

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Brendon Snyder,
Petitioner,

No. CR-24-0553

Dated: September 20, 2024

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

This is an appeal from a decision excluding petitioner Brendon Snyder from the benefits program known as Retirement Plus. A prior order required Mr. Snyder to show cause why the appeal should not be dismissed for failure to state a claim. Mr. Snyder has filed a timely and thoughtful responsive memorandum, presenting essentially two arguments.

Mr. Snyder's first argument focuses on the statutory passage: "Participation in [Retirement Plus] shall be mandatory for all teachers hired on or after July 1, 2001." G.L. c. 32, § 5(4). Mr. Snyder reports that he took one teaching job in 2000, which he kept through June 2002, and another such job in 2005. He theorizes that, on the second occasion, he was "hired on or after July 1, 2001," and thus should be a mandatory Retirement Plus participant.

Mr. Snyder's reading of § 5(4) may be possible as a matter of language. But it does not fit the statutory context and design. *See Ortiz v. Examworks, Inc.*, 470 Mass. 784, 788 (2015); *Leary v. Contributory Ret. Appeal Bd.*, 421 Mass. 344, 347 (1995). The original statute that created Retirement Plus outlined the enrollment opportunities of three categories of teachers:

[i] Participation in said program shall be mandatory for all teachers hired on or after July 1, 2001. . . . [ii] Any member of the teachers' retirement system . . . may elect to participate . . . on or after January 1, 2001 and before July 1, 2001. [(iii)] Any member of a contributory retirement system who transfers into the teachers' retirement system . . . may elect to participate . . . within 180 days of establishing membership

Acts 2000, c. 114, § 2. Mr. Snyder was among the teachers covered by this statute’s second category: he was already a teacher when Retirement Plus came into effect. His enrollment opportunity thus lasted throughout the first half of 2001. It is reasonably clear that the Legislature intended to offer each teacher one opportunity to opt into or out of Retirement Plus, not serial opportunities to reconsider. *See Kelly v. Massachusetts Teachers’ Ret. Syst.*, No. CR-19-137, 2023 WL 6955080 (DALA Sept. 8, 2023); *Lapolla v. Boston Ret. Syst.*, No. CR-23-44 (DALA Sept. 5, 2023). It follows that the phrase “teachers hired on or after July 1, 2001” was not intended to include teachers who were *originally* hired *before* that date. *Cf. Garcia v. State Bd. of Ret.*, No. CR-21-85, 2023 WL 4637167, at *3 (DALA July 14, 2023).¹

As amended today, the Retirement Plus statute describes two categories of mandatory Retirement Plus participants: in addition to “teachers hired on or after July 1, 2001,” it covers any “member of a contributory retirement system who transfers as a teacher into . . . the teachers’ retirement system.” § 5(4). These two statutory categories must address distinct groups of people. *Costa v. Fall River Hous. Auth.*, 71 Mass. App. Ct. 269, 277-78 (2008). If the phrase “teachers hired . . .” intended to denote all individuals commencing teaching jobs, then the provision about “transferring” teachers would be superfluous. *Id.* It is instead clear that the phrase “teachers hired” specifically contemplates *original* hirings, i.e., appointments of individuals who are not already active (or inactive) public employees. *Cf. Garcia*, 2023 WL

¹ A recent session law made various updates to the Retirement Plus statute. Among other things, it struck the statute’s original language about the enrollment window of 2001. *See* Acts 2022, c. 134, § 1. The likely explanation for this revision is that the enrollments of 2001 are long over; the persistence of language about them in the General Laws thus could generate more confusion than guidance. It is unlikely that the Legislature intended for the 2022 revisions to upend the entitlements of 2001-era teachers. *See Entergy Nuclear Generation Co. v. Department of Env’tl. Prot.*, 459 Mass. 319, 333 (2011).

4637167, at *3; *Kelly v. Massachusetts Teachers' Ret. Syst.*, No. CR-19-137, 2023 WL 3948776, at *2-3 (DALA June 5, 2023). Mr. Snyder was hired in that particular sense in 2000, but not upon his return to teaching in 2005.

Mr. Snyder's second argument is that the statutory limits on enrollment in Retirement Plus should be interpreted as taking effect only once the pertinent members are notified about them. But the law as a whole does not take this approach. "Statutes ordinarily take effect upon being duly enacted, irrespective of any efforts by state agencies to keep their constituents informed. . . . A board's failure to inform a member about the particulars of the member's entitlements ordinarily does not impact the substance of those entitlements." *Dwyer v. Massachusetts Teachers' Ret. Syst.*, No. CR-23-0459 (DALA Sept. 13, 2024). *See also Clothier v. Teachers' Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010); *Roussin v. Boston Ret. Syst.*, No. CR-23-28, 2024 WL 2956657, at *2 (CRAB June 3, 2024). A narrow exception to these principles in the Retirement Plus context does not apply to Mr. Snyder, because he was not "inactive" during the 2001 election window. *See Davey v. Massachusetts Teachers' Ret. Syst.*, No. CR-01-914 (CRAB Jan. 31, 2003); *In the Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2023 WL 5332723, at *3 (DALA Aug. 7, 2023).

In view of the foregoing, the matters pleaded by Mr. Snyder, taken as true, do not state a claim upon which relief can be granted. *See* 801 C.M.R. § 1.01(7)(g)(3). It is therefore ORDERED that this appeal is DISMISSED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel
Yakov Malkiel
Administrative Magistrate