

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

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

Source and Effective Date

R.2006 d.130, effective March 10, 2006.
See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Chapter Expiration Date

Chapter 4, Police and Firemen's Retirement System, expires on March 10, 2011.

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 January 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).

Chapter 4, Police and Firemen's Retirement System, was readopted by R.2006 d.130, effective March 10, 2006. See: Source and Effective Date. See, also, section annotations.

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

(a) The Board of Trustees shall meet on the second 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.

Amended by R.2004 d.105, effective March 15, 2004.
See: 35 N.J.R. 5350(a), 36 N.J.R. 1359(a).

In (a), inserted "second Monday" for "third Monday".

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 election procedures as required by N.J.S.A. 43:16A-13 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 firefighter 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 eligible member through the certifying officer of each employing location. Only active members of the PFRS may vote in an election of member-trustee of the Board of Trustees of the PFRS.

(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 provided to each retired member requesting them after the Office of the Board Secretary verifies the retiree's eligibility to run for such election.

3. The nominating petition forms for retired member-trustees shall explain that a minimum of 100 retired members 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 or retirement number of each retired member. If the social security number or retirement 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 the election packets 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 the 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 eligible retired 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); or
- iii. Paper ballot (postage-paid, self seal return mailer).

2. 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.

3. 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.

4. Voting for more candidates than instructed will be cause for rejection of the ballot.

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

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

7. 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.

8. The candidates for election whose names are printed upon the ballots shall be invited to attend the presentation of the final results of the election.

(f) The following shall 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 eligible voters at the time of distribution of the election packets or otherwise distributed as approved by the Board of Trustees so that the retired members of the retirement system shall have reasonable opportunity to read and consider the biographical information regarding the candidates.

4. Endorsements are not permitted in the biographical information.

(g) 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 deemed to 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 invited to the presentation of the final results of the election.

(h) 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 beliefs.

2. If a candidate or other interested party requests a recount 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, 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.

(i) If there are at least two candidates in an election for retired member-trustee and the victorious candidate dies or is unable or unwilling to serve as such retired 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 retired member-trustee's term begins upon the taking of the oath of office.

New Rule, R.1997 d.28, effective January 21, 1997.
See: 28 N.J.R. 1605(b), 29 N.J.R. 376(a).
Amended by R.2004 d.27, effective January 20, 2004.

See: 35 N.J.R. 4456(a), 36 N.J.R. 439(a).

In (d), deleted "signature" following "100 retired members" in 3 and inserted "or retirement number" following "social security number" throughout 4; rewrote (e).

Amended by R.2005 d.231, effective July 18, 2005.

See: 37 N.J.R. 570(a), 37 N.J.R. 2686(a).

Rewrote the section.

SUBCHAPTER 2. ENROLLMENT

17:4-2.1 Eligible positions

(a) All public employees actively employed in positions meeting the statutory definition "police officer" or "fire-fighter" found at N.J.S.A. 43:16A-1(2)(a) and (b) shall be members of the Police and Firemen's Retirement System of New Jersey.

(b) The following words and terms, as used in this subchapter 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 (Division) 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 Trustees 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 Director and the Board of Trustees 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 Trustees 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 Director and the Board of Trustees 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.

(e) Employers shall not use the same job title for both individuals whose job functions meet the definition of "police officer" or "firefighter" and individuals whose job functions do not meet those definitions. In the event that the Board determines that an employee's primary duties qualify that employee as a "police officer" or "firefighter," but that employee holds a position held by other individuals whose primary duties do not qualify those employees as a police officer or firefighter, then the employer shall promptly take the necessary actions to create a new job title to ensure that the same job title is not used both for individuals whose job functions meet the definition of "police officer" or "firefighter" and individuals whose job functions do not meet those definitions.

(f) If an employee of a "law enforcement" or "firefighting unit" holds a position which has not been deemed eligible for inclusion in the Police and Firemen's Retirement System pursuant to P.L. 1989, c. 204 (N.J.S.A. 43:16A-1.2), and the employee or employer contends the duties of the position meet the definitions of police officer or firefighter as found in N.J.S.A. 43:16A-1 et seq., the employee or employer may submit a written request indicating why the position meets the above definitions. The appropriate documentation must accompany the request.

(g) The Director shall review the position and documentation to determine whether the duties and responsibilities of the position meet the definition of "police officer" or "firefighter." The Director shall then make a recommendation to the Board as to whether the position qualifies for inclusion in the Retirement System.

(h) If, after considering the recommendation of the Director, the Board determines that the employee meets the definition of "police officer" or "firefighter," the Board shall, prior to making a final determination, publish in the New Jersey Register a notice that it proposes to include the employee's position in the System. Interested parties shall be given at least 30 days to comment on the proposal.

(i) If, after considering the recommendation of the Director, the Board determines that the employee does not meet the definition of "police officer" or "firefighter," the employee shall be offered an opportunity for a hearing in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(j) If the employee requests a hearing, the Board shall publish in the New Jersey Register a notice that a hearing will be conducted on the application of the employee that the

employee's position be deemed to meet the definition of "police officer" or "firefighter" as the case may be, and that interested parties may seek to intervene in accordance with N.J.A.C. 1:1-16.

(k) Guidelines for fire districts that have not adopted the provisions of Title 11A of the New Jersey Statutes (non-civil service) are as follows:

1. A Board of Fire Commissioners created under the provisions of N.J.S.A. 40A:14-81 shall have the powers, duties and functions within said district to the same extent as in the case of municipalities, relating to the prevention and extinguishment of fires and the regulation of fire hazards.

