

physical conditioning program and the medical certification for participation in the training. The applicant or the employer must submit proof of the aforementioned training.

3. An applicant may be exempt from some parts of the basic training course if the applicant has successfully completed police training conducted by a Federal, State or county agency if the requirements are substantially equivalent to the requirements of a municipal police officer and approved by the PTC.

i. For those positions under the statutory authority of the PTC, the applicant must receive certification from the PTC regarding such exemption and successfully complete the remaining course work at an approved PTC school in New Jersey.

ii. For those positions not under the statutory authority of the PTC, in order for the Division of Pensions and Benefits to consider whether the applicant qualifies under the comparable police training rule, the applicant must submit the following documents to the Division of Pensions and Benefits for review of the authorized training credit:

(1) A letter of waiver request;

(2) A transcript of the training courses from the prior Federal, State or county agency, including the dates of completion for each course; and

(3) The course description of each and every police training course that the police applicant wishes to use for an exemption.

4. Comparable training for out-of-State police training courses cannot be more than three years from the date the police applicant graduated from the police academy.

5. Comparable training for in-State police training courses cannot be more than three years from the date the police applicant separated service with the former New Jersey employer to the date of the employment with the current New Jersey employer.

6. The applicant must successfully complete the remaining course work at either an approved PTC school in New Jersey or school offered comparable training to that prescribed by the PTC as set forth in (a)2 above. The applicant or the employer must submit evidence to the Division of Pensions and Benefits that such basic training course was satisfactorily completed.

7. Any current PFRS police members that have not successfully completed the PTC or comparable training by (18 months after the effective date of this new rule), will be removed from participation in the PFRS.

(b) As required under N.J.S.A. 43:16A-1(2b), permanent, full-time firefighters are required to successfully complete the

Firefighter I certification prescribed under N.J.A.C. 5:73-4.2, 4.3 and 4.4, or determined by the Board of Trustees.

1. Since all firefighting applicants must comply with N.J.A.C. 5:73-4.2, 4.3 and 4.4, the PFRS Board has determined that comparable training pursuant to the New Jersey Department of Community Affairs, Division of Fire Safety – Office of Training and Certification guidelines will be the only authorized agency to determine if the firefighting applicant's training meets the requirements for the Firefighter I certification.

2. Any current PFRS firefighting members that have not successfully completed the firefighter I certification or comparable training by (18 months after the effective date of this new rule), will be removed from participation in the PFRS.

New Rule, R.2008 d.373, effective December 15, 2008.
See: 40 N.J.R. 4678(a), 40 N.J.R. 6991(b).
Section was "Reserved".

17:4-2.5 Age requirements

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

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

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

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

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

(f) An applicant is permitted to reduce their actual age in order to meet the maximum age requirement of 35 years for

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

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

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

Amended by R.2000 d.292, effective July 17, 2000.

See: 32 N.J.R. 1320(a), 32 N.J.R. 2599(a).

Rewrote (c) and (d); and recodified former (d)3 as (e).

Amended by R.2003 d.204, effective May 19, 2003.

See: 35 N.J.R. 508(a), 35 N.J.R. 2186(a).

Rewrote (b).

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

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

Added (f)-(h).

Case Notes

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

17:4-2.6 Enrollment date

(a) Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, an employee who is appointed to a regular classified appointment from a Civil Service list to a PFRS position shall be considered for PFRS enrollment upon successful completion of the police or firefighting training.

1. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first day of the following month after successful completion of the police or firefighting training.

2. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the following pay period after successful completion of the police or firefighting training.

(b) Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, an employee in the unclassified service shall be considered as beginning service on the date employment began. The compulsory enrollment date for employers who report on a monthly basis shall be fixed as the first of the following month after successful completion of the police or firefighting training. The compulsory enrollment date for employers who report on a biweekly basis shall be fixed as the first day of the following bi-weekly pay period after successful completion of the police or firefighting training.

(c) Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, an employee who is appointed in a regular budgeted position with an employer not covered by Civil Service shall be considered for PFRS enrollment upon successful completion of the police or firefighting training.

1. For employers not covered by Civil Service who report on a monthly basis, the compulsory enrollment date shall be fixed as the first day of the following month after successful completion of the police or firefighting training.

2. For employers not covered by Civil Service who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the following pay period after successful completion of the police or firefighting training.

(d) Employees (both Civil Service and non-Civil Service locations) who are hired into approved PFRS titles and are otherwise eligible, will not be permitted enrollment in PFRS, until the employer certifies that the employees have successfully completed the police or firefighting training.

(e) In the interim, individuals hired in eligible police or fire positions will not be permitted to participate in any other State-administered retirement system based upon the same police or fire position.

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.

service and is included in the member's base salary upon attainment of a specified number of years of service.

(b) The Board may question the compensation of any member or retiree to determine its credibility where there is evidence that compensation reported as base salary may include extra compensation.

(c) Extra compensation shall not be considered creditable for benefits and all employee contributions made thereon shall be returned without interest.

(d) With respect to all claims for benefits, the Division of Pensions and Benefits shall investigate increases in compensation reported for credit which exceed reasonably anticipated annual compensation increases for members of the retirement system based upon consideration of the Consumer Price Index for the time period of the increases, the table of assumed salary increases recommended by the actuary and adopted by the Board, and the annual percentage increases of salaries as indicated in data from the Public Employment Relations Commission, or through other reliable industry sources of information regarding average annual salary increases. Those cases where a violation of the statute or rules is suspected shall be referred to the Board.

(e) In connection with an investigation of an increase in compensation, the Board:

1. May require that a notarized statement under oath be obtained from the member's employer that the reported compensation was not granted primarily in anticipation of retirement, and conforms with the statutes and rules governing the retirement system;

2. May require an employer to provide any record or information it deems necessary for the investigation, including, but not limited to, collective bargaining agreements, employment contracts, ordinances, resolutions, minutes of public meetings (closed or open), or any other record or information related to the increase in compensation; and

3. May refer any suspected submission of false information in violation of N.J.S.A. 43:16A-18, these rules, or other laws of the State of New Jersey to the Attorney General for review and initiation of criminal proceedings, if warranted.

(f) Failure to satisfactorily respond to a request by the Board for documents or information related to an increase in compensation may result in the denial of credit for the increase in compensation.

(g) A determination by the Board that a member's compensation for pension purposes includes extra compensation may result in:

1. A denial of credit for the extra compensation;
2. An audit of the retirees and the active employees of the employer to identify any additional cases of such extra compensation;

3. A return of contributions to the active members and retirees on the extra compensation without interest;

4. A recalculation of the retirement benefits of retirees to eliminate benefits based upon the extra compensation; and

5. Repayment to the system by the retiree of any benefits received based upon the extra compensation.

(h) Employer contributions shall not be revised or refunded because of a determination by the Board that a denial of credit for increases in compensation is warranted under this section.

(i) This section shall not be applicable to longevity pay, holiday pay, or education pay which is included in the creditable compensation of a retiree or member on a mandatory basis in accordance with the provisions of a collective negotiations agreement or employment policy of an employer approved and executed on or before January 1, 2000, until the termination date of the collective negotiations agreement or employment policy, or December 31, 2001, whichever occurs first.

Repeal and New Rule, R.2000 d.141, effective April 3, 2000.

See: 31 N.J.R. 3930(a), 32 N.J.R. 1246(a).

Section was "Creditable salary".

Case Notes

Police officers' base salary increase based on "senior status," occurring after 22 years of service and which was given in exchange for cessation of longevity pay and of vacation day accruals, was granted primarily in anticipation of officers' retirement and was disruptive to actuarial soundness of pension system, thus such salary increase was not creditable for retirement benefits. Fraternal Order of Police v. Board of Trustees of the Police and Firemen's Retirement System, 774 A.2d 680 (2001).

Police officers did not detrimentally rely on previous approval by Board of Trustees of the Police and Firemen's Retirement System of officers' increased "senior status" pay, and thus Board was not estopped from determining that "senior status" pay was not creditable for pension benefits, where most of the officers had not yet retired, sole officer who had retired was receiving pension credit under grandfathering provision, union had opportunity to bargain for other creditable salary increases, and "senior status" pay would not have been creditable under prior rule. Fraternal Order of Police v. Board of Trustees of the Police and Firemen's Retirement System, 774 A.2d 680 (2001).

Initial Decision (2008 N.J. AGEN LEXIS 920) adopted, which concluded that Board of Trustees of the Police and Firemen's Retirement System (PFRS) correctly determined that provisions in the contract between Ocean County PBA Local 258 and Ocean County providing that a "clothing allowance" be rolled into base salary was in violation of N.J.A.C. 17:4-4.1(a)(2)(vi) and, therefore, not creditable compensation in the PFRS. In re Ocean County PBA Local No. 258, OAL Dkt. No. TYPPE 2950-06, 2008 N.J. AGEN LEXIS 1121, Final Decision (December 9, 2008).

17:4-4.2 Prior service

(a) Any period of prior service credit paid for by an employer at the adoption of the system will reflect identical credit when calculating membership credit.

(b) Prior service credits are limited to service rendered on a full-time basis.

17:4-4.3 Continuance of membership; transfer

Once an employee establishes membership in the Retirement System, the member is eligible to continue such membership should the member be temporarily employed in a position covered by the Retirement System.

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

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

Created gender neutral references.

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

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

Capitalized "retirement system"; and at the end of the sentence, substituted "Retirement System" for "system".

17:4-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$50.00, it will be written off. If the balance is equal to or greater than \$50.00, the member will be assessed.

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

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

Increased balance amount from \$10.00 to \$50.00 throughout.

17:4-4.5 Deductions

(a) A full deduction shall be taken for the Police and Firemen's Retirement System in any payroll period in which the member is paid a sufficient amount to make a full normal deduction. If wages are sufficient, deductions should also be made for any arrears or loan deductions then in effect.

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

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

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

Substituted ". If wages are sufficient, deductions should also be made for any" for " , plus any other" following "full normal deduction".

17:4-4.6 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 \$2.00 or less during a calendar quarter.

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

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

Substituted "\$2.00" for "\$3.00" following "involves an amount of" and inserted "during a calendar quarter" following "or less".

17:4-4.7 Suspension

(a) A member suspended without pay will have insurance coverage continued for a period of 93 days following the effective date of such suspension.

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

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

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

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

In (b), substituted "deductions" for "retirement deductions" and substituted "service credit" for "retirement credit".

17:4-4.8 Service and salary credit: awards of back pay

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

(b) A member who appeals the suspension or termination of the member's employment and who, by award or settlement, becomes entitled to back pay for all or a portion of that employment for the period of such suspension or termination shall receive service credit for the period covered by the award or settlement 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 or settlement. If the member receives full back pay, including normal salary increases before mitigation, 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 award or 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, after mitigation, is insufficient to deduct the value of the normal pension contributions due, such contributions shall be paid by the member.

(c) In no case shall service or salary credit be given if the award of back pay, before mitigation, is less than the value of the normal pension contributions due. If a member waives an award of back pay, then the member cannot receive service or salary credit for the period of the award.

(d) If the award or settlement is structured in such a way as to provide the member with a substantial increase of creditable salary at or near the end of the member's service, or a substantial increase in retirement benefits, the award or settlement shall be reviewed by the Board of Trustees. If the Board determines that the pension benefit was part of the negotiations for the award or settlement, or if the award or settlement includes extra compensation as defined by N.J.A.C. 17:4-4.1, the Board shall determine the compensation to be used to calculate the retirement allowance and the member shall have the pension contributions for the salaries found not to be creditable refunded without interest.

Retiree time-barred from requesting change in benefits three years after receiving benefits. *Esposito v. Police and Firemen's Retirement System*, 97 N.J.A.R.2d (TYP) 93.

Lack of good cause and diligence defeated request to reopen application for accidental disability benefits. *Stein v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 198.

17:4-6.4 Outstanding loan

(a) A member who has an outstanding loan balance at the time of retirement may repay the loan balance, with accrued interest, as follows:

1. In full before the retirement allowance becomes due and payable as provided in N.J.A.C. 17:4-6.2; or
2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with accrued interest, is repaid as authorized by P.L. 1999, c.132 (N.J.S.A. 43:16A-16.2). If the member does not request repayment in full, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

(b) If a retirant dies before the loan balance, with accrued interest, is repaid, the remaining balance is paid first from the group life insurance proceeds, and then from the proceeds of any other benefits payable on account of the retirant in the form of monthly payments that are due to the beneficiary or estate. If multiple beneficiaries are to receive these benefits, each beneficiary shares in repaying the remaining balance in the same proportion in which they are entitled to the benefits.

Amended by R.2000 d.293, effective July 17, 2000.
See: 31 N.J.R. 2710(a), 32 N.J.R. 2601(a).

Rewrote (a); deleted former (b) and (c); and recodified former (d) as (b).

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

In introductory paragraph (a), added "accrued"; in (a)1, corrected N.J.A.C. cite; deleted former (a)2; recodified former (a)3 as (a)2 and added "accrued" and statutory citation; and in (b), added "accrued".

17:4-6.5 Willful negligence

(a) Willful negligence is defined as follows:

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.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 341) adopted, which concluded that a police officer's failure to properly utilize both straps on his 120-pound backpack was ordinary negligence rather than willful negligence; however, the injury that resulted from this failure was reasonably foreseeable and not caused by a traumatic event, and thus the officer was ineligible for accidental disability retirement benefits. In re *Doran*, OAL Dkt. No. TYP 11562-07, 2008 N.J. AGEN LEXIS 692, Final Decision (May 13, 2008).

17:4-6.6 (Reserved)

Recodified to N.J.A.C. 17:4-4.8 by R.2004 d.410, effective November 1, 2004.

See: 36 N.J.R. 622(a), 36 N.J.R. 4953(a).
Section was "Retirement credit".

17:4-6.7 Disability determination

(a) A member for whom an application for accidental disability retirement allowance has been filed by the member, by the member's 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 applicant was considered a member in service at the time of filing the application for a disability retirement allowance. A "member in service" means that the member or the employer was making pension contributions to the retirement system at the time of filing the application for a disability retirement allowance. It may also mean that the member was on an approved leave of absence, paid or unpaid, or suspension, paid or unpaid, at the time of filing the application for a disability retirement allowance, and it has not been more than the time frames permitted by N.J.S.A. 43:16A-9(5)a for active membership since the member's last contribution to the retirement system. If the member had pending litigation for wrongful termination filed against the employer, the member has 30 days from the date the litigation is resolved to file for disability retirement in order to be considered a "member in service";
2. The member is physically or mentally incapacitated for the performance of duty;
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 the member's regular or assigned duties; and
4. The member meets the service requirement for ordinary disability.

(b) Once the Board approves a member for a disability retirement allowance, the member's retirement application shall not be withdrawn, canceled or amended.

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

In (a), rewrote 1; neutralized gender references throughout.
Amended by R.2005 d.232, effective July 18, 2005.

See: 37 N.J.R. 573(a), 37 N.J.R. 2687(a).
In (a), rewrote 1; added (b).

Case Notes

Patrolman suffering heart attack triggered by violent assault with arrestee qualifies for accidental disability retirement benefits. *Ciupinski v. Board of Trustees of the Police and Firemen's Retirement System*, 97 N.J.A.R.2d (TYP) 99.

Accidental disability retirement allowance denied because no traumatic event occurred. *Joyce v. Police and Fireman's Retirement System*, 97 N.J.A.R.2d (TYP) 11.

Police officer who witnessed deaths of his father and brother while on duty suffered qualifying traumatic event entitling him to accidental disability retirement benefits. *Flint v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 278.

Corrections officer who sustained back injury in trip and fall incident did not suffer traumatic event for purposes of accidental disability retirement benefits eligibility. *Burzachiello v. Board of Trustees, Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 275.

Police officer granted disability retirement for psychiatric disorder offered sufficient proof that he no longer suffered from disorder to support his reinstatement 15 years later. *Dascoli v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 231.

Bus driver injured when patients fell on her in three unrelated incidents several days apart suffered qualifying traumatic event entitling her to award of accidental disability retirement benefits. *Harring v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 202.

Bus collision constituted traumatic event entitling driver to accidental disability retirement benefits. *Fullwood v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 200.

Former firefighter's application for disability retirement benefits was properly dismissed where applicant was not member in service at time of filing. *Kirwin v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 183.

Corrections officer who was diagnosed as suffering from multiple sclerosis while receiving treatment for on-the-job tripping injury was not entitled to accidental disability retirement benefits. *McBride v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 162.

Incident in which corrections officer was surrounded and threatened by prison inmates, and which resulted in officer's total psychiatric disability, constituted traumatic event entitling him to accidental disability retirement benefits. *Flume v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 153.

17:4-6.8 Employment after retirement

(a) A member, who is pending retirement or whose retirement has become effective pursuant to N.J.A.C. 17:4-6.2, is required to re-enroll in the Police and Firemen's Retirement System pursuant to N.J.S.A. 43:16A-15.3, regardless of whether the member is over age 35, if:

1. The member returns to the employment in a PFRS covered position;

2. The member continues in the same, or substantially the same, position held prior to retirement with no lapse in service after the retirement date. In this case, the member would not be considered to have a bona fide retirement and would not be entitled to any retirement benefits. The member would be reinstated to the former PFRS membership; or

3. The member returns to employment in a position which is the same, or substantially similar, to the position held by the member prior to retirement, and:

i. The position became a PFRS position for that member prior to retirement due to the provisions of N.J.S.A. 43:16A-1(2)(a) or (b) or 43:16A-3.1, which permit a member of the PFRS to continue membership if

serving in an appointive administrative or supervisory capacity over police or firefighters, and the member returned to employment with the same employer;

ii. The position became a PFRS position at the option of the member prior to retirement pursuant to N.J.S.A. 43:16A-3.5 or other statutory authority; or

iii. The position remained a PFRS position under the provisions of N.J.S.A. 43:16A-1.2 for those serving in the position at the time of the P.L. 1989, c.204 review.

(b) If a member is eligible to contribute to the PFRS from a position, then the position is a PFRS position.

(c) If the position is not for a title which is eligible for enrollment in the PFRS and the member is not eligible to contribute to the PFRS due to having reached the mandatory retirement age of 65 (N.J.S.A. 43:16A-5), the position is not covered under the provisions of the PFRS, and the member is not eligible to re-enroll or contribute to the PFRS from that position. The member may work in that position without affecting his or her retirement allowance.

New Rule, R.2005 d.119, effective April 18, 2005.
See: 37 N.J.R. 40(a), 37 N.J.R. 1217(b).

17:4-6.9 Final compensation

(a) In order to determine the final compensation for benefits on a:

1. Member reported on a monthly basis, use the base salary upon which pension contributions were made to the Annuity Savings Fund for the member's last 12 months of service.

2. Member reported on a biweekly basis, use the base salary upon which pension contributions were made to the Annuity Savings Fund for the member's last 26 pay periods of service multiplied by the factor supplied by the actuary to compensate for biweekly payroll schedules.

(b) The months or pay periods for which no contributions were made shall not be used in the calculation.

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

17:4-6.10 Employer initiated disability retirement application

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

1. The member's employer has properly initiated a disability application signed by the Certifying Officer or other designated officer of the employer, on the member's behalf;

2. The member's employer has submitted a written statement as to the grounds for the employer's request for the member's involuntary disability retirement and all available medical documentation; and, if appropriate;

3. The member's 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 the member's regular or assigned duties;

4. The member has a period of 30 days to contest the involuntary retirement before the Board acts on the employer's application;

5. The member 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 the member is totally and permanently incapacitated for the performance of duty, the member shall be granted a retirement allowance; and

7. In the event the Board finds that the member 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.

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

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

Rewrote section.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 355) adopted, which analyzed conflicting testimony and found that a campus police officer was not totally and permanently disabled from the performance of her normal and assigned duties; therefore, the employer-initiated application for disability retirement benefits was denied and the officer was ordered reinstated to her former position. In re Butler, OAL Dkt. No. TYPFF 5010-07N, 2008 N.J. AGEN LEXIS 694, Final Decision (June 10, 2008).

17:4-6.11 Service or special retirement; eligibility

(a) A member becomes eligible for "service" retirement:

1. On the first of the month following the member's 55th birthday. If the member's 55th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:16A-5, and requests that date; or