

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Carol Wester,
Petitioner

Docket No. CR-26-0139

v.

State Board of Retirement,
Respondent

Appearances:

For Petitioner: Carol Wester, pro se

For Respondent: Yande Lombe, Esq.

Administrative Magistrate:

Judi Goldberg

SUMMARY OF DECISION

Petitioner appeals respondent's decision to pay funds attributable to her partner to her partner's estate rather than directly to petitioner. Because the beneficiary designation on the partner's prescribed form lacks a witness signature, the beneficiary selection is invalid. Respondent's decision is affirmed.

DECISION

Petitioner Carol Wester timely appeals respondent State Board of Retirement's (SBR) decision to pay funds attributable to Ms. Wester's partner, Lisabeth Brimm, to Ms. Brimm's estate. When Ms. Brimm became a state employee in 2013, she designated Ms. Wester as her beneficiary. However, there was no witness signature for that designation and as a result, the SBR declined to pay the funds directly to Ms. Wester. Ms. Wester appeals from that decision. The parties agreed that the Division of Administrative Law Appeals (DALA) could decide this case

without hearing. 801 CMR 1.01(10)(c). Each party submitted a memorandum and proposed exhibits in support of their positions.¹ Those 16 exhibits are now entered into the record.

Findings of Fact

1. It is uncontested that Ms. Wester and Ms. Brimm were life partners of 30 years. (Petitioner's memorandum.)

2. Ms. Brimm began working as a part-time chaplain in 2013 at the Wrentham Developmental Center. (Exs. 14, 15.)

3. On her New Member Enrollment Form, Ms. Brimm completed the beneficiary information section. She listed Ms. Wester as the sole primary beneficiary for any funds remaining after her death. The signature witness line for the beneficiary designation is blank. (Ex. 12.)

4. Ms. Brimm left her job in 2022 and became an inactive member of the SBR. (Exs. 14, 15.)

5. Ms. Brimm died on May 21, 2024, with no surviving blood relatives. (Exs. 2-6.)

6. It is also uncontested that after Ms. Brimm's death, Ms. Wester claimed Ms. Brimm's body, authorized her cremation, and conducted her funeral; closed Ms. Brimm's storage facility, disposed of her personal property, and closed her credit card, utility, and cellular telephone accounts; and collected the death benefit on her insurance policy and funds from her deferred compensation account, investment account, and checking account. (Petitioner's memorandum.)

7. Apparently unaware of her death, the SBR wrote to Ms. Brimm in September 2025 regarding the status of her retirement account. Ms. Wester informed the SBR that Ms. Brimm had

¹ Ms. Wester submitted Exhibits 1–11 and the SBR submitted Exhibit 12–16.

died. In November 2025, the SBR wrote to Ms. Wester informing her that the SBR had voted to pay the funds that are attributable to Ms. Brimm to Ms. Brimm's estate. (Exs. 13-15.)

8. Ms. Wester informed the SBR that she had attempted to open an estate but that the court told her that she had no standing to do so. (Ex. 15.)

9. On March 9, 2026, the SBR wrote to Ms. Wester confirming its position about paying Ms. Brimm's estate and informing her of her appeal rights. (Ex. 11.)

10. On March 20, 2026, Ms. Wester filed a timely appeal. (Ex. 16.)

Analysis

Massachusetts retirement law allows retirement system members to designate beneficiaries to receive their retirement benefits if they die before retiring:

Any member, upon his written notice on a prescribed form filed with the board prior to his death, may nominate, and from time to time change, one or more beneficiaries to receive in designated proportions, or in the alternative, any sum becoming payable under the provisions of this subdivision on his death, and/or any uncashed checks in payment of amounts to which he was entitled from the funds of the system of which he was a member, or any sum payable to his estate from said funds[.]

G.L. c. 32, § 11(2)(c).

Here, Ms. Brimm wrote in Ms. Wester's name as her sole primary beneficiary on the "prescribed form" that she filed with the SBR. However, there is no witness signature for that designation. That omission invalidates the beneficiary selection. *See Blakeslee v. State Bd. of Ret.*, CR-19-0409 & CR-19-0471, 2023 WL 3547615, at *3 (Div. Admin. L. App. May 12, 2023) ("DALA has held that if a beneficiary form is missing a witness signature, it is a fatal omission nullifying the form's effect."). Without a properly completed beneficiary nomination, Ms. Brimm died with no beneficiary of record. *Fritz-Elliott v. State Bd. of Ret.*, CR-14-0368, 2016 WL 3476354, at *2 (Div.

