

**CHAPTER 2**

**PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

**Authority**

N.J.S.A. 43:15A-17 et seq.

**Source and Effective Date**

R.1995 d.91, effective February 21, 1995.  
See: 26 N.J.R. 4747(a), 27 N.J.R. 754(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 2, Public Employees' Retirement System, expires on February 21, 2000.

**Chapter Historical Note**

Chapter 2, Public Employees' Retirement System was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 2 expired on October 9, 1984, and subsequently was adopted as new rules by R.1984 d.562, effective December 17, 1984. See: 16 N.J.R. 2515(b), 16 N.J.R. 3479(a). Pursuant to Executive Order No. 66(1978), Chapter 2 was readopted as R.1989 d.597, effective November 8, 1989. See: 21 N.J.R. 2439(a), 21 N.J.R. 3788(a).

Pursuant to Executive Order No. 66(1978), Chapter 2 expired on November 8, 1994, and subsequently was adopted as new rules by R.1995 d.91. See: Source and Effective Date.

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## SUBCHAPTER 1. ADMINISTRATION

### 17:2-1.1 Board meetings

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

(b) No meeting will be held in the month of August unless it is deemed necessary by the chairman or the secretary.

(c) The chairman may call for special meetings when necessary.

Amended by R.1977 d.148, effective April 27, 1977.  
See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).

### 17:2-1.2 Fiscal year

The transaction of business and control of finance shall be conducted from a July 1 to June 30 fiscal year, with the exception of the actuarial valuation, which shall be prepared on the basis of the membership payroll status of all account results as of March 31 of each year.

### 17:2-1.3 Officers and committees

(a) The members of the board shall elect a chairman and vice chairman from its membership for the forthcoming year at its regular meeting held in July.

(b) The chairman of the board shall preside at all of its meetings, or in the absence of the chairman, the vice chairman shall assume the chairman's responsibilities.

(c) The chairman and the secretary of the board shall have the power to act for the board in any matter which may be referred to them by the Board of Trustees.

(d) There shall be three standing committees, which are the finance committee, the retirement committee, and the executive committee. The committees shall be appointed by the chairman at the July meeting for the forthcoming fiscal year.

(e) The finance committee shall review all investment transactions and financial reports referred to it by the secretary for presentation to the board at its regular monthly meetings. The committee shall consist of three members.

(f) The retirement committee shall consider all cases referred to it by the secretary and submit its recommendations to the board at its next meeting. The committee shall consist of three members.

(g) The executive committee shall consider all cases referred to it by the secretary and submit its recommendations to the board at its next meeting. The committee shall consist of three members.

As amended, R.1971 d.71, effective May 18, 1971.  
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).  
As amended, R.1976 d.383, effective December 6, 1976.  
See: 8 N.J.R. 537(c), 8 N.J.R. 48(a).

### 17:2-1.4 Election of member-trustee

(a) The election of the Board of Trustee members will include the use of nominating petitions.

1. This will entail the separate distribution of at least two forms for all active member employees of the State or of the counties or municipalities, as the case may be.

2. Public agencies will vote on the basis of whether they are State, county or municipal instrumentalities.

3. The first will be an election notice setting forth the rules for filing nominating petitions and other pertinent data.

4. The second will be ballot, containing the names of the candidates who have been properly nominated as well as the rules governing the balloting. If only one candidate is nominated, the second form will be a notice containing the name of the candidate and an indication that the candidate is deemed elected to the position without balloting because there was only one nominee.

5. Petition forms will be available at the office of the Public Employees' Retirement System.

6. Biographical information on the candidates will be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

(b) Rules concerning election notice and petition are as follows:

1. At least four months prior to the expiration of the term of each elected trustee, a notice will be prepared and distributed to the certifying agents of the State or of the counties or municipalities, as the case may be, advising them of the position to be voted upon (position and term), as well as the name and expiration of term of office of the present trustee. The names of all present trustee members of the Board of Trustees and the expiration of their terms will also be shown. The notice will also inform the members that petition forms are available at the office of the retirement system. The election notice will specify the time and place of the drawing by lot for position on the ballot. All petitioners will be invited to attend on the given date.

2. The petition will indicate to the members that the member to be nominated by this petition must be a member of the Public Employee's Retirement System and either a State, county or municipal employee, according to the position being voted upon. (State employee members may petition only for State employee candidates; county employee members only for county employee candidates; and municipal employee members only for municipal employee candidates.

3. The instructions will indicate that at least 500 eligible State employee members, county members or municipal members, as the case may be, must sign the petition in order for a candidate's name to be placed on the ballot.

4. Petitioners must indicate their employing agencies, in addition to printing and signing their names on the petition.

5. A member may sign a petition for only one candidate.

6. The candidate named on a 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 the fact that a ballot bearing the names of all candidates so nominated will be forwarded for each eligible voter.

8. The names of all properly nominated candidates will appear on the ballot in the order drawn by lot. The employing agency will also be shown after the name of each candidate.

9. If only one candidate is nominated for a position, the candidate is deemed elected to the position without balloting.

(c) Rules concerning the ballot are as follows:

1. For each eligible voter there will be forwarded to the certifying agent, a ballot addressed by name.

2. The closing date of the election will be indicated.

3. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.

4. Instructions supplied to the voter for the proper casting of the ballot (marking of the ballot, returning of such ballot through the postage paid return envelope and notice to sign such envelope) will be shown on the reverse side of the ballot or on a separate sheet.

5. The instructions will also indicate that the candidate receiving a plurality of the legal votes cast will be declared elected to the position.

(d) Rules concerning the election notice are as follows:

1. Election notices will be forwarded in bulk and in the appropriate number to the certifying agent or appropriate

fiscal officer of such employing agency, together with instructions as to who are to receive the same.

2. A receipt and report will also be forwarded to each certifying agent or appropriate fiscal officer; such form is to be returned to this office and will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent to which the certifying agent or appropriate fiscal officer has distributed the election notices.

(e) Rules concerning ballot distribution are as follows:

1. The ballots, each bearing the name and register number of an eligible voter, will be forwarded to the payroll agents, together with instructions governing distribution.

2. State, county and municipal employee members' ballots and return envelopes will be differentiated by colored forms or by some other symbol.

3. A receipt and report form will also be forwarded to each certifying agent or appropriate fiscal officer. Such form will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent or distribution of election ballots;

iii. Return of undelivered ballots and reason for same.

4. The returned ballot-bearing envelopes are to be examined for validity. A record will be maintained to identifying the registered numbers of the members who have voted. The sealed ballots will 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 ballots in the presence of the election judges.

(f) Rules concerning election judges are as follows:

1. An election board consisting of a judge and two tellers to examine the returned ballots and to tabulate the votes cast. The counting of these ballots will be accomplished by the use of a machine, the normal design of which is for the purpose of counting paper stock. The Board will have the power to eliminate any ballot which is not properly cast. The Board will report on the results of the election to the Board of Trustees.

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

(g) Rules concerning recount are as follows:

1. Any candidate who shall have reason to believe that an error has been made in counting the vote or declaring the vote of the election 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, consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such meeting, any member of the Board who is a candidate on the contested ballot shall not participate in the Board's deliberation or decision on this request.

2. If a candidate for a position on the Board requests a recount within the prescribed time, this request may be granted if a recount could possibly affect the result of the election. All ballots received will then be recounted and the recount will be supervised by the Election Board. The Board will certify the result of the recount to the Board of Trustees. If a recount is not requested within 20 days the ballots may be destroyed.

(h) Rules concerning biographical information on candidates are as follows:

1. An informational sheet of biographical information on each candidate shall be prepared by the Division of Pensions. The information to be included on each candidate shall be approved by the candidate. The informational sheet shall be approved by the board.

2. Copies of the informational sheet shall be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

3. The informational sheets shall be posted at appropriate places throughout the workplace of each employing agency or be otherwise distributed so that the members of the retirement system will have reasonable opportunity to read and consider the biographical information on the candidates.

(i) If there are at least three candidates in an election for member-trustee and the victorious candidate dies or declines to serve as such member-trustee prior to the beginning of his or her term as trustee, the candidate who obtained the next highest number of votes in that election (that is, the first runner-up) may be selected, at the Board's discretion, 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 may, in its discretion, select the candidate who obtained the next highest number of votes in that election or may conduct a new election to fill the Board vacancy. For purposes of this provision, a member-trustee's term begins upon the taking of the oath of office.

(j) Only active members of the Public Employees' Retirement System may vote in the election of member-trustees of the Board of Trustees of the Public Employees' Retirement System.