2. When establishing an eligible position for the PFRS, the commissioners must comply with the employment guidelines stated in N.J.S.A. 40A:14-81.1, excerpted below:

- i. The position must be established by resolution;
- ii. The appointment of persons to the position, determination of the term and compensation and prescribed functions and duties of the position must also be established by resolution; and
- iii. The resolution must be published at least once in a substantial newspaper in the district.

(l) To determine the eligibility for fire positions for employers with an established firefighting unit that have not adopted the provisions of Title 11A of the New Jersey Statutes (non-civil service) for membership in the PFRS, the Board requires the following items:

1. A description of the physical and mental requirements for the position;
2. A description of the training requirements including, but not limited to, the Fire Fighter's I certification issued by the Division of Fire Safety, Department of Community Affairs;
3. A table of organization for the firefighting unit, which includes names and positions;
4. A list of employees currently in the position, with present pension status and job title;
5. Proof of compliance with the provisions of N.J.S.A. 40A:14-81.1 and a copy of the resolution or ordinance which established the position;
6. Statutory reference, which provides the firefighting unit with the authority for the control and extinguishment of fires; and
7. An official job description which outlines the duties and responsibilities of the position.

(m) To determine the eligibility for fire positions for employers with an established firefighting unit that have adopted

the provisions of Title 11A of the New Jersey Statutes (civil service), the Board requires the following items:

1. A description of the physical and mental requirements for the position;
2. A description of the training requirements including, but not limited to, the Fire Fighter's I certification issued by the Division of Fire Safety, Department of Community Affairs;
3. A table of organization for the firefighting unit, which includes names and positions;
4. A list of employees currently in the position, with present pension status and job title;
5. Statutory reference, which provides the firefighting unit with the authority for the control and extinguishment of fires; and
6. An official job description which outlines the duties and responsibilities of the position.

(n) To determine the eligibility for police positions for employers with an established law enforcement unit that have not adopted the provisions of Title 11A of the New Jersey Statutes (non-civil service), the Board requires the following items:

1. Statutory reference which provides the law enforcement unit with the authority of detecting crime and enforcing the general criminal laws;
2. Statutory reference authorizing carrying a firearm in the performance of duty;
3. Statutory reference to the police training requirement or Police Commission Training (PCT); and
4. Statutory reference that the holder of the position has police powers.

Repeal and New Rule, R.1996 d.463, effective October 7, 1996.

See: 28 N.J.R. 2512 (a), 28 N.J.R. 4508(b).

Section was "Policeman and fireman defined".

Public Notice: Forest Fire Observer (State-Civil Service).

See: 31 N.J.R. 905(c).

Public Notice: Fire Official/Fire Protection Subcode Official UFD (Municipal-Civil Service), Chief Bureau of Law Enforcement Environmental Protection (State-Civil Service), Fire Fighter (Washington Township), Fire Fighter/Fire Inspector (Washington Township), Fire Fighter/Fire Apparatus Mechanic (Washington Township), Fire Fighter/Chief Maintenance Mechanic (Washington Township) and Fire Chief (Washington Township).

See: 31 N.J.R. 1388(a).

Public Notice: Supervising Parole Officer (State Civil Service), Assistant Director Parole Supervisor (State Civil Service) and District Parole Supervisor (State Civil Service).

See: 31 N.J.R. 1643(b).

Public Notice: Investigator Secured Facilities—Juvenile Justice Commission, Senior Investigator Secured Facilities—Juvenile Justice Commission, Principal Investigator Secured Facilities—Juvenile Justice Commission, Assistant Chief Investigator Secured Facilities—Juvenile Justice Commission and Chief Investigator Secured Facilities—Juvenile Justice Commission.

See: 31 N.J.R. 3538(b).

Public Notice: Police Officer Bilingual Spanish/English Municipal, Police Officer Bilingual Spanish/English County, Police Officer

Bilingual Korean/English Municipal and Police Officer Bilingual Korean/English County.

See: 31 N.J.R. 3539(a).

Public Notice: Correction Officer Recruit/Bilingual Spanish/English, Parole Officer Recruit/Bilingual Spanish/English and Senior Parole Officer/Bilingual Spanish/English.

See: 31 N.J.R. 3539(b).

Public Notice: Parole Officer Recruit—Bilingual Spanish/English Juvenile Justice Commission and Senior Parole Officer Bilingual Spanish/English Juvenile Justice Commission.

See: 31 N.J.R. 3539(c).

Public Notice: Police Sergeant Bilingual Spanish/English—Municipal, Police Sergeant Bilingual Spanish/English—County, Police Lieutenant Bilingual Spanish/English—Municipal and Police Lieutenant Bilingual Spanish/English—County.

See: 31 N.J.R. 4132(a).

Public Notice: Fire Officer 1-County, Fire Officer 1-Municipal, Fire Officer 2-County, Fire Officer 2-Municipal, Fire Officer 3-County, Fire Officer 3-Municipal, Fire Officer 4-County, Fire Officer 4-Municipal.

See: 32 N.J.R. 2262(a).

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

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

Created neutral gender references throughout; added new (k) and (l).

Public Notice: Sheriff's Officer, Bilingual.

See: 34 N.J.R. 2473(b).

Public Notice: District Fire Captain (Washington Twp.), District Fire Captain/Training Officer (Washington Twp.), Assistant Fire Chief (Livingston).

See: 34 N.J.R. 3545(b).

Public Notice: Senior Emergency Services Specialist (Hopewell Twp.).

See: 35 N.J.R. 1596(d).

Public Notice: Correction Officers and Sheriff's Officers, Somerset County.

See: 35 N.J.R. 2533(c).

Public Notice: Notice of proposal to include the civil service positions in the Police and Firemen's Retirement System.

See: 35 N.J.R. 2958(a), 2958(b).

Public Notice: Police Chief, Police Lieutenant, Police Sergeant, Police Officer, Palisades Interstate Park Commission.

See: 35 N.J.R. 4148(b).

Public Notice: Chief, Fire Apparatus (UFD).

See: 35 N.J.R. 5450(b).

Public Notice: Police Chief, Brookdale Community College.

See: 35 N.J.R. 5451(a).

Public Notice: Detective, Waterfront Commission of New York Harbor.

See: 36 N.J.R. 1245(a).

Public Notice: Notice of Proposal to Include the Non-Civil Service Positions of Assistant Chief, Firefighter/Emergency Medical Technician, and Firefighter/Emergency Medical Technician/Inspector in the Police and Firemen's Retirement System.

See: 37 N.J.R. 4478(b).

Public Notice: Notice of Proposal to Include the Civil Service Positions of Ranger, Ranger Sergeant, Ranger Lieutenant, and Chief of Parks and Law Enforcement in the Police and Firemen's Retirement System.

See: 37 N.J.R. 4479(a).

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (a), added "statutory" and statutory citation; in introductory paragraph (b), substituted "subchapter" for "section"; in (b)4, inserted "(Division)"; in introductory paragraphs (c) and (d), inserted "Trustees" following "Board of", and in the last sentence, substituted "Director and the Board of Trustees" for "Board"; rewrote (f), (g) and (l); added (l)6 and 7; and added (m) and (n).

Public Notice: Notice of Proposal to Include Non Civil Service Position of Fire Official/Firefighter in the Police and Firemen's Retirement System.

See: 38 N.J.R. 1774(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Firefighter/Inspector in the Police and Firemen's Retirement System.

See: 38 N.J.R. 3329(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Lieutenant Public Safety in the Police and Fireman's Retirement System.

See: 38 N.J.R. 4763(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Firefighter/Driver in the Police and Firemen's Retirement System.

See: 39 N.J.R. 1535(a).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Assistant Fire Chief in the Police and Firemen's Retirement System.

See: 39 N.J.R. 2664(c).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Chief Fire Inspector and Fire Inspector in the Police and Firemen's Retirement System.

See: 39 N.J.R. 4004(c).

Public Notice: Notice of Proposal Not to Include the Civil Service Municipal Positions of Arson Investigator and Senior Arson Investigator in the Police and Firemen's Retirement System.

See: 40 N.J.R. 5079(a).

Public Notice: Notice of Proposal to Include the Civil Service State Position of Police Officer Recruit, Human Services in the Police and Firemen's Retirement System.

See: 40 N.J.R. 5080(a).

17:4-2.2 Compulsory enrollment

Membership in the Police and Firemen's Retirement System of New Jersey is mandatory, a condition of employment for every "police officer" or "firefighter" under the provisions of N.J.S.A. 43:16A-1 et seq.

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.

Case Notes

As a firefighter, age 38, was hired under the mistaken belief that his service in the military and as a police officer would enable him to meet N.J.S.A. 40A:14-12's age limit for firefighters (age 35), and the firefighter, acting in good faith and reasonably, left other employment to accept the position, the Board of Trustees of the New Jersey Police and Firemen's Retirement System (PFRS) had to consider whether the firefighter could enroll in PFRS on equitable grounds despite the age limit of 35 set out in N.J.S.A. 43:16A-3 and N.J.A.C. 17:4-2.5. *Sellers v. Board of Trs. of the Police & Firemen's Ret. Sys.*, 399 N.J. Super. 51, 942 A.2d 870, 2008 N.J. Super. LEXIS 62 (App.Div. 2008).

17:4-2.3 Medical requirements

The employer must furnish evidence of good health sufficient to satisfy the Board of Trustees. If the Division or the Board has a question regarding the evidence of good health provided, the Division or Board may request that the applicant be examined by an independent physician designated to conduct such an examination for 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).

Added (a)3.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Rewrote the section.

17:4-2.4 (Reserved)**17:4-2.5 Age requirements**

(a) Applicants must be appointed to an eligible title on or prior to their 35th birthday.

(b) The age of candidates for positions covered by the Police and Firemen's Retirement System with employers who have adopted the provisions of Title 11A of the New Jersey Statutes (Civil Service) is determined at the announced closing date of the examination offered by the Department of Personnel for those positions. Candidates must not be one day past the date of their 35th birthday on the announced closing date of the examination. Those candidates meeting the age requirements at that time will be considered as having met the age maximum requirement for the duration of the list promulgated as a result of such examination. (N.J.S.A. 43:16A-3(1))

(c) N.J.S.A. 38:23A-1 et seq. is recognized as a modification of the age maximum for certain "veterans." Persons having served in the active military service of the United States during "time of war" and conflict as defined in N.J.S.A. 43:16A-11.7 can for the purpose of meeting the maximum age requirement for entrance into this retirement system reduce their actual age by the stipulated period of such military service. Should this reduced age meet the age maximum in effect, the applicant will be considered as having met the age maximum for enrollment.

