

CHAPTER 6

CONSOLIDATED POLICE AND FIREMEN'S PENSION FUND

Authority

N.J.S.A. 43:16-7.

Source and Effective Date

R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Executive Order No. 66(1978) Expiration Date

Chapter 6, Consolidated Police and Firemen's Pension Fund, expires on December 20, 1998.

Chapter Historical Note

Chapter 6, Consolidated Police and Firemen's Pension Fund, was filed and became effective prior to September 1, 1969. Chapter 6 expired December 6, 1984 pursuant to Executive Order No. 66(1978). Chapter 6 was adopted as new rules by R.1985 d.37, effective February 19, 1985. See: 16 N.J.R. 2997(b), 17 N.J.R. 475(b). Pursuant to Executive Order No. 66(1978), Chapter 6 was readopted as R.1988 d.579, effective November 22, 1988. See: 20 N.J.R. 2537(a), 20 N.J.R. 3142(a). Chapter 6 expired November 22, 1993 pursuant to Executive Order No. 66(1978). Chapter 6 was adopted as new rules by R.1993 d.659. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. ADMINISTRATION

17:6-1.1 Commission meetings

(a) The commission shall meet on the second Wednesday of each month, unless a change is declared in order by the chairman at an appropriate time, and subject to the exception of the annual meeting prescribed by N.J.S.A. 43:16-6.2.

(b) The presence of four commission members at the start of any meeting of the commission will be necessary in order to constitute a quorum of the commission. Such presence need not be actual physical presence but may, at the determination of the chairman that the circumstances warrant it, include the participation of any of the four commission members by telecommunications' connection.

Amended by R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

17:6-1.2 Fiscal year

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

(b) The actuarial valuation is based on a calendar year.

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

17:6-1.3 Officers and committees

(a) The chairman of the commission will be elected by a majority vote of the members in attendance at the first meeting of each fiscal year, not less than four members to be present at such a meeting. The chairman of the board shall preside at all meetings he or she attends and in his or her absence another member selected by the majority of the members in attendance will preside for that single meeting.

(b) Upon recommendation of the Director of the Division of Pensions and Benefits, the commission will select from the staff of such Division a secretary and assistant secretary, the latter to serve in the absence of the secretary.

(c) The chairman will appoint such committees from the commission members as he or she deems necessary to facilitate the commission's operations. Such committee appointments will be for a one-year period, commencing each July 1.

Amended by R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
Amended by R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

17:6-1.4 Election of members—commission

(a) The election of commission members will include the use of nominating petitions:

1. This will entail the distribution to each active and retired member of at least two forms.
2. The first will be an election notice setting forth the rules for filing nominating petitions and other pertinent data.
3. The second will be the ballot, containing the names of the candidates who have been properly nominated as well as the rules governing the election.

(b) Requirements for the election notice and petition shall include:

1. A notice will be prepared advising the active and retired members of the position to be voted upon. All present members of the commission and the expiration of their terms will be shown.
2. The election notice will indicate to the member that petition forms will be provided by the commission and forwarded upon request.
3. The election notice will also indicate that at least five eligible or retired members must sign the petition in order for a candidate's name to be placed on the ballot.
4. Petitioners should indicate their register or retirement number, if known, and the employing municipality, in addition to signing the petition.
5. A member may sign a petition for only one candidate.
6. The candidate named on the petition must sign the petition in a designated space indicating that he is willing to be a candidate.
7. The instructions will indicate the closing date for the filing of such petitions and also indicate that a ballot bearing the names of such candidates will be forwarded to each eligible voter.
8. The qualified candidates will be invited to a drawing to determine the order in which the candidates' names will appear on the ballot.

(c) The requirements for the ballot shall include:

1. Each eligible voter will have a ballot bearing his name.
2. The ballots and return envelopes will identify the ballot as being either for the police or fireman's election.
3. The closing date of the election will be indicated.
4. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.

5. Instructions for the proper casting of the ballot (marking of the ballot, returning of such ballot through the return envelope and notice to sign such envelopes) will be given to each eligible voter.

