

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Maurice O'Shea,
Petitioner,

Docket No.: CR-25-0566

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER GRANTING SUMMARY DECISION

This is an appeal from a decision of the Massachusetts Teachers' Retirement System (MTRS) denying petitioner Maurice O'Shea's request to participate in the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). MTRS has filed a motion for summary decision, which Mr. O'Shea has opposed. The question in this posture is whether the facts established beyond genuine dispute entitle MTRS to prevail as a matter of law. *See* 801 C.M.R. § 1.01(7)(h); *Liss v. Studeny*, 450 Mass. 473, 482 (2008).

There is no dispute that Mr. O'Shea was actively working as a "teacher" in 2001, when Retirement Plus came into effect. To join Retirement Plus, Mr. O'Shea was required to provide MTRS with an enrollment "election" by the middle of that year. *See* Acts 2000, c. 114, § 2. There is no dispute that he did not do so. The governing statute and case law do not allow members to enroll after the expiration of their deadlines. *See id.*; *Gabrielian v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-64, 2025 WL 2322617 (Contributory Ret. App. Bd. June 23, 2025). *See also In the Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2023 WL 5332723 (Div. Admin. Law App. Aug. 7, 2023).

In litigation before DALA, MTRS consistently expresses the position stated in the previous paragraph: i.e., that members cannot enroll in Retirement Plus belatedly. But as a matter of practice, it seems that MTRS facilitates belated enrollments in some cases—when it is persuaded that a member was not informed in real time about his or her enrollment opportunity. In general, this practice may benefit MTRS’s members. But the consequences for Mr. O’Shea’s case have been chaotic. In June 2025, MTRS declined to enroll Mr. O’Shea in Retirement Plus. In August, MTRS changed its mind, having concluded that it had mailed Mr. O’Shea’s 2001 election materials to an incorrect address. But in September, MTRS obtained new evidence that Mr. O’Shea had received the 2001 election materials after all, and had decided to opt out of the program¹; MTRS then reverted to its original denial decision.

Mr. O’Shea’s frustration is understandable. But the courts have refused to allow a retirement system’s missteps or misrepresentations to impact a member’s statutorily defined entitlements. See *Clothier v. Teachers’ Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010); *Moynihan v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 1108 (2024) (unpublished memorandum opinion). When a retirement system discovers that it has made an error with respect to a member’s benefits, it must correct that error. See G.L. c. 32, § 20(5)(c)(2); *Hunter v. Contributory Ret. Appeal Bd.*, 80 Mass. App. Ct. 257, 263 (2011).

¹ MTRS maintains that Mr. O’Shea’s “opt out” decision was “irrevocable.” But the form reflecting Mr. O’Shea’s decision was not delivered to MTRS. See *Fillmore v. Massachusetts Teachers’ Ret. Syst.*, No. CR-23-358, 2024 WL 277245 (Div. Admin. Law App. Jan. 5, 2024). Also, under the applicable statute, the elections that are “irrevocable” are “election[s] to participate in the . . . program.” Acts 2000, c. 114, § 2 (emphasis added). See *Pelletier v. Massachusetts Teachers’ Ret. Syst.*, No. CR-19-301, 2023 WL 3434952, at *3-4 (Div. Admin. Law App. May 8, 2023).

Mr. O'Shea states that an uncaredful email from an MTRS employee revealed Mr. O'Shea's retirement plans to his colleagues. According to Mr. O'Shea, this unwanted disclosure caused him reputational and emotional harm. Mr. O'Shea may be able to pursue redress for these issues in the judicial courts. But they are not among the formal decisions and actions that DALA is only empowered to review under the governing statute, G.L. c. 32, § 16(4).

For the foregoing reasons, the motion for summary decision is ALLOWED. Summary decision is hereby entered to the effect that MTRS's decision is AFFIRMED.

Dated: December 12, 2025

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate
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