

CHAPTER 4**POLICE AND FIREMEN'S RETIREMENT SYSTEM****Authority**

N.J.S.A. 43:16A-13(7).

Source and Effective Date

R.2001 d.66, effective January 25, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Police and Firemen's Retirement System, expires on January 25, 2006.

Chapter Historical Note

Chapter 4, Police and Firemen's Retirement System, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 4, Police and Firemen's Retirement System, was readopted as R.1990 d.329, effective June 8, 1990. See: 22 N.J.R. 908(a), 22 N.J.R. 2032(b).

Pursuant to Executive Order No. 66(1978), Chapter 4, Police and Firemen's Retirement System, expired on June 8 1995.

Chapter 4, Police and Firemen's Retirement System, was adopted as new rules by R.1996 d.166, effective April 1, 1996. See: 27 N.J.R. 4270(a), 28 N.J.R. 1873(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Police and Firemen's Retirement System, was readopted as R.2001 d.66, effective January 25, 2001. See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

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SUBCHAPTER 1. ADMINISTRATION**17:4-1.1 Board Meetings**

(a) The Board of Trustees shall meet on the third Monday of each month or at such other time as may be deemed necessary by the Board.

(b) The chairperson may call for special meetings when necessary.

Amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote section.

17:4-1.2 Fiscal year

(a) Fiscal year shall mean the 12-month period of fiscal transactions commencing July 1 and running until June 30 following.

(b) All reports and statements will consider such a fiscal year except special reports not having direct relationship to the financial transactions of the retirement system.

17:4-1.3 Officers and committees

(a) The chairperson, first vice chairperson, and second vice chairperson of the Board will be elected by a majority vote of the members in attendance at the first meeting of July, not less than six members to be present at such meeting.

(b) The chairperson of the Board shall preside at all of its meetings, or in the absence of the chairperson, the first vice chairperson shall assume the chairperson's responsibilities. If both are absent, the second vice chairperson shall assume the chairperson's responsibilities. In the absence of the chairperson and first and second vice chairperson, another member selected by the majority of the members in attendance will preside for that single meeting.

(c) The Director of the Division of Pensions and Benefits shall appoint a qualified employee of the Division to be Secretary of the Board.

(d) The chairperson will appoint such committees from the Board members as deemed necessary to facilitate the Board's operations. Such committee appointments will be for a one year period, commencing each July 1.

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote the section.

Amended by R.2001 d.392, effective November 5, 2001.

See: 33 N.J.R. 2611(a), 33 N.J.R. 3756(a).

In (a), deleted "and" following "chairperson", inserted ", first" preceding "vice chairperson", and inserted ", and the second vice chairperson" following "vice chairperson"; rewrote (b).

17:4-1.4 Election of active member-trustee

(a) The procedures for the election of a police or fire trustee representative to the Police and Firemen's Retirement System (PFRS) Board of Trustees are set forth in this section.

(b) Eligible candidates shall include any active member of the Police and Firemen's Retirement System. Only police members may seek police seats, and only fire members may seek firemen seats on the Board of Trustees. All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least nine months prior to the expiration of the term of each elected trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board or a contracted vendor through the certifying officers to each member who is eligible to vote.

2. The election notice shall also:

i. Advise the member of the election;

ii. State the position and term to be filled;

iii. State that nominating petitions are required and that petition forms are available from the Board Secretary at the Division of Pensions and Benefits;

iv. State the date of the election;

v. Identify all present members of the Board; and

vi. Include any other information regarding that election as specified by the Board of Trustees.

3. Election notices shall be forwarded in bulk and in appropriate number to the certifying officer or other appropriate fiscal officer of each employing agency, together with instructions as to who is to receive the notices.

4. A confirmation form shall also be forwarded to each certifying officer or appropriate fiscal officer. Such form shall be returned to the Board Secretary or contracted vendor and shall include documentation of:

i. Receipt of the notice by the certifying officer or other appropriate fiscal officer; and

ii. The extent to which the certifying officer or other appropriate fiscal officer has distributed the notice to eligible members.

5. Election notices shall be distributed to each member who is eligible to vote, as shown on a master list of members that shall be compiled by the Board Secretary, stored and made available for review to any candidate at the office of the Board Secretary. Only active members of the PFRS may vote in an election of member-trustee of the Board of Trustees of the PFRS. Any challenge of questions concerning eligible voters shall be made in writing, prior to the close of the voting deadline. Failure to challenge the list or any part of it prior to the voting deadline shall disallow any challenges or questions raised after the close of voting.

(d) The following apply to nominating petitions:

1. Nominating petition forms shall be available at the office of the Board Secretary of the Police and Firemen's Retirement System.

2. Nominating petitions shall be forwarded to each active member who requests them after the Division verifies the member's eligibility to run for such election.

3. The petition forms shall explain that:

i. For police trustee, at least 500 active police members, who are eligible to vote for the position, are required to sign the petition for the candidate.

ii. For fire trustee, at least 300 active fire members, who are eligible to vote for the position, are required to sign the petition for the candidate.

4. The petition form shall require the candidate's name and employer, and the pension membership number or Social Security number of each petitioner.

5. The form shall explain that an active member shall sign only one petition, with police members petitioning for a police candidate and fire members petitioning for a fire candidate.

6. The dates for filing and returning the petitions shall be identified, as well as the approximate date that ballots shall be sent to employers for distribution to voters.

7. Candidates named on a petition shall sign the petition in a designated space indicating their willingness to be candidates.

8. If only one candidate is nominated for a position, the candidate shall be deemed elected to the position without balloting. A notice to the certifying officers shall be distributed for posting at the employing locations, indicating no contest since only one candidate was nominated by petition.

(e) The following apply to distribution of election packets:

1. The Board reserves the right to authorize a vendor to collect votes through one or more of the following election processes. All active eligible members shall have an opportunity to cast a ballot through one of the following:

- i. Telephone (voice retrieval system-electronic vote);
- ii. Internet access (electronic vote);
- iii. Telefacsimile server (electronic vote); or
- iv. Color-coded paper ballot (postage-paid, self seal return mailer).

2. For each eligible voter, there shall be forwarded to the certifying officer individual member packets with instructions for balloting which shall include the following information:

- i. The eligible member's name, pension membership number, pension location number, ballot number and personal identification number (PIN);
- ii. The closing date of the election;
- iii. The name of each candidate nominated including a biographical sketch listing the candidate's background and employer;
- iv. Instructions on how to properly cast a vote, including notification that shall advise the member that the vendor shall sever the envelope containing the voter's signature from the ballot, thus assuring a secret ballot. Unsigned ballots, mutilated ballots, illegible ballots, ballots with write-in votes, ballots with multiple votes or ballots where it cannot be determined for

whom the member intended to vote shall be declared invalid and not considered in the final election count;

- v. Instruction on how to properly cast an electronic vote;
- vi. Instruction on proper use of the PIN number;
- vii. Notification that the candidate receiving a plurality of the legal votes cast shall be declared elected to the position;
- viii. Notification that the first vote cast shall be counted as the official vote and subsequent votes shall be rejected; and
- ix. A statement regarding the confidentiality and security used by the vendor to protect the election process against fraudulent and/or multiple voting.

3. The ballot positions shall be determined by a drawing conducted at a time and place determined appropriate by the Board Secretary. All candidates may attend such drawing by contacting the Board Secretary.

4. A receipt shall be signed by each certifying officer acknowledging the receipt and distribution of the election packets.

(f) The Board shall assess the percentage of returned votes after the conclusion of each election and determine based upon an analysis of the frequency of use of the paper ballots versus the cost of providing the paper ballots whether or not a paper ballot should continue to be incorporated in the election packet in future elections as denoted in (e) above. The Secretary shall notify the vendor handling the next election of the Board's decision regarding continued inclusion of the paper ballot in the initial election packet. If members cannot cast an electronic ballot, they shall have an opportunity to cast a paper ballot. If the Board determines that paper ballots shall no longer be included in the initial election packet, then the following apply to the distribution of paper ballots upon member request:

1. Active members may contact the vendor handling the election to request a paper ballot if the voter is unable to cast a ballot through any of the other electronic methods mentioned in (e) above. Members shall provide the vendor with their proper ballot and pension numbers and home address.
2. Upon proper request by an eligible voter, the vendor shall mail a paper ballot to the voter's home address, together with instructions for casting the ballot, biographical information about the candidates, and a postage-paid return envelope.
3. The instructions shall also advise that the vendor shall sever the envelope containing the voter's signature from the ballot, thus assuring a secret ballot.
4. Unsigned ballots, mutilated ballots, illegible ballots, ballots with a write-in vote, multiple votes or any other ballot where it cannot be determined whom the voter

intended to vote for shall be declared invalid and not considered in the final election count.

