

letter of interest and submit it to the Board Secretary. The Board Secretary will verify the eligibility of a member to be a candidate. If the member qualifies as a candidate, the Office of the Board Secretary shall then forward instructions regarding the nominating process;

3. The nominating instructions for retired member-trustees shall explain that at least 100 retired members who are eligible to vote for the positions are required to register their nominations for the candidate through a designated website or, if necessary, a signed paper petition;

4. The form shall explain that a retired member shall nominate only one candidate seeking the retired-member trustee position;

5. The last date for nominating a candidate shall be identified, as well as the approximate date the election packets shall be sent to the retired members;

6. If only one candidate is nominated for the position, the candidate shall be deemed elected to the position without balloting. A notice on the Division's website shall be posted indicating no contest since only one candidate was nominated; and

7. If no candidates qualify for the position, the position will remain vacant until the next election cycle and will be vacant for the remainder of the unexpired term.

(e) The following shall apply to the distribution of the election packets:

1. The Board reserves the right to authorize a vendor to collect votes through one or more of the following election processes. All eligible retired members shall have an opportunity to cast a ballot through one of the following:

- i. Telephone (voice retrieval system-electronic vote);
- ii. Internet access (electronic vote); or
- iii. Paper ballot (postage-paid, self seal return mailer);

2. For each eligible retired voter as defined within N.J.A.C. 17:4-6.3(a) there shall be forwarded to him or her an election packet, which shall include the following information and instructions:

- i. The name of the eligible voter, pension retirement number, ballot number and personal identification number (PIN);
- ii. The closing date of the election;
- iii. The name of each candidate nominated, including a biographical sketch listing the candidate's background and former employer;
- iv. Instructions on how to properly cast a vote, including notification that shall advise the member that mutilated ballots, illegible ballots, ballots with write-in

votes, ballots with multiple votes or ballots where it cannot be determined for whom the member intended to vote shall be declared invalid and not considered in the final election count;

v. Instruction on how to properly cast an electronic vote;

vi. Instruction on proper use of the PIN number;

vii. Notification that the candidate receiving a plurality of the legal votes cast shall be declared elected to the position;

viii. Notification that the first vote cast shall be counted as the official vote and subsequent votes shall be rejected; and

ix. A statement regarding the confidentiality and security used by the vendor to protect the election process against fraudulent and/or multiple voting;

3. The positions listed on the ballot shall be determined by a drawing conducted at a time and place determined appropriate by the Board Secretary. All candidates may attend such drawing by contacting the Board Secretary;

4. The candidate receiving the highest number of legal votes shall be deemed to be elected to that position;

5. The Secretary of the Board shall oversee the election procedure to ensure that the vendor complies with all of the requirements and assures the validity of the final election count;

6. The candidates for election whose names are printed upon the ballots shall be invited to attend the presentation of the final results of the election.

(f) The following shall apply to biographical information:

1. An informational sheet of biographical information regarding each candidate shall be prepared by the candidate and submitted to the Board Secretary;

2. The Board Secretary shall inform each candidate that the biographical information shall be included with the election packet;

3. The biographical information on each candidate shall be included on the ballot and provided to those eligible to vote as part of the election packet; and

4. Endorsements are not permitted in the biographical information.

(g) The following apply to vote tabulation:

1. Only a member's first vote shall be counted as the official electronic or paper ballot. All duplicate or subsequent votes shall be considered invalid and not included in the final election count;

2. The candidate receiving the highest number of all legal votes contained in (e) and (f) above shall be deemed to be elected to the position;

3. The Secretary of the Board shall oversee the election process to ensure that the vendor complies with all of the requirements and to assure the validity of the final election count; and

4. The eligible candidates for the election shall be invited to the presentation of the final results of the election.

(h) The following shall apply to recount procedures:

1. Any candidate or member who shall have reason to believe that an error has been made in counting or declaring the vote may request in writing, within 20 days of the certification of the results of the election, that the Board at its next regular meeting or at a special meeting, hold a hearing to consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such hearing, any member of the Board who is a candidate on the contested ballot shall not vote in the Board's decision on the request. Candidates on the contested ballot shall be invited to attend the Board's meeting and may present evidence to support their beliefs;

2. If a candidate or other interested party requests a recount within the prescribed time, this request shall be reviewed and granted by the Board if a recount could possibly affect the results of the election. All ballots received shall then be recounted and the recount shall be supervised by the Board Secretary. The Board Secretary shall certify the results of the recount to the Board. If a recount is not requested within 20 days, the ballots may be destroyed; and

3. Upon election and the taking of an oath of office, a retired police and fire member-trustee shall serve for a term of four years. In the event that no member is certified as the winner of an election, the incumbent trustee shall serve until a successor is certified by the Board.

(i) In the event the victorious candidate dies or is unable or unwilling to serve as such retired member-trustee prior to the beginning of the candidate's term as trustee, the Board shall conduct a new election to fill the Board vacancy. For purposes of this provision, a retired member-trustee's term begins upon the taking of the oath of office.

New Rule, R.1997 d.28, effective January 21, 1997.

See: 28 N.J.R. 1605(b), 29 N.J.R. 376(a).

Amended by R.2004 d.27, effective January 20, 2004.

See: 35 N.J.R. 4456(a), 36 N.J.R. 439(a).

In (d), deleted "signature" following "100 retired members" in 3 and inserted "or retirement number" following "social security number" throughout 4; rewrote (e).

Amended by R.2005 d.231, effective July 18, 2005.

See: 37 N.J.R. 570(a), 37 N.J.R. 2686(a).

Rewrote the section.

Amended by R.2011 d.235, effective September 6, 2011.

See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

Rewrote the section.

SUBCHAPTER 1A. DEFINITIONS

17:4-1A.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Authorized to carry a firearm while engaged in the performance of his or her official duties" means so authorized by a statute. It is not required that an employee actually carries a firearm while engaged in official duties, but the employee shall be legally authorized and qualified to do so.

"Board of Trustees" or "Board" means the Board of Trustees of the PFRS established pursuant to N.J.S.A. 43:16A-13.

"Direct supervision" and "general supervision" includes conducting performance evaluations, disciplining, adjusting grievances, rewarding and assigning and directing the work of other employees.

"Director" means the Director of the Division of Pensions and Benefits in the Department of the Treasury.

"Division" means the Division of Pensions and Benefits, Department of the Treasury, in the State of New Jersey.

"Employer" means the State of New Jersey or the county, municipality or political subdivision thereof that pays the particular police officer or firefighter.

"Final compensation" means the base salary received for the 12 months immediately preceding retirement. For employees enrolled into the PFRS on or after May 21, 2010 "final compensation" means the average annual compensation for the last three years of service, or any three fiscal years of membership that provide the largest possible benefit to the member or the member's beneficiary. Final compensation does not include extra compensation or money given in anticipation of retirement.

"Firefighter" shall have the meaning ascribed to that term by P.L. 1989, c. 204 (N.J.S.A. 43:16A-1).

"Firefighting unit" means a municipal fire department, a fire district or an agency of a county or the State that is responsible for control and extinguishment of fires.

"Law enforcement unit" means any police force or organization in a municipality, county or the State, which has by statute or ordinance the responsibility of detecting crime and enforcing the criminal laws of this State.

"Permanent firefighter" under a civil service jurisdiction means a full-time firefighter applicant who successfully completes the Firefighting 1 certification pursuant to N.J.A.C. 5:73-4.2, 4.3 and 4.4 and receives a regular appointment in a civil service location pursuant to N.J.A.C. 4A:4-5.1(a). "Permanent firefighter" under a non-civil service jurisdiction

means a full-time firefighter applicant who successfully completes the Firefighting 1 certification pursuant to N.J.A.C. 5:73-4.2, 4.3 and 4.4 and is employed in a regular budgeted position.

“Permanent police officer” under a civil service jurisdiction means a full-time police applicant who receives a certification of successful completion of the basic training course approved by the Police Training Commission (PTC) pursuant to N.J.S.A. 52:17B-66 et seq., and receives a regular appointment pursuant to N.J.A.C. 4A:4-5.1(a). For those positions that do not fall under the statutory authority of the PTC, an applicant must successfully complete comparable training that is conducted by a Federal, State or county agency and is substantially equivalent to the requirements of a basic training course of a municipal police officer approved by the New Jersey PTC. “Permanent police officer” under a non-civil service jurisdiction means a full-time police applicant who receives certification of successful completion of the basic training course approved by the Police Training Commission (PTC) pursuant to N.J.S.A. 52:17B-66 et seq., and is employed in a regular budgeted position. For those positions that do not fall under the statutory authority of the PTC, an applicant must successfully complete comparable training that is conducted by a Federal, State or county agency and is substantially equivalent to the requirements of a basic training course of a municipal officer approved by the New Jersey PTC.

