

1. Those who are retiring or who contemplate retirement within the year;
2. Those who are at or beyond the normal retirement age; and
3. All other members.

(b) The priority of deductions from the monthly retirement allowance shall be the following:

1. Internal Revenue Service tax levy;
2. Federal tax;
3. Loan and various other deductions owed to the Division;
4. State Health Benefits Program and the School Employees' Health Benefits medical plan deductions;
5. State tax;
6. Dental Plan deductions; and
7. Other.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

In the introductory paragraph of (a), deleted "of Pensions and Benefits" following "Division"; rewrote (b)1; deleted (b)3; recodified former (b)4 as (b)3 and former (b)6 as (b)7; added new (b)4 and (b)6; in (b)3, substituted "and various other deductions owed to the Division" for "deduction"; and in (b)5, deleted "and" from the end.

17:1-1.9 Bankruptcy; subsequent loans

(a) Any member of a State-administered retirement system, which permits loans to its members, who has payroll deductions for an outstanding loan balance in suspense as a result of bankruptcy proceedings prior to October 31, 2008, will not be permitted to obtain another loan from that retirement system during the pendency of the suspended original loan.

(b) A member or retired member's outstanding loan balance is not discharged by bankruptcy.

(c) A review of all existing suspended loans will be conducted by the Division and those members with a suspended loan balance will have their loan recalculated with accrued interest. For those members whose loans were suspended prior to October 31, 2008, pursuant to a bankruptcy filing, a written notice of the continued pendency of the bankruptcy action shall be submitted to the Division. The loan deductions will resume unless the member whose loan was suspended prior to October 31, 2008 informs the Division of the continued pendency of the bankruptcy action by providing an official document from the courts. Until the member's loan deductions are reinstated, no additional pension loans are permitted.

(d) No loans will be suspended due to bankruptcy.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

In (b), deleted the last two sentences.

Amended by R.2011 d.257, effective October 17, 2011.

See: 43 N.J.R. 1509(a), 43 N.J.R. 2672(a).

Rewrote (a) and (c); and added (d).

17:1-1.10 Survivor certifications

Widows, widowers, parents and guardians of minor children receiving pension checks may be contacted annually by letter or certificate of eligibility to determine eligibility for the continuation of monthly benefits.

17:1-1.11 Leaves of absence for maternity; benefits; nondiscrimination

In accordance with the Attorney General's opinion AAA M79-4158, rendered in January, 1981, public employees, who are on authorized leaves of absence for maternity, will not be treated any differently from other public employees, who are on authorized leaves of absence for personal illness, concerning their rights, duties and obligations regarding their pension or other related employee benefit programs.

17:1-1.12 Domestic relations orders

(a) The Division will honor court orders for child support, alimony or equitable distribution. The matrimonial order must require the Division to withhold the specified amounts. The matrimonial order must also designate a specific dollar amount, a specific percentage of the gross monthly retirement benefit, or a percentage of the gross monthly retirement benefit the member will receive based on the specific number of years and months of service the member accrued while married.

(b) Payment of benefits to an alternate payee cannot begin until the member either retires and begins receiving a monthly retirement allowance or withdraws their contributions from the retirement system.

(c) All withholdings mandated under a matrimonial order shall cease upon the death of either the retired member or the alternate payee.

(d) The Division cannot guarantee the implementation of any irrevocable designation of death benefits or selection of retirement option. Such designation or selection remains the prerogative of the member.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

In (a) and (d), deleted "of Pensions and Benefits" following "Division" throughout.

17:1-1.13 Suspension of pension checks

(a) The disbursement of pension checks shall be suspended under the following circumstances:

1. If a disability retiree fails to appear for a medical examination scheduled by the Division;
2. If a widow, widower, parent or guardian of minor child(ren) fails to file a certificate of eligibility, which is normally mailed to such beneficiaries on a periodic basis;

3. If a retirant or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this instance shall be suspended until a proper legal representative has been appointed;

4. If a retirant is receiving a retirement benefit, the Boards may suspend retirement benefits pending the outcome of charges including, but not limited to, the following:

- i. An indictment;
- ii. An information;
- iii. An accusation;
- iv. An administrative or disciplinary action;
- v. An ethics violation; or
- vi. A license or credential review;

5. If a retirant or beneficiary fails to cash three consecutive monthly pension checks the monthly benefit shall be suspended until a personally endorsed, notarized signature card has been received; or

6. In the event of incarceration of the retirant, pursuant to the provision of N.J.S.A. 43:1-2, the retirement benefits will be forfeited during the period of incarceration.

