

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Amber Patruno,**

Petitioner,

Docket No.: CR-25-0619

v.

**Massachusetts Teachers' Retirement System,**

Respondent.

**ORDER OF DISMISSAL**

Petitioner Amber Patruno appeals from an invoice issued to her by the Massachusetts Teachers' Retirement System (MTRS). A prior order required Ms. Patruno to show cause why her appeal should not be dismissed for failure to state a claim. Ms. Patruno has filed a timely responsive memorandum and exhibits. MTRS has presented its position in its own memorandum and exhibits.

Ms. Patruno began her career as a member of a county retirement system. In 2016, she became a teacher and an MTRS member. That development triggered a 180-day window during which Ms. Patruno was entitled to enroll in the benefits program known as Retirement Plus. *See G.L. c. 32, § 5(4); Acts 2000, c. 114, § 2.* Participants in Retirement Plus make enlarged retirement contributions and enjoy beneficial retirement calculations. Ms. Patruno did not enroll in the program at that time.

In 2023, Ms. Patruno was among the group of teachers who received a new statutory enrollment "window." *Acts 2022, c. 134, § 3(d).* She successfully joined Retirement Plus. MTRS then issued an invoice to Ms. Patruno for approximately \$3,670, reflecting the enlarged contributions owing from her for the years 2016-2023. The invoice relied on a "buyback"

interest rate of 3.5%. It offered Ms. Patruno a choice between a lump-sum payment and a five-year installment plan.

In this appeal, Ms. Patruno asks for her bill to be forgiven. She argues primarily that, when she joined MTRS in 2016, she was not informed of her opportunity to join Retirement Plus. Taking that assertion as true, Ms. Patruno’s case is unconvincing. Except when they say otherwise, the provisions of the retirement statute apply to all pertinent members, whether or not they have received individualized information about those provisions. *See Awad v. Hampshire Cty. Ret. Bd.*, No. CR-08-621, 2014 WL 13121791 (Contributory Ret. App. Bd. Dec. 19, 2014). Plus, Ms. Patruno has only benefitted from her failure to learn about Retirement Plus in 2016: instead of making her enlarged contributions in real time, she held on to the money; she is now being billed at a discounted interest rate designed to severely undercompensate MTRS for the belatedness of the payment. *See DiBaro v. State Bd. of Ret.*, No. CR-23-0279, 2024 WL 4491679, at \*2 (Div. Admin. Law App. Aug. 16, 2024).

Under specified conditions, “at the request of a member who has been determined to owe funds to the retirement system, the board may waive repayment . . .” G.L. c. 32, § 20(5)(c)(3). The parties agree that MTRS would have the authority to forgive Ms. Patruno’s bill under this provision. But MTRS reports that it adheres to a formal, written policy of declining to waive “[a]mounts owed by the member . . . associated with . . . ‘Retirement Plus.’”<sup>1</sup>

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<sup>1</sup> The policy refers more specifically to “incorrect assessment[s]” related to enrollments in Retirement Plus. Arguably, Ms. Patruno has always been charged the amounts correctly correlating to her election statuses—normal contributions before she joined Retirement Plus, and enlarged contributions thereafter. But if nothing “incorrect” happened here, then MTRS likely lacks any authority to waive Ms. Patruno’s invoice; the conditions stated in § 20(5)(c)(3) refer repeatedly to the occurrence of an “error.”

A retirement system's refusal to waive repayment from a member is highly discretionary. Such a decision is reviewable, at most, for abuse of discretion. *See Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd. (Polycarpo)*, 65 Mass. App. Ct. 443, 451 (2006). Given the aspects of Ms. Patruno's situation described earlier, MTRS's a refusal to waive repayment from her was well within its discretion.

In view of the foregoing, Ms. Patruno's pleadings fail to state a claim upon which relief can be granted. It is therefore ORDERED that this appeal is DISMISSED.

Dated: December 12, 2025

/s/ Yakov Malkiel  
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