

(d) (No change.)

CHAPTER 100

CLASSIFICATION ASSIGNMENT PROCESS FOR JUVENILES

SUBCHAPTER 1. GENERAL PROVISIONS

13:100-1.3 Definitions

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

... **“Operating agent” means any person or other entity under contract with the Commission to provide medical and/or mental health services to juveniles.**

... **“Qualified mental health care professional” means an employee of the Commission or of an operating agent who is a licensed psychiatrist or psychologist, or other professional who by virtue of education, credentials, and experience in the provision of mental health assessment and counseling procedures is permitted by law to provide mental health services.**

SUBCHAPTER 2. RECEPTION AND ASSIGNMENT PROCESS;
PAROLE CONTRACT AGREEMENT

13:100-2.4 Juveniles ineligible for assignment to non-secure facilities

(a) [Assignment] **Unless assignment to a non-secure facility is determined in writing by a qualified mental health care professional to be clinically appropriate, assignment of a juvenile to a non-secure facility is prohibited when:**

1. The commitment being reviewed involves a homicide or [an offense involving fire-setting behavior] **arson; or**

2. There is currently pending against the juvenile in New Jersey, or in any jurisdiction, [either] a juvenile charge that in New Jersey would be classified as a first [or second] degree offense[, or any non-municipal adult charge; or].

[3. The juvenile has a current sentence involving a term of incarceration to an adult State or county correctional facility.]

(b) A juvenile committed for conduct involving a sex offense may be assigned to a residential non-secure facility, provided that the residential non-secure facility has a program specifically designed to treat sex offenders, **or to another non-secure facility when a qualified mental health care professional determines in writing that such an assignment is clinically appropriate.**

TREASURY—GENERAL

(a)

**DIVISION OF PENSIONS AND BENEFITS
POLICE AND FIREMEN’S RETIREMENT SYSTEM
Police and Firemen’s Retirement System Rules
Proposed Readoption: N.J.A.C. 17:4**

Authorized By: Police and Firemen’s Retirement System, MaryEllen Rathbun, Secretary.

Authority: N.J.S.A. 43:16A-13(7).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-104.

Submit written comments by January 4, 2019, to:

Susanne Culliton
Assistant Director
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295
or electronically at DPB.regulations@treas.nj.gov

The agency proposal follows:

Summary

The Board of Trustees of the Police and Firemen’s Retirement System (“PFRS,” “Board,” or “System”) is responsible for maintaining the administrative rules within N.J.A.C. 17:4. When the Board becomes aware of a change in the laws or a court decision that could affect the PFRS, the Board reviews the administrative rules to determine where changes, if any, are required. Additionally, the rules are periodically reviewed by the Division of Pensions and Benefits (Division) and the Board’s staff to determine whether the current rules are necessary, are cost-efficient, reflect the current policies and procedures of the Division, and maintain qualified-plan status in compliance with Federal IRS regulations. When clarification or revision is required, the affected rules are amended accordingly. Finally, when the rules under N.J.A.C. 17:4 are about to expire, they must be reviewed, amended as needed, and readopted.

On July 3, 2018, Governor Murphy signed P.L. 2018, c. 55, transferring the management of PFRS to the PFRS Board of Trustees (Board). The law, which is effective 366 days after signing, contains provisions for election of a new Board within five months, and the first meeting of that Board to occur on the first business day of the seventh month following enactment. At that time, the law directed the Board to contract with the Division of Pensions and Benefits to perform the administrative tasks that the Division had performed prior to enactment of P.L. 2018, c. 55, the period of time to be established by contract between the Board and the Division.

Thus, in the interim before the new law becomes fully effective, there is a need to maintain the ongoing retirement program through retention of the rules to reflect current practice. Three members of the new Board are to be elected by the membership. These include one policeman, one fireman, and one retiree. It is anticipated that, as the changes created by the new law proceed, the Board will seek to make amendments to the rules.

For now, the Board proposes to readopt the current rules at N.J.A.C. 17:4, which were scheduled to expire, pursuant to N.J.S.A. 52:14B-5.1, on August 8, 2018, without amendment, in order to allow the new governing body the opportunity to fully explore any amendments within the regulatory framework. As the Board submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to February 4, 2019, pursuant to N.J.S.A. 52:14B-5.1.c(2). In light of this, the rules proposed for readoption will not include any amendments, repeals, or new rules that affect the administration, enrollment, contributions, withdrawals, insurance and death benefits, membership, eligible service, service-credit purchases, retirements, and transfers within the PFRS.

N.J.A.C. 17:4 contains seven subchapters. Subchapter 1 sets forth the administration of the PFRS Board, and specifically addresses Board meetings; fiscal year; officers and committees; certifying officer (employer); records; the election of active and retired member-trustees; appeals from Board decisions; proof of age; and employees.

Subchapter 1A sets forth the definitions or words and terms used in this chapter.

Subchapter 2 addresses the enrollment requirements for membership within the PFRS. This subchapter also lists job titles, age, and medical and training requirements for membership within the PFRS.

Subchapter 3 addresses insurance and death benefits. This subchapter relates how insurance benefits are calculated, lists survivors’ benefits, acceptable beneficiary designations, coverage of insurance during a leave for illness and the way to establish proof of dependency.

Subchapter 4 deals with membership matters that include: creditable compensation, loans, suspension, deductions, maximum compensation limits, terminations, and withdrawal.

Subchapter 5 addresses eligibility for purchases, service credited from multiple positions, reinstatement of membership credit, and the methods of payment for purchase of service credit. Additionally, this subchapter addresses members who accept an elective position and how this impacts their contributions and membership within the PFRS.

Subchapter 6 addresses retirement subjects like how to apply for retirement, what types of retirement exist and eligibility for each type, the

effective date of retirement, and changes to retirement. This subchapter also addresses topics such as: employment after retirement, outstanding loans, final compensation calculation, medical examinations, and accident and ordinary disability. Willful negligence is also defined within this subchapter and the method in which to waive a retirement allowance in part or full.

Subchapter 7 addresses interfund and intrafund transfers for members who desire to transfer service credit and contributions from one State-administered retirement system to another or those who leave one public employer and take a position with another public employer covered by the same retirement system.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption at N.J.A.C. 17:4 benefit PFRS members, retirees, and survivors of members and retirees. Members, retirees, and survivors of members and retirees rely on the efficient operation of the PFRS to provide them with a monthly distribution in retirement, proper crediting of contributions and earnings, death benefits, and information regarding their individual accounts.

Economic Impact

The rules proposed for readoption promote the effective and efficient administration of enrollments, retirements, transfers, purchases, withdrawals, and other areas of membership in the System. They will not impose any adverse economic effects on the public. The rules proposed for readoption will enable the Division to continue to provide benefits in a manner that meets both statutory and contractual requirements.

Federal Standards Statement

The rules proposed for readoption meet the applicable Federal standards, that is, 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of these rules.

Jobs Impact

The operation of the rules proposed for readoption will not result in the generation or loss of jobs. The Division invites any interested parties to

submit any data or studies concerning the jobs impact of the rules proposed for readoption with their written comments.

Agriculture Industry Impact

The rules proposed for readoption will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption affect PFRS members, retirees, and survivors of PFRS members and retirees. Thus, the rules proposed for readoption do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption will have no impact on the affordability of housing in New Jersey, nor will they evoke a change in the average costs associated with housing, because the rules pertain to administration of the PFRS for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The rules proposed for readoption will not have any impact on the achievement of smart growth, nor will they evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules proposed for readoption pertain to administration of the PFRS for members, retirees, and survivors of members and retirees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:4.