



Disability Retirement Benefits

Information for:
Public Employees' Retirement System (PERS)
Teachers' Pension and Annuity Fund (TPAF)

Ordinary Disability and Accidental Disability Retirement for Public Employees' Retirement System (PERS) and Teachers' Pension and Annuity Fund (TPAF) members is only for those enrolled on or before May 21, 2010 (Membership Tiers 1, 2, and 3).

Under the provisions of N.J.S.A. 43:15A-42.1 (PERS) and N.J.S.A. 18A:66-39.1 (TPAF), Tier 4 and 5 members may be eligible for long-term disability insurance coverage. See your employer or the *Long-Term Disability for PERS and TPAF Tiers 4 and 5 Fact Sheet* for more information.

ORDINARY DISABILITY

The processing of Ordinary Disability Retirement benefits normally takes six to eight months. For a PERS or TPAF member to qualify for Ordinary Disability Retirement, you must:

- Have separated from employment as a result of the alleged disabling condition;
- Have an active pension account (active membership ceases after discontinuance of pension contributions for more than two consecutive years* or withdrawal of member contributions from the retirement system);
- Have 10 or more years of New Jersey service credit in the pension system (the purchase of Out-of-State, Military, and U.S. Government Service cannot be used to attain the 10 years);

- Be considered permanently and totally disabled at the time you separate from service (you must prove that you are physically or mentally incapacitated from performing your normal or assigned job duties, or any other position that your employer may assign);
- Provide medical reports or corroborating evidence that supports your application for disability (the required documentation must be received within six months of the date of filing the application. If the documentation is not received, the application will be canceled and the member will need to complete a new application for a future date); and
- Complete an *Authorization for Release of Information (HIPAA)*.

The regulations governing the retirement systems require two physician reports (or one physician report and one hospital record) to be supplied when you apply for Disability Retirement. In addition, you may be required to be examined by physicians selected by the retirement system.

If you qualify for an Ordinary Disability Retirement, the annual benefit is equal to 43.6 percent of your Final Average Salary.

Final Average Salary means your average salary for the 36 months (or 30 months for members paid on a 10-month basis) immediately preceding your re-

tirement on which pension contributions were taken. If your last 36 months are not your highest years of salary, your allowance may be calculated using your three highest fiscal years (July 1 to June 30) of salary. If this is the case, please indicate on your retirement application that you had higher fiscal years of salary.

Calculation Example: *In the 36 months prior to retirement, a member's average salary was \$45,000. After approval of Ordinary Disability Retirement, the member would be entitled to an annual benefit of \$19,620 ($\$45,000 \times 0.436$) under the Maximum Option (see the Pension Options Fact Sheet for an explanation of other options that provide for survivor benefits).*

The retirement benefit is not reduced by any Social Security or private insurance benefits that may be payable. However, any Workers' Compensation award you receive may be reduced. See your employer for details.

Ordinary Disability Retirement benefits are subject to federal tax to the same extent as other pensions, but are not subject to New Jersey State income tax until you reach age 65.

* Special rules apply for former members who discontinue service after two years and terminate employment because of a disability. At the time the member separates from service, he or she must be considered permanently and totally disabled. Contact the New Jersey Division of Pensions & Benefits (NJDPB) for more information.

ACCIDENTAL DISABILITY

The processing of Accidental Disability Retirement benefits normally takes six to eight months. To qualify for Accidental Disability Retirement, you must:

- Have separated from employment as a result of the alleged disabling condition;
- Have an active pension account (active membership ceases after discontinuance of pension contributions for more than two consecutive years);
- Be considered permanently and totally disabled at the time you separate from service (you must prove that you are physically or mentally incapacitated from performing your normal or assigned job duties, or any other position that your employer may assign) as a direct result of a traumatic event (see definition below) that happened during and as a direct result of carrying out your regular or assigned job duties;
- Be an active member of the PERS or TPAF on the date of the traumatic event;
- File an application for Accidental Disability Retirement within five years of the date of the traumatic event;
- Be examined by physicians selected by the retirement system at no cost to you;
- Provide medical reports that support your application for disability including, but not limited to, accident reports, witness reports, and corroborating evidence for all accidents for which you are filing; and
- Complete an *Authorization for Release of Information (HIPAA)*.

Direct Result of a Traumatic Event has been defined by the courts as an occurrence that:

- Is identifiable as to time and place;
- Is undesigned and unexpected;

- Is caused by a circumstance external to the member (not the result of pre-existing disease that is aggravated or accelerated by the work);
- Occurred during and as a result of the member's regular or assigned duties;
- Was not the result of the member's willful negligence; and
- Results in the member's permanent and total incapacitation from performing his or her usual or any other duty.

