

Sellers v. Trustees of Boston College
United States District Court for the District of Massachusetts
Civil Action No. 22-cv-10912-WGY

Notice of Proposed Settlement of Class Action Lawsuit

You are receiving this Notice because you are a current or former participant of The Boston College 401(k) Plan I (“Plan I”), which is administered by TIAA, and/or The Boston College 401(k) Plan II (“Plan II”), which is administered by Fidelity Investments (“Fidelity”).

A federal court authorized this Notice. It is not a solicitation from a lawyer. You are not being sued, but your legal rights might be affected by this case, so please read this Notice carefully. This Notice informs you about a proposed settlement and explains your rights in connection with that proposed settlement.

Background

On June 10, 2022, Connie Sellers and Sean Cooper filed the lawsuit captioned above (“Action”) on behalf of themselves, as representatives of a class of similarly situated persons, and on behalf of Plan I and Plan II. In class action cases like this, Ms. Sellers and Mr. Cooper are referred to as “Named Plaintiffs.” The case was filed against the Trustees of Boston College, the Plan Investment Committee (“Committee”), and the Committee’s members. Boston College appointed the Committee to act as fiduciaries responsible for monitoring Plan I and Plan II. For simplicity, the Defendants are referred to in this notice as “BC.” The lawsuit was filed to challenge BC’s exercise of those fiduciary duties, focusing on two primary issues: (1) the selection of investment options made available in the Plans, and (2) the amount of fees charged by TIAA and Fidelity for providing recordkeeping services for the Plans.

The Court previously decided that this lawsuit would proceed as a class action on behalf of a four groups, or “subclasses.” The Court defined those four subclasses as follows: “(i) on behalf of Plan I, all participants of Plan I, except Defendants and their immediate family members, between June 10, 2016 through the date of judgment as to all claims alleging excessive recordkeeping expenses; (ii) on behalf of Plan I, all participants of Plan I except Defendants and their immediate family members, between June 10, 2016 through the date of judgment as to all claims alleging imprudent investment decisions; (iii) on behalf of Plan II, all participants of Plan II, except Defendants and their immediate family members, between June 10, 2016 through the date of judgment as to all claims alleging excessive recordkeeping expenses; (iv) on behalf of Plan II, all participants of Plan II except Defendants and their immediate family members, between June 10, 2016 through the date of judgment as to all claims alleging imprudent investment decisions.”

After extensive litigation, the Court determined that there were two specific claims that warranted a trial. The first claim, called the “CREF Stock Account Claim,” was whether BC should have taken further action with respect to one specific fund, the CREF Stock Account, following a December 2020 decision to place that fund on a “watch list.” The second claim, called the “Recordkeeping Claim,” was whether BC should have consolidated the Plans with a single recordkeeper following a 2018 request for proposal concerning recordkeeping services. The Court otherwise determined that there were no other actionable claims that warranted a trial against BC

concerning the Plans, their respective fees, the investments offered therein, or BC's exercise of its fiduciary duties with respect to the Plans. BC has denied and continues to deny any wrongdoing or liability, and will continue to vigorously defend the lawsuit if the proposed settlement is not approved.

Proposed Settlement

Following extensive settlement negotiations, the parties agreed to the terms of a proposed settlement. Under federal law, the proposed settlement must be reviewed and approved by the Court. The Court has preliminarily approved the settlement and will hold a fairness hearing on [DATE] to determine whether to grant final approval of the settlement. You may obtain a copy of the proposed settlement on the settlement website, [INSERT].

Although BC vigorously denies that it engaged in any wrongdoing and denies any liability, the parties have agreed to resolve the case to avoid the burden, expense, inconvenience, and inherent disruption and risk of continued litigation. The parties agreed that the CREF Stock Account Claim would be dismissed without prejudice, meaning that you or any other participant will retain any right you might have to pursue that claim in a separate lawsuit if the proposed settlement is approved. The parties further agreed that they would reach a compromise settlement to resolve all other claims asserted in the Action, including the Recordkeeping Claim, in the amount of \$330,000. If approved by the Court, one-third of the settlement proceeds will be used to pay attorneys' fees and litigation costs for Class Counsel, who brought and prosecuted this lawsuit. A copy of Class Counsel's request for an award of fees and costs will be made available on the settlement website within 30 days of the mailing of this Notice. In addition, subject to Court approval, the settlement fund will be used to pay for the costs of administering the settlement, including a fairness review of the settlement by an independent fiduciary. The two Named Plaintiffs who brought the case, and who assisted in the prosecution of these claims, will each receive service payments of \$2,500, representing compensation for the risk and burdens they undertook.

The remainder of the settlement will be distributed in proportion to each class member's account balances in the Plans during the period January 1, 2019 to June 30, 2024. Class members who have active accounts in the Plans will receive credits directly into their accounts. Class members who no longer have active accounts will receive checks.

Your Rights

You have the right to get more information about the case or the proposed settlement by contacting Class Counsel (see contact information below) at no cost to you. A copy of the proposed settlement is also available on the settlement website. You also may consult with any attorneys of your choice, at your own expense.

You also have the right to object to the proposed settlement. Any objection must be made by mailing a written, signed objection to the Class Administrator (identified below) on or before [DATE]. The written, signed objection must include all reasons for the objection and any supporting documentation; your name, address, and telephone number; and a list of all other objections, if any, filed by you or your counsel (if you have separate counsel) to any class action

settlements pending in any court in the United States in the previous five years. To be valid, the objection must be postmarked by United States Postal Service on or before [DATE]. If you mail an objection, you are strongly urged to confirm with the Settlement Administrator that it received your objection. You also have the right to appear at the Fairness Hearing to be heard concerning your objection, either in person or through your counsel. If you wish to appear at the Fairness Hearing, you must state your intention to do so in writing on your written objection on or before [DATE].

Action Required

If you do not object to the proposed settlement, you do not need to do anything. If the proposed settlement is approved by the Court and you are eligible for a share of the settlement funds, you will receive your share through a credit to your account or by a check, as described in more detail in “Your Rights” above. If you need to update your contact information to receive future notices in this case or your payment at a different address, you may do so by mail or email to the Class Administrator (see below for contact information).

If you do object to the proposed settlement, you must mail a written, signed objection to the Class Administrator (identified below) on or before [DATE], as described in more detail in “Your Rights” above.

Release of Claims

If the proposed settlement is approved, all members of the subclasses will release BC and associated parties from any and all claims or liabilities arising from BC’s prior oversight and monitoring of the Plans, except for the CREF Stock Account Claim, as described in more detail in the proposed agreement. More information about the claims being released are set forth in the proposed agreement, a copy of which you can request from Class Counsel.

Fairness Hearing

There will be a court hearing at [TIME] on [DATE] in Courtroom 18 at the United States District Court, District of Massachusetts, 1 Courthouse Way, Boston, MA. You have the right to attend the hearing *but you are not required to attend*. At this hearing, the Court will consider whether to enter a final order approving the settlement. If the settlement is not approved by the Court, the litigation will continue.

Contact Information

Here is the contact information for the **Class Administrator**:

[INSERT]

Here is the contact information for **Class Counsel**:

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**THIS NOTICE HAS BEEN SENT TO YOU BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS**