

Prison, it therefore follows that such authority resides in the legislative branch of government.

The Legislature, having enacted the above cited statute dealing with the subject matter, the Principal Keeper is required to carry into effect the purpose and intent thereof. At the moment this requires the Principal Keeper, on orders of his board, to discipline three employees who have, in the judgment of the board, violated a rule of the State Board of Control which is also a rule adopted by the local board.

Accordingly, the board of managers should notify the Principal Keeper of the type of discipline these men should receive as indicated by the particular circumstances of each case.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

APRIL 21, 1949.

HON. JOHN J. DICKERSON, *State Treasurer,*
Att: MR. JOHN S. WOOD, 3D,
State House, Trenton, N. J.

FORMAL OPINION—1949. No. 36.

DEAR SIR:

Your letter of April 13, 1949, requesting opinion, has been received.

The facts as related to this office indicate that Edward E. Pickard, Supervising Principal of Schools of Cape May City, Member No. 3112, was in the armed forces from April, 1943, to April, 1947. During that period, his employer, the Board of Education of Cape May City, paid from current funds, contributions which were credited to Mr. Pickard's account in the county savings fund of your retirement system.

On April 4, 1947, Mr. Pickard received an honorable discharge and was awarded service-connected disability pension on account of injuries. From the date of said discharge, no further contributions were paid by his employers. We understand further that Mr. Pickard recently applied for disability retirement (we assume under the provisions of R. S. 18:13-57) and on March 12, 1949, the necessary medical certificate issued.

You propound the following questions:

1. Whether you should request and demand that the Cape May City Board of Education, from its current budget, pay contributions for the term from April 4, 1947, to March 12, 1949.

2. Whether you should allow Mr. Pickard credit for service up to the date of disability retirement, March 12, 1949, or whether his service credit as a member of the fund ceased on the date that he last had a contribution credited to his account—the month of March, 1947.

Answering both of the above, you are advised that no demand should be made of the Cape May City Board of Education to pay contributions, as their obligation to pay the same ceased at the time of Mr. Pickard's discharge and his service credit as a member of the fund ceases on the date of the last contribution credited to his account; namely, March, 1947.

"R. S. 38:23-6. Contribution to pension or retirement funds during military or naval service. During the period beginning with the time of entry of such person into such service and ending at the earliest of (a) three months after the time of such person's discharge from such service; or (b) the time such person resumes such office, position or employment; or (c) the time of such person's death or disability while in the service, the proper officer or the state, etc. shall contribute or cause to be contributed to such fund the amount required by the terms of the statute governing such fund, * * *."

You will note that the third classification above mentioned allows contributions for disability while in the military service.

On April 4, 1947, Mr. Pickard was awarded service-connected disability pension because of injuries. He thereupon was entitled to immediately make application, pursuant to R. S. 18:13-57, for retirement, in which instance the board of trustees would automatically order the necessary medical examination and we can assume that the findings of the physician or physicians designated by the board would be substantially the same as those of the military. To now rule that the City of Cape May should make contributions for approximately two years, the intervening period, during which Mr. Pickard awaited making his application for retirement for disability under your statute, would not appear to be warranted under present statutes.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOHN W. GRIGGS,
Deputy Attorney General.

APRIL 27, 1949.

DANIEL BERGSMAN, M.D., M.P.H.,
State Commissioner of Health,
Department of Health,
State House, Trenton, N. J.

FORMAL OPINION—1949. No. 37.

DEAR SIR:

This is in response to your letter dated April 14, 1949, requesting the opinion of this office concerning change of name on an existing birth or marriage record in your department.

The person involved in this matter, at the time of his naturalization, requested in his petition application for naturalization to change his name from Joseph Hamburg