New Rule, R.2009 d.25, effective January 5, 2009.
See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

SUBCHAPTER 2. ACCOUNTING

17:1-2.1 Receipts deposited

(a) All routine receipts as of noon of any working day, which are identifiable as to origin and propriety, are to be deposited the same day.

(b) All other checks are to be deposited as soon as possible.

(c) If checks are not in the amount of the billing and there is no dispute as to the amount involved, such checks will be returned to the remitter and the obligation will be considered as not having been paid; the remitter will be so advised.

17:1-2.2 Remittance; limitation

The monthly remittances for pension contributions to the Division by employers shall be by electronic fund transfer (EFT). All other remittances to the Division shall be by check, bank draft or money order.

Amended by R.2009 d.25, effective January 5, 2009.
See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).
Deleted "transmittal" following "monthly".

17:1-2.3 Due dates for remittances and reports

(a) Monthly remittances for the Police and Firemen's Retirement System, Teachers' Pension and Annuity Fund and the Public Employees' Retirement System are to be transmitted through the electronic funds transfer system by the seventh day of the month following the close of the preceding month for which contributions are required.

(b) The biweekly report to the approved investment providers of the Alternate Benefit Program shall be due from the Centralized Payroll Unit to the Division no later than the pay date for each biweekly payroll period for which deductions or reductions were required. Remittance of contributions and related reports will be transmitted to investment providers no later than five business days following the corresponding biweekly payroll date.

(c) Deductions and reductions for Alternate Benefit Program participants of county and State colleges and universities will be transmitted to approved investment providers no later than five business days following the corresponding payroll date. County and State colleges and universities, which are prepaying the employer contributions on behalf of the State of New Jersey and have agreed to be fully accountable and responsible for the timely submission of such contributions shall submit a monthly report(s) to the Division by the 15th day of the month following the close of the preceding month detailing those prepayments in a format to be determined by the Director of the Division. County and State colleges and universities will be reimbursed for prepaid employer contributions in accordance with the prevailing statutes, within 15 business days of submitting all required reports in approved formats.

(d) Quarterly reports, including the remittance for the third month of the calendar quarter, for the Public Employees' Retirement System, Teachers' Pension and Annuity Fund, and the Police and Firemen's Retirement System are due in the Division the seventh day of the month following the close of the preceding quarter.

(e) Payroll deductions for pension, contributory insurance and the Supplemental Annuity Program and salary reductions for the Tax Sheltered Supplemental Annuity Program shall be remitted on a biweekly basis immediately following the payroll payment dates for State employees reported by the Centralized Payroll System.

(f) Monthly remittances for the State Health Benefits Program are due on the date indicated on the invoice. Reporting agencies will be considered in default if premiums are not paid on or before that date.

(g) Salary reductions under I.R.C. § 403(b), made on behalf of an employee, are to be transmitted through the electronic fund transfer system and credited within five business days from the pay date.

17:1-3.4 Proof of veteran's status

Members wishing to establish veteran status with the retirement system must submit copies of their discharge papers(DD 214) to the New Jersey Department of Military and Veterans' Affairs. A member who fails to submit evidence of military discharge will be enrolled as a nonveteran and this non-veteran classification shall not be altered until such time as the member's military discharge papers are received by the Department of Military and Veterans' Affairs and eligibility for a veteran classification is confirmed.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

Substituted "New Jersey" for "NJ" and "and eligibility" for ", confirming eligibility", inserted an apostrophe following both occurrences of "Veterans" and inserted "is confirmed".

17:1-3.5 Intrafund transfers

An active member of the Teacher's Pension and Annuity Fund, the Police and Firemen's Retirement System or the Public Employees' Retirement System who terminates employment with one participating employer but transfers to another covered position within the same retirement system with a different employer may continue such membership.

17:1-3.6 Insurance coverage; ineligibility

Any member who is not eligible for noncontributory insurance shall also be ineligible for contributory insurance coverage.

17:1-3.7 Deduction schedules

All deductions will be certified to begin on the first of the month for quarterly reporting units, or the beginning of a biweekly pay period for members who are reported on a biweekly basis.

