

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

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

No. CR-25-0244

Dated: April 3, 2025

And 106 individual appeals¹

Concerning: all consolidated appeals

CONSOLIDATION AND CASE-MANAGEMENT ORDER

The purpose of this order is to commence a streamlined and cohesive effort to adjudicate approximately one hundred substantively related appeals.

The appeals were brought by members of the Massachusetts Teachers' Retirement System (MTRS) who wish to be enrolled in the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). Today, all or nearly all new MTRS members participate in Retirement Plus automatically. *Id.*

Between 2001 and 2022, each member who transferred into MTRS from another public retirement system received a 180-day opportunity to enroll in Retirement Plus. *See* Acts 2000, c. 114, § 2; 807 C.M.R. §§ 13.02, 13.04. Many teachers inadvertently failed to take advantage of their 180-day windows. As a result, the Legislature granted such "transfer" teachers a new opportunity to join Retirement Plus during the first half of 2023. *See* Acts 2022, c. 134, § 3.

In early 2025, MTRS made efforts to identify members who could have joined Retirement Plus during the 2023 enrollment window but failed to do so. MTRS furnished those members with decisions confirming their nonparticipation in Retirement Plus. The decisions described themselves as appealable to DALA. These appeals followed.

¹ Listed in Appendix A.

With the foregoing background in mind, it is hereby ORDERED as follows:

1. The appeals listed in Appendix A (consolidated appeals) are hereby consolidated for prehearing purposes.

2. Future submissions in any of the consolidated appeals shall be captioned with the case name and docket number appearing at the top of this order. The submissions shall note prominently whether they relate to all of the consolidated appeals or only to specific appeals, identified by docket number.

3. DALA will maintain submissions relating to all of the consolidated appeals in case file number CR-25-0244. To ensure that the histories of the individual appeals remain clear, each individual case file will include a notice stating that additional relevant papers appear in case file number CR-25-0244. Submissions relating only to specific individual appeals will be placed in the pertinent individual case files.

4. Submissions in any of the consolidated appeals shall be filed by email to dalapleadings@mass.gov. Individual petitioners making any submissions shall copy MTRS's counsel at james.o.leary@trb.state.ma.us (or at the updated address of any successor attorney). Submissions by MTRS applicable to all of the consolidated appeals shall be provided to all of the petitioners using the BCC (blind carbon copy) email function. Upon request, the docket clerk will provide MTRS with a list of all of the petitioners' email addresses as appearing in their notices of appeal.

5. Copies of this order will be provided to attorneys at the Massachusetts Teachers' Association and the American Federation of Teachers. Those organizations are asked to consider whether it would be permissible and appropriate for their attorneys to appear in these

proceedings on behalf of any petitioners. Any notices of appearance of counsel may be formatted informally but shall be filed as soon as practicable.

6. MTRS shall confer to the extent practicable with any attorneys appointed pursuant to paragraph 5. Within 60 days, MTRS shall propose any appropriate additions to or subtractions from Appendix A. By the same deadline, MTRS shall propose a schedule for the briefing of one or more motions to dismiss based on failure to state a claim (or other grounds). Without prejudice to subsequent good faith modifications, the proposal shall identify the specific appeals that MTRS expects each of the motions to dismiss to address. Further proceedings relating to any appeals not dismissed as a result of motions filed under this paragraph will be scheduled at a later date.

7. The MTRS decisions that prompted these appeals told the petitioners unprompted that their entitlements remained unchanged. It is not necessarily clear whether communications of that type result in any practical consequences. By extension, it is not necessarily clear whether the MTRS decisions were appealable under the governing statute, G.L. c. 32, § 16(4). *See Bretschneider v. Public Emp. Ret. Admin. Comm'n*, No. CR-09-701 (Div. Admin. Law App. Nov. 13, 2009). *See also Board of Health of Sturbridge v. Board of Health of Southbridge*, 461 Mass. 548, 557 (2012). On the other hand, through their appeals, the petitioners have asked MTRS in substance to allow them to join Retirement Plus; and MTRS has not acted on those requests. These failures to act probably *are* appealable. *See* § 16(4); *Lutes v. Clinton Ret. Bd.*, No. CR-07-1100, 2012 WL 13406332, at *2 (Contributory Ret. App. Bd. Nov. 16, 2012). It would make little practical sense to require each petitioner to file a new notice of appeal. If necessary, the consolidated appeals are instead likely to be construed as anticipating and extending to MTRS's appealable failures to act. *Cf. Lutes*, 2012 WL 13406332, at *2; *McLeod*

v. Malden Ret. Syst., No. CR-22-625, 2023 WL 9190008, at *1 n.2 (Div. Admin. Law App. Dec. 15, 2023).

8. The procedures established in this order are intended to facilitate the speedy and fair disposition of the consolidated appeals, consistent with the various applicable laws. *See* G.L. c. 7, § 4H; G.L. c. 30A; 801 C.M.R. § 1.01. The parties are instructed to state any objections promptly if they believe that the procedures being employed here violate any of their statutory or constitutional rights.