“PERS” means the Public Employees’ Retirement System created pursuant to N.J.S.A. 43:15A-1 et seq.

“Police officer” shall have the meaning ascribed to that term by P.L. 1989, c. 204 (N.J.S.A. 43:16A-1).

“Police powers” means the statutory authority, under the appropriate circumstances in accordance with law, to arrest and detain and to control the actions of the public, or those individuals who come under the jurisdiction of the public employer’s jurisdiction.

“Police Training Commission,” which is established pursuant to N.J.S.A. 52:17B-70, shall mean an agency authorized to establish physical and mental fitness requirements applicable to the position of municipal police officer.

“Position” means a job title.

“Retirement System,” “System” or “PFRS” means the Police and Firemen’s Retirement System of New Jersey as defined in N.J.S.A. 43:16A-2.

“Years of service” means the amount of membership service credited to the member’s PFRS account.

SUBCHAPTER 2. ENROLLMENT

17:4-2.1 Eligible positions

(a) All public employees actively employed in positions meeting the statutory definition “police officer” or “firefighter” found at N.J.S.A. 43:16A-1(2)(a) and (b) shall be members of the PFRS of New Jersey.

(b) Determinations by the Director and the Board whether an employee of a law enforcement unit or firefighting unit is an administrative employee with the meaning of the definitions of “police officer” or “firefighter” under the law and this chapter shall be on a case-by-case basis. An employee may perform some administrative functions without being an administrative employee. In determining whether an employee is an administrative employee, the Director and the Board shall consider the following factors:

1. Whether and to what extent the employee is responsible for preparing or recommending budgets contracting for goods or services, processing employment actions, managing information systems, and the provision of administrative support;
2. Whether the administrative tasks performed by the employee are central to, rather than incidental to, the primary responsibilities of the employee; and
3. Whether the career path to become an administrative employee begins with or includes positions as non-administrative police officers or firefighters.

(c) Determinations by the Director and the Board whether an employee of a law enforcement unit or firefighting unit is a supervisory employee within the meaning of the definitions of “police officer” or “firefighter” under the law and this chapter shall be on a case-by-case basis. An employee may perform some supervisory functions without being a supervisor. In determining whether an employee is a supervisory employee, the Director and the Board shall consider the following factors:

1. Whether and to what extent the employee is responsible for conducting performance evaluations, disciplining, adjusting the grievances, rewarding, and assigning and directing the work of non-supervisory police officers or firefighters or effectively recommending such actions;
2. Whether the individual police officers or firefighters subject to some supervision by the employee have a primary supervisor other than the employee;
3. Whether the supervision performed by the employee is central to, rather than incidental to, the primary responsibilities of the employee; and

4. Whether the career path to become a supervisor begins with or includes positions as non-supervisory police officers or firefighters.

(d) Employers shall not use the same job title for both individuals whose job functions meet the definition of “police officer” or “firefighter” and individuals whose job functions do not meet those definitions. In the event that the Board determines that an employee’s primary duties qualify that employee as a “police officer” or “firefighter,” but that employee holds a position held by other individuals whose primary duties do not qualify those employees as a police officer or firefighter, then the employer shall promptly take the necessary actions to create a new job title to ensure that the same job title is not used both for individuals whose job functions meet the definition of “police officer” or “firefighter” and individuals whose job functions do not meet those definitions.

(e) If an employee of a “law enforcement” or “firefighting unit” holds a position that has not been deemed eligible for inclusion in the PFRS pursuant to P.L. 1989, c. 204 (N.J.S.A. 43:16A-1.2), and the employee or employer contends the duties of the position meet the definitions of police officer or firefighter as found in N.J.S.A. 43:16A-1 et seq., the employee or employer may submit a written request indicating why the position meets the above definitions. The appropriate documentation must accompany the request.

(f) The Director shall review the position and documentation to determine whether the duties and responsibilities of the position meet the definition of “police officer” or “firefighter.” The Director shall then make a recommendation to the Board as to whether the position qualifies for inclusion in the Retirement System.

