

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

PHILIP Y. BROWN, ESQ., *Chairman*JOSEPH E. CONNARTON, *Executive Director*

Auditor SUZANNE M. BUMP | KATHLEEN M. FALLON | KATE FITZPATRICK | JAMES M. MACHADO | ROBERT B. MCCARTHY | JENNIFER F. SULLIVAN

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: *Vernava* Follow Up: Compliance with PERAC Memoranda

DATE: June 13, 2018

PERAC recently issued an implementation memorandum relative to the case of *PERAC v. CRAB, Swampscott Retirement Board & Vernava*, 478 Mass. 832 (2018). (PERAC Memorandum # 17 of 2018). In consultation with the Attorney General's Office, Memorandum # 17 presents our best effort to institute a uniform legal response to the *Vernava* decision, as is our statutory responsibility. (At the recent MACRS conference, implementation of the *Vernava* decision was addressed comprehensively and all questions exhausted.)

We appreciate that not all boards will agree with our approach, and may choose to appeal our position. However, be advised that boards are legally required to follow PERAC Memoranda, as outlined below.

"PERAC has broad statutory authority to oversee the public pension system" in Massachusetts. *Boston Retirement Board v. CRAB*, 441 Mass. 78, 84 (2010). PERAC's Memoranda to the boards interpreting the retirement law are binding on the retirement boards unless they are "manifestly unreasonable." *Guido & Revere Retirement Board v. PERAC*, CR-12-441 (2015).

...Retirement boards must follow PERAC's directives because of the statutory grant of power to PERAC to issue such directives in order to ensure that the more than one hundred retirement systems in the Commonwealth operate efficiently and apply uniform rules and policies. It would be wholly impractical to require PERAC to interpret and administer the retirement law solely by issuing individual rulings regarding individual retirement board determinations. If a retirement board disagrees with the interpretation of the retirement law adopted in a PERAC memorandum as applied to a particular case, it may request a ruling from PERAC, which would be appealable by an aggrieved party under G.L. c. 32, § 16(4)... *Grimes v. Malden Retirement Board & PERAC*, CR-15-1 (2016) (Emphasis supplied.)



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TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: *Vernava* Follow Up: Compliance with PERAC Memoranda
DATE: June 14, 2018

In keeping with the emphasized language above, a board may certainly appeal a determination of PERAC with which it disagrees. However, the board may not ignore and must abide by the directions contained in PERAC Memoranda pending the outcome of such an appeal. In this case, it is simply not plausible or practical for 104 retirement boards to implement this SJC decision, each in its own way. PERAC will utilize its regulatory and statutory authority to assure retirement board compliance with this and other directives.

Implementation of legal decisions, particularly when guidance is minimal, requires a comprehensive uniform approach, and with the legal support of the Office of the Attorney General, that is what PERAC has done. In our Commonwealth, where members move freely between units and systems, a uniform, mandated approach is essential.

We trust the foregoing will be of some assistance to you. If you have any further questions or concerns about this, please contact Deputy General Counsel Judith Corrigan at extension 904 or via email at jacorrigan@per.state.ma.us.