When there is an issue of mental incapacity caused by a non-physical event, the member must also establish that the event that forms the basis for an Accidental Disability was objectively capable of causing a reasonable person in similar circumstances to suffer a disabling mental injury, based on a finding that the disability resulted from "direct personal experience of a terrifying or horror-inducing event that involves actual or threatened death or serious injury, or a similarly serious threat to the physical integrity of the member or another person."

If you qualify for an Accidental Disability Retirement, the annual benefit is equal to 72.7 percent of your base salary at the time of the traumatic event.

Calculation Example: *On the date of the traumatic event that caused the member's disability, the member's annual salary was \$45,000. After approval of Accidental Disability Retirement, the member would be entitled to an annual benefit of \$32,715 ($\$45,000 \times 0.727$) under the Maximum Option (see the Pension Options Fact Sheet for an explanation of other options that provide for survivor benefits).*

If you are receiving periodic Workers' Compensation benefits, your Accidental Disability Retirement benefits will be reduced dollar for dollar by the periodic benefits paid after your retirement date.

The retirement benefit is not reduced by any Social Security or private insurance benefits that may be payable.

The NJDPB reports your Accidental Disability Retirement as exempt from federal income tax; your benefits are not subject to New Jersey State income tax until you reach age 65.

If you apply for Accidental Disability Retirement and are found by the Board of Trustees to be permanently and totally disabled, but not because of a traumatic event or the event was not the primary cause of your disability, you will be granted an Ordinary Disability Retirement if you have 10 years of New Jersey service in the retirement system. You may be offered a Service or Early Retirement depending on your age and service credit at the time the application is received.

ACCIDENTAL DISABILITY FOR WORLD TRADE CENTER RESPONDERS

P.L. 2019, c. 157 (Chapter 157), The Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Act, permits Tier 1, 2, and 3 PERS Law Enforcement Officers (LEOs) or PERS members who served as Emergency Medical Technicians to file for Accidental Disability Retirement benefits if the member is or is to become totally and permanently disabled due to participation in the rescue, recovery, or cleanup operations at the World Trade Center.

For more information, please refer to the *Accidental Disability Retirement under Chapter 157* Fact Sheet.

APPLYING FOR DISABILITY RETIREMENT BENEFITS

Paper applications are not accepted; all members must file using the Member Benefits Online System (MBOS). For more information about registering for MBOS, visit our website at: www.nj.gov/treasury/pensions

Filing for a Disability Retirement includes forms for your physicians to complete and a release for any hospital records related to your disability. Applicants for Disability Retirement must submit all supporting hospital and physician records using the forms linked

from the application. The NJDPB requires any hospital/medical records and one (1) of our treating physician statement forms. If no other hospital/medical records are available, the NJDPB requires two (2) of our treating physician statement forms — one each from two different physicians.

Supporting documents should be submitted to:

**New Jersey Division of Pensions & Benefits
Disability Review Unit
P.O. Box 295
Trenton, NJ 08625-0295**

All medical information is kept confidential and used only by the Board of Trustees in reviewing the claim.

You must pay for the cost of any medical documentation that may be required to prove your claim. For example, if you had a hospital stay due to your disability and the hospital charges for the duplication of medical records from your stay, you would be responsible for that cost.

ADDITIONAL PROVISIONS OF DISABILITY RETIREMENT

In order to be eligible to receive either Ordinary or Accidental Disability Retirement benefits, you must terminate all retirement system-covered employment prior to your retirement date.

If you have been terminated for cause, or have a settlement agreement which sets forth the terms of your departure in lieu of the termination for cause, you and your employer must provide that information to the NJDPB at the time you file for Disability Retirement. It must be shown that you have separated from employment as a result of the disabling condition. The NJDPB reviews each application for Disability Retirement to determine if it is eligible for processing. If it is determined that the reason for termination is not from the disability, you may be deemed ineligible to apply for a Disability Retirement.

Your employer has the right to apply for an Involuntary Disability Retirement on your behalf. Along with the application, State employers must provide an official letter from the Department's highest authority; Local employers must provide a copy of a resolution adopted by the governing body stating that, in the employing authority's opinion, the employee is totally and permanently disabled from fulfilling his or her job duties (include any pertinent medical records).

Note: An employer submitting an Involuntary Disability Retirement application must select the Maximum Option and list the member's beneficiary as "Estate." If the retirement is approved by the Board of Trustees, the member may change the option selection and beneficiary designation within 30 days. The member cannot change the date of retirement under an Involuntary Disability Retirement.

The approval of Workers' Compensation or Social Security Disability benefits has no bearing on your application for Disability Retirement from the retirement system.

Once the Board of Trustees approves a member for a Disability Retirement, the member's application cannot be withdrawn, canceled, or amended to a later retirement date than the date specified in the approved application.

Loans

If you retire with an outstanding loan balance, the monthly loan payment will be calculated to have the loan plus interest satisfied by your five-year loan pay-off date (see the *Loans* Fact Sheet).

Group Life Insurance

Most members of the retirement system are covered by group life insurance. If you are covered immediately prior to your retirement, you are entitled to reduced coverage in retirement as follows:

PERS Members — If you are approved for a Disability Retirement, you are covered by group life insurance in the amount of 1 1/2 times your final salary until you reach normal retirement age: age 60 for Tier 1 and Tier 2 members; age 62 for Tier 3 members. Once you reach normal retirement age, your life insurance coverage automatically reduces to 3/16 of your final salary.

Final salary for PERS group life insurance benefits is calculated using the salary on which pension contributions were based in the last 12 months immediately preceding your retirement.

TPAF Members — If you are approved for a Disability Retirement with Contributory and Noncontributory Group Life Insurance, you are covered by group life insurance in the amount of 1 3/4 times your final salary until you reach normal retirement age: age 60 for Tier 1 and Tier 2 members; age 62 for Tier 3 members. Once you reach normal retirement age, your life insurance coverage automatically reduces to 7/16 of your final salary.

If you are approved for a Disability Retirement with Noncontributory Group Life Insurance only, you are covered by group life insurance in the amount of 1 1/2 times your final salary until you reach normal retirement age, when your life insurance coverage automatically reduces to 3/16 of your final salary.

Final salary for TPAF group life insurance benefits is calculated using the salary on which pension contributions were based in the last 12 months immediately preceding your retirement or the highest contractual year.

When your group life insurance is reduced, you have 31 days to convert the amount of insurance reduced to private individual insurance coverage. Please see the *Conversion of Group Life Insurance* Fact Sheet for more information.

Health Benefits

The *Health Benefits Coverage — Enrolling as a Retiree* Fact Sheet provides information about continuing your State Health Benefits Program (SHBP) or School Employees' Health Benefits Program (SEHBP) coverage in retirement.

If you are not covered by the the SHBP or SEHBP, contact your employer about continuing your coverage.

Employment after Retirement

A Disability Retirement allowance may be adjusted if you have earnings from any occupation or employment (public or non-public) after retirement. If the pension portion of your retirement allowance, when added to the earnings from other employment, exceeds what your former position currently pays, the law requires that the Disability Retirement be reduced dollar for dollar by the excess earnings above what the former position currently pays. PERS and TPAF Disability retirees are subject to an annual earnings test, and the NJDPB may request copies of your federal tax returns, *Form W-2*, and completion of federal *Form 4506T*.

If you were granted a Disability Retirement but are no longer disabled, before you can return to active service in a PERS- or TPAF-eligible title with any public employer, you must first prove to the satisfaction of the Board of Trustees that you are no longer disabled. A Disability retiree must:

1. Make a written request to return to active service to the NJDPB;
2. Submit a physician's report to the NJDPB certifying that you are no longer disabled and can return to employment. The physician should be one with the same specialty as the physician who originally certified that you were disabled;

3. Be examined by a physician appointed by the Board of Trustees; and
4. Be approved for return to active service by the Board of Trustees.

If approved to return to active service in a position covered by the PERS or TPAF, your original account and membership tier are restored — provided that you work the minimum number of hours or earn the minimum annual salary required for enrollment in your original membership tier (\$1,500 for Tier 1 or Tier 2 PERS members; \$500 for Tier 1 or Tier 2 TPAF members; for Tier 3 PERS and TPAF members, the minimum salary is subject to annual adjustment). When membership is restored, pension contributions resume and you are treated as an active member in all respects.

Upon subsequent retirement, you must meet the retirement qualifications of your PERS or TPAF membership tier and file for retirement with the NJDPB before any benefits can be paid. You will receive a benefit based on total service.

Additional restrictions may apply if you return to employment after retirement. Please refer to the *Employment after Retirement Restrictions* Fact Sheet for more information.

FACT SHEETS AND FORMS

The fact sheets and forms mentioned are available on the NJDPB website.

This fact sheet has been produced and distributed by:

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