17:1-3.8 Withdrawal application; processing

(a) Withdrawal applications which are filed prior to the member's resignation or the termination of compensation, will not be processed until the effective date of the later of the two conditions.

(b) Under the terms of the statutes a member may withdraw from a retirement system only if the member terminates all covered employment.

(c) No application shall be approved, if:

1. The member is on official leave of absence;
2. The member certifies that employment has not ended or that the member has taken another position covered by the retirement system;
3. The member has been dismissed or suspended from employment. In this event, such a member will be eligible to withdraw if the member has formally resigned from the position or there is no legal action contemplated or pending and the dismissal has been adjudged final;
4. A multiple member has not terminated employment in all covered positions; or

5. The member has a claim pending for Workers' Compensation benefits.

17:1-3.9 Waiver of retirement benefits upon withdrawal

If a member is eligible to begin receiving a monthly retirement allowance (due to the member's age or years of creditable service), the Division shall inform the member how to obtain the estimated amount of the retirement allowance and shall require the member to sign a waiver of such benefits, should the member still wish to withdraw.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

Substituted "how to obtain" for the first occurrence of "of".

17:1-3.10 Peacetime military service; service credit

(a) A member or former member, or a person required to be a member, of a State-administered retirement system who leaves employment covered by a State-administered retirement system to enter the uniformed services of the United States and returns to covered employment within the time period and under the circumstances required for entitlement to reemployment rights under Federal law (38 U.S.C. §§4301 et seq.), may obtain service credit in the State-administered retirement system as provided in this section.

(b) A member reemployed under this section shall be treated as not having incurred a break in service with the employer by reason of the member's period of service in the uniformed services only for the purposes of vesting or determining eligibility for retirement and health benefits.

(c) The types of service or situations eligible for reemployment rights include regular active duty, initial active duty for training, active and inactive duty training for members of reserve components and National Guard units, and situations where an employee leaves employment for the uniformed services or for examination of fitness for the uniformed services and is not taken into the uniformed services.

1. The person must be a member or be required to be a member of a State-administered retirement system prior to leaving employment to enter the uniformed services, must give advance written or oral notice of such service to the employer, unless precluded by military necessity, and must leave the covered employment to enter the uniformed services.

2. The person must return to employment or submit an application for reemployment covered by a State-administered retirement system within the time periods prescribed by Federal law. The cumulative length of the absence and of all previous absences with that employer shall not exceed five years unless otherwise permitted under 38 U.S.C. § 4312(c) to be eligible for reemployment rights. The person must seek reemployment within the time period prescribed by Federal law which is generally 90 days following release from the uniformed services but which differs based on the length and type of service as

provided in 38 U.S.C. § 4312(e). In all cases, the time limit for return to employment or to submit an application for reemployment is extended for up to two years for any injury or illness incurred in or aggravated during the uniformed service requiring hospitalization or convalescence which continues after release from the uniformed service.

3. The person's uniformed service must have been honorable or satisfactory.

4. The person shall be denied reemployment rights if:

i. The person is not qualified to perform the duties of the position for which reemployment is sought;

ii. The accommodation, training or effort referred to in 38 U.S.C. § 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the employer;

iii. The employer's circumstances have so changed as to make it impossible or unreasonable to reemploy the person;

iv. The employment from which the person leaves to serve in the uniformed services is for a brief, non-recurring period (temporary employment) and there is no reasonable expectation that such employment will continue indefinitely; or

v. The person knowingly provides written notice of intent not to return to a position of employment after service in the uniformed services.

5. The person will not be entitled to service credit in a State-administered retirement system if reemployment is validly denied.

6. The employer shall have the burden of proving that N.J.A.C. 17:1-3.10(c)4i, ii, iii, iv or v above justified the denial of reemployment rights. For the purposes of (c)4v above, the employer must show that the person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and in doing so was aware of the specific rights and benefits to be lost.

7. To receive service credit in a State-administered retirement system for peacetime military service, prior to October 13, 1994, the person must have applied within one year following the date of return to employment or the date initial pension contributions are certified to begin in the retirement system if the person's former membership was terminated or was in a different retirement system.

8. The employer shall notify the Division in writing within 30 days that a member has returned from service in the uniformed services and the dates of such service.

9. The member may make contributions to the retirement system for all of the period of service in the uniformed services to obtain credit in the pension system for inclusion of such service in the calculation of benefits.

The member must file a written request with the Division so that a schedule of back deductions will be generated. The schedule of back deductions shall be based upon employee's rate of contribution in effect on the date the employee returned to employment multiplied by the salary the employee would have received but for the period of service; or if the determination of such salary is not reasonably certain, on the basis of the employee's average rate of compensation during the year immediately preceding such service for the period of time in which no credit was received in the system for that service. Any payment to the plan described in this paragraph shall begin as soon as practicable after the date of reemployment and shall continue for the lesser of five years or three times the period of the uniformed service. If the member does not request in writing back deductions at the time of return to employment, the member may request to receive credit for such service until the expiration of either five years or three times the period of the uniformed service, whichever is shorter. Repayment still must be made in the above referenced time frame.

10. The member is permitted to make additional elective deferrals to the Supplemental Annuity Collective Trust (SACT), the New Jersey Employees' Deferred Compensation Plan, Additional Contributions Tax Sheltered Programs (ACTS) and the Alternate Benefit Program in an amount not exceeding the maximum amount the employee would have been permitted to contribute during the period of military service if the employee had actually been employed by the employer during that period.

11. If a person retires prior to paying the total amount of contributions required to obtain service credit for the uniformed service, the total amount of service credit shall be in direct proportion as the amount paid bears to the total amount of contribution obligation.

12. An employer who participates in the Alternate Benefit Program (ABP), reemploying a person under this section, with respect to the period served by a person in the uniformed services, upon reemployment of that person, shall be liable to the employee pension plan for funding any obligation of that plan to provide benefits under that plan, and shall allocate the amount of any employer contribution for that person in the same manner and extent that the allocation occurs for other employees during the same period of service. However, the employer is not required to make up the earnings that those contributions would have made had the person reemployed under this rule been employed continuously.

i. An employee reemployed under this paragraph who is a member of the defined contribution plan shall be entitled to the above accrued benefits only to the extent that the person makes payments to the plan with respect to such employee contributions.

ii. For the purposes of computing the employer's liability and the employee's contributions, the em-

ployee's compensation during the period of service shall be computed at:

(1) The rate the employee would have received but for the period of service; or

(2) If the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the year immediately preceding such service.

iii. Make-up contributions shall begin on the date of reemployment and shall continue for five years or three times the period of uniformed service, whichever is shorter.

iv. Any employer who reemploys a person under this section shall, within 30 days after the date of reemployment, provide information in writing of such reemployment to the Division.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

In (b), inserted "only" and deleted " , even if the member does not make contributions to the retirement system for the period of service" from the end; in (c)4iv, substituted "nonrecurring" for "nonrecurrent"; in (c)10, inserted an apostrophe following "Employees"; and in (c)12iv, deleted "of Pensions and Benefits" following "Division".

17:1-3.11 Compensation limit for exclusion from membership after retirement

Beginning with the calendar year 2002, and for any calendar year thereafter, the Director of the Division may adjust the compensation limit for exclusion from membership after retirement in the Public Employees' Retirement System. The compensation limit shall be adjusted by increments of \$1,000, when \$15,000 increased by 3/5 times the change in the Consumer Price Index as defined in N.J.S.A. 43:3B-1f from the Index applicable to calendar year 2001 to the Index applicable to the calendar year immediately preceding the year of adjustment, rounded to the next highest 100 dollars, exceeds the previous compensation limit by \$1,000.

Amended by R.2009 d.25, effective January 5, 2009.

See: 40 N.J.R. 4928(a), 41 N.J.R. 277(a).

Deleted "of Pensions and Benefits" following "Division".

17:1-3.12 Interfund transfers; accumulated interest

(a) Notwithstanding the provisions of N.J.A.C. 17:2-7.1, 17:3-7.1, 17:4-7.1 and 17:10-6.1 concerning interfund transfers of members between State-administered retirement systems, accumulated interest credited to the member's account in the former system will only be transferred as part of such member's contributions to the new system if the new system likewise credits interest to its member accounts.

(b) If the new system does not credit interest to its member accounts then only the contributions actually made by the member to the former system will be transferred to the new system when an interfund transfer occurs.