(d) The period of time to be deducted from an individual's age is limited to actual time served during the war or conflict. Earlier or later periods of military service cannot be used to reduce individuals' ages so as to enable them to meet any maximum age limits.

(e) Any active military service terminating in dishonorable discharge is not creditable.

(f) An applicant is permitted to reduce their actual age in order to meet the maximum age requirement of 35 years for the position of municipal police officer if, in accordance with N.J.S.A. 40A:14-127.1, they have previous service as a former State trooper, sheriff's officer or deputy, or county or municipal police officer. Prior experience in Federal law enforcement agencies or in law enforcement agencies of other states that would meet the requirements of police officer in New Jersey would also qualify for the purpose of reducing the candidate's age for the position of a municipal police officer. "Age reductions" may also be granted for persons seeking employment as municipal police officers who have prior service with the Delaware River Port Authority Police, Amtrak or South Eastern Pennsylvania Transportation Authority (SEPTA) police departments. No person may be appointed over the age of 45 except for those who were previously involuntarily terminated from their former law enforcement officer employment.

(g) Individuals seeking employment with a municipality in an eligible PFRS title who are over age 35 on the closing date

of the examination with a Civil Service employer or over age 35 on the date of hire with a non-Civil Service employer, even after "reductions in age" have been taken into account, cannot establish membership in any State-administered retirement system. Since enrollment in the PFRS is a condition of employment (N.J.S.A. 43:16A-3(1)), these individuals cannot be hired.

(h) Municipal statutes provide that in some situations volunteer and exempt fire fighters in municipalities may be appointed to full-time fire fighter positions if they are not over 40 years of age at the time of their appointments. This proper appointment of someone who is past their 35th birthday to a municipal fire department does not negate the eligibility requirement that someone not be past their 35th birthday to be enrolled in the PFRS. Therefore, any appointees under this provision are required to enroll in the Public Employees' Retirement System.

Amended by R.2000 d.292, effective July 17, 2000.
See: 32 N.J.R. 1320(a), 32 N.J.R. 2599(a).

Rewrote (c) and (d); and recodified former (d)3 as (e).
Amended by R.2003 d.204, effective May 19, 2003.
See: 35 N.J.R. 508(a), 35 N.J.R. 2186(a).

Rewrote (b).
Amended by R.2006 d.130, effective April 3, 2006.
See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Added (f)-(h).

Case Notes

As a firefighter, age 38, was hired under the mistaken belief that his service in the military and as a police officer would enable him to meet N.J.S.A. 40A:14-12's age limit for firefighters (age 35), and the firefighter, acting in good faith and reasonably, left other employment to accept the position, the Board of Trustees of the New Jersey Police and Firemen's Retirement System (PFRS) had to consider whether the firefighter could enroll in PFRS on equitable grounds despite the age limit of 35 set out in N.J.S.A. 43:16A-3 and N.J.A.C. 17:4-2.5. *Sellers v. Board of Trs. of the Police & Firemen's Ret. Sys.*, 399 N.J. Super. 51, 942 A.2d 870, 2008 N.J. Super. LEXIS 62 (App.Div. 2008).

17:4-2.6 Enrollment date

(a) An employee who is appointed to a permanent position from a civil service list shall be considered as having begun eligibility for enrollment on the date of regular appointment.

1. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month of regular appointment for an employee whose regular appointment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an employee whose regular appointment date falls between the 17th and the end of the month.

2. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period of regular appointment for an employee whose appointment date falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following

biweekly pay period for an employee whose appointment date falls on any subsequent date within that pay period.

(b) An employee in the unclassified service shall be considered as beginning service on the date employment began. The compulsory enrollment date shall be fixed as the first of the month of hire for an appointee whose beginning employment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose beginning employment date falls between the 17th and the end of the month.

(c) For local employers not covered by civil service, a regular appointment shall constitute the date the employee originally accepted employment in a regular budgeted position.

1. For local employers not covered by civil service who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month of hire for an

employee whose beginning employment date falls between the first through 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an employee whose beginning employment date falls between the 17th and the end of the month.

2. For local employers not covered by civil service who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period of hire for an employee whose date of hire falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose date of hire falls on any subsequent date within that pay period.

(d) An employee of a civil service employer who is not permanent in a classified position or an employee of a non-civil service employer who is not in a regular budgeted position may be considered a temporary employee by the

employer for the one-year period following the employee's date of hire, but if the employment continues into a second year, the employee will be required to enroll immediately in the Public Employees' Retirement System pursuant to the provisions of N.J.A.C. 17:2-2.8.

(e) An employee cannot receive or purchase credit in the Retirement System for the initial pay period or month of employment if that employment began after the seventh day of the pay period or after the 16th day of the month.

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.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Added (e).

Case Notes

Police officer, who began his employment in a federally-supported position in 1978, was not entitled to enrollment in the Police and Firemen's Retirement System until 1981, when he became a permanent employee in a position funded by state or local revenues. Although the employer was not required to pay any portion of the cost of purchasing enrollment credit for the officer's federally-funded or provisional period of employment, the employee himself was permitted to do so at the rate established in N.J.S.A. 43:16A-11.4. In re Dennis, 385 N.J. Super. 369, 897 A.2d 399, 2006 N.J. Super. LEXIS 140 (App.Div. 2006).

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:4-3.1 Computation of insurance benefits

(a) Full salary credit will be given for the month or biweekly pay period in which a member dies, if the member was paid salary to date of death and the salary paid was sufficient to permit a full normal month's or biweekly pension deduction.

