

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Christi Collins,
Petitioner,

No. CR-24-0244

Dated: March 14, 2025

v.

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

Appearances:

For Petitioner: Christi Collins (pro se)

For Respondent: Lori Curtis Krusell, Esq.

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner entered into installment agreements in connection with two purchases of retirement credit under G.L. c. 32, § 3. She later defaulted on both agreements. In response, the respondent retirement board adjusted the interest rates applicable to the petitioner's purchases from the discounted "buyback" rate to the higher "actuarial assumed" rate. That action was a lawful application of the respondent's more general practice of terminating all defaulted § 3 agreements regardless of the surrounding circumstances.

DECISION

Petitioner Christi Collins appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) modifying the interest rates applicable to two purchases by Ms. Collins of creditable service for retirement purposes. The appeal was submitted on the papers without objection. I admit into evidence exhibits marked 1-26.

Findings of Fact

I find the following facts.

1. Ms. Collins is a teacher. In 1995-1998, she taught in the public schools of Connecticut. In 1998-2010, she taught in Boston and maintained membership in the Boston

Retirement System. When she left that system, Ms. Collins withdrew her accumulated retirement deductions. (Exhibits 1, 2, 8, 9.)

2. From 2016 to 2018, Ms. Collins was a teacher and a member of MTRS. During that period, she submitted two applications to purchase retirement credit: one for her service in Connecticut and one for her service in Boston. (Exhibits 2, 8, 9.)

3. MTRS allowed both applications, calculating the amounts due from Ms. Collins using a “buyback” interest rate of 3.875%. In early 2017, Ms. Collins signed agreements to pay for each of her purchases in five annual installments. The agreements stated that Ms. Collins’s failure to make any overdue payment within 30 days after receiving a “notice of default” would result in the agreements becoming “null and void.” The agreements added: “If you later wish to purchase all or part of the remaining creditable service . . . you may do so, but subject to the interest rate in effect at that time” (Exhibits 2, 7, 9, 14.)

4. Ms. Collins paid her installments on schedule in 2017, 2018, and 2019. She failed to make her payments for 2020 both before and after receiving notices of default relating to both agreements. In correspondence with MTRS personnel from around that time, Ms. Collins indicated that she was enduring financial difficulties and hoped someday to reinstate her payment plans on the same terms. (Exhibits 1-14, 17-26.)

5. In late 2023, Ms. Collins asked MTRS to restart her two payment plans. By that time, she was again a teacher and an MTRS member. In response, MTRS issued new invoices, calculating the amounts due from Ms. Collins using an “actuarial assumed” interest rate of 7%. In April 2024, MTRS restated the terms of the invoices in the form of a decision, which Ms. Collins timely appealed. (Exhibits 1, 16.)

Analysis

A public employee's tally of creditable service is an element of the formula that determines the employee's retirement allowance. *See* G.L. c. 32, § 5(2)(a). A number of statutory provisions allow employees in specified circumstances to "purchase" credit by depositing appropriate sums with their retirement systems.

The purchase-authorizing provisions typically describe the amount due from the member by reference to statutorily defined interest rates. Two rates are implicated here. The "actuarial assumed" rate is a figure designed to reflect a retirement system's ordinary return on invested funds. G.L. c. 32, § 1. The "buyback" rate is a discounted figure equal to half of the actuarial assumed rate. *Id.* These figures are published and revised from time to time by the Public Employee Retirement Administration Commission (PERAC). *Id.*

Ms. Collins's two credit purchases are governed by subdivisions of G.L. c. 32, § 3: out-of-state teaching service is covered by § 3(4), previously relinquished Massachusetts service by § 3(8)(b). Both provisions initially define the amount due from the member by reference to the buyback rate.

The complication is presented by a passage in § 3(8)(b) that, by its terms, applies to all purchases of "credit for . . . service under this section," namely section 3. *See* PERAC Memo No. 23 / 2012 (Mar. 2, 2012). The passage says:

[A] member who . . . does not, (i) pay . . . make-up payments . . . or (ii) make provision for the repayment in installments, upon such terms and conditions as the board may prescribe . . . within 1 year from the date of . . . re-entry [into service] . . . shall pay actuarial assumed interest instead of buyback interest

This provision standing alone transforms the buyback interest rate into the actuarial assumed rate in a narrow set of circumstances: its rule is built around the deadline of one year

after the member's reentry into government service.¹ The statutory rate change is triggered when, by that particular deadline, the member has neither remitted a lump-sum payment nor entered into an installment agreement. *See DiBaro v. State Bd. of Ret.*, No. CR-23-279, 2024 WL 4491679, at *2-3 (Div. Admin. Law App. Aug. 16, 2024). *See also Spinelli v. Massachusetts Teachers' Ret. Syst.*, No. CR-17-188, at *12-13 (Div. Admin. Law App. Aug. 14, 2020). Ms. Collins did not miss her one-year deadline: she signed her installment agreements on time in 2017. The trouble arose only three years later.²

MTRS maintains that Ms. Collins's missed payments in 2020 nonetheless resulted in an adjustment to her interest rate. The analysis runs as follows: When Ms. Collins failed to cure her defaults, the installment agreements became "null and void"; by that time, the one-year deadline under § 3(8)(b) had long expired; accordingly, Ms. Collins could complete her purchases only under the actuarial assumed rate. The merits of this line of reasoning warrant further discussion.