6. The instructions will also indicate that the candidate receiving the highest number of votes will be declared elected to position.

(d) Rules concerning election notice and petition include:

1. The election notice will be forwarded in bulk and in an appropriate number to the certifying agent for distribution to the active members of the fund. The election notice will be forwarded directly to retired members.
2. Police and firemen notices will be differentiated by colored forms or by some other mark explained in the instructions.
3. A receipt and report will also be forwarded to each certifying agent; such form is to be returned to the fund and will indicate:
 - i. Receipt of the forwardings by the certifying agent;
 - ii. The extent to which the certifying agent has distributed the election notice forms to active members.

(e) Rules concerning ballots, forwarding include:

1. The ballots, each bearing the name and register number of an eligible voter, will be forwarded to the certifying agent of each municipality, together with instructions that they be distributed.
2. The ballots bearing the name and retirement number of retired members will be forwarded directly to the retired members.
3. Police and firemen ballots and return envelopes will be differentiated by colored forms or by some other symbol.

(f) A receipt and report form will also be forwarded to each certifying agent. Such form will indicate:

1. Receipt of the forwardings by the certifying agent;
2. The extent of distribution of election ballots to active members;
3. The return of undelivered ballots and reason for same.

(g) The returned ballot bearing envelope is to be examined for proper signature. A record will be maintained to identify the register or retirement number of the members who have voted. The sealed ballot will then be deposited in a locked container. Immediately prior to the counting of the ballots, the information identifying the individual voters will be separated from the still sealed ballot in the presence of the election judges.

(h) The commission will appoint three election judges to examine the returned ballots and to tabulate the votes cast:

1. These judges will have the power to eliminate any ballot which is not properly cast.
2. The judges report on the results of the election to the commission.

(i) The candidates whose names are printed on the ballots will be informed as to the method and date of counting the ballots, and will be invited to be present or to be represented at the counting of the ballots.

(j) In the event there is but one qualified candidate who has indicated his willingness to be such a candidate, the chairman will call for a vote cast in favor of the candidate by a policeman and/or fireman member of the commission, whichever is appropriate. In the event that the candidate is so elected, a certified statement as to the ineligibility of any other candidate will be filed with the Secretary of State, together with advice that the candidate has been so elected.

Amended by R.1984 d.36, effective February 19, 1985.
See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).

(b)3: "20" eligible was "50".
Amended by R.1985 d.36, effective February 19, 1985.
See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).

Amended by R.1989 d.320, effective June 19, 1989.
See: 21 N.J.R. 438(a), 21 N.J.R. 1744(a).

Petition signatures changed from 20 to five, at (b)3.

17:6-1.5 Certifying agent (employer)

(a) The chief fiscal officer of each county or municipality participating in the pension fund or any official properly designated by the governing body will serve as the certifying agent.

(b) The prime purpose of the certifying agent will be to certify facts of retirement and to implement proper procedures for the reports and transmittal of employee deductions and to act as liaison for all dealings between the employing agency and the pension fund.

17:6-1.6 Records

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

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

(c) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the commission.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

17:6-1.7 Appeal from commission decisions

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

"If you disagree with the determination of the commission in this matter, you may appeal by sending a written statement to the commission within 45 days from the date of this letter informing the commission of your disagreement and all of the reasons therefor. If no such written statement is received within the 45-day period, this determination shall be considered final."

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(a), 5 N.J.R. 60(b).

17:6-1.8 Suspension of pension checks

(a) Monthly pensions will be suspended under the following circumstances and the suspension will continue during the period of default:

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

As amended, R.1979 d.476, effective December 6, 1979.
See: 11 N.J.R. 524(e), 12 N.J.R. 57(a).

17:6-1.9 (Reserved)

As amended, R.1983 d.35, effective February 7, 1983.
See: 14 N.J.R. 1293(a), 15 N.J.R. 163(d).
Repealed rule.