(g) If, after considering the recommendation of the Director, the Board determines that the employee meets the definition of “police officer” or “firefighter,” the Board shall, prior to making a final determination, publish in the New Jersey Register a notice that it proposes to include the employee’s position in the System. Interested parties shall be given at least 30 days to comment on the proposal.

(h) If, after considering the recommendation of the Director, the Board determines that the employee does not meet the definition of “police officer” or “firefighter,” the employee shall be offered an opportunity for a hearing in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(i) If the employee requests a hearing, the Board shall publish in the New Jersey Register a notice that a hearing will be conducted on the application of the employee that the employee’s position be deemed to meet the definition of “police officer” or “firefighter” as the case may be, and that interested parties may seek to intervene in accordance with N.J.A.C. 1:1-16.

(j) A Board of Fire Commissioners, created under the provisions of N.J.S.A. 40A:14-81, shall have the powers,

and functions within the district, to the same extent as in the case of municipalities, relating to the prevention and extinguishment of fires and the regulation of fire hazards. The Board requires from fire districts for Civil Service and non-Civil Service employers, the following items:

1. A copy of the resolution established by the Board of Fire Commissioners, which provides the fire district with the powers, duties, and functions within said district to the same extent as in the case of municipalities, relating to the prevention and extinguishment of fires and the regulation of fire hazards under the provisions of N.J.S.A. 40A:14-81 et seq.;

2. A copy of the resolution, which establishes the position and sets forth the compensation and the duties associated with such position;

3. Verification that the resolution was published at least once in a substantial newspaper in the district;

4. The preamble to the contract, including the specific articles of the executed contract and salary scale negotiated between the individual or collective bargaining group for the requested position;

5. Identification of the type of position (entry level, promotional, administrative/supervisory position over firefighters) and include a list of all job titles within the fire district;

6. The selection/promotional process for the candidate to this position;

7. An official job description for the position;

8. A copy of an organizational chart for the fire district, which identifies the positions and reporting relationships of the staff within the district. The chart must include names and pension member numbers;

9. A description of the training requirements including, but not limited to, the Fire Fighter I Certification issued by the Division of Fire Safety, Department of Community Affairs; and

10. The fire district must provide a list of any other employment requirements.

(k) To determine the PFRS eligibility for Civil Service and non-Civil Service fire positions for employers with an established firefighting unit with a State, county, regional services, or municipal firefighting department or unit, the Board requires the following items:

1. A copy of the ordinance or the legal authority, which provides the governing body of the State, county, regional services entity, or municipality to create and establish a paid or part-paid fire department and also provides the State, county, regional services entity or municipality with the powers, duties and functions relating to the prevention and extinguishment of fires and the regulation of fire

hazards under the provisions of N.J.S.A. 43:16A-62, 40A:14-1 and 40A:14-7;

2. A copy of the ordinance or resolution, which establishes the position and sets forth the compensation and the duties associated with such position;

3. The preamble to the contract, including the specific articles of the executed contract and salary scale negotiated between the individual or collective bargaining group for the requested position;

4. Identification of the type of position (entry level, promotional, administrative/supervisory position over firefighters). Also a list of all job titles within the fire department;

5. The selection/promotional process for the candidate to this position;

6. An official job description for the position;

7. A copy of an organizational chart for the fire department, which identifies the positions and reporting relationships of the staff within the fire department. The chart must include names and pension member numbers;

8. A description of the training requirements including, but not limited to, the Firefighter I certification issued by the Division of Fire Safety, Department of Community Affairs; and

9. The fire department must provide a list of any other employment requirements.

(I) To determine the PFRS eligibility for police positions for Civil Service and non-Civil Service employers in an established law enforcement unit with a State, county, or municipal police department or unit, the Board requires the following items:

1. A copy of the ordinance, resolution or legal authority of the governing body of the State, county or municipality to create and establish a State, county or municipal police department, as required under the provisions of N.J.S.A. 43:16A-62, 40A:14-106 and 40A:14-118 et seq.;

2. Statutory reference that provides the law enforcement unit with the authority of detecting crime and enforcing the general criminal laws of the State;

3. Statutory reference authorizing a police officer to carry a firearm in the performance of his or her duty;

4. Statutory reference that identifies the police powers of the position;

5. Statutory reference to the police training requirement of the Police Training Commission (PTC) or proof of comparable training;

