

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 15:23.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. GENERAL PROVISIONS

15:23-1.2 Definitions

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

... “Registrar’s Office” means the office of the Registrar at Thomas Edison State ***[College]* *University***.

... “State Library” means the New Jersey State Library, which is affiliated with Thomas Edison State ***[College]* *University***, pursuant to N.J.S.A. 18A:73-26.

... “Valid certificate” means a Professional Librarian’s Certificate issued by the Department of Education prior to April 24, 2004, or the Thomas Edison State ***[College]* *University*** thereafter.

SUBCHAPTER 2. PROFESSIONAL LIBRARIAN CERTIFICATION

15:23-2.2 Administration of professional librarian certification

(a) The State Library, affiliated with Thomas Edison State ***[College]* *University***, is responsible for certification of professional librarians as required ***[by]* *at*** N.J.S.A. 45:8A-1.

(b) On behalf of the State Library, the Office of the Registrar at Thomas Edison State ***[College]* *University*** shall issue a Professional Librarian Certificate to librarians to serve in public libraries based upon the requirements in this chapter.

15:23-2.4 Certificate issuance

(a) (No change.)

(b) The Registrar’s Office shall issue a replacement certificate providing there is proof that the Department of Education prior to April 24, 2004, or Thomas Edison State ***[College]* *University*** thereafter had previously issued the certificate, that the holder has completed the appropriate application, attached a statement of loss and submitted the required fee.

TREASURY—GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS PUBLIC EMPLOYEES’ RETIREMENT SYSTEM COVID-19 Accidental Disability Rules

Adopted Amendments: N.J.A.C. 17:2-1A.1, 2.1, 3.2, 3.14, 4.1, 4.9, 4.11, 5.1, 6.1, 6.5, 6.10, 6.26, 7.1, 8.1, 8.4, 8.5, 8.6, and 8.14

Adopted New Rules: N.J.A.C. 17:2-6.23, 7.3, 8.2, and 10

Proposed: April 18, 2022, at 54 N.J.R. 701(a).

Adopted: March 15, 2023, by Public Employees’ Retirement System Board of Trustees, Jeff Ignatowitz, Secretary.

Filed: March 16, 2023, as R.2023 d.048, **without change, but with proposed new N.J.A.C. 17:2-6.6 not adopted.**

Authority: N.J.S.A. 43:15A-1 et seq.; and P.L. 2020, c. 54, P.L. 2021, c. 140, and P.L. 2021, c. 226.

Effective Date: April 17, 2023.

Expiration Date: December 13, 2024.

Summary of Public Comments and Agency Responses:

The official comment period ended June 17, 2022. The following is a summary of the comments received from members of the public and the Public Employees’ Retirement System (PERS) Board of Trustees’ (Board) responses. The Board received comments from the following two individuals for their respective organizations:

1. Aileen O’Driscoll, Esq., Managing Attorney, New Jersey Education Association (NJEA)

2. Angelo J. Genova, Esq., Partner, Genova Burns, attorneys-at-law

1. COMMENT: The commenter objects to proposed N.J.A.C. 17:2-6.6(b), which gives the Division of Pensions and Benefits (Division) the authority to cancel a retirement application if the outstanding amount (outstanding arrears, back deductions, or shortages) is not paid within 90 days of the Division’s notification to the applicant. The commenter notes that the proposed rule is silent with respect to the health insurance benefits and alleges that the Division lacks the authority to implement the rule. The commenter proposes that the Division simply deduct such outstanding amounts from the member’s retirement benefit check(s). (1)

RESPONSE: The Board thanks the commenter for the recommendations, but is not adopting N.J.A.C. 17:2-6.6 for the reasons given in the Summary of Agency-Initiated Change.

2. COMMENT: The commenter objects to proposed N.J.A.C. 17:2-6.23, Disability retirement application and termination of service. The commenter alleges that proposed subsection (a), which states that the applicant must be incapacitated from their duties “at the time the member left employment,” implies that the member must sever their employment relationship in order to be approved for disability retirement. The commenter claims this aspect of the proposed rule is contrary to the law and would result in members’ disqualification for retirement benefits. The commenter also claims that subsection (b) is not clear with respect to reasons that would preclude a member from applying for disability retirement. It states that any exceptions to these rules should make it clear that the member would have the ability to show, for example, that the pending charges that were settled relate to the disability for which they seek a retirement benefit. (1)

RESPONSE: The Board finds that the reference at proposed N.J.A.C. 17:2-6.23 to disability “at the time the member left employment” does not add a requirement that a member submit a resignation, revocable or not, at the time of application. The member must, however, request retirement at a date certain, which, by definition, would occur at least one day after the member terminates employment. Accordingly, the member must advise the Division of their intended last day of employment, and the Division must advise the employer so that a certification of final salary can be completed. The reference in the new rule to leaving employment is identical to the reference at existing N.J.A.C. 17:1-6.4, which was approved in *In re Adoption of N.J.A.C. 17:1-6.4, 17:1-7.5 & 17:1-7.10, 454 N.J. Super. 386* (App. Div. 2018). The new rule replaces N.J.A.C. 17:1-6.4. Both versions of the rule seek to clarify that disability must be present at the time the member ceases employment and must be the reason the member ceases employment. The rule does not require a resignation, only a retirement date.

With regard to subsection (b), the Board disagrees with the commenter and finds that the language, as proposed, is clear regarding what would deem an applicant ineligible to apply for a disability retirement. Subsection (c) requires the Division to review the individual merits of each matter and determine whether the application complies with subsection (a).

3. COMMENT: The commenter objects to the Prosecutors Part rules proposed for adoption at N.J.A.C. 17:2-8.1 through 8.14. The commenter argues that the proposed rules seek to limit the application of P.L. 2021, c. 226, (the Act), which became effective on September 24, 2021, in a manner that, he alleges, was not contemplated by the Act. Specifically, the commenter states the rules, as proposed, exclude any Public Employees Retirement System member who was appointed or hired as a prosecutor on or after May 21, 2010, but who was no longer employed as a prosecutor on September 24, 2021. The commenter believes this exclusion is contrary to the legislative intent to: (1) reopen the Prosecutors Part to prosecutors hired after May 21, 2010; (2) restore equity among all prosecutors by allowing them to all be enrolled in the same part of PERS; and (3) allow prosecutors hired after May 21, 2010, to have their prior

PERS service credit established in the Prosecutors Part without further cost, pursuant to the intention of the original 2002 law. (2)

RESPONSE: The Board finds that the rules do not limit the intended application of the law. The law became effective on September 24, 2021. The Legislature did not indicate, and the record does not reflect, an intention that the benefits extended to prosecutors serving on September 24, 2021, would also be afforded retroactively to former prosecutors. In the bill statement issued by the Senate Budget and Appropriations Committee on June 17, 2021, the intent was stated as follows: "... The bill will empower the Attorney General and County Prosecutors throughout the State to attract skilled and diverse attorneys and retain experienced prosecutors committed to promoting public safety and seeking equal justice under the law." The Legislature expressed an intent to attract and retain experienced prosecutors, not to provide an enhanced benefit for former prosecutors. A retired member, by definition, is no longer a prosecutor. Former prosecutors, thus, are not eligible for enrollment in the Prosecutors Part of PERS. In *Ouslander v. Pub. Employees' Ret. Sys.*, A-6287-03 (App. Div. June 22, 2005) *certif. denied*, 185 N.J. 595 (2005), the Appellate Court upheld the Board's then-current rule, finding that the prosecutor must be employed as a prosecutor on the effective date of the original Prosecutors Part statute in order to transfer PERS service to the Prosecutor's Part. *Id.* at 22. See also *Marzarella v. Bd. of Trs.* A-59773-07T1 (App. Div. April 29, 2010). Thus, a prosecutor must have been serving as a prosecutor on September 24, 2021, the effective date of the new statute, to benefit from that statute.

Summary of Agency-Initiated Change:

The Board will not adopt the new proposed process for handling outstanding arrears, back deductions, or shortages at N.J.A.C. 17:2-6.6 at this time to further consider whether a regulatory change is necessary or if the process currently utilized is sufficient for timely and efficient processing.

Federal Standards Statement

The adopted amendments and new rules meet the applicable Federal standards set forth at 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of this rulemaking.

Full text of the adoption follows:

SUBCHAPTER 1A. DEFINITIONS

17:2-1A.1 Definitions

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

...
 "Employers Pensions and Benefits Information Connection" or "EPIC" is a set of Internet-based applications that allow registered employers who have obtained authorization by the certifying officer of the location access to manage their employees' pensions and, if applicable, health benefits account information. The specific group of application buttons that are visible will depend on the type of employer and the level of access authorized by the certifying officer of the location.

...
 "Independent medical examiner" or "IME" means the physician or group of physicians contracted by the Division to perform an independent medical evaluation on disability retirement applicants.

"Member Benefits Online System" or "MBOS" is a set of Internet-based applications that allow registered members access to manage their pension and, if applicable, health benefits account information.

"Medical Review Board" or "MRB" consists of three physicians, each responsible for reviewing all medical documentation submitted in relation to any applications submitted for ordinary or accidental disability retirement.

...
 "Treating physician" is defined as someone who provides the member, or has provided the member, with medical treatment on an ongoing basis.

SUBCHAPTER 2. ENROLLMENT

17:2-2.1 Enrollment eligibility

(a)-(g) (No change.)

(h) Workers' Compensation judges are to be enrolled in the Workers' Compensation Judges Part of PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation. Any Workers' Compensation judges who are currently enrolled in the DCRP shall be transferred and enrolled in the Workers' Compensation Judges Part of the PERS. All Workers' Compensation judges shall be given service credit in the Workers' Compensation Judges Part of the PERS for service starting on the judge's date of appointment.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:2-3.2 Computation of insurance benefits

(a)-(d) (No change.)

(e) Where post-death audits establish that the insurance benefits were underpaid, an additional check shall be sent to the beneficiary for the value of the underpayment. Should any change or error in the records result in any member receiving from the pension fund more than he or she would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, as far as practicable, and shall adjust the payments payable to the member's designated beneficiary or estate pursuant to N.J.A.C. 17:1-2.10.

17:2-3.14 Acceptable designation of beneficiaries

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. Such beneficiary designation shall include: full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future or the member cancels the retirement application.

1.-2. (No change.)

(b) (No change.)

SUBCHAPTER 4. MEMBERSHIP

17:2-4.1 Creditable compensation

(a) The compensation of a member subject to pension and group life insurance contributions and creditable for retirement and death benefits in the System shall mean the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the State for all employees in the same position, but shall not include extra compensation. Forms of compensation that have been identified as extra compensation include, but are not limited to:

1.-11. (No change.)

12. Retroactive increments or adjustments made at or near the end of a member's service, unless the adjustment was the result of an across-the-board adjustment for all similarly situated personnel;

13. Any form of compensation which is not included in a member's base salary during some of the member's service and is included in the member's base salary upon attainment of a specified number of years of service; and

14. Compensation for performing temporary duties beyond the regular work day or shift.

17:2-4.9 Loans

(a)-(b) (No change.)

(c) All pension loans must be repaid within a period not to exceed five years. If the member has an outstanding loan balance and applies for a new loan, the entire balance must be repaid within five years of the date of the first loan. Furthermore, the new loan amount, when added to the highest balance due (without interest) during the prior 12-month period for all loans from all retirement plans cannot exceed \$50,000. The \$50,000 maximum limit includes all retirement plans the member has an interest in due to his or her employment relationship with the State and/or any other governmental plans sponsored or administered by a public sector employer in New Jersey. Loan amounts above the \$50,000 aggregate limit shall be deemed a distribution, which is subject to additional tax.

(d) If a member's loan, or portion of a loan, is deemed a distribution pursuant to (c) above, the member is still required to repay the full amount

of the outstanding loan, including any portion deemed a distribution, unless the member terminates his or her account by withdrawing his or her contributions. If the member withdraws from the retirement system, the settlement will be the net amount of the member's contributions minus the outstanding loan. If the member returns to work and the member's account is reactivated, or the member retires, the member must repay the full amount of the outstanding loan with additional interest computed from the date the member stopped making loan payments.

(e) Pursuant to I.R.C. § 72 (p)(2)(C), members must make regular periodic payments to repay their outstanding loans. If a member obtains a loan and fails to make required loan repayments for three consecutive months, the Division will send a letter to the member requesting payment within 30 days. If the payment is not made, the Division will treat the outstanding loan as a deemed pension distribution. A deemed distribution cannot be canceled by resuming loan payments or repaying the loan in full. Unlike a normal pension distribution, a loan treated as a distribution cannot be rolled over to an Individual Retirement Account (IRA) or another qualified retirement plan.

17:2-4.11 Termination; withdrawal

(a)-(b) (No change.)

(c) No application shall be approved, if:

1.-5. (No change.)

6. The member has a pending retirement application, unless the member agrees to rescind such application.

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:2-5.1 Eligibility for purchase

(a) Only active members of the System who are currently contributing, or who have contributed within the last two years to the System, shall be eligible to make application for purchase of service credit. Active members who are not currently contributing to the PERS, must purchase their requested service in a lump sum. The purchase request must represent active service in a State-administered retirement system for which the member received a salary and was eligible for enrollment, but the information must be verified by the employer as to salary information, service, and title.

(b)-(c) (No change.)

SUBCHAPTER 6. RETIREMENTS

17:2-6.1 Applications

(a)-(e) (No change.)

(f) A member must request a reasonable accommodation, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 through 12213, prior to filing for a disability retirement. Upon completion of the Certification of Service and Final Salary, the employer's designated certifying officer will certify that a reasonable accommodation was requested and whether such accommodation could be provided.

(g) In addition to the requirements at (a) through (f) above, the following shall apply when an application for disability retirement is filed:

1. An application for a physical disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or treating physician on a form prescribed by the Division. The other may be either hospital records supporting the claim of disability or a report from a second physician on a form prescribed by the Division. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly disabling event shall be considered. If the member is denied an accidental disability retirement application but qualifies for an ordinary disability retirement based on the disabilities associated with the purportedly disabling event identified on the original accidental disability application, no additional application needs to be filed, pursuant to (g)6 below. The required documentation must be received within six months of the date of filing the disability retirement application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability application for a future retirement date;

2. An application for a mental health disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or treating psychiatrist or psychologist on a form prescribed by the Division. The other "medical report" may be in the form of either hospital records supporting the claim of disability, a report from a second psychiatrist or psychologist on a form prescribed by the Division, or a report from the member's personal or treating physician, or licensed clinical social worker. The required documentation must be received within six months of the date of filing the disability retirement application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability retirement application for a future retirement date. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application;

3.-4. (No change.)

5. A member filing for an accidental or ordinary disability retirement shall not file a separate application for any other type of retirement, including one based on any other allegedly disabling condition, while the original disability retirement application is pending. A separate application can be filed only for a date subsequent to withdrawal of the previous application.

i. An application for a disability retirement will be forwarded to the Board for consideration only when all documentation is received. The Division will schedule a medical examination for the purpose of providing additional information to the Medical Review Board to make a determination about a disability retirement application. The IME scheduled by the Division will be provided at no cost to the applicant; and

6. (No change.)

(h) (No change in text.)

(i) A member who previously retired pursuant to (a) through (d) above and is reenrolled pursuant to (h) above must file a new retirement application with the Division in order to initiate payment of the retirement allowance. Except in the case of disability retirement, the previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. If the member retained the same membership level and account upon returning to employment, the previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. If the member is enrolled under a different membership level and account, the accounts will not be combined. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.

(j) (No change in text.)

17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act;

2.-3. (No change.)

17:2-6.10 Involuntary disability application

(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 its employees enrolled in the System before May 21, 2010, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability retirement application online through the Employer Pensions and Benefits Information Connection (EPIC) authorized by the certifying officer, or other designated officer, on the member's behalf;

2. The member's employer has submitted an electronic statement as to the grounds for the employer's request for the member's involuntary disability retirement and all available medical documentation;

3. The member has a period of 30 days to contest the involuntary disability retirement by submitting a written statement before the Board acts on the employer's application;

4.-6. (No change.)

17:2-6.23 Disability retirement application and termination of service

(a) Each disability retirement applicant must prove that his or her retirement is due to a total and permanent disability that renders the applicant physically or mentally incapacitated from performing normal or assigned job duties at the time the member left employment; and the member must prove the disability is the reason for leaving employment.

(b) Members who have involuntarily or voluntarily terminated service for any of the reasons listed in this subsection will not be permitted to apply for a disability retirement:

1. Removal for cause or total forfeiture of public service;
2. Settlement agreements reached due to pending administrative or criminal charges, unless the underlying charges relate to the disability for which they seek a retirement benefit;
3. Loss of licensure or certification required for the performance of the member's specific job duties, unless the loss is the result of the disability for which they seek a retirement benefit; and/or
4. Voluntary separation from service for reasons other than a disability.

(c) The Division will review all disability retirement applications submitted after a member has terminated service to determine whether the member's application is eligible for processing, pursuant to (a) above.

