

CHAPTER 6

CONSOLIDATED POLICE AND FIREMEN'S PENSION FUND

Authority

N.J.S.A. 43:16-7.

Source and Effective Date

R.1998 d.583, effective November 23, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Executive Order No. 66(1978) Expiration Date

Chapter 6, Consolidated Police and Firemen's Pension Fund, expires on November 23, 2003.

Chapter Historical Note

Chapter 6, Consolidated Police and Firemen's Pension Fund, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 6 expired on December 6, 1984.

Chapter 6, Consolidated Police and Firemen's Pension Fund, was adopted as new rules by R.1985 d.37, effective February 19, 1985. See: 16 N.J.R. 2997(b), 17 N.J.R. 475(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Consolidated Police and Firemen's Pension Fund, was readopted as R.1988 d.579, effective November 22, 1988. See: 20 N.J.R. 2537(a), 20 N.J.R. 3142(a). Pursuant to Executive Order No. 66(1978), Chapter 6 expired on November 22, 1993.

Chapter 6, Consolidated Police and Firemen's Pension Fund, was adopted as new rules by R.1993 d.659, effective December 20, 1993. See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Consolidated Police and Firemen's Pension Fund, was readopted as R.1998 d.583, effective November 23, 1998, and Subchapter 2, Membership, and Subchapter 4, Transfers, were repealed by R.1998 d.583, effective December 21, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:6-1.1 Commission meetings

(a) The Commission shall meet semiannually on the second Wednesday of June and December unless a change is declared in order by the Secretary at an appropriate time, and subject to the exception of the annual meeting prescribed by N.J.S.A. 43:16-6.2.

(b) The presence of three Commission members at the start of any meeting of the Commission will be necessary in order to constitute a quorum of the Commission. Such presence need not be actual physical presence but may, at the determination of the Secretary that the circumstances warrant it, include the participation of any of the three Commission members by telecommunications connection.

Amended by R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

In (a), inserted "semiannually" following "meet", substituted "June and December" for "each month," and substituted "Secretary" for "chairman"; and in (b), substituted "Secretary" for "chairman" in the second sentence and substituted "three Commission" for "four commission" throughout.

17:6-1.2 Fiscal year

(a) Fiscal year shall mean the 12-month period of fiscal transactions commencing July 1 and running until June 30 following.

(b) The actuarial valuation is based on a calendar year.

(c) All other reports and statements will consider such a fiscal year except special reports not having direct relationship to the financial transactions of the retirement system.

17:6-1.3 Officers and committees

(a) The chairman of the Commission will be elected by a majority vote of the members in attendance at the June meeting of each year, not less than three members to be present at such a meeting. The chairman of the board shall preside at all meetings he or she attends and in his or her absence another member selected by the majority of the members in attendance will preside for that single meeting.

(b) Upon recommendation of the Director of the Division of Pensions and Benefits, the Commission will select from the staff of such Division a secretary and assistant secretary, the latter to serve in the absence of the secretary.

(c) The chairman will appoint such committees from the Commission members as he or she deems necessary to facilitate the Commission's operations. Such committee appointments will be for a one-year period, commencing each July 1.

Amended by R.1973 d.26, effective January 19, 1973.

See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Amended by R.1993 d.659, effective December 20, 1993.

See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

In (a), substituted "June meeting of each year," for "first meeting of each fiscal year" and "three members" for "four members" in the first sentence.

17:6-1.4 Election of members—Commission

(a) The election of Commission members will include the use of nominating petitions:

1. This will entail the distribution to retired members of at least two forms.
2. The first will be an election notice setting forth the rules for filing nominating petitions and other pertinent data.
3. The second will be the ballot, containing the names of the candidates who have been properly nominated as well as the rules governing the election.

(b) Requirements for the election notice and petition shall include:

1. A notice will be prepared advising the retired members of the position to be voted upon. All present members of the Commission and the expiration of their terms will be shown.
2. The election notice will indicate to the member that petition forms will be provided by the Commission and forwarded upon request.
3. The election notice will also indicate that at least five eligible retired members must sign the petition in order for a candidate's name to be placed on the ballot.
4. Petitioners should indicate their Social Security or retirement number, and sign the petition.
5. A member may sign a petition for only one candidate.
6. The candidate named on the petition must sign the petition in a designated space indicating that he is willing to be a candidate.
7. The instructions will indicate the closing date for the filing of such petitions and also indicate that a ballot bearing the names of such candidates will be forwarded to each eligible voter.
8. The qualified candidates will be invited to a drawing to determine the order in which the candidates' names will appear on the ballot.

(c) The requirements for the ballot shall include:

1. Each eligible voter will have a ballot bearing his name.
2. The ballots and return envelopes will identify the ballot as being either for the police or fireman's election.
3. The closing date of the election will be indicated.
4. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.
5. Instructions for the proper casting of the ballot (marking of the ballot, returning of such ballot through the return envelope and notice to sign such envelopes) will be given to each eligible voter.
6. The instructions will also indicate that the candidate receiving the highest number of votes will be declared elected to position.

(d) Rules concerning election notice and petition include:

1. The election notice will be forwarded directly to retired members.
2. Police and firemen notices will be differentiated by colored forms or by some other mark explained in the instructions.

(e) Rules concerning ballots, forwarding include:

1. The ballots bearing the name and retirement number of retired members will be forwarded directly to the retired members.
2. Police and firemen ballots and return envelopes will be differentiated by colored forms or by some other symbol.

(f) The returned ballot bearing envelope is to be examined for proper signature. A record will be maintained to identify the register or retirement number of the members who have voted. The sealed ballot will then be deposited in a locked container. Immediately prior to the counting of the ballots, the information identifying the individual voters will be separated from the still sealed ballot in the presence of the election judges.

(g) The Commission will appoint the Secretary and one assistant to examine the returned ballots and to tabulate the votes cast:

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

(h) 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.

(i) In the event there is but one qualified candidate who has indicated his willingness to be such a candidate, the Secretary 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.
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Rewrote the section.

17:6-1.5 Certifying officer (employer)

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 officer.

Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Deleted former (a) designation and substituted a reference to certifying officers for a reference to certifying agents at the end; and deleted former (b).

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 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).

Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

In (b), deleted "active and" preceding "retired".

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).
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

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. (RESERVED)

SUBCHAPTER 3. RETIREMENT

17:6-3.1 (Reserved)

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).
Repealed by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
Section was "Applications".

17:6-3.2 (Reserved)

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.
Repealed by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
Section was "Effective dates; changes".

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) A pension allowance shall be payable for the entire month in which the retirant or beneficiary dies.

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).
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
Rewrote the section.

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 (Reserved)

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.
Repealed by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
Section was "Retirement credit".

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).
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Case Notes

Police officer's injury to back while trying to open automobile door was not traumatic event for purposes of determining accidental disability benefits. *Kauffman v. Police and Firemen's Retirement System, 96 N.J.A.R.2d (TYP) 31.*

Police officer's subjective claims of pain insufficient evidence of disability to award permanent disability benefits. *Suarez v. Police and Firemen's Retirement System, 96 N.J.A.R.2d (TYP) 6.*

Disability benefits denied; application was filed while member was not "in service." *Schott v. Police and Firemen's Retirement System, 94 N.J.A.R.2d (TYP) 227.*

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 Allow-

ance" 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).
Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

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).