

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Andrew Blatus,**  
Petitioner,

No. CR-22-0300

Dated: June 14, 2024

v.

**Massachusetts Teachers' Retirement  
System,**  
Respondent.

**Appearances:**

For Petitioner: Andrew Blatus (pro se)

For Respondent: Ashley Freeman, Esq.

**Administrative Magistrate:**

Yakov Malkiel

**SUMMARY OF DECISION**

The petitioner is not entitled to retire under the benefits program known as Retirement Plus because he has not “served for . . . 20 years as a teacher.” G.L. c. 32, § 5(4)(ii).

**DECISION**

Petitioner Andrew Blatus appeals from a decision of the Massachusetts Teachers' Retirement System determining that he is not entitled to retire under the benefits program known as Retirement Plus. The appeal was submitted on the papers. I admit into evidence exhibits marked 1-12.

**Findings of Fact**

The following facts are not in dispute.

1. Mr. Blatus served in the military from 1988 to 1992. He worked for the Commonwealth as a social worker and a probation officer from 1996 to 2012. During the latter period, he was a member of the state employee retirement system. (Exhibits 1-3, 6-9.)

2. In 2012, Mr. Blatus took a job as a school counselor. He became a member of MTRS. He later successfully purchased retirement credit for his approximately four years in the military. (Exhibits 1-3, 6-9.)

3. In 2013, MTRS notified Mr. Blatus that he was eligible to join the benefits program known as Retirement Plus. Mr. Blatus returned a signed election form to MTRS stating his wish to participate. The form said: “I have read and I understand the information on page 2 of this form.” Among the notices on page 2 was the following: “In order to be eligible to retire with the enhanced benefit . . . you must have at least 30 years of creditable service—at least 20 of which must be membership service in [MTRS].” (Exhibits 4-5.)

4. At some point, Mr. Blatus informed MTRS that he wished to retire under the provisions of Retirement Plus. In late 2019, MTRS calculated that Mr. Blatus had accrued nearly twenty-seven years of creditable service overall, but only about seven years of membership service in MTRS. In July 2022, MTRS issued a decision stating that Mr. Blatus is not entitled to retire under Retirement Plus. He timely appealed. (Exhibits 10-12.)

### **Analysis**

Retirement Plus is an “alternative superannuation retirement benefit program.” G.L. c. 32, § 5(4)(i). It is available to teachers who are members of either MTRS or the Boston Retirement System. *Id.* It reflects the Legislature’s judgment that the retirement law’s usual formulas may not be optimally suited to teachers.

Participants in Retirement Plus make enlarged retirement contributions of 11%. § 5(4)(i). In return, they become eligible for advantageous retirement calculations. § 5(4)(ii). Those calculations are available only to a retiree who has “served for not less than 20 years as a teacher.” *Id.* MTRS was therefore correct to determine that Mr. Blatus remains ineligible for

Retirement Plus’s special benefits. The form through which Mr. Blatus enrolled in Retirement Plus accurately forewarned him of the pertinent rule.

Mr. Blatus argues that it is only fair for him to remain eligible for “the same benefit [he] would have been entitled to if [he had] stayed with the [state employee retirement system].” Generally speaking, administrative agencies are not allowed to depart from clear statutory rules on the basis of “equitable” considerations. *See Bristol County Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 451-52 (2006). Regardless, it appears that standard, non-Retirement-Plus benefits do remain available to Mr. Blatus. The Retirement Plus statute says: “Any member who retires before completing 30 years of service shall receive a retirement allowance equal to the retirement allowance that the member would have been eligible for had he not participated in [Retirement Plus].” G.L. c. 32, § 5(4)(ii). MTRS interprets that provision in its brief to mean that, “if [Mr. Blatus] were to retire today, he would still have access to the regular superannuation retirement available to most public employees.”

**Conclusion and Order**

MTRS’s decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel  
Yakov Malkiel  
Administrative Magistrate