17:2-6.26 Disability retirement applications; examinations; physicians

(a) In addition to the reports required with the application pursuant to N.J.A.C. 17:2-6.1(g)1 and 2, applicants for a disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information that would assist the independent medical examiner, Medical Review Board, and the Board in determining eligibility of the applicants for a disability retirement. The Division shall forward the applications and the accompanying medical information to the Medical Review Board.

1. The applicant must submit all required documentation within six months of submitting the disability retirement application, or the application will be canceled. The member will then be required to complete a new application for a future retirement date.

(b) N.J.S.A. 43:15A-42 requires the Board to designate physicians to perform medical examinations. When an applicant provides sufficient medical documentation, as set forth at N.J.A.C. 17:2-6.1, and the Medical Review Board concurs, no further evaluation is necessary. However, if the medical documentation is not sufficient to establish total and permanent disability after a review by the Medical Review Board, then an independent medical evaluation shall be required.

(c) The Division reserves the right to require a member to sign a sworn certification that:

1. The member knows of no preexisting or underlying conditions that relate to the disability and are not disclosed in the records submitted with the application for which the member is seeking a benefit; and
2. All available medical reports related to the disability have been disclosed to the IME prior to the examination.

(d) A member filing for any type of disability retirement shall not file a separate application for any other type of retirement while an ordinary or accidental disability retirement application is pending before the Board.

(e) If a disability retirement application is denied by the Board and the applicant qualifies for any other retirement benefit, the applicant will be required to submit a written statement to receive that benefit. If the applicant submits the written statement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application.

(f) The member's disability retirement application will be processed on the basis of the medical conditions described on the submitted application. If the disability retirement application is denied, the member may file an appeal within 45 days, based on the medical conditions described on the submitted application. An applicant who files an appeal of a denial of disability retirement may qualify for a deferred retirement during the pendency of the appeal in the Office of Administrative Law. An applicant that wishes to accept the deferred retirement must include a written statement accepting deferred retirement at the time of the appeal.

(g) If a disability retirement application is denied by the Board and the applicant wishes to reapply for a disability retirement based on a new incident date or different or additional medical condition, the applicant will be required to submit a new application with a new retirement date. The applicant must also continue to meet the requirements at N.J.A.C. 17:1-6.4(a). All supporting documentation required must be submitted in support of the new incident or medical conditions listed on the application.

SUBCHAPTER 7. TRANSFERS

17:2-7.1 Honorable service; interfund transfers; State-administered retirement systems

(a) No change.

(b) Except as noted at (a) above, a member is eligible to transfer the former membership in a State-administered defined benefit retirement system into the retirement system that covers the new eligible employment, if the member has first ended employment with the former employer, and has not taken another position subject to coverage in the State-administered retirement system of the former account which would have the same effective date as the membership in the new State-administered retirement system.

1. A member desiring to transfer service credit and contributions from one State-administered defined benefit retirement system to another must file an "Application for Interfund Transfer." This application will void all possible claims against the former system when approved and the new membership is commenced in the new system.

2.-7. (No change.)

(c)-(e) (No change.)

17:2-7.3 Transfers for Workers' Compensation Judges pursuant to P.L. 2021, c. 140

Pursuant to P.L. 2021, c. 140, all Workers' Compensation judges enrolled in the DCRP will be transferred to the Workers' Compensation Judges Part of PERS and will receive service credit starting on the date of their appointment as a judge. The service credit transferred from the DCRP shall be used to determine eligibility for employer-paid health benefits in retirement. The transfer from the DCRP to the Workers' Compensation Judges Part of PERS is to be completed as a trustee-to-trustee transfer in accordance with the Internal Revenue Code. The Second Injury Fund will bear the cost for the unfunded liability based on this transfer, which cost will be determined by the PERS actuary. This transfer is retroactive for Workers' Compensation judges who retired on or after May 20, 2021, and have not received a distribution from their DCRP account.

SUBCHAPTER 8. PROSECUTORS PART

17:2-8.1 Definitions

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

...

"Prosecutor" is defined as follows:

1. A county prosecutor, first assistant prosecutor, or assistant prosecutor as defined at N.J.S.A. 2A:158-1 et seq.;

2. The Director of the Division of Criminal Justice in the Department of Law and Public Safety; and any assistant director, deputy director, assistant attorney general, or deputy attorney general employed by that Department and assigned to that Division between January 7, 2002 and May 20, 2010; and again after September 24, 2021; and

3. A criminal investigator (as defined at N.J.S.A. 52:17B-100.1) in the Division of Criminal Justice who was ineligible for enrollment in the Police and Firemen's Retirement System between January 7, 2002 and May 20, 2010; and again after September 24, 2021.

