

employer for the one-year period following the employee's date of hire, but if the employment continues into a second year, the employee will be required to enroll immediately in the Public Employees' Retirement System pursuant to the provisions of N.J.A.C. 17:2-2.8.

(e) An employee cannot receive or purchase credit in the Retirement System for the initial pay period or month of employment if that employment began after the seventh day of the pay period or after the 16th day of the month.

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote the section.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Added (e).

### SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

#### 17:4-3.1 Computation of insurance benefits

(a) Full salary credit will be given for the month or biweekly pay period in which a member dies, if the member was paid salary to date of death and the salary paid was sufficient to permit a full normal month's or biweekly pension deduction.

(b) Death benefits and noncontributory insurance benefits shall be based on the base salary upon which contributions to the Annuity Savings Fund were actually made during the 12 months or 26 biweekly pay periods immediately preceding the member's death. Months or pay periods in which no salary was paid shall not be used in the calculation.

(c) If a member dies during the first year following the date of enrollment, the insurance benefit shall be 3½ times the member's base salary on which the member contributed or would have contributed immediately prior to death.

(d) Where a post-audit of insurance claim payments indicates the pension contributions reported by an employer were incorrect and resulted in the underpayment of an insurance claim to a member's designated beneficiary or estate, an additional check would be sent to the beneficiary for the value of the underpayment.

(e) If a deceased member does not have an eligible surviving spouse, child or parent, then refunds of a deceased member's pension contributions will be made to the member's designated beneficiary.

(f) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary;

such adjustment will compensate for State biweekly payroll schedules.

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote the section.

#### 17:4-3.2 Leave for illness

Coverage during a leave of absence without pay due to illness shall apply only to the personal illness of the member. A leave of absence on account of another person's illness will not entitle the member to continued insurance coverage.

#### 17:4-3.3 (Reserved)

Repealed by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Section was "Proof of insurability".

#### 17:4-3.4 Survivor benefits

(a) Eligible survivors shall become entitled to benefits on the first day of the month following the member's death. The pension payment shall begin on the first of the month following the survivor's eligibility for benefits date. Survivor benefits shall terminate as of the last day of the month in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who dies in the performance of duty (accidental death), eligible survivors shall be entitled to benefits on the first day of the month following the member's death. The pension payment shall begin on the first of the month following the survivor's eligibility for benefits date. Survivor benefits shall terminate as of the last day of the month in which the survivor no longer qualifies for such benefits.

Amended by R.2001 d.41, effective February 5, 2001.

See: 32 N.J.R. 3554(b), 33 N.J.R. 568(b).

Rewrote the section.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Designated former section as (a); added (b).

#### 17:4-3.5 Beneficiary designation; pension contributions

(a) Only a primary and a contingent designation of beneficiary may be made by the member for the payment of the active member's accumulated pension contributions.

(b) A retiree cannot designate a primary or a contingent beneficiary for the receipt of the retiree's accumulated pension contributions in the event of the retiree's death.

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Neutralized gender reference.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Designated former section as (a), added "active" preceding "member's"; and added (b).

**17:4-3.6 Acceptable designations of beneficiaries**

(a) A member's designation of beneficiary or beneficiaries of group life insurance on a duly executed retirement application:

1. Is effective upon filing with and acceptance by the Division, even if the retirement date on the application is in the future or the member withdraws the retirement application; and

2. Supersedes any previous beneficiary designation on file.

(b) If a deceased member has an eligible surviving spouse, child or parent, then the deceased member's aggregate contributions at the time of death shall be applied toward the payment of the benefit established at N.J.S.A. 43:16A-9(1).

(c) If a deceased member has no eligible surviving spouse, child or parent, then pursuant to N.J.S.A. 43:16A-9(2), the deceased member's designated beneficiary or beneficiaries of group life insurance also shall be the beneficiary or beneficiaries of the deceased member's aggregate contributions at the time of death.

(d) If a deceased member has no eligible surviving spouse, child or parent, and the deceased member has not made an effective designation of beneficiary or has designated no beneficiary for group life insurance, then the Division shall pay the group life insurance and the deceased member's aggregate contributions to the deceased member's estate.

New Rule, R.2000 d.388, effective October 2, 2000.  
See: 32 N.J.R. 2216(a), 32 N.J.R. 3581(a).

**17:4-3.7 Survivor benefits; establishing dependency**

(a) Proof of dependency shall be established by the filing of an affidavit of dependency, supported by the deceased and the claimant's income tax returns, for the period immediately preceding the death or accident.

(b) A parent will be deemed to be dependent on the member if they were accepted as dependents of the member for Federal income tax purposes.

Recodified from N.J.A.C. 17:4-1.10 and amended by R.2001 d.66, effective February 20, 2001.  
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

In (b), deleted "widower or" preceding "parent" and the second sentence.

**SUBCHAPTER 4. MEMBERSHIP****17:4-4.1 Creditable compensation**

(a) The compensation of a member subject to pension contributions and creditable for retirement and death benefits in the system shall be limited to base salary, and shall not include extra compensation.

