

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

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

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

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

Amended by R.1984 d.36, effective February 19, 1985.
 See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).
 (b)3: "20" eligible was "50".
 Amended by R.1985 d.36, effective February 19, 1985.
 See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).
 Amended by R.1989 d.320, effective June 19, 1989.
 See: 21 N.J.R. 438(a), 21 N.J.R. 1744(a).
 Petition signatures changed from 20 to five, at (b)3.

17:6-1.5 Certifying agent (employer)

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

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

17:6-1.6 Records

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

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

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

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

17:6-1.7 Appeal from commission decisions

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

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

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

17:6-1.8 Suspension of pension checks

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

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

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

17:6-1.9 (Reserved)

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

SUBCHAPTER 2. MEMBERSHIP

17:6-2.1 Creditable salary

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

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

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

Case Notes

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

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

17:6-2.2 Deductions

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

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

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

Case Notes

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

17:6-2.3 Minimum adjustment

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

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

17:6-2.4 Suspension

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

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

Case Notes

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

SUBCHAPTER 3. RETIREMENT

17:6-3.1 Applications

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

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

(c) Before an application for retirement may be accepted for processing, it must be supported by a certificate from the employer setting forth the employment termination date and the salaries reported for contributions in the member's final year of employment.

(d) In addition to the foregoing requirement, the application for disability retirement must be supported by a report of the member's personal or attending physician and a statement from the employer regarding the member's incapacity for further duty.

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

17:6-3.2 Effective dates; changes

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

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

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

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

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

Case Notes

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

17:6-3.3 Survivor benefits

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

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

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

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

Case Notes

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

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

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

17:6-3.4 Accrued allowance

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

17:6-3.5 Ineligibility of adopted children

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

17:6-3.6 Retirement credit

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

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

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

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

17:6-3.7 Disability determination

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

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

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

Case Notes

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

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

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

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

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

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

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

Twisting injury suffered when horse reared up not traumatic event qualifying police officer for accidental disability retirement benefits.

Mazza v. Police and Firemen's Retirement system, 93 N.J.A.R.2d (TYP) 59.

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

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

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

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

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

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

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

17:6-3.8 Employer application; employee notice

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

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

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

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

17:6-3.9 Medical examinations; physicians

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

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

As amended, R.1976 d.103, effective April 5, 1976.

See: 8 N.J.R. 50(c), 8 N.J.R. 262(b).

As amended, R.1977, d.461, effective December 7, 1977.

See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

As amended, R.1982, d.349, effective October 18, 1982.

See: 13 N.J.R. 749(b), 14 N.J.R. 1164(d).

Clarification of treatment in "imminent death" cases.

17:6-3.10 Effective date; death prior thereto

A member's retirement allowance shall not become due and payable until 30 days after the date the board approved the application for retirement or 30 days after the date of the retirement, whichever is later.

R.1977 d.461, effective December 7, 1977.

See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

SUBCHAPTER 4. TRANSFERS

17:6-4.1 Interfund transfers; other State systems

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