

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Parindar Miller,
Petitioner,

No. CR-25-0745

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 be construed as indicating the petitioner's agreement with MTRS's position. *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). Dismissal is therefore appropriate based on a combination of failure to prosecute, mootness, and the petitioner's consent.

The motion also appears to be meritorious for reasons stated there. The petitioner failed to enroll in Retirement Plus by a Legislature-imposed deadline that names no exceptions. See Acts 2000, c. 114, § 2. 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, 2025 WL 2322617 (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). The result in cases of this nature is not affected

by whether the petitioner's circumstances are sympathetic or even unfair. *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).¹

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

Dated: February 20, 2026

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate
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¹ It is not necessary to determine whether the appeal is also defeated by principles of preclusion. *See generally Kobrin v. Board of Registration in Med.*, 444 Mass. 837, 844 (2005). MTRS points out that an earlier MTRS decision to exclude the petitioner from Retirement Plus was affirmed on appeal. *Miller v. Massachusetts Teachers' Ret. Syst.*, No. CR-25-0745 (Div. Admin. Law App. Dec. 22, 2011). But on the current record, it may be that MTRS permissibly consented to reconsider and redecide the matter. *See Mitchell v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-444 (Div. Admin. Law App. June 25, 2024). *Cf. United States v. Roberts*, 978 F.2d 17, 20 n.5 (1st Cir. 1992).