1. "Base salary" means the annual compensation of a member, in accordance with established salary policies of the member's employer for all employees in the same position, or all employees covered by the same collective bargaining agreement, which is paid in regular, periodic installments in accordance with the payroll cycle of the employer.

2. "Extra compensation" means individual salary adjustments which are granted primarily in anticipation of a member's retirement or as additional remuneration for performing temporary duties beyond the regular workday. Forms of compensation that have been identified as extra compensation include, but are not limited to:

i. Overtime;

ii. Pay for extra work, duty or service beyond the normal work day or normal duty assignments;

iii. Bonuses;

iv. Lump-sum payments for longevity, holiday pay, vacation, compensatory time, accumulated sick leave, or any other purpose;

v. Any compensation which the employee or employer has the option of including in base salary;

vi. Sell-backs, trade-ins, waivers, or voluntary returns of accumulated sick leave, holiday pay, vacation, overtime, compensatory time, or any other payment or benefit in return for an increase in base salary;

vii. Individual retroactive salary adjustments where no sufficient justification is provided that the adjustment was granted primarily for a reason other than retirement;

viii. Individual adjustments to place a member at the maximum of his or her salary range in the final year of service where no sufficient justification is provided that the adjustment was granted primarily for a reason other than retirement;

ix. Increments or adjustments granted for retirement credit;

x. Increments or adjustments in recognition of the member's forthcoming retirement;

xi. Any form of compensation which is not included in the base salary of all employees in the same position or covered by the same collective bargaining agreement or employment policy who are members of the retirement system and who receive the compensation;

xii. Retroactive increments or adjustments made at or near the end of a member's service, unless the adjustment was the result of an across-the-board adjustment for all similarly situated personnel; and

xiii. Any form of compensation which is not included in a member's base salary during some of the member's

In (a)1, inserted "New Jersey" preceding "State-administered" and added "and any service which would have been eligible for purchase under that membership"; in (b)5, deleted "officer" preceding "members" and substituted "in police service positions" for "as police officers", and also added a credit reference for firefighters for three years who were laid off in good standing.

Amended by R.2005 d.118, effective April 18, 2005.

See: 37 N.J.R. 39(a), 37 N.J.R. 1217(a).

In (a), inserted "from the employer" following "The Division may require proof" in 4ii; in (b), rewrote 1.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (a)3, added "and time attending the Police Academy or Firefighter training".

#### 17:4-5.4 Methods of payment

(a) Methods of payment include:

1. Lump sum;
2. Partial lump sum; balance by extra payroll deductions;
3. Extra deductions equal to at least one-half of the full regular pension deduction for a maximum period of 10 years;
4. Direct rollover/trustee-to-trustee transfer of funds: Lump sum payments and partial lump sum payments can include the direct rollover or transfer of tax-deferred contributions from financial plans that qualify under terms specified by the Internal Revenue Service. All payments remitted to the Division must be accompanied by properly completed forms as specified by the Division. Checks remitted to the Division without the required forms shall be returned to the member. A lump sum rollover payment for a purchase cannot exceed the lump sum cost of that purchase. Checks in an amount greater than the lump sum cost of the purchase shall be returned to the member.

(b) Extra payroll deduction will include regular interest for the term of the installment.

Amended by R.2001 d.393, effective November 5, 2001.

See: 33 N.J.R. 2612(a), 33 N.J.R. 3757(a).

In (a)2, deleted "of \$250.00 or more".

Amended by R.2005 d.118, effective April 18, 2005.

See: 37 N.J.R. 39(a), 37 N.J.R. 1217(a).

In (a), substituted "payment" for "repayment" in the introductory paragraph, added a new 4, and recodified former 4 as (b).

#### 17:4-5.5 Reinstatement of membership credit

(a) A member, whose account has been terminated by the withdrawal of contributions from the Annuity Savings Fund or whose account has been terminated because of a two-year lapse in contribution, may be reinstated to the System under the provisions of Chapter 199, P.L. 1967 (N.J.S.A. 11A:4-9), Chapter 303, P.L. 1969 (N.J.S.A. 40:47-11.1 and 11.2), or Chapter 439, P.L. 1981 (N.J.S.A. 11A:4-9), provided that the member meets the requirements of the System other than the age maximum:

1. A member reinstated under Chapter 303, P.L. 1969 (N.J.S.A. 40:47-11.1 and 11.2), shall purchase the previous

credit the member had established in the Police and Firemen's Retirement System at enrollment. The cost of purchasing the previous credit will be determined using the formula for calculating shared-cost purchases found at N.J.A.C. 17:4-5.3(a).

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote section.

#### 17:4-5.6 Elected officials; continuation of membership

Any member accepting an elective position may continue membership and contribute on the salary being received as an elected official as long as the member holds elective office and remains a member of the retirement system.

Amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Deleted "at his or her current rate of contribution" preceding "on the salary" and neutralized gender references throughout.

