TO: Certifying Officers of the Police and Firemen’s Retirement System (PFRS)

FROM: Wendy Jamison, Board Secretary, PFRS Board of Trustees

SUBJECT: Procedures for PFRS Involuntary Disability Retirement

June 22, 2011

Under the provisions of N.J.S.A. 43:16A-6(3), a Police and Firemen’s Retirement System (PFRS) employer may apply for an Involuntary Disability Retirement on the behalf of an employee it believes to be "totally and permanently disabled" from fulfilling his or her job duties. The PFRS Board of Trustees is issuing this letter to clarify the procedures required for full compliance with the law and administrative code when an employer submits an involuntary application to the Division of Pensions and Benefits.

- The application for Involuntary Disability Retirement cannot be initiated by the employee. Involuntary Disability Retirement is required to be an employer initiated action.

- The action must be officially sanctioned by the employing entity. N.J.A.C. 17:1-7.8 specifies that applications for Involuntary Disability Retirement from a local employer must be accompanied by a resolution of the governing body or in the case of a State employer the application must be accompanied by a letter from the Department's highest authority (see enclosed samples). In either instance, the resolution or letter must certify that the employee is "totally and permanently disabled" and unable to perform the employee's regular or assigned duties. (Employers should also include copies of all pertinent medical records.)

- The employee must meet all other requirements for either Ordinary or Accidental Disability Retirement.

- Upon approval by the PFRS Board of Trustees, the member cannot cancel or change the date of retirement of an Involuntary Disability Retirement.

After receipt of an application initiated by the employer; and upon approval by the PFRS Board of Trustees, the employee/retiree becomes eligible for a disability retirement benefit as follows:

- If the PFRS employee has at least 4 years of New Jersey service, but less than 20 years, the Ordinary Disability Retirement allowance is 40 percent of Final Compensation or 1.5 percent of Final Compensation for each year of service, whichever is higher.

1For PFRS Tier 1 members enrolled on or before May 21, 2010, Final Compensation means the salary upon which pension contributions were based in the last 12 months of creditable service preceding retirement. For PFRS Tier 2 members enrolled after May 21, 2010, Final Compensation means the average salary upon which pension contributions were based for any three fiscal years (July-June) of membership preceding retirement that provides the largest possible benefit.
• If the PFRS employee has 20 or more years of service, the Ordinary Disability Retirement allowance equal to 50 percent* of Final Compensation plus 3 percent of Final Compensation for every year of service over 20 up to a maximum of 25 years.

*Without an employer initiated application, the Ordinary Disability Retirement allowance is equal to 40 percent of Final Compensation or 1.5 percent of Final Compensation for each year of service, whichever is higher.

• In cases where the PFRS Board of Trustees determines the employee was “totally and permanently disabled as a direct result of a traumatic event” it may award an Accidental Disability Retirement benefit equal to 2/3 of the salary at the time of the “traumatic event” or at the time of retirement, whichever is higher.

It is important to note that the submission of an application for Involuntary Disability Retirement when initiated by the employer does not guarantee approval by the PFRS Board of Trustees. In all cases, the employee must meet all of the requirements for either Ordinary or Accidental Disability Retirement as defined in statute and to the satisfaction of the Board of Trustees. If the disability retirement is denied due to the employee not being disabled, the Board of Trustees will inform the employee of any other retirement benefit they may be entitled to collect — in addition to other available actions such as the withdrawal of contributions or procedures for an appeal. Any continuation of, or return to, active PFRS employment is at the discretion of the employer in accordance with any applicable laws, rules or labor agreements.

ADDITIONAL INFORMATION

A copy of Fact Sheet #16, Disability Retirement Benefits – PFRS, is enclosed with this letter for your reference.

For detailed information on PFRS retirement and other benefits, see the PFRS Member Handbook which can be viewed or printed from the Division of Pensions and Benefits Web site at: www.state.nj.us/treasury/pensions/

If you have questions regarding the information provided in this letter, contact the Division’s Office of Client Services at (609) 292-7524, or e-mail the Division at: pensions.nj@treas.state.nj.us

Enclosures
Sample Involuntary Disability Resolution and Letter (Local Employers)
Sample Involuntary Disability Letter (State Employers)
Fact Sheet #16, Disability Retirement Benefits – PFRS
SAMPLE RESOLUTION

AUTHORIZATION FOR THE <<NAME OF EMPLOYING ENTITY>> STAFF TO PROCESS AN INVOLUNTARY DISABILITY RETIREMENT APPLICATION

WHEREAS the <<NAME OF EMPLOYING ENTITY>> has employed <<NAME OF PFRS EMPLOYEE>> as a <<TITLE OF EMPLOYEE>> at its <<EMPLOYMENT LOCATION>> and

WHEREAS the <<NAME OF PFRS EMPLOYEE>> is an active member of the PFRS; and

WHEREAS the <<NAME OF PFRS EMPLOYEE>> has <<NUMBER OF YEARS AND MONTHS>> of PFRS Service Credit, meeting the minimum service credit requirement of at least 4 years for PFRS members; and

WHEREAS the <<NAME OF EMPLOYING ENTITY>> staff is of the opinion that the <<NAME OF PFRS EMPLOYEE>> is totally and permanently disabled and no longer can perform his or her assigned duties based on the documentation supplied by professionals retained by the <<NAME OF EMPLOYING ENTITY>>; and

WHEREAS the <<NAME OF EMPLOYING ENTITY>> is unable to provide an alternative to the PFRS covered position with duties capable of being performed by said <<NAME OF PFRS EMPLOYEE>>; and

WHEREAS the <<NAME OF HIGHEST AUTHORITY AT EMPLOYING ENTITY>> has consented to the processing of the Involuntary Disability Retirement application;

NOW, THEREFORE, BE IT RESOLVED BY the governing body of this location that the administrator of <<NAME OF EMPLOYING ENTITY>> process an Involuntary Disability Retirement application for <<NAME OF PFRS EMPLOYEE>> at its <<EMPLOYING LOCATION>> and

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to all parties involved in the administration of this action.

Certified as a true copy of the Resolution adopted by the <<NAME OF EMPLOYING ENTITY>> on the <<DAY>> of <<MONTH>>, <<YEAR>>.

<<INCLUDE RECORD OF VOTE>>
SAMPLE LETTER

<<EMPLOYER LETTERHEAD>>

<<DATE>>

Retirement Bureau
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295

To the Assistant Chief of the Retirement Bureau:

<<NAME OF PFRS EMPLOYEE>> is employed by <<NAME OF EMPLOYING ENTITY>> in the position of <<TITLE>>, and is an active member of the Police and Firemen’s Retirement System (PFRS). As of <<DATE OF LAST REPORT OF CONTRIBUTIONS>>, the latest date for which we have figures available, this member had <<NUMBER OF YEARS AND MONTHS>> of credited service.

Based on medical documentation (enclosed) regarding his/her <<DESCRIBE DISABILITY>>, we believe that <<NAME OF PFRS EMPLOYEE>> can no longer perform <<HIS/HER>> assigned duties. Since we are unable to provided an alternative PFRS-covered position with duties capable of being performed by <<NAME OF PFRS EMPLOYEE>>, he or she should be approved for an Involuntary Disability Retirement benefit from the PFRS, effective <<DATE OF INVOLUNTARY DISABILITY RETIREMENT>>.

Sincerely,

<<SIGNATURE AND PRINTED NAME OF HIGHEST AUTHORITY AT EMPLOYING STATE ENTITY >>

<<TITLE>>
Disability Retirement Benefits
Police and Firemen's Retirement System

ORDINARY DISABILITY

The processing of Ordinary Disability retirement benefits normally takes 6 to 8 months. To qualify for Ordinary Disability retirement benefits you must:

- be a member in service at the time the application is filed with the Division of Pensions and Benefits. “Member in service” means that the member or employer was making pension contributions to the retirement system at the time of filing the Application for a Disability Retirement. It may also mean that the member was on an approved leave of absence, paid or unpaid, or suspension, paid or unpaid, at the time of filing the Application for a Disability Retirement. If the member had pending litigation for wrongful termination filed against the employer, the member has 30 days from the date the litigation is resolved to file for disability retirement in order to be considered a “member in service.”

- have 4 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 4 years).

- be considered permanently and totally disabled (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.

If the medical documentation supplied by you is not sufficient to support your claim of disability, you may be required to be examined by physicians selected by the retirement system. The examination will be scheduled at no cost to you by the Division of Pensions and Benefits.

