

MEMORANDUM

TO: All Retirement Boards

FROM: John W. Parsons, Esq., Executive Director

RE: 840 CMR 28.00 Electronic Signatures

DATE: November 3, 2022

On September 30, 2022, PERAC's regulations authorizing the use of Electronic Signatures by the Commission and the Retirement Boards were published in the official Register by the Secretary of State of Massachusetts. These regulations allow for the use of electronic signatures on all retirement forms. However, Retirement Boards are NOT required to allow the use of electronic signatures and may limit the use of electronic signatures to certain forms if they decide to allow them at all. Importantly, a Retirement Board may not compel the use of electronic signatures if a member or beneficiary wishes to use a "wet signature" instead.¹

Steps the Retirement Board Must Take

First, each Retirement Board must determine if it is in the best interest of the system to allow the use of electronic signatures. The Board must vote on whether to accept the use of electronic signatures. If that question is answered in the negative, no other action needs to be taken. If the Board decides to allow the use of electronic signatures, it must then decide the scope of the permitted use of electronic signatures and which forms it will accept with electronic signatures.

If the Board authorizes the use of electronic signatures, then it must, pursuant to 840 CMR 28.02, promulgate regulations governing the use of said signatures. The Board's regulations must specify which forms will be allowed to utilize electronic signatures.

¹ A wet signature is defined in the new regulations as a signature "created when a person marks a physical document as evidence of that person's personal witness and certification of the content of all, or a specified part, of the document."



MEMORANDUM - Page Two

TO: All Retirement Boards
FROM: John W. Parsons, Esq., Executive Director
RE: 840 CMR 28.00 Electronic Signatures
DATE: November 2, 2022

The regulations must state that the Board will institute and maintain appropriate security procedures. The Board must explain in general that security measures are in place to verify the identity of the signatory.

If the Board intends to use a specific software program for all electronic signatures, then the regulations should specify that the software contains identity verification protocols. If the Board intends to use multiple software applications, it must ensure that all such software contains appropriate security procedures.

Once the Board approves the use of electronic signatures and adopts proposed regulations it should submit the regulations to PERAC for approval. Of important note, PERAC will not approve a proposed regulation that does not contain a declaration regarding security processes. Upon receipt of PERAC approval the Board will be permitted to use electronic signatures.

If you have any questions about this memo, please contact PERAC's General Counsel, Judith Corrigan, at (617) 591-8904 or at judith.a.corrigan@mass.gov.

Attachment