(g) The following apply to biographical information:

1. An informational sheet of biographical information regarding each candidate shall be prepared by the candidate and submitted to the Board Secretary.

2. The Board Secretary shall inform each candidate that the biographical information shall be included with the election packet.

3. The biographical information shall be distributed to the certifying officer of each employing agency at the time of distribution of the election packets, or otherwise distributed as approved by the Board of Trustees. The employer should post this information at appropriate places throughout the workplace of each employing agency so that the members of the retirement system shall have a reasonable opportunity to read and consider the biographical information regarding the candidates.

(h) The following apply to vote tabulation:

1. Only a member's first vote shall be counted as the official electronic or paper ballot. All duplicate or subsequent votes shall be considered invalid and not included in the final election count.

2. The candidate receiving the highest number of all legal votes contained in (e) and (f) above shall be elected to the position.

3. The Secretary of the Board shall oversee the election process to ensure that the vendor complies with all of the requirements and to assure the validity of the final election count.

4. The eligible candidates for the election shall be informed as to the method and the date of counting the ballots and shall be invited to be present or to be represented at the counting of the ballots.

(i) The following apply to recount procedures:

1. Any candidate or member who shall have reason to believe that an error has been made in counting or declaring the vote may request, in writing, within 20 days of the certification of the results of the election, that the Board of Trustees, at its next regular meeting or at a special meeting, hold a hearing to consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such hearing, any member of the Board who is a candidate on the contested ballot shall not vote in the Board's decision on the request. Candidates on the contested ballot shall be invited to attend the Board's meeting and may present evidence to support their beliefs.

2. If a candidate or other interested party requests a recount in writing within the prescribed time, this request shall be reviewed and granted by the Board of Trustees if a recount could possibly affect the results of the election. All ballots received shall then be recounted and the recount shall be supervised by the Board Secretary. The Board Secretary shall certify the results of the recount to the Board of Trustees. If a recount is not requested within 20 days, the ballots may be destroyed.

3. Upon election and the taking of an oath of office, police and fire member-trustees shall serve for a term of four years. In the event that no member is certified as the winner of an election, the incumbent trustee shall serve until a successor is certified by the Board of Trustees.

(j) If there are at least two candidates in an election for member-trustee and the victorious candidate dies or is unable or unwilling to serve as such member-trustee prior to the beginning of the candidate's term as trustee, the candidate who obtained the next highest number of votes in that election (that is, the first runner-up) shall be selected to fill the Board vacancy caused by the death or inability or unwillingness to serve of the successful candidate. If the Board selects the first runner-up in such election and that person is unable or unwilling to accept the position, then the Board shall select the candidate who obtained the next highest number of votes in that election. If there is no second runner-up, the Board shall conduct a new election to fill the Board vacancy. For purposes of this provision, a member-trustee's term begins upon the taking of the oath of office.

Amended by R.2000 d.291, effective July 17, 2000.
See: 32 N.J.R. 1317(a), 32 N.J.R. 2598(a).
Rewrote the section.

17:4-1.5 Certifying officer (employer)

(a) The chief fiscal officer or other officer duly designated by a resolution of each county, municipality or public agency, and the personnel officer of the Division, Bureau or Institution of the State locations, shall serve as certifying officer for that unit.

(b) The certifying officer shall be responsible for the duties described by N.J.S.A. 43:16A-32.

(c) The certifying officer shall be responsible for all other duties relating to matters concerning the System.

(d) Upon the request of the Board, the certifying officer shall be required to sign a statement, verifying that any information reported is accurate to the best of the officer's knowledge, and conforms with the statutes and rules governing the retirement system.

Amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).
Changed "certifying agent" to "certifying officer" throughout; and added (d).

17:4-1.6 Records

(a) The minutes of the Board are a matter of public record and may be inspected during regular business hours in the office of the Board secretary.

(b) The mailing addresses of all active and retired members are considered to be a part of the member's confidential files and shall not be released for any purpose.

(c) The designations of beneficiaries of all active and retired members are considered to be a part of the member's confidential files and shall only be released after the member's death.

(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board of Trustees. The Division shall release a copy of the examining physician's medical report to the member, the member's attorney or any person authorized by the member in writing to receive a copy of such report. In no event shall the report be released to any individual not authorized in writing to receive the report.

Amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Added a new (c) and recodified former (c) as (d), and added the second sentence to the end of the paragraph.