In many or most situations, the retirement statute dictates a single permissible course of action to the retirement boards. *See Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 451-52 (2006). A member's breach of a § 3 installment plan is not among those situations. The retirement statute does not prescribe the exact circumstances that amount to a "default," the length of any "cure" period, or the exact consequences of a failure to

¹ Or an alternative irrelevant here, namely "1 year after April 2, 2012." § 3(8)(b).

² MTRS's brief reads § 3(8)(c) as stating that a member who "did not make 'the repayment in installments . . . ' . . . ' . . . shall pay actuarial assumed interest.'" Resp.'s Mem. 9. That mash-up is absent from the statute. *See Dube v. Contributory Ret. Appeal Bd.*, 50 Mass. App. Ct. 21, 24 (2000).

cure. Section 3(8)(b) instead leaves these “terms and conditions” of the installment agreements to be “prescribed” by the boards.

The Legislature thus gave MTRS the discretionary responsibility of deciding how to deal with breaches of its installment agreements. As in any administrative context, MTRS’s chosen approach was required to facilitate “reasoned consistency.” *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 448 Mass. 45, 56 (2006). But no statutory command precluded MTRS from agreeing to take exceptional circumstances, sympathy, and fairness into account in its responses to missed payments. *Cf. Towler v. Contributory Ret. Appeal Bd.*, 37 Mass. App. Ct. 277, 281 (1994).

MTRS has elected to take a different approach, which is disclosed with reasonable clarity by its brief, its historical course of practice (as reflected in the case law), and its standard-form installment agreements (as appearing in the record). These materials all reflect MTRS’s established unwillingness to adjudicate the consequences of breached agreements on a case-by-case basis. The brief conveys MTRS’s view that no “equitable” factors should play a role in this context. Pertinent case law shows MTRS to have stood by that attitude in the past. *See, e.g., Maddox v. Massachusetts Teachers’ Ret. Syst.*, No. CR-15-301, at *5-6 (Div. Admin. Law App. Nov. 2, 2016). And the boilerplate contractual terms memorialize MTRS’s general approach in individual cases by attaching no caveats or qualifications to the warning that uncured defaults will result in “null and void” agreements.³

³ A traditional rule holds that, even under contracts stating that “in case of default . . . this agreement shall be null and void,” the non-breaching party retains the option of leaving the agreement in effect. *Meagher v. Hoyle*, 173 Mass. 577, 579 (1899). But it is unlikely that MTRS’s forms were crafted with that rule in mind or would evoke the rule in the minds of most members.

MTRS's choice of an across-the-board approach in this context certainly promotes consistency. *See Alliance to Protect Nantucket Sound*, 448 Mass. at 56. And at least as far as the briefs and the record reveal, nothing about that approach is contrary to the "statutory purpose" or the "public interest." *Massachusetts Bay Transp. Auth. v. Boston Safe Deposit & Tr. Co.*, 348 Mass. 538, 545 (1965). MTRS has effectively used its discretion to align this pocket of the retirement law for its members with the many analogous situations governed by strict statutory rules. *See Bristol Cty. Ret. Bd.*, 65 Mass. App. Ct. at 451-52.

Scattered statements by MTRS in its brief suggest the possibility that MTRS may not necessarily have realized that the Legislature empowered it to decide whether to tolerate any breaches of § 3 agreements. As a general proposition, when an agency fails to realize that it faces a discretionary choice, it may be hard to say that the agency has exercised its discretion properly. *See Miami Nation of Indians of Indiana, Inc. v. U.S. Dep't of the Interior*, 255 F.3d 342, 350 (7th Cir. 2001). But the fact is that MTRS has conveyed its clear policy preference for an approach that the governing law permits.⁴

Conclusion and Order

In view of the foregoing, MTRS's decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

⁴ To the extent that this decision misinterprets MTRS's overarching attitude toward defaults on § 3 agreements, MTRS is free to revise its boilerplate installment agreements, adopt any appropriate regulations or policies, and potentially even revisit its treatment of prior defaulting members.