

SPR Bulletin 01-17

TO: Records Access Officers

SUBJECT: **The classification of local, regional, and county public retirement boards under the updated Public Records Law effective January 1, 2017**

EXPIRATION DATE: Until superseded

PURPOSE: This bulletin clarifies that local, regional, and county retirement boards should be viewed as municipal units for purposes of the updated Public Records Law.

BACKGROUND:

The updated Massachusetts Public Records Law took effect January 1, 2017. The updated law distinguishes between agencies and municipalities and imposes different responsibilities based on this distinction. As a result, it is now necessary for public entities to be considered either an agency or municipality for purposes of the Public Records Law.

FINDINGS:

1. The updated Public Records Law indicates that “[f]or the purposes of this chapter the term ‘agency’ shall mean any entity, other than a municipality, that is identified in clause twenty-sixth of section 7 of chapter 4 as possessing ‘public records,’ as defined therein.” See G.L. c. 66, § 6A(a).

2. In the “Public Records Access” Regulations, “Agency” is defined as:

Any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth that is identified in M.G.L. c. 66, § 6A and c. 4, § 7, clause Twenty-sixth and makes or receives “public records”, as defined in 950 CMR 32.02. Agency includes any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in M.G.L. c. 32, § 1. See 950 CMR 32.02.

3. In the “Public Records Access” Regulations, “Municipality” is defined as:

Cities and towns, local housing, redevelopment or similar authorities. A consortium, consolidation or combination of entities within a single political subdivision of the commonwealth or among multiple political subdivisions of the commonwealth shall be deemed a municipality. See 950 CMR 32.02.

4. Factors such as sources of funding, geographic focus and authority, amount of resources available, as well as the number of members and employees, suggest these local, regional, and county retirement boards most appropriately fall within the definition of “municipality.”

ACTIONS

1. In light of the above factors and the definition of “municipality” in the Public Records Law and Regulations, please be advised that local, regional, and county retirement boards are to be viewed as municipal units for purposes of the updated Public Records Law.