17:4-1.7 Appeal from Board decisions

The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such determination is contrary to the claim made by the claimant or the claimant's legal representative:

"(a) If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your claim. If no such written statement is received within the 45-day period, the determination by the Board shall be final.

(b) The Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(c) Administrative hearings will be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1-1.

(d) If the granted appeal involves a question of facts, the Board shall submit the matter to the Office of Administrative Law.

(e) If the granted appeal involves solely a question of law, the Board may retain the matter and issue a final administrative determination which shall include detailed

findings of fact and conclusions of law based upon the documents, submissions and legal arguments of the parties. The Board's final determination may be appealed to the Superior Court, Appellate Division."

Amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).
Rewrote the section.

17:4-1.8 Suspension of pension checks

(a) The disbursement of pension checks shall be suspended under the following circumstances and such suspensions shall continue during the period in default:

1. If a disability retiree fails to appear for a medical examination;
2. If a widow, widower, parent or guardian of a minor child(ren) fails to file a certificate of eligibility which is normally mailed to such beneficiaries on a periodic basis;
3. If a retiree or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this instance shall be suspended until a proper legal representative has been appointed.

Amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

In (a), substituted "Monthly retirement allowances will" for "The disbursement of pension checks shall" and substituted "the suspension will" for "such suspensions shall"; in (a)2, substituted "an annual" for "a periodic"; in (a)3, substituted "event" for "instance".

17:4-1.9 (Reserved)

Recodified as N.J.A.C. 17:4-1.12 by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Section was "State employees; biweekly salaries".

17:4-1.10 (Reserved)

Recodified as N.J.A.C. 17:4-3.7 by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Section was "Survivor benefits; establishing dependency, recodified to N.J.A.C. 17:4-3.7.

17:4-1.11 Proof of age

(a) All members shall establish proof of their age with the System. Acceptable proofs of age include birth or baptismal certificates, passports, naturalization papers, Biblical records, affidavits of older members of the immediate family or primary school records.

(b) In the event a member dies before satisfactory evidence of the member's date of birth has been filed with the System, appropriate evidence may be required before any death claim is processed for settlement.

(c) In the event proof of age has not been filed with the System before retirement, such proof must be filed before any retirement benefits may be disbursed.

Recodified from N.J.A.C. 17:4-1.12 and amended by R.2001 d.66, effective February 20, 2001.
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote (a); in (b), neutralized gender references. Former N.J.A.C. 17:4-1.11, Travel, repealed.

17:4-1.12 Employees; biweekly salaries

(a) Retirement and death benefits as well as service credit will be determined on the basis of biweekly pay periods for employees whose employers report salary and contributions on a biweekly basis. This biweekly schedule should conform to the biweekly reporting schedule issued by the State's Centralized Payroll Office.

(b) In the event a member is reported on a combination of monthly and biweekly pay periods, the member's last year's salary or final compensation as well as the member's service credit will be computed on a proportional basis.

Recodified from N.J.A.C. 17:4-1.9 and amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote (a); in (b), neutralized gender reference. Former N.J.A.C. 17:4-1.12, Proof of age, recodified to N.J.A.C. 17:4-1.11.

17:4-1.13 Election of retired member-trustee

(a) The election procedures as required by N.J.S.A. 43:16A-13 for the election of a retired member-trustee to the Board of Trustees of the Police and Firemen's Retirement System are set forth within this section.

(b) Eligible candidates shall include all retired members of the Police and Firemen's Retirement System. A retired member is one who meets the criteria set forth in N.J.A.C. 17:4-6.3(a). All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least six months prior to the expiration of a term of office of a retired member-trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board to each retired member eligible to vote. This notice will be sent to the member's last known mailing address and shall inform the members that the nominating petition forms are available at the Office of the Secretary, Police and Firemen's Retirement System.

2. The election notice shall also:

- i. Advise the retired member of the election;
- ii. State the position and term to be filled;
- iii. State that nominating petitions are required;
- iv. State the dates of the election;
- v. Identify all present members of the Board; and
- vi. Contain other information specified by the Board of Trustees.

3. Election notices shall be forwarded to each retired member, together with instructions.

4. Election notices shall be distributed to each retired member who is eligible to vote as shown on a master list of retired members compiled by the Division of Pensions and Benefits. This list may be reviewed by a candidate or other interested parties. Retired members' home addresses shall be excluded from this master list. Any challenge or questions concerning eligible voters shall be made prior to the close of the voting deadline. Failure to challenge the list or any part of it prior to this deadline shall disallow any challenge or questions raised after the close of voting.

