

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

In the Matter of  
Enrollment in Retirement Plus

No. CR-21-369

Concerning: certain transfer petitioners

Dated: May 8, 2023

ORDER CONCERNING  
PRIOR NEGATIVE ELECTIONS

Numerous teachers who transferred from other retirement systems into MTRS after July 1, 2001 have been excluded from the benefits program known as Retirement Plus. In late 2022, the Legislature enabled such “transfer” teachers to join Retirement Plus through a new election window open during the first half of 2023. *See* Acts 2022, c. 134, § 3(a).

MTRS has made substantial efforts to notify eligible transfer teachers about the new election window. However, MTRS has assumed that teachers are ineligible for the window if they previously filed a “negative” election, namely an election *not* to participate in Retirement Plus. Today’s decision in *Pelletier v. MTRS*, No. CR-19-301 (DALA May 8, 2023), rules that MTRS’s assumption was incorrect—i.e., that even teachers who previously filed negative elections may be eligible for the 2023 window.

MTRS and the Massachusetts Teachers Association have filed periodic updates addressing the statuses of the various Retirement Plus appeals. At this juncture, it does not appear that any pending appeals other than *Pelletier* involve transfer petitioners who previously made negative elections.

In view of the foregoing, it is ORDERED as follows:

1. In the event that MTRS should identify any additional transfer petitioners who have not been invited to participate in the 2023 election window because of prior negative elections, then it shall invite and permit them to enroll in Retirement Plus. However, to the

extent that MTRS is pursuing an appeal from the *Pelletier* decision, then it shall at least afford such petitioners the protections described in paragraphs 2-3 of the April 18, 2023 Order Revising Case-Management Procedures; i.e., it shall provide them with enrollment forms, and shall accept such forms for filing on a provisional basis.

2. MTRS is directed to consider whether it would be prudent for MTRS to provide election materials under the 2023 window to transfer teachers who have *not* filed DALA appeals but who have been excluded from the window because of prior negative elections.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate