

**CHAPTER 3**

**TEACHERS' PENSION AND ANNUITY FUND**

**Authority**

N.J.S.A. 18A:66-56.

**Source and Effective Date**

R.2008 d.94, effective April 21, 2008.  
See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Teachers' Pension and Annuity Fund, expires on April 21, 2015. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 3, Teachers' Pension and Annuity Fund, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1983 d.175, effective May 16, 1983. See: 15 N.J.R. 526(b), 15 N.J.R. 930(c). Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, expired on May 16, 1988.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1988 d.381, effective August 15, 1988. See: 20 N.J.R. 1181(b), 20 N.J.R. 2072(b). Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, expired on August 15, 1993.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1993 d.658, effective December 20, 1993. See: 25 N.J.R. 4461(a), 25 N.J.R. 5942(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1998 d.578, effective November 13, 1998. See: 30 N.J.R. 3376(a), 30 N.J.R. 4254(a).

Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.2002 d.352, effective October 10, 2002. See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c). Chapter 3, Teachers' Pension and Annuity Fund, expired on October 10, 2007.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.2008 d.94, effective April 21, 2008. As a part of R.2008 d.94, Subchapter 1A, Definitions, was adopted as new rules. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

Battle for state contracts: What process is due in a challenge to a state contract award? Patrick D. Kennedy & Maeve E. Cannon, 180 N.J.Law. 16 (Mag.) (Oct./Nov. 1996).

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SUBCHAPTER 1. ADMINISTRATION

**17:3-1.1 Board meetings**

(a) The Board shall meet on the first Thursday of each month or at such time as may be deemed necessary by the Board.

(b) The chairperson may call for special meetings when necessary.

(c) The current rules within Roberts' Rules of Order, Second Edition, as well as future amendments thereto, are adopted and incorporated herein by reference as the source to be used by the Board of the TPAF in the conduct of its monthly meetings.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

As amended, R.1982 d.344, effective October 18, 1982.

See: 14 N.J.R. 201(a), 14 N.J.R. 1164(c).

Change of meeting from second to first Thursday of the month.

Amended by R.1994 d.161, effective April 4, 1994.

See: 25 N.J.R. 5762(b), 26 N.J.R. 1537(d).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

In (b), substituted "chairperson" for "chairman"; in (c), deleted "effective as of April 4, 1994."

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (a), deleted "of Trustees" following "Board"; and in (c), substituted "of the TPAF" for "of Trustees of the Teachers' Pension and Annuity Fund".

**17:3-1.2 Fiscal year**

The transaction of business and control of funds shall be conducted on a July 1 to June 30 fiscal year.

Amended by R.2000 d.442, effective November 6, 2000.

See: 32 N.J.R. 2985(a), 32 N.J.R. 3996(b).

Rewrote the section.

**17:3-1.3 Officers and committees**

(a) The members of the Board shall elect a chairperson and vice chairperson from its membership for the forthcoming year at its regular meeting held in July. The members of the Board shall elect a representative to the State Investment Council pursuant to N.J.S.A. 52:18A-83. A representative to the Pension System Actuary Selection Committee, as provided for by N.J.S.A. 43:4b-1, shall be elected by the Board whenever the selection of a new actuary is needed.

(b) The chairperson of the Board shall preside at all meetings or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities. In the absence of the chairperson and vice chairperson, another member selected by the majority of the members in attendance will preside for that single meeting.

(c) The chairperson and the Secretary of the Board shall have the power to act for the Board in all matters which may be referred to them by the Board.

(d) Pursuant to N.J.S.A. 18A:66-61, there shall be one standing committee which is the Finance Committee. The Committee shall be appointed at the July Board meeting by the chairperson elect for the forthcoming fiscal year. The committee shall consist of three members of who shall be elected members of the Board. The State Treasurer and the person designated to represent the Fund on the State Investment Council shall serve as members of the Finance Committee. The Finance Committee shall review all investment transactions and financial reports referred to it by the Secretary for presentation to the Board at its regular monthly meeting.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Substituted "chairperson" for "chairman" and "July" for "June" throughout.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

Rewrote (a) and (b); rewrote (d), incorporating former (e) through (g); and deleted (h) and (i).

**17:3-1.4 Election of member-trustee**

(a) The Board shall hold an annual convention of delegates of the membership of the Fund each year for the purpose of:

1. Electing a member-trustee to the Board; and
  2. Conducting a general discussion period.
- (b) The convention shall be held annually at a time and location designated by the Board and at the recommendation of the Secretary of the Board.
- (c) The chairperson of the convention will be a member of the Board elected by the Board.
- (d) The Secretary of the Board shall act as the Secretary of the convention.
- (e) The delegates and alternates attending the convention must be active or retired members of the Fund.
- (f) The delegates and alternates attending shall be selected from the membership of each county. The selection date shall be determined by the County Superintendent.
1. Notice of the time and place of the county meeting shall be issued by the County Superintendent at least 10 days before the date of the meeting.
  2. The County Superintendent, within five days after the meeting, shall electronically forward to the Secretary of the Board information containing the membership numbers, retirement numbers, names, street and email addresses and school districts of the delegates and alternates.
- (g) Each county shall be entitled to one delegate for each 550 members employed in or retired from the county.
- (h) Each county shall be entitled to elect alternates, the number not to exceed one half of the number of delegates elected.
- (i) Members wishing to be nominated are required to send a written letter of interest to the Secretary of the Board at least 45 days prior to the convention meeting date.
- (j) The candidate for trustee must be employed in or retired from one of the counties of the group so designated for electing a trustee that year and must be a resident of New Jersey.
- (k) The Secretary of the Board shall provide by mail or electronically to each eligible delegate and alternate the following:
1. Identification for admission to the convention;
  2. A copy of the election rules;
  3. Convention agenda;
  4. Division's web address for the annual report of the Board of Trustees for the preceding fiscal year;
  5. Proposed minutes of the prior year's convention; and

6. Name(s) of the candidate(s) to be nominated for trustee who have registered with the Secretary of the Board.

(l) The county grouping for election of trustee shall be as follows:

<b>Group A</b>	<b>Group B</b>	<b>Group C</b>
Bergen	Middlesex	Atlantic
Essex	Monmouth	Burlington
Hudson	Morris	Camden
Union	Passaic	Cape May
	Somerset	Cumberland
	Sussex	Gloucester
	Warren	Hunterdon
		Mercer
		Ocean
		Salem

- (m) The election of a member-trustee shall be for a three-year term beginning the succeeding January 1.
- (n) The nominating speech shall be limited to five minutes, with not more than one seconding speech of three minutes.
- (o) The following procedure will be followed for the election of a member-trustee.
1. If only one candidate has registered with the Board Secretary in accordance with (j) above, for the position of trustee, the candidate shall be deemed elected without ballot.
  2. In the event that more than one candidate has registered with the Board Secretary in accordance with (j) above, the candidate to be elected must receive a majority of the total votes cast by the seated delegates or their alternates to be elected. In the event no candidate receives a majority, the candidate who has received the least number of votes shall be eliminated. This procedure shall be repeated on each succeeding ballot until one candidate has received a majority of the total vote.
- (p) The trustee must be employed in or retired from a county in Group A, Group B or Group C. Members elected shall serve three-year terms. In the event an active or retired trustee elected by the membership is unable to finish the term, the vacancy shall be filled in the same manner and in the same group as the departing trustee. The term of this position shall be the remainder of the unexpired term.
- (q) Only delegates with proper identification will be admitted to the convention.
- (r) Delegates, alternates and visitors shall be seated in a specified area.
- (s) The secretary of the convention will conduct a roll call of the delegates. Alternates will be seated in the place of respective county absentee delegates in the order in which they are listed by the secretary of the county meeting.

(t) A majority of all of the delegates entitled to seats in the convention shall constitute a quorum for transacting the business of the convention.

(u) The minutes of the convention shall be submitted by the secretary for approval at the next annual meeting.

(v) Visitors and alternates not seated at the convention will only be recognized during the convention at the discretion of the chairman.

(w) Delegates and alternates will be reimbursed for actual travel expenses incurred in connection with the convention in accordance with State of New Jersey, Department of Treasury reimbursement schedules. Mileage reimbursement shall not exceed 150 miles each way.

As amended, R.1973 d.196, effective July 24, 1973.

See: 5 N.J.R. 203(c), 5 N.J.R. 294(d).

As amended, R.1974 d.24, effective January 31, 1974.

See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).

As amended, R.1975 d.140, effective May 27, 1975.

See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).

As amended, R.1978 d.444, effective December 29, 1978.

See: 10 N.J.R. 517(a), 11 N.J.R. 105(c).

As amended, R.1980 d.405, effective September 19, 1980.

See: 12 N.J.R. 435(b), 12 N.J.R. 678(a).

(w): Rate increased from \$0.16 to \$0.18.

As amended, R.1983 d.483, effective November 7, 1983.

See: 15 N.J.R. 1360(a), 15 N.J.R. 1870(d).