If you qualify for an Ordinary Disability retirement benefit, the annual benefit is equal to 40 percent of your Final Compensation or 1.5 percent of your Final Compensation for each year of service credit, whichever is higher.

“Final Compensation” — for a PFRS Tier 1 member enrolled on or before May 21, 2010, Final Compensation means the salary upon which pension contributions were based in the last 12 months of creditable service preceding retirement.

For a PFRS Tier 2 member enrolled after May 21, 2010, Final Compensation means the average salary upon which pension contributions were based for any three fiscal years of membership preceding retirement that provides the largest possible benefit.

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; your benefits are not subject to New Jersey State income tax until you reach age 65.

INVOLUNTARY ORDINARY DISABILITY RETIREMENT

Your employer has the right to apply for an Involuntary Ordinary Disability Retirement on your behalf provided that you meet the qualifications for Ordinary Disability Retirement. Along with the retirement application State employers must provide an official letter from the current Department Director; 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).

- A PFRS member with at least 4 years of service, but less than 20 years, who meets the qualifications for Ordinary Disability shown above and who is required to retire upon appli-
cation by the employer, will receive an Ordinary Disability retirement allowance of 40 percent of Final Compensation, or 1.5 percent of Final Compensation for each year of service, whichever is higher.

- A PFRS member with 20 or more years of service will receive an allowance equal to 50 percent of Final Compensation plus an additional 3 percent of Final Compensation for every year of service over 20 up to a maximum of 25 years.

You cannot change the date of retirement under an Involuntary Disability Retirement.

**ACCIDENTAL DISABILITY**

The processing of Accidental Disability retirement benefits normally takes 6 to 8 months. To qualify for Accidental Disability retirement benefits you must:

- be a member in service at the time the application is filed with the Division of Pensions and Benefits. "Member in service" means that the member or employer was making pension contributions to the retirement system at the time of filing the Application for a Disability Retirement. It may also mean that the member was on an approved leave of absence, paid or unpaid, or suspension, paid or unpaid, at the time of filing the Application for a Disability Retirement. If the member had pending litigation for wrongful termination filed against the employer, the member has 30 days from the date the litigation is resolved to file for disability retirement in order to be considered a “member in service.”

- be considered permanently and totally disabled (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 PFRS on the date of the “traumatic event”,

- file an Application for 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; and

- provide any and all accident reports, witness reports, and corroborating evidence on file for any and all accidents for which you are filing.

“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 preexisting 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, 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 benefit, your annual pension will be 2/3 of your annual compensation on which pension contributions were being made at the time of retirement or the date of the traumatic event, whichever provides the higher benefit.
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 at least 4 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.

SPECIAL DISABILITY RETIREMENT

To qualify for Special Disability retirement benefits you must:

• be a member in service at the time the application is filed with the Division of Pensions and Benefits (an official leave of absence is considered in service);
• have 5 or more years of New Jersey service credit;
• receive a heart transplant; and
• provide any and all medical reports or corroborating evidence on file that supports your disability.

The annual benefit calculation for a Special Disability Retirement is equal to 50 percent of Final Compensation.

APPLYING FOR DISABILITY RETIREMENT BENEFITS

The Application for Disability Retirement can 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.state.nj.us/treasury/pensions/mbosregister.shtml

You can also obtain an Application for Disability Retirement:

• by writing to the Division of Pensions and Benefits, PO Box 295, Trenton, NJ 08625-0295;
• by contacting the Office of Client Services at (609) 292-7524; or
• by e-mail request to: pensions.nj@treas.state.nj.us

The Application for 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 provided with the application. Two forms of medical documentation are required; i.e. a statement from two treating physicians or one statement and records from a hospital stay related to the disability. Applications and supporting documents should be submitted to:

Division of Pensions and Benefits
Disability Review Unit
PO Box 297
Trenton, NJ 08625-0297

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. The more complete the application, the faster it can be processed.

OTHER INFORMATION

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.

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 current Department Director; **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).

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 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.**

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**PAYMENT OF PENSION TO A SURVIVING FAMILY MEMBER**

Upon the death of a retired member, the spouse, civil union partner, eligible domestic partner, and/or child(ren) of the member may be entitled to a monthly pension. The terms used in the explanations of benefits that follow are explained here.

"**Spouse**" means a person of the opposite sex to whom you are legally married. A photocopy of the *Marriage Certificate* is required for verification.

