

# MONTANA PUBLIC EMPLOYEES' RETIREMENT BOARD

TITLE: Public Information

POLICY NO: BOARD Gen 01

EFFECTIVE DATE: 08/11/2016

## **I. POLICY AND OBJECTIVES**

It is the policy of the Public Employees' Retirement Board (the Board) to provide any and all available public information to all parties of interest, and to the general public as appropriate.

The objective of this policy is to establish guidelines for the release by the Board and the Montana Public Employee Retirement Administration (MPERA) of accurate and timely information of concern to the public. The guidelines balance the public's right to know with an individual's right to privacy. The guidelines also ensure that accurate information will be provided with the least impact on staff resources as possible.

Board members will not disseminate confidential, incomplete or misleading information. The Board member should refer requests for confidential or sensitive information to the Executive Director.

## **II. DEFINITIONS**

- A. Public information is defined as information that is not designated as confidential by state or federal law.

## **III. PROCEDURES**

- A. General
  - 1. Requests for Information. Board members are occasionally asked to respond to requests for information from the general public, retirement system members or employers, other government entities and legislators. Information should be disseminated in a timely and professional manner. However, if the information is confidential, the Board member's knowledge is incomplete, or the request is outside the scope of the Board member's expertise, duties or responsibilities,

the request will be referred to the Executive Director.

- a. Neither the Board nor the MPERA is required to release information that is not readily available. For example, neither the Board nor the MPERA is required to comply with requests to use existing data to create new reports, documents or lists that are not created as a part of the Board or the MPERA's ordinary business.
  - b. If the Executive Director denies a request under 1. or 1.a., the requestor may appeal the decision to the Board.
  - c. In the event the Board or the Executive Director determines to comply with requests to create new reports, documents or lists, all associated costs of the MPERA staff time exceeding one half hour will be borne by the requesting party. An estimate of the cost will be provided to the requesting party before the costs are incurred. No production will be initiated until the requesting party has prepaid the estimated costs.
  - d. If the estimate under 1.c. exceeds the actual cost, a refund of the overpayment will be made when the information is delivered to the requesting party. If the estimate is less than the actual cost, the requesting party will pay the difference upon delivery of the requested information.
2. **Disclose Contact with the Public.** Board members who are contacted by the public regarding issues or matters over which the Board has jurisdiction will disclose the contact to the other members of the Board at the time the matter is discussed and acted upon by the Board or by a committee of the Board if the Board member is a member of that committee.
  3. **Board Spokesperson.** Board members may represent themselves as a Board spokesperson only when so designated by the Board President or the Executive Director.

- B. Board's Annual Report and Website. The Board will make every effort to include in its annual report and on its website as much information of interest to retirement system members and employers as possible, without incurring undue expense or undue burden to MPERA employees.
- C. Attorneys. When a Board member is contacted by a person or the person's attorney for information concerning an issue that may be adversarial or the likely subject of a contested case matter, the Board member will direct the person or the person's attorney to the Executive Director or the Board's legal counsel.
- D. Media. When the media contacts a Board member, issues requiring research or legal assistance, and questions of policy should be forwarded to the Executive Director. Contacts with the media should be reported to the Board President and Executive Director.
- E. Lobbying
  - 1. Board Lobbying. Board members may attend committee hearings or floor sessions as desired and do not need to register as lobbyists. A Board member who is requested to provide information during a legislative session should notify the Board President and the Executive Director of the request to determine who will be responsible for assembling and releasing the information.
  - 2. Personal Lobbying. A Board member involved in personal lobbying or who attends hearings for reasons unrelated to Board business and who identifies him or herself as a Board member or who is commonly recognized by legislators as a Board member should state that they are not representing the Board of the MPERA.
- F. Requests Related to Employees/Individuals. Information requested by other state agencies, state employees or the general public concerning issues relating to an employee/individual (i.e. information relating to payroll, recruitment and selection, performance appraisal, disciplinary action, grievances, reduction in work force, disabled person's employment preference and veterans' employment preference) should be treated as confidential information which may require authorization from the employee/individual a constitutionally-valid legal order or specific

statutory authority to release the information. Any questions regarding these requests should be referred to the Executive Director.

- G. Reference Check Information. A Board member contacted by an employer for information regarding references will refer the requestor to the Executive Director.
- H. MPERA Policies. MPERA policies regarding the release of information contain procedures and specific guidelines for responding to requests for information. This policy does not change those procedures, but is meant to cover areas that do not have more specific procedures.

#### **IV. CROSS-REFERENCE GUIDE**

The following laws, rules or policies may contain provisions that might modify a decision relating to public information. The list should not be considered exhaustive – other policies may apply.

Montana Constitution Article II, Sections 8, 9 and 10  
Title 2, Chapter 3, Parts 1-3, MCA Public Participation in Government Operations  
Title 2, Chapter 4, Parts 1-3, MCA Administrative Procedures Act  
Title 2, Chapter 6, MCA Public Records (2-6-1001, MCA *et seq.*)  
ARM 2.21.3728 Confidentiality of Applications and Selection Materials  
ARM 2.43.1405 Request for Release of Information by Members  
Board Gen 02 Confidentiality

#### **V. HISTORY**

G3-92.2 Request for Information  
Originally approved March 1992  
Amended March 25, 2004  
G6-92.2 Confidential Member Information  
Originally approved June 1992 Amended  
March 25, 2004  
Board Gen 01 Public Information  
Reviewed and amended January 14, 2010  
Reviewed and amended August 2016