SUBCHAPTER 2. MEMBERSHIP

17:6-2.1 Creditable salary

(a) Salary shall not include retroactive salary adjustments if the increases are not of a normal, overall, published program of increases. Bonus or overtime payments are not to be considered for purpose of the act. Longevity, terminal leave or vacation payments will not be considered if paid in a lump sum or other than as a regular salary disbursement.

(b) All claims involving an increase in salary of more than 15 percent over that of the previous year, as reported to the pension fund, shall be investigated. Those cases where a violation of the statute is suspect shall be referred to the commission.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
As amended, R.1977 d.461, effective December 7, 1977.
See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

Case Notes

Fire chief's pension status modified due to agreement shifting responsibilities to neighboring community. *Wegleski v. Retirement System*, 93 N.J.A.R.2d (TYP) 288; 95 N.J.A.R.2d (TYP) 39.

County prosecutors not policemen pursuant to PFRS. In the Matter of Eligibility of Certain Assistant Union County Prosecutors, 94 N.J.A.R.2d (TYP) 224.

Existence of age limitation precluded full-time firefighter's enrollment in retirement system. *Meier v. Retirement System*, 93 N.J.A.R.2d (TYP) 285.

17:6-2.2 Deductions

(a) A full deduction shall be taken for the Consolidated Police and Fireman's Pension Fund in any payroll period in which the member is paid a sufficient amount to make a full normal deduction.

(b) No deduction shall be taken in any pay period in which the employee's salary is not sufficient to cover the required deductions for the Consolidated Police and Firemen's Pension Fund.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Case Notes

Police officers entitled to waive retroactive contributions and benefits of retirement system due to financial hardship and lack of fault. *Galop v. Board of Trustees, Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 79.

17:6-2.3 Minimum adjustment

In order to facilitate the reconciliation of a member's account no rebates or additional contributions shall be made where an adjustment involves an amount of \$3.00 or less.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

17:6-2.4 Suspension

(a) No retirement deductions will be made during such a break in service, nor will any retirement credit accrue.

(b) If during the period of suspension or at the conclusion of the penalty period adjustment is made in favor of the member, the commission may allow the payment of pension deductions to reflect the lesser penalty or the entire elimination of the suspension.

Case Notes

Corrections officer fired for misconduct not entitled to deferred retirement benefits. *Dobron v. Board of Trustees of the Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 119.

SUBCHAPTER 3. RETIREMENT

17:6-3.1 Applications

(a) Applications for retirement must be made on forms prescribed by the fund. Such forms must be completed in all respects and filed with the fund before the requested date of retirement.

(b) In the event a member files an incomplete application, the deficiency shall be brought to his or her attention and he or she will be required to file a completed application with the system to enable acceptance for processing.

(c) Before an application for retirement may be accepted for processing, it must be supported by a certificate 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 foregoing requirement, the application for disability retirement must be supported by a report of the member's personal or attending physician and a statement from the employer regarding the member's incapacity for further duty.

As amended, R.1973 d.26, effective January 19, 1973.
See: 5 N.J.R. 283(b), 5 N.J.R. 60(b).
Correction: "deficiency" substituted for "deficiencies" and the last subsection cite corrected to (d).
See: 18 N.J.R. 1624(a).

17:6-3.2 Effective dates; changes

(a) The effective date of retirement cannot be earlier than the actual date of receipt of the application by the pension fund.

(b) Retirements must be effective on the first day of the month following the date the application was filed.

(c) A member shall have the right to withdraw, cancel or change an application for retirement at any time before his retirement allowance becomes due and payable; thereafter, the retirement shall stand as approved by the board.

(d) Should the member continue to receive a salary beyond the effective date of retirement after approval of the retirement by the commission, no retirement benefits will be paid for the period continued in salary and no salary or service credit will be provided for that service rendered after the approved, effective date of retirement.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
As amended, R.1977 d.461, effective December 7, 1977.
See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).
As amended, R.1981 d.201, effective July 9, 1981.
See: 13 N.J.R. 245(a), 13 N.J.R. 462(a).
(d) added.