6. Identification of the type of position (entry level, promotional, administrative/supervisory position over police officers). Also include a list of all job titles within the police department;

7. The selection/promotional process for the candidate to this position;

8. An official job description for the position;

9. A copy of the ordinance or resolution that establishes the position and sets forth the compensation and the duties associated with such position;

10. The preamble to the contract, including the specific articles of the executed contract and salary scale negotiated between the individual or collective bargaining group for the requested position; and

11. A copy of the organizational chart for the police department, which identifies the positions and reporting relationships of the staff within the police department. The chart must include names and pension member numbers.

Repeal and New Rule, R.1996 d.463, effective October 7, 1996.

See: 28 N.J.R. 2512 (a), 28 N.J.R. 4508(b).

Section was "Policeman and fireman defined".

Public Notice: Forest Fire Observer (State-Civil Service).

See: 31 N.J.R. 905(c).

Public Notice: Fire Official/Fire Protection Subcode Official UFD (Municipal-Civil Service), Chief Bureau of Law Enforcement Environmental Protection (State-Civil Service), Fire Fighter (Washington Township), Fire Fighter/Fire Inspector (Washington Township), Fire Fighter/Fire Apparatus Mechanic (Washington Township), Fire Fighter/Chief Maintenance Mechanic (Washington Township) and Fire Chief (Washington Township).

See: 31 N.J.R. 1388(a).

Public Notice: Supervising Parole Officer (State Civil Service), Assistant Director Parole Supervisor (State Civil Service) and District Parole Supervisor (State Civil Service).

See: 31 N.J.R. 1643(b).

Public Notice: Investigator Secured Facilities—Juvenile Justice Commission, Senior Investigator Secured Facilities—Juvenile Justice Commission, Principal Investigator Secured Facilities—Juvenile Justice Commission, Assistant Chief Investigator Secured Facilities—Juvenile Justice Commission and Chief Investigator Secured Facilities—Juvenile Justice Commission.

See: 31 N.J.R. 3538(b).

Public Notice: Police Officer Bilingual Spanish/English Municipal, Police Officer Bilingual Spanish/English County, Police Officer Bilingual Korean/English Municipal and Police Officer Bilingual Korean/English County.

See: 31 N.J.R. 3539(a).

Public Notice: Correction Officer Recruit/Bilingual Spanish/English, Parole Officer Recruit/Bilingual Spanish/English and Senior Parole Officer/Bilingual Spanish/English.

See: 31 N.J.R. 3539(b).

Public Notice: Parole Officer Recruit—Bilingual Spanish/English Juvenile Justice Commission and Senior Parole Officer Bilingual Spanish/English Juvenile Justice Commission.

See: 31 N.J.R. 3539(c).

Public Notice: Police Sergeant Bilingual Spanish/English—Municipal, Police Sergeant Bilingual Spanish/English—County, Police Lieutenant Bilingual Spanish/English—Municipal and Police Lieutenant Bilingual Spanish/English—County.

See: 31 N.J.R. 4132(a).

Public Notice: Fire Officer 1-County, Fire Officer 1-Municipal, Fire Officer 2-County, Fire Officer 2-Municipal, Fire Officer 3-County, Fire Officer 3-Municipal, Fire Officer 4-County, Fire Officer 4-Municipal.

See: 32 N.J.R. 2262(a).

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

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

Created neutral gender references throughout; added new (k) and (l).

Public Notice: Sheriff's Officer, Bilingual.

See: 34 N.J.R. 2473(b).

Public Notice: District Fire Captain (Washington Twp.), District Fire Captain/Training Officer (Washington Twp.), Assistant Fire Chief (Livingston).

See: 34 N.J.R. 3545(b).

Public Notice: Senior Emergency Services Specialist (Hopewell Twp.).

See: 35 N.J.R. 1596(d).

Public Notice: Correction Officers and Sheriff's Officers, Somerset County.

See: 35 N.J.R. 2533(c).

Public Notice: Notice of proposal to include the civil service positions in the Police and Firemen's Retirement System.

See: 35 N.J.R. 2958(a), 2958(b).

Public Notice: Police Chief, Police Lieutenant, Police Sergeant, Police Officer, Palisades Interstate Park Commission.

