

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

# RETIREES' RIGHTS & RESPONSIBILITIES



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This brochure is intended to provide general information about the post-retirement rights and responsibilities of retirees from public retirement systems in Massachusetts. Members should contact the staff of the Retirement Board for information dealing with personal and individual circumstances.

**There are special provisions of the law that apply only to retired state police officers. Retired state police officers should discuss their circumstances with the State Retirement Board.**



## COMMONWEALTH OF MASSACHUSETTS PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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# Frequently Asked Questions

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The following are frequently asked questions regarding the rights and responsibilities of retirees:

## 1. When I Die Will My Spouse Be Entitled to a Death Benefit?

The Option selected at retirement will determine whether or not a death benefit will be payable upon the death of a retiree. The selection of an option is an important decision. A member must choose an option before the date his or her retirement allowance becomes effective, and may not change the option thereafter. Anyone considering retirement should discuss all of the options available with the staff of the Retirement Board. There are three options to choose from:

**OPTION A:** If Option A is selected, the retiree will receive his or her full retirement allowance in monthly payments as long as he or she lives. All allowance payments will cease upon the retiree's death, and no benefits will be provided to any survivors.

**OPTION B:** If Option B is selected, the retiree will receive a lifetime allowance, which is 1% to 5% less per month than Option A. This will provide for a lump sum payout of any amount remaining in the retiree's account with the retirement system at the time of his or her death. The retiree names a beneficiary or beneficiaries to whom this lump sum payment will be made at the time of his or her death, and may change the beneficiary designation at any time. (However, the option selected may not be changed once the retirement allowance has begun to be paid.) If a retiree receives an allowance for a number of years (usually 12 to 15), there will likely be no remaining balance in the account. The retiree's allowance will not be reduced when all of the funds in his or her account are exhausted.

**OPTION C:** If Option C is selected a lifetime benefit is provided to a named beneficiary at the retiree's death. Only certain persons are eligible to be named as the beneficiary (spouse, former spouse who has not remarried, parent, child, or sibling) under this option. The retiree will receive a lifetime allowance which is calculated taking into account the retiree's age and the designated beneficiary's age and which is approximately 7% to 15% less than Option A. At the death of the retiree, the designated beneficiary will receive a lifetime allowance equal to two

thirds of the allowance that the retiree was receiving. If the beneficiary dies prior to the retiree, the retiree's allowance "pops up" to an Option A allowance. The Option C beneficiary cannot be changed after retirement, even if personal circumstances change.

If an accidental disability retiree dies as the result of the condition for which he or she retired, an accidental death benefit may be payable to a survivor. The eligible survivors are identified in the retirement laws rather than by designation of the retiree. These statutory beneficiaries include the retiree's surviving spouse if the Retirement Board finds that they had been living together at the time of death or the Retirement Board finds that they had been living apart for justifiable cause. If there is no eligible spouse, the statute provides for other beneficiaries.

## **2. May I Be Employed in the Public Sector After Retirement?**

Yes, although the amount that a retiree who is receiving a retirement allowance can earn for performing services in the public sector in Massachusetts is limited, as are the hours that the retiree can be employed in the public sector.

A retiree can be employed in the public sector in Massachusetts for not more than 960 hours in a calendar year. The earnings from all public sector employment when added to the retirement allowance cannot exceed the amount currently being paid to the position from which the retiree retired. After a retiree has been retired for at least one year they are allowed an additional fifteen thousand dollars in earnings. If your position has been eliminated or is assumed by another job title, please contact your Retirement Board for assistance with determining earnings limitation. The earning and hours limitation applies to all retirees receiving an allowance from a public retirement system in Massachusetts. There are some exceptions to this limitation, for example payments for service in an elected office after retirement in some circumstances. In most cases, a retiree performing services in the public sector as an independent contractor or consultant will also be subject to these limitations.

A Retirement Board has the right to collect any excess earnings from a retiree that exceeds earning limitations up to the amount of the retirement allowance paid.

