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**State of New Jersey**

**Public Employees'  
Retirement System**

**PROSECUTORS  
PART  
ADDENDUM**



**August 2016**

**Department of the Treasury  
Division of Pensions and Benefits**

# PUBLIC EMPLOYEES' RETIREMENT SYSTEM

## HANDBOOK ADDENDUM FOR THE PROSECUTORS PART OF THE PERS

### INTRODUCTION

N.J.S.A. 43:15A-155 established the Prosecutors Part within the Public Employees' Retirement System (PERS) effective January 7, 2002.

N.J.S.A. 43:15A-156 closed the Prosecutors Part of the PERS to new members as of May 21, 2010.

This *Handbook Addendum* addresses the benefits that are specific to the Prosecutors Part of the PERS. If a topic is not specifically addressed in this addendum, Prosecutor Part members should refer to the information in the *Public Employees' Retirement System Member Handbook*.

Benefits and provisions of the Public Employees' Retirement System are subject to changes by the legislature, courts, and other officials. While this booklet outlines the benefit and contribution schedules of the Public Employees' Retirement System, it is not a final statement. Complete terms governing any employee benefit program are set forth in the New Jersey Statutes Annotated. Regulations, new or amended, are published in the New Jersey Register by the State Office of Administrative Law supplementing the New Jersey Administrative Code.

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## MEMBERSHIP

### Closed to New Members

Prosecutors who were enrolled *on or before* May 21, 2010, remain members of the Prosecutors Part of the PERS provided that they continue in eligible prosecutor service.

### Eligibility

Employees who were eligible for enrollment in the Prosecutors Part between January 7, 2002, and May 21, 2010, include:

- Any county prosecutor, first assistant county prosecutor, or assistant county prosecutor;
- The Director of the Division of Criminal Justice (DCJ) in the Department of Law and Public Safety (LPS); any assistant director, deputy director, assistant attorney general, or deputy attorney general employed by that department and assigned to that division; and
- Any criminal investigator in the Division of Criminal Justice ineligible for enrollment in the Police and Firemen's Retirement System.

These eligible positions were defined as "prosecutors" for the purposes of N.J.S.A. 43:15A-155. The prosecutor must have been serving **on or after** the effective date of the law to be eligible for coverage under the Prosecutors Part of the PERS.

Prosecutors taking office *after* May 21, 2010, will be enrolled as "regular" **Tier 4 or Tier 5** members of the PERS, Tier 1 if a PERS member continuously since July 1, 2007. An exception is made in the case of a County Prosecutor who is appointed by the Governor with the advice and consent of the Senate, who will be enrolled in the Defined Contributions Retirement Program (DCRP).

### Contribution Rate

N.J.S.A. 43:15A-157 increased the employee contribution rate for PERS Prosecutors Part members to 10 percent of base salary. The increase was effective with the first payroll on or after October 1, 2011.

The increase in the contribution rate also increased the minimum repayment amount for pension loans or for the cost of a purchase of service credit if the repayment is certified after the date of the rate change.

Prior to the enactment of this law, the contribution rate for PERS Prosecutors Part members was 8.5 percent of salary. This rate was effective July 1, 2008. The contribution rate from January 7, 2002, until June 30, 2008, was 7.5 percent of salary.

## Changing Positions out of a Prosecutor Title

Whenever an employee transfers out of the Prosecutors Part of the PERS, the Certifying Officer of the employing location must fill out the appropriate State or County version of the *PERS Prosecutors Part Change of Position Form*. The completed change form must then be submitted to the New Jersey Division of Pensions and Benefits, PO Box 295, Trenton, NJ 08625-0295.

## SERVICE CREDIT

Prosecutors who were serving in a covered position on January 7, 2002, the enactment date of the law establishing the Prosecutors Part, had all their credited PERS service as of that date considered as Prosecutors Part service. After that date, only service performed in a prosecutor position after January 7, 2002 will be included in the Prosecutors Part of the PERS.

All other service as a prosecutor prior to the effective date of the Prosecutors Part, is considered regular PERS service with one exception (see "Transfers" on page 3).

## Prosecutors Part and Regular PERS Accounts

If an employee has both prosecutor and non-prosecutor service, separate accounting will be made for the regular PERS service and the Prosecutors Part service. When the member retires, benefits will be calculated for Prosecutors Part and the regular PERS accounts in accordance with the law governing each part. However, non-concurrent Prosecutors Part and regular PERS service can be combined and be considered as **all** regular PERS service if it will result in a regular PERS benefit **higher** than the Prosecutors Part benefit, such as a Veteran Retirement, or to qualify for a Disability Retirement benefit or a Deferred Retirement benefit. The non-concurrent service may also be combined to qualify for post-retirement medical benefits, subject to employer requirements for that coverage. When service is combined to qualify for a regular PERS benefit or for post-retirement medical coverage, concurrent or over-lapping service will be excluded from consideration.