Certain dates and groupings changed concerning the election of delegates.

Amended by R.2000 d.318, effective August 7, 2000.

See: 32 N.J.R. 1911(a), 32 N.J.R. 2926(a).

Rewrote (b), (f), (g), (p), (u) and (w); in (e), inserted "or former members receiving a retirement allowance from"; in (i), neutralized a gender reference; in (j), inserted "or retire from"; in (k), deleted "with him before the first day of November" at the end; and in (s), deleted a former 1, and recodified former 2 as 1.

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

In (c), substituted "chairperson" for "chairman".

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (a)1 and (c), deleted "of Trustees" following "Board"; and rewrote (p).

Amended by R.2011 d.160, effective June 6, 2011.

See: 43 N.J.R. 274(a), 43 N.J.R. 1370(b).

In (a)1, inserted "and" at the end; deleted former (a)2; recodified (a)3 as (a)2; in (a)2, deleted "on any questions concerning the report or matters pertaining to the Fund" from the end; in (b), substituted "The" for "Such" and inserted "and at the recommendation of the Secretary of the Board"; in (e), substituted "and alternates attending" for "to" and "or retired members of" for "members of or former members receiving a retirement allowance from"; in the introductory paragraph of (f), inserted "and alternates attending" and substituted "County Superintendent" for "Board"; in (f)2, inserted "electronically" and "street and email" and substituted "information" for "a certificate"; in (g), deleted "or major fraction thereof" from the end; rewrote (i) and (k); added the current introductory paragraph of (o) and (o)1; recodified the former introductory paragraph of (o) as (o)2; in (o)2, substituted "In the event that more than one candidate has registered with the Board Secretary in accordance with (j) above, the" for "A" and inserted "to be elected"; in (p), deleted ", as set forth in N.J.S.A. 18:66-56" following the third occurrence of "trustee"; in (q), deleted "the main floor of" following "admitted to"; in (r), substituted "Delegates, alternates" for "Alternates"; in (s), substituted a period for a colon at the end; and deleted (s)1.

### 17:3-1.5 Certifying officer (employer)

(a) The secretary of each local board of education shall be the certifying officer for the respective school district.

(b) The secretary, as the certifying officer, shall be responsible for the duties described by N.J.S.A. 18A:66-32 and all other duties relating to matters concerning the Fund.

(c) In locations other than boards of education, the chief fiscal officer or the personnel officer shall serve as the certifying officer for such units.

(d) Upon request of the Board, the certifying officer shall be required to sign a statement, verifying that any information reported is accurate to the best of the officer's knowledge, and conforms with the statutes and rules governing the Fund.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Substituted "officer" for "agent" throughout; in (b), substituted "described for "prescribed"; added (d).

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (d), substituted "Fund" for "retirement system".

### Case Notes

School employee held not disqualified from purchase of retirement credit for unpaid maternity leave where failure to purchase credit within one year of return to active service was due to her being informed by school district employee, to whom duties of certifying agent had been delegated, that she could not purchase credit, and prompt action was taken by her to secure rights when error was learned. *Zigmont v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 182 N.J.Super. 50, 440 A.2d 37 (App.Div.1981), reversed 91 N.J. 580, 453 A.2d 1333 (1983).

### 17:3-1.6 Records

(a) In the addition to the provisions of N.J.A.C. 17:1-1.2, the minutes of the Board are a matter of public record and may be inspected during regular business hours in the Office of the Board Secretary.

(b) The mailing addresses of all active and retired members are considered to be a part of the members' confidential files and shall not be released for any purpose.

(c) The designations of beneficiaries of all active and retired members are considered to be a part of the member's confidential files and shall only be released after the member's death.

(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board. The Division will release a copy of the examining physician's medical report to the member, the member's attorney or any person authorized by the member in writing to receive a copy of such report. A copy of the Board appointed physician's medical report cannot be released until after the Board's initial determination. In no event will the report be released to any individual not authorized in writing to receive the report.

(e) The annual report of the Fund's actuary shall not be released until it has been approved by the Board.

(f) Original documents, if available, shall only be reviewed by appointment at the Division.

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Added new (c); recodified former (c) as new (d) with substantial amendments.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (a), substituted "In the addition to the provisions of N.J.A.C. 17:1-1.2, the" for "The" and "Office" for "office"; in (d), deleted "of Trustees" following "Board" and inserted the third sentence; and added (e) and (f).

### 17:3-1.7 Appeal from Board decisions

The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such determination is contrary to the claim made by the claimant or the claimant's legal representative:

(a) "If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your