#### 17:4-5.7 (Reserved)

Repealed by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Section was "Lump-sum purchases".

### SUBCHAPTER 6. RETIREMENT

#### 17:4-6.1 Applications

(a) Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division of Pensions and Benefits (Division) on or before the requested date of retirement. A member's retirement application becomes effective on the first of the month following receipt of the application unless a future date is requested.

(b) In the event a member files an incomplete application, the deficiencies shall be brought to the member's attention and the member shall be required to file a completed application with the Division to enable processing.

(c) Before an application for retirement may be processed, the Division must receive proof of the member's age, if none is already in the member's record, and a completed Certification of Service and Final Salary form from the employer setting forth the employment termination date and the salaries reported for contributions in the member's final year of employment.

(d) In addition to the requirements in (a) through (c) above:

1. An application for a physical disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other in the form of either hospital records supporting the disability or a report from a second physician; and

2. An application for a mental health medical disability retirement must be supported by at least two medical reports, one by the member's personal or attending psychiatrist or psychologist and the other in the form of either hospital records supporting the disability or a report from a second psychiatrist or psychologist or from the member's personal or attending physician or licensed clinical social worker.

(e) If a member's previous retirement allowance has been cancelled due to the member's return to employment and re-enrollment in the Retirement System pursuant to the provisions of N.J.S.A. 43:16A-15.3, a new retirement application must be filed with the Division in accordance with (a) through (d) above. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check.

Amended by R.2001 d.66, effective February 20, 2001.  
See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote section.

Amended by R.2007 d.12, effective January 16, 2007.  
See: 38 N.J.R. 3284(a), 39 N.J.R. 237(b).

In the introductory paragraph of (d), substituted a colon for "; an"; in (d), inserted designation 1; in (d)1, inserted "An" and "a physical", and substituted "; and" for a period at the end; and added (d)2.

#### Case Notes

Retired firefighter not entitled to benefits for period prior to Retirement System's receipt of retirement application. *Sheren v. PFRS*, 96 N.J.A.R.2d (TYP) 64.

#### 17:4-6.2 Effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or one month after the date of the retirement, whichever is later.

Recodified from N.J.A.C. 17:4-6.3 and amended by R.2001 d.66, effective February 20, 2001

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote the section. Former N.J.A.C. 17:4-6.2, Effective dates; changes, recodified to N.J.A.C. 17:4-6.3.

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

Section heading was "Effective date; death prior thereto".

#### 17:4-6.3 Effective dates; changes

(a) Except as provided by N.J.A.C. 17:4-6.7, a member shall have the right to withdraw, cancel or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter, the retirement shall stand as approved by the Board.

(b) Except in the event of deferred retirement, if a member requests a change in the retirement application before the retirement allowance becomes due and payable, said change

will require approval of the Board and the revised retirement allowance shall not become due and payable until one month has elapsed following the effective date or 30 days after the date the Board met and approved the change in the member's retirement application, whichever is later.

(c) A deferred retirement shall become effective on the first of the month following the member's 55th birthday. If the member's 55th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:16A-11.2 and requests that retirement date.

(d) In the case of deferred retirement, if an applicant desires to amend the retirement application, the amended application must be filed with the Division a minimum of one month prior to the effective date of retirement.

(e) Should the member continue to receive a salary beyond the effective date of retirement after approval of the retirement by the Board of Trustees, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the approved, effective date of retirement. This restriction also applies to payments of accrued sick or vacation time that is paid in periodic payments on the employer's regular payroll schedule.

Recodified from N.J.A.C. 17:4-6.2 and amended by R.2001 d.66, effective February 20, 2001.

See: 32 N.J.R. 4060(a), 33 N.J.R. 684(a).

Rewrote the section. Former N.J.A.C. 17:4-6.3, Effective date; death prior thereto, recodified to N.J.A.C. 17:4-6.2.

Amended by R.2005 d.232, effective July 18, 2005.

See: 37 N.J.R. 573(a), 37 N.J.R. 2687(a).

In (a), substituted "Except as provided by N.J.A.C. 17:4-6.7, a" for "A"; rewrote (e).

Amended by R.2006 d.130, effective April 3, 2006.

See: 37 N.J.R. 4521(a), 38 N.J.R. 1578(a).

In (e), added the last sentence.

#### Case Notes

Retiree time-barred from requesting change in benefits three years after receiving benefits. *Esposito v. Police and Firemen's Retirement System*, 97 N.J.A.R.2d (TYP) 93.

Lack of good cause and diligence defeated request to reopen application for accidental disability benefits. *Stein v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 198.

#### 17:4-6.4 Outstanding loan

(a) A member who has an outstanding loan balance at the time of retirement may repay the loan balance, with accrued interest, as follows:

1. In full before the retirement allowance becomes due and payable as provided in N.J.A.C. 17:4-6.2; or

2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with accrued interest, is repaid as authorized by P.L. 1999, c.132 (N.J.S.A. 43:16A-16.2). If the member