

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Colleen Gordon,
Petitioner,

No. CR-25-0182

Dated: July 25, 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 Sch.*, No. 23-1407, 2024 WL 1128034 (1st Cir. Mar. 11, 2024) (unpublished judgment).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 this or other tribunals may be to the petitioner's circumstances: we are obligated to apply the law, and powerless to sidestep it. *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