See: 35 N.J.R. 4148(b).

Public Notice: Chief, Fire Apparatus (UFD).

See: 35 N.J.R. 5450(b).

Public Notice: Police Chief, Brookdale Community College.

See: 35 N.J.R. 5451(a).

Public Notice: Detective, Waterfront Commission of New York Harbor.

See: 36 N.J.R. 1245(a).

Public Notice: Notice of Proposal to Include the Non-Civil Service Positions of Assistant Chief, Firefighter/Emergency Medical Technician, and Firefighter/Emergency Medical Technician/Inspector in the Police and Firemen's Retirement System.

See: 37 N.J.R. 4478(b).

Public Notice: Notice of Proposal to Include the Civil Service Positions of Ranger, Ranger Sergeant, Ranger Lieutenant, and Chief of Parks and Law Enforcement in the Police and Firemen's Retirement System.

See: 37 N.J.R. 4479(a).

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

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

In (a), added "statutory" and statutory citation; in introductory paragraph (b), substituted "subchapter" for "section"; in (b)4, inserted "(Division)"; in introductory paragraphs (c) and (d), inserted "Trustees" following "Board of", and in the last sentence, substituted "Director and the Board of Trustees" for "Board"; rewrote (f), (g) and (l); added (l)6 and 7; and added (m) and (n).

Public Notice: Notice of Proposal to Include Non Civil Service Position of Fire Official/Firefighter in the Police and Firemen's Retirement System.

See: 38 N.J.R. 1774(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Firefighter/Inspector in the Police and Firemen's Retirement System.

See: 38 N.J.R. 3329(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Lieutenant Public Safety in the Police and Fireman's Retirement System.

See: 38 N.J.R. 4763(b).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Firefighter/Driver in the Police and Firemen's Retirement System.

See: 39 N.J.R. 1535(a).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Assistant Fire Chief in the Police and Firemen's Retirement System.

See: 39 N.J.R. 2664(c).

Public Notice: Notice of Proposal to Include the Non Civil Service Position of Chief Fire Inspector and Fire Inspector in the Police and Firemen's Retirement System.

See: 39 N.J.R. 4004(c).

Public Notice: Notice of Proposal Not to Include the Civil Service Municipal Positions of Arson Investigator and Senior Arson Investigator in the Police and Firemen's Retirement System.

See: 40 N.J.R. 5079(a).

Public Notice: Notice of Proposal to Include the Civil Service State Position of Police Officer Recruit, Human Services in the Police and Firemen's Retirement System.

See: 40 N.J.R. 5080(a).

Amended by R.2008 d.373, effective December 15, 2008.

See: 40 N.J.R. 4678(a), 40 N.J.R. 6991(b).

Added new (b)11 through (b)14; recodified former (b)11 through (b)14 as (b)15 through (b)18; rewrote (k) and (l); deleted former (m); recodified (n) as new (m); and rewrote (m).

Public Notice: Notice of Proposal to Include the Civil Service State Position of Conservation Officer Recruit in the Police and Firemen's Retirement System.

See: 41 N.J.R. 1903(a).

Public Notice: Notice of Proposal to Include the Unclassified State Positions of Chief of Detectives-State Investigator, Deputy Chief of Detectives-State Investigator, Lieutenant-State Investigator, Sergeant-State Investigator, Detective I-State Investigator, Detective II State Investigator and Detective Trainee-State Investigator in the Police and Firemen's Retirement System.

See: 41 N.J.R. 2809(b).

Public Notice: Notice of Proposal Not to Include the Non Civil Service West Windsor Township Positions of Emergency Service Specialist and Emergency Service Lieutenant in the Police and Firemen's Retirement System.

See: 42 N.J.R. 607(a).

Amended by R.2011 d.235, effective September 6, 2011.

See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

In (a), substituted "PFRS" for "Police and Firemen's Retirement System"; deleted former (b); recodified former (c) through (m) as (b) through (l); in the introductory paragraph of (b) and (c), deleted "of Trustees" following "Board" throughout, and substituted "this chapter" for "these rules"; and in (e), substituted "that" for "which" and "PFRS" for "Police and Firemen's System".

Public Notice: Notice of Proposal to Include the State Civil Service Position of Campus Police Officer Recruit in the Police and Firemen's Retirement System.

