

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Retirement Board Election Regulations (840 CMR 7.00)

DATE: March 28, 2016

In August of 2014, PERAC began the process of amending its regulatory sections pertaining to retirement board elections (840 CMR 7.00). After four (4) public hearings, multiple reviews by the Commission, and numerous edits, the revised retirement board election regulations became **effective on March 11, 2016**.

The retirement board election regulations were amended to bring them up to date with legislative changes as well as to clarify various issues that have presented in recent years. This memorandum provides a brief summary of the changes made to the retirement board election regulations. A copy of this recently published regulation is attached hereto, in its entirety. In addition, PERAC soon will be republishing its Guide on How to Conduct an Election.

Retirement Board Election Regulations (840 CMR 7.00)

7.01: General Provisions

In section 7.01, PERAC clarified that these regulations do not govern elections in the State Retirement System and the Teachers' Retirement System. PERAC also deleted mention that board elections may be held under the supervision of the Pension Reserve Investment Management Board, because that is no longer the case.

PERAC also defined the terms "member in service," "member inactive," and "retiree" as the prior regulations did not accurately distinguish these terms from one another.

PERAC deleted mention of the election of any PRIM board members to the State Retirement System, as these regulations do not govern elections in the State Retirement System.

In subsection 7.01(3), PERAC clarified that members inactive have the right to vote in board elections, but do not have the right to serve as board members.

Finally, PERAC added text stating that, although a board staff member may be elected to a retirement board, it cannot be to the board for which he or she is employed (unless otherwise grandfathered in pursuant to M.G.L. c. 32, § 20(4 7/8 E).



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DATE: March 25, 2016

7.03: Notice of Elections

PERAC added text stating that: “If the retirement board does not provide notice of the election within 90 days prior to the date of election, that retirement board must send a written request for an exception to PERAC with a compelling reason for such exception.” This text was added to provide boards with an opportunity for an exception to the 90 day time frame, provided that there is a compelling reason for the missed deadline.

In subsection 7.03(1), PERAC clarified that notice of an election must be sent to each active, inactive, and retired member of a system, with the last known address for each inactive member sufficing.

In subsection 7.03(4), PERAC added further text requiring that a copy of the Notice of Election must be sent to PERAC at the same time it is sent to and/or posted for all members.

Recognizing that technology will continue to advance, PERAC added text that any board wishing to utilize electronic means of notification must submit a supplemental regulation to PERAC describing the process, and obtain PERAC’s approval thereof.

7.04: Nominations

PERAC clarified that active and retired members may qualify as board member candidates, and that the nomination papers must be signed by at least 20 active or retired members of the system. The prior regulation merely stated that “any member” may qualify.

7.06: Official Election Ballot

In section 7.06, PERAC provided incumbent members with the right to be identified as such on the official ballot.

7.07: Elections Conducted by Mail or at a Polling Place

Recognizing that technology will continue to advance, PERAC added text stating that any board wishing to conduct its election via electronic means must submit a supplemental regulation to PERAC describing the process, and obtain PERAC’s approval thereof.

7.08: Absentee Ballots

PERAC clarified that a member inactive may also vote by absentee ballot.

A legitimate reason for requesting and receiving an absentee ballot was changed from “by reason of temporary physical disability” to “by reason of medical condition.” The rationale for this change was that the prior reason was too narrow in scope.

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PERAC amended the time period for requesting absentee ballots from the day before the election to “no later than seven business days” before the election. The reason for this change was the fact that an absentee ballot requested the day before the election likely would not arrive by mail in time for the tabulation of the ballots.

7.09: Tabulation of Ballots

PERAC added text stating that at least two individuals shall be responsible for counting the ballots.

7.11: Preservation of Ballots

PERAC clarified that all ballots must be preserved for 60 days after finalization of the ballot count, as opposed to 60 days after the election.

7.12: Simultaneous Elections

PERAC added text stating that PERAC may approve a board’s written request allowing for the use of one ballot during a simultaneous election.

7.13: Terms

PERAC added text requiring that an elected board member must serve until the qualification of his or her successor, even if that requires the board member to serve for longer than three years.

PERAC changed the timeframe for holding an election in the event of a vacancy from “as soon as is practicable” to “within 120 days from the date of vacancy,” in order to increase accountability.

PERAC added the requirement that the board must determine and announce before the election whether the newly elected member will serve for a three-year term or for the remainder of the vacant term. The prior regulation provided for the option for serving either a three-year term or for the remainder of the vacant term, but did not state when the board needed to make the decision.

If you have any further questions or concerns, please contact this office.

Enclosure