Amended by R.1973 d.118, effective April 30, 1973.

See: 5 N.J.R. 124(b), 5 N.J.R. 204(a).

Amended by R.1985 d.213, effective July 9, 1976.

See: 8 N.J.R. 260(a), 8 N.J.R. 407(c).

Amended by R.1985 d.590, effective November 18, 1985.

See: 17 N.J.R. 2238(a), 17 N.J.R. 2784(a).

(a)4 added text: "If only one . . . only one nominee."; and added (b)9.

Amended by R.1987 d.157, effective April 6, 1987.

See: 19 N.J.R. 52(a), 19 N.J.R. 565(a).

Substantially amended.

Amended by R.1993, d.78, effective February 16, 1993.

See: 24 N.J.R. 3690(a), 25 N.J.R. 711(a).

Added new (i).

Amended by R.1994 d.259, effective June 6, 1994.

See: 25 N.J.R. 5113(a), 26 N.J.R. 2299(d).

#### Case Notes

Candidate was ineligible to run for reelection to PERS Board of Trustees; prior disciplinary suspension. *Buriani-DeSantis v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 63.

#### 17:2-1.5 Certifying agent (employer)

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

(b) The Certifying Agent shall be responsible for the duties described by N.J.S.A. 43:15A-67 and Section 80 and any other section which refers to the Department head.

(c) The Certifying Agent shall also be responsible for all other duties relating to matters concerning the System.

#### Case Notes

Petition to purchase pension credit for prior temporary service after expiration of statutory filing limitation denied: *Public Employees' Retirement System held without statutory obligation to disseminate to certifying agents amendatory legislation concerning the retirement system at the time of enactment. In re Krah*, 130 N.J.Super. 366, 327 A.2d 248 (App.Div.1974).

#### 17:2-1.6 Records

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

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

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

**17:2-2.4 Enrollment date**

(a) A new appointee in the classified service shall be considered as beginning his or her service on the date of his or her regular appointment. The compulsory enrollment date shall be fixed as the first of the month for an appointee whose regular appointment date falls between the first through the 16th of the month and the compulsory enroll-

ment date shall be fixed as the first of the following month for an appointee whose regular appointment date falls between the 17th and the end of the month. If an applicant, an optional enrollee, fails to give the date of his or her enrollment application that he or she desires to enroll in the system, the applicant shall be enrolled as of the first of the month following the receipt of the enrollment application.

(b) An employee in the unclassified service or an elected position shall be considered as beginning service on the date of his original appointment, or the date when he assumed duties of the elective office, as the case may be.

1. 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.

2. The date of compulsory enrollment shall be fixed as the first of the month for an appointee 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 appointee whose beginning employment date falls between the 17th and the end of the month.

(c) An employee of a Civil Service employer who is not in a classified or unclassified 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 his employer for one-year period following the employee's date of hire, but if his employment continues into his second year, he will be required to enroll immediately; his compulsory enrollment date will be the first of the month following the end of the one-year (12-month) period.

Amended by R.1979 d.399, effective October 9, 1979.  
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).  
Amended by R.1987 d.144, effective April 6, 1987.  
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).

#### Case Notes

Rule held a valid exercise of rulemaking authority, both reasonably and rationally related to purpose of enabling legislation: denial of death benefits to survivor of decedent public employee held proper where decedent died before his elected delay in pension enrollment expired and made no pension contributions. *Frew v. Bd. of Trustees, Public Employees' Retirement System*, 8 N.J.A.R. 16 (1984), affirmed per curiam Docket No. A-4071-83T6 (App.Div.1984).

Determination of non-temporary employee status requiring enrollment in PERS: equitable determination of monies to be repaid PERS for pension benefits received. *Vliet v. Bd. of Trustees, Public Employees' Retirement System*, 156 N.J.Super. 83, 383 A.2d 463 (App.Div. 1978).

#### 17:2-2.5 Optional enrollment

(a) Any employee, other than a veteran, who was considered an optional enrollee prior to July 1, 1966, under the previous rules of the board, shall continue to retain the option to enroll or not enroll if his employer does not change.

(b) Part-time employees who cannot be classified as veterans and who were hired prior to July 1, 1966, are considered optional enrollees.