See: 45 N.J.R. 769(a).

Public Notice: Notice of Proposal to Include the Municipal Fire Non-Civil Service Position of Fire Prevention Specialist in the Police and Firemen's Retirement System.

See: 45 N.J.R. 770(a).

Public Notice: Proposal Not to Include the County Civil Service Positions of Property Clerk and Supervising Property Clerk in the Police and Firemen's Retirement System.

See: 45 N.J.R. 770(b).

Public Notice: Proposal Not to Include the State Civil Service Positions of Special Staff Officer 3, Staff Assistant 1, and Staff Assistant 2 in the Police and Firemen's Retirement System.

See: 45 N.J.R. 1972(b).

Public Notice: Proposal to Include the Civil Service Position of Correction Major in the Police and Firemen's Retirement System.

See: 45 N.J.R. 2618(c).

17:4-2.2 Compulsory enrollment

Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, membership in the PFRS of New Jersey is mandatory, and a condition of employment for every "police officer" or "firefighter" under the provisions of N.J.S.A. 43:16A-1 et seq.

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

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

Rewrote the section.

Amended by R.2008 d.373, effective December 15, 2008.

See: 40 N.J.R. 4678(a), 40 N.J.R. 6991(b).

Substituted "Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, membership" for "Membership"; and inserted "and" preceding "a condition".

Amended by R.2011 d.235, effective September 6, 2011.

See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

Substituted "PFRS" for "Police and Firemen's Retirement System".

Case Notes

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

17:4-2.3 Medical requirements

The employer must certify evidence of good health sufficient to satisfy the Board. If the Division or the Board has a question regarding the evidence of good health provided, the Division or Board may request that the applicant be

examined by an independent physician designated to conduct such an examination for the Retirement System.

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

Added (a)3.

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

Rewrote the section.

Amended by R.2011 d.235, effective September 6, 2011.
See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

Substituted "certify" for "furnish", and in the first sentence, deleted "of Trustees" following "Board".

17:4-2.4 Training requirements

(a) As required under N.J.S.A. 43:16A-1(2)(a)(iii), permanent, full-time police officers are required to successfully complete the training requirement prescribed under N.J.S.A. 52:17B-66 et seq., (Police Training Commission (PTC)) or proof of comparable training requirements as determined by the Board of Trustees.

1. For positions under the statutory authority of the PTC, all police applicants must receive certification of successful completion of the basic training course for municipal police officers, which includes the physical conditioning program and the medical certification for participation in the training approved by the PTC pursuant to N.J.S.A. 52:17B-66 et seq.

2. For positions that are not under the statutory authority of the PTC, all police applicants are required to complete comparable training to that prescribed by the PTC for municipal police officers, which includes the physical conditioning program and the medical certification for participation in the training. The employer must certify to the Division of the completion of the aforementioned training.

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

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

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

(1) A letter of waiver request;

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

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

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

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

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

(b) As required under N.J.S.A. 43:16A-1(2b), permanent, full-time firefighters are required to successfully complete the Firefighter I certification prescribed under N.J.A.C. 5:73-4.2, 4.3 and 4.4, or as determined by the Board.

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

New Rule, R.2008 d.373, effective December 15, 2008.

See: 40 N.J.R. 4678(a), 40 N.J.R. 6991(b).

Section was "Reserved".

Amended by R.2011 d.235, effective September 6, 2011.

See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

In (a)2, deleted "applicant or the" preceding "employer", substituted "certify to the Division" for "submit proof", and inserted "completion of the"; in the introductory paragraph of (a)3ii, deleted "of Pensions and Benefits" following "Division" twice; in (a)6, substituted "a school that offers" for "school offered" and "certify" for "submit evidence", and deleted "applicant or the" preceding "employer" and "of Pensions and Benefits" following "Division"; deleted (a)7; in the introductory paragraph of (b), inserted "as", and deleted "of Trustees" following "Board"; and deleted (b)2.

17:4-2.5 Age requirements

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

(b) The age of candidates for positions covered by the PFRS with employers who have adopted the provisions of Title 11A of the New Jersey Statutes (Civil Service) is determined at the announced closing date of the examination offered by the Civil Service Commission for those positions.

Candidates must not be one day past the date of their 35th birthday on the announced closing date of the examination. Those candidates meeting the age requirements at that time will be considered as having met the age maximum requirement for the duration of the list promulgated as a result of such examination.