...

"Service" as a prosecutor as defined at N.J.S.A. 43:15A-155 shall include the following:

(a) For members employed as prosecutors on January 7, 2002, service shall include any PERS service credited to a member's account on January 7, 2002, pursuant to P.L. 2003, c. 140.

(b) For members employed as prosecutors on September 24, 2021, service shall include any PERS service credited to a member's account as of September 24, 2021, pursuant to P.L. 2021, c. 226.

...

17:2-8.2 P.L. 2021, c. 226

(a) N.J.S.A. 43:15A-156 closed the Prosecutors Part of PERS to new members as of May 21, 2010. On September 24, 2021, the Prosecutors Part of PERS was reopened and requires prosecutors to be enrolled in the

PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 366. Membership in the retirement system shall be a condition of employment for service as a prosecutor.

1. For members employed as prosecutors on September 24, 2021, any service credit that has been established in the PERS prior to September 24, 2021, shall be established in the Prosecutors Part of PERS without further assessment of cost to the prosecutor; provided, however, any service credit that has been established in the PERS or the Judicial Retirement System (JRS) not deferred pursuant to section 1 at P.L. 2019, c. 287 (N.J.S.A. 43:6A-11.1) by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the Prosecutors Part of PERS without further assessment of cost to the prosecutor.

2. Any county prosecutor, or acting county prosecutor, enrolled in the DCRP as a county prosecutor, or acting county prosecutor, shall be eligible for service credit in the Prosecutors Part of PERS, except that the county prosecutor, or acting county prosecutor, shall first pay the amount equivalent to that amount contributed pursuant to section 3 at P.L. 2007, c. 92 (N.J.S.A. 43:15C-3) during each fiscal year of membership in the DCRP to be credited.

3. All outstanding obligations, such as loans, purchases, and other arrearage, shall be satisfied by a prosecutor as previously scheduled for payment to the Public Employees' Retirement System.

17:2-8.4 Ineligibility for credit in the Prosecutors Part

A person who was not employed as a prosecutor on September 24, 2021, is not eligible to have any portion of his or her Public Employees' Retirement System account credited to the Prosecutors Part except as provided under the definition of "service" at N.J.A.C. 17:2-8.1.

17:2-8.5 Interfund transfers

(a) A person who contributes to another State-administered retirement system and was not employed as a prosecutor on September 24, 2021, is not eligible to have any portion of his or her State-administered defined benefit retirement system credit transferred into the Prosecutors Part. The State-administered defined benefit retirement system service shall be credited as regular PERS credit.

(b) (No change.)

17:2-8.6 Purchase of service

(a) Any active member of the Prosecutors Part may make an optional purchase of service as authorized at N.J.A.C. 17:2-5.5.

(b) Any purchase requested after September 24, 2021, shall be credited as regular PERS service in the calculation of benefits, except for the following three types of service, which shall be credited as Prosecutors Part service. The cost of this Prosecutors Part service shall be determined using Prosecutors Part actuarial purchase factors:

1. Temporary service as a prosecutor beginning on September 24, 2021, which led directly to a permanent employment as a prosecutor;

2. Service properly credited in the Prosecutors Part on or after September 24, 2021, as to which contributions had been withdrawn in accordance with N.J.S.A. 43:15A-8.b; and

3. Leaves of absence without pay after September 24, 2021, from service as prosecutor. A prosecutor may purchase the period of a leave of absence pursuant to N.J.A.C. 17:2-5.5(a)4.

(c) (No change.)

17:2-8.14 Retirement date for prosecutors having both regular and Prosecutors Part PERS service

(a) (No change.)

(b) A prosecutor who has both regular and Prosecutors Part PERS service may, after filing the necessary application, begin receipt of the Prosecutors Part benefit at age 55, or at any age with 20 or more years of service if the member was employed as a prosecutor as of September 24, 2021. The member may begin receipt of the remaining regular PERS benefit at age 60 if enrolled in the regular PERS before November 2, 2008; at age 62 for those members who enroll between November 2, 2008 and May 21, 2010; or at age 65 for those members who enroll after May 21, 2010, based on the member's final average salary in the regular PERS covered position in accordance with the PERS retirement rules, so long as

the member is vested in the regular PERS account, or the regular PERS account is still active pursuant to N.J.S.A. 43:15A-7(e). The maximum amount of the PERS benefit shall be determined as of the effective date of retirement from the Prosecutors Part. Should a retired member of the Prosecutors Part return to employment prior to receipt of the regular PERS retirement benefit, that PERS benefit shall not increase and the provisions of N.J.A.C. 17:2-8.16 shall apply. If the member has 25 years or more of regular PERS service, the member may begin receipt of the regular PERS benefit at any age after filing the necessary application.

