



MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lt. Governor

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
(609) 292-7524/TRS 711 (609) 292-6683
www.nj.gov/treasury/pensions

Mailing Address:
P.O. Box 295
Trenton, NJ 08625-0295
Location:
50 West State Street
Trenton, New Jersey

AARON BINDER
State Treasurer

SONIA RIVERA-PEREZ
Acting Director

September 16, 2026

Sent via email and regular mail

FUSCO & MACALUSO
Amie E. DiCola, Esq.



RE: Louis Salerno
PERS 

Dear Ms. DiCola:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the determination of the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) regarding the request of your client, Louis Salerno, to enroll in the Law Enforcement Officer part of the PERS (PERS-LEO), or alternatively, in the PERS. The Board originally denied the request at its meeting on July 15, 2026. You filed an appeal, which the Board considered at its meeting on August 19, 2026. Finding no genuine issue of material facts in dispute, the Board denied a hearing in the Office Administrative Law (OAL) and directed the undersigned to draft this Final Administrative Determination.

Findings of Fact and Conclusions of Law as outlined below were presented to and approved by the Board at its September 16, 2026, meeting.

FINDINGS OF FACT

The Board made the following findings of fact:

The record before the Board establishes that Mr. Salerno established membership in the PERS effective July 1, 2019, based upon his permanent appointment as a Clerk 1, with Asbury Park City. On June 5, 2021, he transferred his PERS membership to Palisades Interstate Park Commission (PIPC), as he accepted a position as a Security Officer. On October 9, 2021, Mr. Salerno was provisionally appointed

to the title of Police Officer and pension contributions were remitted to his PERS membership account through April 2025.

Subsequently, Mr. Salerno sought a position with the Marlboro Township Police Department (Marlboro). However, prior to his appointment with Marlboro, he applied to the Civil Service Commission (CSC) for an Intergovernmental transfer (from PIPC to Marlboro) but was denied because he was occupying a provisional appointment as a Police Officer with PIPC. He appealed the denial and in a Final Administrative Action (FAA) dated March 19, 2025, the CSC granted the Intergovernmental transfer effective May 1, 2025. The FAA did not address membership eligibility in the PERS or PFRS or conditions of employment as such matters are not within the purview of the CSC.

On May 1, 2025, Mr. Salerno was hired as a Marlboro Police Officer, which is a PFRS-eligible position. Marlboro submitted a PFRS enrollment application to the Division of Pensions and Benefits (Division). By letter dated May 30, 2025, the Division determined that Mr. Salerno was over the age limit of 35 for PFRS enrollment, as he was 46 years, and 4 months of age on his date of hire. On September 12, 2025, the Division notified Marlboro that Mr. Salerno is unable to transfer his PERS membership to Marlboro because the title of Police Officer is a PFRS-eligible title.

By letter dated November 28, 2025, the Division memorialized the denial for Mr. Salerno's enrollment in the PFRS and provided him with appeal rights to the PFRSNJ Board of Trustees. In February 2026, Marlboro filed a Report of Transfer Form on behalf of Mr. Salerno to continue his membership in his active PERS membership account. However, the Division informed Marlboro that the form could not be processed because Mr. Salerno was currently working in a PFRS eligible title. See N.J.A.C. 17:2-2.8.

Mr. Salerno appealed the Division's denial of his enrollment in the PFRS to the PFRSNJ Board of Trustees. The PFRSNJ Board considered his appeal at its meeting on March 9, 2026, and denied his request for PFRS enrollment because he was over the age of 35 at the time of his appointment. In making its determination, the PFRSNJ Board relied upon the statutes that govern the system, N.J.S.A. 43:16A-

3(2). Currently, Mr. Salerno's appeal of the PFRSNJ Board's denial is pending in the Office of Administrative Law.

Thereafter, Mr. Salerno obtained you as his legal counsel and by letter dated July 9, 2026, you requested that Mr. Salerno be permitted to enroll in the PERS-LEO or the PERS.

At its meeting on July 15, 2026, the PERS Board considered your submissions and personal statements, the statements of Peter J. Pezullo, Chief of Police, Marlboro, the statements of Lindsay Gallelli, a Division Pension and Benefits Specialist, and all documentation in the record concerning Mr. Salerno's request to enroll in PERS-LEO or the PERS. Because Mr. Salerno is currently occupying a PFRS-eligible title, in accordance with N.J.A.C. 17:2-2.8, the PERS Board denied his request to enroll in the PERS. The Board found that Mr. Salerno is also ineligible for enrollment in PERS-LEO. PERS-LEO eligibility is governed by N.J.S.A. 43:15A-97 and provides membership for certain law enforcement titles which are enumerated in the statute. As Mr. Salerno occupies the title of Police Officer, a title not listed in the statute, he is also ineligible for PERS-LEO.

You appealed the Board's determination. At its meeting on July 15, 2026, the Board found no genuine issue of material facts in dispute and directed the undersigned to draft detailed Findings of Fact and Conclusions of Law for review at its September 16, 2026, meeting.

CONCLUSIONS OF LAW

The Board made the following conclusions of law:

The Board determined that Mr. Salerno is ineligible to participate in the PERS-LEO, a special category of the PERS, pursuant to N.J.S.A. 43:15A-97, which states:

1. "Law enforcement officer" shall mean any permanent and full-time employee of the State of New Jersey holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, and highway patrol officer, sergeant highway patrol bureau, lieutenant highway patrol bureau, captain highway patrol bureau, assistant chief highway patrol bureau, chief highway patrol bureau in the Division of State Police, and inspector, investigator, and

administrative inspector in the Division of Alcoholic Beverage Control, and inspector recruit alcoholic beverage control, inspector alcoholic beverage control, senior inspector alcoholic beverage control, principal inspector alcoholic beverage control, supervising inspector alcoholic beverage control in the Division of State Police, and conservation police officer, assistant district conservation police officer and district conservation police officer in the Division of Fish and Wildlife in the Department of Environmental Protection, and assistant chief marine police and senior marine patrolman in the Division of Resource Development, and marine police officer, senior marine police officer, principal marine police officer in the Division of State Police, and inspector, officer, senior inspector, and principal inspector in the Division of Shell Fisheries, any permanent and full-time active county detective, lieutenant of county detectives, captain of county detectives, chief of county detectives, and county investigator in the offices of the county prosecutors, and sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the offices of the county sheriffs, and any patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R.S.32:14-21.

If the Prison Officers' Pension Fund is terminated as provided in section 10 hereof, "law enforcement officer" shall also mean any permanent and full-time active employee of the State of New Jersey holding the title of correction officer, correction sergeant, correction lieutenant, correction captain or deputy keeper in the Division of Correction and Parole, or any member of the Prison Officers' Pension Fund on the date of such termination.

Because Mr. Salerno occupies the title of Police Officer, a title not listed in the statute, he is ineligible for PERS-LEO.

Also, the Board denied Mr. Salerno's request to enroll in the PERS, relying on N.J.A.C. 17:2-2.8, which states:

- (a) Any employee who has an active membership in the PERS and becomes employed provisionally or on a temporary basis in an eligible PFRS title and is under the age of 35 shall continue membership in the PERS until meeting the eligibility requirements for entry in the PFRS. This applies to both employees continuing employment with the same employer, and those leaving one public employer and taking a position with another.
- (1) State and County employees holding provisional or temporary PFRS titles who cannot meet the maximum age requirement for membership in the PFRS (age 35) shall remain in the PERS after attaining a permanent appointment.

- (2) As a condition of municipal employment, employees holding provisional or temporary PFRS titles who cannot meet the maximum age requirements associated with those positions shall not continue employment in the PFRS covered position and shall not remain a member of the PERS while occupying the PFRS title.¹

You submit that Mr. Salerno qualifies for enrollment in the PERS-LEO or in PERS, despite being overage for PFRS, because of the approved intergovernmental transfer and the interplay between N.J.S.A. 43:16A:3(1) and N.J.A.C. 17:4-2.5(b). The Board disagrees. The aforementioned statute and regulation reflect laws that govern the PFRS and therefore are not applicable to the matter of PERS eligibility. Also, the CSC granted Mr. Salerno's transfer from PIPC to Marlboro in the title of Police Officer. Because pension membership eligibility is outside the CSC's authority, the FAA did not discuss enrollment in the PERS or PFRS, nor did it address conditions of employment.

Further, you assert that the lack of an announced closing date for a civil service examination pertaining to Mr. Salerno's original employment with PIPC should permit his continued enrollment in the PERS. The Board disagrees. N.J.S.A 43:16A:3(1), which governs the conditions of enrollment are only applicable to eligibility for the PFRS, not the PERS. When Mr. Salerno was initially hired by PIPC on October 21, 2021, even if he were on a civil service list then, he was well over the age of 35 and ineligible for enrollment in the PFRS.

Mr. Salerno was over the age of 35 when he began his career in law enforcement. Additionally, new hires in eligible PFRS titles for non-civil service municipalities cannot be older than 35 years of age on their date of hire. Therefore, permitting Ms. Salerno into the PFRS because a closing date of civil service examination was not announced, which the PERS Board does not have the authority to grant, would provide Mr. Salerno with a greater advantage than hires in non-civil service locations.

Although the PERS Board is sympathetic to Mr. Salerno's situation and recognizes his dedication to public service, based on the plain language of N.J.S.A. 43:15A-97 and N.J.A.C. 17:2-2.8 as applied to

¹ N.J.A.C. 17:4-2.5(g) reflects the regulation governing the Police and Firemen's Retirement System (PFRS) concerning candidates who exceed the age limit cannot be hired.

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the facts in the record, the Board determined that Mr. Salerno is eligible for neither PERS-LEO nor PERS enrollment.

As noted above, the Board has considered your personal statements and all written submissions and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and regulations and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625
Phone: (609) 292-4822

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Ignatowicz", with a stylized flourish at the end.

Jeff S. Ignatowicz, Secretary
Board of Trustees
Public Employees' Retirement System

G-2/MER

C: S. Scott (ET); A. Haugen (ET); L. Gallelli (ET)