

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 “police officer” or “firefighter” shall be members of the Police and Firemen’s Retirement System of New Jersey.

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

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

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

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

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

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

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

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

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

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

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

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

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

13. “Position” means a job title.

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

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

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

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

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

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

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

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

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

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

(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) In the event an employee, not currently included as a member of the system, believes that the employee performs duties that meet the definition of "police officer" or "firefighter," 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 police officer or firefighter. 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 "police officer" or firefighter. 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 "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 of a non-civil service position for the PFRS, the Board requires the following items:

1. A description of the physical and mental requirements for the position including evidence of the completion of a test determined by the Board to be comparable to the Fire Fighters' Physical Performance Test required by civil service employers;
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 employing entity;
4. A list of employees currently in the position, with present pension status and job title; and
5. Proof of compliance with the provisions of N.J.S.A. 40A:14-81.1.

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).

#### 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.

#### 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 physician examining for the appointing authority. If this medical source indicates further examination is in order, the System will select and arrange an appointment with an independent physician.
2. Each question of physical eligibility is decided individually and on the basis of recommendations and findings of the examiner.
3. The completed Report of Examining Physician shall be deemed unacceptable if there is more than one year's difference from the date of signature of the examining physician and the date of receipt time-stamped by the Division of Pensions and Benefits.

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.

#### 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.

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).

#### 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.