SUBCHAPTER 10. COVID-19 ACCIDENTAL DISABILITY

17:2-10.1 Purpose of this subchapter

P.L. 2020, c. 54 extends accidental disability and accidental death benefits to active eligible law enforcement officers, firefighters, and emergency medical technicians enrolled in the Public Employees' Retirement System (PERS) who are totally and permanently disabled, as a result of contracting COVID-19 during the public health emergency declared by the Governor in Executive Order No. 103 (2020). The purpose of this subchapter is to establish the rules necessary to implement the provisions of this law.

17:2-10.2 Definitions

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

"COVID-19" means a highly contagious respiratory disease caused by the SARS-CoV-2 virus.

"Emergency medical technician" means a person who was trained in basic life support services as defined in section 1 at P.L. 1985, c. 351 (N.J.S.A. 26.2K-21) and certified by the Department of Health to perform these services, during the public health emergency.

"Public health emergency" means the health emergency in the State of New Jersey as defined by the Governor in Executive Order No. 103 (2020).

"SARS-CoV-2" means severe acute respiratory syndrome coronavirus 2. It is the virus that causes COVID-19 (the disease).

17:2-10.3 Eligibility

(a) For purposes of subsection a of section 10 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-10), permanent and total disability shall be deemed to have occurred as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties if:

1. The member contracts COVID-19 during the public health emergency, as defined at N.J.A.C. 17:2-10.2;

2. The member is permanently and totally disabled as a result of COVID-19;

3. The member's regular or assigned duties required the member to interact with the public, or to directly supervise other personnel so interacting with the public, on any date during the public health emergency; and

4. The member interacted with the public within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, confirmed, in writing, by a licensed health care provider on a form approved by the Board of Trustees and also confirmed by a positive test result for SARS-CoV-2.

(b) A member who retired during the public health emergency, as defined at N.J.A.C. 17:2-10.2, shall be eligible to apply for a retirement allowance pursuant to this subchapter, and, if approved, the retirement allowance approved pursuant to this subchapter shall be made retroactive to the date of the initial retirement date.

(c) This section shall not apply to any member who had retired and subsequently returned to employment pursuant to Executive Order No. 115 (2020) or any other Executive Order similarly permitting a retired member to return to employment without reenrollment to assist during the public health emergency and state of emergency.

(d) New onset diseases and chronic psychological diseases resulting from prior exposure to, and recovery from, COVID-19 shall not be deemed a permanent and total disability resulting from COVID-19.

17:2-10.4 Accidental death in the line of duty (COVID-19)

(a) For purposes of subsection a of section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14), a member whose death is attributable to COVID-19, complications therefrom, or the aggravation or acceleration of a preexisting condition caused thereby, shall be deemed to have occurred as the direct result of an accident met in the actual performance of duty at some definite time and place if:

1. The member contracted COVID-19 and the member’s death occurs after receiving a positive test result for SARS-CoV-2 during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020);

2. The member died as a result of COVID-19; and

3. The member’s regular or assigned duties required the member to interact with the public or directly supervise personnel who interact with the public, and the member so interacted with the public or directly supervised such personnel, on any date during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020), and as extended, and within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, which diagnosis has been confirmed, in writing, by a licensed health care provider on a form approved by the Board and by a positive test result for SARS-CoV-2.

(b) The filing of an accident report with the Public Employees’ Retirement System shall not be required for an accidental death benefit allowed pursuant to this subchapter.

(c) If a member dies during the public health emergency declared by the Governor in Executive Order No. 103 (2020) and the benefit has been approved pursuant to a provision other than this subchapter or section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14) prior to the effective date of this act (March 9, 2020), P.L. 2020, c. 54, a beneficiary may apply for a benefit pursuant to this subchapter and, if approved, the benefit approved pursuant to this subchapter shall be made retroactive to the initial retirement date.

