

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued June 22, 2023

Public Employee Retirement Administration Commission

For the period July 1, 2019 through June 30, 2021



OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

June 22, 2023

John Parsons, Esq., Executive Director
Public Employee Retirement Administration Commission
5 Middlesex Avenue, Suite 304
Somerville, MA 02145

Dear Mr. Parsons:

I am pleased to provide to you the results of the enclosed performance audit of the Public Employee Retirement Administration Commission. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2019 through June 30, 2021. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Public Employee Retirement Administration Commission. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Sincerely,



Diana DiZoglio
Auditor of the Commonwealth

cc: Philip Y. Brown, Esq., Chair of the Public Employee Retirement Administration Commission

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EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Public Employee Retirement Administration Commission (PERAC) for the period July 1, 2019 through June 30, 2021.

In this performance audit, we determined whether PERAC approved members' applications for accidental and ordinary disability retirement¹ within 30 days in accordance with Section 21(1)(d) of Chapter 32 of the General Laws. We also determined whether PERAC calculated the correct amount of retirement benefits for excess earners² in accordance with Section 91A of Chapter 32 of the General Laws.

Our audit revealed no significant instances of noncompliance by PERAC that must be reported under generally accepted government auditing standards.

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1. Accidental disability retirement is when an employee retires because of an injury or illness they sustained at work while performing their job duties. Ordinary disability retirement is when an employee retires because of an injury or illness they sustained outside of their job duties.
 2. Excess earners are members whose earnings were greater than their regular compensation, had they continued employment in the grade they held at the time they were approved for disability retirement, plus \$15,000.

OVERVIEW OF AUDITED ENTITY

The Public Employee Retirement Administration Commission (PERAC) was established by Chapter 306 of the Acts of 1996 to oversee and regulate the 104 public retirement boards in the Commonwealth of Massachusetts. According to PERAC's website, its "mission is to provide regulatory oversight and guidance for the effective, equitable, and ethical operation of the Commonwealth of Massachusetts' public pension systems." PERAC had 54 employees during the audit period. Its nine units (see [Appendix](#)) schedule medical examinations³ for accidental and ordinary disability retirement applications; certify benefit calculations; perform and review retirement board actuarial valuations;⁴ and enforce statutory provisions related to procurements, investments, and disclosures. In addition, PERAC reviews the financials of all public retirement board records at least once every three years. PERAC also provides training, legal, and technical assistance to retirement boards.

PERAC promulgated the Standard Rules for Disability Retirement (Section 10 of Title 840 of the Code of Massachusetts Regulations), governing disability retirement procedures that retirement boards must follow. As part of its oversight under these requirements, PERAC schedules medical examinations and determines whether a member qualifies for disability retirement benefits.

In accordance with Section 49 of Chapter 7 of the General Laws, PERAC has seven unpaid commissioners. The Governor appoints three of these commissioners⁵ and the State Auditor⁶ appoints another three commissioners.⁷ These six commissioners then choose a seventh commissioner, the chair, who oversees PERAC's administrative functions.

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3. Retirement boards request medical examinations on behalf of members, while PERAC schedules the medical examinations.
 4. PERAC's website defines actuarial valuation as "a 'snapshot' picture of how well the plan is funded at that time. The valuation compares the plan's liabilities (current and future payments to be made upon retirement, death, disability, or termination of employment) with the plan's assets (both employer and employee contributions credited with investment earnings)."
 5. The three members appointed by the Governor are the Governor or their designee, a representative of a public safety union, and an expert in the investment of funds.
 6. Generally accepted government auditing standards require that organizations be free from organizational impairments to independence with respect to the entities they audit. To this end, we are disclosing that under Section 49 of Chapter 7 of the General Laws, PERAC's board consists of seven members, including the State Auditor or their designee. This disclosure is made for informational purposes only, and this circumstance did not interfere with our ability to perform our audit work and report its results impartially.
 7. The three members appointed by the State Auditor are the State Auditor or their designee, the president of the Massachusetts American Federation of Labor and Congress of Industrial Organizations or their designee, and a representative of the Massachusetts Municipal Association.

Application and Determination Process

Upon receiving an application for disability retirement from any member of a public retirement board in Massachusetts, the retirement board requests that PERAC schedule a medical examination of the member by a medical panel made up of three physicians appointed by PERAC, based on the regional location of the member. PERAC appoints three physicians to examine the member whose retirement is under consideration. The physicians of this medical panel must determine, either jointly or separately, whether they find that the member applying for disability retirement is unable to perform the essential duties of their job and whether the member's disability is likely to be permanent. The physicians who conduct the medical examination(s) must respond to all questions on the Medical Panel Certificate and complete a narrative report, a Certification of Medical Panel Finding, and either an Accidental Disability Certificate or Accidental Disability Presumption Certificate (if appropriate). These physicians must then submit all these documents to PERAC within 60 days of the examination(s). PERAC must forward the medical panel's report to the retirement board within five days of receipt. The retirement board then has the option to request more information or clarification from the medical panel. Within 30 days of receiving the report, the retirement board notifies the member of the medical panel's findings and provides copies of all the documents completed by the medical panel.