## Outside Employment for Assistant Prosecutors

N.J.S.A. 2A:158-15.1b limits outside employment by assistant prosecutors. Included in the law is a limitation that an assistant prosecutor cannot “engage in limited outside employment or provide services as an independent contractor” if the employment or services would “qualify the assistant prosecutor for membership in any State-administered pension system.”

## TRANSFERS

There are no provisions in the law for transferring or upgrading regular PERS service to Prosecutors Part service for individuals who became prosecutors after January 7, 2002, (with the one exception discussed below). This restriction also applies to service rendered in a prosecutor position before the enactment of the law, unless the member was serving as a prosecutor on January 7, 2002.

**Exception:** Any PERS member appointed as a County Prosecutor *after* January 7, 2002, by the Governor, pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, will have all credited PERS service as of the date of appointment considered as Prosecutors Part service.

## TYPES OF SERVICE ELIGIBLE FOR PURCHASE AS PROSECUTORS PART SERVICE

Most service purchased by a prosecutor is generally considered as regular PERS service and the cost of purchase will be calculated using regular PERS purchase factors (see the *PERS Member Handbook* for these purchase factors).

A purchase of service credit is permitted to be added to the Prosecutors Part account under the following circumstances:

- Service credited to the Prosecutors Part of the PERS that was subsequently withdrawn by the member;
- Service earned as a prosecutor *after* January 7, 2002, that was never credited to the Prosecutors Part;
- Temporary service as a prosecutor after January 7, 2002, but prior to enrollment in the Prosecutors Part; and
- Leave of absence from a Prosecutors Part covered position after January 7, 2002.

When allowed, the cost of service purchased as Prosecutors Part service will be calculated using the Prosecutors Part purchase factors shown in the following chart.

### Purchase Rate Chart

<u>Age</u>	<u>Purchase Factor</u>	<u>Age</u>	<u>Purchase Factor</u>
33 (and under)	0.075000	50	0.120350
34	0.076016	51	0.120798
35	0.077350	52	0.121323
36	0.078913	53	0.121923
37	0.080704	54	0.122600
38	0.082724	55	0.123353
39	0.084973	56	0.124181
40	0.087450	57	0.125086
41	0.090109	58	0.126067
42	0.092926	59	0.127124
43	0.095880	60	0.128257
44	0.098957	61	0.129466
45	0.102150	62	0.130751
46	0.105461	63	0.132113
47	0.108902	64	0.133550
48	0.112501	65 (and over)	0.135000
49	0.116298		

## LOANS

Prosecutors are eligible to take loans from the retirement system in the same manner as other PERS members. The amount that can be borrowed is based on the total contributions the member has made to the system. The minimum repayment amount is based on the Prosecutors Part contribution rate of 10 percent of salary.

## VESTING

A Prosecutors Part account will vest (i.e., be eligible for a retirement benefit) when the prosecutor has 10 years of creditable Prosecutors Part service. If the prosecutor also has regular PERS service, the right to receive a regular PERS benefit will vest when the prosecutor has 10 years of regular PERS service. Prosecutors Part and regular PERS service vest separately unless all of the service will be used to qualify for a regular PERS retirement benefit.

**Example:** *The account of a member who terminates public employment with seven years of Prosecutors Part service and five non-concurrent years of regular PERS service will qualify for Deferred Retirement benefits since the member would have the 10 years needed to be eligible for a Deferred Retirement under the regular PERS by combining the service.*

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## RETIREMENT

### Definition of Terms

“**Final Compensation**” means your last 12 months of salary as a prosecutor.

### Types of Retirement

There are several types of retirement available under the Prosecutors Part of the PERS.

### Service Retirement

Service Retirement is available at age 55\* with any number of years of Prosecutors Part service. A Prosecutors Part Service Retirement is calculated using the highest of:

- 50 percent of Final Compensation if you have 20 or more years of service;
- Two percent X Final Compensation for each year of service credit **plus** one percent for each year over 30; or
- $1/60 \times \text{years of service} \times \text{Final Compensation}$ .

### Special Retirement

Special Retirement is available at any age with 25 or more years of Prosecutors Part service. A Prosecutors Part Special Retirement is calculated using 65 percent of Final Compensation plus one percent of Final Compensation for each additional year over 25 up to 30 years.

### Deferred Retirement

Deferred Retirement is available at age 55 with 10 or more years of Prosecutors Part service. A Prosecutors Part Deferred Retirement is calculated using two percent of Final Compensation for each year of service credit up to 25 years of service.

### Using Prosecutor Part Service as Regular PERS Service to Obtain a Higher Benefit

Prosecutors may use their Prosecutors Part service as regular PERS service if it will result in a higher retirement allowance.