(d) This subchapter shall not apply to any member who has retired and subsequently returned to employment pursuant to Executive Order No. 115 (2020) or any other Executive Order similarly permitting a retired member to return to employment without reenrollment to assist during the public health emergency and state of emergency.

17:2-10.5 Filing requirements

(a) To apply for benefits under this subchapter, a member or retiree must file a COVID-19 Medical Questionnaire form (available on the Division’s website) in its entirety and provide all required documents.

(b) Required documents are:

1. A copy of positive COVID-19 test results; and

2. A certification from a licensed health care provider. If an accident report is available, it shall be provided to the Division.

(c) The required licensed health care provider’s certification, as required pursuant to (b)2 above, must document that:

1. The member or retiree is totally and permanently disabled as a result of his or her exposure to COVID-19 during work-related duties; and

2. The work-related duties required interaction with the public, or directly supervising other personnel so interacting with the public, during the public health emergency declared by the Governor in Executive Order 103 (2020).

i. That such interaction or supervision required pursuant to this paragraph occurred within the 14 days preceding the appearance of symptoms consistent with COVID-19.

OTHER AGENCIES

(a)

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

Notice of Readoption Administration Rules, District Zoning Regulations, and Subdivision Regulations

Readoptions: N.J.A.C. 19:3, 19:4, and 19:5

Authority: N.J.S.A. 5:10A-1 et seq., specifically 5:10A-7(b) and 5:10A-81(a).

Authorized By: The New Jersey Sports and Exposition Authority, Frank Leanza, Senior Vice President, Chief of Legal and Regulatory Affairs.

Effective Date: March 20, 2023.

New Expiration Date: March 20, 2030.

Take notice that pursuant to the provisions at N.J.S.A. 52:14B-5.1, the New Jersey Sports and Exposition Authority (NJSEA) readopts the rules at N.J.A.C. 19:3-1, Rulemaking; 19:3-2, Flood Insurance; 19:3-5, Redevelopment Areas; 19:3-7, Debarment and Suspension from Contracting; 19:4, District Zoning Regulations; and 19:5, Subdivision Regulations, without change, which were scheduled to expire on May 4, 2023. N.J.A.C. 19:3-3, Disability Discrimination Procedure, as required pursuant to 42 U.S.C. §§ 12101 et seq., is exempt from expiration pursuant to N.J.S.A. 52:14B-5.1.e.

The following provides a summary of each of the chapters proposed to be readopted:

N.J.A.C. 19:3 consists of the NJSEA’s administration chapter. The following summarizes this chapter:

Subchapter 1, Rulemaking, provides the procedures for rulemaking and rezoning of lands within the Hackensack Meadowlands District (“HMD” or “District”).

Subchapter 2, Flood Insurance, provides for flood control measures and the NJSEA’s participation in the National Flood Insurance Program to benefit public safety and properties within the HMD.

Subchapter 4 is reserved.

Subchapter 5, Redevelopment Areas, provides the procedures for the identification of areas in need of redevelopment, the adoption and amendment of redevelopment plans, the consideration of redevelopment petitions, and other mechanisms effectuating the revitalization of such areas.

Subchapter 6 is reserved.

Subchapter 7, Debarment and Suspension from Contracting, provides the procedures and requirements for the debarment and suspension of contracts with the NJSEA.

N.J.A.C. 19:4 consists of the NJSEA’s District Zoning Regulations. The following summarizes this chapter:

Subchapter 1, Intent and Purpose of District Zoning Regulations, provides the intent of the District Zoning Regulations and enumerates the purposes of the rules.

Subchapter 2, Intent, Word Usage and Definitions, provides the intent and word usage of terms found in the rules, and provides definitions and a list of frequent abbreviations and acronyms in the rules.

Subchapter 3, Application of Regulations, provides for the application of the District Zoning Regulations as they pertain to the following: exemptions to the rules; the designation of zones and the Official Zoning Map; the interpretation of boundaries; the zoning of public ways, waterways, and railroad rights-of-way; coastal zone management; affordable housing; redevelopment areas; land containing sanitary landfill; permitted uses, special exception uses, prohibited uses, and temporary uses and structures; number of structures on a lot; frontage; bulk regulations; yards and yard designations; height of buildings and structures; allocation of required lot area; open space; off-street parking and loading spaces; zoning lots of record; easements; and open space.

Subchapter 4, Administration, establishes the administrative procedures for the development, redevelopment, and management of