9. Copies of this order will be provided to the Contributory Retirement Appeal Board and posted on DALA's website.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Appendix A
(Consolidated Cases)

Docket No.	Petitioner
CR-25-0043	Kelli Guarino
CR-25-0044	Matthew Peirce
CR-25-0045	Maura O'Herron
CR-25-0046	Chrysavgi Meleti
CR-25-0047	Megan Tremble
CR-25-0048	Alexander Mullis
CR-25-0050	Valerie Longey
CR-25-0051	Benjamin Bing
CR-25-0052	Kristina Wade
CR-25-0053	Indira Pierre-Paul
CR-25-0055	Gregory Hazelwood
CR-25-0056	Kayla Shaktman
CR-25-0057	Michela Viglirolo
CR-25-0058	Carly Marazzi
CR-25-0059	Allison Ripley
CR-25-0060	Carrie Cashman
CR-25-0061	Joelle Coleman
CR-25-0062	Ellen Vogler
CR-25-0063	Susan Drouin
CR-25-0065	Laurette Ulrich
CR-25-0066	Mitchell Mortali
CR-25-0067	Maura Burchill
CR-25-0068	Jennifer Flaherty
CR-25-0073	Emily Morris
CR-25-0074	Jennifer Sole-Robertson
CR-25-0075	Joanna Giec
CR-25-0076	Karen Sarmiento
CR-25-0077	Scott McGinley
CR-25-0079	Nick Tzortzis
CR-25-0080	Jennifer Nickerson
CR-25-0081	Darcey Myette
CR-25-0082	Erin Lagasse

Docket No.	Petitioner
CR-25-0083	Jacquelyn Dubois
CR-25-0084	John Steere
CR-25-0085	Ashlie LaCivita
CR-25-0086	Brendan Foster
CR-25-0088	Chrissa Pissios
CR-25-0090	Jennifer Brisch
CR-25-0096	Kaitlin LaPine
CR-25-0097	Kathryn Miller
CR-25-0098	Nicole Pagnoni
CR-25-0100	Allison DiDomenico
CR-25-0101	Christopher Christy
CR-25-0102	Kathryn Gray-Quinn
CR-25-0104	Danielle DiFraia
CR-25-0105	Monica Fowler
CR-25-0107	Erin Schuster
CR-25-0108	Joyce Reilly
CR-25-0109	Emily Arias
CR-25-0111	Ryan Sheehan
CR-25-0112	Justine Hardy
CR-25-0115	Jennifer Kimball
CR-25-0116	Jeffrey Chruniak
CR-25-0118	Daniel Hikes
CR-25-0119	Thomas Raeke
CR-25-0120	Jaclyn Golder
CR-25-0121	Kayla Nicholson
CR-25-0122	Renee Bond
CR-25-0123	Jacqueline Mawn
CR-25-0124	Stephen Driscoll
CR-25-0125	Matthew O'Brien
CR-25-0126	Eric Okscin
CR-25-0127	Susan Shatford
CR-25-0128	Linda Koneczny

Docket No.	Petitioner
CR-25-0129	Vianni Gomez
CR-25-0130	Allen Becotte
CR-25-0131	Victoria Quinlan
CR-25-0134	Ashley Penna
CR-25-0135	Tatjana Firth
CR-25-0136	Alexander Hernandez
CR-25-0138	Bethany Killeen
CR-25-0140	Amy Hoff
CR-25-0141	Deborah Stone
CR-25-0143	Mary Zegel
CR-25-0145	Alicia Darling
CR-25-0146	Christopher Ocampo
CR-25-0147	Elizabeth Albanese
CR-25-0148	Jacqueline Thomas
CR-25-0151	Jamie Amidon
CR-25-0152	Julius Walker
CR-25-0153	Megan Burgay
CR-25-0155	Andrea Spinale
CR-25-0157	Daniel Gorsky
CR-25-0158	Samantha Parsons
CR-25-0160	Megan Conroy

Docket No.	Petitioner
CR-25-0163	Christina Coffey
CR-25-0164	Emily DeCilio
CR-25-0166	Matt O'Brien
CR-25-0168	Laura Latulippe
CR-25-0169	Kerry Monaco
CR-25-0170	Camila Oliveira
CR-25-0171	Alyse Trevor
CR-25-0172	Catherine Taglilatela
CR-25-0173	Jacqueline MacMillan
CR-25-0174	Christopher Brennan
CR-25-0175	Caitlin Willis
CR-25-0176	Kary Garcia-Robledo
CR-25-0179	Sean Sullivan
CR-25-0181	Maureen Larareo
CR-25-0182	Colleen Gordon
CR-25-0184	James Hart
CR-25-0193	Bradley Leal
CR-25-0197	Erin Corcoran
CR-25-0198	Lisa Perreault
CR-25-0200	Kris Buffington-Christie
CR-25-0204	Kathleen Castro