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. Gen. 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 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. ....

2. Pursuant to this authority, the State Board of Education has adopted policy QP-A-006, entitled "Policies related to Experience/Degree Credit for Salary Purposes."

3. This policy recognizes that educators employed by the North Carolina public schools may be awarded salary credit for past experience as well as for possession of certain graduate degrees.

4. In order to receive salary credit for a graduate degree, the degree must be from an accredited institution, be in an area that applies to fifty per cent or more of the teacher's school day assignment, and be "in an education or subject area directly related to existing area of licensure and current teaching assignment or instructional support responsibilities."

5. The Licensure Specialist for the Department of Public Instruction (“DPI”) testified that the phrase “directly related” and word “relevant” were one and the same when applying the policy for granting salary credit.

6. The Appeals Panelist testified that to determine whether a master’s degree is directly related, he focuses on the subject matter content of the license, the subject area of the courses being taught, and the courses taken. If the content of a graduate level class is used to teach the content of course then it would be directly related. He specifically looked at whether the teacher had taken 18 or more hours of content-specific course work while getting the master’s degree that were related to the courses the teacher now teaches.

7. Petitioner is currently employed as a Career and Technical Education teacher in the North Brunswick school district. Petitioner is licensed to teach and teaches courses in Health Science Occupations. These courses are designed to introduce students to careers in health care, enable students to expand their understanding of financing and trends of health care agencies, fundamentals of wellness, legal and ethical issues, concepts of teamwork, and effective communication, and apply what they have learned in a health care facility.

8. Petitioner holds a bachelor's degree in Business, a Registered Nurse Diploma, and a Master's degree in Business Administration with a Health Care concentration, which included an independent study on treatment of terminally ill, ethical and financial issues in healthcare and the Patient Self Determination Act (patient’s right to die). Petitioner’s master’s courses at University of Connecticut in Long Term Healthcare exempted her from course work in her master’s in business administration with a concentration in healthcare and contributed to her credits for her healthcare concentration.

9. Petitioner is paid on the bachelor's degree pay scale with credit for her work experience.

10. On April 30, 2014, Petitioner applied for salary credit for a graduate degree. With that application was a Request for Authorization of Graduate Pay (Respondent Ex. 4, pgs. 4-5), in which Flora Johnson, Human Resources’ Supervisor for the North Brunswick Schools, certified that the Petitioner's "assignment qualifies her for placement on the graduate salary schedule." Ms. Johnson also wrote, “She has completed a master’s degree and her concentration was in health care. She is a health occupations teacher. She has done a cross reference as to how the courses she took for her masters are related to the course of study she is currently teaching.” As mentioned by Ms. Johnson, Petitioner also provided a cross reference called a “Cross-walk” detailing how the material covered in each class Petitioner took obtaining her master’s degree directly relates to each of the Health Science Occupation state mandated course objectives.

11. On May 16, 2014, Petitioner’s request for salary credit for a graduate degree was denied by the licensure specialist because her “Master’s in Business Administration was not considered directly related to teaching Health Occupations Education.”

12. Licensure Specialist Toya Kimbrough testified that while licensure specialists can access the state mandated course objectives for Health Occupation, they do use not those objectives as a

reference when reviewing an application to determine whether a master's degree is directly related to the courses she teaches.

13. Additionally, Licensure Specialist Kimbrough testified that a master's degree in Health Administration or Health Care Management would be relevant to teaching Health Science Occupations classes.

14. On July 29, 2014, Petitioner appealed Respondent's decision to deny her request for salary credit for a graduate degree, again providing the "Cross-walk," and on October 21, 2014, was denied by an appeals panel.

15. The Appeals Panelist David Fairall testified that the state mandated course objectives were just small pieces of the course. Additionally, he did not give weight to objectives that were broad and could apply to any occupations class.

16. Applying this system to review the Petitioner's graduate courses, Appeals Panelist Fairall stated he found 9 course credits (12 if he stretched) of content specific course work directly related to the courses taught in the Health Science Occupations Program. He disregarded her 12 credits of master's course work at University of Connecticut when making his determination. Additionally, while the Health Care Financial Management and Accounting course was directly related, he found the pre-requisite course, Financial Management, not directly related. Additionally, he found master's courses on professional writing, organizational behavior, and the service industry unrelated to the area of health care occupations.

17. Petitioner testified at the hearing using the "Cross-walk" and demonstrated which courses from her graduate degree provided her with the knowledge and insight to teach each state mandated objective for the course she teaches. She offered multiple examples of subject areas covered during her master's program that are identical to the state mandated objectives for her Health Science Occupation courses.