Admin. L. App. Apr. 22, 2016) (absence of valid witness signature renders beneficiary designation “without effect”).

If there is no beneficiary of record, Section 11(2)(c) requires that a retirement board pay any amounts that it would have paid to a beneficiary to the legal representative of the member. G.L. c. 32, § 11(2)(c). *See also Renda v. State Bd. of Ret.*, CR-26-0032, 2026 WL 1931811, at *4 (Div. Admin. L. App. June 26, 2026) (refund passes to legal representatives in absence of valid beneficiary of record). The SBR has interpreted the term “legal representative” to mean the executor or administrator of the member’s estate and has used the Massachusetts Uniform Probate Code definition of personal representative to understand this term. *See* G.L. c. 190B, § 1-201(37) (listing types of personal representatives as “executor, administrator, successor personal representative, special administrator, special personal representative, and persons who perform substantially the same function under the law governing their status”). DALA has agreed with this approach. *See, e.g., Lawlor v. State Bd. of Ret.*, CR-16-514, 2019 WL 1583072, at *12-13 (Div. Admin. L. App. Jan. 25, 2019).

Ms. Wester describes her relationship with Ms. Brimm as that of a “long-term committed ‘married’ couple” and signed her appeal letter as the “loving and committed marital partner of Lisabeth Brimm for 30 years.” There is nothing in the record that casts any doubt on the long-term, committed nature of their relationship. Ms. Wester also lists numerous contexts where her “standing” has been recognized, such as claiming Ms. Brimm’s body, authorizing her cremation, and conducting her funeral; closing Ms. Brimm’s storage facility, disposing of her personal property, and closing her credit card, utility, and cellular telephone accounts; collecting the death benefit on her insurance policy and collecting funds from her deferred compensation account, E-

trade investment account, and checking account. She asserts that the SBR should also “recognize and honor” her standing in the same way.

However, the SBR and DALA are bound to follow the applicable law even if the result does not recognize or honor the nature of their relationship in the way Ms. Wester suggests. The requirement of a witness signature for the beneficiary designation is not a ministerial or minor administrative issue as Ms. Wester describes it. Rather, requiring a witness signature prevents a variety of issues, including forgery and “a potential beneficiary from exerting undue influence over the member.” *Brunt v. State Bd. of Ret.*, CR-19-0203, at *6 (Div. Admin. L. App. Aug. 30, 2019). And although there is no allegation of forgery, undue influence, or any other impropriety relating to Ms. Brimm’s signature, DALA does not have the authority to ignore the form’s requirements. *See Fritz-Elliott, supra* at *3.

Finally, Ms. Wester asserts that she should not be penalized for the SBR’s failure to ensure that Ms. Brimm completed the form properly. DALA has frequently addressed the argument of whether retirement boards owe a general fiduciary duty to their members; boards do not owe such a duty. *See, e.g., Picheny v. Teachers’ Ret. Sys.*, CR-12-46, at *9 (Div. Admin. L. App. Nov. 20, 2015) (“[I]t is well established that retirement boards do not owe any general fiduciary duty to their members, except as regards the investment of the boards’ funds.” (internal quotation marks and citations omitted)).² It was Ms. Brimm’s responsibility to ensure that her form was complete and accurate, not the SBR’s.

² *But cf. Lawlor v. State Bd. of Ret.*, CR-16-514, 2019 WL 1583072, at *15 (Div. Admin. L. App. Jan. 25, 2019) (“While it was not obligated to contact Beverly regarding the sufficiency of her option selection form, . . . it had elected to do so[.]”).

Conclusion and Order

Based on the above analysis, the decision of the SBR is hereby affirmed. Ms. Wester may wish to seek additional guidance about whether she is able to open an estate on behalf of Ms. Brimm.

Dated: October 2, 2026

/s/ Judi Goldberg

Judi Goldberg, Administrative Magistrate
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