

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Michela Viglirolo,
Petitioner,

No. CR-26-0207

Dated: July 17, 2026

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER OF DISMISSAL

Petitioner Mechela Viglirolo appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) excluding her from the benefits program known as Retirement Plus. G.L. c. 32, § 5(4). MTRS moves to dismiss. Ms. Viglirolo's deadline to oppose the motion has expired. 801 C.M.R. § 1.01(7)(a)(1).

MTRS issued its decision to Ms. Viglirolo in January 2025. This is the second appeal that Ms. Viglirolo has lodged from that decision. The first was dismissed for failure to prosecute together with various other consolidated appeals. *In the Matter of the Retirement Plus Enrollment Window of 2023*, No. CR-25-0244 (Div. Admin. Law App. July 11, 2025). Ms. Viglirolo did not appeal the dismissal to the Contributory Retirement Appeal Board.

The procedural history suffices to doom this appeal. An appeal from a retirement board's decision must be brought within fifteen days. G.L. c. 32, § 16(4). The deadline is jurisdictional, meaning that the tribunal has no authority to extend it. *Oxford v. Lawrence Ret. Bd.*, No. CR-18-5, 2023 WL 11806166 (Contributory Ret. App. Bd. May 17, 2023). *See generally Commonwealth v. Claudio*, 96 Mass. App. Ct. 787, 791-92 (2020). The current appeal comes many months after the deadline. It seems that Ms. Viglirolo may have asked MTRS during 2026

to revisit her case: but a board's refusal to reconsider does not "open a new appeal period from the original decision." *Shaw v. State Bd. of Ret.*, No. CR-25-550, at *2-3 (Contributory Ret. App. Bd. June 11, 2026). *Compare id. with* 801 C.M.R. § 1.01(7)(I).

It is not necessary or prudent to take up MTRS's additional arguments for dismissal, which focus on claim preclusion¹ and failure to state a claim. The only course of action available to a tribunal that lacks jurisdiction is to "dismiss[] the cause." *Phone Recovery Servs., LLC v. Verizon of New England, Inc.*, 480 Mass. 224, 230 (2018). It is therefore ORDERED that the motion to dismiss is ALLOWED and the appeal is DISMISSED.

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

Division of Administrative Law Appeals

¹ The nuanced question presented with respect to claim preclusion is whether the dismissal of Ms. Viglirolo's first appeal should be treated as a judgment "on the merits." *Department of Revenue v. Ryan R.*, 62 Mass. App. Ct. 380, 383 (2004). *Compare Matter of Maldonado*, 364 Mass. 359, 363 (1973), *with Wilkinson v. Guarino*, 19 Mass. App. Ct. 1021, 1022 (1985). *See also* Mass. R. Civ. P. 41(b)(3); Restatement (Second) of Judgments § 20 (1982).