18. Of the state mandated course of objectives for Health Science and Nursing Fundamentals, 25 of the 32 objectives focused on material discussed and learned during her master's program.

19. Petitioner disagrees with the assessment that her master's course work is not related to the courses she teaches and testified that she applies what she learned in graduate school daily to the courses she teaches.

20. Respondent denied Petitioner's request for graduate pay because her degree was not considered directly related to the subject matter she teaches. *See* Respondent's Exhibit 3. Petitioner has a Master of Business Administration with a Health Care concentration from RPI, the Lally School of Business in Hartford, Connecticut. Petitioner's area of licensure is Health Science Education – Registered Nurse (also listed as Health Occupations Education – Registered Nurse (720)). Petitioner's teaching assignment is a Career and Technical Education teacher in Health Science Occupations (also listed as Health Care Occupations). Applying the first part of the "directly related" criteria, Petitioner passed the "content area" or "subject matter" test. Her graduate degree is in the subject area of Business Administration with a Health Care concentration,

Petitioner is licensed in Health Occupations Education, and Petitioner is assigned to teach Health Care Occupations (she teaches Nursing Fundamentals and Health Science II). Petitioner's graduate degree is in a subject area that she is both licensed in and assigned to teach. Therefore, Petitioner has satisfied the first part of the "directly related" criteria.

21. Next, at least eighteen hours of content specific coursework from the total coursework required for Petitioner's master's degree must be directly relevant to her particular area of licensure and subject matter being taught in order to be deemed "directly related". Petitioner's course work for her Long-Term Healthcare Management Certificate from the University of Connecticut should not be used in the "directly related" analysis as this was only a graduate level certificate program and not a master's or higher degree as required by TCP-A-006. Furthermore, the courses Petitioner completed at the University of Connecticut did not show up as transfer credits on her transcript for her MBA at RPI, the Lally School of Business. Notwithstanding, Petitioner provided ample evidence of direct relevance between the subject matter of her Master of Business Administration with a Healthcare concentration degree coursework with the subject matter she teaches in Health Care Occupations. *See* Petitioner's Exhibits 1-3.

22. The descriptions for the Health Care Occupations classes taught by Petitioner encompass the direct skills gained by Petitioner during her coursework for her master's degree. The course description of Nursing Fundamentals states, "English language arts, mathematics, and science are reinforced." The course description of Health Science II states, "[t]his course is designed to help students expand their understanding of financing and trends of health care agencies, fundamentals of wellness, legal and ethical issues, concepts of teamwork, and effective communication. . . . English language arts and science are reinforced in this course." *See* Petitioner's Exhibit 1, p.7. Petitioner also provided the detailed "unpacked content outline" for Health Science II and the "course blueprint" for Nursing Fundamentals which listed the specific objectives taught to the students. She then indicated which of her master's coursework directly related to the subject matter she teaches. *See* Petitioner's Exhibit 1, pgs. 8-22. Petitioner's chart also shows how her content specific coursework for her Master of Business Administration with a Health Care concentration is "directly related" to the objectives taught in her Health Care Occupations courses. *See* Petitioner's Exhibits, p.5-6. Based on this evidence, Petitioner has at least eighteen semester hours of content specific coursework from the total coursework required for her Master of Business Administration with a Health Care concentration that are directly relevant to her particular area of licensure and subject matter being taught in Health Care Occupations. Petitioner has satisfied the second part of the "directly related" criteria.

### **CONCLUSIONS OF LAW**

1. The Petitioner bears the burden of proving the claims alleged in the Petition by a preponderance of 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. Petitioner has met her burden of demonstrating that Respondent has deprived her of property or has otherwise substantially prejudiced her rights by denying her a salary on the master's level salary schedule.

4. The course descriptions from Petitioner's Master's in Business Administration with a concentration in Health Care provide substantial evidence that subject areas in which she received her master's degree are directly related to the Health Science Occupations classes she teaches.

5. The Respondent's decision that the Petitioner's Master's degree in Business Administration with a concentration in Health Care was not directly related to her teaching assignment was erroneous when considering the ample evidence provided to the appeals panel by Petitioner.

### **FINAL DECISION**

Respondent's decision to deny the Petitioner approval for graduate pay is hereby Reversed.

### **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 7<sup>th</sup> day of October, 2015.

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Fred Gilbert Morrison Jr.  
Senior Administrative Law Judge