(d) The following shall apply to nominating petitions:

1. Nominating petition forms shall be available at the Office of the Secretary of the Police and Firemen's Retirement System.

2. Nominating petitions shall be provided to each retired member requesting them.

3. The nominating petitions forms for retired member-trustees shall explain that a minimum of 100 retired members signature who are eligible to vote for the positions are required to sign the nominating petition for the candidate.

4. The nominating petition form shall require the candidate's name and the name of the employing agency from which the member retired and shall require the social security number of each retired member. If the social security number is not provided, the name shall be disqualified.

5. The form shall explain that a member shall sign only one nominating petition for a candidate seeking the retired member trustee position.

6. The dates for filing and returning the nominating petitions shall be identified as well as the approximate date that ballots shall be sent to the retired members.

7. A candidate named on a nominating petition shall sign the petition in a designated space indicating that he or she is willing to be a candidate.

8. If only one candidate is nominated for the position, the candidate shall be deemed elected to the position without balloting. A notice to the retired membership shall be distributed indicating no contest since only one candidate was nominated by petition.

(e) The following shall apply to the distribution of ballots:

1. For each eligible retired voter as defined within N.J.A.C. 17:4-6.3(a) there shall be forwarded to him or her a ballot which shall include the following information and instructions:

- i. The name of the eligible voter;
- ii. The closing date of the election;
- iii. The name of each candidate nominated and the name of his or her employer at retirement;
- iv. Instructions to the voter for the proper casting of the ballots shall be shown upon the ballot or on a separate sheet; and
- v. Instructions that the candidate receiving a plurality of the legal votes cast shall be declared elected to the position.

2. The ballot positions shall be determined by a drawing conducted at a time and place determined appropriate by the Secretary of the Board of Trustees. All candidates shall be invited to attend said drawing.

3. The ballots, together with postage-paid return envelopes, shall be distributed by the vendor selected to conduct the election.

4. The ballot will require the signature of the retired member identified upon it. Signatures on ballots or envelopes shall be assumed to be the signature of the voter unless challenged within 20 days of the closing of balloting.

5. The instructions shall also advise that the signatures identifying the voter shall be severed from the ballot before it is removed from the envelope, thus assuring a secret ballot.

6. Failure to sign a ballot or voting for more candidates than instructed will be cause for rejection of the ballot.

7. Mutilated ballots, illegible ballots, ballots with a write-in vote or multiple votes or any other ballot where it cannot be determined who the voters intended to vote for shall be declared invalid and cannot be considered.

8. The candidate receiving the highest number of legal votes shall be elected to that position.

9. The Secretary of the Board shall oversee the election procedure to ensure that the vendor complies with all of the requirements and assures the validity of the final election count.

10. The candidates whose names are printed upon the ballots shall be informed as to the method and the date of the counting of the ballots and shall be invited to be present or to be represented at the counting of the ballots.

(f) The following shall apply to biographical information:

1. An informational sheet of biographical information regarding each candidate shall be prepared by the Division of Pensions and Benefits. Information regarding each candidate shall be submitted by the candidate and the informational sheet shall be approved by the Board of Trustees.

2. The Secretary shall inform each candidate that a biography may be included with or upon the ballot and provide them with the opportunity to submit information regarding such material.

3. If not included upon the ballot, the biographical information shall be distributed to the eligible voters at the time of distribution of the ballots or otherwise distributed as approved by the Board of Trustees so that the members of the retirement system shall have reasonable opportunity to read and consider the biographical information regarding the candidates.

(g) The following shall apply to recount procedures:

1. Any candidate or member who shall have reason to believe that an error has been made in counting or declaring the vote may, within 20 days of the certification of the results of the election, request in writing that the Board of Trustees shall, at its next regular meeting or at a special meeting, hold a hearing to consider the request and determine whether or not a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such hearing, any member of the Board who is a candidate on the contested ballot shall not vote in the Board's decision on the request. Each candidate on the contested ballot shall be invited to attend the Board's meeting and may present evidence to support his or her ballots.

2. If a candidate or other interested party requests a recount with the prescribed time, this request shall be granted if a recount could possibly affect the results of the election. All ballots received shall then be recounted and the recount shall be supervised by the Election Board. The Election Board shall consist of three Board members appointed by the Chairman. The Election Board shall certify the results of the recount to the Board of Trustees. If a recount is not requested within 20 days, the ballots may be destroyed.

