

Disability Retirement Benefits

Public Employees' Retirement System • Teachers' Pension and Annuity Fund

Ordinary Disability and Accidental Disability Retirement for PERS or TPAF members is **only** for those enrolled *on or before* May 21, 2010 (membership **Tier 1**, **Tier 2**, and **Tier 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 disability insurance coverage. See your employer or Fact Sheet #85, *Long Term Disability for PERS and TPAF Tiers 4 and 5*, for more information.

ORDINARY DISABILITY

The processing of Ordinary Disability retirement benefits normally takes six to eight months. To qualify for Ordinary Disability retirement benefits 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 years¹ 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 civilian 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 any and all medical reports or corroborating evidence on file that supports your disability (the required documentation must be received within six months of the date of filing the disability application. If the documentation is not received, the retirement will be cancelled and the member will need to complete a new disability application for a future date); and
- complete the *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.

Please Note: The initial independent medical examination (IME) will be scheduled at no cost to you. However, if you fail to attend or cancel the initial IME, you will be required to pay for any subsequent medical examinations arranged by the Division. In addition, if additional medical documentation is submitted after the initial IME, you will be required to pay for any subsequent review and reports. Payment is required before the Division will schedule another IME, reviews, or reports; failure to provide payment within 90 days will result in the dismissal of the disability retirement case.

¹*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, they must be considered permanently and totally disabled. Contact the Division of Pensions and Benefits for more information.*

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

“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 retirement 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 online retirement application that you had higher fiscal years of salary (paper applications are no longer accepted and all members must file using the Member Benefits Online System (MBOS)). For more information about registering for MBOS, visit our Web site at: www.nj.gov/treasury/pensions

Calculation Example: In the 36 months prior to retirement, a member’s average salary was \$45,000. After approval of Ordinary Disability retirement benefits, the member would be entitled to an annual benefit of \$19,620 ($\$45,000 \times 0.436$) under the Maximum Option (see Fact Sheet #5, *Pension Options*, 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.

ACCIDENTAL DISABILITY

The processing of Accidental Disability retirement benefits normally takes six to eight months. To qualify for Accidental Disability retirement benefits 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 (see exceptions to cost below);
- provide any and all medical reports to support the application for disability including but not limited to, accident reports, witness reports, and corroborating evidence on file for any and all accidents for which you are filing; and
- complete the *Authorization for Release of Information (HIPAA)*.

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Please Note: The initial independent medical examination (IME) will be scheduled at no cost to you. However, if you fail to attend or cancel the initial IME, you will be required to pay for any subsequent medical examinations arranged by the Division. In addition, if additional medical documentation is submitted after the initial IME, you will be required to pay for any subsequent review and reports. Payment is required before the Division will schedule another IME, reviews, or reports; failure to provide payment within 90 days will result in the dismissal of the disability retirement case.

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

- identifiable as to time and place;
- undesigned and unexpected;
- 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, a member’s annual salary was \$45,000. After approval of Accidental Disability retirement benefits, the member would be entitled to an annual benefit of \$32,715 ($\$45,000 \times 0.727$) under the Maximum Option (see Fact Sheet #5, *Pension Options*, 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 Division of Pensions and Benefits reports your Accidental Disability retirement benefit 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 retired on an Ordinary Disability 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.

APPLYING FOR DISABILITY RETIREMENT BENEFITS

Paper applications are no longer accepted. **The disability retirement application must be submitted online using the Member Benefits Online System (MBOS).** Before you can begin using the system, you must be registered with MBOS. Registration is free. To begin the MBOS registration process go to our Web site at: www.nj.gov/treasury/pensions/mbosregister.shtml

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 online application. Two forms of medical documentation are required and **specific forms available from the Division of Pensions and Benefits must be used:** the Division requires any hospital/medical records and one (1) of OUR treating physician statement forms. If no other hospital/medical records are available, the Division requires two (2) of OUR treating physician statement forms — one each from two different physicians. These Division of Pensions and Benefits forms are available online at:

Medical Examination By Personal or Treating Physician:

www.nj.gov/treasury/pensions/epbam/exhibits/pdf/bd0021.pdf

Authorization to Disclose Hospital Records:

www.nj.gov/treasury/pensions/epbam/exhibits/pdf/.pdf

Authorization for Release of Information (HIPAA):

www.nj.gov/treasury/pensions/epbam/exhibits/pdf/hipaa-form.pdf

Supporting documents should be submitted to:

**Division of Pensions and Benefits
Disability Review Unit
PO 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 any cost involved.

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 us at the time you are filing for disability. It must be shown that you have separated from employment as a result of the disabling condition. The Division reviews disability applications to determine they are 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.

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Your employer has the right to apply for an Involuntary Disability retirement on your behalf. Along with the retirement 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).

Please 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.

If you retire with an outstanding loan balance, your monthly loan repayment schedule will continue into retirement until the loan balance plus interest has been repaid.

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

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 retire on a disability retirement, you are covered by group life insurance in the amount of 1½ times your final salary until age 60. At age 60 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 retire on a disability retirement with contributory and noncontributory group life insurance, you are covered by group life insurance in the amount of 1¾ times your final salary until age 60, when your life insurance coverage automatically reduces to 7/16 of your final salary.
- If you retire on a disability retirement with noncontributory group life insurance *only*, you are covered by group life insurance in the amount of 1½ times your final salary until age 60, 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.

Conversion

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 Fact Sheet #13, *Conversion of Group Life Insurance*, for more information.

Health Benefits

Fact Sheet #11, *Enrolling in Health Benefits Coverage When You Retire*, provides information about continuing your State Health Benefits Program or School Employees' Health Benefits Program coverage in retirement.

If you are not covered by the State Health Benefits Program or School Employees' Health Benefits Program, 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 pension 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 Division of Pensions and Benefits 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 Division of Pensions and Benefits;
2. Submit a physician's report to the Division 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 Division of Pensions and Benefits 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 Fact Sheet #86, *Post-Retirement Employment Restrictions*, for more information.

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Cost-of-Living Adjustments

Under N.J.S.A. 43:3B-2, Cost-of-Living Adjustments (COLA) are suspended for all current and future retirees of all retirement systems. No further COLA increases will be granted. The law does not reduce any COLA increases that have already been added to retiree benefits. See Fact Sheet #18, *Cost-of-Living Adjustments*, for more information.

Fact Sheets and Forms

The fact sheets, forms, and other publications mentioned are available on the Division of Pensions and Benefits Web site. Our homepage address is: www.nj.gov/treasury/pensions

Member Benefits Online System

Active employees and retirees can access information about their benefits using the Member Benefits Online System (MBOS). MBOS is a set of Internet based applications that allow registered members quick and safe access to specific information about their own pension. You can log on or register for MBOS at: www.nj.gov/treasury/pensions (select "Online Member Services - MBOS").

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