

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Mary Ellen McMillen,
Petitioner,

No. CR-26-0148

Dated: June 12, 2026

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Mary Ellen McMillen has been a teacher and a participant in the benefits program known as Retirement Plus, G.L. c. 32, § 5(4), since 2005. Participants in the program make enlarged retirement contributions and are entitled to benefit calculations designed to facilitate early retirement. Ms. McMillen appeals from a decision of respondent Massachusetts Teachers' Retirement System (MTRS) declining to refund any retirement contributions to her.

MTRS has filed a motion to dismiss, which Ms. McMillen has not opposed. The motion is meritorious for the reasons stated there. "Participation in [Retirement Plus] [is] mandatory for all teachers hired on or after July 1, 2001." G.L. c. 32, § 5(4)(i). This rule covers Ms. McMillen; one of its consequences is that she must "make contributions to [MTRS] . . . at the rate of 11 per cent on all regular compensation." *Id.* There is no statutory basis for refunding any of Ms. McMillen's contributions to her.

As MTRS points out, the statute that first created Retirement Plus did offer an opportunity for "reimburse[ment]" of retirement contributions in limited circumstances. St. 2000, c. 114, § 2. But that opportunity was open only to a subset of the individuals who "elect[ed]" to participate in Retirement Plus, *id.*—not to mandatory participants in the

program. The original statute was clear enough on this point; but even less room for debate remains since St. 2022, c. 134, where the Legislature eliminated the need for “elections” into Retirement Plus, *id.* § 1, while simultaneously striking the “reimburse[ment]” piece of the original statute, *id.* § 2.

In light of the foregoing analysis, Ms. McMillen’s appeal does not state a claim on which relief can be granted. 801 C.M.R. § 1.01(7)(g)(3). It is therefore ORDERED that the motion to dismiss is ALLOWED and this appeal is DISMISSED.

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate
Division of Administrative Law Appeals