

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

Middlesex, ss.

William McDonald,
Petitioner,

Docket No.: CR-25-0769

v.

State Board of Retirement,
Respondent.

ORDER OF DISMISSAL

The Petitioner appealed the State Board of Retirement’s decision denying his request to establish non-membership service with the City of Lynn from 1996-1999. He was then an elected official, but the Board explained he failed to apply to participate in a retirement system within the prescribed time of 90 days from taking office. If an elected official has failed to enroll within the prescribed time period, they are not entitled to late entry. *Awad v. Hampshire Co. Ret. Bd.*, CR-08-621 (Contributory Ret. App. Bd. Dec. 19, 2014). I issued an order to show cause and the Petitioner timely responded.

In his response, the Petitioner explains that when he served as an elected official, he was given erroneous advice. He “was told that [he] was covered and that the Lynn Retirement Board assumed liability and would allow him in the future the years of service. [He] was told that [he] did not need to join the State Retirement system despite inquiring within the 90 period for each year of service.” He acknowledges that boards need not notify officials of their options to join a system; however, he says the board here affirmatively gave him wrong advice, which “effectively prevented” and “excluded” him from exercising his option. Finally, he argues he is at least entitled to an equitable remedy.

Unfortunately for the Petitioner, boards often give advice and sometimes that advice is wrong. But benefits cannot be enlarged “even by an erroneous interpretation by the [Board] or any of its employees.” *Wylie v. Hampden Cnty. Reg’l Ret. Bd.*, CR-15-184, at *2 (Contributory Ret. App. Bd. Nov. 2018), citing *Clothier v. Teachers’ Retirement System*, 78 Mass. App. Ct. 143, 146 (2010). Assuming what he says is true, although the Board may have misled him, it did not prevent him from joining the system had he applied. I understand his desire for equitable relief, but that is not a remedy DALA can provide. See *McMorrow v. Worcester Reg. Ret. Sys.*, CR-21-0580, 2023 WL 3042653 (Div. Admin. Law Apps. Apr. 14, 2023) (DALA lacks the power to create equitable remedies).

Accordingly, it is hereby ordered the appeal is *dismissed* for failure to state a claim

Dated: March 13, 2026

Eric Tennen

Eric Tennen, Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer St., 4th Floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala