



# MACRS

## **PROCESS FOR ELECTING THE 3<sup>RD</sup> AND 4<sup>TH</sup> MEMBERS OF A RETIREMENT BOARD**



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**June 8, 2016**

**MACRS 2016 SPRING CONFERENCE**

## Board Elections: 840 CMR 7.00

- Who must follow these election regulations?
- Exceptions: State, Teachers, County, Regional
- Why didn't we just say cities and towns as contained within M.G.L. c. 32, § 20(4)?
  - Because there are many other boards, too

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## Additional Boards

- These election regulations also apply to the following boards:
  - Mass. Housing Finance Agency - § 20(4 ¼)
  - Mass. Port Authority - § 20(4 7/8)
  - Greater Lawrence Sanitary District - § 20(4 7/8A)
  - Blue Hills Reg. Vocational School - § 20(4 7/8B)
  - Minuteman Reg. Vocational School - § 20(4 7/8C)
  - Mass. Water Resources Authority - § 20 (4 7/8D)

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### NOTES:

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## Board Member Eligibility

- Candidates must be members in service or retirees
- Candidates shall be elected by the members of the retirement system
  - Members inactive can vote for a candidate, but cannot serve as an elected member of a board
- Board staff may be elected to a board other than the board for which he or she is employed
  - Unless otherwise grandfathered in by serving on a retirement board prior to April 2, 2012, pursuant to § 20(4 7/8E)

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## Terms

- An elected board member's term is for not more than three years
  - However, an elected board member serves until the qualification of his or her successor
  - May require an elected board member to serve for longer than three years
- In event of a vacancy, the board must hold an election within 120 days from the date of vacancy
- The board must determine - and publish - before the election whether the newly elected member will serve for a three year term or for the remainder of the vacant term

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## Election Officer

- Designate an election officer to coordinate all election activity
  - May be a member of the board, a staff person of the retirement system, or the city or town clerk
  - May **not** be a candidate in the election
- A person who is aggrieved by a decision of the election officer may appeal to the retirement board

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## Notice of Election

- Notice shall be provided to all members, inactive members, and retirees no less than **90 days** prior to the election
  - Calendar reminder
  - If less than 90 days, must send a written request for an exception to PERAC with a **compelling reason**
  - If less than 60 days, PERAC will not approve and the elected member will have to serve beyond his or her term
- Notice shall state the time, place and manner of election (polling place or by mail)
- Also must describe the nomination and election procedures
  - If the election is to be held at a polling place, must include the procedures for voting by absentee ballot
  - If election is to be held at a polling place, absentee ballots shall be mailed with the notice to all retirees (with a return envelope)

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## Method of Notice

- Notice shall be mailed to each active, inactive and retired member, or
- Notice shall be mailed to all inactive and retired members AND shall be posted in at least 3 appropriate public locations:
  - City/town hall
  - Police/fire stations
  - Libraries
- Notice may also be published in local newspaper and/or e-mailed to all active members
- A copy of the election notice must be sent to PERAC
- Electronic means of notice requires a supplemental regulation approved by PERAC not less than 120 days prior

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## Nominations

- Any active or retired member may qualify to be a candidate
- Nomination papers must be made available at least 90 days prior to the election
- A candidate must obtain the signatures and addresses of at least 20 active or retired members of the system
- Completed nomination papers must be filed with the board no later than 45 days prior to the election
- If the board determines the nomination papers do not contain sufficient signatures, the board shall declare the nomination papers invalid
  - If all candidates fail, the nomination period shall remain open until the first Monday following the date the first candidate qualifies

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## One Candidate

- When only one candidate files nomination papers, he or she shall be declared the winner and no election needs to be held
- He or she shall take office and serve in all respects as if elected
- Notice of this declaration must be sent to PERAC

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## Simultaneous Elections

- Boards may hold simultaneous election for the two elected members if:
  - Both elected positions are vacant; and
  - The two terms are equal
- Board shall provide two separate ballots, unless PERAC has approved a written request allowing for use of one ballot

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## Election Ballot

- If more than one candidate, the board must prepare a ballot
- Qualified candidates shall be randomly listed
  - The ballot may contain the office or agency where the candidate works
- If the incumbent elected member is nominated, he or she shall have the right to be identified as “incumbent” on the ballot
- The ballot must state the length of the term

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## Method of Election

- The election may be conducted totally by mail, or at a polling place
- If board wishes to hold election via electronic means, it must first submit a supplemental regulation to PERAC describing the process and obtain PERAC’s approval at least 120 prior to election date

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## Election By Mail

- All active, inactive and retired members of the system must be sent a ballot to their last known address
- At least 21 days prior to election date
- Must be accompanied with a return envelope that must include a space where the voter must sign his or her name and provide address
  - Indicates that ballot inside is from qualified voter
  - Board may choose to pre-stamp the return envelopes

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## Precautions

- Members should not sign the ballot
- To ensure that voter cannot be identified, the board may:
  - Include a second, smaller blank inside envelope where ballot will be placed
  - Sealed inside ballot envelope (which contains no identifying information) is then placed inside the signed outside envelope
  - Upon receipt, outside envelope is used to verify the voter, and then separated from inside envelope
  - On Election Day, all the inside envelopes are opened

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## Alternate Precautions

- Or, size of the ballot should be such that it must be folded in order to be placed into the identifying return envelope
  - Prevents anyone opening the ballot envelope from immediately identifying the voter
- Envelopes should be verified when they arrive but not opened until Election Day
- All envelopes should be opened and ballots separated before tabulation
- Board must allow process to be observed by candidates or their representatives

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## Election at a Polling Place

- Secure a room and set up polling stations
- Polls must be open minimum of 10 hours
- Two individuals should be assigned to monitor the polling place at all times
- Member/inactive/retiree must state name and address to one of the monitors in order to receive official ballot
  - Name shall be crossed-out on list by the monitor
  - Voter shall place completed ballot into secure box

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## Absentee Ballots

- Absentee ballots must be sent to all retirees
- Members in service and members inactive may request an absentee ballot
  - In writing, filed with the Board no later than 7 business days before the Election Date
  - Compelling reason:
    - Absent during hours polling place open, or
    - Unable to cast vote for religious reasons, or
    - Unable to cast vote for medical reasons
- Absentee ballots only to be counted if received by board no later than closing of polls

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## Tabulation of Ballots

- Notify all candidates in advance of time and location for tabulation
- Permit all candidates or their representatives to be present during tabulation
- Election officer shall designate at least two individuals to tabulate the ballots
  - Election officer can designate self as one tabulator
- At least one impartial witness should also be present to observe the ballot counting

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## Disqualified Ballots

- Generally, ballots disqualified if:
  - Ballot envelope contains no signature or address
  - Ballots not returned in envelope provided
  - Ballots not able to be verified as being submitted by a member in service, an inactive member or a retiree
  - Ballots of member, inactive member or retiree voting more than once
  - Ballots received after deadline
  - Ballots contain identifying data of voter
  - Ballots contain a vote for more than one candidate
  - Ballots defaced such that choice of candidate is unknown

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## Election Results

- Board shall notify all candidates of results, in writing, within 7 days after the election
  - Regardless of whether candidates were present during tabulation
- Board shall make public notice of election results
  - Website, newspaper, posting, email, etc...
- Board shall notify PERAC of election results
- All ballots should be preserved for 60 days
  - If the election is appealed, ballots should be preserved until the issue is resolved

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## Appeal of Election Results

- Any candidate appealing the election results - or any aspect of the election proceedings - shall file an appeal to the retirement board

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#### COMMONWEALTH OF MASSACHUSETTS

##### Public Employee Retirement Administration Commission

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