NBI 29

2025 FORM FOR NEW BUSINESS ITEMS

Fiduciary Standards & ERISA Protections and Impact Study for MTA Members' Retirement Plans 04/30/2025 10:11 PM

NBI Name Date and Time

Am Cecil Fuoti — Framingham Teachers Association

Delegate Making the Motion | Cell | Email | Association Represented or Retired

Kyle Gekopi — Wellesley Educators Association

Delegate Seconding the Motion | Cell | Email | Association Represented or Retired

According to the MTA Standing/Special Rules:
With the exception of items on the agenda, all substantive motions shall be submitted in writing to the Presiding Officer.

MOTION

MOVED:

Proposed Action: The MTA will:
1. Issue an official policy opinion clarifying whether the MTA asserts that fiduciary standards dictate that dues-paying union members are entitled to protections equivalent to those provided under the federal Employee Retirement Income Security Act of 1974 (ERISA), the federal protections MTA staff currently enjoy. The fiduciary standard legally obligates fiduciaries to act in the best interest of the beneficiary, and ERISA has proven to be the benchmark for retirement protections, serving the best interests of beneficiaries over the past 50 years.

2. Conduct an analysis of the impact the lack of ERISA protections has on members' retirement savings. This will involve two comparative studies: first, a comparison of the investment outcomes between members participating in the non-ERISA-protected, NEA-endorsed Security Benefit 403(b) retirement plan offered to MTA members versus a comparable ERISA-protected Vanguard 401(k) retirement plan offered to MTA staff. Second, a comparison of the investment experience between MTA's fully funded, ERISA-protected pension

SUBMITTER'S RATIONALE:

Although MTA staff are covered under ERISA protections, teachers and dues-paying members are not, as confirmed through past class-action lawsuits against the NEA. Public School Teachers were carved out of ERISA due to concerns that the federal government could not regulate State and Local Government employment practices. Unfortunately, because public school educators lack access to ERISA protections, our public pensions and supplemental retirement plans (403(b)s) are exposed to heightened risks of predatory sales practices, excessive fees, poor investments, and limited recourse for mismanagement or fraud.
In 1974, the year ERISA was passed, the US Supreme Court, in National League of Cities v. Usery, ruled that the federal government could not extend Fair Labor Standards Act rules on minimum wages to state and local governments. However, this case was overturned in 1985 in Garcia v. San Antonio Metropolitan Transit Authority, which allowed federal regulation of state and local governments. Today, it is not considered unusual

DUES IMPACT:

$1

SUBMITTER'S COST & STAFF TIME ESTIMATE:

MTA COST & STAFF TIME ESTIMATE **(For MTA use only):**

$100,000; 50 hours

NEW BUSINESS ITEMS submitted by 5 p.m. on Monday, April 28, will be distributed to the delegates at Registration and commence to be considered at the Friday session.

New Business Items with a policy implication must be submitted by 5 p.m. on the Monday (April 28) prior to the Meeting of Delegates and shall be considered throughout the meeting at times determined by the Presiding Officer.

New Business Items WITH budgetary implications should be submitted either by the Monday prior to the Annual Meeting (April 28) or no later than prior to the conclusion of business on Friday (May 2) at the Annual Meeting so that they may be acted upon prior to adoption of the annual budget and the dues for FY2025-2026, which will occur Saturday morning. A New Business Item WITH budgetary implications is defined as any activity or action that would result in an additional expenditure of more than $1,000 by the MTA. New Business Items WITH budgetary implications will be considered in the order in which they are received but before other New Business Items WITHOUT budgetary implications.

Other New Business Items WITHOUT budgetary implications may be submitted during the meeting up to the end of the first hour on Saturday morning (by approximately 10 a.m. Saturday, May 3). These may be considered during the meeting in the order in which they are received.

Submit to MTAGovernance@massteacher.org

If you have any questions, please contact Jennifer Freeling, Director of Governance and Administration Division at jfreeling@massteacher.org.