

MEMORANDUM #41, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Mandatory Ethics Training

DATE: December 15, 2011

The 2009 Ethics Reform legislation (Chapter 28 of the Acts of 2009) created mandatory education and training requirements for all public employees, including Retirement Board Members and Board staff.

The Ethics Commission has ruled that Retirement Board Members and Board staff are municipal employees within the meaning of G.L. c. 268A (EC-COI-00-2). As a result, Retirement Board Members and Board staff must comply with the provisions of the ethics reform law. Please be advised that Retirement Boards that are State Agencies rather than local boards must comply with the specific instructions issued by the Ethics Commission for State Agencies. The law also provides that an employee of a private firm may also be a public employee for purposes of the conflict of interest law and the training and education requirements. If a Retirement Board contracts for the personal services of a particular individual employed by a private firm, then the particular employee is a public employee for purposes of the conflict of interest law. The Ethics Commission provides an example in its implementation memoranda:

[I]f a public agency hires a real estate consulting firm to provide development services, and the contract specifies that a particular partner will provide those services, then the partner is a public employee. By contrast, if a school department contracts with a school bus company to drive its students and the company can assign any of its drivers to do that work, the drivers are not public employees for conflict of interest law purposes.

Information on the implementation of this law can be found on the Ethics Commission website, accessible through the related sites tab on PERAC's web page.

DISTRIBUTION OF CONFLICT OF LAW SUMMARY

Each person subject to the Ethics Law requirements was to be provided with a copy of the Ethics Commission's Summary of the Conflicts of Interest Law on or before December 28, 2009 and annually thereafter. It is once again time to provide the annual Summary. The Summary is posted on the Ethics Commission's website and contains a space at the end for the individual to acknowledge receipt. New Board Members and employees are to be provided with the Summary within 30 days of becoming a Board Member or being employed by the Board.

The acknowledgements of the receipt of the summary should be retained in a file maintained by the Board. A copy of the acknowledgement should also be provided to the appointing authority of those members of the Board other than the elected members.

ONLINE TRAINING PROGRAMS

Each person subject to the Ethics Law requirements must complete the training program on the Ethics Commission's website on or before April 2, 2012 and every two years thereafter. New Board Members and new employees must complete the training within 30 days of becoming a Board Member or being employed by the Board. The individual must provide a certificate on completion to his or her employer. This certificate is issued upon successful completion of the training program, and must be retained in a file maintained by the Board for 6 years. A copy of the certificate should also be provided to the appointing authority of those members of the Board other than the elected members. Board Members and Board employees should print out a copy of the certificate for their own records. The Ethics Commission advises that it is in the process of developing a new and better training program that will be available in January 2012. You may, however, take the existing training program and it will satisfy the requirements for 2012/2014.

If you have questions, please feel free to contact PERAC or the State Ethics Commission.