

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**In the Matter of the
Retirement Plus
Enrollment Window
of 2023**

Docket No.: CR-25-0244

Concerning the appeals of: Benjamin Bing
(No. CR-25-0051), Danielle DiFraia
(No. CR-25-0104), Caitlin Willis (No. CR-25-
0175), Sean Sullivan (No. CR-25-0179), and
Erin Corcoran (No. CR-25-0197).

THIRD CONSOLIDATED ORDER OF DISMISSAL

This consolidated proceeding was commenced earlier this year to address the appeals of various teachers who seek to participate in the benefits program known as Retirement Plus. This order addresses the five remaining consolidated appeals. In each one, respondent the Massachusetts Teachers' Retirement System (MTRS) has moved to dismiss, and the petitioner has filed a memorandum in opposition.

I.

Retirement Plus is designed to facilitate early retirement for "teachers," a term limited in the context of this case to members of MTRS. Participants in Retirement Plus make enlarged retirement contributions of 11% and become eligible for maximum retirement benefits after fewer years of service than usual. *See* G.L. c. 32, § 5(4).

Over the years, serial statutes have prescribed categories of teachers who participate in Retirement Plus automatically and categories of teachers who must "elect" to participate. Roughly speaking, when members begin their careers at standard contribution rates, the Legislature has been unwilling to subject them to Retirement Plus's higher rates absent their

consent. *See Pelletier v. Massachusetts Teachers' Ret. Syst.*, No. CR-19-301, 2023 WL 3434952, at *5 n.4 (Div. Admin. Law App. May 8, 2023). *See generally Opinion of the Justices*, 364 Mass. 847 (1973).

This case involves individuals who entered public service as non-teachers before transferring into teaching positions. A statute in effect from 2001 to 2022 gave such “transfer” teachers 180 days to enroll in Retirement Plus, with the clock starting upon the commencement of their MTRS membership. *See* Acts 2000, c. 114, § 2; 807 C.M.R. §§ 13.02, 13.04. Many transfer teachers inadvertently missed their 180-day windows.

Recognizing this problem, the Legislature granted all transfer teachers a new, one-time opportunity to enroll in Retirement Plus during the first half of 2023. *See* Acts 2022, c. 134, § 3. Before and during the 2023 enrollment window, MTRS’s staff made energetic efforts to provide information about it to the affected members.

In early 2025, MTRS identified several thousand members who had been entitled to join Retirement Plus during the 2023 enrollment window but who failed to do so. MTRS provided those members with decisions confirming their nonparticipation in Retirement Plus. The petitioners in this proceeding received such decisions and filed prompt notices of appeal.¹

¹ The decisions sent out by MTRS did not purport to deny any requests by the petitioners or otherwise to “aggrieve” them. *See Gloucester Ret. Bd. v. Public Emp. Ret. Admin. Comm’n*, No. CR-21-217, 2025 WL 2322619 (Contributory Ret. App. Bd. June 23, 2025). For purposes of this tribunal’s jurisdiction under G.L. c. 32, § 16(4), an order dated April 3, 2025 construed the petitioners’ notices of appeal as (a) asking MTRS to allow the petitioners to participate in Retirement Plus, and (b) challenging MTRS’s subsequent failures to act on those requests, prematurely but still effectively. *See Lutes v. Clinton Ret. Bd.*, No. CR-07-1100, 2012 WL 13406332, at *2 (Contributory Ret. App. Bd. Nov. 16, 2012); *McLeod v. Malden Ret. Syst.*, No. CR-22-625, 2023 WL 9190008, at *1 n.2 (Div. Admin. Law App. Dec. 15, 2023).

II.

The pending motions ask for the appeals to be dismissed based on failure to state a claim upon which relief can be granted. The question triggered by such motions is whether the petitioners' allegations, taken as true, would entitle them to prevail. *See* 801 C.M.R. § 1.01(7)(g)(3); *White v. Somerville Ret. Bd.*, No. CR-17-863, at *5 (Div. Admin. Law App. Nov. 16, 2018). *See also* *Curtis v. Herb Chambers I-95, Inc.*, 458 Mass. 674, 676 (2011). The following paragraphs summarize each petitioner's claim.

