

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Cassie Duca,
Petitioner,

No. CR-26-0299

Dated: September 25, 2026

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Cassie Duca appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) excluding her from the benefits program known as Retirement Plus. See G.L. c. 32, § 5(4). The MTRS decision is dated in January 2025. Duca filed her appeal approximately sixteen months later, during June 2026.

MTRS has filed a consolidated motion seeking either dismissal for lack of jurisdiction, or dismissal for failure to state a claim, or summary decision. Duca was advised that her failure to respond to the motion would be interpreted as indicating her agreement with MTRS's position. Her filing deadline has expired without Duca having filed anything further. Dismissal is therefore appropriate based on a combination of failure to prosecute, mootness, and Duca's consent. *Compare Bray & Gillespie Mgmt. LLC v. Lexington Ins. Co.*, 527 F. Supp. 2d 1355, 1371 (M.D. Fla. 2007), with *Jones v. Providence Pub. Sch.*, No. 23-1407, 2024 WL 1128034 (1st Cir. Mar. 11, 2024).¹

¹ With respect to the contents of the motion, beginning with the jurisdictional argument, MTRS is reminded that a photocopy of a letter does not establish one way or another whether the letter was "properly addressed and mailed," such that its delivery may be presumed. See *Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2021 WL 11680398, at *1 (Div. Admin. Law App. Oct. 22, 2021). See also *Centola v. State Bd. of Ret.*, No. CR-19-507,

Accordingly, it is hereby ORDERED that the motion to dismiss is ALLOWED and this appeal is DISMISSED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals

2026 WL 1373778, at *2-3 (Contributory Ret. App. Bd. Apr. 17, 2026). As for the argument based on failure to state a claim, it may be that MTRS overstates the absoluteness of the prohibition on belated enrollments in Retirement Plus. As various prior decisions have noted, the Contributory Retirement Appeal Board has never disavowed its decision in *Davey v. Massachusetts Tchrs.' Ret. Syst.*, No. CR-01-914 (Contributory Ret. App. Bd. Jan. 31, 2003). *See, e.g., DeCilio v. Massachusetts Tchrs.' Ret. Syst.*, No. CR-25-0164, 2026 WL 1256778, at *2-3 (Div. Admin. Law App. May 1, 2026).