"**Civil Union Partner**" means a person of the same sex with whom you have entered into a civil union. A photocopy of the *New Jersey Civil Union Certificate* or a valid certification from another jurisdiction that recognizes same-sex civil unions is required for verification (see Fact Sheet #75, *Civil Unions*, for details).

"**Domestic Partner**" is a same-sex domestic partner, as defined under Chapter 246, P.L. 2003, the Domestic Partnership Act, of any State employee, retiree, or an eligible employee or retiree of a local public entity if the local governing body adopts a resolution to provide Chapter 246 benefits. A photocopy of the *New Jersey Certificate of Domestic Partnership* dated prior to February 19, 2007 or a valid certification from another jurisdiction that recognizes same-sex domestic partners is required for verification (see Fact Sheet #71, *Benefits Under the Domestic Partnership Act*, for details).

"**Child**" means your unmarried child:
- under the age of 18; or
- 18 years of age or older and enrolled in high school; or
- any age, who at the time of your death, is disabled because of mental or physical incapacity and is incapable of substantial gainful employment because of the impairment. This incapacity must last, or be expected to last, for a continuous period of not less than 12 months as determined by the PFRS Medical Review Board.

**Retired Member Death Benefit**

Upon your death as a retired member, your surviving spouse, civil union partner, or eligible same-sex domestic partner is eligible to receive a pension benefit equal to 50 percent of your Final Compensation, plus 15 percent of your Final Compensation for one child or 25 percent of your Final Compensation for two or more children.

If there is no surviving spouse, civil union partner, or eligible domestic partner, the following benefit is payable to the minor children:
- 50 percent of Final Compensation to three or more eligible children;
- 35 percent of Final Compensation to two eligible children; or
- 20 percent of Final Compensation to one eligible child.

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**OTHER INFORMATION**

**Group Life Insurance**

Most members of the retirement system are covered by group life insurance.

If you retire on a disability retirement, the amount of your group life insurance will be equal to 3½ times
your Compensation until age 55 when it will be reduced to $\frac{1}{2}$ of Compensation.

“Compensation” — PFRS group life insurance benefits are calculated using the salary on which pension contributions were based in the last 12 months immediately preceding your retirement.

If a retiree was enrolled as a member of the PFRS on or after July 1, 1971, life insurance is payable only if the member retired with 10 or more years of pension membership credit or retired on a disability retirement.

**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 detailed information.

**Employment After Retirement**

Because the PFRS Board of Trustees has determined that you are disabled, the Board of Trustees must approve any return to duty. Please refer to Fact Sheet #29, *Employment After Retirement*, for additional information. If you are returned to active service in a position covered by the PFRS, you are restored to active membership in the retirement system. Deductions for pension are resumed and you are treated as an active member in all respects. Upon subsequent retirement, you will receive a benefit based on total service.

**Health Benefits**

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

If you are not covered by the State Health Benefits Program, contact your employer about continuing your coverage.

**Cost-of-Living Adjustments**

The Pension Adjustment Program provides cost-of-living adjustments (COLA) to you and your eligible survivors if you are receiving a monthly retirement allowance from one of the state-administered retirement systems. The first adjustment is available in the 25th month after your retirement. Subsequent cost-of-living adjustments are computed annually and the adjustment is reflected in the February 1st check (which is payment for the month of January). If your spouse or beneficiary is entitled to receive a monthly pension upon your death, the COLA will be applied to that benefit based upon your year of retirement. See Fact Sheet #18, *Cost-of-Living Adjustments*, for further information.

**Fact Sheets and Forms**

The fact sheets, forms, and other publications mentioned are available from your employer, by contacting the Division of Pensions and Benefits Office of Client Services, or over the Internet. The Division of Pensions and Benefits Web page address is: www.state.nj.us/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. Register with MBOS at: www.state.nj.us/treasury/pensions (select “Online Member Services - MBOS”).

This fact sheet has been produced and distributed by:

**New Jersey Division of Pensions and Benefits • PO Box 295 • Trenton, New Jersey 08625-0295**

(609) 292-7524 • TDD for the hearing impaired (609) 292-7718

URL: http://www.state.nj.us/treasury/pensions • E-mail: pensions.nj@treas.state.nj.us

This fact sheet is a summary and not intended to provide total information. Although every attempt at accuracy is made, it cannot be guaranteed.