Amended by R.1971 d.71, effective May 18, 1971.  
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

#### 17:2-2.6 (Reserved)

Amended by R.1971 d.71, effective May 18, 1971.  
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

#### 17:2-2.7 Enrollment following deferred retirement

(a) The membership account under which a member elected deferred retirement who resumes regular service prior to age 60 shall be reinstated.

1. He shall be assigned his original rate of contribution if he resumes service before a period of two years has elapsed since he last made a contribution to his account.

2. If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to his age as of the date of his original enrollment.

### SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

#### 17:2-3.1 Compulsory and optional enrollment

(a) For the purpose of contributory insurance, all compulsory enrollees, including veterans, under age 60 at the time their enrollment application is filed, shall be required to participate in the contributory insurance program for one year (12 calendar months) from the date of enrollment, or the effective date of insurance premium deduction, whichever is later. Proof of insurability shall be required for all compulsory and optional enrollees, age 60 or older, in order to qualify for noncontributory and contributory insurance coverage.

(b) Optional enrollees under age 60 may qualify for noncontributory and contributory insurance coverage only if they were actively at work performing all of the duties that the position requires at the time they made application for enrollment, and such application was filed within one year from the date they first became eligible for enrollment in the system. If an application for an optional enrollee is not received within one year after he became eligible for enrollment, evidence of insurability will be required for the non-contributory and contributory coverage.

(c) When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising him or her that he or she must prove insurability by taking a medical examination.

As amended, R.1979 d.399, effective October 9, 1979.  
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).  
Amended by R.1987 d.144, effective April 6, 1987.  
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).  
Deleted (a) and renumbered (d) to (c).

#### Case Notes

Member's estate not entitled to noncontributory death benefits where member resigned, chose deferred retirement, but died before reaching age 60. *Estate of Sant' Angelo v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 116.

Request to permit petitioner to prove insurability for life insurance purposes granted: statute and rule found to set no time limit for furnishing such proof. *Watson v. Bd. of Trustees, Public Employees' Retirement System*, 4 N.J.A.R. 380 (1980).

### 17:2-3.2 Computation of insurance benefits

(a) Any member who is reported on a 10-months basis and who has not resigned or been discharged, shall be covered by his or her insurance benefits for the month or months he or she is on his regular seasonal layoff.

1. The death benefit shall be based upon the base salary upon which contributions to the annuity savings fund were made that are attributable to the 12 months or 26 biweekly pay periods immediately preceding his or her death.

2. The salary, in the month or biweekly pay period in which no salary was paid, shall be counted as zero.

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

(c) If a member dies during the first year following his date of enrollment, the contributory insurance benefit shall be  $1\frac{1}{2}$  times the member's annual base salary on which he contributed or would have contributed immediately prior to his death. The noncontributory insurance benefit shall be  $1\frac{1}{2}$  times the actual base salary upon which contributions to the annuity savings fund were due from the date of enrollment to the date of death.

(d) For a member dying after the first year following his or her date of compulsory enrollment, both the noncontributory and contributory insurance benefit shall be determined upon the base salary upon which contributions to the annuity savings fund were made, that are attributable to the 12 months or 26 biweekly pay periods preceding death.

(e) If a member has contributed pension contributions for less than a year but his enrollment has been in effect for more than a year, only those wages upon which pension contributions were based can be used as salary to determine the value of the noncontributory insurance benefit, whereas the contributory insurance benefit will be based on the member's annual salary on which he last contributed.

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

(g) Refunds of a deceased member's pension contributions will be made to the member's designated beneficiary or the employer after written confirmation is received from the employer setting forth the reason for the refund of pension contributions to either the beneficiary or to the employer.

(h) Members who prove their insurability for the group life insurance benefits shall have their insurance benefit calculated on the basis of the basis of salary they received or salary upon which pension contributions were based during their last year (10 and 12 months) of service prior to death, regardless of their effective date of insurance coverage.

(i) 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.

(j) In computing (i) above in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which a member does not receive salary. The adjustment as specified in (i) shall not be made.

(k) If a member was reported on a biweekly basis or any combination of 10 and 12-month contract years, the last year's salary prior to death or retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1978 d.138, effective May 1, 1978.

See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).

Amended by R.1990 d.377, effective August 6, 1990.

See: 22 N.J.R. 1348(a), 22 N.J.R. 2342(c).

Stylistic changes; benefits based on contributions attributable to 12 months preceding death of member.

### 17:2-3.3 Contributory insurance rate

All participating members' contribution rate for contributory group insurance shall be fifty-five one-hundredths of one percent (.0055) of the member's base or contractual salary, effective as of January 1, 1988.

As amended, R.1970 d.133, effective November 2, 1970.

See: 2 N.J.R. 86(d), 2 N.J.R. 102(b).

As amended R.1978 d.139, effective May 1, 1978.

See: 10 N.J.R. 127(b), 10 N.J.R. 265(d).

As amended, R.1982 d.343, effective October 18, 1982.

See: 14 N.J.R. 200(b), 14 N.J.R. 1164(b).

As amended, R.1983 d.7, effective February 7, 1983.

See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Rate change from one-half to three-quarters July 1, 1981.

As amended, R.1984 d.190, effective May 21, 1984.

See: 16 N.J.R. 358(a), 16 N.J.R. 1284(a).

Repayment options clarified. Provisions of (a) deleted. New (a) added to permit repayment in full before retirement allowance is drawn, or repayment by retention of the benefits until the balance with interest is paid. New (b) added to permit members retiring on disability to follow (a) or continue the deductions in effect immediately before retirement. New (c) added, with conditions, to permit members to convert to disability retirement. Old (b) recodified to (d) and amended to clarify repayment upon death of retiree.

### 17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act; or,
2. Such conduct as evidences reckless indifference to safety; or,
3. Intoxication, operating as the proximate cause of injury.

### 17:2-6.6 Retirement credit

(a) A member shall receive credit toward retirement for any month or biweekly pay period in which a full normal deduction is received by the system.

(b) A member who appeals the suspension or termination of his or her employment and is awarded back pay for all or a portion of his or her employment for 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 awarded, provided a full normal pension contribution is received from the member or deducted from the value of the award. The amount of the pension contribution will be determined by the provisions of the award. If the member receives full back pay, including normal salary increases, then the contribution will be computed on the base salaries that the employee would have earned for the reinstated suspended or terminated period. When the settlement is less than the full back pay, the pension contribution will be based upon the salary that the member was receiving for pension purposes prior to the suspension or termination of employment. In the event that the amount of back payment is insufficient to deduct the value of the normal pension contributions due, such contribution shall be paid by the member.

(c) 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.

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1981 d.274, effective August 6, 1981.

See: 13 N.J.R. 244(f), 13 N.J.R. 525(b).

(b) added.

Amended by R.1991 d.98, effective February 19, 1991.

See: 22 N.J.R. 3321(a), 23 N.J.R. 417(a).

Amount of pension contribution clarified.

### Case Notes

Pension credit; time of dishonorable employment with county. *Cavaliere v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 178.

### 17:2-6.7 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 board finds that:

1. The member was under the age of 60 at the time of filing application for a disability retirement allowance; and
2. The member is physically or mentally incapacitated for the performance of duty; and
3. 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
4. The member meets the service requirement for ordinary disability.

### Case Notes

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event; remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard (citing former rule). *Korelnia v. Bd. of Trustees, Public Employees Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Injuries sustained in slow-moving automobile did not constitute traumatic event entitling claimant to accidental disability retirement benefits. *Fawcett v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 138.

Physical education teacher's collision with two opening doors was not traumatic event entitling her to accidental disability retirement benefits. *Kamal v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 124.

School employee permanently injured by slip and fall on icy steps did not experience traumatic event entitling him to accidental disability retirement benefits. *Winslow v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 122.

Sudden attack on police officer by three assailants constituted traumatic event entitling officer to award of accidental disability retirement benefits. *Tribuzio v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 114.

Employee's fall down staircase was not traumatic event entitling her to either accidental or ordinary disability benefits. *Rankin v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 98.

Carpenter who dropped block of wood on his own hand did not qualify for accidental disability benefits because injury did not result from traumatic event. *Powell v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 97.

Car seat shooting was not "traumatic event" for purposes of accidental disability retirement benefits. *Hall v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 89.

Dispatcher's fall from table was not traumatic event warranting award of accidental disability retirement benefits. *Zaranka v. PERS*, 96 N.J.A.R.2d (TYP) 76.

State Police officer was properly denied accidental disability retirement benefits for migraine condition which was not direct result of traumatic injury. *Chippendale v. State Police Retirement System*, 96 N.J.A.R.2d (TYP) 70.

School bus driver disabled by tendinitis and carpal tunnel syndrome caused by stress and strain of normal work effort was not entitled to accidental disability benefits. *Smith v. PERS*, 96 N.J.A.R.2d (TYP) 67.

Fall from chair was not traumatic event for purpose of awarding accidental disability benefits. *Eglow v. PERS*, 96 N.J.A.R.2d (TYP) 60.

Neck injury sustained when elevator fell one foot was not traumatic event warranting accidental disability retirement benefits. *Knoster v. PERS*, 96 N.J.A.R.2d (TYP) 53.

Developmental center employee's severe health problems entitled her to disability retirement allowance. *Hawkins v. PERS*, 96 N.J.A.R.2d (TYP) 46.

Bus driver not eligible for accidental disability retirement benefits when disabling knee injury not result of traumatic event. *Santana v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 16.

Injury to corrections officer's back, resulting from fall in which he was landed on by three other men, constituted traumatic event for purposes of accidental disability retirement benefit eligibility. *D'Ippolito v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 9.

Multiple dwelling inspector struck by falling door entitled to accidental disability retirement benefits. *Salerno v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 11.

Public employee is not entitled to accidental disability retirement; three and one half foot fall did not constitute traumatic event. *Flores v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 6.

Clerk typist who failed to prove that she was unemployable due to carpal tunnel impairment was denied ordinary disability retirement. *Morgan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 212.

Failure to show that injuries were work related. *Catrambone v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 199.

Failure to prove chemical fumes at work place; accidental disability retirement. *Boychuk v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 193.

Denial of petitioner's application for accidental disability retirement allowance was appropriate. *Post v. Public Employees' Retirement System, Board of Trustees*, 94 N.J.A.R.2d (TYP) 122.

Diabetic employee was not entitled to accidental disability retirement benefits. *Morgan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 95.

Epileptic employee suffering from recurrent; accidental disability retirement allowance. *Lojik v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 91.

Request for accidental disability retirement benefits; traumatic event. *Gilmore v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 89.

Disability benefits approved for school matron suffering arthritic changes. *Mirra v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 78.

Accidental disability retirement denied; "traumatic event". *Cook v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 76.

Employee failed to establish that he was permanently and totally disabled from performance of duties. *Weldon v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 68.

Accidental disability benefits; fall on staircase was not caused by a great rush of force or uncontrollable power. *Zech v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 45.

Back injury did not result from a traumatic event. *Ferro v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 42.

Rheumatoid arthritis; ordinary disability retirement. *Daggs v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 39.

Accidental disability retirement benefits were properly denied; "traumatic event". *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Petitioner who fell from a height of less than two feet was not eligible for accidental disability pension. *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Fall of less than two feet from a chair; accidental disability pension. *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Accidental disability retirement benefits properly denied; membership. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Denial of accidental disability retirement benefits was appropriate; employee was not member of PERS at time of accident. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Accidental disability retirement benefits denied; not member in Public Employees' Retirement System at time of accident. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Willful negligence precluded award of accidental disability pension benefits. *DeInnocentes v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 26.

Disability pension was properly denied. *Barnes v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 22.

Accidental disability retirement; injury not result from traumatic event. *Pannone v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 18.

Claim for accidental disability retirement did not involve "a great rush of force or uncontrollable power," and therefore was not a traumatic event. *Morgillo v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 13.

Claim for accidental disability retirement properly denied. *Hanuszak v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 10.

Ordinary disability retirement benefits denied. *Carcich v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 6.

Claim for accidental disability retirement benefits based on post-traumatic stress disorder properly denied. *Birch v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 1.

Employee's slip and fall did not constitute a "traumatic event". *Moore v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 338.

Worker who slipped and fell not entitled to accidental disability retirement benefits. *Collins v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 334.

Physical conditions of which employee complained, absent medical proof as to performance and capability, were insufficient to warrant ordinary disability retirement. *Willard v. Retirement System*, 93 N.J.A.R.2d (TYP) 306.

Accidental disability benefits were calculable from date of accident which led to retirement, rather than from last day of work. *Muscarella v. Retirement System*, 93 N.J.A.R.2d (TYP) 296.

Absent stress or strain from normal work effort, injury was not a traumatic event giving rise to accidental disability retirement. *Landau v. Retirement System*, 93 N.J.A.R.2d (TYP) 280.

Withdrawal of contributions from pension system operated as waiver of right to vested disability pension. *DeGraaff v. Retirement System*, 93 N.J.A.R.2d (TYP) 269.

Fall from prison bus was not traumatic event entitling correction officer to accidental disability benefits. *Crescenzo v. Retirement System*, 93 N.J.A.R.2d (TYP) 267.

Psychiatric worker experienced traumatic event warranting accidental disability benefits when caught in door by patient. *Reed v. Retirement System*, 93 N.J.A.R.2d (TYP) 258.

Attacks upon worker by youths at treatment center were traumatic events warranting accidental disability pension benefits. *Noonan v. Retirement System*, 93 N.J.A.R.2d (TYP) 254.

Accidental disability retirement allowance was not available absent evidence of causation and a traumatic event. *Davis v. Retirement System*, 93 N.J.A.R.2d (TYP) 243.

Back injury due to losing balance while loading heavy drums of cleaning fluid onto truck not result of traumatic event qualifying employee for accidental disability retirement benefits. *Fithian v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 213.

Eligibility for ordinary disability retirement benefits as result of psychiatric disability. *Kenerley v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 185.

An X-ray technician injured by sudden movement of low-functioning patient was not entitled to accidental disability pension. *Peters v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 159.

Being pulled onto table by patient not traumatic event qualifying X-ray technician for accidental disability retirement benefits. *Peters v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 159.

Employee's handicap did not make ground level slip and fall traumatic event qualifying him for accidental disability retirement benefits. *Juchniewicz v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 137.

Major depression and generalized anxiety did not entitle housing manager to ordinary disability retirement benefits where manager showed improvement with antidepressant medication. *Cappucio v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 98.

Worker hit by falling oven racks entitled to accidental disability retirement benefits. *Wagner v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 75.

Psychiatric hospital worker slipped and fell on floor; thus, no traumatic event for accidental disability retirement purposes. *Brown v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 61.

School custodian's neck and back injuries physically incapacitated him from performing his work, entitling him to ordinary disability retirement pension. *Rich v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 34.

Slip and fall on mashed potatoes and lifting cases of milk not traumatic events so as to qualify employee for accidental disability retirement benefits. *Bodie v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 29.

Back injury sustained when jerked off balance by 300-pound psychiatric patient not traumatic event entitling X-ray technician to accidental disability retirement benefits. *Downs v. board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 13.

Library aide entitled to ordinary disability retirement benefits due to back condition even though she continued to work during application process. *Bok v. Board of Trustees, Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 3.

Public works inspector injured in car accident entitled to accidental disability retirement benefits for traumatic event occurring in course of duty. *Woods v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 160.

Slip and fall on wet floor not traumatic event entitling carpenter to accidental disability retirement benefits. *Osback v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 141.

Hospital attendant struck in back by patient lift entitled to accidental disability benefits despite prior degenerative disc disease. *Dix v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 138.

Falling off ladder not direct cause of injury; thus, no eligibility for accidental disability retirement benefits. *Rinaldis v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 105.

Security guard with coronary heart disease not entitled to accidental disability retirement benefits; insufficient causality between traumatic event and subsequent heart attack. *Zaharioudakis v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 93.

Worker's injuries induced by stress and strain of normal work effort, and not result of traumatic event qualifying him for accidental disability retirement benefits. *Rinaldis v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 88.

Ground level fall not traumatic event qualifying hospital worker for accidental disability retirement benefits. *Evans v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 85.

Road construction worker who inhaled fumes from new blacktop mixture was not injured as result of traumatic event entitling him to accidental disability retirement benefits. *Beverly v. Public Employee's Retirement System*, 92 N.J.A.R.2d (TYP) 41.

Fall from ground level cannot constitute great rush of force necessary to find traumatic event entitling claimant to accidental disability retirement benefits. *Keaton v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 37.

Hospital attendant's injury while assisting patient from bed to chair did not result from traumatic event qualifying her for accidental disability retirement benefits. *Siniscalchi v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 30.

Supervisor's transfer threats did not constitute a traumatic event qualifying employee for accidental disability retirement benefits. *Fay v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 27.

Maintenance worker's fall from three foot scaffolding was not traumatic event entitling him to accidental disability retirement benefits. *Minkus v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 19.

School crossing guard's fall on sidewalk was not traumatic event in course of employment entitling her to accidental disability retirement benefits. *Osinga v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 16.

### 17:2-6.8 Option selection

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit but is approved by the board for retirement, in accordance with N.J.A.C. 17:2-6.7, he will be permitted within 30 days following board approval of his retirement, to amend the option selection which he made on the original accidental disability retirement application.

As amended, R.1971 d.71, effective May 18, 1971.  
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

**17:2-6.9 Employer and employee notices**

If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and, if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the system will notify both the member and his employer that the member was found to be physically or mentally incapacitated for the continued performance of duty, as was previously certified to the system by both the employee and his employer. Both the employer and the employee will also be advised that a copy of such notice will be placed in the member's file and will be given full consideration in any future claim for disability retirement benefits.

**17:2-6.10 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; and
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; and
4. He has a period of 30 days to contest his involuntary retirement before the board 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 retirement system; and
6. In the event the board finds that he is totally and permanently incapacitated for the performance of duty, he shall be granted the maximum retirement allowance, (without option) payable under the statute, if he (the member) 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 board 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.

**17:2-6.11 Early retirement benefits**

(a) The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retirement, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

Amended by R.1974 d.230, effective August 19, 1974.  
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

**17:2-6.12 Service retirement; eligibility**

A member becomes eligible for "Service" retirement on the 1st of the month following his 60th birthday.

**Case Notes**

Denial of petitioner's request for additional four years of creditable service was appropriate. *Alcaro v. Division of Pensions, the Alternate Benefit Program*, 94 N.J.A.R.2d (TYP) 124.

**17:2-6.13 Disability retirant; annual medical examinations**

(a) All disability retirants, under age 60, may be required to undergo a medical examination each year for a maximum period of five years by a physician designated by the System as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board.

(b) Failure on the part of a retirant to submit to the required medical examination shall result in the automatic suspension of his retirement allowance until he submits to a medical examination.

**Case Notes**

Township not required to reinstate formerly disabled employee who resigned before applying for disability benefits. *Township of Dover v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 83.

**17:2-6.14 Disability retirant; annual report (employment, earnings, test and adjustment)**

(a) All disability retirants, under age 60, shall be required to file a report with the System indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report must be filed with the System before the following February 15th.

2. Failure on the part of the retirant to file a completed report with the System before February 15 shall result in the automatic suspension of the retirant's retirement allowance for the period the report is in default.

(b) If a retirant reports employment and earnings, then the following tests shall be made by the System to ascertain:

1. If the retirant is engaged in a position subject to coverage by the System, his retirement allowance shall be cancelled and he shall be reenrolled in the system pursuant to N.J.S.A. 43:15A-44, effective as of the date of his appointment to such position.

2. If the retirant is engaged in employment and he estimates that his gross earned income for the present calendar year will exceed the difference between his pension and the salary he would have been receiving had he continued to work for his former employer (normal increment steps and salary range revisions will be considered but no promotional assumptions will be made) his pension for the period may be adjusted by such difference. If, at the close of the calendar year it is found that his earnings differ from his estimate, an appropriate adjustment will be made.

3. If such a retirant has not properly estimated his gross earned income for the calendar year and it is found at the close of the calendar year it exceeded the difference between his pension and the salary of his former position and if he does not refund the excess pension to the system within 30 days, effective April 1, his pension

for the succeeding 12-month period will be reduced by the excess pension he received in the preceding calendar year.

#### 17:2-6.15 (Reserved)

Amended by R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1977 d.148, effective April 27, 1977.

See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).

Repealed by R.1989 d.597, effective December 4, 1989.

See: 21 N.J.R. 3265(a), 21 N.J.R. 3929(c).

#### Case Notes

Presiding judge of county district court held the appointing authority for the district court clerk; clerk, upon reaching retirement age, and being notified by appointing authority that he may no longer continue in position, must retire. In re Brennan, 126 N.J.Super. 368, 314 A.2d 610 (App.Div.1974).

#### 17:2-6.16 Compulsory retirement; law enforcement officers

(a) Members classified as "law enforcement officers" shall be retired automatically by the board as of the compulsory retirement date established pursuant to N.J.S.A. 43:15A-99.