Case Notes

Retiree not entitled to change retirement application from special retirement allowance to accidental disability retirement allowance after he received benefits. *Adair v. Police and Firemen's Retirement System Board of Trustees*. 92 N.J.A.R.2d (TYP) 153.

17:6-3.3 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month of the member's death and shall terminate as of the month in which the survivor no longer qualifies for such benefits.

(b) In the instance of survivors of members who die in service, the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month immediately preceding the month the survivor dies or ceases to qualify for the continuance of benefits.

(c) No partial or fractional part of a monthly pension allowance will be paid on the death of the beneficiary within such month.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
As amended, R.1976 d.103, effective April 5, 1976.
See: 8 N.J.R. 50(c), 8 N.J.R. 262(b).

Case Notes

Evidence sustained finding that police chief's death was not caused by traumatic event to be compensable under death benefits statute; preexisting symptomatic coronary artery disease. *Estate of Terminelli v. Police & Firemen's Retirement System, Div. of Pensions*, 290 N.J.Super. 231, 675 A.2d 673 (A.D. 1996).

Divorced spouse of deceased police officer not an eligible widow under police and firemen's retirement system. *Estate of Lyons v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 85.

Widow's benefits not restored when subsequent marriage ends in divorce or death. *Colavito v. Board of Trustees, Police and Firemen's Retirement System*. 92 N.J.A.R.2d (TYP) 158.

17:6-3.4 Accrued allowance

In the event of death of a retired member, the accrued allowance will be paid to the estate of the member if no eligible widow or dependent survives him.

17:6-3.5 Ineligibility of adopted children

Children of a deceased member, in the event of their adoption by another person, are not eligible for benefits.

17:6-3.6 Retirement credit

(a) Chanceman service may be credited if supported by proper documentation as approved by the commission.

(b) A member who appeals the suspension or termination of his employment and is awarded back pay for all or a portion of the period of such suspension or termination shall receive retirement credit for the period covered by the award, regardless of the amount of the back pay award,

provided a full normal pension contribution is received from the member or deducted from the value of the award. The pension contribution will be based on the salary the member was receiving for pension purposes prior to the suspension or termination of employment. In the event the amount of back payment is insufficient to deduct the value of the normal pension contributions due, such contributions shall be paid by the member.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
As amended, R.1981 d.201, effective July 9, 1981.
See: 13 N.J.R. 245(a), 13 N.J.R. 462(a).
(b) added.

17:6-3.7 Disability determination

(a) A member for whom an application for accidental disability retirement allowance has been filed by the member, by his employer, or by one acting in behalf of the member, will be retired on an ordinary disability retirement allowance if the commission finds that:

1. The member is physically or mentally incapacitated for the performance of duty; and
2. The member is not eligible for accidental disability since the incapacity is not a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties; and
3. The member meets the service requirement for ordinary disability.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Case Notes

Police officer's injury to back while trying to open automobile door was not traumatic event for purposes of determining accidental disability benefits. *Kauffman v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 31.

Police officer's subjective claims of pain insufficient evidence of disability to award permanent disability benefits. *Suarez v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 6.

Disability benefits denied; application was filed while member was not "in service." *Schott v. Police and Firemen's Retirement System*, 94 N.J.A.R.2d (TYP) 227.

Traumatic event giving rise to accidental disability retirement resulted from police officer's three-foot fall during work. *Zakian v. Retirement System*, 93 N.J.A.R.2d (TYP) 291.

Alleged injury to back and neck while putting away files was not traumatic event entitling police officer to accidental disability retirement. *Elston v. Retirement System*, 93 N.J.A.R.2d (TYP) 275.

Alleged harassment of wounded police officer on job did not constitute traumatic event requiring readjustment of accidental disability retirement. *Sordo v. Retirement System*, 93 N.J.A.R.2d (TYP) 271.

Reinstatement was not justified when bi-polar disorder afflicting disabled fireman had neither vanished nor diminished. *Arnao v. Retirement System*, 93 N.J.A.R.2d (TYP) 235.

Major fire not traumatic event entitling firefighter to accidental disability retirement benefits. *Leone v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 126.