(b) Death benefits and noncontributory insurance benefits shall be based on the base salary upon which contributions to the Annuity Savings Fund were actually made during the 12 months or 26 biweekly pay periods immediately preceding the member's death. Months or pay periods in which no salary was paid shall not be used in the calculation.

(c) If a member dies during the first year following the date of enrollment, the insurance benefit shall be 3½ times the member's base salary on which the member contributed or would have contributed immediately prior to death.

(d) Where a post-audit of insurance claim payments indicates the pension contributions reported by an employer were incorrect and resulted in the underpayment of an insurance claim to a member's designated beneficiary or estate, an additional check would be sent to the beneficiary for the value of the underpayment.

(e) If a deceased member does not have an eligible surviving spouse, child or parent, then refunds of a deceased

member's pension contributions will be made to the member's designated beneficiary.

(f) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary; such adjustment will compensate for State biweekly payroll schedules.

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.

17:4-3.2 Leave for illness

Coverage during a leave of absence without pay due to illness shall apply only to the personal illness of the member. A leave of absence on account of another person's illness will not entitle the member to continued insurance coverage.

17:4-3.3 (Reserved)

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

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

Section was "Proof of insurability".

17:4-3.4 Survivor benefits

(a) Eligible survivors shall become entitled to benefits on the first day of the month following the member's death. The pension payment shall begin on the first of the month following the survivor's eligibility for benefits date. Survivor benefits shall terminate as of the last day of the month in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who dies in the performance of duty (accidental death), eligible survivors shall be entitled to benefits on the first day of the month following the member's death. The pension payment shall begin on the first of the month following the survivor's eligibility for benefits date. Survivor benefits shall terminate as of the last day of the month in which the survivor no longer qualifies for such benefits.

Amended by R.2001 d.41, effective February 5, 2001.

See: 32 N.J.R. 3554(b), 33 N.J.R. 568(b).

Rewrote the section.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Designated former section as (a); added (b).

17:4-3.5 Beneficiary designation; pension contributions

(a) Only a primary and a contingent designation of beneficiary may be made by the member for the payment of the active member's accumulated pension contributions.

(b) A retiree cannot designate a primary or a contingent beneficiary for the receipt of the retiree's accumulated pension contributions in the event of the retiree's death.

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

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

Neutralized gender reference.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Designated former section as (a), added "active" preceding "member's"; and added (b).

17:4-3.6 Acceptable designations of beneficiaries

(a) A member's designation of beneficiary or beneficiaries of group life insurance on a duly executed retirement application:

1. Is effective upon filing with and acceptance by the Division, even if the retirement date on the application is in the future or the member withdraws the retirement application; and

2. Supersedes any previous beneficiary designation on file.

(b) If a deceased member has an eligible surviving spouse, child or parent, then the deceased member's aggregate contributions at the time of death shall be applied toward the payment of the benefit established at N.J.S.A. 43:16A-9(1).

(c) If a deceased member has no eligible surviving spouse, child or parent, then pursuant to N.J.S.A. 43:16A-9(2), the deceased member's designated beneficiary or beneficiaries of group life insurance also shall be the beneficiary or beneficiaries of the deceased member's aggregate contributions at the time of death.

(d) If a deceased member has no eligible surviving spouse, child or parent, and the deceased member has not made an effective designation of beneficiary or has designated no beneficiary for group life insurance, then the Division shall pay the group life insurance and the deceased member's aggregate contributions to the deceased member's estate.

New Rule, R.2000 d.388, effective October 2, 2000.

See: 32 N.J.R. 2216(a), 32 N.J.R. 3581(a).

17:4-3.7 Survivor benefits; establishing dependency

(a) Proof of dependency shall be established by the filing of an affidavit of dependency, supported by the deceased and the claimant's income tax returns, for the period immediately preceding the death or accident.

(b) A parent will be deemed to be dependent on the member if they were accepted as dependents of the member for Federal income tax purposes.

Recodified from N.J.A.C. 17:4-1.10 and amended by R.2001 d.66, effective February 20, 2001.

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

In (b), deleted "widower or" preceding "parent" and the second sentence.

SUBCHAPTER 4. MEMBERSHIP

17:4-4.1 Creditable compensation

(a) The compensation of a member subject to pension contributions and creditable for retirement and death benefits in the system shall be limited to base salary, and shall not include extra compensation.

1. "Base salary" means the annual compensation of a member, in accordance with established salary policies of the member's employer for all employees in the same position, or all employees covered by the same collective bargaining agreement, which is paid in regular, periodic installments in accordance with the payroll cycle of the employer.

2. "Extra compensation" means individual salary adjustments which are granted primarily in anticipation of a member's retirement or as additional remuneration for performing temporary duties beyond the regular workday. Forms of compensation that have been identified as extra compensation include, but are not limited to:

- i. Overtime;
- ii. Pay for extra work, duty or service beyond the normal work day or normal duty assignments;
- iii. Bonuses;
- iv. Lump-sum payments for longevity, holiday pay, vacation, compensatory time, accumulated sick leave, or any other purpose;
- v. Any compensation which the employee or employer has the option of including in base salary;
- vi. Sell-backs, trade-ins, waivers, or voluntary returns of accumulated sick leave, holiday pay, vacation, overtime, compensatory time, or any other payment or benefit in return for an increase in base salary;
- vii. Individual retroactive salary adjustments where no sufficient justification is provided that the adjustment was granted primarily for a reason other than retirement;
- viii. Individual adjustments to place a member at the maximum of his or her salary range in the final year of service where no sufficient justification is provided that the adjustment was granted primarily for a reason other than retirement;
- ix. Increments or adjustments granted for retirement credit;
- x. Increments or adjustments in recognition of the member's forthcoming retirement;
- xi. Any form of compensation which is not included in the base salary of all employees in the same position or covered by the same collective bargaining agreement or employment policy who are members of the retirement system and who receive the compensation;

xii. Retroactive increments or adjustments made at or near the end of a member's service, unless the adjustment was the result of an across-the-board adjustment for all similarly situated personnel; and

xiii. Any form of compensation which is not included in a member's base salary during some of the member's

(e) It is the responsibility of the certifying officer to provide a letter attesting to the base salary or salaries to be used to compute pension contributions and to provide a copy of the resolution or legal document that details the terms of the settlement.

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

Neutralized gender references throughout.

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

Section was "Military leave".

Recodified from N.J.A.C. 17:4-6.6 and amended by R.2004 d.410, effective November 1, 2004.

See: 36 N.J.R. 622(a), 36 N.J.R. 4953(a).

Rewrote the section.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (a), substituted "Retirement System" for "system"; in (d), added "or settlement" throughout, following NJAC cite, deleted "the member shall have the contributions for the salaries based on the award refunded without interest, and", and added "and the member shall have the pension contributions for the salaries found not to be creditable refunded without interest".

17:4-4.9 Eligibility for loan

Only active contributing members of the Retirement System may exercise the privilege of obtaining a loan. The member's total outstanding loan balance shall not exceed the lesser of either 50 percent of the accumulated deductions posted to the member's account or \$50,000. The loan is subject to 26 U.S.C. §72(p).

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.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Added "Retirement", "the lesser of either" and "or \$50,000. The loan is subject to 26 U.S.C. §72(p)".

17:4-4.10 Termination; withdrawal

(a) Under the terms of the statutes, a member may withdraw from the System only if the member terminates all employment.

(b) No application shall be approved if:

1. The member is on official leave of absence;
2. The member or employer certifies that employment has not ended or that the member has taken another position subject to coverage;
3. The member has been dismissed or suspended from employment. In this event, such a member will be eligible to withdraw if the member has formally resigned from the position and there is no legal action contemplated or pending and the dismissal has been adjudged final. If the member or employer does not advise the Division that there is an appeal and the withdrawal application is processed, the member must repay the Retirement System the full amount of contributions with interest before the account may be reinstated; or

4. The member has a claim pending for Workers' Compensation benefits, unless the member signs a waiver indicating that the member still wishes to withdraw.

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

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

Created gender neutral references throughout.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (b)2, added "or employer"; in (b)3, substituted "and" for "or" and added ". If the member or employer does not advise the Division that there is an appeal and the withdrawal application is processed, the member must repay the Retirement System the full amount of contributions with interest before the account may be reinstated"; in (b)4, added ", unless the member signs a waiver indicating that the member still wishes to withdraw".

17:4-4.11 Active employment; membership requirement

All employees, otherwise eligible, who are not actively employed on the date of their enrollment, will not be covered by the group life insurance program until the day they return to service.

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

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

Added "the day" preceding "they return to service."

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:4-5.1 Eligibility for purchase

(a) Only active members of the System shall be eligible to make application for the purchase of credit. Active members who are not currently contributing to the Retirement System must purchase their requested service in a lump sum.

(b) In order to be eligible to purchase service, a member must submit a written request to purchase such service and such purchase must be authorized by the member before the expiration date indicated on the quotation letter.

(c) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. Therefore, the Board of Trustees shall disallow the purchase of all or a portion of former service it deems to be dishonorable in accordance with N.J.S.A. 43:1-3.

Amended by R.2000 d.294, effective July 17, 2000.

See: 32 N.J.R. 1321(a), 32 N.J.R. 2600(a).

Rewrote (a) and (b); and added (c).

17:4-5.2 Service credited from multiple positions

Not more than one year of service shall be credited for all service in a calendar year. A member is credited with one month of service for one month worked, regardless of how many different employers he or she had in that month.

New Rule, R.2005 d.118, effective April 18, 2005.

See: 37 N.J.R. 39(a), 37 N.J.R. 1217(a).
Amended by R.2006 d.130, effective April 3, 2006.
See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).
Added the last sentence.

17:4-5.3 Optional purchases of eligible service

(a) A shared-cost purchase is one in which the member pays only the employee's share and not the employer's share of the purchase. A member may purchase all or a portion of such eligible service. A shared-cost purchase will be calculated on the basis of the actuarial purchase factor established for the member's age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The following types of purchases are shared-cost purchases:

1. Former membership credit with a New Jersey State-administered retirement system and any service which would have been eligible for purchase under that membership;
2. Former service with any other employer that was not certified for membership but which would have qualified on an optional or compulsory basis at the time the service was rendered;
3. Continuous temporary service as a police officer or firefighter immediately preceding enrollment. "Special Police" service and time attending the Police Academy or Firefighter training cannot be purchased;
4. Leaves of absence without pay:
 - i. The period of the leave for personal reasons which does not exceed 93 days. Childcare is considered leave for personal reasons.
 - ii. The period of the leave up to two years for personal illness. The Division may require proof from the employer that the illness existed for the length of the leave;
5. Eligible out-of-State public employment, up to a total purchase of 10 years. Out-of-State service cannot be used to qualify for an ordinary disability retirement.

