

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Jennifer Flaherty,
Petitioner,

No. CR-25-0068

Dated: July 18, 2025

v.

**Massachusetts Teachers' Retirement
System,**
Respondent.

ORDER OF DISMISSAL

The petitioner appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) excluding the petitioner from the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). MTRS has filed a motion to dismiss, which the petitioner has not opposed, despite being advised that failure to file an opposition would warrant a decision based on failure to prosecute. *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 Sch.*, No. 23-1407, 2024 WL 1128034 (1st Cir. Mar. 11, 2024) (unpublished judgment).

The motion is also meritorious essentially for the reasons stated there. In a nutshell, the petitioner failed to enroll in Retirement Plus by a Legislature-imposed deadline that names no exceptions. *See* Acts 2000, c. 114, § 2; Acts 2022, c. 134, § 3. If enrollment after such a deadline is ever permissible, the specific circumstances that may so warrant are not alleged to be present here. *See Gabrielian v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-64 (Contributory Ret. App. Bd. June 23, 2025); *In the Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2023 WL 5332723 (Div. Admin. Law App. Aug. 7, 2023). It makes no difference in cases of this nature how sympathetic the petitioner's circumstances may be. *See Roussin v. Boston Ret. Syst.*, No. CR-23-28, 2024 WL 2956657, at *2 (Contributory Ret. App. Bd. June 3, 2024). *See*

generally Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd., 65 Mass. App. Ct. 443, 446, 450-51 (2006).

In view of the foregoing, it is hereby ORDERED that the motion to dismiss is ALLOWED and this appeal is DISMISSED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate