

(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.

#### 17:2-1.7 Appeal from Board decisions

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

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

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

#### Case Notes

State agency's failure to give employee required notice of right to appeal adverse determination concerning substitution of survivor's benefits beneficiary necessitated court's transfer of issue back to agency for final determination. *Rienzi v. Rienzi*, 300 N.J.Super. 355, 693 A.2d 129 (A.D.1997).

Employee who sustained back injury which, at most, contributed to progression of arthritic condition by aggravation, held not to have disability which was a direct result of a traumatic event so as to entitle the employee to disability retirement benefits. *Gerba v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 174, 416 A.2d 314 (1980).

Legislative positions held by employee as Assistant to Speaker of General Assembly, Assistant Secretary of Senate and Secretary of Senate held not within explicit exclusions for temporary or seasonal employees or employees whose salary was less than \$500, but were regular State employment positions qualifying employee for PERS benefits, notwithstanding twice yearly rather than quarterly salary payments. *Gladden v. Bd. of Trustees, Public Employees' Retirement System*, 171 N.J.Super. 363, 409 A.2d 294 (App.Div.1979).

#### 17:2-1.8 Suspension of pension checks

(a) The disbursement of pension checks shall be suspended under the following circumstances and such suspensions shall continue during the period in default:

1. If a disability retirant fails to appear for a medical examination;
2. If a disability retirant under age 60 fails to timely file a report with the system of his annual earned income;
3. If a widow, widower, parent or guardian of a minor child(ren) fails to file a certificate of eligibility which is normally mailed to such beneficiaries on an annual basis;
4. If a retirant or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this instance shall be suspended until a proper legal representative has been appointed.

As amended, R.1979 d.399, effective October 9, 1979.  
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

#### 17:2-1.9 Verified discrepancy in member's age

The member's account, active or retired, shall be reconstructed and all benefit entitlements and contributions shall be determined on the basis of the member's correct date of birth.

#### 17:2-1.10 Travel

Travel to and from work when it is to and from the regular place of employment is not considered duty rendered in the course of employment for the purpose of determining eligibility for accidental disability or accidental death benefits.

#### 17:2-1.11 Proof of age

(a) All members may be required to establish proof of their age with the System. A person enrolling at age 45 or older may be required to submit evidence at time of enrollment; under age 45, before a period of five years has elapsed from date of employment.

(b) In the event a member dies before satisfactory evidence of his date of birth has been filed with the System, appropriate evidence may be required before any death claim is processed for settlement.

(c) In the event proof of age has not been filed with the System before retirement, such proof must be filed before any retirement benefits may be disbursed.

#### 17:2-1.12 State employees; biweekly salaries

(a) Retirement and death benefits as well as service credit will be determined on the basis of biweekly pay period for State employees paid by centralized payroll.

(b) In the event a member is reported on a combination of monthly and biweekly pay periods, his last year's salary or final compensation as well as his service credit will be computed on a proportional basis.

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

#### 17:2-1.13 Nearest attained age; enrollment; retirement

(a) An individual who is six months or more past his or her most recent birthdate at the time of his or her enrollment will have his or her pension contribution rate and retirement factor based upon the age on his or her next birthday.

(b) Retired members and survivors will have their benefits calculated upon the basis of the factors applicable to their age as set forth in (a) above.

New Rule, R.1991 d.115, effective March 4, 1991.  
See: 22 N.J.R. 3707(a), 23 N.J.R. 712(a).

**Case Notes**

No early retirement incentive benefits for employee who did not turn 50 until two months after retirement date specified in special retirement legislation. *Ryan v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 217.

**SUBCHAPTER 2. ENROLLMENT****17:2-2.1 Social Security coverage**

(a) Social Security coverage as a public employee is a prerequisite for membership in the system.

(b) In the case of multiple employments (dual enrollments), Social Security coverage is prescribed in each position or employment for each to be qualified for membership.

Amended by R.1981 d.58, effective February 20, 1981.  
See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).

(c) deleted.

**17:2-2.2 Multiple employments**

(a) Any employee who has enrolled in a covered position must also enroll in any other position regardless of his or her employment status in such other position if he or she meets the salary and Social Security qualifications for enrollment. However, if an employee who is ineligible for membership later accepts an additional position which makes him or her eligible for membership in that second position, his or her ineligibility for membership in the earlier position is not altered by his or her enrollment in the Public Employees' Retirement System.

(b) An elected official must also enroll on the basis of such office if he or she is enrolled or is enrolling on the basis of other public employment.

(c) A LEO member who is also enrolled on the basis of a non-LEO position will contribute at the LEO rate of pension contribution on the base wages he or she receives from all positions.

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.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1988 d.351, effective August 1, 1988.

See: 20 N.J.R. 969(b), 20 N.J.R. 1953(c).

Deleted requirement that PERS employees be paid in four calendar quarters to be eligible for PERS membership.

**17:2-2.3 Ineligible persons**

(a) The following classes of persons are ineligible for membership in the system:

1. Motor vehicle agents and their employees;
2. Licensing agents of the Fish and Game Division and their employees;
3. Any person paid from State, county, local public, or Federal funds who is a member of or required to join the Federal Civil Service Retirement System on total salary;

4. Any employee who is provisionally appointed to a Civil Service position is considered as an employee with temporary employment status and is ineligible to establish membership until he or she receives a regular Civil Service appointment, or has one year of continuous service. This does not apply to anyone who is already enrolled as a member.

5. Seasonal employment is a category of occasional employment which the employer, consistent with past practices, does not expect to lead to permanent employment and is not a temporary position as defined under N.J.A.C. 17:2-2.4(c).

6. Any person not in the career, senior executive and unclassified service, or a regular budgeted position, who is employed on an on-call basis and works on average less than 10 days a month throughout the regular work year of the employer. This type of employment is temporary employment which is not continuous.

7. Any retired member who returns to a PERS-eligible position for which the annual compensation is less than the compensation limit for exclusion from membership pursuant to N.J.S.A. 43:15A-57.2b. To determine if the compensation for employment received by a retired member is below the compensation limit, all of the compensation received from employment with the same employer shall be combined, and all of the compensation from employment with more than one employer shall be considered separately. For the purposes of this paragraph, a "retired member" is a former member who has terminated all employment covered by the retirement system, who has not received compensation from employment covered by the retirement system for at least 30 consecutive days and whose retirement benefit has become due and payable as provided in N.J.A.C. 17:2-6.3.

Amended by R.1981 d.58, effective February 20, 1981.

See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).

(a)4: delete "is not paid"; add "does not earn wages", "of a year", and "is considered . . . community".

Amended by R.1983 d.7, effective February 7, 1983.

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

Treatment of provisional appointments and seasonal/occasional employment.

Amended by R.1989 d.312, effective June 19, 1989.

See: 21 N.J.R. 437(b), 21 N.J.R. 1743(a).

Added eligibility to establish membership in PERS with one year of continuous service, without regular Civil Service appointment, to (a)4. Temporary employment defined and excluded, at (a)6.

Amended by R.1998 d.321, effective July 6, 1998.

See: 30 N.J.R. 1025(a), 30 N.J.R. 2513(c).

In (a), added 7.

**Case Notes**

Legislative positions held by employees as Assistant to Speaker of General Assembly, Assistant Secretary of Senate and Secretary of Senate held not within explicit exclusions for temporary or seasonal employees or employees whose salary was less than \$500, but were regular State employment positions qualifying employee for PERS benefits, notwithstanding twice yearly rather than quarterly salary payments. *Gladden v. Bd. of Trustees, Public Employees' Retirement System*, 171 N.J. Super 363, 409 A.2d 294 (App.Div.1979).

Regulation excluding teacher from purchase of prior service credit, on grounds that her sporadic substitute teaching during period in question constituted break in service, was inconsistent with N.J.S.A. 18A:66-14, and thus would not be applied to deny teacher eligibility for purchase. *Walling v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 107.

Retiree's temporary reemployment in public service rendered him ineligible for retirement benefits. *Bedell v. PERS*, 96 N.J.A.R.2d (TYP) 39.

Substitute teacher was temporary employee within meaning of statutory amendment including temporary public employees in retirement system. *Schulaner v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 55.

Employee was not eligible to purchase any portion of his former PERS membership service that arose with his employment at vocational school. *Smollok v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 340.

Retiree was not entitled to purchase additional months of temporary service in order to qualify for health care coverage. *Donofrio v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 336.

Res judicata blocked employee's later attempt to purchase pension credits for temporary service. *Lord v. Retirement System*, 93 N.J.A.R.2d (TYP) 252.

Employee with military pension not entitled to purchase prior military service credit. *Woodward v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 124.

Teacher not entitled to reverse withdrawal from pension fund in order to obtain interfund transfer of service time. *Long v. Public Employees' Retirement System Board of Trustees*, 93 N.J.A.R.2d (TYP) 112.

No right to purchase prior service credit for temporary employment with postal service where employee had already received full credit for those years through full time city employment. *Fornaro v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 105.

One year employee entitled to purchase temporary service credit after one year enrollment period, but price based on salary at purchase date. *Coyle v. Division of Pensions*, 93 N.J.A.R.2d (TYP) 72.

Employee not entitled to purchase prior service credit for on-call work for postal service despite alleged sex discrimination preventing her full-time employment. *Horzepa v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 32.

Doctrine of substantial compliance with statutory and regulatory requirements invoked to allow petitioner to purchase pension credits for time served out-of-state even though purchase not completed prior to retirement date. *White v. Bd. of Trustees, Public Employees' Retirement System*, 1 N.J.A.R. 334 (1980).

### 17:2-5.2 New enrollment purchase or rate adjustment

Upon enrollment or reenrollment, a veteran shall contribute at the percent rate applicable to the age resulting from the subtraction of his or her years of prior service (pre-1955) from the date he or she began his or her present employment or the date of enrollment, whichever is later, provided that the member submits satisfactory evidence of prior public employment in New Jersey.

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).

### 17:2-5.3 Reestablishing military leave credit

Any veteran who terminated membership before January 1, 1955, and whose withdrawal of contributions included contributions paid by his or her employer during a period of military leave, shall receive veteran prior service credit for only the period during which he or she actually contributed. He or she can receive additional membership credit for the period of military leave if he or she redeposits the amount of employer contributions, plus regular interest to the date of his or her authorization of such purchase.

### 17:2-5.4 Compulsory purchase

(a) An employee who was required to enroll and whose application was filed beyond his or her compulsory date of

enrollment, will be required to purchase membership credit retroactive to the date of compulsory enrollment. Purchases will be calculated on the basis of the member's current salary at the full pension rate of contribution assigned as of his or her compulsory date of enrollment with regular interest.

(b) Veterans, who were ineligible to establish membership in a local contributory pension fund and who elect to enroll in accordance with the provisions of Chapter 71, P.L. 1966, must agree, prior to their enrollment, to purchase all continuous public employment with the same employer since January 1, 1955, or the date of their regular appointment. The purchase of service will be calculated on the basis of their current salary multiplied by the actuarial factor established for the member's age at the time of purchases.

#### Case Notes

Waiver of interest payment assessments on petitioner's purchase of retroactive compulsory service credit was properly denied. *Montagna v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 119.

### 17:2-5.5 Optional purchases of eligible service

(a) Members, who purchase temporary service, must purchase all such service immediately preceding enrollment. The purchase will be calculated on the basis of the member's current salary times the full percentage rate of contribution assigned at enrollment.

(b) The types of purchases indicated below will be calculated on the basis of the actuarial factor established for the member's age at the time of the purchase times his or her current salary:

1. All former membership credit with another State-administered retirement system;
2. All former service with any other employer which was not certified for membership but which would have qualified on a compulsory basis at the time the service was rendered;
3. Leaves of absence:
  - i. All of the period of the leave for personal reasons which does not exceed two months;
  - ii. All of the period of the leave up to two years for personal illness or maternity.
4. Non-veterans may purchase all continuous service subsequent to the date their employer adopted the retirement system, provided the service was with the same employer to the date of enrollment;
5. Non-veterans, hired prior to July 1, 1966, whose employers have not adopted the retirement system, may enroll any time and purchase all continuous service retroactive to July 1, 1966, provided the service was with the same employer to the date of enrollment;

6. Members who purchase all or a portion of their eligible out-of-state service.

(c) Rules concerning the purchase and/or conversion of Class A credit include the following:

1. The cost of Class B service credit is based on the actuarial factors and such factors provide a retirement benefit which is one-sixth greater than service credited as Class A. If Class A credit is purchased, the cost will be six-sevenths of the amount computed for a Class B purchase. The computation is based on the member's present salary multiplied by the actuarial factor for the member's age at the time of purchase with regular interest.

2. If a Class A member converts to Class B, he or she will contribute an additional one-sixth of the total contributions that would have been payable based on his or her full Class A contribution rate with regular interest.

#### Case Notes

Retiree's request to cancel and obtain refund of previously purchased prior service credit in the retirement system denied. *Chmieloweic v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 73.

#### 17:2-5.6 Methods of payment

(a) Methods of payment include the following:

1. Lump sum;
2. Partial lump sum of \$250.00 or more; balance by extra payroll deductions;
3. Extra deductions equal to at least one-half of the full regular pension deduction for a maximum period of 10 years;
4. Extra payroll deductions will include regular interest for the term of the installment.

Amended by R.1991 d.281, effective June 3, 1991.  
See: 23 N.J.R. 685(b), 23 N.J.R. 1800(a).  
Mandatory age requirement eliminated.

#### 17:2-5.7 Military leave

Any active member purchasing credit for out-of-state public employment, may include in the maximum of 10 years credit to be purchased, his or her leave of absence for military service, provided he or she received credit for such leave in the State or local public retirement system, in which he or she was participating at the time he or she was in military service.

#### Case Notes

Denial to purchase peacetime military service after eligibility expired confirmed. *Pagliarulo v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 39.

#### 17:2-5.8 Per diem credit

For the purpose of granting prior service credit for service performed on a per diem basis, credit shall be prorated and granted on the basis of 20 days equal one month of credit.