(b) The types of purchases indicated in (b)1 through 5 below are considered to be full-cost purchases. A member may purchase all or a portion of such eligible service. The lump sum purchase cost shall be calculated on the basis of the actuarial purchase factor established for the member's nearest age at the time of the purchase request times the higher of either the member's current actual base salary or highest fiscal year base salary. The computed lump sum purchase cost shall then be doubled to establish the full cost to the member. This cost is calculated in this manner as N.J.S.A. 43:16A-11.9, 11.11 and 11.12 provide that the employer shall not be liable for any costs of purchasing this service; therefore, the member must pay both the employee and employer share.

1. Active duty military service prior to enrollment. Active military service that is eligible for purchase means full-time duty in the active military service of the United States. Such term includes full-time training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. It does not include periods of service of less than 30 days. It does not include weekend drills or annual summer training of a national guard or reserve unit, nor does it include periods when the member was on-call. It also does not include time spent in the Reserved Officers Training Corps or as a cadet or midshipmen at one of the service academies. Military service before enrollment cannot be used to qualify for an ordinary disability retirement;

2. Employment with the Federal government. United States government service cannot be used to qualify for an ordinary disability retirement;

3. Service established under a local municipal or county retirement system within the State of New Jersey;

4. Up to three years of service established for certain periods of employment with public agencies or private non-profit agencies pursuant to N.J.S.A. 43:16A-11.9;

5. Up to three years of service credit for police members who were laid off in good standing and not by removal for cause or charges of misconduct or delinquency from employment in police service positions and subsequently rehired in PFRS police service positions in accordance with P.L. 1999, c.338, N.J.S.A. 43:16A-11.13 or up to three years of service credit for firefighter members who were laid off in good standing and not by removal for cause or charges of misconduct or delinquency from employment in firefighter positions and subsequently rehired in PFRS firefighter positions in accordance with P.L. 2001, c.228. The purchase cost is based on the actuarial purchase factor established for the member's nearest age at the time of the purchase request and the member's salary during the 12 months preceding the layoff. The computed lump sum purchase cost will then be doubled to establish the full cost to the member.

(c) A member shall be eligible to purchase an aggregate of up to 10 years of out-of-State public employment, military service and Federal employment provided that the member is not receiving nor is entitled to receive a retirement allowance for such service from any other public retirement system and provides proof to the Division of Pensions and Benefits that the member has withdrawn from such other system. A qualified veteran shall be eligible to purchase an additional five years of military service rendered during periods of war for an aggregate of 15 years of such service.

Repeal and New Rule, R.2000 d.294, effective July 17, 2000.
See: 32 N.J.R. 1321(a), 32 N.J.R. 2600(a).

Section was "Optional purchases of eligible service".
Amended by R.2001 d.394, effective November 5, 2001.
See: 33 N.J.R. 2254(a), 33 N.J.R. 3756(b).

In (a)1, inserted "New Jersey" preceding "State-administered" and added "and any service which would have been eligible for purchase under that membership"; in (b)5, deleted "officer" preceding "members" and substituted "in police service positions" for "as police officers", and also added a credit reference for firefighters for three years who were laid off in good standing.

Amended by R.2005 d.118, effective April 18, 2005.

See: 37 N.J.R. 39(a), 37 N.J.R. 1217(a).

In (a), inserted "from the employer" following "The Division may require proof" in 4ii; in (b), rewrote 1.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (a)3, added "and time attending the Police Academy or Firefighter training".

17:4-5.4 Methods of payment

(a) Methods of payment include:

1. Lump sum;
2. Partial lump sum; balance by extra payroll deductions;
3. Extra deductions equal to at least one-half of the full regular pension deduction for a maximum period of 10 years;
4. Direct rollover/trustee-to-trustee transfer of funds: Lump sum payments and partial lump sum payments can include the direct rollover or transfer of tax-deferred contributions from financial plans that qualify under terms specified by the Internal Revenue Service. All payments remitted to the Division must be accompanied by properly completed forms as specified by the Division. Checks remitted to the Division without the required forms shall be returned to the member. A lump sum rollover payment for a purchase cannot exceed the lump sum cost of that purchase. Checks in an amount greater than the lump sum cost of the purchase shall be returned to the member.

(b) Extra payroll deduction will include regular interest for the term of the installment.

Amended by R.2001 d.393, effective November 5, 2001.

See: 33 N.J.R. 2612(a), 33 N.J.R. 3757(a).

In (a)2, deleted "of \$250.00 or more".

Amended by R.2005 d.118, effective April 18, 2005.

See: 37 N.J.R. 39(a), 37 N.J.R. 1217(a).

In (a), substituted "payment" for "repayment" in the introductory paragraph, added a new 4, and recodified former 4 as (b).

17:4-5.5 Reinstatement of membership credit

(a) A member, whose account has been terminated by the withdrawal of contributions from the Annuity Savings Fund or whose account has been terminated because of a two-year lapse in contribution, may be reinstated to the System under the provisions of Chapter 199, P.L. 1967 (N.J.S.A. 11A:4-9), Chapter 303, P.L. 1969 (N.J.S.A. 40:47-11.1 and 11.2), or Chapter 439, P.L. 1981 (N.J.S.A. 11A:4-9), provided that the member meets the requirements of the System other than the age maximum:

1. A member reinstated under Chapter 303, P.L. 1969 (N.J.S.A. 40:47-11.1 and 11.2), shall purchase the previous

credit the member had established in the Police and Firemen's Retirement System at enrollment. The cost of purchasing the previous credit will be determined using the formula for calculating shared-cost purchases found at N.J.A.C. 17:4-5.3(a).