Police officer with psychic trauma after incidents leading to public humiliation, demotion and harassment by fellow officers not eligible for accidental disability retirement. *Redfield v. Board of Trustees, Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 91.

Jump from collapsing retaining wall constituted traumatic event qualifying park ranger for accidental disability retirement benefits. *Nelson v. Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 87.

Twisting injury suffered when horse reared up not traumatic event qualifying police officer for accidental disability retirement benefits. *Mazza v. Police and Firemen's Retirement system*, 93 N.J.A.R.2d (TYP) 59.

Injuries sustained by patrolman in car accident on way to work not result of performance of regular and assigned duties within meaning of accidental disability retirement pension statute. *Osborne v. Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 1.

Smoke inhalation not traumatic event qualifying police officer for accidental disability retirement benefits. *Lawrence v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 151.

Hearsay medical reports not sufficient to show police officer permanently and totally disabled for accidental disability retirement purposes. *Mercier v. Board of Trustees, Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 94.

Police officer's back condition not direct result of multiple work accidents so as to entitle him to accidental disability retirement pension. *Breure v. Board of Trustees of the Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 73.

Police officer with preexisting back condition entitled to accidental disability retirement compensation after car accident in which he injured his back. *Philson v. Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 52.

Patrolman who drove vehicle into pothole was not injured by traumatic event so as to be eligible for accidental disability retirement benefits. *Sprowl v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 32.

Police officer who injured his arm while directing traffic was unable to use required weapons, entitling him to accidental disability retirement benefits. *Thomason v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 25.

17:6-3.8 Employer application; employee notice

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of his employees, the member will be promptly notified by letter that:

1. His employer has initiated a disability application, on the member's behalf;
2. His employer has certified that the member is permanently and totally disabled for the continued performance of duty and, if appropriate;
3. His employer has certified that the member should be retired as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties;
4. He has a period of 30 days to contest his involuntary retirement before the commission acts on his employer's application;
5. He will be required to appear for an examination before a physician designated to conduct such an examination for the pension fund;
6. In the event the commission finds that he is totally and permanently incapacitated for the performance of duty, he shall be granted the maximum retirement allowance payable under the statute, if he does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance he desires, before his retirement goes into effect; and

7. In the event the commission finds that he is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

17:6-3.9 Medical examinations; physicians

Where the statute prescribes that a physician be designated by the fund to perform a medical examination, such physician shall be selected from the current membership directory of the Medical Society of New Jersey and the New Jersey Association of Osteopathic Physicians and Surgeons; however, in the cases of those members whose personal physician has identified them as having a probable abbreviated life expectancy, such "imminent death" cases may be processed without the necessity of an examination by a physician designated by the fund if corroborating medical evidence of the diagnosis can be obtained.

As amended, R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
As amended, R.1976 d.103, effective April 5, 1976.
See: 8 N.J.R. 50(c), 8 N.J.R. 262(b).
As amended, R.1977, d.461, effective December 7, 1977.
See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).
As amended, R.1982, d.349, effective October 18, 1982.
See: 13 N.J.R. 749(b), 14 N.J.R. 1164(d).
Clarification of treatment in "imminent death" cases.

17:6-3.10 Effective date; death prior thereto

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 30 days after the date of the retirement, whichever is later.

R.1977 d.461, effective December 7, 1977.
See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

SUBCHAPTER 4. TRANSFERS

17:6-4.1 Interfund transfers; other State systems

In the event a member of the fund becomes ineligible to continue in the fund by reason of a change of his employment or a transfer of his employment and when his new employment entitles him to become a member of another State-administered pension system, the commission agrees to transfer the value of reserves required by the second system in order that the second system recognize the years of service previously standing to the member's credit in the fund. In the determination of such reserves the last annual salary established by the fund will be used. Such a transfer will release the consolidated fund from any further obligation or liability to the transferring member and will establish the identical years of service credit in the retirement formula of the State-administered system which accepts the membership and transfer. Such transfer will only be possible if the member makes a timely request for transfer in accordance with N.J.S.A. 4:2-1 et seq.