Benjamin Bing (No. CR-25-0051). Mr. Bing explains that he initially refrained from opening MTRS's emails about Retirement Plus in 2023 because they "appeared to possibly be 'fishing' emails." He read the emails only after the end of the 2023 enrollment window, and even then found the information presented by MTRS to be "very confusing."²

Danielle DiFraia (No. CR-25-0104). Ms. DiFraia says that she "did not understand" the significance of the Retirement Plus program during the 2023 enrollment window. She believed that the messages sent out by MTRS during that period were "generic/mass emails . . . targeted to teachers that would be retiring at the end of the 2023 school year."

Caitlin Willis (No. CR-25-0175). Ms. Willis does not doubt that MTRS made efforts to notify pertinent members about the 2023 enrollment window, but she asserts that she herself "did not receive any information." She adds that she "never found anything" even upon rechecking her "personal emails, spam, and trash."

² Mr. Bing states that he has been an "educator" since 2001. According to MTRS's records, he transferred into MTRS in 2003. This order is not intended to preclude Mr. Bing from asking MTRS to reexamine its records on this point, to correct them if they are erroneous, and to take any remedial action that such a correction may warrant. *See* G.L. c. 32, § 20(5)(c)(2).

Sean Sullivan (No. CR-25-0179). Mr. Sullivan maintains that he received no correspondence from MTRS about the 2023 enrollment window. He explains that he moved from one address to another during that period, with the result that MTRS may not have had an up-to-date address for him on file. He also observes that “firewalls and Spam filters often relegate email from unknown users to spam or hold them out altogether.”

Erin Corcoran (No. CR-25-0197). Ms. Corcoran reports that she was a new teacher and a young person in 2023. She states that she did not understand MTRS’s correspondence and is concerned that her “delayed response” may cause her significant financial harm.

III.

Participation in Retirement Plus does not depend on the preferences of MTRS or other administrative agencies: the controlling rules have been prescribed by the state Legislature through a series of formal statutes.

The statute applicable here gave the petitioners and other similarly situated individuals six months to join Retirement Plus. The Legislature defined the duration of the window by reference to specific dates: enrollment was permitted “on or after January 1, 2023 but not later than June 30, 2023.” Acts 2022, c. 134, § 3(b). Like most statutes, this one made itself applicable to all potentially relevant individuals, regardless of whether they received personalized notifications about its enactment. *See Gabrielian v. Massachusetts Teachers’ Ret. Syst.*, No. CR-23-64, 2025 WL 2322617, at *2 (Contributory Ret. App. Bd. June 23, 2025). *See also Awad v. Hampshire Cty. Ret. Bd.*, No. CR-08-621, 2014 WL 13121791, at *3 (Contributory Ret. App. Bd. Dec. 19, 2014).

The petitioners do not claim to have enrolled in Retirement Plus between January 1 and June 30 of 2023. Most of them say that they were not notified successfully about the enrollment window's existence: but that fact, taken as true, would not warrant any relief under a statute whose applicability does not hinge on personalized notice.³

Aspects of the petitioners' cases may make their exclusion from Retirement Plus unfortunate and even potentially unfair. Such considerations have sometimes been presented successfully to the Legislature, with resulting interventions including both the 2023 enrollment window and an earlier short-term enrollment window. *See* Acts 2004, c. 149, § 397. But adjudicative bodies do not share the Legislature's power to modify on-the-books statutes. In these proceedings, "equitable concerns may not trump a statutory rule." *O'Malley v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 778, 782 (2024). *See Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 446, 450-51 (2006); *Gabrielian*, 2025 WL 2322617, at *3-4.

In view of the foregoing, it is hereby ORDERED that:

1. The motions to dismiss these appeals (Nos. CR-25-0051, CR-25-0104, CR-25-0175, CR-25-0179 and CR-25-0197) are ALLOWED and the appeals are DISMISSED.

³ 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 belated enrollment to members who received no notice about their Retirement Plus enrollment windows *and* were "inactive" members during those windows. *See also Dwyer v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-0459, 2024 WL 4345195 (Div. Admin. Law App. Sept. 13, 2024). But the petitioners do not claim to have been inactive during the 2023 window.

2. The consolidated docket (CR-25-0244) is terminated.

Dated: October 3, 2025

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

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