

Misconduct

The receipt of retirement benefits is expressly conditioned upon the rendering of honorable service by a public officer or employee. Your benefits may be reduced or forfeited if you are convicted of a crime in any way related to your employment, or if you are suspended or dismissed from your employment.

In accordance with N.J.S.A. 43:1-3.1, the court may order the forfeiture of all or part of the retirement allowance in certain cases.

Also, in accordance with N.J.S.A. 43:1-3, the Board of Trustees is required to order the forfeiture of all or part of the retirement allowance of a member for misconduct during public service, which renders the service, in whole or in part, dishonorable*. The Board evaluates the member's disciplinary and/or criminal charges using the following 11 factors to determine whether the member's public service is considered honorable.

1. The employee's length of service;
2. The basis for retirement, i.e., age, service, disability, etc. (includes the effective date of retirement);

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3. The extent to which the employee's pension has vested;
4. The duties of the particular employment;
5. The employee's public employment and service (includes the date of last pension contribution);
6. The employee's other public employment and service;
7. The nature of the misconduct or crime, including the gravity or substantiality of the offense, whether it was a single or multiple offense and whether it was continuing or isolated;
8. The relationship between the misconduct and the employee's public duties;
9. The quality or moral turpitude or the degree of guilt and culpability, including the employee's motives and reasons, personal gain and the like;
10. The availability and adequacy of other penal sanctions; and
11. other personal circumstances relating to the employee bearing upon the justness of the forfeiture.

The Division of Criminal Justice in the Department of Law and Public Safety, the County and Municipal Prosecutor's Offices, and the Civil Service Commission are required to inform the Division of Pensions and Benefits whenever a public official or employee is prosecuted or convicted. State and Local public employers are also required to notify the Division of Pensions and Benefits whenever a public employer takes formal disciplinary action to remove a member from public office or employment for cause on charges of misconduct or delinquency. In these cases, the Board of Trustees will consider all relevant documentation to render a determination on any appropriate action.

The Division may suspend processing of a member's application for retirement pending the receipt of the final disposition of charges against the member. All claims for retirement, death benefits, or the return of the member's contributions cannot be processed until the criminal or administrative matter has been resolved to the satisfaction of the Board of Trustees. The Division will postpone action on all claims where there is pending litigation against the member's employment. In this case, the Division will hold all applications or requests in abeyance until such time as the matter is fully resolved. Once all the required information is provided to the Division, the Board of Trustees will consider each case on its own merits.

New Jersey law stipulates that a retired member is not eligible to collect retirement benefits if the retiree is confined in a penal institution as a result of a conviction of a crime involving moral turpitude. The law provides that an eligible dependent may continue to collect a retirement benefit if they can prove to the satisfaction of the Board of Trustees that they rely on the retiree's benefits for their maintenance.

The member should contact the Division's Board and Trustee Administration Office, in writing, if any of the conditions listed should occur in order to obtain more specific instruction on how to proceed.

For additional information, see Fact Sheet #76, *Honorable SeNice*, which is available on the Division of Pensions and Benefits Web site at:

www.state.nj.us/treasury/pensions