A Retirement Board may have you read and sign an affidavit attesting to the earning and hours limitations of post-retirement employment. However, notice to a retiree of hours and earnings limitations is not required in order for the Retirement Board to enforce this statute.

A person who has retired for superannuation (as opposed to a disability retiree) can be employed in the private sector or in the public sector in another state without limitation.

The limitations on earnings for a disability retiree will be addressed later in this booklet.

### **3. Do I Get a Cost of Living Adjustment Every Year After I Retire?**

The answer to that question depends upon a retiree's individual board and local legislative body. Each year the PERAC Actuary prepares a report that details a cost of living adjustment (COLA). If the Retirement Board and the local legislative body have accepted a special section of the retirement law, a COLA could be granted. The Board will review the report and its fiscal status, and decide whether to increase the allowance of retirees. If granted, the COLA may allow an increase of up to 3% of the first \$12,000 of the retiree's allowance or such higher base amount approved by the Retirement Board and the local legislative body. Once granted, a COLA becomes a permanent part of the retiree's allowance. In order to be eligible for a COLA, a retiree must have been retired for at least one fiscal year at the time that the COLA is granted. The legislature determines whether a COLA is to be granted for members of the State Retirement System and members of the Teachers' Retirement System and the COLA is based on a \$13,000 base in those two systems at the time of this guide's publication.

### **4. Will I Be Required to File Information With My Retirement Board After I Retire?**

Yes. No less frequently than once every two years, retirees or beneficiaries will receive an affidavit form from the Retirement Board. The purpose of this affidavit is to update and verify contact information, for example, the current and accurate address for the retiree or beneficiary.

**5. I Have Also Contributed to the Social Security System. Will I Be Able to Collect both Social Security and My Allowance From the Retirement System?**

If a retiree from a Massachusetts public retirement system is also eligible for Social Security benefits, the receipt of an allowance or eligibility for a retirement allowance from the Massachusetts retirement system may cause a reduction in the Social Security benefits payable. The receipt of an allowance from a Massachusetts retirement system may also impact eligibility for Social Security survivor benefits.

The formula for a reduction of a Social Security benefit and the eligibility criteria for a Social Security survivor benefit is very complex. Members who may be affected by these provisions of the Social Security laws should contact the Social Security Administration for information and assistance.

**6. Will My Retirement Allowance Be Taxed?**

Retirement allowances from a Massachusetts retirement system are not subject to the Massachusetts state income tax laws. Superannuation retirement allowances and non-job related disability retirement allowances are subject to federal income taxation. Portions of an accidental (job-related) disability retirement allowances are not subject to federal income taxation. Members should consult with a tax professional for advice in this regard.

**7. Will My Health Insurance Coverage Be Administered By My Retirement Board?**

No, health insurance coverage is not administered by the Retirement Board. The retirees' former employer administers this coverage. Health insurance premiums can be withheld from a retirement allowance. Retirees should contact the former employer for information on coverage and determination of premium costs.

## **8. Are Post-Retirement Earnings Limited for Disability Retirees?**

Yes. In addition to, and separate from, the limitation on post-retirement Massachusetts public sector earnings, the post-retirement earnings of disability retirees are limited. A disability retiree can be employed in the private and/or Massachusetts public sector after retirement. The amount of earned income when added to the disability retirement allowance cannot exceed the regular compensation that would have been payable to the retiree had he or she remained in service in the grade held at the time of retirement, plus \$15,000. If this earnings limitation is exceeded, the retiree's allowance will be withheld until the overpayment is recovered by the Retirement Board. The term "earned income", for the purposes of these earnings limitations, "implies some labor, management or supervision in production of the income and not income derived merely from ownership of property." If an individual operates a business for profit, individually or through an agent, that individual does not have the option of classifying such income as dividends as opposed to wages. Profits derived from the operation of a business through some labor, management or supervision of production of such profits are earned income, regardless of how a retiree categorizes such income for income tax or other purposes.

This earnings limitation includes both private and Massachusetts public sector employment and applies to both accidental and ordinary disability retirees. There are also hours and further earnings limitations if the retiree is working in the Massachusetts public sector, as noted earlier in this booklet.