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.

17:4-5.6 Elected officials; continuation of membership

Any member accepting an elective position may continue membership and contribute on the salary being received as an elected official as long as the member holds elective office and remains a member of 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).

Deleted "at his or her current rate of contribution" preceding "on the salary" and neutralized gender references throughout.

17:4-5.7 (Reserved)

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

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

Section was "Lump-sum purchases".

SUBCHAPTER 6. RETIREMENT

17:4-6.1 Applications

(a) Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division of Pensions and Benefits (Division) on or before the requested date of retirement. A member's retirement application becomes effective on the first of the month following receipt of the application unless a future date is requested.

(b) In the event a member files an incomplete application, the deficiencies shall be brought to the member's attention and the member shall be required to file a completed application with the Division to enable processing.

(c) Before an application for retirement may be processed, the Division must receive proof of the member's age, if none is already in the member's record, and a completed Certification of Service and Final Salary form from the employer setting forth the employment termination date and the salaries reported for contributions in the member's final year of employment.

(d) In addition to the requirements in (a) through (c) above:

1. An application for a physical disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other in the form of either hospital records supporting the disability or a report from a second physician; and

2. An application for a mental health medical disability retirement must be supported by at least two medical reports, one by the member's personal or attending psychiatrist or psychologist and the other in the form of either hospital records supporting the disability or a report from a second psychiatrist or psychologist or from the member's personal or attending physician or licensed clinical social worker.

(e) If a member's previous retirement allowance has been cancelled due to the member's return to employment and re-enrollment in the Retirement System pursuant to the provisions of N.J.S.A. 43:16A-15.3, a new retirement application must be filed with the Division in accordance with (a) through (d) above. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check.

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.

Amended by R.2007 d.12, effective January 16, 2007.
See: 38 N.J.R. 3284(a), 39 N.J.R. 237(b).

In the introductory paragraph of (d), substituted a colon for “, an”; in (d), inserted designation 1; in (d)1, inserted “An” and “a physical”, and substituted “; and” for a period at the end; and added (d)2.

Case Notes

Retired firefighter not entitled to benefits for period prior to Retirement System's receipt of retirement application. *Sheren v. PFRS*, 96 N.J.A.R.2d (TYP) 64.

17:4-6.2 Effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or one month after the date of the retirement, whichever is later.

Recodified from N.J.A.C. 17:4-6.3 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 the section. Former N.J.A.C. 17:4-6.2, Effective dates; changes, recodified to N.J.A.C. 17:4-6.3.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Section heading was “Effective date; death prior thereto”.

Case Notes

Police sergeant's right to cancel his retirement under pension regulations does not entitle him to immediate reemployment, which, instead, is controlled by priorities promulgated by civil service laws and regulations. Therefore, a trial court erred in granting the sergeant partial summary judgment in his suit asserting damages for a city's refusal to rehire him after he cancelled his retirement and sought reemployment in his former position, which had already been filled by the city. *Klawitter v. City of Trenton*, 395 N.J. Super. 302, 928 A.2d 900, 2007 N.J. Super. LEXIS 280 (App.Div. 2007).

17:4-6.3 Effective dates; changes

(a) Except as provided by N.J.A.C. 17:4-6.7, a member shall have the right to withdraw, cancel or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter, the retirement shall stand as approved by the Board.

(b) Except in the event of deferred retirement, if a member requests a change in the retirement application before the retirement allowance becomes due and payable, said change will require approval of the Board and the revised retirement allowance shall not become due and payable until one month has elapsed following the effective date or 30 days after the date the Board met and approved the change in the member's retirement application, whichever is later.

(c) A deferred retirement shall become effective on the first of the month following the member's 55th birthday. If the member's 55th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:16A-11.2 and requests that retirement date.

(d) In the case of deferred retirement, if an applicant desires to amend the retirement application, the amended application must be filed with the Division a minimum of one month prior to the effective date of retirement.

(e) Should the member continue to receive a salary beyond the effective date of retirement after approval of the retirement by the Board of Trustees, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the approved, effective date of retirement. This restriction also applies to payments of accrued sick or vacation time that is paid in periodic payments on the employer's regular payroll schedule.

Recodified from N.J.A.C. 17:4-6.2 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 the section. Former N.J.A.C. 17:4-6.3, Effective date; death prior thereto, recodified to N.J.A.C. 17:4-6.2.

Amended by R.2005 d.232, effective July 18, 2005.

See: 37 N.J.R. 573(a), 37 N.J.R. 2687(a).

In (a), substituted “Except as provided by N.J.A.C. 17:4-6.7, a” for “A”; rewrote (e).

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (e), added the last sentence.

Case Notes

Police sergeant's right to cancel his retirement under pension regulations does not entitle him to immediate reemployment, which, instead, is controlled by priorities promulgated by civil service laws and regulations. Therefore, a trial court erred in granting the sergeant partial summary judgment in his suit asserting damages for a city's refusal to rehire him after he cancelled his retirement and sought reemployment in his former position, which had already been filled by the city. *Klawitter v. City of Trenton*, 395 N.J. Super. 302, 928 A.2d 900, 2007 N.J. Super. LEXIS 280 (App.Div. 2007).