

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.
See: 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 "policeman" or "fireman" 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 policeman or fireman.

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. "Fireman" 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.

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. "Policeman" 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 within the meaning of the definitions of "policeman" or "fireman" 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 policemen or firemen.

(d) Determinations by the Director and the Board of whether an employee of a law enforcement unit or firefight-

ing unit is a supervisory employee within the meaning of the definitions of "policeman" or "fireman" 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 policemen or firemen or effectively recommending such actions;

2. Whether the individual policemen or firemen 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 policemen or firemen.

(e) Employers shall not use the same job title for both individuals whose job functions meet the definition of "policeman" or "fireman" 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 "policeman" or "fireman," but that employee holds a position held by other individuals whose primary duties do not qualify those employees as a policeman or fireman, 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 "policeman" or "fireman" and individuals whose job functions do not meet those definitions.

(f) In the event an employee, not currently included as a member of the system, believes that he or she performs duties that meet the definition of "policeman" or "fireman," the employee may file an application for membership in the system with the Director, stating in detail the basis for the employee's belief that the employee is a policeman or a fireman. A copy of the application shall be served on counsel for the employee's employer.

(g) The Director shall review the application and determine whether the employee meets the definition of "policeman" or "fireman." The Director shall then make a recommendation to the Board as to whether the employee should be included in the system.

(h) If, after considering the recommendation of the Director, the Board determines that the employee meets the definition of "policeman" or "fireman" 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 "policeman" or "fireman," 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 "policeman" or "fireman" as the case may be, and that interested parties may seek to intervene in accordance with N.J.A.C. 1:1-16.

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).

17:4-2.2 Compulsory enrollment

(a) Membership in the Police and Firemen's Retirement System of New Jersey is mandatory, a condition of employment for every "policeman or fireman" appointed after July 1, 1944, in a county or municipality which had prior to July 1, 1944, adopted the provisions of N.J.S.A. 43:10, or in such county or municipality first providing coverage for such employees by referendum under N.J.S.A. 43:16A, or pursuant to the provisions of Chapter 92, P.L. 1973.

(b) It shall also be mandatory for eligible employees of the State or counties as provided by Chapter 156, P.L. 1973.

17:4-2.3 Medical requirements

(a) Applicants must furnish evidence of good health sufficient to satisfy the Board of Trustees:

1. In this connection, the Board may accept the medical determination of the Civil Service Commission or of the physician examining for the appointing county or municipality. If either of these medical sources indicate further examination is in order, the system will select and arrange appointment with an independent physician.

2. Each question of the physical eligibility is decided individually and on the basis of recommendations and findings of the examiner.

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) Municipalities having adopted the provisions of Civil Service are subject to the determination of that agency in determining eligibility for such appointments. The board will recognize anyone certified from a Civil Service list as having met the age requirements of the system.

(c) N.J.S.A. 38:23A 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" 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 at the time of entrance into such military service, the applicant will be considered as having met the age maximum for enrollment.

(d) An initial period of military service, a part of which was rendered in "time of war," will be credited in full for such purpose:

1. Any succeeding periods of military service will not be considered.

2. Maritime service or service with the merchant marine is not considered.