3. Upon election and the taking of an oath of office, a police and fire member-trustee shall serve for a term of four years. In the event that no member is certified as the winner of an election, the incumbent trustee shall serve until a successor is certified by the Board of Trustees.

New Rule, R.1997 d.28, effective January 21, 1997.
Sec: 28 N.J.R. 1605(b), 29 N.J.R. 376(a).

SUBCHAPTER 2. ENROLLMENT

17:4-2.1 Eligible positions

(a) All public employees actively employed in positions meeting the definition “police officer” or “firefighter” shall be members of the Police and Firemen’s Retirement System of New Jersey.

(b) The following words and terms, as used in this section and in N.J.S.A. 43:16A-1 et seq., shall have the following meanings:

1. “An agency authorized to establish physical and mental fitness requirements applicable to the position of municipal police officer” means the Police Training Commission established by N.J.S.A. 52:17B-70.

2. “Authorized to carry a firearm while engaged in the performance of his official duties” means so authorized by a statute. It is not required that an employee actually carry a firearm while engaged in official duties, but the employee shall be legally authorized and qualified to do so.

3. “Board of Trustees” or “Board” means the Board of Trustees of the Police and Firemen’s Retirement System established pursuant to N.J.S.A. 43:16A-13.

4. “Director” means the Director of the Division of Pensions and Benefits in the Department of the Treasury.

5. “Direct supervision” includes conducting performance evaluations, disciplining, adjusting grievances, rewarding, and assigning and directing the work of other employees.

6. “Employer” means the State of New Jersey or the county, municipality or political subdivision thereof which pays the particular police officer or firefighter.

7. “Firefighting unit” means a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

8. “Firefighter” shall have the meaning ascribed to that term by P.L. 1989, c.204 (N.J.S.A. 43:16A-1) as the same may be amended and supplemented from time to time.

9. “General supervision” means “direct supervision” of employees who perform “direct supervision” as defined by (b)5 above.

10. “Law enforcement unit” means any police force or organization in a municipality or county which has by statute or ordinance the responsibility of detecting crime and enforcing the criminal laws of this State.

11. “Police officer” shall have the meaning ascribed to that term by P.L. 1989, c.204 (N.J.S.A. 43:16A-1) as the same may be amended and supplemented from time to time.

12. “Police powers” means the statutory authority, under the appropriate circumstances in accordance with law, to arrest and detain and to control the actions of the public, or those individuals who come under the jurisdiction of the public employer’s jurisdiction.

13. “Position” means a job title.

14. “Retirement System” or “System” means the Police and Firemen’s Retirement System of New Jersey as defined in N.J.S.A. 43:16A-2.

(c) Determinations by the Director and the Board of whether an employee of a law enforcement unit or firefighting unit is an administrative employee with the meaning of the definitions of “police officer” or “firefighter” under the law and these rules shall be on a case-by-case basis. An employee may perform some administrative functions without being an administrative employee. In determining whether an employee is an administrative employee, the Board shall consider the following factors:

1. Whether and to what extent the employee is responsible for preparing or recommending budgets contracting for goods or services, processing employment actions, managing information systems, and the provision of administrative support;

2. Whether the administrative tasks performed by the employee are central to, rather than incidental to, the primary responsibilities of the employee; and

3. Whether the career path to become an administrative employee begins with or includes positions as non-administrative police officers or firefighters.

(d) Determinations by the Director and the Board of whether an employee of a law enforcement unit or firefighting unit is a supervisory employee within the meaning of the definitions of “police officer” or “firefighter” under the law and these rules shall be on a case-by-case basis. An employee may perform some supervisory functions without being a supervisor. In determining whether an employee is a supervisory employee, the Board shall consider the following factors:

1. Whether and to what extent the employee is responsible for conducting performance evaluations, disciplining, adjusting the grievances, rewarding, and assigning and directing the work of non-supervisory police officers or firefighters or effectively recommending such actions;

2. Whether the individual police officers or firefighters subject to some supervision by the employee have a primary supervisor other than the employee;

3. Whether the supervision performed by the employee is central to, rather than incidental to, the primary responsibilities of the employee; and

4. Whether the career path to become a supervisor begins with or includes positions as non-supervisory police officers or firefighters.