If the medical panel concludes that the member applying for disability retirement is incapable of performing their essential job duties, the retirement board then determines whether to approve or deny the application for disability retirement.

If the application is approved, the retirement board sends a Disability Transmittal Request to PERAC. PERAC's Legal Unit must either approve or remand the Disability Transmittal Request, then return it to the retirement board within 30 days of receipt; otherwise, the request is automatically considered approved.

- If PERAC's Legal Unit approves the Disability Transmittal Request, PERAC's retirement management system automatically generates a Disability Transmittal Letter, which PERAC sends to the retirement board, alerting the board to the request's approval and listing the documents needed to calculate the disability retirement allowance that the member should receive.
- If PERAC's Legal Unit remands an application back to the retirement board, the retirement board may attempt to rectify any issues and resubmit the application, or the retirement board may deny the application and provide the member with a notice of their right to appeal.

Members' Disability Retirement Allowance Calculations and Approvals

Once the retirement board receives notification from PERAC that the member has been approved for disability retirement, the retirement board performs all calculations to determine the member's monthly disability retirement allowance. Once the retirement board calculates the member's monthly disability retirement allowance, it sends the Disability Transmittal Letter, calculation worksheet, and other retirement documents (which vary by type of disability) to PERAC for approval. Pursuant to Section 21(3) of Chapter 32 of the General Laws, PERAC must approve disability retirement allowances calculated by retirement boards.⁸

To ensure that the disability retirement allowance calculated by the retirement board is accurate, PERAC reviews the documents provided and performs its own calculations. If the disability retirement allowance amounts match, PERAC mails an approval letter to the member applying for disability retirement and forwards the approval letter to the retirement board. If the disability retirement allowance amounts do not match, PERAC reviews the retirement documents to determine why there is a discrepancy and resolves it. PERAC does not approve disability retirement allowance calculations until any discrepancies between PERAC's and the retirement board's calculations are resolved. When the retirement board receives the approval letter from PERAC, it begins sending payments to the member.

Annual Statements of Earned Income

Section 91A of Chapter 32 of the General Laws requires every person receiving a disability retirement allowance to submit an Annual Statement of Earned Income, certifying the full amount of their earned income during the preceding year, along with all pertinent Forms W-2, Forms 1099, and other tax forms requested by PERAC, on or before April 15 of every year.

According to PERAC management, once the retired member submits the Annual Statement of Earned Income and supporting financial records, PERAC's Fraud Unit reviews the records (e.g., Forms W-2 and Forms 1099) to determine whether the member exceeded their allowable earnings. For members who have reported earnings in an amount that may result in an adjustment to their disability retirement allowance, PERAC sends a system-generated task, through their retirement management system, to the

8. The Massachusetts State Employees' Retirement System and the Mass Teachers Retirement Board are not required to submit calculations to PERAC for approval. Pursuant to Section 21(3)(a) of Chapter 32 of the General Laws, PERAC reviewed and approved the automated systems used to calculate disability retirement allowances at each of these retirement boards; therefore, disability retirement allowance calculations by those systems are considered to be approved by PERAC.

member's retirement board, requesting the figures needed to determine the refund amount, if any. Once the retirement board inputs the figures directly into the retirement management system, PERAC can immediately do the calculation. If the member did not exceed their allowable earnings, no further action is necessary. If the member's earnings were over \$15,000 more than what their pay would be in the position held when they retired, had they not retired, the member must refund the amount in excess of their disability retirement allowance to PERAC. If PERAC determines that the member is an excess earner, PERAC mails a letter, called a 91A Excess, to the member, explaining that if they do not refund the excess amount, their disability retirement allowance will be withheld until the retirement board recovers the amount owed.

If a member who receives a disability retirement allowance does not submit the Annual Statement of Earned Income and the supporting financial records to PERAC and does not show good cause for not submitting them, the member's retirement board terminates their right to a disability retirement allowance for noncompliance. According to Section 91A of Chapter 32 of the General Laws, "Prior to any termination or reduction of benefits . . . the member shall be given a written notice [of the decision] and an opportunity to be heard by the retirement board."

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Public Employee Retirement Administration Commission (PERAC) for the period July 1, 2019 through June 30, 2021.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Does PERAC approve members' applications for accidental and ordinary disability within 30 days in accordance with Section 21(1)(d) of Chapter 32 of the General Laws?	Yes
2. Does PERAC calculate the correct amount of retirement benefits for excess earners in accordance with Section 91A of Chapter 32 of the General Laws?	Yes

To achieve our audit objectives, we gained an understanding of PERAC's internal control environment related to our audit objectives by reviewing the agency's policies, procedures, and internal control plan, as well as interviewing PERAC's staff members and management. We evaluated the design and implementation of the internal controls related to the approval of calculations for excess earners.