***Example:** A prosecutor, who is age 60 and a veteran with 20 years of Prosecutors Part service, could retire on a PERS Veteran Retirement at 54.5 percent of Final Salary rather than with a Prosecutors Part Service Retirement at 50 percent of Final Compensation. A prosecutor may also use Prosecutors Part service earned in New Jersey to qualify for an Ordinary Disability Retirement and all Prosecutors Part service to qualify for an Accidental Disability Retirement or a Deferred Retirement. When Prosecutors Part service is used as regular PERS service, the member is not entitled to a refund of Prosecutors Part employee contributions, or the difference between the regular PERS and Prosecutors Part contributions.*

See the *PERS Member Handbook* for a description of regular PERS retirement types.

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\*Members in a Prosecutors Part position on January 7, 2002, are exempted from the age 55 requirement if they have 20 or more years of service.

## Retirement with Prosecutors Part and Regular PERS Accounts

If a PERS member has **both** Prosecutors Part and regular PERS service, the member must terminate all PERS covered employment to qualify for any retirement benefit.

Retirement allowances will be calculated for each type of service in accordance with the statutes governing each part of the PERS. The member must meet all the requirements (age and service) in order to receive the benefit based on that service.

If the member is not eligible for a regular PERS benefit upon retirement from the Prosecutors Part, the contributions for that regular PERS service may be returned. However, the contributions for the regular PERS service will not be refunded if some or all of that service is used to qualify for a retirement allowance or post-retirement medical benefits coverage.

## OPTIONAL SETTLEMENTS AT RETIREMENT

The retirement options for Prosecutors Part retirement benefits are the same as those for regular PERS members. There is no automatic survivor benefit in the Prosecutors Part of the PERS.

See the *PERS Member Handbook* for more information about PERS pension options.

## Retirement Options with Prosecutors Part and Regular PERS Retirements

If the member is eligible to receive **both** a Prosecutors Part retirement benefit and a regular PERS retirement benefit, the retirement option and or beneficiary selection for the regular PERS benefit may be different than the option and beneficiary selected for the Prosecutors Part retirement benefit.

*Example:* A 55 year-old member has 22 years of Prosecutors Part service and 10 years of regular PERS service when the member terminates all PERS-covered employment and retires. A different option selection and beneficiary may be named for the regular PERS benefit than is named for the Prosecutors Part benefit. In this case the member could select Option A with his spouse as the beneficiary for the Prosecutors Part benefit and Option 1 with a child as the beneficiary for the regular PERS benefit. For this example, while the Prosecutors Part benefit can be collected immediately, the regular PERS benefit is only payable upon the member attaining the age of 60.

## ACTIVE AND RETIRED DEATH BENEFITS

### Noncontributory and Contributory Group Life Insurance

The Group Life Insurance benefit for an **active member** in the Prosecutors Part is the same as that for regular PERS members. There is a noncontributory policy that is 1½ times the salary subject to pension received in the 12 months prior to death and a contributory policy also valued at 1½ times the salary subject to pension received in the 12 months prior to death.

Group Life Insurance for **retired members** is contingent upon the retiree having had coverage as an active employee and having at least 10 years of service credit.

The Group Life Insurance benefit for a retired member collecting either a Service, Special, or Deferred Retirement benefit under the Prosecutors Part is 50 percent of the Final Compensation as a prosecutor.

If a prosecutor is eligible for a Deferred Retirement and terminates employment and dies **after** age 55 without filing for retirement, the prosecutor's beneficiary would receive a Group Life Insurance benefit as if retired.

If a prosecutor is eligible for a Deferred Retirement, terminates employment, and then dies **before** age 55, no Group Life Insurance benefit is payable.

If a prosecutor uses the Prosecutors Part service to qualify for a higher regular PERS benefit, the Group Life Insurance payable will be that for a regular PERS retiree, i.e., 3/16ths of Final Salary.

If a prosecutor retires with separate Prosecutors Part and regular PERS retirement allowances, the member may receive Group Life Insurance of 50 percent of the Final Compensation as a prosecutor and 3/16ths of the regular PERS Final Salary. The member must have at least 10 years of service in both the Prosecutors Part and the regular PERS to qualify for the Group Life Insurance associated with each retirement.

When Group Life Insurance is reduced at retirement, you have 31 days after termination of employment to convert the amount of insurance that was reduced to private individual insurance coverage with the Prudential Life Insurance Company, or a policy from another insurance carrier. For additional information see Fact Sheet #13, *Conversion of Group Life Insurance*.

## WITHDRAWAL

A member may not withdraw from either the Prosecutors Part or the regular PERS while still actively employed in a position covered by the other. The member may withdraw from both the Prosecutors Part and the regular PERS when all PERS covered employment is ended. The member may also withdraw from the regular PERS after retirement from the Prosecutors Part if no portion of the regular PERS service will be used to qualify for a regular PERS benefit or for post-retirement medical coverage.

## OTHER PROVISIONS OF THE PERS

The rules regarding other aspects of the PERS are the same for Prosecutors Part members as they are for regular PERS members. Please see the *PERS Member Handbook* or your benefits representative for more information regarding these benefits.

