

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Laurie Rybicki,
Petitioner,

No. CR-26-0339

Dated: October 16, 2026

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Laurie Rybicki 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 essentially the reasons stated there. The petitioner failed to enroll in Retirement Plus during her statutory enrollment window, which was open during the first half of 2021. *See* St. 2000, c. 114, § 2. It is not plausible that the petitioner enrolled, as she says, upon being hired in 2000. *See id.* It makes no legal difference in cases of this type whether the result may be unfortunate. *See O'Malley v. Contributory Ret. Appeal Bd.*, 104 Mass. App. Ct. 778, 782 (2024).

In view of the foregoing, it is hereby 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