

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Rosamaria Carlozzi,
Petitioner,

No. CR-25-0345

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Rosamaria Carlozzi appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) excluding Ms. Carlozzi from the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). MTRS has filed a motion to dismiss, which Ms. Carlozzi has opposed. In this procedural posture, the assertions in Ms. Carlozzi's pleadings are taken as true. *See White v. Somerville Ret. Bd.*, No. CR-17-863, at *5 (Div. Admin. Law App. Nov. 16, 2018).

Retirement Plus entitles participants to advantageous retirement calculations. In return, they make enlarged retirement contributions of 11%. The program was created by the Legislature in 2001. Individuals who were then already teachers were required to "elect" to participate in Retirement Plus during the first half of that year. *See* Acts 2000, c. 114, § 2. There is no dispute that Ms. Carlozzi filed no timely election.

Adjudicative bodies generally lack the power to make exceptions to statutory deadlines. The rule is therefore that "the deadline for filing an election to [Retirement Plus] cannot be enlarged." *Gabrielian v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-64, 2025 WL 2322617, at *3-4 (Contributory Ret. App. Bd. June 23, 2025). This rule comports with the more general

principle that duly enacted statutes apply equally to people who have received no personalized information about them. *See Awad v. Hampshire Cty. Ret. Bd.*, No. CR-08-621, 2014 WL 13121791 (Contributory Ret. App. Bd. Dec. 19, 2014).

The so-far-unique precedent of *Davey v. Massachusetts Teachers' Ret. Syst.*, No. CR-01-914 (Contributory Ret. App. Bd. Jan. 31, 2003), may be read as allowing for belated enrollment in Retirement Plus where a member received no notice about the program's enactment *and* was an "inactive" member during his or her enrollment period. Ms. Carlozzi may or may not adequately plead that she lacked notice of Retirement Plus's enactment: she states that she "do[es] not recall receiving the Retirement Plus election materials," identifying certain personal life circumstances that may have impeded her access to those mailings. *Cf. Dwyer v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-0459, 2024 WL 4345195, at *3 (Div. Admin. Law App. Sept. 13, 2024). Regardless, Ms. Carlozzi does not claim to have been "inactive" during the pertinent period. As a result, her pleadings, taken as true, do not demonstrate that she is entitled to join Retirement Plus belatedly.

In view of the foregoing, it is hereby ORDERED that the motion to dismiss is ALLOWED and the appeal is DISMISSED.

Dated: November 21, 2025

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer Street, 4th floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala