

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**In the Matter of
Enrollment in Retirement Plus**

No. CR-21-369

Concerning: various 2001 appeals¹

Dated: August 30, 2023

**PROCEDURAL ORDER ON APPEALS
ASSERTING *DAVEY* CLAIMS**

This docket has formally and informally consolidated appeals and issues relating to teachers excluded from the benefits program established by G.L. c. 32, § 5(4). The governing statute required individuals who were teachers as of 2001 (2001 teachers) to enroll in the § 5(4) benefits program during the first half of that year. As a general rule, 2001 teachers who missed the original deadline cannot join the § 5(4) benefits program at any later date.

As described in a memorandum and order dated August 7, 2023, the general rule appears to recognize an exception: A 2001 teacher may be able to enroll belatedly in the § 5(4) program *if* he or she was a member “inactive”² during the first half of 2001 *and* he or she received no “notice” about the commencement of the § 5(4) benefits program. This exception derives from *Davey v. MTRS*, No. CR-01-914 (CRAB Jan. 31, 2003), as refined by *Simonet v. MTRS*, No. CR-18-164 (CRAB Oct. 28, 2021).

¹ Listed in Appendix A.

² The category of members inactive is defined by G.L. c. 32, § 3(1)(a)(ii). It includes members who have retired with allowances, members “whose employment has been terminated and who may be entitled to . . . any retirement allowance or . . . return of . . . deductions,” and members on certain types of “authorized leave of absence without pay.” Members on certain other types of leave, including leaves of up to one year, continue to be regarded as “members in service.” *See* § 3(1)(a)(i).

This order concerns a group of appeals that appear to state claims under the *Davey* rule. At this juncture, consolidated proceedings concerning these appeals may conserve resources, promote uniformity, and otherwise serve fairness and speediness. It is therefore ORDERED as follows:

1. The appeals listed in Appendix A (consolidated appeals) shall be, or shall continue to be, consolidated and governed by the orders and submissions filed in this consolidated docket. Appendix B collects copies of the notices of appeal and certain other submissions in the consolidated appeals.

2. The Massachusetts Teachers Association represents several of the petitioners in the consolidated appeals. In recent consolidated proceedings, MTA has provided skillful and zealous advocacy on behalf of a large universe of teachers. MTA is asked to consider—in its discretion—whether it is able and willing to appear on behalf of any additional petitioners in the appeals consolidated here.

3. Within 30 days, each petitioner shall file one or more affidavits in support of the claims: (a) that the petitioner was a member inactive during the first half of 2021; and (b) that the petitioner received no notice that the § 5(4) benefits program was commencing. Each affidavit shall be organized in numbered paragraphs, shall be signed by hand, and shall state the affiant's acknowledgement that he or she is executing the affidavit under the penalties of perjury.

4. Within 60 days, MTRS shall file a memorandum that: (a) states, as to each appeal, whether the appeal is meritorious, whether it must be tried at an evidentiary hearing, or whether it may be decided on summary decision; and (b) describes in broad strokes—if any cases must be tried—the nature of the evidence that MTRS would present at the hearing(s),

explaining whether such evidence would be case-specific or generally applicable to the various appeals.

5. Various teachers in the Boston Retirement System have filed appeals from decisions excluding them from TARP, BRS's version of the § 5(4) benefits program. As a result, BRS has recently taken part in this docket's consolidated proceedings. It appears at this juncture that no pending appeals of BRS members make claims under *Davey*. BRS is therefore permitted but not required to file a concise memorandum addressing the issues outlined in this order. Any such memorandum shall be filed no later than the deadline for MTRS's memorandum as required by paragraph 4.

6. This order will be served on MTA, MTRS, and BRS by email, and on each unrepresented petitioner by U.S. Mail.³ All future submissions relating to these appeals shall be made by email to dalapleadings@mass.gov. Upon receipt of this order, each unrepresented petitioner shall provide DALA with his or her email address forthwith, by submitting an email that names the petitioner, identifies the docket number of his or her appeal, and states that the petitioner's email is being submitted in accordance with a consolidated order in *In the Matter of Enrollment in Retirement Plus*, No. CR-21-369.

7. Any petitioner's failure to comply with paragraphs 3 or 6 may result in dismissal of that petitioner's appeal based on failure to prosecute. MTRS's failure to comply with paragraph 4 may result in decisions by default. *See* G.L. c. 30A, § 10; 801 C.M.R. § 1.01(7)(g)(2).

³ For purposes of economy, Appendix B will be omitted from the copies of the order transmitted by paper mail. It will be available electronically upon request.

8. The parties are invited to propose any additional or alternative procedures designed to facilitate the fair and efficient adjudication of these appeals. They also are invited to propose any modifications to the universe of cases consolidated pursuant to this order. Any such proposals shall be made without delay and shall follow conferral with the other parties to the extent practicable.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Appendix A
(Consolidated Appeals)

Amy DeFeudis v. MTRS, 18-0210

Michael Murphy v. MTRS, 18-0565

Patricia Moore v. MTRS, 21-0291

Rebecca Blouwolff v. MTRS, 21-0668

Meredith Costa v. MTRS, 23-0098

Debra Carnevale v. MTRS, 23-0109

Catherine Lee v. MTRS, 23-0136*

Linda Simonds v. MTRS, 23-0140*

Holly Breen v. MTRS, 23-0156*

* These petitioners state that they were on maternity or “child-rearing” leave during the pertinent period. *See supra* note 2.

Appendix B
(Copies of Submissions)

18-0210

✓
15 Surrey Lane

Shrewsbury, MA 01545

adefeudis@yahoo.com

Commonwealth of Massachusetts

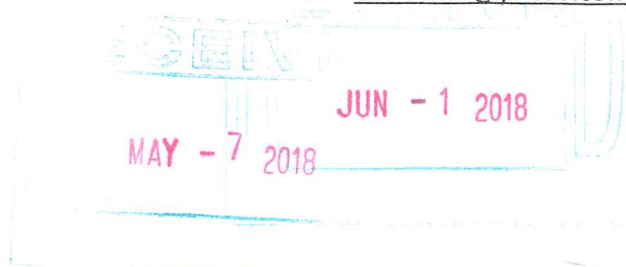
Division of Administrative Law Appeals

One Congress St., 11th Floor

Boston, MA 02114

April 30, 2018

Docket No. CR-18-0210



Petitioner: Amy E. DeFeudis, Certificate# 277359 /MEPID: 50699835 vs. Teacher's Retirement System

To Whom It May Concern:

Please accept this letter as a formal appeal to enter the R+ system. During 9/87-9/88, I was a long term substitute teacher for Worcester Public Schools. At that time, I was living at home with my parents at 3 Squantum Road, in Paxton, MA 01602 reportedly where the R+ election ballot was mailed. After that year, I no longer worked as a public school teacher and had moved out of my parent's home. Then, I began working in a variety of day care centers (KinderCare, Bright Horizons, A Place to Grow, Hudson Kids, etc.) and a private school, the Cotting School with no known intention to return to public school.

When I re-entered the public school setting again, I was not aware of the change in the retirement system and would have gratefully signed the election ballot for the R+ system. At that time, I reiterate that I *did not* know about the election ballot in 2001 and was married and pregnant with twins. I was living at 18 Bonito Drive in Framingham and pursuing my Ed.D in Counseling Psychology at the University of Sarasota in Florida (taking classes on-line and spending school vacations and summers there).

Recently, I have been in contact with Mr. David Percoco and Ms. Jamie Zizza from the MTRS who have shared pertinent information and greatly helped me understand this surprising discovery (as I thought I was already in the R+ system). In addition, I have met with my financial advisor, Kevin Daley who recommended I appeal this decision and noted I could easily transfer the money to the R+ account from my 403B account (which would reportedly be about \$17,000 and a seamless transaction).

In closing, for these reasons and as a single parent now, I ask you to kindly rectify this situation. Please help me so I can provide a better future for myself and my children. Thank you in advance for your time, cooperation and granting this appeal.

Respectfully,

Amy E. DeFeudis

cc: MTRS

AUG 16 2023

COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD

AMY E. DEFEUDIS,
Petitioner

v.

Docket No. CR-18-0210

TEACHERS
RETIREMENT SYSTEM,
Respondent

MOTION FOR RECONSIDERATION

Petitioner Amy E. DeFeudis,¹ ("Petitioner") respectfully requests DALA reconsider the dismissal of this case. As grounds for this motion, Ms. DeFeudis cites the following:

1. By Order dated August 7, 2023, DALA articulated the general rule that "a 2001 teacher cannot join the [Retirement Plus] benefits program after missing the mid-2001 deadline, even in sympathy-provoking cases, and even if the teacher received no notice about the [Retirement Plus] program from his or her retirement system."
2. By that same Order, DALA also specified "Further proceedings may be scheduled as to any appeals of teachers who assert that they were inactive throughout the first half of 2001 *and* received no notice about the [Retirement Plus] benefits program."
3. Similarly, in the Order of Conditional Dismissal in this matter, DALA notes an "exception" to the rule for "individuals who were not employed as teachers during the first half of 2001."
4. Ms. DeFeudis was a member inactive in MTRS throughout the first half of 2001, and for many years prior, and received no notice about R+:
 - a. From approximately 1993 to 1998, Ms. DeFeudis worked at private daycares in Massachusetts.
 - b. From 1998 through October of 2002, Ms. DeFeudis worked at a private school in Lexington.

Based on the foregoing, Petitioner respectfully requests DALA regard her as an inactive member, subject to the exception to the general rule in RetirementPlus cases and reconsider the dismissal of her case.

¹ There are two employees in the Worcester Public Schools with the name "Amy DeFeudis." To avoid confusion, Petitioner will use her middle initial and would ask DALA do the same.

Respectfully submitted,

AMY E. DEFEUDIS

By her Attorney,

Ashley Walter

Ashley F. Walter, Esq.

Massachusetts Teachers Association

2 Heritage Drive, 8th Floor

Quincy, MA 02171

awalter@massteacher.org

617-878-8286

CERTIFICATE OF SERVICE

I, Ashley Walter, do hereby certify that on this 15th day of August 2023, I have caused a copy of the enclosed document to be served upon the following person(s) at the address below indicated, by email.

James O'Leary, Esq.

MTRS General Counsel

James.O'Leary@trb.state.ma.us

Ashley Walter

Ashley F. Walter

18-0565

CP18-0565

26 Bates St.

Northampton, MA 01060

October 1, 2018

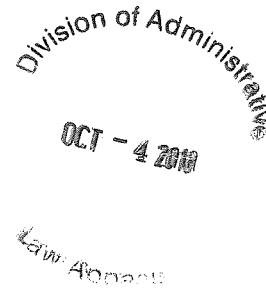
Edward McGrath, Esq.

Chief Administrative Magistrate

Division of Administrative Law Appeals

One Congress Street, 11th Floor

Boston, MA 02114



Dear Sir,

As indicated in the attached letter, I recently received notification of the Massachusetts Teachers' Retirement System's decision regarding my participation in the Retirement*Plus* program.

I am aggrieved by this decision and wish to appeal it.

Thank you for your kind consideration. I look forward to discussing this matter with you and your colleagues.

Best regards,

A handwritten signature in black ink, appearing to read "Michael Murphy".

Michael Murphy

(617) 543-4283

ccd
mmp

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

MIDDLESEX, SS

IN THE MATTER OF:)

MICHAEL MURPHY)

CR-18-0565

KIMBERLY AVERY)

CR-18-0158

LAUREN MCCARRON)

CR-18-0177

JOINT STATUS REPORT

Pursuant to DALA's Order, dated November 15, 2021, the parties hereby submit this Joint Status Report.

PETITIONERS' POSITION:

1. MICHAEL MURPHY:

Mr. Murphy left the Holyoke Public Schools in October of 1999 to take a teaching job in Windsor Connecticut. Mr. Murphy resigned with ample notice and was clear with his employer that he was leaving the state. Mr. Murphy's contributions to MTRS would have stopped precipitously and by November of 1999, MTRS would have been on notice that Mr. Murphy no longer taught in Holyoke or in another MTRS-covered position.

In June of 2000, Mr. Murphy moved to Washington, DC and lived in several different apartments, always taking care to forward his mail, before moving back to Boston as Higher Ed Administrator in 2005.

At no time did Mr. Murphy receive a mailing regarding the retirement plus opt-in.

In 2008, Mr. Murphy returned to teaching and began a job in the Woburn Public Schools, where he taught for three years. At the time, he was informed at the initial orientation he attended that he did not need to take any action and would be automatically enrolled in R+. Accordingly, MTRS deductions were taken from Mr. Murphy at the enhanced, R+ rate and he had no reason to suspect anything was amiss.

Mr. Murphy's circumstances appear not to have been addressed by prior CRAB decisions. At the time the R+ election was required in 2001, Mr. Murphy was an inactive member of the MTRS. It appears not to be possible to document that his employer had his correct address, as was the situation in Davey v. MTRS, CR-01-914 (DALA Feb. 1,

2002)(aff'd CRAB Jan. 31, 2003), but neither is there evidence that Mr. Murphy received notice of the R+ election window, which distinguishes his case from Simonet v. CRAB, CR-18-064 (DALA May 17, 2019)(CRAB October 28, 2021).

Mr. Murphy respectfully requests a hearing on the merits of his R+ appeal.

2. KIMBERLY AVERY

Ms. Avery's appeal has been withdrawn.

3. LAUREN McCARRON:

In the McCarron appeal, the Petitioner is awaiting a response to whether the MTRS will enter into an Agreement for Judgment in her case. The Petitioner has provided the MTRS with W-2 forms which show that her employer, the Reading Public Schools, had her correct address at the time she temporarily left teaching and became an inactive MTRS member.

Ms. McCarron was regarded as a member inactive from approximately January 1, 1998 to September 1, 2004, for a total of 6 years, 8 months.

Immediately prior to becoming inactive in 1998, however, Ms. McCarron was a teacher in Reading.¹ While teaching in Reading, in August 1996, Ms. McCarron moved from 20 Florence St, Andover MA to 33 Marland Street, Andover, MA, where she continues to reside today. Ms. McCarron taught in Reading, while living at the 33 Marland Street address, for approximately 1 year and 4 months before she resigned on January 1, 1998 and became inactive. During that 1 year 4 month period, her address change was registered by Reading's payroll department, and she was careful to have her mail forwarded for one year. MTRS would have been notified of her address change as she was still actively contributing to MTRS for 1 year and 4 months before she resigned her employment.²

Upon resuming employment with Andover Public Schools in 2004, Ms. McCarron was not enrolled in MTRS at the 11%, R+ rate. Ms. McCarron questioned Andover's payroll department about why she was not contributing at the 11% rate. She contacted MTRS and spoke with a service representative who informed her that the paperwork was sent to the 20 Florence Street address in Andover—that it was an “unfortunate mistake,” but there was nothing the representative could do for her.

According to MTRS, Ms. McCarron's R+ election packet was sent to 20 Florence Street, Andover, MA 01810 in the 2000/2001 academic year. However, Ms. McCarron had moved from that address over four years prior, during which time

¹ Ms. McCarron started as a teacher in Reading in the 1987/1988 academic year.

² MTRS advises active members to notify their payroll officer—NOT MTRS—of address changes.

she registered her change of address with Reading's payroll office, forwarded her mail and continued to make contributions to MTRS for nearly 1.5 years while at her current, 33 Marland Street address. There is no conceivable reason why MTRS had not registered her address change by the time it sent her an election packet in the 2000/2001 academic year, and she should not be faulted for such an error of the system.

In Simonet, supra, CRAB affirmed DALA's determination that Ms. Simonet's member inactive status during the period of the initial, R+ election opportunity, "does not excuse her from failing to elect into the RetirementPlus program before the deadline." Id. at pg 2. However, CRAB also carefully distinguishes Ms. Simonet's case from that of Davey, supra. In Davey, Petitioner was permitted an election opportunity within 180 days of returning to active service. CRAB distinguishes Davey on the "dispositive factor" that in Simonet "it was not disputed that Ms. Simonet received notice in 2001 and did not elect into RetirementPlus within the statutorily prescribed election period." In Davey, notice was not provided.

Unlike Simonet, here it is disputed that Ms. McCarron received notice in 2001. Ms. McCarron was not residing at the address MTRS sent her election packet and there is no rational basis for MTRS to have sent its packet to that address. As in Davey, she did not receive notice of the R+ election opportunity and she should be provided with such an opportunity now.

It appears probable that the McCarron appeal will be resolved through an Agreement for Judgment. In the absence of such an agreement, Ms. McCarron respectfully requests a hearing on the merits of her R+ appeal.

MTRS'S POSITION:

1. MICHAEL MUPRHY:

The petitioner did not notify the MTRS of his address change. He admits he was careful about having his mail forwarded to him while he was away, and MTRS records indicate a notice was mailed. MTRS cannot resolve this case.

2. LAUREN McCARRON:

MTRS believes that it may be able to resolve this case without the need for litigation, and because of an essential staff member's vacation, it requests an additional two weeks for this process to complete.

Respectfully submitted by the parties,

MICHAEL MURPHY

KIMBERLY AVERY
LAUREN MCCARRON
By Their Attorney

/s/ Matthew D. Jones
Matthew D. Jones, Esq.
Staff Counsel
Massachusetts Teachers Association
2 Heritage Drive, 8th Floor
Quincy, MA 02171
(617) 878-8283
mjones@massteacher.org

MASSACHUSETTS TEACHERS'
RETIREMENT SYSTEM
By Its Attorney

/s/ James O'Leary
James O'Leary
General Counsel
Massachusetts Teachers'
Retirement System
500 Rutherford Avenue, Suite 210
Charlestown, MA 02129
(617) 679-6104
James.O'Leary@trb.state.ma.us

21-0291

Patricia Moore
36 Winterberry Ln
Attleboro, MA 02703

July 16, 2021

Edward McGrath, Esq.
Chief Administrative Magistrate
Division of Administrative Law Appeals
14 Summer Street, 4th Floor
Malden, MA 02148

Dear Chief Administrative Magistrate McGrath:

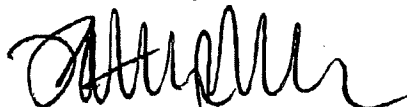
In reviewing my finances in planning for the future, I recently contacted the MTRS for clarification on information on my annual statement. In speaking with Ms. Kathleen Kreatz, Senior Service Representative, I learned that I was not contributing at the RetirementPlus rate. In response to the attached letter received on 7/6/21, I am writing to respectfully appeal the decision made by the MTRS regarding a change in my RetirementPlus eligibility status. I petitioned a change in my eligibility status as a result of not receiving the election packet and related information previously sent out. Ms. Kreatz informed me that the MTRS records indicate an election packet was mailed to me in February 2001 and was returned as "undeliverable."

I became an active member of the MTRS when I accepted my first full-time position in the Braintree Public Schools (1997-1998). The following year I remained an active member while employed full-time with the Canton Public Schools (1998-1999) before taking a position with a private, residential school. I was employed by this school for three years (August 1999-August 2002); however my membership in the MTRS became inactive during that time as the tuition for all of the students I taught was not publicly funded by Massachusetts school districts. In August 2002 I accepted a position with the Holliston Public Schools where I have worked for the past 19 years. According to information on file with the MTRS, the election packet was mailed to a previous address on file (165 West 6th Street, Boston, MA) where I lived until July 1998. I moved several times over the next few years, including living in Canton and Stoughton before finally settling in Attleboro in November 2000. I was living in Attleboro at the time of the mailing in February 2001 and therefore mail was unable to be forwarded from the address on file from three years prior. As a young professional working at a private school not affiliated with the MTRS, I was not anticipating a return to the Massachusetts public schools. As an inactive member at the time of the mailing, not only was I unaware of the provisions of MGL Chapter 32 section 5(4), but those provisions were not applicable to the private retirement plan offered by my employer. Had the MTRS records included my correct mailing address and I received the election packet, making an election into the RetirementPlus prior to the 6/30/21 deadline was not applicable as I was not only an inactive member but ineligible to participate in the MTRS at that time. It was not until I accepted my position with the Holliston Public Schools in August 2002 that my membership became active again.

Additionally, when speaking with Ms. Kreatz, she indicated that the information on file with the MTRS shows that during my first year of service with Holliston (9/30/02-6/30/03) my contributions were at the RetirementPlus 11% rate. After 6/30/03 my contributions changed to the non-RetirementPlus rate (9%+2%). I have no knowledge of making these changes and Ms. Kreatz reported that the MTRS has no further information related to this available in its records.

As a brand new professional starting the first job of my career 24 years ago, thinking about retirement was not in the forefront of my mind. Mandatory election into the MTRS was all new to me as was an understanding of active or inactive membership status. When I opted for employment in a nonpublic school while raising my young son, my focus was not on a retirement plan that I had contributed to for two years or on a retirement system that I was no longer an active member of. I had little to no awareness of the changes in MGL at the time or how those changes would ultimately affect my overall retirement. Upon returning to the public schools 18 months after an election packet had reportedly been mailed and returned as undeliverable, I remained unaware of the RetirementPlus option previously offered. That said, it is unclear why during my first year of service in Holliston in 2002 I contributed at the higher RetirementPlus rate. I very much appreciate the time Ms. Kreatz spent in helping me understand the MGL changes as well as answering all of my questions related to my retirement plan. Given that I not only did not receive the election packet sent but that I was an inactive member and ineligible to elect into the RetirementPlus option before the deadline, I respectfully appeal the decision made by the MTRS regarding my eligibility status and request an opportunity to elect into the RetirementPlus retirement plan at this time.

Respectfully,

A handwritten signature in black ink, appearing to read 'Patricia Moore', with a stylized, cursive script.

Patricia Moore

21-0668

Rebecca Blouwoff
63 Summit Ave. #1
Brookline MA 02446
(617) 383-1474
blouwoffr@wellesleyps.org

December 13, 2021

Edward McGrath, Esq.
Chief Administrative Magistrate
Division of Administrative Law Appeals
14 Summer St., 4th Floor
Malden, MA 02148

Division of Administrative
DEC 16 2021

Law Appeals

CR-21-0668

Dear Mr. McGrath,

I'm writing to appeal the decision about my current status regarding Retirement Plus. With this letter, I am filing a claim to the Contributory Retirement Appeal Board.

Attached please find my 11/19/21 letter requesting a review of my status, and the 12/3/21 reply from MTRS.

Thanks very much for your assistance.

Sincerely,



Rebecca L. Blouwoff
Member # 313419
Wellesley Middle School

LL
myk

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

REBECCA BLOUWOLFF,
Petitioner

v.

Docket No. CR-21-0668

**TEACHERS
RETIREMENT SYSTEM,**
Respondent

The Petitioner, Rebecca Blouwolff, submits this response to DALA's June 10, 2022 Order to Show Cause. Pursuant to DALA's Order on February 23, 2023, Petitioner advances only the factual circumstances of her case and incorporates by reference the legal arguments that will be advanced pursuant to DALA's consolidated briefing schedule for 2001 petitioners.

I. PROPOSED FINDINGS OF FACT

1. Rebecca Blouwolff (f/k/a Rebecca Wolff) began her teaching career in the Wellesley Public Schools in 1998. She enrolled in the MTRS at that time. **Exhibit 1.**
2. From 1998 to 2000, Ms. Blouwolff resided at 9 Greenway Ct, #6, Brookline, MA.
3. During the 2000/2001 academic year, Ms. Blouwolff took a one-year unpaid leave from Wellesley because she received a fellowship in Jerusalem, Israel. **Exhibit 2.**
4. Prior to commencing her leave, Ms. Blouwolff informed Wellesley Public Schools how she could be reached during her absence. **Exhibits 3, 4.**
5. As early as June 9, 2000, Ms. Blouwolff provided written notification that "IMPORTANT DOCUMENTS" should be sent to her parents at "Rebecca Wolff, 126 Cave Hill Rd, Leverett, MA 01054." **Exhibit 4.**
6. Additionally, included in her personnel file at Wellesley is a handwritten notification of her new, Leverett address, "eff 6/14/2000." **Exhibit 3.**

7. While on unpaid leave, Ms. Blouwolff would not have made any contributions to the MTRS.
8. During the 2000/2001 academic year, an opportunity to enroll in the alternative superannuation retirement benefit program, known as "Retirement Plus," (R+) was made available to members of the MTRS.
9. MTRS created an administrative process whereby MTRS sent R+ election packets to its members in early 2001. The packets notified members of the R+ election opportunity and informed them that they could make such R+ elections by completing the enclosed form, have it signed by their school's payroll official, and return it to the MTRS before July 1, 2001.
10. At the time (and continuing to present day) active members of the MTRS were instructed to notify their payroll office—not the MTRS—of their home address changes.
11. Notwithstanding prior, specific, and repeated notification of her address change, MTRS sent an election packet to Ms. Blouwolff's old, Brookline, MA address. **Exhibit 5.**
12. Ms. Blouwolff did not receive an election packet from MTRS nor was one sent to her at an address where she was residing at the time.
13. By letter dated December 3, 2021, MTRS informed Ms. Blouwolff of its determination that she is ineligible to participate in R+. **Exhibit 6.**
14. Ms. Blouwolff timely appealed. **Exhibit 7.**

II. EXHIBITS

- Exhibit 1:** Member Enrollment Form, dated May 7, 1998.
- Exhibit 2:** Wellesley Leave of Absence Form, dated May 12, 2000
- Exhibit 3:** Member Change Of Address, effective 6/14/2000
- Exhibit 4:** E-Mail Correspondence from Member to Wellesley Public Schools Personnel. Subject: Where to Find Rebecca Wolff, dated June 8, 2000.
- Exhibit 5** Correspondence from MTRS to Member regarding address where election packet sent in 2001.
- Exhibit 6** MTRS Determination, dated December 3, 2021
- Exhibit 7** Member Appeal, dated December 13, 2021

Petitioner reserves the right to supplement this list.

Respectfully submitted,

REBECCA BLOUWOLFF

By her Attorney,

Ashley Walter

Ashley F. Walter, Esq.

Massachusetts Teachers
Association

2 Heritage Drive, 8th Floor

Quincy, MA 02171

awalter@massteacher.org

617-878-8286

April 21, 2023

CERTIFICATE OF SERVICE

I, Ashley Walter, do hereby certify that on this 21st day of April 2023, I have caused a copy of the enclosed document to be served upon the following person(s) at the address below indicated, by email.

James O'Leary, Esq.

MTRS General Counsel

James.O'Leary@trb.state.ma.us

Ashley Walter

Ashley F. Walter

CR23 0098

Division of Administrative

23-0098

FEB 9 2023

February 6, 2023

Hello Mr. McGrath,

Law Appeals

I am requesting an appeal of the decision made by the Massachusetts Teachers' Retirement System to change my enrollment to Retirement Plus. I was originally put into the retirement system with a retirement rate of 9% with 2% on all earnings over \$30,000/year my first year of teaching at East Bridgewater High school in September 1999. My second year of teaching was at a private Catholic high school, Sacred Heart, where I worked from August 2000 to June 2009. I understand that a letter to switch to Retirement plus was sent in July 2001 that I did not respond to. At the time the letter was sent I was not working at a public school and I did realize the effect this would have on my retirement in the future. I started working back in public school at Pembroke High school in August 2009 to now. I was automatically enrolled back into retirement at 9%, since this is what I was enrolled at in 1999. I was not informed about Retirement Plus by my current employer and honestly just found out about it now. I am requesting an appeal to change my enrollment with the Massachusetts Teachers' Retirement to Retirement Plus.

Thank you,

Meredith Costa

Meredith Costa

*LL
m r*

23-0109

CR 23-0109

Division of Administrative

February 10, 2023

FEB 13 2023

Law Appeals

Edward McGrath, Esq.

Chief Administrative Magistrate

Division of Administrative Law Appeals

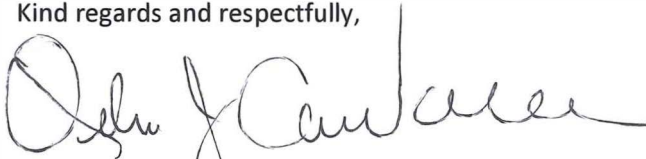
14 Summer Street, 4th Floor

Malden, MA 02148

Dear Attorney McGrath,

Pursuant to M.G.L. c. 32 Section 16(4), I wish to appeal the decision on my Application for RetirementPlus dated February 2nd, 2023 outlined in the attached documents. I appreciate your time to review very much.

Kind regards and respectfully,



Debra J. Carnevale

CR 23-0109

Uyen M. Tran
Assistant Attorney General, Chair,
Contributory Retirement Appeal Board
Office of Attorney General,
One Ashburton Place 18th Floor
Boston, MA 02108

Division of Administrative

AUG 25 2023

Law Appeals

August 20, 2023

Dear Sir,

I am writing to respectfully request that my appeal to be considered eligible for Retirement Plus not be dismissed. **(No. CR-23-0109)** The order of conditional dismissal decision from DALA dated **August 11, 2023** states - **"The only apparent exception to this rule relates to individuals who were not employed as teachers during the first half of 2001."** I was not actively employed. I was on a leave of absence from the City of Woburn starting September 1998 - June 2003. Based on the statement above I believe I am subject to that exception.

I recognize this would come at cost, and I am willing to contribute any past amount due plus interest to make the pension system whole. I appreciate your consideration.

Sincerely,



Debra Carnevale

CR23-0136

23-0136

18th February, 2023

Edward McGrath, Esq.

Division of Administrative

FEB 24 2023

Law Appeals

Contributory Retirement Appeal Board

Division of Administrative Law Appeals
14 Summer Street, 4th Floor
Malden, MA 02148

Dear Mr. McGrath & the Contributory Retirement Appeal Board:

I hereby appeal the February 14, 2023 decision of the Massachusetts Teachers' Retirement System in denying my request to opt in to Retirement Plus. I am aggrieved by this decision, and thus I am filing this appeal.

My file is # 225917

Thank you.

Sincerely,

Mrs. Catherine Lee

23 Holbrook Road
North Andover, MA 01845
leec@northandoverpublicschools.com
978-886-3386

CLL
MTR

To: Uyen M. Tran

Assistant Attorney General, Chair
Contributory Retirement Appeal Board
Office of Attorney General
One Ashburton Place
18th Floor
Boston, MA 02108

From: Catherine Lee

23 Holbrook Rd.
North Andover, MA 01845

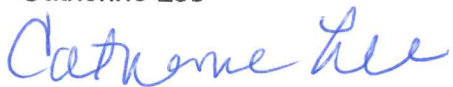
Date: August 21, 2023

Re: Appeal of CR-23-0136

I am writing to appeal the decision made to dismiss my request to enter into Retirement Plus. I received this dismissal letter on August 13, 2023. I was not employed as a teacher "during the first half of 2001." That was listed as an "the only apparent exception to the rule" to dismiss as stated in the DALA letter enclosed. I was on an extended maternity leave of absence. Therefore, I wish to appeal this decision. I am enclosing a copy of my MTRS service estimate that shows I was on a Leave of Absence from 11/11/1999 through 8/31/2002. I was not invited to participate in Retirement Plus, I was not informed of that option. Please reconsider this decision.

Thank you for your attention to this matter.

Catherine Lee



Division of Administrative

AUG 24 2023

Law Appeals

54 Connor Pass
Uxbridge, MA 01569

23-0140

CR 23-0140

February 19, 2023

Mr. Edwar McGrath, Esq.
Chief Administrative Magistrate
Division of Administrative Law Appeals
14 Summer St. 4th Floor
Malden, MA 02148

Division of Administrative

FEB 27 2023

Law Appeals

Dear Contributory Retirement Appeal Board,

I am writing to you in regards to the letter I have received stating a denial to join MTRS+. I fervently disagree with the decision to not allow me to change my MTRS status at this time. I wish to appeal this decision for several reasons.

I have been a full-time public school educator in the town of Uxbridge, MA since June, 1995. In 2000-2001 when RPlus was rolled out, I was on a child-rearing leave from my position. My leave began in December of 2000, and extended through June, 2002. In September, 2002, I ended my FMLA leave and returned to my position as a 5th grade teacher. I was not notified about the R+ option. No one corresponded with me from MTRS or from the town where I was employed.

For several years, the town of Uxbridge believed I was enrolled in RPlus and took the additional funds from my account. I also believed I was enrolled in RPlus since the funds were taken and the 9% + 2% on my paycheck seemed indicative of R+ status. Subsequent years later, a letter stating my form was never submitted, was sent to my address from MTRS. **There is no documentation stating that I denied joining RPlus, and therefore my status should be reinstated immediately.** I understand I will need to contribute the necessary funds to bring my retirement to where it would be today if I was not unjustly misled and denied continued access to this program.

For all of the above reasons, I feel I was unfairly left out of a very important retirement option. I was never given the opportunity to join or deny opting in to this program. I am now in my 28th year as an educator in the same public school district where I began my career. As my inability to submit the Retirement Plus election form was not the result of my mistake, but that of the administration in charge, I hereby request that you immediately enroll me in Retirement Plus effective July 1, 2001, and bill me for the difference in contributions that I would have paid had I been given the proper opportunity to enroll.

Thank you,

A handwritten signature in cursive script that reads "Linda Simonds". The signature is fluid and elegant, with the first name "Linda" and last name "Simonds" clearly distinguishable.

Linda Simonds

Cc:

Rep. Ryan Fattman

Rep. Michael Soter

A.G. Andrea Campbell

Gov. Maura Healey

23-0156

CR 23 0156

Edward McGrath, Esq
Chief Administrative Magistrate
Division of Administrative Law Appeals
14 Summer St 4th fl
Malden MA 02148

Division of Administrative

MAR - 8 2023

Law Appeals

To the Contributory Retirement Appeal Board:

I hereby appeal the 3/2/2023 decision of the Massachusetts Teachers' Retirement System in denying my request to opt in RetirementPlus. Thank you.

Thank you for your consideration.



Holly Breen

30 Union Street

North Andover, MA 01845

Cl & MTKV
~~Director~~

Uyen M Tran
Assistant Attorney General
Chair
Contributory Retirement Appeal Board
Office of Attorney General
One Ashburton Place
18th Floor
Boston, Mass

Division of Administrative

AUG 23 2023

Law Appeals

CC: Division of Administrative Law Appeals
14 Summer Street
Malden, Ma 02148

August, 15, 2023

Dear Contributory Retirement Appeal Board:

I am asking you to reconsider the Order of Conditional Dismissal related to No. CR-23-0156.
DALA decision made on August 7, 2023.

I was not aware of the requirement to enroll in the 5(4) benefits program because I was not actively teaching at the time during the first half of 2001. Notably, I was on a leave of absence from the Andover Public School system for child rearing. During this leave of absence I never received any notice by mail, email or during a meeting of the one time opt in. It is incredulous to me that I would be penalized from opting into this benefit because of a lack of communication during my school approved leave of absence.

Please reconsider my appeal: The DALA states: the only apparent exception to this rule relates to individuals who were not employed as teachers during the first half of 2001.

Please see attached: a copy of the DALA decision.

Thank you for your consideration.

Best,



Holly Breen
30 Union Street
North Andover, MA 01845

No. CR-23-0156