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

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

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

(f) An applicant is permitted to reduce their actual age in order to meet the maximum age requirement of 35 years for the position of municipal police officer if, in accordance with N.J.S.A. 40A:14-127.1, they have previous service as a former State trooper, sheriff’s officer or deputy, or county or municipal police officer. Prior experience in Federal law enforcement agencies or in law enforcement agencies of other states that would meet the requirements of police officer in New Jersey would also qualify for the purpose of reducing the candidate’s age for the position of a municipal police officer. “Age reductions” may also be granted for persons seeking employment as municipal police officers who have prior service with the Delaware River Port Authority Police, Amtrak or South Eastern Pennsylvania Transportation Authority (SEPTA) police departments. No person may be appointed over the age of 45 except for those who were previously involuntarily terminated from their former law enforcement officer employment.

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

(h) Municipal statutes provide that in some situations volunteer and exempt firefighters in municipalities may be

appointed to full-time firefighter positions if they are not over 40 years of age at the time of their appointments. This proper appointment of someone who is past their 35th birthday to a municipal fire department does not negate the eligibility requirement that someone not be past their 35th birthday to be enrolled in the PFRS. Therefore, any appointees under this provision are required to enroll in the PERS.

Amended by R.2000 d.292, effective July 17, 2000.
See: 32 N.J.R. 1320(a), 32 N.J.R. 2599(a).

Rewrote (c) and (d); and recodified former (d)3 as (e).
Amended by R.2003 d.204, effective May 19, 2003.
See: 35 N.J.R. 508(a), 35 N.J.R. 2186(a).

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

Added (f)-(h).
Amended by R.2011 d.235, effective September 6, 2011.
See: 43 N.J.R. 1177(a), 43 N.J.R. 2364(b).

In (b), substituted “PFRS” for “Police and Firemen’s Retirement System” and “Civil Service Commission” for “Department of Personnel”, and deleted “(N.J.S.A. 43:16A-3(1))” from the end; and in (h), substituted “firefighters” for “fire fighters”, “firefighter” for “fire fighters” and “PERS” for “Public Employees’ Retirement System”.

Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 21) adopted, which found that although a corrections officer was PRFS eligible based upon his age at the time of the closing date of his first examination in 1996, the list promulgated as a result of that examination had expired and, thus, was no longer in effect. The officer’s prior PRFS participation terminated when petitioner withdrew his accumulated pension contributions in May 2006; thereafter, he was re-hired from the regular re-employment list for the same position and, because he was 38 years old, he did not meet the age limit to enroll in the PFRS, absent eligibility for age reduction. In re Ottaviano, OAL Dkt. No. TYP 742-08, 2009 N.J. AGEN LEXIS 945, Final Decision (February 10, 2009).

Initial Decision (2009 N.J. AGEN LEXIS 21) adopted, which found that a senior corrections officer was not eligible to enroll in the PFRS because he could not satisfy the maximum age requirement; the officer’s reliance on N.J.A.C. 17:4-2.5(b) was misplaced because the rule did not apply to State employees. Similarly, N.J.A.C. 17:4-2.5(f), which allowed municipal police officers to use former service to reduce actual age in order to meet the maximum age requirement, did not apply to State law enforcement officers. In re Ottaviano, OAL Dkt. No. TYP 742-08, 2009 N.J. AGEN LEXIS 945, Final Decision (February 10, 2009).

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

Initial Decision (2007 N.J. AGEN LEXIS 602) adopted, which found that petitioner’s position as a Protection Officer with the Federal Reserve could not be used to reduce his age for enrollment in PFRS when he joined a local police department because the services rendered did not have full police powers outside the confines of the Federal Reserve Bank; petitioner did not demonstrate that he met the applicable training and physical and mental fitness requirements of a police officer. In re Sorrentino, OAL Dkt. No. TYPFF 09598-2006N, 2007 N.J. AGEN LEXIS 1011, Final Decision (September 11, 2007).

17:4-2.6 Enrollment date

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

1. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first day

of the following month after successful completion of the police or firefighting training.

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

(b) Pursuant to N.J.A.C. 17:4-2.3, 2.4 and 2.5, an employee in the unclassified service shall be considered as beginning service on the date employment began. The compul-