

N.J.S.A. 43:15A-7.2. Employees under a professional services contracts; eligibility

a. A person who performs professional services for a political subdivision of this State or a board of education, or of any agency, authority or instrumentality thereof, under a professional services contract awarded in accordance with section 5 of P.L.1971, c. 198 (C.40A:11-5), N.J.S.18A:18A-5 or section 5 of P.L.1982, c. 189 (C.18A:64A-25. 5), on the basis of performance of the contract, shall not be eligible for membership in the Public Employees' Retirement System. A person who is a member of the retirement system as of the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.) shall not accrue service credit on the basis of that performance following the expiration of an agreement or contract in effect on the effective date. Nothing contained in this subsection shall be construed as affecting the provisions of any agreement or contract in effect on the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.), whether or not the agreement or contract specifically provides by its terms for membership in the retirement system. No renewal, extension, modification, or other agreement or action to continue any professional services contract in effect on the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.) beyond its current term shall have the effect of continuing the membership of a person in the retirement system or continuing the accrual of service credit on the basis of performance of the contract.

b. A person who performs professional services for a political subdivision of this State or a board of education, or of any agency, authority or instrumentality thereof, shall not be eligible, on the basis of performance of those professional services, for membership in the Public Employees' Retirement System, if the person meets the definition of independent contractor as set forth in regulation or policy of the federal Internal Revenue Service for the purposes of the Internal Revenue Code. [FN1] Such a person who is a member of the retirement system on the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.) shall not accrue service credit on the basis of that performance following the expiration of an agreement or contract in effect on the effective date.

Nothing contained in this subsection shall be construed as affecting the provisions of any agreement or contract of employment in effect on the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.), whether or not the agreement or contract specifically provides by its terms for membership in the retirement system. No renewal, extension, modification, or other agreement or action to continue any such agreement or contract in effect on the effective date of P.L.2007, c. 92 (C.43:15C-1 et al.) beyond its current term shall have the effect of continuing the membership of a person in the retirement system or continuing the accrual of service credit on the basis of performance of the agreement or contract.

As used in this subsection, the term "professional services" shall have the meaning set forth in section 2 of P.L.1971, c. 198 (C.40A:11-2).