**9. What are the Post-Retirement Reporting Requirements for Disability Retirees?**

Each disability retiree must file an Annual Statement of Earned Income. This statement must be filed with the Public Employee Retirement Administration Commission (PERAC) by April 15th of each year and must be accompanied by a copy of the retiree's federal income tax returns. The filing may be waived by PERAC if a disability retiree has been retired for at least 20 years and has not reported any earned income for the prior 10 years, provided that the retiree sign an affidavit indicating that should the retiree have earned income in the future he will again be responsible for reporting such income to PERAC.

If a disability retiree does not file the required annual statement, his or her disability retirement allowance will be terminated until he or she complies with this requirement.

**10. If I Retire for a Disability, Will My Medical Condition Be Re-evaluated From Time to Time?**

Yes. Disability retirees are evaluated by PERAC for possible restoration to active service in the positions from which they retired. This post-retirement evaluation will take place once each year during the first two years after retirement and once every three years thereafter. The retiree must provide current medical information and may be required to undergo medical examinations as part of this process. PERAC may excuse a member from an examination if it determines, based on written findings, that an examination is unwarranted based on the catastrophic nature of the member's illness or injury.

If a disability retiree fails to cooperate and participate in the evaluation process, his or her disability retirement allowance will be suspended.

**11. As a Disability Retiree, Under What Circumstances May I Be Restored to Active Service?**

A disability retiree who is evaluated by PERAC and found able to perform the essential duties of his or her former position can be restored to service in the department from which he or she retired. Disability retirees who have been retired for more than two years and are found able to return to service are given preference for the next vacant position.

Disability retirees who have been retired for more than five years and are found able to return to service may be required to undergo a retraining program developed by the employer and approved by the state Human Resources Division. The retiree continues to receive his or her disability retirement allowance during the retraining program.

The restoration to service process and requirements for State Police Officers differs substantially from those outlined above. State Police retirees should contact the State Retirement Board to discuss these requirements.

## **12. What Happens to My Creditable Service and My Retirement Allowance if I am Restored to Service?**

If a disability retiree is restored to service, all creditable service that the member had been granted at retirement is restored and the retiree again becomes an active member of the retirement system. When the member retires, he or she is given creditable service for the period of disability retirement. The member is not required to repay the allowance received and is not required to make any payments for the creditable service granted for the period of disability retirement.

## **13. Will My Disability Allowance Be Reduced if I am Also Receiving or Have Received Workers' Compensation Benefits?**

Yes. The allowance of a disability retiree will be reduced if the retiree is receiving weekly Workers' Compensation benefits for the same injury for which they retired. If a disability retiree settles his or her Workers' Compensation claim by means of a lump sum settlement, the disability retirement allowance will be reduced to recognize the portion of the lump sum settlement that is attributable to weekly Workers' Compensation benefits.

#### **14. Once I Retire, May I Become an Active Member of the Retirement System Again?**

In addition to the provisions that allow a disability retiree to be restored to membership and active service, a retiree can become an active member of a retirement system under limited circumstances.

Once a member who retired for superannuation has decided to return to public employment and has further decided to once again become an active member of a system, he or she must pay back to the retirement system the total amount of any retirement allowance he or she has received, together with "buyback interest". Payment may be made by lump sum or in installments pursuant to the Board's discretion. Upon such reinstatement, regular deductions shall be made from regular compensation, and the member's date of entry into service shall be the date such member waived his retirement allowance or the date of reinstatement, whichever occurs earlier. The contribution rate is based on member's reentry into service and may not be the same rate the member was paying when he or she retired. The earliest date a member can retire after reinstatement and receive credit for the reinstatement service is 5 years after the reinstatement date if such member has made all buy back payments to the Retirement Board.

In addition, persons appointed to some positions, for example a person appointed by the governor for a term of years, by the mayor or the board of selectmen or elected to public office may choose to become an active member of a retirement system again, but must first pay the total amount of any allowance that has been received back into the system, subject to the terms and conditions of the above paragraph.

# NOTES

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