To test the effectiveness of internal controls related to the approval of excess earner calculations during the audit period, we selected a sample of 50 out of the 145 individual excess earners. For each excess earner in our sample, we inspected their 91A Excess and confirmed that PERAC's assistant deputy director signed it.

To determine whether PERAC approved members' applications for accidental and ordinary disability within 30 days, in accordance with Section 21(1)(d) of Chapter 32 of the General Laws, we selected a nonstatistical, random sample of 60 members whose applications were approved during the audit period,

from the population of 722 members. We reviewed application records to determine whether PERAC's Legal Unit approved Disability Transmittal Requests within 30 days of receipt from the retirement board.

To determine whether PERAC calculated the correct amount of retirement benefits for excess earners in accordance with Section 91A of Chapter 32 of the General Laws, we reviewed two lists of excess earners, totaling 180 members, for calendar years 2019 and 2020. To determine who the 145 individual excess earners during our audit period were, we consolidated the two lists of excess earners and removed duplicate members who appeared on both lists. We also obtained from PERAC the Excess Earner Reports for calendar years 2019 and 2020, which display information from all financial documents submitted with members' Statements of Earned Income and other documents used to calculate excess earnings. From the population of 145 individual excess earners, we selected a nonstatistical, random sample of 35 excess earners and recalculated the excess earnings of each based on the income information provided on the Excess Earner Reports. To determine each excess earner's refund amount, we found the difference between each excess earner's regular compensation, had they continued employment in the grade held by them at the time they were approved for disability retirement, plus \$15,000, minus their disability retirement allowance and the excess earner's allowable earnings, minus their reported income. We then compared our calculations to the Excess Earner Reports to ensure that PERAC calculated and determined excess earnings in accordance with Section 91A of Chapter 32 of the General Laws.

We used nonstatistical sampling methods for testing and therefore could not project the results of our testing to the populations.

Data Reliability Assessment

To determine the reliability of the data used in the procedures described above, we performed the following tests:

- We reviewed the System and Organization Control reports⁹ that covered the periods April 1, 2019 through March 31, 2020; April 1, 2020 through March 31, 2021; and October 1, 2020 through September 30, 2021. We verified that the System and Organization Control reports described testing of certain information system general controls (access controls, application controls, configuration management, contingency planning, and segregation of duties) and that they were tested without exceptions.

9. A System and Organization Control report is a report on controls about a service organization's systems relevant to security, availability, processing integrity, confidentiality, or privacy issued by an independent contractor.

- We performed an application process walkthrough on the staging environment of PERAC's retirement management system, where we observed access controls, application controls, and segregation of duties for the disability retirement application process. We had PERAC's information technology director create a fake retiree (to represent a member with a disability) and run their application through PERAC's test system from when it initially receives a medical examination request from the retirement board to when PERAC approves or remands the application for disability retirement.
- We tested the reliability of the data on the excess earner lists and Excess Earner Reports by ensuring that there were no duplicates or blank fields.
- We tested the accuracy of the member application data from PERAC's retirement management system by obtaining and inspecting a list of all members (2,738)¹⁰ who applied for disability retirement during the audit period. Since only members whose applications were approved can be moved to the calculation of benefit approval process, we filtered the list to include just the 722 members whose applications were approved during the audit period. From this population of 722 members, we selected a random sample of 20 members and added their disability retirement allowance amounts to an Excel spreadsheet from PERAC's retirement management system. We then traced the disability retirement allowance amounts back to the hardcopy Disability Transmittal Letters and the calculation worksheets from PERAC's filing shelves for these members.

Based on the results of our data reliability assessments, we determined that the information obtained for our audit period was sufficiently reliable for the purposes of our audit objectives.

Conclusion

Our audit revealed no significant instances of noncompliance by PERAC that must be reported under generally accepted government auditing standards.

10. This list contains members whose applications were approved during (722) and after (257) the audit period and members whose applications were denied (1,759) for disability retirement during the audit period.

APPENDIX

According to its website, the Public Employee Retirement Administration Commission is divided into the following nine units.

Actuarial Unit

Ensures the integrity of long-term pension funding for the systems

Administration Unit

Responsible for day-to-day operations, fiscal and procurement policies, and agency budget

Audit Unit

Responsible for system audits

Communications Unit

Manages website, publications, external/internal communications, and public events

Compliance & Investments Unit

Provides regulatory oversight of retirement [board] investment portfolios

Disability Unit

Oversees the disability retirement process for all systems

Fraud Prevention Unit

Investigates reported fraud

Information Systems Unit

Provides technical support for agency and manages self-service portal

Legal Unit

Provides legal representation for the Commission