#### 17:2-5.9 Ineligible service

(a) Members will not be granted prior service or membership credit for the following employment:

1. Honorary positions, without salary;
2. Leaves of absence without pay, except military leave;
3. Motor Vehicle Agents or as employees of the agent;
4. Licensing Agent of the Division of Fish, Game and Shellfisheries or as employee of the agent.

#### 17:2-5.10 Creditable service; law enforcement officers

Two percent service credit for Law Enforcement Officer members is that service rendered in the capacity of a Law Enforcement Officer, for which the member has paid at the Law Enforcement Officer rate of contribution unless as otherwise provided by the statute.

#### 17:2-5.11 Eligible credit

(a) An active, contributing member may purchase credit for up to 10 years of out-of-state public employment provided the member is not receiving nor is entitled to receive a retirement allowance for such service from any other public retirement system and proof is received that he or she has withdrawn from such other system.

(b) Federal service and service rendered outside of the United States, with the exception of eligible service rendered in certain instances in territories or possessions of the United States, Washington, D.C. and the Canal Zone, is not creditable.

#### 17:2-5.12 Correction of errors

Credit for all previous service established under the provisions of Chapter 104, P.L. 1974, shall be calculated on the basis of salaries received during the period of such service. The pension rate of contribution will be determined as of the member's compulsory date of enrollment. The members shall pay on the basis of his or her current salary at the full pension rate of contribution with regular interest.

**17:2-5.13 Lump-sum purchases**

If a purchase is paid in a lump sum, the member shall receive full credit for the amount of service covered by the purchase upon receipt of the lump-sum payment. The service may be used for any purpose for which it is authorized under the Public Employees' Retirement System Act (N.J.S.A. 43:15A-1 et seq.) and the rules of the retirement system.

New Rule, R.1989 d.516, effective October 2, 1989.

See: 21 N.J.R. 1820(b), 21 N.J.R. 3176(b).

**SUBCHAPTER 6. RETIREMENT**

**17:2-6.1 Applications**

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



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

Conviction for crime involving continuing course of conduct and breach of public trust defeats application for service credit during time crime committed. *De Angelo v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 34.

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).

Electrical installer suffering personal injury from falling air conditioner unit entitled to accidental disability pension. *Zillante v. Board of Trustees of the Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 44.

Permanent injuries not arising from great rush of force or uncontrollable power fail to meet test to receive accidental disability benefits. *DiBlashi v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 36.

Failure to prove great rush of force or uncontrollable power defeats claim for accidental disability benefits. *Pino v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 21.

Ordinary disability retirement benefits granted bus driver who sustained shoulder injury after fall in parking lot. *Hessler v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 13.

Bus driver who sustained lower back injury when stack of tires fell on him did not suffer traumatic event and thus was not entitled to accidental disability retirement benefits. *Pino v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 298.

Motor vehicle operator who sustained arm and shoulder injuries when van door malfunctioned, and who later reinjured her arm while maneuvering client's wheelchair, was not entitled to accidental disability retirement benefits; neither incident constituted qualifying traumatic

event. *McDaniel v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 284.

Survivors of maintenance worker whose blood alcohol level was in excess of legal limit at time he died in work-related automobile collision could not recover accidental death benefits; employee who drives automobile while intoxicated is willfully negligent and thus ineligible to receive such benefits. *Komiskey v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 271.

Housing inspector who experienced chest pains after climbing eight flights of stairs did not suffer traumatic event, and thus was not eligible for accidental disability retirement benefits. *Cartagena v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 266.

Clerk who tripped and fell down flight of stairs failed to establish that injuries she suffered rendered her unable to perform her regular employment duties, and thus she was not eligible for accidental disability retirement benefits. *Bonomo v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 261.

Injuries sustained by clerk stenographer when she fell over several boxes after being frightened by rat in workplace lunchroom were not caused by requisite "great rush of force or uncontrollable power," and thus clerk was not entitled to accidental disability retirement benefits. *Hunter v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 252.

Laborer who injured himself while attempting to lower entire man-hole casing by himself was not entitled to accidental disability retirement benefits; injury was not caused by requisite "great rush of force or uncontrollable power." *Tomasi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 239.

Public works employee injured in slip and fall on bus steps did not suffer traumatic event entitling him to accidental disability retirement benefits. *Yodice v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 210.

Slipping on running board of van and lifting potted plants were not traumatic events for purposes of accidental disability retirement benefits. *Malvossi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 179.

Accidental disability retirement benefits were properly denied to warehouseman whose disability resulted from willful negligence due to intoxication. *Dale v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 172.

Dispatcher who was hit in the head when file cabinet toppled over on her did not suffer traumatic event entitling her to accidental disability retirement benefits. *Scholl v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 150.

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.